

ANTIGUA AND BARBUDA



THE HEMP BILL, 2020

No. of 2020

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ANTIGUA AND BARBUDA

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A ACT to provide for the regulation and control of the growth, manufacture and trade of hemp and hemp infused products and to regulate the use of hemp for industrial, medicinal, supplemental and scientific purposes within Antigua and Barbuda, and for other connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

PRELIMINARY

1. Short title and commencement

- (1) This Act may be cited as the Hemp Act, 2020.
- (2) This Act shall come onto effect on a date to be appointed by the Minister by Notice published in the official *Gazette*.

2. Interpretation

(1) In this Act—

“Antigua and Barbuda Hemp Tracking System” means the complete seed to sale tracking and monitoring system that will be used to allow for the Authority to track and monitor all regulated hemp goods to conform to international regulations and to prevent diversion;

“Authority” means the Antigua and Barbuda Hemp Authority, established under the Cannabis Act 2018, that will be responsible for the administration, implementation and management of the Act and Regulations and is responsible for regulating and controlling the licensing of the cultivation, manufacture, transport, processing, extraction, infusion, import, export, testing, research, recycling, disposal, destruction, distribution, and sale of all hemp goods;

“Board” means the members comprising of the Antigua and Barbuda Hemp Authority;

“consumable” means, for the purposes of this Act and Regulations, a substance or thing, which may include but is not limited to, a food, a drug, a cosmetic or a therapeutic device, that is meant to be used on or within the human or animal body, via the various known routes of administration, except for any injectable route of administration which may only be administered by a medical professional;

"Division" means the Hemp Inspectorate Division convened pursuant to this Act;

"dry weight basis" means a method of determining the percentage of a chemical in a substance after removing the moisture from the substance, therefore, percentage of tetrahydrocannabinol (THC) on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding moisture from the item;

"GAP", "GACP", "Global GAP", "Euro GAP" means an internationally recognized set of farm standards dedicated to Good Agricultural Practices (GAP);

"GDP" means Good Distribution Practice which describes the minimum standards that a wholesale distributor shall meet to ensure that the quality and integrity of medicines and medicinal hemp goods is maintained throughout the supply chain;

"GMP" means Good Manufacturing Practice and is a system for ensuring that products are consistently produced and controlled according to quality standards and may differ according to Jurisdiction;

"GPP" means Good Pharmacy Practice and requires that the objective of each element of pharmacy or dispensary service is relevant to the patient is clearly defined and is effectively communicated to all those involved;

"HACCP" means Hazard Analysis and Critical Control Points which is a preventative food safety system for consumable products, in which every step in the manufacture, storage and distribution of a consumable product is scientifically analyzed for microbiological, physical and chemical hazards;

"hemp" means a strain or unique DNA cultivar of any plant of the genus 'cannabis', that is regulated, grown and sold pursuant to this Act and Regulations made pursuant to this Act, and which contain a tetrahydrocannabinol or intoxicating cannabinoid concentration of not more than 0.2 percent on a dry weight basis and includes—

- (a.) seeds, immature plants, mature plants and all parts of the plant whether growing or not;
- (b.) any resin which contains a tetrahydrocannabinol, or intoxicating cannabinoid concentration of not more than 0.2% on a dry weight basis and which is extracted from any part of the plant;
- (c.) every compound, extract, concentrate, manufacture, salt, derivative, mixture, or any natural or synthetic preparation of the plant, its seeds, or its resin, which contains a tetrahydrocannabinol or intoxicating cannabinoid concentration of not more than 0.2% on a dry weight basis;
- (d.) industrial hemp, medicinal hemp and hemp for food supplement;
- (e.) hemp that is cultivated, manufactured, distributed, or sold by a licensed hemp establishment; and

- (f.) fiber produced from the stalks, oil or cake made from the seeds of the plant, or any sterilized seed of the plant which is incapable of germination; but does not include—
- (g.) the weight of any other ingredient combined with hemp to prepare topical or oral administrations, food, drink, or other product;

"hemp business" means a licensed hemp cultivation operation, a licensed hemp processing and extraction operation, a licensed hemp infused products manufacturer, a licensed hemp transport operation, , a licensed hemp research and development operation or a licensed industrial hemp processing facility;

“hemp cultivation licence” means a licence which may be issued to allow for the germination, cloning, growing, harvesting, drying, trimming, curing or packaging of hemp;

“hemp goods” means all hemp, hemp extracts, hemp derivatives, resin, non-infused hemp products, hemp infused products and samples, and may be used interchangeably with any of these terms within these Regulations, and which shall not include intangible services related to hemp;

“hemp import or export licence” means a licence or permit which may be issued per transaction, to allow for the importation or exportation of hemp goods and which will follow all applicable Laws and Regulations regarding foods, cosmetics, plants, plant materials, medical and therapeutic products and devices, prescription drugs, or over the counter (OTC) drugs export and import procedures, with the addition of phytosanitary certification and other agriculture documents for hemp plant material;

