

# AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

CANNABIS LICENSING ACT 2022

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WHEREAS it is expedient to establish the Cannabis Licensing Authority to advise and assist the Minister responsible for drug prevention in the regulation of the sale or supply of cannabis, the import, the cultivation of cannabis for personal use or cannabis or medicinal cannabis for commercial purposes, the research, manufacture, transport and export of cannabis or medicinal cannabis; to establish a licensing system for various activities relating to cannabis or medicinal cannabis; to provide for the monitoring, inspection and enforcement powers to inspectors; to give the Minister the power to give directions to the Cannabis Licensing Authority, to amend the Misuse of Drugs Act 1972 to remove cannabis from the list of controlled drugs, and related matters;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

### PART 1 PRELIMINARY

#### Citation

1 This Act may be cited as the Cannabis Licensing Act 2022.

#### Interpretation

2 In this Act—

“analyst” means a person authorised as an analyst under section 38 of this Act;

“Authority” means the Cannabis Licensing Authority established under section 7;

“cannabis” means all parts of any plant of the genus *Cannabis* including any cannabis resin obtained from the plant;

“cannabis industry” means all the activities involved directly or ancillary to the cultivation, import, export, production, sale, supply, use or transport of

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cannabis or medicinal cannabis or products derived from cannabis or medicinal cannabis in Bermuda, as permitted by this Act;

“cannabis planting material” means—

- (a) cannabis seeds; or
- (b) a young cannabis plant not yet 8 inches in height grown from a seed and not a cutting for transplanting;

“cannabis product” means any product manufactured from or containing cannabis;

“cannabis resin” means the separated resin, whether crude or purified, obtained from any plant of the genus Cannabis;

“cannabis retail shop”, as provided in Schedule 4, means any premises permitted under a cannabis retail shop licence—

- (a) to sell cannabis products or cannabis accessories only;
- (b) to sell cannabis products for the use or consumption of cannabis only in the cannabis retail shop;

“Chairman” means the Chairman of the Authority;

“cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis or medicinal cannabis plants;

“edible cannabis product” means a cannabis-infused food product;

“hemp” means the plant cannabis sativa, or any part thereof, with a THC content of not more than 1% or such other concentration as may be specified by the Minister by Order published in the Gazette;

“inspector” means a person designated as an inspector under section 41 and includes a police officer;

“licence” means a licence granted to an applicant by the Authority under section 25;

“licensee” means a person to whom a licence has been granted in relation to an application;

“medicinal cannabis” means—

- (a) cannabis seeds, immature cannabis plants as well as all parts of the cannabis plant, along with cannabis resin extracted from any part of the cannabis plant; and
- (b) every compound, manufacture, salt, derivative, mixture or preparation from cannabis, that is cultivated, processed or manufactured for medicinal purposes;

“medicinal cannabis product” means a substance, compound, preparation or mixture that is produced or manufactured from cannabis for medicinal purposes;

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“medicinal purposes” means the treatment of various medical conditions;

“Minister” means the Minister responsible for drug prevention;

“premises” means any land or building, and includes any vehicle, aircraft, vessel, enclosure or receptacle, whether movable or not, used for the conduct of activities authorised under a licence;

“prescribed” means prescribed by regulations;

“prescribed fee” means the relevant fee prescribed in Schedule 2;

“regulations” means regulations made under this Act;

“storage area” means, in respect of a site provided in a licence, an area where cannabis or medicinal cannabis is stored.

### Hemp

3 For the avoidance of doubt, unless otherwise provided, this Act does not apply to hemp.

### Section 6A of the Human Rights Act 1981

4 (1) The cannabis industry provided in this Act shall be regarded as a special programme for the purposes of section 6A of the Human Rights Act 1981.

(2) For the avoidance of doubt, a “special programme” in subsection (1) is designed to assist a person or group of persons to achieve equal economic opportunity in the cannabis industry.

### Protection from criminal liability

5 (1) The provisions of the Pharmacy and Poisons Act 1979, the Criminal Justice (International Co-operation)(Bermuda) Act 1994 and the Proceeds of Crime Act 1997 shall not prohibit or otherwise restrict or render unlawful the use, sale, supply, manufacture, possession, handling and cultivation of cannabis or medicinal cannabis by any person authorised to carry on an activity under this Act or any regulations.

(2) For the avoidance of doubt, a person is authorised to undertake any activity under this Act, only to the extent that the activity is authorised by, and conducted in accordance with, the provisions of this Act or any regulations.

### Restriction on certain strains

6 (1) The Minister, after consultation with the Authority and the Department of National Drug Control, may restrict the sale, supply, cultivation, import or manufacture of certain strains of cannabis or medicinal cannabis by an order published in the Gazette.

(2) An order in subsection (1) shall be subject to the negative resolution procedure.

PART 2

CANNABIS LICENSING AUTHORITY

Establishment of the Cannabis Licensing Authority

7 (1) The Minister shall appoint an Authority to be known as the “Cannabis Licensing Authority” whose primary function shall be to regulate the cannabis industry and advise the Minister on any matter relating to cannabis or medicinal cannabis in Bermuda.

(2) The provisions of Schedule 1 shall have effect with respect to the constitution and procedure of the Cannabis Licensing Authority.

Functions of the Authority

8 (1) The functions of the Authority are—

- (a) to receive applications for licences for the sale, supply, cultivation, import, manufacture, research, transport and export of cannabis in accordance with the provisions of this Act and regulations;
- (b) to grant or refuse licences;
- (c) to make recommendations to the Minister on any matter, including policy matters, related to this Act and its administration;
- (d) to maintain a register containing a record of the licences granted under the Act;
- (e) to gazette parts of the register in paragraph (d) relating to a cannabis retail shop licences;
- (f) to distribute educational materials and organize training programmes in relation to cannabis in conjunction with the Department of National Drug Control;
- (g) to provide training programmes in relation to the cannabis industry;
- (h) to carry out any other function assigned to it by this Act or by the Minister.

(2) In performing the functions in subsection (1), the Authority may formulate standards and guidance to be observed by licensees.

Ministerial direction

9 The Minister may, after consultation with the Chairman, give to the Authority written directions as to the policy to be followed by the Authority in the performance of its functions, as appear to the Minister to be necessary in the public interest and the Authority shall give effect to these directions.

Appointment of Executive Director

10 (1) Subject to the provisions of this section, there shall be an Executive Director of the Authority who shall be appointed by the Authority, subject to the approval of the Minister.

(2) Subject to subsection (4), the Executive Director shall be a person who possesses the knowledge, skills and experience which are necessary for the intended functions to be carried out by the person under this Act.

(3) A person who would not be eligible to be appointed as a member of the Authority by virtue of paragraph 7 of Schedule 1 shall not be eligible to be appointed as the Executive Director.

(4) A person shall not be appointed as Executive Director unless the Authority is satisfied that the person is a person of integrity, capable of exercising diligence, sound judgment and impartiality in carrying out his functions.

(5) Subject to subsection (6), the Executive Director shall hold office for a period of three years and shall be eligible for re-appointment.

(6) The Authority may terminate the appointment of the Executive Director—

- (a) for his inability to discharge the functions of his office, whether arising from infirmity of the body or mind, dereliction of duty or misbehaviour;
- (b) where he becomes an undischarged bankrupt; or
- (c) where he is convicted of an offence under the Misuse of Drugs Act 1972, the Criminal Justice (International Co-operation)(Bermuda) Act 1994 or the Proceeds of Crime Act 1997 or any offence involving dishonesty or moral turpitude or for any other cause.

#### Functions of the Executive Director and delegation of such functions

11 (1) The Executive Director shall be responsible for the day to day management of the affairs of the Authority which shall include the following—

- (a) coordinating the functions of the Authority;
- (b) the taking of any administrative and managerial actions as are necessary and appropriate for the effective implementation of this Act and any regulations;
- (c) assigning personnel as may be necessary to ensure that applications for licences are submitted to the Authority for approval within the prescribed period after the making thereof;
- (d) ensuring the timely implementation of the decisions and directions of the Authority;
- (e) preparing the budget of the Authority;
- (f) implementing operational policies and procedures in relation to the functions of the Authority; and
- (g) performing such other functions as may be assigned to the Executive Director under this Act or any other enactment.

(2) The Executive Director shall attend the meetings of the Authority.

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(3) The Executive Director may, in writing, subject to the approval of the Authority, delegate any of his functions, except the power of delegation, in relation to the performance of any of the duties conferred on him by, or under this Act, to a person specified in the instrument of delegation.

(4) A delegation under subsection (3) shall not prevent the exercise of the powers or the performance of the duties by the Executive Director.

### Appointment of staff of the Authority

12 (1) The Authority shall appoint and employ as staff qualified persons necessary for the performance of its functions.

(2) The Executive Director shall consult with the Chairman in establishing the qualifications for the various offices established within the Authority and shall advise the Minister on all appointments to fill said offices.

(3) Consistent with its approved budget, and subject to this Act and all applicable laws, the Executive Director shall establish the remuneration, terms and conditions of employment of each member of the staff of the Authority.

### Obligation of confidentiality

13 (1) Every person having an official duty or being employed in the administration of this Act, shall regard and deal with as confidential, all information, records or documents relating to the functions of the Authority obtained by the person in the course of the performance of his duties or otherwise.

(2) A person to whom information is communicated by a person in subsection (1) shall regard and deal with the information as confidential.

(3) A person who contravenes subsection (1) or (2) commits an offence and shall be liable on summary conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding six months or to both.

(4) Notwithstanding subsections (1) and (2) a person may disclose information in any of the following circumstances—

- (a) pursuant to an order of the Court;
- (b) to an employee of the Authority who is so authorised; or
- (c) where disclosure is permitted under any other enactment.

### Protection from liability

14 No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Authority or employee or agent of the Authority in respect of any act done in good faith in pursuance or execution or intended execution of this Act.



*Financial Provisions, Accounts and Reports*

Funds and resources of the Authority

- 15 (1) The funds and resources of the Authority shall consist of—
- (a) such sums as may, from time to time, be placed at the disposal of the Authority by the Legislature; and
  - (b) all other sums and property which may, in any manner, become payable to or vested in the Authority in respect of any matter incidental to its functions.
- (2) The expenses of the Authority, including the remuneration of members of the Authority and employees and agents of the Authority shall be paid out of the funds of the Authority and thereafter all remaining revenues received in respect of any matter incidental to the functions of the Authority shall be paid into the Consolidated Fund within such period as may be specified by the Minister of Finance, in writing.
- (3) The application and licence fees shall be paid directly to the Authority.
- (4) The Minister may direct that a percentage of sums received from licence fees be applied for the following purposes—
- (a) the strengthening of social programmes related to drug abuse prevention and treatment;
  - (b) the training of licensees in the cultivation of cannabis;
  - (c) the funding of scientific and medical research relating to cannabis;
  - (d) such other purposes, as may be determined by the Minister, after consultation with the Authority.

Expenditure budget

- 16 (1) The Authority shall, not later than three months (or such shorter period as the Minister may allow) before the commencement of each financial year, submit to the Minister for approval estimates in such form and in such detail as the Minister may require in respect of the Authority's expenditure on operations in that financial year.
- (2) The Authority shall submit as soon as practicable to the Minister for his approval any proposed amendments to any such estimates.
- (3) Any such estimates and any such amendments, when approved by the Minister for any financial year, shall constitute the Authority's expenditure budget for that financial year.
- (4) The Authority shall not without the Minister's approval spend in total in any financial year more than the total amount of expenditure approved by the Minister for that financial year.

(5) The Minister may issue guidelines to be observed by the Authority in the management of its expenditure budget (“Ministerial guidelines”), and the Authority shall comply with any such guidelines.

(6) Where a specific sum is provided in the Authority’s expenditure budget for any financial year in respect of any expenditure item, the Authority shall not spend on that item in that financial year any amount in excess of that sum unless the excess expenditure either—

- (a) is made within the Ministerial guidelines; or
- (b) has been approved by the Minister.

#### Accounts of Authority

17 (1) The Authority shall cause proper statements of its financial affairs to be maintained and shall prepare in respect of each financial year a statement of its accounts in such form as required by applicable accounting standards.

(2) The accounts of the Authority shall be audited by the Auditor-General or by an auditor appointed annually by the Auditor-General.

(3) A person shall not be qualified for appointment as an auditor under subsection (2) unless he is a public accountant who is registered or deemed to be registered under the Chartered Professional Accountants of Bermuda Act 1973.

