

2019-08-29

OBJECTS AND REASONS

This Bill would provide for

- (a) the regulation of the handling of medicinal cannabis in Barbados;
- (b) the establishment of a Barbados Medicinal Cannabis Licensing Authority, a Barbados Medicinal Cannabis Licensing Board and a Barbados Medicinal Cannabis Appeals Tribunal;
- (c) the issuing of licences for the handling of medicinal cannabis; and
- (d) related matters.

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BARBADOS

A Bill entitled

An Act to provide for

- (a) the regulation of the handling of medicinal cannabis in Barbados;
- (b) the establishment of a Barbados Medicinal Cannabis Licensing Authority, a Barbados Medicinal Cannabis Licensing Board and a Barbados Medicinal Cannabis Appeals Tribunal;
- (c) the issuing of licences for the handling of medicinal cannabis; and

(d) related matters.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Medicinal Cannabis Industry Act, 2019*.

Interpretation

2.(1) In this Act,

“Authority” means the Barbados Medicinal Cannabis Licensing Authority established under section 3;

“analytical services” includes services for the testing or abstraction of cannabis;

“Board” means the Barbados Medicinal Cannabis Licensing Board which is the Board of the Authority established under section 5;

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

“cannabis material” means

(a) cannabis;

(b) cannabis resin; and

(c) any other raw material derived from the cannabis plant;

“cannabis resin” has the meaning assigned to it in the *Drug Abuse (Prevention and Control) Act, Cap. 131*;

- “cannabidiol” or “CBD” means a substance found in the cannabis plant which reacts with specific receptors in the human brain and body to give a therapeutic effect;
- “CARICOM Member States” or “CARICOM” means the countries or territories which are party to the Revised Treaty of Chaguaramas establishing the Caribbean Community, as well as the CARICOM Single Market and Economy, that was signed in the Bahamas on 5th July, 2001;
- “controlled drug” has the meaning assigned to it by section 3 of the *Drug Abuse (Prevention and Control) Act*, Cap. 131;
- “cultivation” includes harvesting, curing and drying;
- “cultivation site” means the premises specified in a Cultivator Licence as premises on which cannabis plants are authorised to be cultivated;
- “dispose” means the procedures for destroying cannabis;
- “document” means, in addition to a document in writing, anything in which information of any description is recorded;
- “handling” includes use, cultivation, processing, importation, exportation, transit, transshipment, manufacture, sale, possession and distribution;
- “harvest” means the process of gathering every plant that is reaped, whether manually or by way of machinery, whether or not that plant is dead or deemed to have no commercial value or viability;
- “licence” means a licence issued to a person by the Authority to facilitate the handling of medicinal cannabis or research and development of cannabis in accordance with the Act to supply medicinal cannabis;
- “medical, therapeutic or scientific purposes” includes scientific research, research trials, clinical trials, therapy and treatment, and manufacture of nutraceuticals and pharmaceuticals;
- “medicinal cannabis” means
- (a) cannabis that is grown and sold pursuant to this Act;

- (b) seeds, immature plants as well as all parts of the plant, along with resin extracted from any part of the plant ;
- (c) every compound, manufacture, salt, derivative, mixture or preparation from cannabis;or
- (d) cannabis concentrate;

that is cultivated, processed, manufactured, distributed or sold under a licence.

“medical practitioner ” has the meaning assigned to it by section 2 of the *Medical Profession Act, 2011* (Act 2011 - 1);

“Minister” means the Minister responsible for Agriculture and Food Security;

“minor” means a person who is a patient and who is under the age of 18 years;

“patient” means a person who suffers from a medical condition which may be treated with medicinal cannabis prescribed or recommended pursuant to this Act;

“pharmacist” has the meaning assigned to it by section 2 of the *Pharmacy Act, Cap. 372D*;

“pharmacy” means a place registered as a pharmacy under the *Pharmacy Act, Cap. 372D*;

“premises” means any land or building as well as any vehicle or receptacle located on such land or in any such building;

“public officer” has the meaning assigned to it by section 2 of the *Public Service Act, Cap. 29*;

“recommendation” means a written recommendation dispensing cannabis for medical purposes;

“tetrahydrocannabinol” or “THC” means the main active ingredient in cannabis and one of the many naturally occurring chemical compounds found in cannabis;

“Tribunal” means the Barbados Medicinal Cannabis Tribunal established under section 38;

“therapeutic facility” means a premises granted a Retail Distributor Licence to

- (a) sell, dispense or provide medicinal cannabis prescribed or recommended by a medical practitioner; and
- (b) provide facilities and other medicinal or therapeutic requirements to allow a patient who has purchased prescribed or recommended medicinal cannabis to use or consume that medicinal cannabis there for therapeutic purposes;

“visitor” means a person who is

- (a) a patient
- (b) is not a resident of Barbados; and
- (c) is in possession of a prescription or written recommendation from a medical practitioner in respect of medicinal cannabis;

“young person” means a person who is a patient and who is under the age of 21 years;

(2) The provisions of the *Drug Abuse (Prevention and Control) Act*, Cap. 131, and the *Proceeds and Instrumentalities of Crime Act, 2019* (Act 2019-17) shall not prohibit, or otherwise be applied to the use of medicinal cannabis or cannabis pursuant to this Act, or be used to restrict or render unlawful, the handling of medicinal cannabis or cannabis by any person, unless it is in accordance with the provisions of this Act.

PART II

BARBADOS MEDICINAL CANNABIS AUTHORITY

Establishment of Authority

3.(1) There is hereby established a body to be known as the Barbados Medicinal Cannabis Licensing Authority.

(2) The Authority is a body corporate to which, subject to section 17, section 21 of the *Interpretation Act*, Cap. 1 applies.