“hemp infused food product” means a hemp infused product containing no more than 50mg of non-intoxicating cannabinoids per individual product, not more than 10mg of non-intoxicating cannabinoids per delineated serving size and zero percent (0%) or no quantifiable amount of intoxicating cannabinoids by testing standards;

“hemp infused product” means a product infused with hemp intended for use or consumption other than by smoking, including but not limited to edible products and topical products, shall be further classified into medicinal hemp infused product and hemp infused food product and such products shall not be considered a food or drug for purposes of the Antigua and Barbuda Bureau of Standards, such products will undergo standards testing at a licensed hemp testing facility;

“hemp infused products manufacturer licence” means a licence which may be issued to allow for activities relating to the production and manufacturing of hemp products, including but not limited to, edibles and other consumable derivative products, but does not include the extraction of hemp;

“hemp processing and extraction licence” means a licence which may be issued to allow for the processing and extraction of raw hemp material into concentrated or isolated products;

“hemp research and development licence” means a licence which may be issued to allow for the conduct of scientific research relating to the development of hemp knowledge and therapeutic products;

“hemp testing facility” means an entity licensed and certified under the Cannabis Act 2018, where the analytical information is determined and certification of the safety and potency of hemp or hemp infused products is carried out;

“hemp transport licence” means a licence which may be issued to allow for the transport of industrial hemp and non-prescribable medicinal hemp goods by a licensed hemp business operation;

“immature plant” means a hemp plant that is not in a stage of flowering;

“industrial hemp” means hemp that is not intended for use in consumable or topical products;

“industrial hemp processing facility licence” means a licence which may be issued to allow for the processing of industrial hemp toward the creation of various non-medicinal or non-consumable products;

“intoxicating cannabinoids” means those cannabinoids which are known to cause intoxication or impairment, by causing disorientation and loss of control over one’s faculties or behaviour and shall include all tetrahydrocannabinol forms, chemical analogues or isomers, and any cannabinoids, which already have been, or are yet to be identified or synthesized, and which can cause intoxication or impairment;

“licence” means a licence granted to an individual or entity by the Authority pursuant to this Act or its Regulations;

“licensed premises” means the premises specified in an application for a licence, pursuant to the Regulations, that are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, process, extract, infuse, distribute, research, develop, sell, or test hemp or hemp infused product in accordance with the provisions of this Act and Regulations;

“licensee” means any person licensed or registered pursuant to this Act or its Regulations, and includes, but is not limited to, an owner, a manager or staff licensee;

“medicinal hemp” means hemp that is intended for use in raw form, extract, consumable or topical products, as a medicinal or therapeutic agent and is further classified into prescribable medicinal hemp and non-prescribable medicinal hemp;

“medicinal hemp infused product” means a product infused with medicinal hemp, which is further classified as ‘medicinal hemp infused prescription only medication’ or ‘medicinal hemp infused over the counter medication’;

“Minister” means the Minister of Government responsible for justice and legal affairs;

“non-citizen” means a person who is not a citizen and includes—

- (a.) any company incorporated in Antigua and Barbuda which is under the control of non-citizens in accordance with the provisions of the Non-Citizens Land Holding Regulations Act; and
- (b.) any company incorporated outside of Antigua and Barbuda;

“non-prescribable medicinal hemp” means hemp and its derivatives and products that exists in a form whereby the exact dosage cannot be quantified and standardized and therefore may not prescribed, but may only be recommended by an Authorized Medical Professional and shall include all raw hemp extracts or hemp flowers;

“non- intoxicating cannabinoids” means those cannabinoids, which already have been, or are yet to be identified or synthesized, and which are not known to cause intoxication or impairment;

“prescribable medicinal hemp” means those derivatives and infused products of hemp that exists in a form whereby exact dosage can be quantified and standardized and therefore may be prescribed by Medical Practitioner and shall be classified as either ‘Prescription Only Medication (POM)’ or as ‘Over The Counter (OTC) medication’, according to this Act and Regulations, and shall not include raw hemp extracts or hemp flowers;

“public place” includes an indoor or outdoor area, whether privately or publicly owned, to which the public has access by right or by invitation, expressed or implied, whether by payment of money or not, including—

- (a.) all commercial, agricultural and industrial zoned lands and properties;
- (b.) bars, drinking places, beaches, restaurants and clubs;
- (c.) tourist establishments, hotels and guesthouses;
- (d.) schools and all other educational institutions;
- (e.) hospitals whether publicly or privately operated;
- (f.) churches or other religious establishments except as is permitted under the Act or any other law;
- (g.) correctional facilities whether publicly or privately operated;
- (h.) public transportation;
- (i.) Government offices; and
- (j.) other places or buildings of all types, accessible to the public;

“Regulations” means the Hemp Regulations made pursuant to this Act;

