The Official Gazette

(EXTRAORDINARY)

OF GUYANA

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LEGAL SUPPLEMENT — C

BILL No. 10 of 2022

Tuesday 17th May, 2022

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

17th May, 2022.

The following Bill which will be introduced in the National Assembly is published for general information.

S.E. Isaacs,
Clerk of the National Assembly.

GUYANA

BILL No. 10 of 2022

INDUSTRIAL HEMP BILL 2022

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A BILL

Intituled

AN ACT to provide for the cultivating and manufacturing of industrial hemp and hemp related products; to provide for the conducting of research on industrial hemp or any other activity concerning or related to industrial hemp; to establish the Guyana Industrial Hemp Regulatory Authority; and other related matters.

A.D. 2022 Enacted by the Parliament of Guyana: -

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Industrial Hemp Act 2022.

Interpretation.

2. In this Act –

"analyst" means a person designated by the Minister under section 30(4);

"authorised officer" means any person appointed by the Board under section 27(1);

"Authority" means the Guyana Industrial Hemp Regulatory Authority established under section 3;

"Board" means the Governing Board of the Authority constituted under section 4;

"cannabis" has the same meaning as assigned under the Narcotic Drugs and Psychotropic Substances (Control) Act;

Cap. 10:10

"dry weight basis" means a method of determining the percentage of a chemical in a substance after removing the moisture from the substance;

"hemp related product" means a product derived, manufactured or produced from industrial hemp where that product contains a concentration of no more than 0.3 percent of delta-9 tetrahydrocannabinol by prescribed testing standards per product per delineated serving size as may be prescribed by regulations made under this Act.

"industrial hemp" or "hemp" means any plant of the genus *cannabis* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis;

"licensee" means a holder of a licence issued by the Board under section 17;

"Minister" means the Minister responsible for Agriculture;

"Register" means the Industrial Hemp Register established and maintained by the Board under section 24;

"seed" means seed of the plant of the genus *cannabis* that is intended for the purpose of growing industrial hemp and any other authorised use by a licensee under this Act;

"Sharecropper Agreement" means a legal arrangement with regard to agricultural land in which a landowner allows a tenant to use the land in return for a share of the crops produced on that land;

"THC" means delta-9 –tetrahydrocannabinol.

PART II
ADMINISTRATION

Establishment of the Guyana Industrial Hemp Regulatory Authority.

3. There is established the Guyana Industrial Hemp Regulatory Authority which shall be a body corporate administered by a Governing Board constituted under section 4.

Constitution of Governing Board.

4. (1) There is constituted a Governing Board of the Authority which shall have the power to do, or provide for, any act or thing in relation to the Authority which it considers necessary or expedient.

(2) The Board shall consist of the following members appointed by the Minister –

(a) a nominee of the Ministry of Agriculture, who shall be the Chairperson;
(b) a nominee of the Ministry of Health;
(c) a nominee of the Ministry of Home Affairs;
(d) a nominee of the Guyana Forensic Science Laboratory;
(e) a nominee of the Private Sector Commission;
(f) the Chief Executive Officer of the Authority as an *ex officio* member; and
(g) two other persons deemed by the Minister to be fit and proper to be appointed to the Board by reason of their integrity and having the requisite experience, professional capacity and qualification.

(3) The members of the Board shall elect a Vice-Chairperson from among themselves.

(4) A person shall not be nominated or appointed as a member of the Board if that person is –

(a) an undischarged bankrupt;

(b) convicted of an offence involving fraud or dishonesty; or

(c) convicted of any other offence other than an offence under (b), and sentenced to imprisonment for a period exceeding six months without the option of the payment of a fine.

(5) The Minister may reject the nomination of any person nominated under subsection (2) and direct the respective Ministry or organisation to nominate another person.

(6) A member of the Board shall hold office for a term of two years and shall be eligible for reappointment for a further term as may be determined by the Minister.

(7) The appointment, reappointment, termination or removal of a member of the Board shall be published in the *Gazette*.

(8) The Minister shall determine the terms and conditions, including the remuneration and allowances, if any, of the appointment of members of the Board.

Vacancy in membership of the Board.

5. (1) The office of a member of the Board becomes vacant if that member –

(a) dies;

(b) is adjudged bankrupt;

(c) is wilfully absent from three consecutive meetings of the Board of which that member had notice, without the prior approval of the Board;

(d) resigns from office;

(e) ceases to be employed by, or represent the Ministry or organisation which nominated that member;

(f) is convicted of an offence under this Act or any other law; or

(g) is removed by the Minister for any other just cause.

(2) Where the appointment of a member of the Board is not renewed, that member shall, on the expiration of the period for which the member was appointed, continue to hold office of a member until another person is appointed to succeed that member:

Provided that a member of the Board shall not hold office for more than three months after the expiration of that member's tenure.