(4) The statement of accounts must present fairly and accurately—

- (a) the financial transactions of the Authority during the financial year to which they relate; and
- (b) the financial position of the Authority at the end of the financial year.

(5) The auditor shall state in his report whether—

- (a) proper accounting and other records have been kept; and
- (b) the receipt, expenditure and investment of monies and the acquisition and disposal of assets by the Authority during the year have been in accordance with the provisions of this Act.

(6) The auditor may at any other time report to the Minister of Finance through the Authority upon any matter arising out of the performance of his audit.

(7) Where the Auditor-General has not been appointed to be the auditor, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General before they are submitted to the Authority.

(8) As soon as the accounts of the Authority and the financial statements have been audited in accordance with the provisions of this Act, but not later than six months after the end of the financial year, a copy of the audited financial statements signed by the Chairman, together with a copy of any report made by the auditor, shall be submitted to the Minister.

Tabling of annual report and accounts

18 (1) The Authority shall, as soon as practicable after the close of each financial year but no later than 31st May of each year, cause to be made and transmitted to the Minister—

- (a) a copy of the annual report of the operations of the Authority during that year; and
- (b) a copy of the audited annual statement of accounts of the Authority certified by the Auditor-General.

(2) The Minister shall as soon as practicable after receipt of the annual report and annual statement of accounts cause a copy of each to be laid before both Houses of the Legislature.

PART 3

LICENSING SYSTEM

Authorized activities

19 A person who intends to carry on an activity under this Act shall apply to the Authority for a licence.

Eligibility to apply

20 A person who applies for a licence under section 24 shall—

- (a) be 21 years of age or older and have Bermudian status, if an individual;
- (b) be incorporated, registered or formed under the laws of Bermuda, if a body corporate.

Types of licences

21 (1) The Authority may grant any of the following licences—

- (a) a tier 1 cultivation licence, to allow for the growing, harvesting, drying, trimming or curing of cannabis for personal use;
- (b) a tier 2 cultivation licence, to allow for the growing, harvesting, drying, trimming, curing or packaging of cannabis or medicinal cannabis for commercial purposes;
- (c) a cannabis retail shop licence, to allow for the operation of a cannabis retail shop for the sale of cannabis or the sale and consumption of cannabis;
- (d) an import licence, to allow for the cannabis and medicinal cannabis planting material for cultivation from any country from which it is lawful to do so;
- (e) a tier 1 manufacturing licence, to allow for activities relating to the processing of edible cannabis; and

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- (f) a tier 2 manufacturing licence, to allow for the manufacturing of cannabis products or medicinal cannabis products;
  - (g) an export licence, to allow for the export of locally cultivated cannabis to a country in which it is lawful to do so;
  - (h) a research licence, to allow for the conduct of scientific research relating to the development of medicinal cannabis;
  - (i) a transport licence, to allow for the transport of cannabis or medicinal cannabis in Bermuda.
- (2) Every licence shall be granted in respect of a specified premises on which alone it shall be lawful to conduct the activity authorized by a licence, and the licence shall contain a particular description of such premises.
- (3) A person shall comply with all the conditions attached to a licence and the requirements of this Act or any regulations.
- (4) Where a person applies for—
- (a) a tier 1 cultivation licence and the licence is granted, that person shall also receive a one time import licence valid only for the import of between 5 and 7 cannabis planting material;
  - (b) a tier 2 cultivation licence and the licence is granted, that person shall also receive an import licence valid only for the import of cannabis or medicinal cannabis planting material;
  - (c) a tier 1 or tier 2 manufacturing licence and the licence is granted, that person shall also receive an import licence which shall—
    - (i) only be valid for the import of cannabis for use in connection with processing or manufacturing; and
    - (ii) be subject to an import limit as provided in the terms and conditions of the licence;
  - (d) a research licence and the licence is granted, that person shall also receive an import and export licence which shall only be used for purposes in connection with the research and development licence.
  - (e) a cannabis retail shop licence and the licence is granted, that person shall also receive an import licence which shall only be used for the import of cannabis for use in connection with the cannabis retail shop licence.
- (5) For the avoidance of doubt, a person who is granted a licence under subsection (4) in addition to a licence granted under subsection (1) shall not pay the prescribed fee for the additional licence.
- (6) A person who is granted a licence pursuant to this Act shall not transfer or assign his licence to another person or cause or permit another person to use the licence.
- (7) Any purported transfer or assignment of a licence shall be null and void.

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### Cannabis event licence

22 (1) For the purposes of this section, a “cannabis event” means a private or public event of an infrequent or temporary nature whether or not there is an intent to profit from the sale or supply of cannabis and only invited guests over the age of 21 years will attend.

(2) The Authority may, on an application duly made by or on behalf of a person organizing a private event where cannabis is to be sold or supplied, decide to grant a licence authorizing that person to sell or supply cannabis only to persons attending such event as specified in the cannabis event licence for a period not exceeding the time specified in the cannabis event licence.

(3) The Authority may grant and issue a cannabis event licence for an event of an infrequent or temporary nature that is not within subsection (1) provided only persons over the age of 21 years shall attend.

(4) A cannabis event licence granted under subsection (2) or (3) shall specify—

- (a) the period within which cannabis may be supplied; and
- (b) the description of the location of the event at which cannabis may be supplied.

(5) An application under this section shall be made in writing to the Authority and a copy of the application shall be served on the Commissioner of Police.

### Inspection of premises prior to granting a licence

23 (1) Prior to granting an application for a licence, the Authority shall cause an inspection to be made of the proposed premises on which the activities which are the subject of the licence are to be carried on, by an inspector who shall have power to—

- (a) enter onto the premises for the purpose of conducting the inspection;
- (b) take photographs of the premises; and
- (c) traverse the premises in order to establish the boundaries thereof.

(2) Pursuant to subsection (1), the inspector shall promptly submit a report of the inspection to the Authority, together with the photographs taken.

(3) The Authority may cause to be conducted any further inspections as are necessary to ensure full compliance with the requirements of this Act for the issuance of a licence, and particularly with a view to inspecting the working of surveillance systems at the proposed premises concerned.

### Application for a licence

24 (1) An applicant for a licence shall submit to the Authority—

- (a) the application fee provided in Schedule 2, which shall not be refundable;
- (b) a completed application form containing such information as the Authority may require;

- (c) proof to the satisfaction of the Authority of the eligibility of the applicant as set out in section 20;
  - (d) a police criminal record check in respect of the applicant, in the case of—
    - (i) an individual, a report on that individual;
    - (ii) a body corporate, a report in respect of each of the directors and owners of the body corporate;
  - (e) information in respect of all persons to be employed by the applicant in connection with the activity that is the subject of the licence, together with the following in respect of each employee—
    - (i) a current police criminal record check;
    - (ii) proof that each employee has attained the age of 21 years; and
    - (iii) a photograph of the employee that is certified by a notary public as a true likeness;
  - (f) evidence—
    - (i) that the applicant owns the premises on which the activities which are the subject of the licence will be carried on; or
    - (ii) the written agreement with the owner of those premises to use the premises for those activities and a survey or other plan of the land comprising the premises or on which the premises are situated;
  - (g) where the applicant is a company, a copy of the Certificate of Incorporation and a Certification of Compliance as evidence that the company is in good standing;
  - (h) any other information required in Schedule 3 to be submitted with an application for the particular type of licence.
- (2) Pursuant to subsection (1)(b), the information includes—
- (a) if the applicant—
    - (i) is an individual, his name and date of birth;
    - (ii) is a company, the name of the company;
  - (b) the address, telephone number and email address for—
    - (i) the persons for whom the licence is sought; and
    - (ii) where applicable, each building within the premises where the proposed activities are to be conducted;
  - (c) the mailing address, if different from the address provided in paragraph (b), for the premises for which the licence is required;

- (d) the proposed activities to be conducted on the premises, the purpose for conducting those activities and where applicable the substances in respect of which each of the activities is to be conducted;
- (e) a detailed description of the security measures at the premises for which the licence is sought, subject to this Act and any guidelines issued by the Authority; and
- (f) except for a tier 1 cultivation licence and a cannabis event licence, a detailed description of the method the applicant proposes to use for record keeping, which shall allow for—
  - (i) compliance with the provisions of this Act;
  - (ii) the Authority to inspect and monitor the activities of the licensee; and
  - (iii) the reconciliation of orders for cannabis and shipments and inventories of cannabis, where applicable.
- (g) a description of the method an applicant for a cannabis event licence proposes to use for record keeping, which shall include—
  - (i) the source and amount of cannabis and the intended use;
  - (ii) the intended number of guests;
  - (iii) any unused cannabis and how it will be destroyed.
- (h) a statement signed and dated by the applicant, indicating that all information submitted in support of the application is correct and complete to the best of the applicant's knowledge.

Authority to grant or refuse a licence

25 (1) Where a person has submitted an application to the Authority for a licence, the Authority shall decide to grant or refuse to grant the licence.

(2) For the purposes of deciding whether to grant or refuse a licence, the Authority shall have regard to the information and documents provided by the applicant.

(3) The Authority may—

- (a) approve the application for the grant of a licence, on such terms and conditions proposed by the Authority if satisfied that—
  - (i) the application is made in accordance with this Act; and
  - (ii) the additional requirements provided in Schedule 3 are met; or
- (b) subject to section 20, refuse the application, and where the Authority refuses the application to grant the licence, shall notify the applicant in writing, within seven days from the date of refusal and the reasons for the refusal and of the applicant's right of appeal under section 35.

Criminal conviction; grant of a licence

26 (1) Notwithstanding that an applicant has a conviction for a drug or other offence, and provided that it is fully disclosed, the Authority may decide to grant a licence based on the particulars submitted to it for consideration if satisfied that the applicant would comply with the requirements of the Act and any regulations if the licence is so granted.

(2) For the avoidance of doubt, subsection (1) does not require the Authority to make the decision to grant the licence even if so satisfied.

Notification of approval

27 (1) Pursuant to section 25, the Authority shall, as soon as practicable, notify the applicant, in writing, of his decision to approve an application.

(2) When an application is approved, a licence shall be granted by the Authority, after payment of the prescribed fee and shall include, among other things, the following—

- (a) the name of the licensee;
- (b) the activities authorised by the licence and the extent to which those activities are authorised;
- (c) the address and extent of the premises on which the activity that is authorised is to be conducted;
- (d) the persons authorised by the licence to engage in activities;
- (e) the terms and conditions (if any) imposed by the Authority in accordance with section 28;
- (f) the period the licence is in force.

Terms and conditions

28 The following terms and conditions shall be deemed to be terms and conditions of every licence, in addition to any other terms and conditions that the Authority may determine—

- (a) that the licensee shall not engage or employ a person to carry out any activity authorised by the licence if the person is under 21 years of age;
- (b) that the licensee carries out any activity authorised by the licence in accordance with the licence;
- (c) that the licensee complies with any guidelines issued by the Authority;
- (d) that the licensee displays the licence in a conspicuous location on the premises on which the activity is being conducted;
- (e) that the required information relating to employees in section 24(1)(e), in respect of each new employee be submitted to the Authority prior to engaging the employee, and the employee shall not be engaged without that approval;



- (f) that the licensee shall notify the Authority as soon as reasonably practicable after any of the following matters come to the attention of the licensee—
  - (i) a breach of the licence; or
  - (ii) any other matter that may require or permit the Authority to revoke the licence;
- (g) that the licensee shall permit an inspector to enter the premises where the activity is being conducted, for the purposes of—
  - (i) inspecting or monitoring the activity;
  - (ii) ensuring whether or not the activity is being carried out as authorised by the licence and whether the licence conditions are being complied with; and
  - (iii) taking samples of anything at such land or premises and removing and testing such samples.

Refusal of licence

29 (1) The Authority may decide to refuse to grant a licence on the following grounds—

- (a) the Authority is not satisfied, on reasonable grounds, of the suitability of the location of the premises or proposed security arrangements at the premises where activities authorised by the licence will be carried out;
- (b) the prescribed fee has not been paid.

(2) An application is incomplete if it does not contain the information and documents required by the Authority under section 24 or the additional requirements provided in Schedule 3.

(3) If an application is refused under subsection (1), the Authority shall inform the applicant in writing.