Functions of the Authority

4.(1) The Authority shall

- (a) develop policies, procedures and guidelines to establish the medicinal cannabis industry and to ensure that medicinal cannabis is available to patients in a safe and efficient manner;
- (b) regulate the handling of medicinal cannabis;
- (c) subject to subsection (2), issue licences in relation to the handling of medicinal cannabis in accordance with the provisions of this Act;
- (d) develop enforcement procedures in relation to the inspection of premises that are operated by a person in order to ensure compliance with the provisions of this Act or any regulations made pursuant to this Act;
- (e) where required, assist with the provision of analytical services;
- (f) with the approval of the Board, establish and maintain an electronic database to
 - (i) include information relating to persons who handle medicinal cannabis or cannabis in accordance with this Act; and

- (ii) provide for the electronic tracking of the handling of medicinal cannabis or cannabis in accordance with this Act;
 - (g) with the approval of the Board establish and maintain an electronic register of medical practitioners, patients and caregivers, in accordance with this Act and such other registers as may be prescribed;
 - (h) provide for the distribution of educational materials and the conduct of training programmes in relation to the development and use of medicinal cannabis and the medicinal cannabis industry;
 - (i) ensure that proper disposal requirements are prescribed for the safe disposal of cannabis which is handled under this Act;
 - (j) perform such other functions assigned to it under this Act or any other enactment; and
 - (k) enter into any arrangement, which, in the opinion of the Authority, is necessary to ensure the proper performance of its functions.
- (2) In performing the functions specified in subsection (1), the Authority shall
- (a) formulate standards and prescribe codes of practice to be observed by licensees or other persons involved in the medicinal cannabis industry;
 - (b) determine the fees to be charged for services provided by or on behalf of the Authority;
 - (c) facilitate scientific research in respect of medicinal cannabis and where applicable, apply the results of such research in the development of the medicinal cannabis industry; and
 - (d) do all such things as the Authority considers necessary or expedient for the purpose of carrying out its functions.

Establishment of a Board to manage Authority

5.(1) There shall be established a Board, to be known as the Barbados Medicinal Cannabis Licensing Board, which shall be responsible for the policy, organisation and administration of the Authority, and in particular for

- (a) the appointment of staff to the Authority and the management thereof;
- (b) the management of the other resources and contracts of the Authority;
- (c) the development of policies for the prudent and efficient management of the Authority; and
- (d) the monitoring of the performance of the Authority in respect of the discharge of its functions.

(2) The *First Schedule* has effect with respect to the constitution and management of the Board and otherwise in relation thereto.

Functions of the Board

6.(1) The Board shall be responsible for the policy, strategic direction and governance of the Authority.

(2) In performing its functions, the Board shall

- (a) monitor the administrative operations of the Authority;
- (b) advise the Minister on matters of general policy relating to the management, and development of an efficient and regulated medicinal cannabis industry;
- (c) ensure that the Authority receives and manages its funds in a prudent manner; and
- (d) do all such things as the Board reasonably considers necessary or expedient for the purpose of carrying out its functions under this Act.

Board may delegate functions

7.(1) The Board may delegate to the Chairman, a committee of the Board or the Chief Executive Officer of the Authority such of its functions as it thinks expedient for the purpose of effectively transacting the business of the Board .

(2) A delegation of a function under subsection (1)

(a) does not prevent the discharge by the Board of the function; and

(b) may, at any time, be revoked by the Board.

Disclosure of interest

8.(1) A member of the Board who is in any way directly or indirectly interested in any contract or other matter whatsoever which falls to be considered by the Board, or in any contract made or proposed to be made by the Board, shall disclose the nature of his interest to the other members of the Board at a meeting of the Board, and the disclosure shall be recorded in the minutes taken at that meeting of the Board, and that member shall not take part in any deliberation or decision of the Board relating to the contract.

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

Report to Minister

9. The Board may at any time, be required by the Minister to submit a report in respect of any matter or activity in which the Authority is involved under this Act.

Directions of Minister

10. The Minister may give directions of a general nature as to the policy to be followed by the Board and the Authority in the performance of their functions, as appear to the Minister to be necessary in the public interest, and the Board and the Authority shall comply with those directions.

Chief Executive Officer and staff of the Authority

11.(1) The Board shall, with the approval of the Minister, appoint a person, to be the Chief Executive Officer of the Authority.

(2) The Chief Executive Officer

(a) shall hold office for a term not exceeding 3 years, but is eligible for reappointment; and

(b) is entitled to such remuneration and allowances as the Minister determines.

(3) The Board shall, with the approval of the Minister, appoint or employ such other members of staff as may be required for the Authority.

(4) The staff of the Authority shall receive such remuneration and such allowances as the Minister may determine.

Transfer and secondment of public officers

12.(1) Where a public officer is seconded to a post in the Authority from a pensionable office within the meaning of section 2 of the *Pensions Act*, Cap. 25, the period of service with the Authority, unless the Governor-General otherwise determines, counts for pension under that Act as if the officer had not been so seconded.

(2) Where a public officer accepts employment with the Authority, the public officer shall

- (a) be employed on terms and conditions that are no less favourable than those enjoyed by a public officer of proximate rank or a public officer performing comparable duties; and
- (b) retain any right to pension, gratuity or other allowance for which he would have been eligible had he remained in the public service and any such right is preserved.

Limitation on powers of Board

13. The Board shall not, without the prior approval of the Minister,

- (a) assign to a post established by the Board a salary in excess of such amount *per annum* as the Minister may determine and notify the Authority in writing;
- (b) appoint a person to a post established by the Board to which a salary in excess of the amount determined by the Minister under paragraph (a) is assigned; or
- (c) provide for the payment of a pension, gratuity or similar benefit to the staff of the Authority in respect of their service to the Authority.

Functions of the Chief Executive Officer

14.(1) The Chief Executive Officer 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 action as is necessary and appropriate for the effective implementation of this Act and any regulations made pursuant to this Act;

- (c) assigning personnel as may be necessary to ensure that applications for licences are submitted to the Board for approval within the prescribed period after the making thereof;
 - (d) ensuring the timely implementation of the decisions and directions of the Board;
 - (e) submitting quarterly reports to the Board in relation to the activities of the Authority, in such manner as may be approved by the Board;
 - (f) preparing the budget of the Authority and submitting the same to the Board for approval;
 - (g) implementing operational policies and procedures in relation to the functions of the Authority; and
 - (h) performing such other functions as may be assigned to the Chief Executive Officer by the Board or under this Act.
- (2) The Chief Executive Officer shall attend the meetings of the Board, but shall not have a vote at any meeting of the Board.