(3) Where the office of a member of the Board becomes vacant during that member's tenure, the Minister shall, for the remainder of the period for which the previous member was appointed, –

(a) request the respective Ministry or the organisation from which the vacancy exists to nominate another person to hold that office; or

(b) appoint any other fit and proper person as the Minister determines.

(4) Where there is no Board by reason of the expiration of the appointment of all the members of the Board, the Minister shall perform the functions of the Board until the Board is reconstituted:

Provided that the Minister shall appoint a new Board within six months of the expiration of the appointment of the members of the Board.

Functions of the Authority.

6. (1) The Functions of the Authority shall be exercised by the Board as follows –

(a) considering and investigating applications for the issuance or refusal of licences under this Act;

(b) issuing, varying, suspending or revoking licences granted under this Act;

(c) prescribing quotas for the cultivation of industrial hemp by each licensee;

(d) in collaboration with the Customs Anti-Narcotic Unit, or any other relevant authority, monitoring, supervising and controlling industrial hemp or hemp related products to ensure compliance with this Act and any other written law;

(e) ensuring licensee compliance with this Act, the requirements of any written agreements and prescribed guidelines or requirements issued by the Board for the cultivating, manufacturing, processing, storing, distributing, importing and exporting of industrial hemp or hemp related products for any reason, including for medicinal, scientific or research purposes;

(f) in collaboration with the Bureau of Standards, developing standards and prescribing codes of practice for licensees;

(g) prescribing appropriate guidelines for the effective carrying out of the provisions of this Act including, guidelines for sampling, cultivating, processing, manufacturing, importing and exporting seed, industrial hemp, and hemp related products;

(h) collaborating with national, regional and international organisations on matters related to industrial hemp;

(i) advising the Minister on matters relating to industrial hemp for medicinal, scientific, research or any other purpose;

(j) entering into any agreement with a licensee or any other person for the development of a viable industrial hemp industry in Guyana;

(k) determining the number of licences to be issued, considering any adverse impact on public health, safety, security, commerce and agriculture or any exclusive rights of any person;

(l) prescribing application forms and applicable fees for the issuance of licences under the Act;

(m) establishing and maintaining an Industrial Hemp Register.

(2) The Minister may give policy orders and general directions to the Authority in relation to the exercise of the functions of the Authority.

Appointment of Chief Executive Officer and other employees of the Authority.

7. (1) The Board shall appoint a Chief Executive Officer and employ such other persons, including authorised officers, as are necessary for the purpose of carrying out the functions of the Authority on such terms and conditions, including remuneration, allowances and superannuation benefits, as the Authority, with the approval of the Minister, shall determine.

(2) The Chief Executive Officer shall be a person who is fit and proper for appointment by reason of being a person of integrity and having the requisite experience, professional capacity and qualification relating to the work of the Authority.

(3) The Chief Executive Officer shall be appointed for a term of three years and shall be eligible for reappointment for a further period to be determined by the Board.

(4) The Chief Executive Officer shall be responsible for the day-to-day management of the Authority and shall perform the duties and functions as may be assigned by the Board.

Proceedings of the Board.

8. (1) Subject to this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business at least once every month at a place and time that the Board may determine.

(3) The Chairperson may call a meeting of the Board on giving notice, in writing, of not less than fourteen days to the members of the Board, except where the urgency of any matter does not permit the giving of that notice, a special meeting may be called on giving a shorter period of notice.

(4) Four members of the Board shall constitute quorum at any meeting of the Board.

(5) The Chairperson shall preside over every meeting of the Board and in the absence of the Chairperson, the Vice-Chairperson shall preside.

(6) Where both the Chairperson and the Vice-Chairperson is absent from any Board meeting, the members of the Board who are present shall elect a chairperson from among themselves for the purpose of that meeting.

(7) A decision of the Board on any question shall be determined by a majority of the votes of the members of the Board present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote.

(8) The Board may invite any person whose presence is desirable, in the opinion of the Board, to attend and to participate in the deliberation of a meeting of the Board, but that person shall not have the right to vote.

(9) The Board shall cause minutes to be kept of the proceedings of every meetings of the Board.

Sub-committee and delegation of functions of the Authority.

9. (1) The Board may delegate to any member or committee of the Board the power and authority to carry out any of the functions of the Authority as the Board may determine.

(2) The Board may constitute any number of committees that it considers necessary for the effective carrying out of the functions of the Authority.

(3) The Board may appoint the members of a committee from among its members or from among persons who are qualified for appointment to the committee by reason of their experience, professional capacity and requisite qualification relating to the work of the Authority:

Provided that a committee shall include at least one member of the Board.

(4) A person appointed as a member of a committee, who is not a member of the Board, shall hold office for a period as may be

determined by the Board and may be paid a stipend as may be determined by the Minister.

(5) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.

Disclosure of interest.