Variation of licence

30 (1) The Authority may vary a licence in writing to the licensee—

- (a) at any time, on the Authority's own initiative; or
- (b) on application made by the licensee.

(2) A variation made under this section may include an amendment extending the period of validity, in the case of a cultivation licence, for such further period as may be necessary for the completion of the cultivation of cannabis or medicinal cannabis on the premises, being in any event a period not extending beyond the duration of the crop cycle.

(3) Without limiting subsection (1), the Authority may vary a licence—

- (a) to impose conditions or additional conditions;

- (b) to remove or vary conditions that were imposed by the Authority by virtue of this Act; or
- (c) to extend, modify or reduce the activities authorised by the licence or the licensee.

(4) A variation of a licence takes effect on the day specified in the notice under subsection (1).

#### Application for variation of licence

31 (1) An application for variation of a licence shall be in writing to the Authority, and shall contain the following information—

- (a) a detailed document outlining the proposed variation as well as any additional information that is relevant to the proposed variation; and
- (b) a copy of the original licence.

(2) The application for a variation shall be accompanied by the prescribed fee.

(3) The licensee may withdraw an application at any time before a decision is made on the application, but the prescribed fee shall be non-refundable.

(4) If an application has been made for variation of a licence, the Authority may decide to vary or refuse to vary the licence.

#### Duration of licence

32 (1) A licence granted under section 25, subject to section 29, shall be valid for the period specified in subsection (2), unless renewed for a further period in accordance with section 33 or surrendered in accordance with section 36 at an earlier date.

(2) The period in subsection (1) is two years from the date the licence is granted.

(3) The prescribed fee shall be payable by the licensee annually to the Authority on the anniversary of the date of issue of the licence so long as the licence is valid.

(4) For the avoidance of doubt, if the prescribed fee is not paid annually, the licence shall cease to be valid until the prescribed fee is paid.

#### Application for the renewal of a licence

33 (1) An application for the renewal of a licence shall—

- (a) be made in writing and be in such form as the Authority shall determine;
- (b) contain such particulars, and meet such other requirements as the Authority may require; and
- (c) be accompanied by the prescribed fee.

(2) The Authority shall consider every application and may either renew or refuse to renew a licence.

Revocation of licence

34 (1) The Authority may by written notice, at any time revoke a licence if it is satisfied on reasonable grounds—

- (a) that a condition of the licence has been breached; or
- (b) that the licensee has engaged in conduct that is an offence under the Misuse of Drugs Act 1972, the Pharmacy and Poisons Act 1979, the Criminal Justice (International Co-operation)(Bermuda) Act 1994 or the Proceeds of Crime Act 1997;
- (c) that the licence was obtained or varied on the basis of information that—
  - (i) was false or misleading in a material particular;
  - (ii) omitted a matter or thing without which the information was misleading in a material particular;
- (d) that the location, facilities or security arrangements at the premises at which activities authorised by the licence take place are not suitable for those activities;
- (e) that the licensee has ceased to carry on all activities authorised by the licence;
- (f) that activities authorised by the licence to be undertaken at the premises by the licensee have been undertaken by the licensee other than at those premises;
- (g) that the licensee is not taking all reasonable measures to ensure the physical security of the cannabis product, or medicinal cannabis product in the licensee's possession or control;
- (h) that the licensee has not provided information required by section 24(d) to (h) within the time specified in the written notice.

(2) The revocation of a licence shall take the effect on the day specified in the written notice.

Appeal to the Magistrates' Court

35 (1) Any person who is aggrieved by the decision of the Authority may appeal to the Magistrates' Court within 21 days of the date on which the notice took effect.

(2) On any appeal under this section the Magistrates' Court may confirm, reverse, vary or modify the decision of the Authority or may remit the matter to the Authority with the opinion of the Magistrates' Court thereon.

Surrender of licence

36 (1) A licensee may surrender his licence by giving notice in writing to the Authority and the surrender of such licence shall take effect on a date approved by the Authority.

(2) The Authority shall not approve the surrender of a licence unless he is satisfied that the licensee has ceased all activities under the licence.

(3) Where the Authority approves the surrender of a licence, he shall inform the licensee in writing.

(4) Where a licensee receives the approval of the Authority to surrender his licence, the licensee shall immediately—

- (a) destroy any unused cannabis or cannabis product or unused medicinal cannabis or medicinal cannabis product; and
- (b) return the licence to the Authority.

(5) The surrender of a licence is irrevocable but does not prevent the former holder of the licence from applying for a new licence.

#### Report of theft

37 (1) Where there is a theft of cannabis or medicinal cannabis from a licensee, the licensee shall—

- (a) immediately report the occurrence to an inspector; and
- (b) provide a written report to the Authority within 48 hours after becoming aware of the occurrence.

(2) A person who fails to report a theft under subsection (1), is liable on summary conviction to a fine of \$1,500.

## PART 4 ANALYSIS

#### Authorisation of analysts

38 For the purposes of the administration and enforcement of this Act, the Minister may authorize a person, by notice in the Gazette, to analyse any cannabis or medicinal cannabis substance or product, or a sample of any substance or product purporting to be cannabis or medicinal cannabis.

#### Analysis

39 An inspector may submit any cannabis substance or product or medicinal cannabis substance or product, or sample of any substance or product purporting to be cannabis or medicinal cannabis taken by the inspector to an analyst for analysis.

#### Certificate of analyst

40 (1) Without prejudice to section 29 of the Evidence Act 1905, but subject to subsection (2), in any proceedings for an offence under this Act, a certificate in the prescribed form purporting to be signed by an authorised analyst and certifying any substance specified in the certificate to be cannabis or to contain such proportion of

cannabis as may be so certified shall, on its production by the prosecution, without further proof be prima facie evidence of the matters so certified and of the qualification of the analyst.

(2) Subsection (1) shall not apply to a certificate tendered on behalf of the prosecution—

- (a) unless a copy thereof has been served on the accused not less than 10 days before the trial; or
- (b) if the accused, not less than five days, before the trial has served notice on the prosecution requiring the attendance at the trial of the person by whom the certificate was signed.

PART 5  
ENFORCEMENT

Designation of inspectors

41 (1) The Minister shall designate, in writing, inspectors for the purposes of all or any of the provisions of this Act and such designation may be specified for a fixed period.

(2) Every inspector designated in accordance with this section shall be furnished with a warrant of designation and shall, when exercising any power conferred on him by this section, produce the warrant of designation or a copy of it.

(3) An inspector may, for the purposes of obtaining any information which may be required in relation to a matter under investigation under this Act—

- (a) at all reasonable times, enter any premises or place or vehicle where there are grounds to believe that any trade, business or any activity which is or may be or ought to be subject to a licence under this Act, is being, or has been, carried on, or that documents relating to such trade, business or activity are kept and search and inspect the premises and any documents that are on, at or in such premises, place or vehicle;
- (b) secure for later inspection any, or any part of any, premises on, at or in which such documents are kept or where there are reasonable grounds for believing that such documents are kept;
- (c) remove and retain such documents for such periods as may be reasonable for future examination, subject to a warrant being issued for that purpose by a magistrate;
- (d) require any such person to give to the inspector any information which the inspector may reasonably require in respect of such trade, business or activity or in respect of the persons carrying on such trade, business or activity or employed in connection with such trade, business or activity;
- (e) require any person by or on whose behalf data equipment is or has been used or any person having charge of, or otherwise concerned with the

operation of the data equipment or any associated apparatus or material, to afford the inspector all reasonable assistance in relation to it and assist in the retrieval of information connected with the operation of such data equipment, apparatus or material;

- (f) summon, at any reasonable time, any other person employed in connection with such trade, business or activity to give to the inspector, any information which the inspector may reasonably require in relation to such trade, business or activity and to produce to the inspector any documents which are in the control of that other person;
- (g) have photographs taken of anything on, at or in the premises and remove the photographs from the premises; and
- (h) inspect any vehicle relating to such trade, business or activity.

(4) An inspector shall not, other than with the consent of the occupier, enter a private dwelling house unless he has obtained a warrant from a magistrate under section 42.

(5) Where an inspector, in the exercise of his powers under this section, is prevented from entering any premises, place or vehicle, an application may be made for a warrant under section 42 authorising such entry.

#### Warrant issued by magistrate

42 A magistrate who is satisfied by sworn information in writing of an inspector that there are reasonable grounds for suspecting that—

- (a) an offence under this Act or any regulations has been, is being or is about to be committed on any premises; and
- (b) admission to the premises has been or is likely to be refused,

may by warrant under his hand, which shall continue in force for a period of one month, authorise any inspector to enter the premises.

## PART 6 OFFENCES

#### Activity without a licence

43 (1) No individual or body corporate shall conduct any activity authorised under this Act or any regulations unless licensed to do so under section 24.

(2) An individual who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction to a fine of \$10,000 or to six months imprisonment, or to both;

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(b) on conviction on indictment, to a fine of \$20,000 or to 18 months imprisonment, or to both.

(3) A body corporate which contravenes subsection (1) commits an offence and is liable—

(a) on summary conviction to a fine of \$18,000 or to imprisonment for two years, or to both;

(b) on conviction on indictment, to a fine of \$40,000 or to imprisonment for five years, or to both.

Offences

44 (1) No person shall knowingly—

(a) use or engage in the use of cannabis in a public place except in a cannabis retail shop or at a cannabis event;

(b) supply or sell cannabis to a person under the age of 21 years;

(c) possess cannabis that is more than 7 grams in a public place unless he is the holder of a relevant licence that authorizes him to do so;

(d) handle cannabis with the intent, whether by him or some other person, for supply unless he is the holder of a relevant licence that authorizes him to do so;

(e) sell or offer for free distribution cannabis, any products, derivatives or samples thereof at any public or private event unless he is the holder of a relevant licence to do so.

(2) A person who wilfully—

(a) provides any false or materially misleading information in any application, report or other document required to be furnished to the Authority; or

(b) fails or refuses to produce any document or other information which the person is required to produce,

commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or imprisonment for a term of six months or both.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of \$10,000.

(4) A person who holds a tier 1 or tier 2 cultivation licence shall only possess the quantity of cannabis or medicinal cannabis provided in the conditions for that cultivation licence.

(5) A person who contravenes subsection (4) and—

(a) is the holder of a tier 1 cultivation licence, commits an offence and is liable on summary conviction to a fine of \$10,000;

(b) is the holder of a tier 2 cultivation licence commits an offence and is liable on summary conviction to a fine of \$20,000.

(6) A person—

(a) who obstructs an inspector in carrying out his functions or fails to produce any records reasonably required by an inspector commits an offence and is liable on summary conviction to a fine of \$16,000 or to imprisonment for a term not exceeding one year, or to both;

(b) who obstructs an inspector carrying out his functions or fails to allow him to enter a premises for inspection commits an offence and is liable on summary conviction to a fine of \$20,000 or to imprisonment for a term not exceeding six months, or to both.

(7) A person who is not the holder of a licence granted under section 25 who, being the owner, occupier or person in charge of or concerned in the management of any premises or place, knowingly permits any of the following activities to take place on those premises or at that place—

(a) producing or attempting to produce cannabis;

(b) selling or supplying or attempting to sell or supply cannabis or offering to supply cannabis to another;

(c) handling cannabis or a cannabis product with the intent, whether by him or some other person, for sale or supply;

(d) misusing cannabis or preparing any such drug for misuse,

commits an offence and is liable on summary conviction to a fine of \$10,000 or to imprisonment for a term not exceeding five years, or to both.

(8) The Minister shall make regulations, subject to the negative resolution procedure, that provide for substance abuse education or treatment for any person and in particular any minor found to be in possession of any amount of cannabis.

(9) In this section—

“handling” means if a person is in any way concerned in carrying, removing, harbouring, keeping or concealing cannabis or a cannabis product;

“produce” means producing it by manufacture, cultivation or any other method.

#### Offences by corporations

45 Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate commits that offence and shall be liable to be proceeded against accordingly.



Court; revocation of a licence

46 Where a court imposes a penalty of a fine on a person after conviction for an offence under this Act and the fine so ordered to be paid is not paid within the time allowed by the court, the court shall have the power to immediately revoke the licence.

Police powers to seize

47 A police officer of any rank shall have lawful authority, if he has reasonable grounds to suspect an offence is being committed, to seize an amount of cannabis or medicinal cannabis that is equal to or more than 7 grams in the possession of any person in a public place if a person does not have the relevant licence to do so.