“taxes” mean the Antigua and Barbuda Sales Tax or the export or import duties levied on hemp, hemp derivatives or hemp infused products;

“tetrahydrocannabinol” or “THC” means the most prevalent intoxicating molecule of hemp which shall—

- (a.) not be allowed in excess of 0.2 percent on a dry weight basis in hemp plants or raw hemp extracts;

- (b.) not exceed 0.5mg or 0.5ml in a prescribable medicinal hemp infused product classified as an over the counter medication;
- (c.) not be allowed in excess of 2mg or 2ml in any individual prescribable medicinal hemp infused product classified as a prescription only medication;
- (d.) not be allowed in excess of zero percent (0%) or in any quantifiable amount by testing standards, in hemp infused food products; and
- (e.) represent within this Act and Regulations, all tetrahydrocannabinol forms, chemical analogues and isomers and any other intoxicating cannabinoids, which have already been, or are yet to be identified or synthesised, that can result in intoxication or impairment with use;

“vehicle” means, specifically for the purposes of this Act and the Regulations, any land, sea or air passenger or cargo transport vessel used for domestic transport between Antigua and Barbuda and its archipelagic islands;

3. Applicability of this Act

(1) This Act shall apply to the growth, manufacture, processing, use and trade of hemp and hemp infused products throughout Antigua and Barbuda.

(2) Nothing done under the Authority of this Act shall render any business or trade involved in the growth, manufacture, processing, possession, use and trade of hemp and hemp infused product unlawful under any other law in force in Antigua and Barbuda.

PART I

THE HEMP AUTHORITY

4. Authority

The Authority shall be responsible for the enforcement of the rules promulgated in this Act and the Regulations pursuant to this Act.

5. Authority to be consulted

Any person, body or agency having authority over any matter in respect of which the Authority has functions to perform under this Act, shall not, whether provisionally or finally, approve or determine such matter until the Authority has been consulted.

6. Establishment and duties of Hemp Inspectorate Division

(1) For the purposes of enforcing the inspection and investigative functions of the Authority, the Board may appoint and employ a Division of Inspectors, at such remuneration and on such terms and conditions as the Board considers necessary, with the approval of Cabinet.

(2) The Division Inspectors shall have all the following powers of any peace officer to—

- (a.) investigate violations or suspected violations of this Act and any rules promulgated pursuant to it;
- (b.) serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating hemp goods;
- (c.) assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request;
- (d.) inspect, examine, or investigate any licensed premises where hemp, hemp derivative or hemp infused product are, or are to be, grown, stored, cultivated, manufactured, processed, extracted, infused, recycled, disposed of, destroyed, researched, developed, tested, distributed, or sold, and any books and records in any way connected with any licensed activity;
- (e.) require any licensee, upon demand and during business hours or at any time of apparent operation, to permit an inspection of the licensed premises, authorized vehicles, hemp equipment, hemp accessories, books and records, and, to permit the official testing or examination of any hemp goods;
- (f.) require applicants to submit complete and current applications, fees and other information the Division considers necessary to make licensing decisions and to approve or deny material changes made by the applicant or licensee;
- (g.) conduct investigations into the character, criminal history, and all other relevant factors related to the suitability of any licensee or applicant for renewal, maintenance or approval of a hemp business or occupational licence and any such other person with a direct or indirect interest in an applicant or licensee, as the Authority may require;
- (h.) require any person, by or on whose behalf data equipment is or has been used, or any person having charge of, or otherwise concerned with the operation of the data equipment of any associated apparatus or material, to afford an inspector all reasonable assistance in relation to it and assist in the retrieval of information connected with the operation of such data equipment, apparatus or material;
- (i.) summon, at any reasonable time, any other person employed in connection with such trade, business or activity to give to the inspector, any information which the inspector may reasonably require in relation to such trade, business or activity and to produce to the inspector any documents which are in the control of that other person;

- (j.) have photographs taken of anything on, at or in the premises, place or vehicle and remove the photographs from the place and to inspect any vehicle relating to such trade, business or activity; or
- (k.) be present during harvest and processing of cultivated hemp to record wet and dry weights of cultivated hemp to be entered into the Antigua and Barbuda Hemp Tracking System.

(3) An inspector shall not, other than with the consent of the occupier, enter a private dwelling unless he has obtained a warrant from a Magistrate under section 6.

(4) Where an inspector, in the exercise of his powers under this section, is prevented from entering any premises, place or vehicle, an application may be made for a warrant under section 6 authorizing such entry.

(5) An inspector appointed under this section, when exercising any powers conferred on him by this Act, may be accompanied by such other persons approved by the Authority.