10. (1) A person who is present at a meeting of the Board or a committee of the Board for the purpose of determining any matter in which that person or an associate or a relative of that person has a direct or indirect interest, shall disclose that interest, as soon as practicable, after the commencement of the meeting and shall not take part in any consideration or discussion of, or vote on, any question relating to that matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which the disclosure is made.

(3) A person who contravenes subsection (1) commits an offence and is liable, on summary conviction, to a fine of two hundred thousand dollars.

Prohibition of publication or disclosure of information to unauthorised person.

11. (1) A person shall not publish or disclose to any unauthorised person, any document, communication or other information which relates to, or which has come to the knowledge of that person in the course of the exercise of that person's duties under this Act without the written consent of the Board.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine of two hundred thousand dollars.

PART III
LICENCES

Application for licence.

12. (1) A person shall not cultivate or manufacture industrial hemp and hemp related products or conduct research on industrial hemp or any other activity concerning or related to industrial hemp without a licence issued by the Authority under this Act.

(2) A person who intends to cultivate or manufacture industrial hemp or hemp related industrial hemp and hemp related products or conduct research on industrial hemp or any other activity concerning or related to industrial hemp, shall apply to the Authority for a licence in a prescribed manner and form.

(3) A person may apply for more than one type of licence and shall pay the prescribed licence fee at the time of submitting the application to the Authority.

(4) A licensee who intends to renew a licence issued under this Act shall apply to the Authority, within sixty days before the expiration of the licence, for a renewal of that licence in a prescribed manner and form and on the payment of a prescribed fee.

(5) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for a term of one year.

Eligibility of applicant.

13. A person is not eligible to apply for the issuance of a licence or the renewal of a licence under this Act where that person –

(a) is below the age of eighteen years;

(b) is an undischarged bankrupt; and

(c) is of an unsound mind.

Consideration and investigation of application.

14. (1) On the receipt of an application for the issue or renewal of a licence under this Act, the Board may carry out such investigations and inquiries as the Board considers necessary to determine the application.

(2) The Board shall consider the impact on public health, safety, security, commerce and agriculture and need for the orderly development of the sector including exclusivity when considering an application for the issuance of a licence under this Act.

(3) The Board shall not consider an application for the issue of a licence under this Act unless that application is accompanied by a criminal background report of the applicant or any other person named by the applicant as an authorised or associated person for the purposes of the licence.

(4) Pursuant to subsection (1), the Board may, by written notice, require an applicant to –

(a) provide any information, and produce any document, as is necessary and relevant to the consideration of the application, as specified in the notice; and

(b) provide the Board with such authority and consent as the Board directs, to enable the Board to obtain financial and other confidential information concerning the applicant from any other person that are relevant for the consideration and investigation of the application.

Cultivation licence.

15. (1) Subject to section 13, a person shall be eligible to apply to the Authority for the issue of a licence to cultivate industrial hemp if that person –

(a) in the case of an individual, is habitually resident in Guyana;

(b) in the case of a company, is incorporated or registered in accordance with the laws of Guyana;

(c) owns, leased or has entered into a Sharecropper Agreement with any other person for the purpose of cultivating industrial hemp in accordance with the provisions of this Act; and

(d) has proof of financial capability and an established seed or crop supply, whether individually or jointly with others, to undertake the terms and conditions of the licence to cultivate industrial hemp.

(2) A person who makes an application for a licence to cultivate industrial hemp shall also submit an Industrial Hemp Planting, Propagation and Harvesting Plan for approval in a manner and form prescribed by the Board.

(3) A licence to cultivate industrial hemp may approve all activities related to the cultivation of industrial hemp including the possession, planting, propagating, harvesting, transporting, distributing and selling of industrial hemp and seed.

(4) A person licensed to cultivate industrial hemp shall not plant any seed or plant or harvest any cannabis plant before a sample of the seed or plant is analysed by an analyst to ascertain whether it confirms with the THC concentration allowed under this Act.

(5) Sampling of seeds or plants for the purpose of this section shall be done in accordance with guidelines established by the Board.

Manufacturing licence.

16. (1) A licence issued under this Act for the manufacturing of industrial hemp may approve all activities related to the manufacturing of industrial hemp including the processing of raw

hemp materials into extracted or isolated products or the processing and manufacturing of industrial hemp related products including foods, textiles, furniture, medicines and cosmetics and the possession, buying, selling, distributing, importing and exporting of industrial hemp, seed and hemp related products, but does not include the cultivation of industrial hemp,.

(2) A licence issued under this section shall be valid for a period of fifteen years and shall be renewable for a further term of fifteen years as determined by the Board.

Issue of licence.

17. (1) The Board shall, within thirty days of the receipt of an application for the issuance or the renewal of a licence, approve or refuse the application and the Board shall notify the applicant, in writing, of their decision.

(2) Where the Board has approved the issuance or renewal of a licence to an applicant, the Board shall issue that licence to the applicant in the prescribed manner and form and on the payment of the prescribed licence fee.

