

# The Legal Status of Cannabis and Cannabis Extracts in Finished Cosmetics in the UK

The status outlined in this position paper is provided by the Cosmetic, Toiletry and Perfumery Association (CTPA) from information available. This information does not constitute legal advice.

This guidance focuses on finished cosmetic products. Companies manufacturing, producing or otherwise dealing with controlled drugs or materials containing controlled drugs (including cannabis, cannabis resin, cannabidiol and cannabidiol derivatives [THC]) are advised to contact the Home Office. Its guidance can be accessed [here](#).

Only products meeting the definition of a cosmetic may be regulated by the Cosmetics Regulation. If a product is not a cosmetic, it may fall under another regulatory regime such as that for foods, medicines or general product safety. **Care must be taken to ensure that a cosmetic does not become a medicine by virtue of its presentation, its claims or its composition.** Guidance entitled 'A Guide to what is a Medicinal Product' is available from the Medicines and Healthcare products Regulatory Authority (See [Appendix 10](#) on CBD products).

Applicable legislation in the UK:

- Regulation (EC) No. 1223/2009 (The 'Cosmetics Regulation')
- Misuse of Drugs Act 1971 (1971 Act)
- Misuse of Drugs Regulations 2001 (2001 Regulations)

## Definitions/terminology

**Cannabis** means any plant of the genus cannabis, e.g. *Cannabis Indica*, *Cannabis Sativa*.

**Hemp** is the name commonly used for specific **varieties of cannabis** that typically have a lower content of tetrahydrocannabinol (THC) and are grown for industrial purposes. The Home Office has a factsheet available on [industrial hemp](#).

## Cosmetics Regulation

**Narcotic substances**, as listed in Tables I and II of the single Convention on narcotic drugs (signed in New York 30 March 1961) **are prohibited in cosmetic products** via entry 306 of Annex II to the Cosmetics Regulation. According to the Convention, this is "*Cannabis and Cannabis Resin - and extracts and tinctures of cannabis*"

Where

- "Cannabis" - means the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated.
- "Cannabis plant" - means any plant of the genus *Cannabis*.
- "Cannabis resin" - means the separated resin whether crude or purified, obtained from the Cannabis plant.

### UK Drugs Act and Regulations

**Cannabis and cannabis resin, cannabinol and cannabinol derivatives are Class B drugs under the Misuse of Drugs Act 1971. Any preparations or product containing the above substances are also controlled as Class B drugs.**

Where:

- “cannabis” (except in the expression “cannabis resin”) means any plant of the genus *Cannabis* or any part of any such plant (by whatever name designated) except that it does not include cannabis resin or any of the following products after separation from the rest of the plant, namely—
  - (a) mature stalk of any such plant,
  - (b) fibre produced from mature stalk of any such plant, and
  - (c) seed of any such plant;
- “cannabis resin” means the separated resin, whether crude or purified, obtained from any plant of the genus *Cannabis*
- “cannabinol” [undefined in the MDA 1971 but takes its scientific meaning]
- “cannabinol derivatives” means the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives.

### Use in cosmetics

#### Cannabis seeds

The seeds of the cannabis plant are **not controlled** although the cultivation of the plant requires a Home Office Licence. Seeds, and any extracts or oil from the seeds, (after separation from the rest of the plant), as per s.37(1) of the 1971 Act and entry 306 of Annex II of the Cosmetics Regulation, can be used in finished cosmetic products in the UK provided their use and the finished product are safe.

#### Cannabis leaf extracts

The leaf of the *Cannabis* plant is a **controlled drug material in the UK** – a Class B drug under Part II, Schedule 2 of the 1971 Act (see the definition of “cannabis” in s.37(1) of the 1971 Act). However, purified solvent extract (obtained from herbal cannabis or cannabis resin, containing no cannabinol derivatives) may not be a controlled drug providing the extract:

- contains no controlled cannabinoids; or
- meets the exempt product criteria (see below).

The Cosmetics Regulation does not prohibit the use of extracts from the leaves in a finished product providing they are not accompanied by the flowering tops.

#### Cannabidiol (CBD)

Pure synthetic CBD and **pure** plant-based CBD are not controlled drugs under the 1971 Act and 2001 Regulations.

### Plant derived CBD

If specific criteria are met, plant derived CBD may be used in finished cosmetic products:

- the CBD must not be derived from the flowering or fruiting tops of the plant or the whole plant where the flowering or fruiting top remains intact for processing (including ‘hemp’ varieties);

and

- the CBD must be in pure form and not contain any controlled substances such as specific controlled cannabinoids;

or

- the characteristics and use of the CBD (and any impurities) are such that all three limbs of the exempt product definition in the 2001 Regulations are met.

### Exempt product

**ALL three limbs** of the exempt product definition in Regulation 2(1) of the 2001 Regulations **must be met** in order to be outside of the controls of the UK drugs legislation:

- a) *the preparation or other product is **not designed for administration** of the controlled drug to a **human being** or animal;*

CTPA understands that if application of the controlled substance is not intentional, in that it is not applied for its known ‘drug’ effect, this limb may apply. Legal advice is recommended in this respect.

- b) *the controlled drug in any component part is packaged in such a form, or in combination with other active or inert substances in such a manner, that it **cannot be recovered** by readily applicable means or in a yield which constitutes a risk to health;*

- c) *no one component part of the product or preparation contains more than **one milligram of the controlled drug** or one microgram in the case of lysergide or any other N-alkyl derivative of lysergamide;*

CTPA understands that the finished cosmetic product must not contain more than 1mg of controlled substances such as specific cannabinoids (e.g. THC). This is applicable to each container of product, irrespective of size and not based on a specific concentration. Legal advice is recommended in this respect.

April 2019