7. Issue of warrant by Magistrate

(1) Without prejudice to the powers conferred on an inspector by or under any provision of this section, if a Magistrate is satisfied, on the sworn statement of an inspector, that there are reasonable grounds for suspecting that there is evidence required by him under this section, that is held on the premises or any part thereof, or any place or in any vehicle, the Magistrate may issue a warrant authorizing an inspector, who for this purpose shall be a police officer above the rank of sergeant, at any time within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter the premises, place or vehicle, if need be, by reasonable force, and exercise all or any of the powers conferred on an inspector under this Act and Regulations.

(2) A person shall comply with any request or requirement of an inspector under this Act.

(3) A person who—

- (a.) obstructs or impedes an inspector in the exercise of a power under this Act;
- (b.) without reasonable excuse, refuses to comply with a request under this Act; or
- (c.) in purported compliance with such a request, knowingly or recklessly gives evidence that is false or misleading in a material respect; commits an offence and is liable, on conviction before a Magistrate's Court to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding six months.

8. Schedule of Taxes on Hemp

(1) The taxes and duties levied on hemp, medicinal hemp derivatives and hemp infused products are as follows—

- (a.) The Antigua and Barbuda Sales Tax of 15% is levied on a taxable supply of all hemp goods, medicinal derivatives and hemp infused products sold within the State of Antigua and Barbuda;
 - (b.) An export tax duty of 15% is levied on the export of hemp, medicinal derivatives and hemp infused products meeting all other export requirements and intended for export;
 - (c.) An import tax duty of 15% is levied on the import of non-prescribable hemp goods that meets all other import requirements and intended for import; and
 - (d.) An Import tax duty of 10% is levied on the import of prescribable hemp goods, meeting all other import requirements and intended for import and shall follow tax schedules for medicinal preparations containing hemp.
- (2) Cabinet may waiver or amend any assigned fees or taxes regarding any hemp business licence, operation or product.

9. Non-citizen investment

- (1) The provisions of the Non-Citizens Land Holding Regulations Act shall be applicable to any non-citizen who is a director or shareholder of a company who invests in a hemp business—
 - (a.) An applicant for a hemp business licence, pursuant to this Act and Regulations, that is, or is to be, between thirty-one percent (31%) and seventy-nine percent (79%) owned by non-citizens or a foreign entity, shall issue to the Government not more than a five percent (5%) risk-free perpetual equity ownership of the authorised stock of that company; and
 - (b.) An applicant for a hemp business licence, pursuant to this Act and Regulations, that is between eighty percent (80%) and one-hundred percent (100%) owned by non-citizens or a foreign entity, shall issue to the Government not more than a ten percent (10%) risk-free perpetual equity ownership of the authorised stock of that company.
- (3) Equity ownership shall be issued to the Government by the approved company—
 - (a.) as cumulative participating preference shares;
 - (b.) as a percentage of the authorised stock in a privately held company;
 - (c.) in such a manner whereby the Government shall remain risk free and shall never bear or be expected to bear any liability throughout its held ownership; and
 - (d.) after approval of an application, prior to receiving the provisional licence.

10. Excessive concentration

(1) In determining whether to grant or deny a licence for a hemp business, the Authority shall consider if an excessive concentration exists in the area where the licensee will operate.

(2) For the purposes of this Regulation, “excessive concentration” applies when one of the conditions as follows exist—

(a.) where the number of hemp business licensees to a populated area within the country shall be in direct consideration of population density and distance, whereby—

(i) the ratio of population density to hemp business operations may initially be considered to be 10,000:1; and

(ii) the ratio of distance to hemp business operations may initially be considered to be 50 square kilometers:1; and

(b.) where approval of the application would unduly oversaturate the regulated market so as to perpetuate the illegal market for hemp goods.

(3) The Authority shall calculate the ratios described in subsection (2)(a) once every six months using the most current available data.

(4) The Authority’s consideration of whether to grant or deny a licence shall be based upon the most recent ratio calculated by the Authority on the date of the Authority’s decision.

(5) The existence of an excessive concentration shall be considered in determining whether to grant, deny, or extend a provisional licence under this Act.

(6) The applicant may provide reliable evidence establishing, to the satisfaction of the Authority, that a denial of a licence would unduly limit the development of the regulated market so as to perpetuate the illegal market for hemp goods.

PART II

LICENSING A HEMP BUSINESS

11. Establishment of scheme

(1) The Regulations made under this Act shall provide for the establishment of a scheme which authorizes, regulates and licenses the following hemp business operations to enable hemp to be produced, tested, transported, processed, extracted, infused, researched, developed, recycled, destroyed, disposed of, imported, exported or obtained for use in accordance with this Act—

(a.) a Hemp Cultivation Operation means an entity engaging in the cultivation of hemp for industrial, medicinal, supplemental or scientific purposes;

- (b.) a Hemp Transport Operation means an entity engaging in the transporting of hemp;
 - (c.) a Hemp Processing and Extraction Operation means an entity engaging in the processing and extraction of hemp toward medicinal, therapeutic or supplemental raw materials;
 - (d.) a Hemp Infused Products Manufacturer Operation means an entity engaging in the manufacturing of hemp infused products;
 - (e.) a Hemp Research and Development Operation means an entity engaging in the research and development of hemp;
 - (f.) a Hemp Import or Export Operation means an entity engaging in the importing or exporting of hemp; and
 - (g.) an Industrial Hemp Processing Operation means an entity engaging in the processing of industrial hemp toward the creation of various non-medicinal or non-consumable products.
- (2) Regulations made under this Act shall make rules guiding the—
- (a.) applications, fees, denial or approval of licences;
 - (b.) issuing of licences for the activities specified under paragraphs (a) to (g) of subsection (1);
 - (c.) imposition and variation of conditions of licences; and
 - (d.) suspension or revocation of licences.