(3) The Board may limit the number of licences that may be issued under this Act.

(4) Where the Board refuses an application, the applicant shall be allowed a period of twenty-one days to appeal that decision to the Minister and the Minister may confirm the refusal or issue directives for the Board to reconsider the application.

(5) Notwithstanding the provisions of any other written law, no other Ministry, Government Agency or Department, organisation or person may exercise the powers conferred on the Board by this section.

Terms and conditions of licence.

18. (1) a licence issued under this Act shall be subject to such terms and conditions as shall be determined by the Board.

(2) Notwithstanding the generality of subsection (1), –

(a) a licence, other than a manufacturing licence, issued under this Act shall be valid for three years;

(b) no person shall be the holder of more than one of the same type of licence issued under this Act;

(c) a licence shall authorise the possession of industrial hemp, seed and hemp related products by the agent of, or any other person authorised by, the licensee for the purpose of carrying out the activities authorised by the licence;

(d) the licensee and any other authorised person shall only conduct the activities authorised by the licence which shall include all ancillary activities that are necessary for effectively conducting the activities under the licence;

(e) a licensee shall not transfer, assign, sell, trade, barter, exchange or utilise the licence in any manner other than for its intended use under the provisions of this Act;

(f) the Board, in accordance with regulations made by the Minister, shall determine the approved acreage of land for use under any licence issued or renewed under this Act.

Notice of change of particulars.

19. (1) A licensee shall immediately, by notice in writing, inform the Board of any material change of any particular relating to that person's licence including any change of name of the licensee, any change of shareholdings or controlling interest, in the case of a company or partnership, or any other material change relating to any licensed activity.

(2) The Board may, within thirty days of receipt of the notice under subsection (1) -

(a) endorse the change of the particulars on the licence and in the register; and

(b) notify the licensee of the change thereof.

Variation of licence.

20. (1) A licensee shall, at any time during the validity of the licence, apply to the Authority in the prescribed manner and form and on the payment of a prescribed fee, to vary the terms and conditions of the licence.

(2)The Board shall, within thirty days of receipt of an application under subsection (1), -

(a) vary the terms and conditions of the licence or refuse the application; and

(b) notify the licensee, in writing, of the approved variation or refusal of the application.

Refusal of licence.

21. The Board may refuse an application for the issuance of a licence or a renewal of a licence under this Act where –

(a) the applicant fails to comply with any requirement of the Board made by written notice under section 14 (5);

(b) the applicant does not meet the eligibility requirement set out in sections 13 or 15;

(c) the applicant submits, or caused to be submitted, an application to the Authority knowing or ought reasonably to have known that the application contained information that is false or misleading;

(d) the applicant submits, or caused to be submitted, any document or information to the Authority knowing or ought reasonably to have known that the document or information is false or misleading;

(e) the Board determines that the issuance of a licence is injurious to public health, security, safety and commerce;

(f) the Board determines that the issuance of a licence would have an adverse impact on agriculture;

(g) the issuance of a licence is in contravention to any exclusive rights held by any other person under this Act;

(h) the applicant is not financially and technically capable of meeting the applicant's obligations under the terms and conditions of the licence;

(i) the applicant fails to comply with any provision of the Act, including the terms and conditions of any previously granted licence;

(j) the application is for the cultivation of hemp in a geographical area not designated under this Act for the cultivation of hemp;

(k) though the applicant owns or leases land in a designated geographical area under this Act, that land is not suitable for the issue of a licence in relation to available facility and security arrangements;

(l) the applicant makes an application for the manufacturing of industrial hemp which includes the importation of seed, but the applicant does not own or operate an establishment registered under section 6 of the Seeds Act, that will condition or prepare the seed or any viable grain;

No. 8 of 2011.

(m) the applicant makes an application for the manufacturing of industrial hemp which includes the importation or exportation of seed and is not the holder of a seed registration certificate under the Seeds Act;

(n) in the case of an application for the renewal of a licence for the cultivation of industrial hemp, the applicant has an outstanding payment or obligation in breach of a lease, mortgage or Sharecropper Agreement for the purposes of the licence;

(o) for any other reason as determined by the Board.

Suspension or revocation of licence.

22. (1) The Board may, after consultation with the Minister, suspend or revoke a licence where -

(a) the licensee –

(i) breaches any term or condition of the licence;

(ii) obtained the licence by fraud, misrepresentation or concealment of a material fact;

(iii) was convicted of an offence under this Act or any other written law and sentenced to a term of imprisonment exceeding six months without an option of a payment of a fine;

(iv) is no longer eligible to be the holder of a licence in accordance with section 13 or 15;

(v) has requested, in writing, a revocation of the licence;

(vi) has changed a material particular of the licence without notifying the Board;

(vii) has sowed seed that is not of the pedigreed status or of an approved cultivar;

(viii) has been disqualified from cultivating seeds under the Seeds Act;

(b) a licensee's certificate of registration for seed in accordance with the Seeds Act has been cancelled;

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(c) the Board determines that any activity being conducted under the licence has become injurious to public health, safety, security or commerce; and

(d) the Board determines that any activity being conducted under the licence has an adverse impact on agriculture.