Statutory amount to be deemed for supply

48 Where a person is charged with an offence pertaining to cannabis, and supply is an element, if the amount of cannabis equals or exceeds 20 grams, until the contrary is proved, the person shall be presumed to have cannabis with the intention, whether by him or another person, for supply.

Consecutive sentencing for drug offences and offences relating to violence or use of weapons

49 Where a person charged with an offence under this Act, is also charged with an offence under the—

- (a) Firearms Act 1973;
- (b) Criminal Code Part XV - (provisions of law relating to violence to the person and to the preservation of human life);
- (c) Criminal Code Part XVI - (homicide, suicide and offences relating to childbirth); or
- (d) Criminal Code Part XVII - (offences endangering life or health: assaults),

on the same information or indictment, the sentences shall be consecutive to each other.

Defence of lack of knowledge

50 (1) This section applies to offences under section 44(1).

(2) Subject to subsection (3), in any proceedings for an offence to which this section applies it shall be a defence for the accused to prove that he neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution which it is necessary for the prosecution to prove if he is to be convicted of the offence charged.

(3) Where in any proceedings for an offence to which this section applies it is necessary, if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or product involved in the alleged offence was the cannabis or medicinal cannabis which the prosecution alleges it to have been, and it is proved that the substance or product in question was that cannabis or medicinal cannabis, the accused—

- (a) shall not be acquitted of the offence charged by reason only of proving that he neither knew nor suspected nor had reason to suspect that the substance or product in question was the particular cannabis or medicinal cannabis alleged; but
  - (b) shall be acquitted thereof—
    - (i) if he proves that he neither believed nor suspected nor had reason to suspect that the substance or product in question was cannabis or medicinal cannabis; or
    - (ii) if he proves that he believed the substance or product in question to be cannabis or medicinal cannabis, or cannabis or medicinal cannabis of a description, such that, if it had in fact been that cannabis or medicinal cannabis, or cannabis or medicinal cannabis of that description, he would not at the material time have been committing any offence to which this section applies.
- (4) Nothing in this section shall prejudice any defence which is open to a person charged with an offence to which this section applies to raise apart from this section.

## PART 7

### GENERAL PROVISIONS

#### Review of the Act

51 The Minister shall carry out a comprehensive review of this Act within two years of its coming into operation, and shall submit a report to both Houses of the Legislature within 12 months after beginning the review.

#### Regulations

52 (1) The Minister, acting on the advice of the Authority, shall make regulations for or with respect to any matter that, by this Act, is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), regulations made under subsection (1) may make provisions for or with respect to—

- (a) prescribing particulars or information to be included in an application for the grant of a licence or renewal of a licence;
- (b) prescribing the record keeping requirements of the holder of a cannabis retail shop licence;
- (c) regulating, restricting or prohibiting premises, vehicles or equipment used or intended to be used for or in connection with the sale, cultivation, research and development, manufacture and transport of cannabis or medicinal cannabis;

- (d) regulating, restricting or prohibiting premises used or intended to be used for and in connection with the sale of cannabis in a cannabis retail shop;
  - (e) regulating or prohibiting the cultivation or transport of cannabis or medicinal cannabis, including in relation to specific locations or regions in Bermuda;
  - (f) matters to be considered by the Authority in relation to the suitability of premises for the cultivation of cannabis;
  - (g) standards or requirements as to security of access to premises in which cannabis is cultivated or in a cannabis retail shop;
  - (h) requirements of signage at a licensed premises and information to be displayed at those premises or on equipment or vehicles used for or in connection with a licence;
  - (i) the safe custody, storage and security of locally cultivated cannabis or medicinal cannabis;
  - (j) regulating and controlling the advertising by any person of cannabis, including the form and content of advertisements;
  - (k) the inspection of premises (other than a private dwelling house), mobile facilities, stocks, records and any other documents relating to the cultivation of cannabis.
- (3) Regulations made under this Act may—
- (a) provide for such transitional, savings and other consequential, incidental and supplemental provisions as the Minister considers necessary or expedient;
  - (b) be of general or limited application;
  - (c) differ according to differences in place or circumstances;
  - (d) apply to different classes of person, licences or products;
  - (e) exempt specified persons or things or classes of persons or classes of things from complying with all or any of the Regulations—
    - (i) whether unconditionally or on specified conditions; and
    - (ii) either wholly or to such an extent as is specified.
- (4) Regulations may provide for the imposition of penalties on summary conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding two years or to both such fine and imprisonment.
- (5) Regulations made under this section may be made subject to the negative resolution procedure.

Issuance of guidance

53 The Authority may from time to time, with the approval of the Minister, issue guidance, or directives, on any matter concerning the regulation of cannabis or medical cannabis.

PART 8

FINAL PROVISIONS

Cannabis no longer a controlled drug under Misuse of Drugs Act 1972

54 (1) On the coming into operation of this Act, cannabis is no longer a controlled drug for the purposes of Misuse of Drugs Act 1972.

(2) Accordingly, the Misuse of Drugs Act 1972 shall be amended as follows—

- (a) in section 1, by deleting the definitions for “cannabis”, “cannabis resin” and “hemp”;
- (b) in section 6(1), by deleting “, save for cannabis that is less than or equal to the statutory threshold in Schedule 8, subject to the discretion of the Director of Public Prosecutions to prosecute if the evidence indicates an intention to supply contrary to subsection (3)”;
- (c) by repealing sections 11 (cultivation of cannabis plants) and 25A (police powers to seize cannabis);
- (d) by deleting the reference to section 11 in section 27(1) (penalties for offences);
- (e) in Schedule 2 Part I (controlled drugs), by deleting the line items “CANNABINOIDS” and “CANNABIS AND CANNABIS RESIN”;
- (f) in Schedule 7, by deleting paragraph (c) (statutory amount of 20 grams of cannabis deemed to be for supply);
- (g) by repealing Schedule 8 (statutory amount of 7 grams of cannabis where criminal sanctions do not apply).

(3) The Minister may, by regulations subject to the negative resolution procedure, make such transitional provision as he considers necessary in consequence of this section.

Consequential amendments

55 (1) The Government Authorities (Fees) Act 1971 is amended in the First Schedule PART B by inserting the following in its proper alphabetic place—

“Cannabis Licensing Authority- established by section 6 of the Cannabis Licensing Act 2020”.

(2) The Pharmacy and Poisons Act 1979 is amended by inserting the following after section 2—

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“Cannabis Licensing Act 2020

2A Except as otherwise provided, nothing in this Act affects any provision of or made under the Cannabis Licensing Act 2020 or renders unlawful anything done in accordance with a licence granted under the Cannabis (Licensing ) Act 2020.”.

### Commencement

56 This Act shall come into operation on such day as the Minister may appoint by notice published in the Gazette.

SCHEDULE 1

(Section 7)

CANNABIS LICENSING AUTHORITY  
CONSTITUTION AND PROCEDURE

Constitution of the Authority

1 (1) The Minister shall appoint—

- (a) five persons who are voting members of the Authority, hereinafter referred to as “appointed members” one each from the disciplines of health, scientific research, business, planning and agriculture; and
- (b) the following ex officio non-voting members—
  - (i) the Attorney-General;
  - (ii) the Collector of Customs;
  - (iii) the Director of National Drug Control.

(2) Appointed members shall be persons appearing to the Minister to be of integrity, capable of exercising diligence, sound judgment and impartiality in fulfilling their functions pursuant to the provisions of this Act.

(3) Each member of the Authority listed in subparagraphs (1)(b)(i) to (iii) may nominate a person of appropriate seniority to serve on the Authority in his place.

Tenure of office

2 A person appointed to be a member of the Authority shall, unless his appointment is sooner terminated, hold office for a period not exceeding three years as shall be specified in his instrument of appointment, but he shall be eligible for reappointment upon the expiration of his term of office.

Chairman and Deputy Chairman

3 There shall be a Chairman and a Deputy Chairman of the Authority, both of whom shall be appointed by the Minister from among the appointed members of the Authority and each of whom shall hold office, subject to paragraph 2.

Temporary appointment

4 In case of the absence or inability of any appointed member to act, the Minister may appoint a person to act temporarily in his place.

Resignation

5 (1) Any appointed member, other than the Chairman, may at any time resign his office in writing addressed to the Minister and transmitted through the Chairman and, from the date of receipt by the Minister of such writing, such member shall cease to be an appointed member.

(2) The Chairman may at any time resign his office in writing addressed to the Minister and, from the date of receipt by the Minister of such correspondence, the Chairman shall cease to be an appointed member.

Effect of vacancy on the Authority

6 Subject to this Schedule, the Authority shall be deemed to be properly constituted notwithstanding that there is a vacancy in the office of Chairman or any other appointed member.

Disqualification from membership of the Authority

7 A person shall not become, or continue to be, an appointed member of the Authority if the person—

- (a) is a member of the Legislature, a person who is appointed or elected to any municipality, parish council or any other public authority;
- (b) is suffering from a mental disorder within the meaning of the Mental Health Act 1968 or is otherwise adjudged to be of unsound mind under any statutory provision;
- (c) becomes permanently unable to perform his functions by reason of ill health;
- (d) is an undischarged bankrupt; or
- (e) has at any time been convicted of an offence under the Misuse of Drugs Act 1972, the Criminal Justice (International Co-operation) (Bermuda) Act 1994 or the Proceeds of Crime Act 1997 or any offence involving fraud, dishonesty or moral turpitude.

Removal of appointed member

8 The Minister may at any time declare the office of an appointed member of the Authority vacant if he is satisfied that the appointed member—

- (a) has failed without sufficient cause to attend three consecutive meetings of the Authority;
- (b) is incapacitated by physical or mental illness; or
- (c) is otherwise unable, unfit or unwilling to carry out his functions as an appointed member.

Procedure at meeting

9 (1) The Authority shall meet at such times and on such days as may be necessary or expedient for the transaction of its business.

(2) The minutes of each meeting of the Authority shall be kept in proper form.

(3) The Chairman may at any time call a meeting of the Authority and shall call a meeting within five days of a written request for that purpose addressed to him by any three members.

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(4) The Chairman shall preside at all meetings of the Authority at which he is present, and in his absence the Deputy Chairman shall preside, and in the absence of the Chairman and the Deputy Chairman the members present and constituting a quorum shall elect a chairman from among the members to preside at that meeting.

(5) Every appointed member shall have one vote; the Chairman shall have an original vote, but in the event of an equality of votes he shall have a casting vote.

(6) The Executive Director shall not have a vote at any meeting.

(7) Subject to subparagraph (5), decisions of the Authority shall be by majority vote.

(8) Subject to this Schedule, the Authority may regulate its own proceedings.

(9) A quorum of the Authority shall be six.

(10) The validity of any proceedings of the Authority shall not be affected by any defect in the appointment of a member.

### Remuneration

10 Fees shall be paid to members of the Authority in accordance with the Government Authorities (Fees) Act 1971.

### Committees of the Authority

11 (1) The Authority may appoint such committees, for any general or special purposes, with which the Authority may be concerned, as in the opinion of the Authority would be better regulated and managed by means of a committee.

(2) A committee appointed pursuant to subparagraph (1) may include persons who are not members of the Authority or employees of the Authority, so that the appointment of any such persons shall be subject to the approval of the Minister.

### Disclosure of interest

12 (1) A member of the Authority who is in any way directly or indirectly interested in any contract or other matter whatsoever to be considered by the Authority, or in any contract made or proposed to be made by the Authority, shall forthwith disclose the nature of his interest to the other members of the Authority upon a conflict of interest arising, and the disclosure shall be recorded in the minutes of the next meeting of the Authority, and the member shall not take part in any deliberation or decision of the Authority with respect thereto.

(2) A disclosure made by a member of the Authority under subparagraph (1), to the effect that he or his spouse or family is a director or shareholder of, or has a significant economic relationship with, a specific company, firm or other entity or is to be regarded as interested in any contract which is made with the company, firm or other entity, shall for the purposes of subparagraph (1), be a sufficient disclosure of his interest in relation to any contract so made.



(3) A member of the Authority need not attend in person at a meeting of the Authority in order to make a disclosure that he is required to make under this paragraph, if the member takes reasonable steps to ensure that the disclosure is made by notice, in writing, which is taken into consideration and read at the next meeting held after the disclosure is made.

