

CULTIVATING CANNABIS

Misuse of Drugs Act 1971

6.- (1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person to cultivate any plant of the genus Cannabis.
(2) Subject to section 28 of this Act, it is an offence to cultivate any such plant in contravention of subsection (1) above.

Maximum Sentence:

Misuse of Drugs Act 1971, Sch.4

Indictment: 14 years imprisonment

Summarily: 6 months imprisonment and/or Fine of the prescribed sum (£5,000)

Assessment of Offence

(starting points and ranges based on 1st time offender convicted following contest)

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Very small scale cultivation for personal use only (i.e. one or two plants.)	Fine	Fine to Community Order
Larger scale cultivation	Community Order	Community Order to 6 months custody

Examples of Possible Aggravating Factors of Offence

1. Use of sophisticated growing system
2. Use of sophisticated system of concealment
3. Persistent use/cultivation of cannabis
4. Involvement of vulnerable/young persons

Examples of Possible Mitigating Factor of Offence

1. Evidence drug used to help with a medical condition

Relevant Cases:

NI Cases

R v O'Brien [2011] NICA 74

English Cases

R v Xu [2007] EWCA Crim 3129

R v Quayle & Ors [2005] EWCA Crim 1415 (27 May 2005)

R v Lyon (1997) EWCA Crim 2114 (14 August, 1997)

R v Auton and Others [2011] EWCA Crim 76

Notes: