

**ANTIGUA AND BARBUDA**



**HEMP BILL, 2021**

**No. of 2021**



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**ANTIGUA AND BARBUDA**

**HEMP BILL, 2021**

**No. of 2021**

AnACT to provide for the regulation and cultivation of hemp and hemp products; and for other connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

**1. Short title**

This Act may be cited as the Hemp Act, 2021.

**2. Interpretation**

(1) In this Act, unless the context otherwise requires—

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

“**Authority**” means the Medicinal Cannabis Authority, established under section 13 of the Cannabis Act 2018;

“**Board**” means the members comprising of the Medicinal Cannabis Authority, established under section 13 of the Cannabis Act 2018;

“**cultivate**” means to—

- (a) plant a seed, seedling or cutting of the plant or transplant the plant;
- (b) nurture, tend or grow the plant;

(c) harvest the plant which may include picking any part of the plant or separate any resin or other substance from the plant;

(d) dry the harvested plant or part of the plant; or

(e) take part in the process of cultivation of the plant;

“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;

“**hemp**” means any part of the plant of the genus *cannabis sativa* which includes the seed and any product derived from such plant with the maximum tetrahydrocannabinol concentration of not more than 1%.

“**hemp seed**” means the seed of the plant of the genus *cannabis sativa* with the maximum tetrahydrocannabinol concentration of not more than 1%.

“**hemp business operation**” means a licensed hemp cultivation operation, a licensed hemp processing and extraction operation, a licensed hemp products manufacturer, a licensed hemp transport operation, , a licensed hemp research and development operation or a licensed hemp processing facility;

“**hemp product**” means a product derived or produced from hemp where the product contains no more than 1% of tetrahydrocannabinol or cannabinoids by testing standards per individual product and per delineated serving size, as may be specified within the Regulations;

“**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 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;

“**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;

“**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;

“**taxes**” means taxes made under the Antigua and Barbuda Sales Tax or the export or import duties levied on hemp, hemp derivatives or hemp products;

“**tetrahydrocannabinol**” or “**THC**” means tetrahydrocannabinol; or

“**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;

**PART I**

**THE RESPONSIBLE AUTHORITY**

**3. Responsible authority**

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

**4. 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.

**PART I**  
**LICENCES**

**5. Application for licence**

(1) A person may apply to the Board for a hemp licence specified in subsection (2) and the Board will determine whether the applicant must apply for one or more additional licence based upon the type of Hemp Business operation the application desires to operate.

(2) The Board may issue any of the following licences to an applicant who satisfies the requirements of this Act and any Regulations made pursuant to this Act—

- (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 Products Manufacturer Licence, which shall be issued to allow for activities relating to the processing and manufacturing of hemp products, including but not limited to, foods, 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 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 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 products and which will follow international agricultural export and import guidelines mandating a certificate of analysis or phytosanitary certificate where applicable;
- (g) a Hemp Processing Licence, which shall be issued to allow for the processing of hemp into materials for use in various other industries;
- (h) Individual Occupational Licences, which shall be issued to a hemp business licence owner and any employee employed within a hemp business operation which will identify an employee according to their job position and shall be entered into the Antigua and Barbuda Tracking System;
- (i) A Hemp Testing Facility Licence, which will be issued to a facility to conduct testing on hemp or hemp products pursuant to this Act;
- (j) a General Hemp Licence, which shall be issued for any other purpose which is approved and is considered necessary by the Board.

(3) 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.

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

(5) 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 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.

(6) An application under paragraphs (a) to (i) must—

- (a) be in a form approved by the Board;
- (b) be accompanied by the prescribed fee; and
- (c) contain information and be accompanied by such other records as the Board may require to determine the application.

## **6. Board shall investigate application**

(1) Upon receiving an application under section 7, the Board may carry out such investigations and inquiries as the Board considers necessary to determine the application.

(2) The Board may, by notice in writing, require an applicant to—

- (a) provide information, and produce such documents, as are relevant to the investigation of the application as specified in the notice;

(b) provide the Board with such authorities and consents as the Board directs to enable the Board to obtain financial or other confidential information concerning the applicant from other persons; or

(c) submit to the Board a police report relating to the applicant provided by the Royal Police of Antigua and Barbuda;

and, if a requirement made under this section is not complied with, the Board may refuse to determine the application.

(3) The Board must provide a copy of each application under section 7 and any accompanying information and documents to the Commissioner of Police.