Obligation to secrecy

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

- (2) Notwithstanding subsection (1) a person may disclose information in any of the following circumstances
- (a) pursuant to an order of the Court;
 - (b) to any person or to an employee of the Authority, where he is authorised or required to do so; or
 - (c) where disclosure is permitted under any other enactment.

(3) A person who receives information pursuant to subsection(2)(a) shall regard and deal with that information as confidential.

(4) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 2 years.

Protection from personal liability

16. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board or Tribunal, employee or agent of the Authority in respect of any Act done *bona fide* in pursuance or execution of the Act.

Funds and resources of the Authority

17.(1) The funds and resources of the Authority shall comprise

- (a) monies voted for the purpose by Parliament;
- (b) such sums as may be borrowed by the Authority for its purposes; or
- (c) revenue earned from application fees, fees for the issuing of licences and other related matters.

(2) The resources of the Fund shall be applied in the payment of salaries, payment or discharge of the expenses, obligations and liabilities of the Authority, the Board and the Tribunal and towards the performance of any function of the Authority, the Board or the Tribunal under this Act.

Borrowing power

18. The Authority may, with the approval of the Minister, borrow any money it requires for meeting any of its obligations or performing any of its functions and shall, in such a case, inform the Minister of

- (a) the amount and source of the loan; and
- (b) the terms and conditions on which the loan may be obtained.

Guarantee of loans

19. In circumstances where approval under section 18 requires a guarantee the Government may, with the approval of Parliament, in such manner and on such terms and conditions as may be specified, guarantee a loan to the Authority together with any interest or other charges payable thereon.

Accounts

20. The Authority shall, in respect of its affairs and functions,
(a) keep proper accounts and adequate financial and other records; and
(b) prepare financial statements in respect of each financial year,
in conformity with generally accepted accounting practice.

Monthly statements

21. Every month the Chief Executive Officer shall prepare and submit to the Accountant-General within such time as the Accountant-General may determine
(a) a statement of revenue showing, under such headings as the Accountant-General may determine, the total revenue earned;
(b) a statement of cash flows; and
(c) a statement of refunds, remittances and waivers made,
during the preceding month.

Audit

22.(1) The Auditor-General shall be the auditor of the Authority.
(2) The Auditor-General shall
(a) audit annually, the accounts of the Authority and report to the Authority and the Minister on the financial statements of the Authority;

- (b) periodically assess, on such basis as the Auditor-General may determine to be reasonable, the fairness and reliability of the information submitted to him by the Authority; and
- (c) provide the Minister and the Authority with copies of reports of audits and assessments carried out under this section.

Public Finance Management Act to apply

23. The *Public Finance Management Act, 2019* (Act 2019-1) applies to the Authority with such modifications and adaptations as may be necessary.

Annual Report to Minister

24.(1) The Board shall, not later than 3 months after the end of every financial year, submit to the Minister an annual report including

- (a) information on the execution of its functions, and the functions of the Authority over the period;
- (b) an account of the activities and transactions of the Authority throughout the financial year in such detail as the Minister may direct; and
- (c) a detailed statement of all sums remitted in accordance with the provisions of the *Public Finance Management Act, 2019* (Act 2019-1).

(2) The Board may include in its annual report mentioned in subsection (1) matters which, in the opinion of the Board, require the attention of the Minister.

PART III

ACCESS TO MEDICINAL CANNABIS

Use of Medicinal Cannabis

25.(1) A person or visitor shall only use medicinal cannabis where that medicinal cannabis is prescribed by a medical practitioner or required by a recommendation by a medical practitioner.

(2) The parent or guardian of a patient who is a minor or young person must obtain a certificate in writing from a medical practitioner certifying that the use of medicinal cannabis is necessary in the case of that minor or young person, and the parent or guardian shall consent in writing to the use of medicinal cannabis.

(3) A person who consumes medicinal cannabis without being authorised to use medicinal cannabis by a prescription or recommendation from a medical practitioner is guilty of an offence and is liable on conviction on indictment to a fine of \$100 000 or to imprisonment for a term of 10 years or to both.

Dose limitation

26. In circumstances where a prescription or recommendation by a medical practitioner requires repeated usage over a period of 3 months, a pharmacy or therapeutic facility shall not dispense to that patient more than a 30 day supply of individual doses at a time.

Keeping of records

27.(1) A medical practitioner shall maintain a record of every patient to whom he has prescribed or recommended medicinal cannabis, and where that patient has a caregiver the medical practitioner shall also enter into the record the name, national registration number and contact information for the caregiver.

(2) All information acquired by the medical practitioner under subsection (1) is confidential, but the medical practitioner shall submit to the Authority at such

times as the Authority may direct a report containing such information, excluding the name of the patient, address of the patient, or the national registration number of his patient, from his records as the Authority may prescribe.

(3) The Authority may request further information from the medical practitioner in writing.

Caregivers

28.(1) Subject to subsections (2) and (3), a patient may designate a person as a caregiver and that person has the responsibility

- (a) for the immediate care and safety of the patient;
- (b) to assist him with obtaining or using medicinal cannabis; or
- (c) to act in the best interest of that person.

(2) A guardian appointed for a person by the Court under the *Mental Health Act*, Cap. 45 shall be deemed to be the caregiver of that person.

(3) A parent or legal guardian of a patient who is a minor or young person shall be deemed to be the caregiver for that minor or young person unless that parent or legal guardian designates another person or a person is designated by an order of the Court.

(4) A person who is designated as a caregiver under this Act shall obtain from a medical practitioner a certificate that states that the caregiver is not addicted to a controlled drug.

(5) A person who is under the age of 18 years shall not be designated as a caregiver.

(6) A caregiver shall not be a person who has been convicted of an indictable offence under the *Drug Abuse (Prevention and Control) Act*, Cap. 131.

(7) A patient who changes his caregiver shall notify his medical practitioner of the change, and give that medical practitioner such information as the medical practitioner may require in respect of the new caregiver.