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SCHEDULE 2

(Section 24)

LICENCE FEES

	Description	Fee
1.	Application Fee (non-refundable)	\$250
	<i>Annual Licence Fee</i>	
2.	Tier 1 Cultivation Licence	\$500
3.	Tier 2 Cultivation Licence	\$6,000
4.	Cannabis Retail Shop Licence	\$10,000
5.	Import Licence	\$750
6.	Export Licence	\$1,000
7.	Tier 1 Manufacturing Licence	\$750
8.	Tier 2 Manufacturing Licence	\$1,500
9.	Research Licence	\$10,000
10.	Transport Licence	\$500
11.	Cannabis Event Licence—	
	(a) private event	\$750
	(b) public event	\$2,000
	<i>Variation of Licence</i>	
12.	Variation of a licence	\$350

SCHEDULE 3

(Section 21)

ADDITIONAL LICENSING REQUIREMENTS

Products

1 In this Schedule, except Part A., “cannabis or medicinal cannabis” includes cannabis product or medicinal cannabis product.

*Provisions Applicable to Specific Types of Licences*

*A. Cultivation Licences*

Restricted place or premises

2 A tier 1 cultivation licence shall not be granted at or on any of the following places or premises—

- (a) any school or day care centre as defined by the Education Act 1996 or Part IX of the Children Act 1998;
- (b) any registered children’s home or residential home under the Children Act 1998;
- (c) a youth centre;
- (d) a church or other place of worship.

Activities authorized by cultivation licence

3 Without limiting the matters specified in a cultivation licence, a cultivation licence shall authorize one or both of the following—

- (a) the maximum size of the cannabis crop that may be cultivated;
- (b) the maximum number of cannabis planting material that a licensee may have in his possession or control at any time.

Additional requirements for cultivation licences

4 (1) Subject to section 24 of this Act, when applying for a tier 1 cultivation licence, there shall be submitted with the application—

- (a) two passport-sized photos of the applicant; and
- (b) copies of two Government issued forms of identification, certified by a Notary Public.

(2) The Authority shall not approve an application for a tier 1 cultivation licence unless, in addition to the requirements set out in Part 3 of this Act, the following additional requirements are satisfied—

- (a) that arrangements satisfactory to the Authority are in place for proper security surveillance of the premises where cannabis is to be cultivated, whether by electronic means or otherwise;
  - (b) the premises where the cannabis is to be cultivated is not situated within 100 feet of any school or place of worship;
  - (c) the premises where the cannabis is to be cultivated consists of an area having clearly defined boundaries and ownership of the proposed premises is clearly established;
  - (d) the Authority is satisfied that approving the application would not be inconsistent with any requirements under any Act or any action taken by the appropriate authority in exercise of functions under that Act and any other applicable laws concerning the issue of licences with respect to the carrying on of any activity in the location concerned.
- (3) The Authority shall not decide to approve an application for a tier 2 cultivation licence unless, in addition to the requirements set out in Part 3 of this Act, the following additional requirements are satisfied—
- (a) arrangements are in place for the off-site security surveillance of the premises where the cannabis or medicinal cannabis is to be cultivated, whether by electronic means or otherwise;
  - (b) the premises where the cannabis or medicinal cannabis is to be cultivated is not situated within 100 feet of any school or place of worship;
  - (c) the premises where the cannabis is to be cultivated consists of an area having clearly defined boundaries and ownership of the proposed premises is clearly established;
  - (d) that approving the application would not be inconsistent with any requirements under any Act or any action taken by the appropriate authority in exercise of functions under that Act and any other applicable laws concerning the grant of licences with respect to the carrying on of any activity in the location concerned;
  - (e) the applicant has submitted a draft security contract with a security company that is included on a list of approved security companies published by the Authority (hereinafter referred to as an “approved security company”) that includes provision for—
    - (i) electronic surveillance or surveillance by other means;
    - (ii) regular physical inspections and written reports thereon; and
    - (iii) an alarm system designed, in emergency situations, to alert an approved security company;
  - (f) the applicant has submitted, to the satisfaction of the Authority, a proposal for the implementation of a system to monitor, track and trace all cannabis or medicinal cannabis cultivated on the proposed premises;

- (g) the applicant meets the requirement set out in section 18 of this Act.

Terms and conditions applicable to cultivation licence

- 5 (1) All cannabis or medicinal cannabis that is cultivated—
- (a) in accordance with a tier 1 cultivation licence is for the personal use of the licensee and shall not be sold or supplied to another person;
  - (b) in accordance with a tier 2 cultivation licence shall not be sold or provided to another licensee without the written approval of the Authority.
- (2) Without prejudice to subparagraph (1) and the power of the Authority to impose terms and conditions on a tier 1 or tier 2 cultivation licence, the following additional terms and conditions shall be included—
- (a) compliance with the guidelines issued by the Authority relating to the procedure, conditions and requirements for the storage of the cannabis or medicinal cannabis;
  - (b) for a tier 2 cultivation licence, a report on the activities conducted on the cultivation site shall be made to the Authority at such times as may be reasonably required by the Authority.

*B. Manufacturing Licences*

Matters to be authorised by manufacturing licence

- 6 Without limiting the matters specified in a manufacturing licence, such licence shall authorise—
- (a) for a tier 1 manufacturing licence, the processing of edible cannabis products; or
  - (b) for a tier 2 manufacturing licence, the manufacturing of cannabis products or medicinal cannabis products, including activities related to such manufacture.

Additional requirements for manufacturing licence

- 7 The Authority shall not approve an application for a manufacturing licence unless, in addition to the requirements set out in Part 3 of this Act, the following requirements are met—
- (a) for a tier 1 manufacturing licence, the applicant submits the following information—
    - (i) the type of edible cannabis product that will be processed;
    - (ii) a notarized copy of a licence which has been granted under regulation 5(1) of the Public Health (Food) Regulations 1950;

- (b) for a tier 2 manufacturing licence, the applicant submits the following information, where applicable, regarding the premises to be used to conduct the manufacturing activity—
  - (i) the type of cannabis product or medicinal cannabis product that will be manufactured;
  - (ii) a site plan of the premises, showing all boundaries, dimensions, entrances and exits, rooms, windows, including the areas in which manufacturing activities will be conducted;
  - (iii) a description of security procedures sufficient to demonstrate how the applicant will comply with paragraph 10 and any guidelines relating to the same that are issued by the Authority;
  - (iv) a description of the waste disposal procedures sufficient to demonstrate how the applicant will comply with any guidelines relating to the same that are issued by the Authority;
- (c) the applicant has satisfied all applicable requirements under any Act or any other standards prescribed under this Act;
- (d) the Authority is satisfied that the approval would not be inconsistent with any requirements under the Bermuda National Parks Act 1986 or any action taken in the exercise of functions under that Act and any other applicable laws concerning the granting of licences with respect to the carrying on of any business or activity in the location concerned.

Additional terms and conditions of a manufacturing licence

8 Without prejudice to the power of the Authority to impose terms and conditions under section 28 it shall be deemed to be a term of every manufacturing licence that the licensee shall, for the duration of the licence, remain compliant with all applicable requirements of applicable laws relating to standards of intellectual property.

Security Plan

9 (1) A licensee shall develop and implement a security plan.

(2) At a minimum, the security plan shall include a description of the security measures to be taken to prevent against theft of cannabis or medicinal cannabis including but not limited to limiting access of people within the premises to those areas necessary to complete job duties and to those time-frames specifically scheduled for completion of job duties.

*C. Import Licences*

Application for import licence

10 The Authority shall not approve an application for an import licence unless, in addition to the requirements set out in Part 3 of this Act, the applicant submits the following additional information—

- (a) in respect of cannabis or medicinal cannabis to be imported—
  - (i) its description;
  - (ii) its intended use;
  - (iii) if applicable, its brand name;
  - (iv) its quantity;
- (b) the name and address of the exporter in the country of export;
- (c) the port of entry into Bermuda;
- (d) the address of the premises to which the cannabis or medicinal cannabis is to be delivered.

Contents of import licence

- 11 (1) An import licence shall contain the following—
- (a) the licence number;
  - (b) the information referred to in section 24(2)(a) and (b) of this Act;
  - (c) the effective date of the import licence;
  - (d) its expiry date;
  - (e) if applicable, any conditions that the licensee shall meet in order to reduce any potential public health, safety or security risk, including the risk of the imported substance being diverted to an illicit market or use.
- (2) An import licence is valid only for the importation in respect of which it is issued.

Provision of import licence

12 On request of a customs officer, the holder of an import licence shall provide a copy of the import licence to the customs officer, sufferance warehouse or bonded warehouse, as the case may be, at the port of entry in Bermuda.

Declaration after release from customs

13 The holder of an import licence shall provide the Authority, within 15 days after the day of release of a shipment that contains the imported cannabis or medicinal cannabis, in accordance with the Revenue Act 1898, with a declaration that contains the following information—

- (a) the name of the licensee and a copy of the import licence in respect of the shipment;
- (b) the date of release of the shipment; and
- (c) in respect of the imported cannabis or medicinal cannabis—
  - (i) its description;

- (ii) its intended use;
- (iii) if applicable, its brand name; and
- (iv) its quantity.

Transportation of imported substance

14 The holder of an import licence shall ensure that, after the imported cannabis or cannabis product or medicinal cannabis or medicinal cannabis product is released, it is transported directly to the premises specified in the import licence.

*D. Export Licences*

Application for export licence

15 (1) The Authority shall not grant an application for an export licence unless, in addition to the requirements set out in Part 3 of this Act, the applicant submits the following additional information—

- (a) in respect of the cannabis or medicinal cannabis to be exported;
  - (i) its description;
  - (ii) its intended use;
  - (iii) if applicable, its brand name;
  - (iv) its quantity; and
  - (v) in the case of dried cannabis, the percentages of delta-tetrahydrocannabinol w/w and cannabidiol w/w;
- (b) the name and address of the importer in the country of final destination;
- (c) the port of exit from Bermuda and, if applicable, any country of transit or transshipment;
- (d) the address of the customs office, sufferance warehouse or bonded warehouse at which the shipment is to be presented for export;
- (e) each mode of transportation to be used; and
- (f) a declaration that, to the best of the knowledge of the applicant, the shipment does not contravene any laws of the country of final destination or any country of transit or transshipment.

(2) An application for an export licence shall be accompanied by a copy of the import licence issued by a competent authority in the country of final destination that sets out the name and address of the site of the importer in the country of final destination.

Contents of export licence

- 16 (1) An export licence shall contain the following—
- (a) the licence number;



- (b) the information referred to in section 24(2)(a) and (b) of this Act;
  - (c) the effective date of the export licence;
  - (d) its expiry date;
  - (e) the expiry date of the import licence issued by a competent authority in the country of final destination; and
  - (f) if applicable, any conditions that the licensee shall meet in order to reduce any potential public health, safety or security risk, including the risk of the exported substance being diverted to an illicit market or use.
- (2) An export licence shall be valid until—
- (a) its expiry date or the date on which it is suspended or revoked in accordance with this Act; and
  - (b) the expiry date of the import licence that applies to the cannabis or medicinal cannabis to be exported which is issued by a competent authority in the country of final destination or the date on which that licence is suspended or revoked.
- (3) An export licence granted under this Act is valid only for the exportation in respect of which it is issued.

Refusal to issue export licence

17 The Authority may refuse an application for an export licence if—

- (a) the applicant does not hold a tier 2 cultivation, manufacturing or research licence in respect of the cannabis or medicinal cannabis that is to be exported;
- (b) the Minister has reasonable grounds to believe that the shipment for which the export licence is requested would contravene the laws of the country of final destination or any country of transit or transshipment; or
- (c) the shipment would not be in conformity with the import licence issued by a competent authority of the country of final destination.

Provision of copy of export licence

18 On request of a customs officer, the holder of an export licence shall provide a copy of the export licence to the customs officer, sufferance warehouse or bonded warehouse, as the case may be, at the port of exit from Bermuda at the time of exportation.

Declaration after export

19 The holder of an export licence shall provide to the Authority, within 15 days after the day on which a shipment of the cannabis or medicinal cannabis is exported, a declaration that contains the following information—

- (a) the name of the licensee and a copy of the export licence in respect of the shipment;

- (b) the date of export; and
- (c) in respect of the exported cannabis or medicinal cannabis—
  - (i) its description and an indication as to whether it is in the form of seeds, plants or dried cannabis or medicinal cannabis;
  - (ii) its intended use;
  - (iii) if applicable, its brand name;
  - (iv) its quantity; and
  - (v) in the case of dried cannabis or medicinal cannabis, its percentages of delta-9- tetrahydrocannabinol w/w and cannabidiol w/w.

