

2019-10-10 (JSC Final)

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,

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

“authorised personnel” means

- (a) a graduate pharmacist, under the supervision of a pharmacist; or
- (b) an intern who is studying to be a pharmacist, under the supervision of a pharmacist;

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

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

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

“cannabis material” means

- (a) cannabis;
- (b) cannabis resin; and

(c) any other raw material derived from cannabis;

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

“cannabidiol” or “CBD” means an active ingredient found in the cannabis plant which reacts with specific receptors in the human 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, exploration, testing, analysis, 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 pursuant to this Act;

“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;
- (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, sold, tested, or analysed 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 patient 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 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, and any buildings or structures thereon;

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

“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 operated by a person granted a Retail Distributor Licence to

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

(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) and any subsidiary legislation made under these enactments shall not

- (a) prohibit, or otherwise be applied to the use of medicinal cannabis or cannabis pursuant to this Act; or
- (b) be used to restrict or render unlawful, the handling of medicinal cannabis or cannabis by any person 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 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) collect, collate and 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 Board, request from the Minister of Health such information as may assist the Authority with its functions;
 - (h) provide for the distribution of educational material 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
 - (i) 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) where required, by an instrument in writing request information for the database;
 - (c) determine the fees to be charged for services provided by or on behalf of the Authority;
 - (d) 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
 - (e) 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 the Authority

5.(1) There is hereby established a Board, to be known as the Barbados Medicinal Cannabis Licensing Board, which shall be responsible for the policy, organisation, management 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 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.

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

(a) 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; and

(b) time with the Authority or any salary, wages or any emoluments paid while at the Authority shall not be excluded from the calculation of the

pension of that public officer in accordance with the provision of the *Pensions Act, Cap. 25*.

- (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 or to both.

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 fees for administrative matters.

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

Borrowing power

18.(1) 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.

(2) The approval of the Minister under subsection (1) may be general or limited to a particular borrowing.

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 the 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 shall only use or consume medicinal cannabis where the medicinal cannabis is prescribed by a medical practitioner .

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

(3) A person who uses or consumes medicinal cannabis without being authorised to use medicinal cannabis by a prescription 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 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 for which he has prescribed 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 a medical practitioner, and the medical practitioner shall comply.

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 the patient with obtaining or using medicinal cannabis; or

(c) to act in the best interest of the patient.

(2) A receiver appointed for a person by the Court under the *Mental Health Act*, Cap. 45 or where relevant a guardian in accordance with the provisions of the *Mental Health Act* shall be deemed to be the caregiver of a person to whom that Act applies.

(3) A parent or legal guardian of a patient who is a minor shall be deemed to be the caregiver for that minor

(a) unless that parent or legal guardian designates another person; or

(b) 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 dependent on a controlled drug.

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

(6) 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 in a pharmacy or 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 personnel in a pharmacy shall only dispense medicinal cannabis on the submission by a patient or where applicable, a caregiver, of a prescription and a valid form of identification for the patient.

(3) Upon dispensing medicinal cannabis to a patient or, where applicable, a caregiver, a pharmacist shall ensure that the label given in respect of the prescription 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 or authorised personnel in a pharmacy shall

- (a) 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;
- (b) provide to a patient and where applicable, a caregiver, information on the lawful methods for administering medicinal cannabis in individual doses;
- (b) provide to a patient and where applicable, a caregiver, information on any potential danger stemming from the use of medicinal cannabis;
- (c) provide to a patient and where applicable, a caregiver, information on how to prevent or deter the misuse of medicinal cannabis by a minor; and

- (d) provide to a patient and where applicable, a caregiver, any other information which the pharmacist may consider to be relevant.

PART IV

LICENSING THE SUPPLY OF MEDICINAL CANNABIS

Categories of licences

30. The Authority may issue for the development of the medicinal cannabis industry licences for the

- (a) cultivation of cannabis for medicinal purposes;
- (b) transporting of medicinal cannabis;
- (c) processing or manufacturing of medicinal cannabis products;
- (d) dispensing of medicinal cannabis at a therapeutic facility;
- (e) research and development of cannabis for medical therapeutic or scientific purposes;
- (f) laboratory testing of medicinal cannabis;
- (g) importing of medicinal cannabis; and
- (f) 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 to the Authority 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) issued for the purpose of allowing the growing, harvesting, drying, trimming, curing or packaging of medicinal cannabis;

- (b) a Research and Development Licence, issued to allow 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 associated with 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 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 or medicinal cannabis products 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) a 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;
 - (c) Tier 3 shall be more than 5 acres but not more than 25 acres; and
 - (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;
 - (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 any licence stated in section 31.