Dispensing of medicinal cannabis

29.(1) A pharmacist or authorised personnel under the supervision of a pharmacist in a pharmacy or a pharmacist or authorised personnel under the supervision of a pharmacist in a therapeutic facility may dispense medicinal cannabis to a patient and where applicable, to a caregiver for a patient.

(2) Subject to subsection (1), a pharmacist or authorised person being supervised by a pharmacist shall only dispense or supply medicinal cannabis on the submission by a patient or where applicable, a caregiver, of a prescription or recommendation and a valid form of identification.

(3) Upon dispensing medicinal cannabis to a patient or, where applicable, a caregiver, a pharmacist or other authorised personnel under the supervision of a pharmacist shall ensure that the label given in respect of the prescription or the recommendation has the information required by regulation 3(2) of the *Pharmacy (Compounding and Dispensing of Drugs and Poisons) Regulations, 1986* (S.I. 1986 No. 82).

(4) A pharmacist shall enter the information referred to in subsection (3) in a register kept by him and established for that purpose, in the prescribed manner.

(5) A pharmacist shall not dispense to a patient or where applicable, a caregiver

(a) a quantity of medicinal cannabis greater than that which the patient or caregiver is permitted to obtain under a prescription; or

(b) any form of cannabis prohibited under this Act or any other enactment.

(6) A pharmacist shall conform to any requirement or limitation set by the medical practitioner as to the form of medicinal cannabis that is required in relation to the patient and shall provide to a patient and where applicable, a caregiver, the following information

(a) the lawful methods for administering medicinal cannabis in individual doses;

- (b) any potential danger stemming from the use of medicinal cannabis;
- (c) how to prevent or deter the misuse of medicinal cannabis by minors or young persons; and
- (d) any other information which the pharmacist may consider to be relevant.

PART IV

LICENSING THE SUPPLY OF MEDICINAL CANNABIS

Categories of licences

30. Licences may be issued in respect of the development of the medicinal cannabis industry for the

- (a) cultivation of cannabis for medicinal purposes;
- (b) transporting of medicinal cannabis;
- (c) manufacturing of medicinal cannabis products;
- (d) dispensing of medicinal cannabis at a therapeutic facility;
- (e) sale of medicinal cannabis;
- (f) research and development of cannabis for medical therapeutic or scientific purposes;
- (g) laboratory testing of medicinal cannabis;
- (h) importing of medicinal cannabis; and
- (i) exporting of medicinal cannabis.

Tiers and types of licences

31.(1) A person who desires to obtain a licence to operate in the medicinal cannabis industry may apply for any of the following licences

- (a) a Cultivator Licence (Tier 1), Cultivator Licence (Tier 2), Cultivator Licence (Tier 3) and Cultivator Licence (Tier 4) which shall be issued to allow for the growing, harvesting, drying, trimming, curing or packaging of medicinal cannabis;
- (b) a Research and Development Licence, which shall be issued to allow for the conduct of scientific research for the purpose of improving or further developing cannabis for medical, therapeutic or scientific purposes;
- (c) a Laboratory Licence which shall be issued to allow for the conduct of testing and analytical services for the purpose of improving or further developing medicinal cannabis;
- (d) a Processor Licence (Tier 1), Processor Licence (Tier 2), and Processor Licence (Tier 3) which shall be issued to allow for activities relating to the processing and manufacturing of cannabis material and medicinal cannabis products;
- (e) a Retail Distributor Licence, which shall be issued to allow for the operation of a therapeutic facility for the dispensing of medicinal cannabis to patients;
- (f) an Import Licence, which shall be issued to allow for the importation of medicinal cannabis products and planting material from any country where it is legal so to do;
- (g) an Export Licence, which shall be issued to allow for the exportation of medicinal cannabis to any country in keeping with the laws of any such country; and

- (h) a Transport Licence, which shall be issued to allow for the transport of medicinal cannabis.
- (2) Where a person applies for a
- (a) Research and Development Licence; or
 - (b) Laboratory Licence
- and the licence is issued, 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 or the Laboratory Licence.
- (3) A licence issued pursuant to this Act shall not be transferable.
- (4) In respect of a Cultivator Licence the area of land for
- (a) Tier 1 shall be not more than 1 acre;
 - (b) Tier 2 shall be more than 1 acre but not more than 5 acres; and
 - (c) Tier 3 shall be more than 5 acres but not more than 25 acres;
 - (d) Tier 4 shall be more than 25 acres.
- (5) In respect of a Processor Licence, the processing area for
- (a) Tier 1 shall be not more than 200 square metres; and
 - (b) Tier 2 shall be more than 200 square metres but not more than 500 square metres; and
 - (c) Tier 3 shall be more than 500 square metres.

Eligibility to apply

- 32.(1)** A person who
- (a) is 18 years of age or older;
 - (b) is a citizen of Barbados;
 - (c) is a permanent resident of Barbados;

- (d) has immigrant status in Barbados;
- (e) is a citizen of a CARICOM Member State, other than Barbados; or
- (f) is a company, partnership or co-operative society

may apply for a licence.

(2) An application for a licence under subsection (1) shall be accompanied by a certificate from a medical practitioner that states

- (a) in the case of an individual, that the individual is not addicted to a controlled drug; or
- (b) in the case of a partnership, that a member is not addicted to a controlled drug.

(3) A person who has been convicted of an indictable offence under

- (a) the *Drug Abuse (Prevention and Control) Act*, Cap. 131;
- (b) the *Proceeds and Instrumentalities of Crimes Act, 2019* (Act 2019-17); or
- (c) any other similar enactment creating offences for illegal drugs and for the proceeds gained from such illegal drugs in Barbados or in any other country

shall not be eligible for a licence.

(4) A person to whom subsection (1)(f) applies that person shall not be eligible for a licence unless 30 per cent of the company, partnership, or co-operative society is owned by a citizen, permanent resident, person with immigrant status or a citizen of a CARICOM Member State .

(5) Subsection (4) shall not apply to a Research and Development Licence or a Laboratory Licence.

(6) The Authority shall prescribe regulations in relation to the criteria for the eligibility to apply for each category of licence.