*E. Research Licences*

Additional requirements for application for research licence

20 The Authority shall not approve an application for a research licence authorizing—

- (a) the provision of analytical services unless the Authority is satisfied that the applicant is duly qualified to provide those services;
- (b) the conduct of any research or development unless the Authority is satisfied that the applicant is duly qualified to conduct the research or development.

Grant of research licence

21 Where the Authority approves an application for a research licence, the Authority shall, upon receipt of the relevant licence fee, grant the applicant a research licence in the form the Authority may determine, being a licence authorizing—

- (a) the conduct, for experimental purposes, of research utilising cannabis or medicinal cannabis, which shall be described as a research (experimental purposes) licence; or
- (b) the provision of analytical services in respect of cannabis or medicinal cannabis, which shall be described as a research (analytical services) licence.

Additional terms and conditions of research licence

22 Without prejudice to the power of the Authority to impose terms and conditions for a research licence, it shall be deemed to be a term and condition of every research licence that—

- (a) the licensee shall keep a log, in the form approved by the Authority, of all persons entering and exiting the premises on which the activities which are the subject of the licence are carried out;
- (b) any cannabis or medicinal cannabis used for research shall be destroyed in accordance with guidance issued by the Authority.

Security Plan; research licence

- 23 (1) A licensee shall develop and implement a security plan.
- (2) The security plan shall include a description of the security measures to be taken to—
- (a) prevent access to the premises by any unauthorized personnel and protect the physical safety of employees, including, but is not limited to—
    - (i) establishing physical barriers to secure perimeter access and all points of entry onto a premises (such as locking primary entrances with commercial grade, non-residential door locks, or where applicable, and subject to guidelines issued by the Authority, providing fencing around the premises, driveway, and any secondary entrances including windows, roofs, or ventilation systems);
    - (ii) installing a security alarm system to notify and record incident(s) where physical barriers have been breached;
    - (iii) establishing an identification and sign-in/sign-out procedure for authorized personnel, suppliers and visitors;
    - (iv) maintaining the premises such that visibility and security monitoring of the premises is possible; and
    - (v) establishing procedures for the investigation of suspicious activities;
  - (b) prevent against theft or loss of cannabis or medicinal cannabis including but not limited to—
    - (i) establishing an inventory system to track cannabis or medicinal cannabis and the personnel responsible for processing it throughout the manufacturing process;
    - (ii) limiting access of personnel within the premises to those areas necessary to complete job duties and to those time-frames specifically scheduled for completion of job duties;
    - (iii) securing and backing up electronic records in a manner that prevents unauthorized access and that ensures the integrity of the records is maintained.
- (3) At a minimum, the premises shall have a complete digital video surveillance system, which shall be able to effectively and clearly record images of the area under surveillance.
- (4) The video surveillance system shall be capable of supporting remote access by the licensee.
- (5) To the extent reasonably possible, all video surveillance cameras shall be installed in a manner that prevents intentional obstruction, tampering with, or disabling.
- (6) Areas that shall be recorded on the video surveillance system include, but are not limited to, the following—

- (a) areas where cannabis or medicinal cannabis are weighed, packaged, stored, quarantined, loaded or unloaded for transportation, or moved within the premises;
  - (b) limited-access areas;
  - (c) areas containing surveillance-system storage devices, in which case, at least one camera shall record the access points to such an area; and
  - (d) the interior and exterior of all entrances and exits to the premises.
- (7) The surveillance system shall record continuously twenty-four hours per day.
- (8) All recording and monitoring equipment shall be located in secure rooms or areas of the premises in an access-controlled environment.
- (9) All surveillance recordings shall be kept on the licensee's recording device for a minimum of ninety days.
- (10) All video surveillance recordings shall be copied and sent, or otherwise provided, to the Authority upon request.
- (11) The video recordings shall display the current date and time of recorded events.

*F. Transport Licences*

Grant and scope of transport licence

24 (1) Where the Authority decides to approve an application for a transport licence, the Authority shall upon receipt of the prescribed fee, grant a transport licence in the form the Authority may determine.

(2) A licence issued under subparagraph (1) shall be construed as authorising, in the vehicle of the licensee, the transportation of cannabis or medicinal cannabis to or from a location specified in subparagraph (3), for use for any medicinal or research purpose.

(3) The locations mentioned in subparagraph (2) are—

- (a) any cultivation site;
- (b) a cannabis retail shop;
- (c) a licensed cannabis event;
- (d) any premises on which a licensee is permitted to manufacture or process or carry out any research on cannabis or medicinal cannabis.

Additional terms and conditions of transport licence

25 Without prejudice to the power of the Authority to impose terms and conditions for any transport licence, the following terms and conditions shall be deemed to be included in the terms and conditions of a transport licence—

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- (a) the licensee shall be accompanied by a security officer in the vehicle during any transportation of cannabis or medicinal cannabis to observe the secure delivery of the cannabis or medicinal cannabis to the delivery location;
- (b) a log of all persons accessing the vehicle shall be kept by the licensee in a form approved by the Authority and the log made available to the Authority for inspection on request; and
- (c) all times for transportation shall be between the hours of 6:00 a.m. and 6:00 p.m..

SCHEDULE 4

(Section 2)

CANNABIS RETAIL SHOP

Part 1

Preliminary

Interpretation

1 In this Schedule—

“cannabis accessory” includes rolling papers or wraps, holders, pipes, water pipes, bongs and vaporizers used in the consumption of cannabis;

“licence” means a cannabis retail shop licence granted under section 25 of the Act;

“licensee” means the holder of a cannabis retail shop licence;

“patron” means a customer of a retail shop;

“retail shop” means a cannabis retail shop.

Part 2

General Provisions for Licensing

Guidance

2 (1) The Authority shall issue such guidance for the purposes of this Schedule as is considered appropriate and such guidance shall be taken into account when assessing compliance with the provisions of this Schedule.

(2) The Authority may from time to time revise any guidance issued under this paragraph.

(3) The Statutory Instruments Act 1977 does not apply to any guidance published under this paragraph.

Authorized activities

3 A retail shop licence authorizes a licensee—

(a) to sell cannabis from a retail shop to patrons;

(b) to sell cannabis from a retail shop to patrons for only consumption in the retail shop;

(c) in subparagraph (a) or (b) to sell cannabis accessories.

Cannabis sold in a retail shop

4 (1) A licensee shall only sell the following forms of cannabis or cannabis products—

- (a) dried cannabis;
- (b) cannabis oil;
- (c) fresh cannabis;
- (d) edible cannabis;
- (e) cannabis extracts;
- (f) cannabis topicals.

(2) A licensee who sells cannabis in a form other than provided in subparagraph (1) shall have his licence revoked immediately.

Part 3

Retail Shop Licence

Restrictions on number of licences that may be held

5 A licensee shall only apply for and hold one retail shop licence.

Application for a licence

6 The Authority shall not grant a licence unless, in addition to the requirements set out in section 24 of this Act, the following additional requirements are satisfied, that—

- (a) arrangements satisfactory to the Authority are in place for the off-site security surveillance of the retail shop where the cannabis is to be supplied or sold, whether by electronic means or otherwise;
- (b) the premises of the proposed retail shop is not situated within 100 feet of any school or place of worship;
- (c) the Authority is satisfied that approving the application would not be inconsistent with any requirements under any Act or any action taken by the appropriate authority in exercise of functions under that Act and any other applicable laws concerning the grant of licences with respect to the carrying on of any activity in the location concerned;
- (d) the applicant has submitted a draft security contract with an approved security company that includes provision for—
  - (i) off-site web-enabled electronic surveillance;
  - (ii) regular physical inspections and written reports thereon; and
  - (iii) a panic alarm system tied to a base operation that is operated, by an approved security company.

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### Publication; application for a licence

7 (1) The Executive Director shall cause a notice to be published in the Gazette containing details of each application for the grant or renewal of a licence and such notice shall, subject to subsection (3), include the following—

- (a) the name of the applicant;
- (b) the name of the manager of the business;
- (c) the type of retail shop licence for which application will be made, specifying whether the retail shop will be only be for the sale of cannabis or for the sale and consumption of cannabis;
- (d) the address of the premises in respect of which application will be made; and
- (e) the name under which the premises will be operated.

(2) A person may, withing 14 days of the publication of a notice under subsection (1), object to an application for a licence.

### Terms and conditions

8 (1) In addition to the terms and conditions in section 28 of this Act, the following terms and conditions shall apply to a licence—

- (a) cannabis purchased in retail shop shall not be consumed in a retail shop that is licensed only to sell cannabis;
- (b) cannabis shall only be sold and consumed in retail shop that is licensed for the consumption of cannabis;
- (c) cannabis sold in a retail shop licensed for consumption shall not be consumed by a patron outside the retail shop;
- (d) the only business that takes place in the retail shop that is licensed to sell cannabis is the sale of the items referred to in paragraph 5(1);
- (e) the payment for cannabis purchased by a patron shall take place in the retail shop;
- (f) cannabis shall not be sold to a person who intends to deliver the cannabis to another person, for compensation or otherwise;
- (g) the maximum amount of cannabis that can be sold to a patron in a transaction is 7 grams of dried cannabis or an equivalent amount;
- (h) cannabis that is sold under a licence only for the sale of cannabis shall be sold in its original packaging that has never been opened;
- (i) the licensee for only the sale of cannabis shall not open the packaging of cannabis unless—
  - (i) the purpose of opening the packaging is to allow patrons to smell the cannabis or another purpose approved by the Authority; and



- (ii) cannabis from the opened packaging is not sold;
  - (j) a patron of a retail shop licensed only to sell cannabis shall not open the packaging of cannabis in the retail shop;
  - (k) the retail shop shall be located in a building, vehicle, vessel or structure and be enclosed by floor-to-ceiling walls that are not transparent;
  - (l) the entrances and exits of the retail shop shall not be shared with any other store, business or dwelling unit.
- (2) The Authority shall not grant a licence for an area as a retail shop if the area provides access to—
- (a) a business in which the majority of the goods or services offered are primarily directed at minors; or
  - (b) premises that are subject to a licence issued under the Liquor Licence Act 1974 that authorizes patrons to consume intoxicating liquor other than the consumption of samples.

Grant of licences subject to conditions

9 (1) The following conditions shall be observed with respect to the grant of licences—

- (a) the Authority shall be satisfied—
    - (i) that the retail shop is suitably located and well designed; and
    - (ii) that there are no sustainable objections to the grant of the licence to the applicant and, in particular, no such objections, raised by or on behalf of persons owning or occupying neighbouring property, based on any of the following anticipated grounds—
      - (A) undue noise;
      - (B) accumulation of trash;
      - (C) disruption of the traffic flow; or
      - (D) disturbance attributable to cannabis misuse;
  - (b) the premises in respect of which a licence is granted for the consumption of cannabis shall have no internal or private communication with any other building or premises, but shall consist either of the whole of an entirely detached building or of one or more rooms having no internal or private communication with any other building, room or premises.
- (2) Without prejudice to any other provision of this Schedule, the Authority may decide to grant a licence subject to such conditions as the Authority deems expedient to secure the proper conduct of the retail shop.
- (3) A licence shall be authority for the sale or the sale and consumption of cannabis only in the parts of the premises delineated in plans submitted to the Authority under

section 24 of the Act and approved by the Authority as parts of the retail shop in which such cannabis is permitted to be sold or sold and consumed.

(4) Where any change (however made) occurs in the management or in the control of the management, or to any of the employees of a retail shop, the licensee shall forthwith supply to the Authority, in writing, details of the change.

(5) Any conditions imposed under subparagraph (2) shall be endorsed on the licence and the Authority shall by notice in writing to the applicant give reasons for the imposition of those conditions.

#### Mandatory condition of retail shop licence

10 (1) The holder of a licence, his servant or agent shall examine the photographic identification as proof of age of any person seeking entry into the retail shop who appears to be under the age of 21 before granting access.

(2) In this paragraph, “photographic identification” means identification which bears a photograph of the person, his date of birth and a holographic mark and includes—

- (a) a valid passport;
- (b) a valid driver’s licence that clearly displays the person’s photograph and date of birth; or
- (c) other valid government issued identification that clearly displays the person’s photograph and date of birth.