12. Prohibition against engaging in hemp operations without a licence and Standards Requirements

(1) A person shall not engage in the cultivation, processing, testing, dispensing, infused product manufacture, transport, export or import of Hemp for any purpose unless the person is the holder of the relevant licence specified under Section 11, issued in accordance with Regulations made under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction in a Magistrate’s Court to a fine not exceeding seventy-five thousand dollars or to imprisonment for a term not exceeding two years.

(3) All hemp that is produced and supplied in Antigua and Barbuda shall meet such standards for specified markets, where applicable, including, but not limited to, GMP, GPP, Fair trade, Global GAP, Euro GAP, GAP, GACP, HACCP and such other standards as may be specified by the Authority from time to time.

13. Types of licences

(1) Hemp shall be regulated in accordance with any of the following licences, provided that all conditions attached thereto and the requirements of this Act and any Regulations made pursuant to this Act are complied with—

- (a.) a Hemp Cultivation Licence, which shall be issued to allow for the germination, growing, harvesting, drying, trimming, curing, storing or packaging of hemp;
- (b.) a Hemp Processing and Extraction Licence, which shall be issued to allow for the processing and extraction of raw hemp material into extracted or isolated products;
- (c.) a Hemp Infused Products Manufacturer Licence, which shall be issued to allow for activities relating to the processing and manufacturing of hemp infused products, including but not limited to, foods, medicines and cosmetics, but does not include the extraction of hemp;
- (d.) a Hemp Transport Licence, which shall be issued to allow for the transport of non-prescribable medicinal hemp and industrial hemp;
- (e.) a Hemp Research and Development Licence, which shall be issued to allow for the conduct of scientific research relating to the development of hemp and hemp infused products;
- (f.) a Hemp Import or Export Licence, which shall be issued per transaction, to allow for the importation or exportation of hemp and hemp infused products and which will follow international agricultural export and import guidelines mandating a certificate of analysis or phytosanitary certificate where applicable;
- (g.) an Industrial Hemp Processing Licence, which shall be issued to allow for the processing of industrial hemp into materials for use in various other industries; and
- (h.) Individual Occupational Licences, which shall be issued to a hemp business licence owner, all managers and all staff within a hemp business operation.

(2) A person who is granted a licence pursuant to this Act and Regulations made pursuant to this Act, shall not transfer or assign his licence to another person or entity or cause or permit another person or entity to use the licence.

(3) Any purported transfer or assignment of a licence shall be null and void.

(4) Notwithstanding section 9 of the Misuse of Drugs Act Cap 283, a person who imports or brings into, or exports from the state of Antigua and Barbuda any hemp or hemp infused products except under and in accordance with a licence, and into or from prescribed port or places, shall be guilty of an offence against this Act.

14. Hemp Businesses – Staff Licences and Training

(1) Persons employed in a licenced hemp business operation are required to possess an individual occupational licence, which may be either, an owner, a manager or a staff licence,

which will identify an employee according to their job position and which will be entered into the Antigua and Barbuda Tracking System.

(2) A person who is granted a licence pursuant to this Act and Regulations made pursuant to this Act, shall not transfer or assign his licence to another person or cause or permit another person to use the licence.

(3) Any purported transfer or assignment of a licence shall be null and void.

15. Industrial Hemp

(1) Hemp that is not intended for use in consumable products shall be considered industrial hemp.

(2) Industrial hemp shall not require testing or standardisation in any form as it shall not be allowed for use in human or animal consumable products.

(3) Industrial hemp shall be tracked and monitored through the Antigua and Barbuda Hemp Tracking System.

(4) Industrial hemp shall only be allowed to be cultivated under licence and sold or sent only to a licensed industrial hemp processing facility.

(5) All industrial hemp shall be reconciled within the Antigua and Barbuda Tracking System before being processed at a licensed industrial hemp processing facility.

16. Medicinal or therapeutic Hemp

(1) Hemp that is intended for use in consumable products as a medicinal or therapeutic agent shall be considered medicinal or therapeutic hemp.

(2) Medicinal or therapeutic hemp shall require complete testing and standardisation as guided in the Regulations pursuant to this Act.

(3) Medicinal or therapeutic hemp shall be tracked and monitored through the Antigua and Barbuda Hemp Tracking System.