Conditions of licences

33. The Minister on the advice of the Authority shall by regulations impose conditions in respect of the issue of licences.

Duration of a Licence

34.(1) A Cultivator Licence, irrespective of the Tier, shall be valid for 3 years and is not renewable.

(2) All other licences shall be valid for 3 years and are not renewable.

(3) A person who holds a licence under subsection (1) or (2) may, not later than 3 months before the expiration of the licence, re-apply for the issue of a new licence.

Prohibition against supply

35.(1) A person shall not cultivate, supply, possess, or obtain medicinal cannabis for any of the purposes specified under this Act, unless that person is the holder of the relevant licence issued pursuant to this Act.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment to a fine of 15 times the value of the medicinal cannabis cultivated, supplied, possessed, or obtained or to imprisonment for a term of 10 years or to both.

Suspension or Revocation

36. The Authority may suspend or revoke a licence where the

- (a) person issued the licence is convicted of an offence under this Act;
- (b) person issued the licence contravenes a term or condition of a licence granted under this Act; or
- (c) Minister requires the suspension or revocation of the licence in the interest of public health or public safety.

Protection from criminal liability

37. A person who is authorised to undertake any activity under this Act is hereby protected from criminal liability, to the extent that the activity is authorised by, and conducted in accordance with, the provisions of this Act .

PART V

BARBADOS MEDICINAL CANNABIS APPEALS TRIBUNAL

Establishment of Appeals Tribunal

38.(1) There is hereby established a Barbados Medicinal Cannabis Appeals Tribunal, hereinafter called the Tribunal.

(2) The provisions of the *Second Schedule* shall have effect as to the constitution and operation of the Tribunal and otherwise in relation thereto.

(3) The Tribunal may, with the approval of the Minister, make rules to regulate its own procedure, including provision for any fees to be charged.

Appeals to the Cannabis Appeals Tribunal

39.(1) A person who is aggrieved by a decision of the Authority or any other person acting in exercise of any function delegated under this Act, may appeal to the Tribunal by way of a notice of appeal within 14 days of the date of the decision or within such longer period as the Tribunal may, in any special circumstance, allow.

(2) The notice of appeal shall set out clearly the grounds of the appeal and shall be accompanied by copies of any correspondence, document or statement relevant to the appeal.

(3) A copy of the notice of appeal, together with copies of any correspondence, document or statement shall be served on the Authority.

- (4) The Tribunal shall, within 14 days of the receipt of a notice of appeal under subsection (1), request the Authority to furnish it with a statement in writing setting out the reasons for its decision and within 14 days of receipt of the statement, a copy of the statement shall be served on the appellant.
- (5) The Tribunal may order that any book, paper, document or statement, relating to the appeal which is in the possession of the Authority, any other person acting in accordance with this Act, or the person aggrieved, be produced at the hearing of the appeal.
- (6) The Tribunal shall cause all parties to the appeal to be informed
 - (a) of the date of the hearing of the appeal, which shall be within 30 days from the date on which the statement is served on the appellant pursuant to subsection (4);
 - (b) that they may appear in person or be represented by an attorney-at-law; and
 - (c) that they may call witnesses on their behalf.
- (7) On hearing an appeal under this section, the Tribunal may
 - (a) dismiss the appeal and confirm the decision of the Authority;
 - (b) allow the appeal and set aside the decision of the Authority; or
 - (c) direct that the matter be referred to the Authority.

PART VI

OFFENCES

Offences

40.(1) No person shall

- (a) sell, offer for sale or offer for free distribution, medicinal cannabis, cannabis or any derivatives or samples thereof at any convention, trade show or at a public or private event;
- (b) have medicinal cannabis in his possession, if that person is not a caregiver or authorised to use or licensed to use medicinal cannabis under this Act;
- (c) allow another person who is not authorised to use medicinal cannabis under this Act to use medicinal cannabis; or
- (d) make a misrepresentation in relation to a medical condition to a medical practitioner or fraudulently provide material misinformation to the medical practitioner in order to obtain a prescription or recommendation for medicinal cannabis.

(2) A patient or caregiver shall not knowingly obtain, seek to obtain, or have in their possession, individually or collectively, an amount of medicinal cannabis from a pharmacy or therapeutic facility that would cause either the patient or the caregiver to exceed the prescribed or recommended amount that they are authorised to have in their possession.

(3) A patient or caregiver who sells medicinal cannabis that is obtained under a prescription or recommendation issued pursuant to this Act is guilty of an offence.

(4) A person who contravenes this section is guilty of an offence.

General Penalty

41. A person who is guilty of an offence under this Act for which no other penalty is provided, is liable on conviction on indictment to a fine of 15 times the value of the medicinal cannabis or to imprisonment for a term of 10 years or to both.

PART VII**MISCELLANEOUS****Regulations**

42.(1) The Minister shall, with the approval of the Authority, make regulations for any matter that is required or permitted to be prescribed and for carrying out or giving effect to this Act.

- (2) Without limiting the generality of subsection (1), regulations may
- (a) prescribe standards for the supply of medicinal cannabis and the systems for certification to meet these prescribed standards;
 - (b) prescribe fees for the application of a licence and fees for the granting or issuing of a licence;
 - (c) prescribe the documents required for an application and procedures for maintaining the confidentiality of information contained in application forms;
 - (d) prescribe fees for administrative costs, where required;
 - (e) prescribe application forms and the form of licences;
 - (f) regulate, restrict or prohibit premises, vehicles or equipment used or intended to be used for or in connection with the supply of medicinal cannabis;

- (g) prescribe the category of person who can apply for each type of licence;
- (h) regulate or prohibit the transport of medicinal cannabis, including in relation to specific areas in Barbados;
- (i) prescribe matters to be considered by the Authority in relation to the suitability of premises for the supply of medicinal cannabis;
- (j) prescribe standards or requirements as to the security of access to premises and for securing the premises in which medicinal cannabis is supplied or cultivated;
- (k) prescribe requirements for signage at premises licensed in the prescribed manner and information to be displayed at those premises, or on equipment or vehicles used for or in connection with the supply of medicinal cannabis;
- (l) prescribe the manner in which inspections, searches, detentions and seizures under this Act are to be carried out;
- (m) prescribe documents to be kept in relation to medicinal cannabis;
- (n) prescribe the information to be submitted to the Authority in annual reports to be submitted by a medical practitioner;
- (o) prescribe the sale, supply and safe custody, storage and security of medicinal cannabis;
- (p) prescribe the procedure for dispensing medicinal cannabis to visitors who have a medical condition;
- (q) prescribe the zoning of designated areas to be used as cultivation sites or in connection with the supply of medicinal cannabis; and
- (r) prescribe generally, any other matter or thing that is authorised or required to be prescribed by this Act.