- (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 dependent on a controlled drug; or

- (b) in the case of a partnership, that a member is not dependent on a controlled drug.
- (3) A person who has been convicted of any of the offences in the *Second Schedule*, or of any other similar offence in any other country, shall not eligible for a licence.
- (4) A person to whom subsection (1)(f) applies 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 licence shall be valid for 5 years.
- (2) A person who holds a licence under subsection (1) 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 with the licence is convicted of an offence under this Act;
 - (b) person issued with the licence contravenes a term or condition of the 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 which shall hear appeals in accordance with this Act.
- (2) The provisions of the *Third Schedule* shall have effect as to the constitution and operation of the Tribunal and otherwise in relation thereto.

Appeals to the Cannabis Appeals Tribunal

39.(1) A person who is aggrieved by a decision of the Authority 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.

Appeal to Court

40.(1) A party to an appeal determined by the Tribunal who is dissatisfied with the determination may, within 30 days after the party is notified of the decision, appeal to the High Court against the decision in accordance with rules of court.

(2) On an appeal under subsection (1), the High Court may make any order or give any decision which might have been made or given by the Tribunal, and may, if it thinks fit, remit the case to the Tribunal with directions as to its determination by the Tribunal.

Tribunal rules of procedure

41. The Minister may make rules to regulate the procedure for appeals to the Tribunal.

PART VI

OFFENCES

Offences

42.(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 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 amount that they are authorised to have in their possession.
- (3) A patient or caregiver shall not sell medicinal cannabis that is obtained under a prescription issued pursuant to this Act.
- (4) 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.
- (5) A person who contravenes this section is guilty of an offence 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

43.(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 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 zoning of designated areas to be used as cultivation sites or in connection with the supply of medicinal cannabis;
- (q) prohibit, regulate or control the supply, distribution, use, safe custody and storage of medicinal cannabis;
- (r) prevent the improper use of medicinal cannabis;
- (s) prescribe the manner in which medicinal cannabis is to be disposed of;
- (t) regulate or prohibit the issuing of medicinal cannabis by pharmacists to patients;
- (u) require persons engaged in the supply of medicinal cannabis to keep records and provide information in writing or otherwise;

- (v) prescribe procedure for the custody, accumulation, destruction, disposal, use, supply and storage of medicinal cannabis, including,
 - (i) the specifications of cupboards and other receptacles for storage; and
 - (ii) the manner of storage of any form of medicinal cannabis;
 - (w) regulate the supply of medicinal cannabis to persons who have had a history of substance abuse;
 - (x) regulate and control the advertising by any person of medicinal cannabis, including the form and content of advertisements;
 - (y) prohibit or regulate 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;
 - (z) prescribe the minimum size of packages or containers in which medicinal cannabis or any class of medicinal cannabis may be supplied or offered for supply;
 - (aa) specify the containers in which medicinal cannabis may be supplied and prohibiting the use of those containers for the supply of other substances;
 - (ab) prescribe the procedure for labelling and specify the particulars to be included on labels attached to containers of medicinal cannabis;
 - (ac) prescribe the procedure for the inspection of premises, other than residential premises, mobile facilities, records and any other documents relating to medicinal cannabis; or
 - (ad) prescribe the procedure for the administration and use of medicinal cannabis.
- (3) Any regulations made under this section shall be subject to negative resolution.

(4) 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 Schedules

44.(1) The Minister may, from time to time, by order published in the *Official Gazette* amend, revoke or vary the provisions of the *Schedules* to this Act.

(2) An order made under subsection (1) shall be subject to negative resolution.

Amendment of enactments in the *Fourth Schedule*

45. The enactments specified in the first column of the *Fourth Schedule* are amended in the manner specified in the second column of the *Fourth Schedule*.

Commencement

46. This Act shall come into operation on a date to be fixed by Proclamation.

FIRST SCHEDULE

(Section 5, 44(1))

Composition and Management of the Barbados Medicinal Cannabis Licensing Board

Appointment of members

- 1.(1) The Board shall comprise 9 members .
- (2) The 9 members of the Board shall be 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) The members of the Board shall be appointed by an instrument in writing in the following manner:
 - (a) 8 persons by the Minister responsible for Agriculture; and
 - (b) one person by the Minister responsible for Health.
- (4) A member shall, subject to the provisions of this *Schedule*,
 - (a) hold office for a term not exceeding 3 years; and
 - (b) is eligible for reappointment.