(4) Medicinal or therapeutic hemp goods shall be classified as either prescribable medicinal hemp goods or non-prescribable medicinal hemp goods.

(5) non-prescribable medicinal or therapeutic hemp goods shall contain not more than—

(a.) 0.2 percent of tetrahydrocannabinol or intoxicating cannabinoid concentration on a dry weight basis of the hemp flower or hemp extract; and

(b.) 500mg of non-intoxicating cannabinoids per delineated serving size.

(6) Prescribable medicinal hemp goods shall be further classified into either prescription only medication (POM) or over the counter (OTC) medication.

(7) Prescribable medicinal hemp infused products classified as over the counter (OTC) medication shall contain not more than—

(a.) 0.5mg of tetrahydrocannabinol or intoxicating cannabinoids per individual product with a net weight of contents of not less than 1000mg;

(b.) 0.5ml of tetrahydrocannabinol or intoxicating cannabinoids per individual product with a net weight of contents of not less than 1000ml;

(i) where a prescribable medicinal hemp infused product, classified as an over the counter (OTC) medication, has a net weight of contents of less than 1000mg or 1000ml, there shall be zero percent (0%) or no quantifiable amount, by testing standards, of tetrahydrocannabinol or intoxicating cannabinoids allowed within the product;

(c.) 5000mg of non-intoxicating cannabinoids per individual product; and

(d.) 300mg of non-intoxicating cannabinoids per single dose.

(8) Prescribable medicinal hemp infused products classified as prescription only medication shall contain not more than—

(a.) 2mg of tetrahydrocannabinol or intoxicating cannabinoids per individual product with a net weight of contents of not less than 1000mg;

(b.) 2ml of tetrahydrocannabinol or intoxicating cannabinoids per individual product with a net weight of contents of not less than 1000ml;

(i) where a prescribable medicinal hemp infused product, classified as a prescription only medication, has a net weight of contents of less than 1000mg or 1000ml, there shall be not more than 0.2% of tetrahydrocannabinol or intoxicating cannabinoids allowed within the product;

(c.) 12,000mg of non-intoxicating cannabinoids per individual product; and

(d.) 1200mg of non-intoxicating cannabinoids per single dose.

(9) A registered pharmacist may, through a registered pharmacy, store, provide or dispense prescribable medicinal hemp goods;

(10) Non-prescribable medicinal hemp goods shall be distributed or dispensed from within an Authorized medicinal cannabis dispensary and shall be provided or dispensed by a person holding an authorized special dispensing licence.

17. Hemp infused food products

(1) Hemp that is intended for use in non-medicinal consumable products shall be considered hemp infused food products.

(2) Hemp infused food products shall require complete testing and standardisation as guided in the Regulations pursuant to this Act.

(3) Hemp infused food products shall be tracked and monitored through the Antigua and Barbuda Hemp Tracking System.

(4) Hemp infused food products shall contain zero percent (0%) or no quantifiable amount of tetrahydrocannabinol or intoxicating cannabinoids by testing standards and not more than—

(a.) 10mg of non-intoxicating cannabinoids per delineated serving size; and

(b.) of non-intoxicating cannabinoids per individual product.

(5) Hemp infused food products shall—

(a.) not be classed as a prescription only medicine, an over the counter drug, a prescribable medicinal hemp infused product or a non-prescribable medicinal hemp infused product;

(b.) be classed as a food, and the non-intoxicating cannabinoids within, classed as a food supplement; and

(c.) meet all packaging and labelling requirements of consumable food supplements with the addition of batch traceability codes and cannabinoid content.

(6) Hemp infused food products may be supplied at registered wholesale and retail food establishments.

18. Protection from criminal liability

For the avoidance of doubt, a person is hereby authorized to undertake any activity under this Part, to the extent that the activity is authorized by, and conducted in accordance with, the provisions of this Act or Regulations made pursuant to this Act.

PART III

TRACKING, MONITORING AND TESTING STANDARDS

19. Tracking and Monitoring

(1) The Authority shall mandate—

(a.) the use of a universal tracking and monitoring system to be utilised by all approved hemp business operations and licensees;

(b.) the utilization of a fully integrated computerised operating system to be monitored by the Authority and utilises tagging or other tracking systems for all hemp goods

within the regulated framework, and which utilises electrical backup and offsite monitoring;

- (c.) that all information regarding cultivation of hemp, inclusive of all licensed persons and licensed premises shall be entered into the Antigua and Barbuda Hemp Tracking System;
- (d.) all information regarding the hemp system inclusive of patient and caregiver registry, hemp business licences, all persons employed in hemp businesses, hemp business inventory and all hemp business transactions will be input and stored in the Antigua and Barbuda Hemp Tracking System; and
- (e.) all hemp business operations will be monitored and tracked by the Authority via the Antigua and Barbuda Hemp Tracking System.