(4) The Commissioner of Police must—

(a) inquire into and report to the Board on any matters concerning the application that the Commissioner of Police believes are appropriate or reasonably necessary; and

(b) inquire into and report to the Board on any matters concerning the application that the Board requests; and

(c) within 60 days of receiving the application from the Board, notify the Board in writing of the Commissioner of Police's decision to support or oppose the issuing of the licence and provide the reasons for the decision.

(5) Where the Board is notified under subsection (4)(c) that the Commissioner of Police opposes the issuing of a licence, the Board shall not issue the licence.

(6) Before determining an application for a special licence under section 7(2), the Board must consult with the Minister responsible for justice and legal affairs.

### **7. Suitability of applicant—fit and proper person**

(1) The Board must not grant a licence to an applicant, or renew a licence on application by a licence holder, unless the Board is satisfied that—

(a) neither the applicant nor any associate of the applicant has been found guilty of a drug related offence;

- (b) where applicable, the applicant and each associate of the applicant are fit and proper persons to be concerned in or associated with the cultivation of hemp or hemp; and
- (c) where applicable, the applicant meets the prescribed requirements.

(2) For the purpose of determining whether an applicant or a licence holder is a fit and proper person under this Act, the Board may consider any of the following—

- (a) the character, honesty and integrity of—
  - (i) the applicant or licence holder; and
  - (ii) the associates of the applicant or licence holder; and
  - (iii) the relatives of the applicant or licence holder; and
  - (iv) any person in a position to exercise control or significant influence over the conduct of the applicant or licence holder;
- (b) whether the applicant or licence holder or any associate or relative of the applicant or licence holder has been found guilty by a court of any offence;
- (c) whether the applicant or licence holder or any associate of the applicant or licence holder has a history of non-compliance with the Act;
- (d) in the case of an applicant or licence holder that is not a natural person—whether the applicant or licence holder has a satisfactory ownership, trust or corporate structure;
- (e) the financial circumstances of the applicant or licence holder, including any matter that may significantly limit the applicant or licence holder's capacity to meet obligations in conducting activities under the licence in compliance with the terms and conditions applying to the licence.

### **8. Determination of licence application**

(1) After considering an application and carrying out an investigation under section 8, the Board must determine the application by—

- (a) granting the application and issuing a hemp licence or a special licence to the applicant; or
- (b) refusing the application.

(2) The Board must—

- (a) notify the applicant in writing of the decision under subsection (1); and

(b)if the Board refuses an application under subsection (1)(b), provide reasons for the decision.

**9. Terms and conditions of licence**

- (1)A licence has effect for a period of 2 years from the day on which it is granted, or such shorter period as specified in the licence, unless it is sooner suspended or cancelled.
- (2) Where applicable, a licence is subject to the prescribed terms and conditions.
- (3) The Board may, at any time by notice in writing to the holder of a licence—
  - (a) impose a term or condition on a licence; and
  - (b) vary, suspend or revoke a term or condition of a licence, and such a term, condition, variation, suspension or revocation takes effect when notice is given to the holder of a licence or on such later date as specified in the notice.
- (4) The Board may exercise a power under subsection (3)—
  - (a) on the application of the holder of a licence; or
  - (b) in the Board's discretion.
- (5) An application by the holder of a licence under subsection (4)(a) must—
  - (a) be in writing; and
  - (b) be accompanied by the relevant prescribed fee (if any); and
  - (c) be accompanied by any prescribed particulars.
- (6) Without limiting subsection (3), the conditions of a licence may require—
  - (a) the keeping of records and other documents; and
  - (b) the provision of information, records or other documents to the Board relating to—
    - (i) the activities carried out under the licence; or
    - (ii) the source of seeds from which hemp or a hemp is cultivated; or
    - (iii) a change in the position of director, trustee, partner, manager, secretary or other executive position, however designated, or the structure of the business to which the licence relates; or
    - (iv) any other matter that the Board reasonably requires in relation to the licence or the licensed activity.
- (7) A licence is not transferrable.

**10. Renewal of licence**

- (1) The holder of a licence may apply to the Board for the renewal of the licence.
- (2) A renewal application must be made to the Board at least 3 months before the licence is due to expire.
- (3) A renewal application must—
  - (a) be in writing; and
  - (b) be accompanied by any information relevant to whether or not the applicant and each associate of the applicant is a fit and proper person; and
  - (c) be accompanied by the relevant prescribed renewal fee (if any); and

- (d) be accompanied by any other information the Board reasonably requires to assess the application; and
- (e) contain any prescribed particulars.