(3) Where a person is required to provide photographic identification as proof of age and fails to produce such photographic identification, a licensee, his servant or agent shall—

- (a) refuse entry to that person; or
- (b) refuse to sell cannabis to that person,

and shall require him to leave the licensed premises.

#### Objection to grant or renewal of licence

11 (1) Any person ordinarily resident in the parish in which the retail shop is sought to be licensed, or any person in any other parish being the owner or occupier of any property lying within 300 feet of such retail shop, or the Commissioner of Police may object to the grant of a licence in respect of the retail shop and where objection is made the following provisions shall have effect—

- (a) written notice stating the grounds of objection to the grant of a licence shall be served on the Authority and on the applicant, and, where the person objecting to the application is not the Commissioner of Police, on the Commissioner of Police, in each case not less than three days before the date set by the Authority for hearing the application;
- (b) in the event of failure to comply with subparagraph (a) the Authority, upon such terms as to payment of costs and expenses as may seem just, may

adjourn any hearing to enable at least three days to elapse between service of the notice and the hearing;

- (c) the Authority may direct or permit the amendment of any notice;
- (d) the Authority may, subject to such conditions as it thinks fit to impose, allow a number of persons qualified under this subparagraph to be represented for the purposes of the objection by a person, whether or not himself so qualified, appointed by them.

(2) The Authority, in considering any objection, shall receive evidence on oath, and any member of the Authority present at the hearing may administer such oath.

(3) The Authority shall have the same powers with regard to compelling the attendance and examination of witnesses as are conferred on a court of summary jurisdiction by the Criminal Jurisdiction and Procedure Act 2015 and it shall be the duty of any police officer to whom any summons or warrant signed by the presiding member of the Authority is issued to serve or execute the same in the manner required by section 8 of that Act.

(4) The Authority may grant costs in accordance with the scale of costs applicable in a court of summary jurisdiction to a successful applicant for the grant of a licence against any person who has lodged an objection under this paragraph, or vice versa, and such costs shall be recoverable in all respects as if they had been costs awarded in a civil action in a court of summary jurisdiction.

#### Plans; retail shop

12 (1) An applicant for the grant or renewal of a licence shall submit for the approval of the Authority a sketched plan of the premises intended to be used as a retail shop showing by appropriate colourings and markings—

- (a) the general lay-out of the premises;
- (b) the parts of the premises to be used for the sale or consumption of cannabis;
- (c) the location of sanitary facilities; and
- (d) such other information as the Authority may require.

(2) The provisions of subparagraph (1) shall apply in respect of all premises upon the first application for the grant of a licence, but shall not apply to any subsequent application in respect of the same premises unless an alteration is intended to be made which would render inaccurate the plan submitted under subparagraph (1), in which event a revised plan of the premises shall be submitted to the Authority indicating the proposed alterations.

(3) The Authority may refuse to grant or renew a licence in respect of any premises unless the alterations have previously been approved by the Authority.

(4) The Authority shall retain a copy of the plans of licensed premises submitted under this paragraph.

Notification of Commissioner of Police of licences granted

13 Within 7 days after the granting of a licence the Authority shall notify the Commissioner of Police, in writing, the name of the licensee and the location of the retail shop, and the Commissioner of Police shall keep a list of all licences granted and in force.

Part 2

Permitted Hours

Permitted hours

14 (1) Subject to subsection (2), the permitted hours in respect of a retail shop shall be 10:00 a.m. to 10:00 p.m. of the same day except public holidays.

(2) The Authority may, on its own initiative or at the request of any applicant or licensee, limit the permitted hours in respect of any retail shop and any such limitation shall be endorsed on the licence and shall be the permitted hours in respect of that retail shop.

Prohibition of sale etc. of cannabis outside permitted hours

15 (1) Except during the permitted hours, or as permitted by or under this Act, a person shall not—

- (a) himself or by his servant or agent—
  - (i) sell cannabis in a retail shop; or
  - (ii) permit the consumption of cannabis in a retail shop;
- (b) purchase cannabis in a retail shop;
- (c) consume cannabis in a retail shop; or
- (d) take cannabis from a retail shop.

(2) A person who contravenes subparagraph (1) commits an offence and shall be liable on summary conviction to a fine of \$2,000 or to imprisonment of a term not exceeding six months, or to both.

Part 3

Conduct in Retail Shops

Security guard on a retail shop premises

16 (1) A licensee shall engage the services of security guards for the purpose of maintaining security at a retail shop.

(2) There shall be one security guard on a retail shop premises during the permitted hours provided in paragraph 14.

(3) The Minister may, after consultation with the Authority and the Commissioner of Police, by order subject to the negative resolution procedure amend the number of security guards required on a retail shop premises.

(4) A licensee who fails to comply with subparagraph (1) or (2), commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

Duty to display notice of permitted hours

17 (1) A licensee shall cause to be displayed and to be kept on display in a conspicuous place in the retail shop, a printed notice specifying the days and hours during which the sale or sale and consumption of cannabis is permitted in the retail shop under his licence.

(2) A licensed person who fails to comply with subparagraph (1) commits an offence and is liable on summary conviction to a fine of \$500 for each day the offence continues.

Duty of licensee to lock up cannabis

18 (1) It shall be the duty of a licensee to ensure that all cannabis in the retail shop is kept locked up at all times, including during the permitted hours and that any door leading to the retail shop or other place in the retail shop where cannabis is ordinarily sold or consumed, and opening on a public road or street or other place to which the public have access, or opening on any other part of the retail shop, is kept locked except during the permitted hours.

(2) A licensee who, himself or by his servant or agent, contravenes subparagraph (1) commits an offence and is liable on summary conviction to a fine of \$800.

Duty of licensee to produce licence

19 A licensee who refuses to produce on demand his licence to an inspector when acting in the execution of his duty commits an offence and is liable on summary conviction to a fine of \$1,000.

Punishment of licensee being intoxicated in a retail shop

20 Any licensee who is intoxicated by cannabis or who allows his servant or agent to be intoxicated by cannabis, in a retail shop commits an offence and is liable on summary conviction to a fine of \$1,200.

Restrictions on consumption of cannabis in unlicensed part of premises

21 (1) Where a retail shop is licensed for the sale and consumption of cannabis, the licensee, his servant or agent, shall not permit any person to consume cannabis in any other part of the retail shop that is not licensed for the consumption of cannabis.

(2) Any person acting in contravention of subparagraph (1) commits an offence and is liable on summary conviction to a fine of \$1,000.

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### Opening packaging

22 (1) No person shall open the packaging of cannabis in a retail shop that is not licensed for consumption.

(2) Any person acting in contravention of subparagraph (1) commits an offence and is liable on summary conviction to a fine of \$2,000.

### Restrictions on employment of persons under the age of 21

23 (1) No licensee shall employ a person under the age of 21 years in a retail shop.

(2) A person acting in contravention of subparagraph (1) commits an offence and is liable on summary conviction to a fine of \$2,000.

### General restrictions

24 (1) A licensee or his servant or agent of a licensee shall not—

- (a) sell cannabis to a person who is intoxicated from alcohol or drug or shows signs of intoxication from alcohol or any drug;
- (b) allow a person who is intoxicated from alcohol or a drug or shows signs of intoxication from alcohol or a drug to enter or remain in a retail shop;
- (c) allow violent or disorderly conduct in a retail shop;
- (d) allow unlawful activities or conduct in a retail shop;
- (e) allow a person to enter a retail shop or to remain in a retail shop if the licensee or employee knows that the person has possession of an offensive weapon.

(2) A licensee or an employee of a licensee may—

- (a) if the licensee or employee believes a person is intoxicated from alcohol or a drug or shows signs of intoxication from alcohol or a drug—
  - (i) request that the person leave the retail shop; or
  - (ii) forbid the person from entering the retail shop.
- (b) if the licensee or employee believes the presence of a person in an establishment is undesirable or that the person has, without lawful excuse, possession of an offensive weapon—
  - (i) request that the person leave the retail shop;
  - (ii) forbid the person from entering the retail shop.

(3) A person shall not—

- (a) remain in a retail shop after the person is requested to leave in accordance with subparagraph (2);
- (b) enter an establishment within 24 hours after the time the person was requested to leave the establishment in accordance with subparagraph (2).

(4) A police officer may arrest without warrant a person who has committed, or whom the police officer, with reasonable cause, suspects to have contravened subparagraph (3).

#### Part 4

#### Police Powers

##### Inspection of retail shop by Commissioner of Police

25 It shall be the duty of the Commissioner of Police to inspect every retail shop at least once in every six months and to report in writing to the Authority whether, in his opinion, such retail shops are or are not being used or maintained in accordance with this Schedule.

##### Power of police to enter licensed premises, etc.

26 (1) Any police officer when on duty may, for the purpose of preventing or detecting the commission of any offence against this Schedule, at all times enter any retail shop in respect of which no licence is in force, and may remain on such premises for so long as he may deem necessary for the carrying out of his duties.

(2) If any licensee, his servant or agent, or any other person acting with his knowledge or consent, fails or unreasonably delays to admit a police officer demanding to enter in pursuance of this paragraph, he commits an offence and is liable on summary conviction to a fine of \$700.

(3) In any proceedings for an offence under this paragraph the burden of proving that any delay in admitting a police officer was reasonable shall lie upon the accused person.

##### Powers of search

27 (1) Any magistrate having reason to believe, from the information or evidence upon oath of any credible person, that cannabis is being unlawfully sold or kept for sale in any premises which are not licensed retail shops may issue a warrant to any police officer, authorizing him, with or without assistance, to enter and search those premises at any hour by day or night, for the purpose of ascertaining whether an offence under this Schedule is being or has been committed.

(2) If, upon such search, any cannabis is found in such quantities or under such circumstances as to satisfy the police officer that it is kept for the purpose of unlawful sale, then he, and any person assistant to him, shall seize and carry away or otherwise secure the cannabis.

(3) If upon a hearing before a court of summary jurisdiction the court adjudges and determines that such cannabis has been kept for the purpose of unlawful sale, then the court may adjudge the cannabis to be forfeited.

(4) Cannabis adjudged to be forfeited shall be sold in such manner as the court shall direct and the net proceeds from such sales shall be paid into the Consolidated Fund.

(5) Before a hearing under subparagraph (3), every person who is, or who appears to the police officer to be the owner of such cannabis shall be summoned to appear at such hearing.

Obstruction of police officers

28 Any person who interrupts or obstructs any police officer while in the execution of any duty imposed on him, or any power conferred on him, by or under the authority of this Schedule, commits an offence and shall be liable on summary conviction to a fine of \$1,500.

Power of police to close retail shop for a period not exceeding 24 hours

29 (1) A police officer of the rank of superintendent or above, may, upon reasonable belief that any serious disorder or threat to public safety has occurred, is likely to occur or is reasonably expected to occur in a retail shop or near a retail shop, order any licensee, his servant or agent carrying on business at or near the retail shop where such serious disorder or threat to public safety has occurred, is likely to occur or is expected to occur, to close the licensed premises and any place of business of the licensed person, his servant or agent near the retail shop, for a period not exceeding 24 hours, for the preservation of public peace.

(2) A licensee, his servant or agent who contravenes subparagraph (1) commits an offence and is liable on summary conviction to a fine not exceeding \$9,000.

Evidential provisions

30 The following provisions shall have effect in relation to any criminal proceedings taken under this Schedule—

- (a) the prosecution shall not be required to prove that the defendant, at the time of the offence charged, did not hold a licence, but the burden of proof of his having held such licence at such time, where relevant, shall be on the defendant, who shall be presumed to have held no licence at the time of the commission of the offence charged, in the absence of proof to the contrary;
- (b) for the purposes of subparagraph (a) a certificate purporting to be signed by the Chairman of the Authority to the effect that any person did on any specified day hold a licence shall be sufficient evidence of the fact certified, in the absence of proof to the contrary;
- (c) evidence that a transaction in the nature of the sale of cannabis took place shall be evidence of the sale of the cannabis without proof that money passed;
- (d) evidence that consumption of cannabis was about to take place shall be evidence of the consumption of cannabis without proof of actual consumption;
- (e) evidence that any person other than the licensee, his servant or agent, consumed or intended to consume cannabis in the retail shop shall be



evidence that the cannabis was sold to that person by the licensee, his servant or agent;

- (f) where cannabis in open packaging is found in any retail shop that is not licensed for consumption, consumption of cannabis shall be deemed to have taken place in that retail shop, unless the contrary is proved.