(2) A person who does not comply with the rules regarding the Antigua and Barbuda Hemp Tracking System commits an offence and is liable on summary conviction in a Magistrate's Court to a fine not exceeding seventy-five thousand dollars or to imprisonment for a term not exceeding two years.

20. Maintenance of confidential register

(1) The Authority shall maintain a confidential register of all persons who are registered and issued identification cards in accordance with this Act.

(2) The Authority may share the information contained in the register with such persons as may be prescribed and such information shall remain confidential and shall not be subject to disclosure to any person, save and except to employees who have been authorized by the Authority to access the information as necessary to perform the official duties of the Authority or such other persons as may be prescribed.

(3) Notwithstanding subsection (2), a licensee's name and other identifying information contained in the confidential register shall be kept in the strictest of confidence and shall not be subject to disclosure save and except in accordance with the circumstances specified thereunder.

(4) Where the Authority needs to verify with any law enforcement agency whether an identification card is valid, the Authority shall do so without disclosing more information than is reasonably necessary in the circumstances.

(5) A person who discloses any information in the confidential register, or any information disclosed to him which forms part of the confidential register, commits an offence and is liable on conviction in a Magistrate's Court to a fine not exceeding fifteen thousand dollars or to imprisonment for a term not exceeding six months.

21. Testing Standards

(1) A licensed testing facility shall not have any of its owners hold any ownership or financial interest in any other type of licensed hemp operation.

(2) A licensed testing facility shall not have any of its employees hold any employment, ownership or financial interest in any other type of licensed hemp operation.

(3) All non-industrial hemp shall be tested and meet the required standards within the Regulations to be allowed to be sold to a licensed downstream business.

(4) All non-industrial hemp shall be tested for—

- (a.) moisture content and water activity;
- (b.) cannabinoid content;
- (c.) residual solvents and processing chemicals;
- (d.) residual pesticides;
- (e.) microbial impurities;
- (f.) mycotoxin;
- (g.) foreign material;
- (h.) heavy metals; and
- (i.) radioactive materials.

(5) All hemp and hemp infused product shall meet the required standards within the Regulations regarding—

- (a.) packaging and labelling;
- (b.) advertising;
- (c.) tracking and monitoring;
- (d.) security protocols;
- (e.) health and safety protocols;
- (f.) recall procedures; and
- (g.) standard operating procedures.

PART IV
OFFENCES

22. Prohibitions

(1) A licensed hemp operation shall not produce hemp or hemp infused products containing more than the regulated limits of tetrahydrocannabinol or intoxicating cannabinoids on a dry weight basis or within an individual product;

(a.) Hemp or hemp infused products containing more than the regulated limits of tetrahydrocannabinol or intoxicating cannabinoids on a dry weight basis or within an individual product shall either—

- (i) be mandated by the Authority to be destroyed at the cost of the licensee;
- (ii) be purchased by the Authority to be sold to a medicinal cannabis licensee;
- (iii) be given, at no cost, to a licensed recycler for processing and recycling; or
- (iv) be allowed by the Authority to contract with a licensed medicinal cannabis extraction facility to extract and process the raw hemp material to remove excess tetrahydrocannabinol, where applicable.

(2) A person shall not—

(a.) have in his possession, non-prescribable medicinal hemp or industrial hemp—

- (i) on a school bus;
- (ii) on the premises of any kindergarten, pre-school, primary or secondary school or at a tertiary level institution;
- (iii) in a public passenger motor vehicle, except in such manner as may be prescribed; or
- (iv) in a private residence that is used at any time to provide licensed child care or other similar social service care at the residence;

(b.) engage in the smoking of Hemp—

- (i) on a school bus;
- (ii) on the premises of any kindergarten, pre-school, primary or secondary school or at a tertiary institution;
- (iii) in a private residence that is used at any time to provide licensed child care or other similar social service care at the residence; or
- (iv) in any public place;

(c.) allow any person who is not authorized to handle or use hemp under this Act to handle or use hemp goods;

(d.) knowingly make a misrepresentation to an inspector of any fact or circumstance relating to the use of hemp goods; or

(e.) permit a minor to use non-prescribable medicinal hemp at any place except where it is prescribed pursuant to this Act.

(3) A person who, or an entity that, contravenes subsection (1) or (2), commits an offence and is liable on conviction in a Magistrate’s Court to a fine not exceeding seventy-five thousand dollars or to imprisonment for a term not exceeding two years.

(4) A patient or caregiver who sells hemp that is obtained under a prescription or recommendation in this Act shall, in addition to the penalty prescribed under subsection (3), have his prescription or recommendation revoked for a period of three years.

(5) For the purposes of this Part, “public place” has the meaning assigned to it under section 2.