### **11. Board must investigate renewal application**

- (1) Upon receipt of a renewal application under section 12, the Board must carry out any investigation or inquiry necessary to determine the renewal application.
- (2) The Board shall provide a copy of a renewal application made under section 12 and any accompanying documents to the Commissioner of Police.
- (3) The Commissioner of Police shall—
  - (a) inquire into and report to the Board on any matters concerning the application that the Commissioner of Police believes are appropriate or reasonably necessary; and
  - (b) inquire into and report to the Board on any matters concerning the renewal application that the Board requests; and
  - (c) within 60 days of receiving the application from the Board notify the Board in writing of the Commissioner of Police's decision to support or oppose the renewal of a licence and provide the reasons for the decision.
- (4) If the Board is notified under subsection (3)(c) that the Commissioner of Police opposes the renewal of a licence, the Board shall not renew the licence.

### **12. Determining a renewal application**

- (1) After considering a renewal application and any investigation under section 14, the Board must determine the renewal application by—
  - (a) renewing the licence for a period not exceeding 5 years; or
  - (b) refusing the application.
- (2) A renewed licence expires on the date specified by the Board, unless the licence is sooner cancelled or suspended.
- (3) The Board must—
  - (a) notify the applicant in writing of the decision under subsection (1)(a); and
  - (b) if the Board refuses to renew a licence under subsection (1)(b), provide reasons for the decision.

### **13. Suspension or cancellation of licence**

- (1) The Board may, by notice in writing to a licence holder, suspend or cancel the licence—
  - (a) if the licence holder requests suspension or cancellation;
  - (b) if the Board is satisfied that the licence holder has contravened or failed to comply with the provisions of this Act or a term or condition of the licence;

- (c) where applicable, if the Board is satisfied that the licence holder or any associate of the licence holder is no longer a fit and proper person to be concerned with or associated with the cultivation or supply of hemp;
- (d) if the Commissioner of Police requests suspension or cancellation on the basis of criminal intelligence concerning the licence holder or an associate of the licence holder;
- (e) if the licence holder ceases to carry on the activity to which the licence relates; or
- (f) if prescribed circumstances exist.

- (2) Before suspending or cancelling a licence under subsection (1), the Board must—
  - (a) notify the licence holder that the licence holder may, within 30 days before the licence is to be suspended or cancelled, show cause why the licence should not be suspended or cancelled; and
  - (b) consider any submission under paragraph (a).
- (3) If a licence is suspended or cancelled under subsection (1), the Board must notify the Commissioner of Police regarding the suspension or cancellation.
- (4) The suspension or cancellation of a licence takes effect from the day specified in the notice, or in the case of a suspension, for the period specified in the notice.
- (5) A licence holder may surrender hemp, or any hemp product derived and produced under this Act to the Board on suspension or cancellation of a licence, and the surrendered material must be dealt with in accordance with the regulations.

#### **14. Licencing distance**

(1) In determining whether to grant or deny a licence for a hemp business operation, the Board shall not issue a licence specified in section 7 where the applicant's intended area of operation will be conducted within 10 miles distance of a licensed hemp business operation premises or a medicinal cannabis business premises licenced under the Cannabis Act 2018.

(3) The Board shall consult with the Medicinal Cannabis Authority established under s13 of the Cannabis Act 2018 before approving an applicant's intended area of hemp business operation premises to ensure that the distance referred to in subsection (1) is maintained between both premises.

#### **15. Prohibition against engaging in a hemp business operation without a licence**

(1) A person shall not engage in the cultivation, processing, extraction, testing, hemp product manufacture, transport, research, development, recycling, disposal, destruction, export or import of hemp for any purpose unless the person is the holder of the relevant licence specified under section 7, 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 produced and supplied in Antigua and Barbuda shall meet such standards for specified markets, where applicable, including, but not limited to, GMP, EU-GMP, GDP, 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.

(4) All hemp cultivated by a licensee in Antigua and Barbuda shall be cultivated from feminized seed or clone stock except in circumstances authorised by the Board.

## **PART II** **INSPECTORS**

### **16. Inspectors**

(1) The Board may, by instrument in writing, authorize persons to be inspectors for the purposes of this Act.

(2) The Board may employ persons referred to in subsection (1), at such remuneration and on such terms and conditions as the Board considers necessary.

(3) The terms and conditions of authorization of an inspector may contain general directions as to how the inspector's powers may be exercised.

(4) The Board, in writing, may vary or revoke the authorization of an inspector at any time.

(5) The Board must provide each inspector, except an inspector who is a police officer, with an identification certificate setting out the provisions of this Act for which the inspector is authorised to be an inspector.