Chairman

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

Remuneration

3. A member of the Board is entitled to such remuneration and allowances as the Minister determines.

Resignation

- 4.(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

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

Temporary appointment

6. 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

7. 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 disclose his interest in a matter before the Board as required by this Act.

Vacancies

- 8.(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

- 9.** A person who
- (a) is a member of Parliament;
 - (b) is a public officer; or
 - (c) were he is a member, would have to be removed from office pursuant to paragraph 6,

is not eligible to be a member.

Gazetting of appointments

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

Seal and execution of documents

11.(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; 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

12.(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

13.(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

14. 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

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

SECOND SCHEDULE*(Section 32(3), 44(1))**Offences*

Enactment	Section of Enactment
<i>Anti-Terrorism Act, Cap 158</i>	a conviction for any offence under this Act.
<i>Drug Abuse (Prevention and Control) Act, Cap. 131</i>	a conviction for an indictable offence under any of the following sections: section 4(3); section 5; section 6(3); section 7(1); section 11(2); section 14(6); section 18(4); section 19(1); section 20(3); section 21(3); section 22(2); or section 23.
<i>Firearms Act, Cap. 179</i>	a conviction for an offence under any of the following sections: section 18; section 19; or section 20.
<i>Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011</i>	a conviction for any offence under this Act.

SECOND SCHEDULE (CONT'D)*(Section 32(3), 44(1))*

Enactment	Section of Enactment
<i>Theft Act, Cap. 155</i>	a conviction for an offence under any of the following sections: section 8; section 9; section 10; section 19; section 24; section 25; or section 26.
<i>Trafficking of Persons Prevention Act, 2016</i>	a conviction for an offence under any of the following sections: section 3(1); section 3(3); section 4(1); section 4(3); section 6(1); section 7; section 8; or section 9.

THIRD SCHEDULE

(Section 38(2), 44(1))

Barbados Medicinal Cannabis Appeals Tribunal

Appointment of members

1.(1) The Minister shall by an instrument in writing appoint 3 persons to be 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) is eligible for reappointment.

Resignation, temporary absence and disqualification

2. Paragraphs 3 to 10 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.

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 *Schedule*, at a meeting of the Tribunal, the Tribunal may regulate its own procedure.

FOURTH SCHEDULE*(Section 45)**Consequential Amendments***Enactment**

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

Amendment

Paragraph 5 is deleted and the following is substituted:

“ 5. (1) No person shall import any of the goods set out in the *First Schedule* to this Order except that person is authorised to do so by

(a) a licence issued in respect of the goods either by the Minister under the *Miscellaneous Controls Act, Cap. 329*;

(b) any other enactment; or

(c) Part II of the *First Schedule*.

(2) No person shall export any of the goods set out in the *Second Schedule* to this Order except that person is authorised to do so by

(a) a licence issued in respect of the goods either by the Minister under the *Miscellaneous Controls Act, Cap. 329*;

(b) any other enactment.

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

“ **Cannabis for medicinal purposes etc.**

2. *Cannabis*, meaning all parts of any plant of the genus *cannabis*, or any preparation or mixture thereof, where that form medicinal cannabis is permitted in accordance with the provisions of *Medicinal Cannabis Industry Act, 2019* where

(a) the person can show written proof from their doctor that the cannabis is prescribed for medicinal purposes and that the quantity of the cannabis is the quantity which would be required for the period of the person’s stay in Barbados; or

(b) where the person is the holder of an import licence or a licence issued in accordance with the provisions of *Medicinal Cannabis Industry Act, 2019 (Act 2019-)* that grants permission to import.
”.

Part II of the *Second Schedule* is amended by inserting the following after paragraph 3:

“ **Cannabis export**

4. *Cannabis*, meaning all parts of any plant of the genus *cannabis*, or any preparation or mixture thereof may be exported where the person is the holder of an export licence or a licence issued in accordance with the provisions of *Medicinal Cannabis Industry Act, 2019 (Act 2019-)* that grants permission to export.”.

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

Paragraph 1 of the *First Schedule* is amended by deleting the words “Cannabis (Indian Hemp) and Cannabis resin (Resin of Indian Hemp)” and substituting the following:

“Cannabis and Cannabis Resin” .