(e) any activity being conducted under the licence contravenes the exclusive rights of any other person under this Act.

(2) The Board shall, before exercising the power of suspension or revocation of a licence under subsection (1), notify the licensee of the Board's intention to suspend or revoke the licence stating the reasons for the intended suspension or revocation and shall require the licensee to -

(a) show cause, within fourteen days of the receipt of the notice, why the licence should not be suspended or revoked; and

(b) remedy the breach or other grounds for suspension or revocation within the period specified in the notice,

which the Board shall consider before deciding to suspend or revoke the licence.

(3) The Board may not suspend or revoke a licence under this section if the licensee takes remedial measures to the satisfaction of the Board within the period specified under subsection (2)(b).

(4) During the period in which the Board is considering the suspension or revocation of a licence, the licensee may continue to conduct authorised activities until such time as the Board makes its determination.

(5) The Board may suspend or revoke a licence if the licensee after being notified under subsection (2), fails to show cause or does not take any remedial measures, to the satisfaction of the Board within the time specified in that subsection.

(6) Where a licence is suspended or revoked under this Act, the Board shall inform the licensee, in writing, of the suspension or revocation of the licence and the licensee shall surrender that

licence, subject to any conditions that the Board may impose with respect to the winding up of the licensed activity.

(7) The Board shall notify the Commissioner of Police and all other relevant authorities where a licence is suspended or revoked.

(8) Nothing in this section shall preclude the Board from immediately suspending or revoking a licence where there is, an actual or apparent threat or risk to national security, public order, public health, public safety, general commerce and agriculture.

(9) Where the Board suspends or revokes a licence pursuant to subsection (8), the Board shall promptly notify the licensee, in writing, and publish the notice in the *Gazette*.

(10) On the suspension or revocation of a licence under this section, a licensee shall surrender any industrial hemp, seed or hemp related products to the Authority and the surrendered industrial hemp, seed or hemp related products shall be dealt with in accordance with any regulation made by the Minister for that purpose.

Designation of geographical area.

23. (1) The Minister, in consultation with the Board and any other appropriate authority, shall by Order subject to the negative resolution of the National Assembly designate geographical areas for the purpose of cultivating or manufacturing industrial hemp and hemp related products, and shall consider -

(a) the suitability of the area;

(b) the risk of diversion;

(c) the risk of contamination, subject to the Environmental Protection Act;

Cap. 20:05

(d) economic decentralisation;

(e) proximity to educational institutions, residential areas and public places frequented by children; and

(f) any other factor that the Minister may consider necessary.

(2) The Board shall not issue a licence under this Act in any geographical area not designated by the Minister.

Establishment and maintenance of Industrial Hemp Register.

24. (1) The Board shall cause to be established and maintained an Industrial Hemp Register of licensees under this Act.

(2) The Register under subsection (1), shall contain any particular as may be prescribed by the Board, including the name and address of the licensee, type of licence held by the licensee and the type of licensed activity that a licensee is authorised to carry out under the licence.

PART IV
INDUSTRIAL HEMP SEED

Industrial hemp seed production and multiplication.
No. 8 of 2011.

25. The production and multiplication of industrial hemp seed shall be carried out in accordance with the Seeds Act.

Import and export of industrial hemp seed.
Cap.68:03
No. 8 of 2011
Cap. 10:10

26.(1) A person who intends to import and export industrial hemp seed shall do so in accordance with this Act, the Plant Protection Act, the Seeds Act and the Narcotic Drugs and Psychotropic Substances (Control) Act.

(2) The Minister may, by regulations, prescribe the import and export conditions of industrial hemp seed.

PART V
ENFORCEMENT

Authorised officer.

27. (1) The Board shall appoint any number of persons as an authorised officer for the purpose of enforcing the provisions of this Act.

(2) The Board may appoint, as an authorised officer, –

(a) any person with powers of entry under the Narcotic Drugs and Psychotropic Substances (Control) Act; Cap. 10:10

(b) a member of the Force as defined under the Police Act; Cap. 16:01

(c) an authorised officer appointed under the Plant Protection Act; Cap. 68:03 Cap. 68:04

(d) the Chief Agricultural Officer appointed under the Crops and Livestock Registration Act; Cap. 20:05

(e) an authorised person under the Environmental Protection Act; or

(f) any other person the Board deems fit.

(3) For the purposes of this Act, a person appointed in accordance with subsection (1) and a person mentioned in subsection (2)(f) shall have the same powers of entry, search, examination and seizure as are assigned to a person mentioned in subsection (2)(a)-(e) as set out in this Act.

Power of authorised officer.