(6) An inspector must, at the request of a person in relation to whom the inspector has exercised, or intends to exercise, powers under this Act, produce the inspector's identification certificate.

(7) In this Part, a reference to an identification certificate in relation to an inspector who is a police officer is a reference to written evidence of the fact that the inspector is a police officer.

**17. General powers of inspector**

(1) For the purposes of determining compliance with this Act, or a licence issued under this Act, an inspector, with any assistance the inspector thinks necessary, at any reasonable time may do all or any of the following—

- (a) enter and inspect any premises, other than premises used as a residence, if the inspector believes on reasonable grounds that hemp is being kept, cultivated or supplied at those premises contrary to this Act;
- (b) intercept, inspect and examine any vehicle or equipment which an inspector reasonably believes is being used in relation to the possession, cultivation, processing or supply of hemp or hemp product;
- (c) require a person to produce any document that the inspector reasonably requires for ascertaining whether the Act or a licence is being complied with—
  - (i) to examine the document; and
  - (ii) to make copies of it or take extracts from it; and
  - (iii) to remove the document for as long as is reasonably necessary to make copies or take extracts;
- (d) take or remove for examination samples of or from, or specimens of, soil, hemp, or any other plant or crop to determine—
  - (i) whether hemp has been cultivated in accordance with the licence; or
  - (ii) the concentration of THC in the hemp; or
  - (iii) that its possession is in accordance with the licence;
- (e) submit any sample or specimen taken in accordance with this Part to a laboratory or place approved by the Board for examination and testing.

(2) An inspector shall not exercise any powers under this Act if the inspector fails to produce the inspector's identification certificate for inspection on request by the occupier of the place or the person in charge or apparent control of the place.

(3) If an inspector seizes a document or thing or takes a sample of, or from, a thing under this section, the inspector must do so in accordance with any requirements prescribed by the regulations.

**18. Inspector has power to seize material**

(1) An inspector may seize hemp, or any hemp product cultivated or produced under this Act if—

- (a) the inspector believes on reasonable grounds that the holder of the licence has contravened a provision of the Act; or
- (b) the hemp or hemp product is required for evidence in a legal proceeding; or
- (c) a licence is suspended or cancelled.

(2) If an inspector seizes any hemp or hemp product under this section, the seized hemp or hemp product must be dealt with in accordance with the regulations.

(3) Without limiting the generality of subsection (2), regulations made under this section may provide for the following:



- (a) the circumstances in which seized hemp or hemp product may be destroyed or otherwise disposed of;
- (b) the recovery by the Board of any costs incurred in dealing with seized hemp or hemp product.

## **PART V**

### **APPEALS**

#### **19. 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.

#### **20. 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 III**

## **TRACKING, MONITORING AND TESTING STANDARDS**

### **21. 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 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.

**PART IV**  
**OFFENCES**

**22. Prohibitions**

(1) A licensed hemp operation shall not produce hemp or hemp 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 products containing more than 1% tetrahydrocannabinol or intoxicating cannabinoids on a dry weight basis or within an individual hemp 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, 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.* 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 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.

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

### **23. False or misleading statements**

(1) A person must not, in giving any information under this Act—

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000.00.

### **24. Offence to fail to comply with a requirement**

(1) A person must not, without lawful excuse, refuse or fail to comply with a requirement made of the person under this Act.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$30,000.00.

### **25. Interference with inspectors**

(1) A person must not obstruct, hinder, threaten or attempt to influence an inspector in the exercise of a power under this Act.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$30,000.00.

## **26. Offence to impersonate inspector**

(1) A person must not impersonate an inspector.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$30,000.00 or to imprisonment for a term not exceeding one year.

## **27. Offence not to comply with licence**

(1) The holder of a licence—

- (a) must not possess, cultivate or supply hemp otherwise than for the purpose for which the licence is granted; and
- (b) must comply with the terms and conditions of the licence. Maximum penalty: \$15 000 or imprisonment for 12 months, or both.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$30,000.00 or to imprisonment for a term not exceeding one year, or both.

# **PART VI**

## **GENERAL PROVISIONS**

### **28. Schedule of taxes on hemp**

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

- (a) The Antigua and Barbuda Sales Tax of 15% is levied on a taxable supply of all hemp or hemp products sold within the state of Antigua and Barbuda;
- (b) An export tax duty of 15% is levied on the export of hemp or hemp products meeting all other export requirements and intended for export; and

- (c) An import tax duty of 10% is levied on the import of hemp or hemp products that meet all other import requirements and intended for import.
- (2) Cabinet may waiver or amend any assigned fees or taxes regarding any hemp business licence, operation or product.