- (3) Regulations may be made with respect to
- (a) prohibiting, regulating or controlling the supply, distribution, use, safe custody and storage of medicinal cannabis;
 - (b) preventing the improper use of medicinal cannabis;
 - (c) prescribing the manner in which cannabis is to be disposed of;
 - (d) prohibiting or regulating the issuing of medicinal cannabis by pharmacists to patients;
 - (e) requiring persons engaged in the supply of medicinal cannabis to keep records and provide information in writing or otherwise;
 - (f) the custody, accumulation, destruction, disposal, use, supply and storage of medicinal cannabis, including,
 - (i) the specifications of cupboards and other receptacles; and
 - (ii) the manner of storage of any form of medicinal cannabis;
 - (g) regulating the supply of medicinal cannabis to persons who have had a history of substance abuse;
 - (h) regulating and controlling the advertising by any person of medicinal cannabis, including the form and content of advertisements;
 - (i) prohibiting or regulating the supply of medicinal cannabis, whether by wholesale or by retail, or any class of products, unless the product or class of product is packaged in accordance with regulations and contains no more than a specified concentration of cannabidiol or tetrahydrocannabinol;
 - (j) the minimum size of packages or containers in which medicinal cannabis or any class of medicinal cannabis may be supplied or offered for supply;
 - (k) specifying the containers in which medicinal cannabis may be supplied and prohibiting the use of those containers for other substances;

- (l) labelling and specifying the particulars to be included in labels attached to containers of medicinal cannabis;
 - (m) the inspection of premises, other than residential premises, mobile facilities, stocks, records and any other documents relating to medicinal cannabis; or
 - (n) the administration and use of medicinal cannabis.
- (4) Any regulations made under this section shall be subject to negative resolution.
- (5) Where the regulations made under this Act create an offence, the regulations may provide for such offences to be tried summarily or on indictment and the regulations may prescribe the following penalties
- (a) in the case of an offence triable summarily, a fine of \$500 000 or imprisonment for a term of 5 years or to both;
 - (b) in the case of an offence triable on indictment, a fine of \$1 000 000 or imprisonment for a term of 10 years or to both.

Amendment of Schedule

- 43.(1)** The Minister may, from time to time, by order published in the *Official Gazette* amend, revoke or vary the provisions of the *Schedule* to this Act.
- (2) An order made under subsection (1) shall be subject to negative resolution.

Amendment of enactments in the *Third Schedule*

- 44.** The enactments specified in the first column of the *Third Schedule* are amended in the manner specified in the second column of the *Third Schedule*

Commencement

- 45.** This Act shall come into operation on a date to be fixed by Proclamation.

FIRST SCHEDULE*(Section 5)**Composition and Management of the Barbados Medicinal Cannabis Licensing Board***Appointment of members**

- 1.(1) The Board shall comprise 7 members appointed by the Minister by instrument in writing.
- (2) The Minister shall appoint as members of the Board persons from
- (a) any of the following disciplines:
 - (i) banking;
 - (ii) sociology;
 - (iii) agriculture;
 - (iv) pharmacology; or
 - (v) medicine; and
 - (b) from the members of the Clergy, staff of the University of the West Indies, or members of youth organizations.
- (3) A member shall, subject to the provisions of this *Schedule*,
- (a) hold office for a term not exceeding 3 years; and
 - (b) be eligible for reappointment.

Chairman

2. The Minister shall appoint a member to be Chairman.

Resignation

3.(1) The Chairman may resign his office by instrument in writing addressed to the Minister.

(2) A member, other than the Chairman, may resign his office by instrument in writing addressed to the Chairman, who shall forthwith forward the instrument to the Minister.

(3) A resignation takes effect from the date on which the Minister receives the instrument.

Temporary leave of absence

4. The Minister may, in writing, grant a leave of absence to a member.

Temporary appointment

5. Where a member is, or is likely to be, unable to perform the functions of his office for more than 30 days, whether as a result of absence from Barbados, illness or other cause or reason, the Minister may appoint a person to act in the place of the member.

Revocation of appointment

6. The Minister shall revoke the appointment of a member who

- (a) fails to carry out any of his functions under this Act;
 - (b) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
 - (c) is convicted of an offence involving fraud or dishonesty or, in the case of any other offence, is sentenced to a term of imprisonment;
 - (d) is guilty of serious misconduct in relation to his functions;
 - (e) is bankrupt or compounds with or suspends payment to his creditors;
- or

- (f) fails to declare his interest in a matter before the Board as required by this Act.

Vacancies

- 7.(1) A vacancy in the membership of the Board arises on
- (a) the death or resignation of a member;
 - (b) the revocation of the appointment of a member; or
 - (c) the absence of a member from 4 consecutive meetings of the Board without the approval of the Minister.
- (2) A person who is appointed to fill a vacancy referred to in sub-paragraph (1) shall hold office only for the unexpired portion of the term of the former member.

Disqualification of a member

8. A person who
- (a) is a member of Parliament;
 - (b) is a public officer; or
 - (c) were he a member, would have to be removed from office pursuant to paragraph 6,
- is not eligible to be a member.

Gazetting of appointments

9. The appointment, resignation, death or removal from office of a member shall be published in the *Official Gazette*.

Seal and execution of documents

10.(1) The seal of the Authority shall be

- (a) kept in the custody of the Chairman, or the person performing the functions of secretary to the Board and may be affixed to documents or instruments pursuant to a resolution of the Board, in the presence of any 2 of the persons referred to in this sub-paragraph; and
- (b) authenticated by the signature of the Chairman or the person performing the functions of secretary to the Board.