28. (1) An authorised officer may, for the purposes of enforcing the provisions of this Act, and with a search warrant issued by a Magistrate from information on oath, at any time –

(a) enter and search any premises if the authorised officer believes on reasonable grounds that industrial hemp or hemp related products are being

kept, cultivated, manufactured or supplied at those premises contrary to this Act;

(b) intercept, search and seize any vehicle or equipment which an authorised officer reasonably believes is being used in relation to the possession, cultivation, manufacturing or supply of industrial hemp, seed or hemp related products contrary to this Act;

(c) require the owner or the person in control of any premises or vehicle to produce any document or record that the authorised officer reasonably requires for ascertaining whether the Act or a licence is being complied with—

(i) to examine the document;

(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) use any computer system or any other electronic device on the premises, or require the assistance of any person on the premises to use that computer system or electronic device to –

(i) search any data contained in, or available to the computer system or electronic device;

(ii) reproduce any record from that data;

(iii) seize any output from the computer or electronic device for examination and copying; and

(iv) if necessary, remove from the premises for examination and safeguarding any document, record,

book or article that has a bearing on an inspection or investigation;

(e) take or remove for examination, any sample or specimen of crop, product, seed or any other derivative of the industrial hemp being cultivated, processed, manufactured, distributed, bought, sold, propagated, possessed, imported, or exported, to determine —

(i) whether the hemp has been cultivated in accordance with the licence;

(ii) the concentration of THC in the hemp; or

(iii) that its possession is in accordance with a licence issued under this Act or in accordance with this Act;

(f) submit any sample or specimen to an analyst for examination and testing.

(2) An authorised officer may seize industrial hemp, seed or any hemp related products cultivated or manufactured under this Act if —

(a) the authorised officer believes, on reasonable grounds, that the holder of a licence has contravened a condition of the licence or any other provision of the Act;

(b) the industrial hemp, seed or hemp related product is required for evidence in a legal proceeding under this Act; or

(c) a licence issued under this Act or any other licence or certification issued under any other law for the purposes of this Act is suspended or revoked.

(3) If an authorised officer seizes any industrial hemp, seed or hemp related product under this section, the seized industrial hemp, seed or hemp related product shall be dealt with in accordance with guidelines prescribed by the Board or regulations made by the Minister.

(4) Without limiting the generality of subsection (3), guidelines or regulations made under this section may provide for the following-

(a) the circumstances in which seized industrial hemp, seed or hemp related products may be destroyed or otherwise disposed of;

(b) the recovery by the Authority of any costs incurred, in relation to any of the following-

(i) taking, removing and analysing samples;

(ii) conducting tests;

(iii) dealing with seized or surrendered materials.

(5) An authorised officer shall furnish a written report and any other information relating to any investigation or inspection under this Act to the Board as the Board may require.

Obstruction of authorised officer.

29. (1) A person shall not delay, assault, threaten, obstruct, impersonate or give false or misleading information to an authorised officer in the performance of the authorised officer's functions.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of two hundred thousand dollars and to imprisonment for a term of one year.

Power to conduct testing and analysis.

30. (1) Any sample or specimen of any crop, product, seed or any other derivative of industrial hemp obtained in accordance with sampling guidelines prescribed by the Board or in accordance section 28(1)(e) by an authorised officer shall be forwarded to an analyst to perform such tests and analysis as may be necessary to determine that any crop, product, seed or any other derivative of the industrial hemp conforms to the definition of industrial hemp under this Act.

(2) The analyst shall make the results of any test or examination conducted under subsection (1) available to the Board.

(3) The Board shall review the findings of the results of the test or examinations conducted by an analyst, and may, if necessary, cause the institution of legal proceedings for the enforcement of the provisions of this Act.

(4) The Minister may, by notification in the *Gazette,* designate any duly qualified person as an analyst for the purposes of this Act.

Certified laboratory.

31. (1) The Guyana Forensic Science Laboratory, an independent laboratory or any other body designated by the Minister shall, for purposes of verification, test industrial hemp, seed and hemp related products before it is planted, propagated, harvested, processed, manufactured, distributed, imported or exported.

PART VI
GENERAL PROVISIONS

Possession of industrial hemp, seed and hemp related products.

32. A person shall not possess industrial hemp, seed or hemp related products except in accordance with a licence issued under this Act:

Provided that a person may possess industrial hemp, seed or hemp related products for that person's personal use where that industrial hemp, seed or hemp related product was cultivated, manufactured, distributed, sold or imported in accordance with a licence issued under this Act.

Power to enter into agreements for the development of industrial hemp industry.

33. The Authority may enter into any agreement, not inconsistent with this Act, with a licensee or any other person for the development of a viable industrial hemp industry in Guyana including cultivating, manufacturing or training agreements.

Submission of status reports and annual returns.