**29. Non-citizen investment**

(1) The provisions of the Non-Citizens Land Holding Regulations Act, Cap. 293 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.

**30. Maintenance of Hemp Register**

(1) The Authority shall maintain a confidential Hemp Register, hereinafter called the “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.

### **31. 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 hemp shall be tested and meet the required standards within the Regulations to be allowed to be sold to a licensed hemp operation business.

(4) All 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 products 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.

### **32. Regulations**

(1) The Minister 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 zoning of designated areas to be used for or in connection with the cultivation and sale of hemp; and
  - (o) 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) distribution of hemp products to consumers; or
  - (d) requiring persons engaged in the supply of hemp to keep records and provide information in writing or otherwise;
  - (e) the chain of custody, accumulation, destruction, use, supply and storage of hemp and hemp products, including, but not limited to—
    - i. the specifications of cupboards and other receptacles for storage; and
    - ii. the manner of storage of any form of hemp goods;
  - (f) regulating the supply of hemp goods to persons who have had a history of substance abuse;
  - (g) regulating and controlling the advertising by any person of hemp goods, including the form and content of advertisements;
  - (h) the colouring of hemp goods;
  - (i) 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;
  - (j) the minimum size of packages or containers in which hemp goods or any class of hemp may be supplied or offered for supply;
  - (k) specifying the containers in which hemp goods may be supplied and prohibiting the use of those containers for other substances;

- (l) labelling and specifying the particulars to be included in labels attached to containers of hemp goods;
- (m) the inspection of premises (other than residential premises), mobile facilities, stocks, records and any other documents relating to hemp business or hemp goods; or
- (n) the administration and use of hemp goods.

(4) Regulations made under this Act may—

- (a) be for controlling or restricting, the cultivation, importation, exportation, transit, manufacturing, production, processing, extraction, infusion, research, development, recycling, disposal, destruction, sale and distribution of hemp, hemp derivatives and hemp products;
- (b) be of general or limited application;
- (c) differ according to differences in place or circumstances;
- (d) apply to different classes of person, licences, authorizations or product;
- (e) confer powers or discretions or impose duties on the Authority, an inspector or any other specified person; or
- (f) exempt specified persons or things or classes of person or classes of thing from complying with all or any of the regulations—
  - i. whether unconditionally or on specified conditions; and
  - ii. either wholly or to such an extent as is specified.

(5) Notwithstanding any law to the contrary, Regulations made under this Act may provide for the imposition of penalties on conviction before a Magistrate of a fine not exceeding one hundred thousand dollars or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Passed the House of Representatives on  
the day of, 2019.

Passed the Senate on the day of  
, 2019.

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*Speaker.*

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*President.*

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*Clerk to the House of Representatives.*

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*Clerk to the Senate.*

## **EXPLANATORY MEMORANDUM**

This Bill seeks to propose a complete legislative framework, in the form of the proposed Act and Regulations for the regulation and control of hemp and hemp products, for industrial, supplemental and scientific use within Antigua and Barbuda, to establish a licensing structure for authorized businesses to conduct operations involving hemp, to control, track and monitor licensed hemp operations, to develop the highest industry standards and to apply international best practices and protocols towards the cultivation, transport, manufacturing, extraction, infusion, distribution, recycling, disposal, testing, standardization and research of hemp goods to enable a properly regulated hemp industry.

Hemp is considered to be those varieties of cannabis that have a total concentration of intoxicating cannabinoids that is so low, that its use would not result in intoxication or impairment.

Within Part 1 of the Bill the Government Authority responsible for implementation and enforcement of the regulation is explained, tax schedules are set and excessive concentration ratios are developed.

Part 2 of the Bill establishes the licensing structure for hemp businesses and explains the differences between the rules regarding hemp and hemp products.

Part 3 of the Bill outlines the seed to sale Government tracking and monitoring system that is to be used by all licensed businesses to ensure that no diversion of product occurs, no evasion of taxes occurs, and that we maintain traceability and chain of command to allow for product recall or withdrawal if necessary.

Part 4 of the Bill explains the various offences in relation to licensed or unlicensed activity covered in the Bill and the various penalties associated with such.

Part 5 of the Bill establishes an appeals process for persons aggrieved by decisions of the Government Authority.

Part 6 of the Bill covers all the general provisions that will be expounded upon and detailed with the Regulations released pursuant to this Bill.

*Hon. Steadroy C. O. Benjamin  
Minister of Justice, Legal Affairs,  
Public Safety and Labour*