(2) All documents or instruments made by the Board, other than those required by law to be under seal, and all decisions of the Board shall be signified under the hand of the Chairman, or the person performing the functions of secretary to the Board.

Committees

11.(1) The Board may appoint committees of its members or other persons to assist it with the proper discharge of its functions.

(2) Where a person who is not a member of the Board is appointed to a committee, the Board may, with the approval of the Minister, determine the remuneration and allowances to be paid to the person.

Meetings

12.(1) The Board shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Board may determine.

(2) The Chairman, or in the event of his absence from Barbados or inability to act as such, the person acting as Chairman, may at any time call a special meeting of the Board and shall call such a meeting within 7 days of the receipt by him of a request for the purpose addressed to him in writing and signed by not less than 3 members.

- (3) The Chairman, or in his absence, the person acting as Chairman, shall preside at all meetings of the Board.
- (4) Where the Chairman is absent from a meeting, the members present shall elect a member from among their number to preside at the meeting.
- (5) Five members shall constitute a quorum.
- (6) The decisions of the Board shall be by a majority of votes and in a case where the voting is equal, the Chairman or other person presiding at the meeting shall, in addition to an original vote, have a casting vote.
- (7) Minutes of each meeting shall be kept by the person performing the functions of secretary to the Board or by such other officer as the Board appoints for the purpose and shall be confirmed by the Board and signed by the Chairman at the next meeting of the Board.

Attendance of non-members at meetings

13. The Board may invite any person to attend any of its meetings to assist or advise it with respect to any matter under its consideration, but a person so invited does not have a right to vote.

Board may regulate proceedings

14. Subject to the provisions of this *First Schedule*, the Board may regulate its own proceedings.

SECOND SCHEDULE

(Section 38(2))

Barbados Medicinal Cannabis Appeals Tribunal

Appointment of members

1.(1) The Minister shall by an instrument in writing appoint 3 persons to be members of the Barbados Medicinal Cannabis Appeals Tribunal, hereinafter referred to as the Tribunal.

(2) One of the members appointed pursuant to paragraph (1) shall be an attorney-at-law of at least 10 years standing.

(3) The other 2 members shall be persons who in the opinion of the Minister, have such expertise as may be required for the discharge of the functions of the Tribunal.

(4) A member of the Tribunal shall

- (a) hold office for a term not exceeding 3 years; and
- (b) be eligible for reappointment.

Resignation, temporary absence and disqualification

2. Paragraphs 3 to 9 of the *First Schedule* apply to a member of the Tribunal as those paragraphs apply to a member of the Board.

Institution of appeal

3.(1) An appeal to the Tribunal shall be instituted by filing with the Tribunal, within such time as may be stipulated in the relevant specified enactment, a notice of appeal together with such copies thereof as the Tribunal may require, and the notice shall state the precise grounds of appeal.

(2) The Chairman of the Tribunal shall set the place, date and time for the hearing of the appeal and shall notify the parties of the place, date and time at least 7 days before the date set for the hearing.

Procedure on appeal

4.(1) The appeal shall be held *in camera* and

- (a) the parties may appear in person or may be represented by an attorney-at-law or an agent; and
- (b) the onus of proof is on the appellant.

(2) An appeal may be heard in the absence of a party who has been given reasonable notice in writing to attend.

(3) In determining the appeal, the Tribunal may review the whole case in respect of the law and fact, exercise any discretion, and shall determine the case in accordance with its own judgment.

(4) In the case of a difference of opinion among members sitting together, the opinion of the majority shall prevail, and in case of an equality of numbers, the opinion of the Chairman shall prevail.

(5) Notwithstanding sub-paragraph (4), where the question to be determined is one of law, account shall not be taken of the opinion of a member who is not an attorney-at-law.

Powers of Tribunal

5.(1) The Tribunal

- (a) may
 - (i) issue subpoenas,
 - (ii) make orders and give directions to such persons in such manner as it thinks fit
 - (A) for the purpose of summoning witnesses;

- (B) for requiring the disclosure of documents or other evidence;
 - (C) for requiring parties or witnesses to answer questions;
 - (D) for the purpose of conducting its proceedings in a proper and orderly manner;
- (b) may, consult any person having experience in any relevant field in order to assist it with a matter; and
 - (c) shall, with respect to the attendance and examination of witnesses, the production and inspection of documents and all other matters necessary for the exercise of its jurisdiction, have all such powers as are vested in a magistrate's court in an action in that court.
- (2) In the hearing and determination of any matter before it, the Tribunal
- (a) may act without regard to technicalities and legal form;
 - (b) shall not be bound to follow the rules of evidence stipulated in the *Evidence Act*, Cap. 121;
 - (c) may inform itself on any matter in such manner as it thinks just; and
 - (d) may take into account opinion evidence and such facts as it considers relevant and material,

but in any such case, the parties to the proceedings shall be given the opportunity, if they so desire, of adducing evidence.

Decisions of Tribunal

6.(1) The decision of the Tribunal shall be in writing and shall include reasons for the decision, a statement of the Tribunal's findings on material questions of fact and a reference to the evidence or other material on which the findings are based.

(2) The Tribunal shall ensure that the decision is served on each party to the proceedings.

Meetings of Tribunal

7. Subject to this *Second Schedule*, the Tribunal may regulate its own procedure.

THIRD SCHEDULE*(Section 43)**Consequential Amendments***Enactment**

*Drug Abuse (Prevention and Control) Act,
Cap. 131*

Amendment

Section 2 is amended by

(a) deleting the definition of cannabis and substituting the following:

“cannabis” means any plant of the genus Cannabis from which the resin has not been separated and includes any part of that plant by whatever name it may be designated but does not include medicinal cannabis;” and

(b) inserting the following definition in the appropriate alphabetical order:

“medicinal cannabis” has the meaning assigned to it by section 2 of the *Medicinal Cannabis Industry Act, 2019 (Act 2019-)*;

*Customs (List of Prohibited and Restricted Imports and Export) Order, 2009
(S.I. 2009 No. 127)*

Paragraph 2 of Part II of the *First Schedule* is deleted and the following is substituted:

“Cannabis Satvia etc.