34. (1) A licensee shall submit to the Board, which shall forward a copy to the Minister, an annual status report of all licensed activities carried on by the licensee every twelve months in a manner and form prescribed by the Board.

(2) A licensee shall submit to the Board, which shall forward to the Minister, the annual return of the licensee for the period of 1st January to 31st December of the preceding financial year by 31st March of the following financial year.

(3) Where the status of a licensed activity has not changed since the delivery of an annual return under subsection (2), a licensee shall make a general no change statement in the prescribed manner and form when submitting an annual return to the Board.

(4) A person who fails to submit the annual return and annual status report within the prescribed period commits an offence and shall be liable on summary conviction to a fine of two hundred thousand dollars.

Restrictions on advertising and labelling.

35.The Minister may by regulations, regulate and control the advertising and labelling of industrial hemp or hemp related

products, including the form and content of advertisements and labels which shall not include the use of industrial hemp as a psychotropic substance.

General penalty.

36. A person who commits an offence under this Act for which no specific penalty is provided shall be liable on summary conviction to a fine of two hundred thousand dollars and to imprisonment for a term of one year.

Offences by body corporate.

37. Where an offence has been committed by a body corporate and is proved to have been committed with the consent or the connivance of, or attributable to any neglect on the part of a director, manager, secretary or any other officers of the body corporate, or any person who was purporting to act in such capacity, that person, as well as the body corporate, shall be guilty of that offence and liable to the same penalty.

Regulations.

38. The Minister may make regulations for the purpose of giving effect to the provisions of this Act, and, in particular but without limiting the general power, may make regulations to –

(a) prescribe the maximum and minimum acreage of land to be used for the conduct of any activity permitted under a licence issued under this Act;

(b) prescribe the manner and form of cultivating, processing, manufacturing, distributing, buying, selling, importing and exporting of industrial hemp, seed or hemp related products;

(c) prescribe the manner and form research on industrial hemp may be conducted;

(d) regulate designated geographical areas for the purpose of cultivating or manufacturing industrial hemp or hemp related products;

(e) prescribe forms and associated fees for the purposes of this Act;

(f) prescribe particulars or information to be included in any application for the issuance of a licence or renewal of a licence;

(g) regulate, restrict or prohibit the use or the intended use of premises, vehicles or equipment used or intended to be used for or in connection with any licensed activity under the Act;

(h) prescribe the manner in which inspections, searches, detentions and seizures may be conducted under the Act;

(i) prescribe the documents to be kept in relation to the conduct of any licensed activity under the Act;

(j) regulate the sale, supply, custody, storage, transportation and security of industrial hemp, seed and hemp related products;

(k) provide for the disposal or destruction of industrial hemp;

(l) provide for any matter in relation to the importation and exportation of hemp;

(m) provide for any other matters necessary for the purposes of this Act.

Act not to derogate from other laws.

39. (1) This Act shall be in addition to, and not in derogation of the provisions of any other applicable law including the-

(a) Narcotic Drugs and Psychotropic Substances (Control) Act; Cap. 10:10

(b) Seeds Act; No. 8 of 2011

(c) Plant Protection Act; Cap. 68:03

(d) Crops and Livestock Registration Act. Cap. 68:04

(2) Insofar as there exists any inconsistency with the provisions of this Act and any other law in relation to industrial hemp, seed and hemp related products, the provisions of this Act shall prevail.

EXPLANATORY MEMORANDUM

The purpose of the **Industrial Hemp Bill 2022** is to provide a definition for industrial hemp (which is a plant of the genus *cannabis*) and remove its classification under the Narcotic Drugs and Psychotropic Substance (Control) Act, Cap. 10:10 as a prohibited plant if possessed, cultivated, manufactured or otherwise dealt with in accordance with the Act. The Bill provides for the regulation of the cultivating and manufacturing of industrial hemp and hemp related products; the conducting of research on industrial hemp; the establishment of the Guyana Industrial Hemp Regulatory Authority; the development of a viable hemp industry in Guyana; and other related matters.

Clause 2 of the Bill provides pertinent definitions used throughout the Bill to aid in its interpretation, including the definition of industrial hemp and hemp related products. The clause prescribes that any plant of the genus *cannabis* and any part thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis will be classified as industrial hemp.

Part II provides for the administration of the regulatory framework of the Bill.

Clauses 3, 4 and 5 of the Bill provides for the establishment of the **Guyana Industrial Hemp Regulatory Authority** which shall be a body corporate with a Governing Board. The Board will include several nominees appointed by the Minister responsible for agriculture from amongst persons who are fit and proper to perform the functions of the Authority and who are representatives of key stakeholders both from the public and private sectors. The Chief Executive Officer appointed by the Board under **clause 7** of the Bill and who has responsibility for the day-to-day management of the Authority shall be an *ex officio* member of the Board.