#### Suspension or revocation of licence

31 (1) On the conviction of a licensee for an offence under this Schedule, he shall be liable, at the discretion of the court by which he is convicted and in addition to any punishment imposed or order made, to have his licence suspended or revoked.

(2) Without prejudice to subparagraph (1) where the court suspends or revokes the licence of a licensed person it may further order that the person and any corporate body over which he exercises effective control shall be disqualified from obtaining a licence either absolutely or for such period as the court may determine.

### Part 5

#### General Provisions

#### Record-keeping requirements

32 The records that a licensee shall keep are as follows—

- (a) cannabis purchase records;
- (b) cannabis sales records, including quantity of cannabis sold and prices charged;
- (c) security camera recordings for a period of one year;
- (d) when cannabis is disposed of, records setting out the date, location and method of disposal and the type and amount of cannabis;
- (e) sales records respecting cannabis accessories;
- (f) invoices and purchase receipts for all equipment and other inventory that is used in the operation of the establishment;
- (g) employee records, including names, addresses, compensation, primary job responsibilities, shift schedules and dates of employment.

### Part 6

#### Offences

#### Altering or adding to cannabis

33 (1) A licensee shall not—

- (a) alter cannabis in smell jars or cannabis in its packaging; or

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(b) add a substance to cannabis in smell jars or to cannabis in its packaging.

(2) Any licensee who alters or adds a substance to cannabis commits an offence and shall be liable on summary conviction to a fine not exceeding \$4,000 or to one year imprisonment, or to both.

### Prohibition; consumption of cannabis at an unlicensed retail shop

34 (1) No person shall purchase or consume any cannabis in a retail shop in respect of which a licence is not in force.

(2) The proprietor, manager or person for the time being in charge, of any retail shop who knowingly permits or allows any cannabis to be purchased or consumed in such premises commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

(3) Any other person purchasing or consuming cannabis on such premises commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

### Persons found in a retail shop outside permitted hours

35 (1) Where a person is found in a retail shop outside the permitted hours or the period mentioned in paragraph 14—

- (a) he, unless he proves that he is there for a lawful purpose, commits an offence; and
- (b) the licensee if, himself or by his servant or agent, permits that person to be there and does not prove that he is there for a lawful purpose commits an offence,

and is liable on summary conviction to a fine of \$700.

(2) Where, on being asked by a police officer for his name and address, a person found in a retail shop outside the permitted hours or such period as aforesaid—

- (a) refuses to give them;
- (b) gives a false name or address; or
- (c) refuses to answer satisfactorily any question put to him to ascertain the correctness of the name or address given,

he commits an offence and is liable on summary conviction to a fine of \$800.

(3) A police officer may arrest without warrant any person whom he, with reasonable cause, suspects of having committed an offence under subparagraph (2).

### Procuring cannabis for a person under the age of 21 years

36 (1) If a person in a retail shop—

- (a) procures cannabis for consumption by a person under the age of 21 years; or
- (b) aids a minor in obtaining or consuming cannabis in a retail shop,

he commits an offence and is liable on summary conviction to a fine of \$10,000.

(2) It shall be a defence to any charge under this paragraph for the person to prove that he believed and had reasonable grounds for believing that the person was 21 years of age or older.

Restrictions on consumption of cannabis in or near a retail shop licensed to sell

37 Where, having purchased cannabis from a licensee, his servant or agent, in a retail shop that is licensed only to sell cannabis, a person consumes cannabis—

- (a) in the retail shop;
- (b) in premises which adjoin or are near the retail shop and which belong to the licensee or under his control or used with his permission,

then, that person and the licensee, if the consumption is with the knowledge and consent of the licensee or of his servant or agent, commits an offence and is liable on summary conviction to a fine of \$8,000.

Miscellaneous offences

38 (1) A licensee who—

- (a) permits any violent, quarrelsome or disorderly conduct in his retail shop or on any other premises in his occupation adjoining or contiguous thereto;
- (b) in his retail shop, sells or serves any cannabis to or for consumption by any person under the age of 21 years, or allows any person under the age of 21 years to consume cannabis;
- (c) allows any person who is unruly to remain in his retail shop or on any other premises in his occupation adjoining or contiguous thereto;
- (d) allows his retail shop, or any premises in his occupation adjoining or contiguous thereto, to be used by persons under the influence of any controlled drug as defined in the Misuse of Drugs Act 1972, or allows any such persons to remain in the retail shop longer than is necessary,

commits an offence and is liable on summary to fine not exceeding \$10,000.

(2) A licensee, his servant or agent, who—

- (a) fails to examine photographic identification before granting access to the retail shop contrary to paragraph 10;
- (b) allows a person under the age of 21 years to gain entry to or be in a retail shop at any time,

commits an offence.

(3) Any person who—

- (a) fails to leave a retail shop on being asked by a licensee, his servant or agent to leave contrary to paragraph 24; or

(b) produces any photographic identification that has been altered or is false, commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

(4) It shall be a defence for a person charged with an offence under subparagraph (1)(b) or (2) to prove that he believed, and had reasonable grounds to believe that the person was 21 years or older.

(5) A person found guilty of an offence under subparagraph (2) is liable on summary conviction to a fine not exceeding \$8,000.

## CANNABIS LICENSING BILL 2022

### EXPLANATORY MEMORANDUM

This Bill seeks to establish the Cannabis Licensing Authority to advise and assist the Minister responsible for drug prevention in the regulation of the sale or supply of cannabis, the import, the cultivation of cannabis for personal use or cannabis or medicinal cannabis for commercial purposes, the research, manufacture, transport and export of cannabis or medicinal cannabis; to establish a licensing system for various activities relating to cannabis or medicinal cannabis; to provide for the monitoring, inspection and enforcement powers to inspectors; to give the Minister the power to give directions to the Cannabis Licensing Authority, to amend the Misuse of Drugs Act 1972 to remove cannabis from the list of controlled drugs, and related matters.

Clause 1 provides the title of the Bill.

Clause 2 provides for the interpretation of terms used in the Bill.

Clause 3 provides that, unless expressed, the Act does not apply to hemp.

Clause 4 provides that the cannabis industry provided in the Act will be regarded as a special programme for the purposes of section 6A of the Human Rights Act 1981. It additionally provides that a special programme is one that assists a person or group of persons to achieve equal economic opportunity in the cannabis industry.

Clause 5 provides for the protection from criminal liability under the Act.

Clause 6 provides that the Minister may, by order subject to the negative resolution procedure, restrict certain strains of cannabis or medicinal cannabis from being sold, supplied, cultivated, imported or manufactured.

Clause 7 provides the establishment of the Cannabis Licensing Authority (“the Authority”).

Clause 8 provides for the functions of the Authority.

Clause 9 provides that the Minister may, after consultation with the Chairman of the Authority, give the Authority directions on the policy that is to be followed by Authority in its functions.

Clause 10 provides for the appointment of the Executive Director of the Authority.

Clause 11 provides for the functions of the Executive Director and the delegation of those functions.

Clause 12 provides that the Executive Director, on consultation with the Minister, will establish the qualifications of staff for the offices of the Authority and shall advise the Minister on appointments made to fill those offices.

Clause 13 provides that every person having an official duty or employed in the administration of the Act will treat all information as confidential.

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Clause 14 protects a member or employee or agent of the Authority from liability for an act done under the Act.

Clause 15 provides for the sums of funds and resources of the Authority.

Clause 16 provides the Authority must submit expenditure budget estimates annually to the Minister for approval.

Clause 17 provides that the Authority will cause statements of its financial affairs to be maintained and prepare a statement of accounts each financial year.

Clause 18 provides for the tabling of annual reports and accounts of the Authority.

Clause 19 provides that a person must be licensed to carry on an activity in the cannabis industry as provided in the Act.

Clause 20 provides that, to be eligible for a licence, the applicant must (a) be over 21 years of age and possess Bermudian status, if an individual, or (b) be incorporated under the laws of Bermuda, if a body corporate.

Clause 21 provides the types of licences obtainable under the Act including and that those licenses are not transferable. These licences include—

- (a) a tier 1 cultivation licence;
- (b) a tier 2 cultivation licence;
- (c) cannabis retail shop licence;
- (d) an import licence;
- (e) a tier 1 manufacturing licence;
- (f) a tier 2 manufacturing licence;
- (g) an export licence;
- (h) a research licence; and
- (i) a transport licence.

Clause 22 provides for a cannabis event licence and how a person is able to apply for that licence. It also provides that a cannabis event may be a public or private event that is infrequent or temporary, where there is either intent for profit or no intent for profit from the sale or supply of cannabis only to invited guests over 21 years of age.

Clause 23 provides for the inspection of a premises the subject of a licence application prior to the grant of a licence.

Clause 24 provides for requirements of the application for a licence.

Clause 25 gives the Authority the power to decide to grant or refuse a licence application

Clause 26 provides that the Authority may decide to grant a licence even if the applicant has a criminal conviction provided that conviction is fully disclosed on application for a licence.

Clause 27 provides that the Authority will notify an applicant, in writing, of his approval of an application.

Clause 28 provides the terms and conditions applicable to each licence.

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Clause 29 provides the grounds on which the Authority may decide to refuse to grant a licence.

Clause 30 provides that a licence may be varied, in writing, on the Authority's initiative or on application by the licensee.

Clause 31 provides the way in which a licensee is able to apply for the variation of a licence.

Clause 32 provides for the duration of a licence.

Clause 33 provides for the application for the renewal of a licence.

Clause 34 gives the Authority the power to revoke, in writing, a licence in certain circumstances.

Clause 35 provides that a person aggrieved by a decision of the Authority may appeal to the Magistrate's Court.

Clause 36 provides for the surrender of a licence.

Clause 37 provides that the licensee must provide a written report to the Authority, and report to an inspector, where there is a theft of cannabis in his possession.

Clause 38 provides for the authorisation of analysts to analyse any cannabis or medicinal cannabis substance, product or sample of any substance, product purporting to be a cannabis or medicinal cannabis.

Clause 39 provides that an inspector may submit for analysis any cannabis substance or product or medicinal cannabis substance or product taken by that inspector to an authorised analyst for analysis.

Clause 40 provides that a certificate of an authorized analyst may be used in any proceedings for an offence under the Act.

Clause 41 empowers the Authority to designate inspectors to obtain information as required in regulating and enforcing the cannabis industry.

Clause 42 provides for inspectors to obtain a warrant from a magistrate for suspected withheld information the inspector wishes to obtain.

Clause 43 creates the offence and penalties for a person or body corporate conducting an activity under the Act without a licence.

Clause 44 provides for various offences under the Act.

Clause 45 provides for offences by a body corporate.

Clause 46 provides that where there is the failure of a convicted person to pay a fine imposed by the court, the court has the power to immediately revoke the person's licence.

Clause 47 gives a police officer of any rank the power to seize an amount of cannabis equal to or more than 7 grams from a person in possession of it in a public place without the relevant licence under the Act to do so.

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Clause 48 provides that 20 grams is the statutory amount deemed for supply where a person is charged with an offence relating to cannabis and supply is an element of the offence.

Clause 49 provides for consecutive sentencing for offences involving cannabis and offences relating to violence or use of weapons.

Clause 50 provides for the defence of lack of knowledge for certain offences.

Clause 51 provides that the Minister will carry out a review of the Act within a prescribed time of the Act coming into operation and submit a report to the Legislature.

Clause 52 empowers the Minister to make regulations.

Clause 53 provides that the Authority may, with the approval of the Minister, issue guidance on the regulation of cannabis and medical cannabis.

Clause 54 provides amendments to the Misuse of Drugs Act 1972 to remove cannabis as a controlled drug.

Clause 55 provides consequential amendments to the Government Authorities (Fees) Act 1971 and the Pharmacy and Poisons Act 1979.

Clause 56 provides for the commencement of the Act.

Schedule 1 provides for the constitution of the Cannabis Licensing Authority and the procedures the Authority is to follow.

Schedule 2 provides the application fee and the licence fees.

Schedule 3 provides additional licensing requirements for cultivation licences, manufacturing licences, import licences, export licences, research licences and transport licences.

Schedule 4 provides additional licensing and operational requirements for cannabis retail shops, including permitted hours, conduct in retail shops and police powers.