2. *Cannabis sativa* (know as Indian hemp or bhang), *Cannabis indica*, or any preparation or mixture thereof, except

(a) under a licence issued by the Chief Medical Officer; or

(b) in accordance with the provisions of *Medicinal Cannabis Industry Act, 2019*.

MEDICINAL CANNABIS INDUSTRY BILL, 2019

EXPLANATORY MEMORANDUM

The This Bill would provide for

- (a) the regulation of the handling of medicinal cannabis in Barbados;
- (b) the establishment of the Barbados Medicinal Cannabis Licensing Authority, the Barbados Medicinal Cannabis Licensing Board, and the Barbados Medicinal Cannabis Appeals Tribunal;
- (c) the issuing of licences for the handling of medicinal cannabis; and
- (d) related matters.

PART IPRELIMINARY

Clause 1: provides a short tile for citing the Act.

Clause 2: defines certain words which are to guide the interpretation of the Act.

PART II: BARBADOS MEDICINAL CANNABIS AUTHORITY

Clause 3: establishes the Authority as a statutory corporation to facilitate the regulation and building of a medicinal cannabis industry in Barbados.

Clause 4: states the functions of the Authority.

- Clause 5:** provides a Board appointed by the Minister to manage the Authority.
- Clause 6:** states the functions of the Board.
- Clause 7:** provides for the Board to delegate certain functions to the Chief Executive Officer of the Authority.
- Clause 8:** provides for members of the Board to disclose their interest in any contractual or related matter which falls to be considered by the Board and where such a disclosure is made that Board member cannot participate in the deliberation or the decision taken by the Board.
- Clause 9:** makes provision for the Minister to request written information on the operation of the Authority and to give direction where this is required in the public interest, so the Minister can ensure that the Authority is acting in the best interest of the citizens of Barbados.
- Clause 10:** provides for the Board to keep the Minister up to date on how the Authority is functioning;
- Clause 11:** provides for a chief Executive Officer to manage the day to day operations of the Authority, and for the Authority to have the staff it will need.
- Clause 12:** provides for public servants to be seconded to the Authority if this is necessary.
- Clause 13:** makes it clear that the Board cannot vary the remuneration paid under the Act.

- Clause 14:** states the functions of the Chief Executive Officer.
- Clause 15:** imposes a strict duty of secrecy and confidentiality on the staff and people involved with the Board or the Authority.
- Clause 16:** offers protection from personal liability for the staff of the Authority or members of the Board or Tribunal.
- Clause 17:** states how the Authority is to be funded.
- Clause 18:** provides a limitation on the statutory powers of the Authority, as the Authority can only borrow money with the approval of the Minister.
- Clause 19:** provides for the Government to guarantee loans where this is required.
- Clause 20:** requires that the Authority keeps proper accounts.
- Clause 21:** requires the submission of monthly statements to the Accountant- General.
- Clause 22:** provides for Auditor-General to be the auditor of the Authority.
- Clause 23:** provides for the Authority and the Board to be subject to the *Public Finance Management Act, 2019*.
- Clause 24:** requires the Board to submit annual report giving a detailed assessment on how the Authority functioned over the year.

PART III: ACCESS TO MEDICINAL CANNABIS

- Clause 25:** provides for the use of medicinal cannabis under a strict regime which will be fully prescribed in regulations.
- Clause 26:** restricts the amount of medicinal cannabis a patient may have at one time.
- Clause 27:** provides for the medical practitioner to keep medical records of all patients given medicinal cannabis so they can be properly monitored. This information is usually kept by a medical practitioner and shall remain confidential but the Authority will be entitled to statistical information which does not identify a patient beyond usage of medicinal cannabis, impact of the usage medicinal cannabis, condition and gender.
- Clause 28:** provides for caregivers, as many patients may not be able to get their medication on their own. It also provides for the regulation of the kind of person who can be a caregiver to reduce the likelihood of patient not receiving their medication and necessary care.
- Clause 29:** provides for the manner by which medicinal cannabis will be dispensed, and this will be by pharmacy or therapeutic facility and provides for the kind of information which must accompany medicinal cannabis issues to a patient.

PART IV: LICENSING THE SUPPLY OF MEDICINAL CANNABIS

- Clause 30:** gives the categories of licences which will exist in the industry.
- Clause 31:** gives details about each type of licence and makes it clear that a single person may have multiple licences to build their business.
- Clause 32:** makes provision for the kind of person who can apply for a licence.
- Clause 33:** provides for conditions to attached to licences where this may be required.
- Clause 34:** provides for the duration of each kind of licence and makes it clear that renewal is not automatic so that the performance of the person granted the licence can be assessed. This does not alter the usual renewal procedure or business productivity or growth but serves as a form of legal notification to prevent a person developing a legitimate expectation or proprietary right to renewal which can create legal complications in event that a person is a person whose licence should not be renewed because that person is in contravention of the Act or in breach of the granted licence.
- Clause 35:** makes it an offence to be involved in the medicinal cannabis industry without a licence.
- Clause 36:** provides for suspension or revocation of a licence where this may be necessary.
- Clause 37:** makes a declaration that a person acting under this Act or under a licence issued thereunder is not subject to criminal liability for the authorised activities under the Act.

PART V: BARBADOS MEDICINAL CANNABIS APPEALS TRIBUNAL

- Clause 38:* establishes a Tribunal to hear matters under the Act.
- Clause 39:* outlines the basic procedure for going before the Tribunal.

PART VI: OFFENCES

- Clause 40:* provides for certain general offences.
- Clause 41:* provides the penalty for these general offences.

PART VI: MISCELLANEOUS

- Clause 42:* provides for detailed regulations to be made to ensure proper regulation of the use of medicinal cannabis.
- Clause 43:* provides for the *Schedules* to be amended by order.
- Clause 44:* provides for consequential amendments.
- Clause 45:* provides for the Act come into operation on a date to be fixed by Proclamation.