23. Prohibitions relating to an authorized medical professional

(1) An authorized medical professional shall not—

(a.) hold a direct or indirect economic or financial interest in any operation or facility which supplies medicinal hemp, if he is engaged in recommending or prescribing medicinal hemp or is in a partnership with an authorized medical professional who recommends or prescribes medicinal hemp;

(b.) serve on the board of directors of a facility which supplies medicinal hemp; or

(c.) issue an authorised medicinal hemp recommendation or prescription for his benefit or for the benefit of any member of his family.

(2) An authorized medical professional who contravenes any of the provisions of subsection (1) commits an offence and is liable on conviction in a Magistrate’s Court to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding six months.

PART V

APPEALS

24. Establishment of Appeals Tribunal

(1) For the purposes of this Act, there is hereby established an Appeals Tribunal.

(2) The Appeals Tribunal shall consist of not less than five nor more than seven members all of whom shall be appointed by the Governor-General for specific hearings and who shall hold office for the duration of such hearings until the hearing is completed.

(3) The provisions of the Regulations made under this Act shall have effect as to the constitution and operation of the Appeals Tribunal and otherwise in relation thereto.

25. Appeals to the Appeals Tribunal

(1) A person who is aggrieved by a decision of the Authority or any other person acting in exercise of any function delegated under the Authority, may appeal to the Appeals Tribunal by way of a notice of appeal within fourteen days of the date of the decision or within such longer period as the Appeals 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 Appeals Tribunal shall, within seven 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.

(5) The Appeals Tribunal may order that any book, paper, document or statement, relating to the appeal, which is in the possession of the Authority or any other person acting in exercise of any function delegated under the Authority, or the person aggrieved, be produced at the hearing of the appeal.

(6) The Appeals Tribunal shall cause all parties to the appeal to be informed—

(a.) of the date of the hearing of the appeal;

(b.) that they may appear themselves or be represented by their attorney-at-law; and

(c.) that they may summon witnesses in their case.

(7) On hearing an appeal under this section, the Appeals 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;

(c.) vary the decision of the Authority; or

(d.) direct that the matter to be referred to the Minister.

PART VI

GENERAL PROVISIONS

26. Regulations

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

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

- (a.) prescribing quality standards for the supply of hemp goods and the systems for certification to meet the prescribed standards;
- (b.) prescribing fees;
- (c.) without limiting paragraph (b), prescribing fees or levies to recover any compliance or administrative costs;
- (d.) prescribing forms;
- (e.) prescribing particulars or information to be included in any application for the issue of a licence or other authorisation or renewal thereof;
- (f.) regulating, restricting or prohibiting premises, vehicles or equipment used or intended to be used for or in connection with the supply of hemp goods;
- (g.) regulating or prohibiting the transport of hemp goods;
- (h.) matters to be considered by the Authority in relation to the suitability of premises for the supply of hemp;
- (i.) standards or requirements as to security of access to premises which supply hemp goods;
- (j.) requirements of 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 hemp goods;
- (k.) the manner in which inspections, searches, detentions and seizures under this Act are to be carried out;
- (l.) documents to be kept in relation to a hemp business and its goods;
- (m.) the sale, supply, safe custody, storage and security of hemp goods;
- (n.) the procedure for dispensing hemp to visiting qualifying patients;

- (o.) the zoning of designated areas to be used for or in connection with the cultivation and dispensing of hemp; and
- (p.) generally, any other matter or thing that is authorized or required to be prescribed or necessary to be prescribed to carry out this Act.

(3) Regulations may also be made with respect to —

- (a.) prohibiting, regulating or controlling the supply, distribution, use, safe custody and storage of hemp goods;
- (b.) preventing the improper use of hemp goods;
- (c.) prohibiting or regulating the issuing of hemp recommendations;
- (d.) prohibiting or regulating the dispensing of hemp goods to patients;
- (e.) requiring persons engaged in the supply of hemp to keep records and provide information in writing or otherwise;
- (f.) the chain of custody, accumulation, destruction, use, supply and storage of hemp and hemp infused products, including, but not limited to—
 - (i) the specifications of cupboards and other receptacles; and
 - (ii) the manner of storage of any form of hemp goods;
- (g.) regulating the supply of hemp goods to persons who have had a history of substance abuse;
- (h.) regulating and controlling the advertising by any person of hemp goods, including the form and content of advertisements;
- (i.) the colouring of hemp goods;
- (j.) prohibiting or regulating the supply of hemp goods, whether by wholesale or by retail, or any class of products to ensure the product or class of product is packaged in accordance with regulations and contains no more than a specified concentration of cannabinoids;
- (k.) the minimum size of packages or containers in which hemp goods or any class of hemp may be supplied or offered for supply;
- (l.) specifying the containers in which hemp goods may be supplied and prohibiting the use of those containers for other substances;
- (m.) labelling and specifying the particulars to be included in labels attached to containers of hemp goods;
- (n.) the inspection of premises (other than residential premises), mobile facilities, stocks, records and any other documents relating to hemp business or goods; or
- (o.) the administration and use of hemp goods.