Clause 6 of the Bill sets out the functions of the Authority which functions shall be exercised by the Board. The functions include the granting of licences under the Act; ensuring compliance with the Act and the terms and conditions of licences granted under the Act; entering into agreements for the development of a viable hemp industry in Guyana (see also **clause 33);** and prescribing appropriate and necessary practices and guidelines for the effective implementation of the provisions of the Act.

The Board and any committee to which the Board has delegated any function of the Authority may regulate its own procedure by virtue of **clauses 8 and 9** of the Bill. Whereas **clauses 10 and 11** of the Bill provide for the disclosure of any interest of any person attending a meeting of the Board or a Committee while it is determining any matter before it prohibits the publication and the disclosure of any information to any unauthorised person.

Part III of the Bill provides for the licensing of activities authorised by the Act.

The Bill provides for three types of licences –

(a) a cultivation licence which authorises all activities related to the cultivation of industrial hemp including the possession, planting, propagating, harvesting, transporting, distributing and selling of industrial hemp;

(b) a manufacturing licence which authorises all activities related to the manufacturing of industrial hemp including the processing of raw hemp materials into extracted or isolated products or the processing and manufacturing of industrial hemp related products including foods, textiles, furniture, medicines and cosmetics and the possession, buying, selling, distributing, importing and exporting of industrial hemp, seed and hemp related products; and

(c) a licence to conduct research on industrial hemp.

Clause 12 of the Bill provides that it is an offence for any person to cultivate, manufacture or conduct research or any activity incidental to the cultivating, manufacturing or research of industrial help without a licence issued under the Act. **Clause 13** provides for the eligibility criteria for a person to apply for a licence under the Act. Whereas, **clause 14** provides for the other considerations the Board must take when investigating an application to determine whether to grant or renew a licence under the Act.

Clauses 15 and 16 of the Bill set out the procedure for applying for a cultivation and manufacturing licence, respectively.

Clause 17 of the Bill provides for the period in which a licence shall be issued and its manner and form. Under this clause, a licence shall be issued by the Board within 30 days of the receipt of an application by the Authority and on the payment of the prescribed fee, unless that application is refused. Where an application is refused the applicant will be given 21 days to appeal that decision to the Minister.

Clause 18 of the Bill provides for the terms and conditions of licences issued under the Act which may be varied on application by a licensee by virtue of **clause 20**. Whereas, **clause 19** requires the licensee to notify the Board, in writing, of any material change to any particular of the licence.

Clauses 21 and 22 of the Bill sets out the conditions under which an application for a licence or renewal of licence under the Act may be refused and under which a licence granted may be suspended or revoke. Both clauses allow for the licensee to be notified of the refusal, suspension or revocation and allows the applicant a period to appeal the decision or to remedy any breaches.

Clause 23 of the Bill gives the Minister the power to designate geographical areas, by Order subject to the negative resolution of the National Assembly, for the purpose of cultivating or manufacturing industrial hemp and hemp related products.

Clause 24 of the Bill provides for the establishment and maintenance of an Industrial Hemp Register which shall contain such information as may be prescribed by the Board relating to a licensee including their name, address and the activities to be conducted under the type of licence granted.

Clauses 25 and 26 of the Bill provide for the production, multiplication, import and export of industrial hemp seed to be done in accordance with the Seeds Act, No. 8 of 2011, Plant Protection Act, Cap. 68:03, and the Narcotic Drugs and Psychotropic Substances (Control) Act, Cap:10:10.

Part V of the Bill provides for the enforcement of the Act.

Clause 27 of the Bill provides for the Act to be enforced by authorised officers appointed by the Board with the powers of entry, search and examination and seizure assigned to specified persons including a member of the Guyana Police Force. Whereas, **clause 28** expresses the extent of that power which must be exercised under a warrant issued by a Magistrate and **clause 29** makes it an offence to obstruct an authorised officer from performing their functions under the Act.

For the effective enforcement of the Act and ensuring conformity with the provisions of the Act including the prescribed THC concentration levels of not more than 0.3%, **clause 30** empowers the Minister to designate any duly qualified person as an analyst to conduct testing and analysis on any sample of any crop, product, seed or derivative of industrial hemp obtained

in accordance with that clause. Whereas **clause 31** provides for the testing of industrial hemp, seed and hemp related products to be done before it is planted, propagated, harvested, processed, manufactured, distributed, imported or exported.

Part VI is the final part of the Bill which provides the general provisions of the Act.

Clause 32 of the Bill provides that it shall not be an offence for a person to possess industrial hemp, seed and hemp related products if that possession is for personal use and is pursuant to a licence issued under this Act.

Clause 34 of the Bill provides for transparency, accountability and compliance with the Act by the licensee. The clause places the obligation on the licensee to submit status reports and annual returns to the Board, which shall transmit a copy to the Minister, of all activities carried on by the licensee every twelve months from the issue of the licence. It also requires the licensee to submit its annual return to the Board. Failing to submit an annual return or a status report is an offence under the Act punishable, on summary conviction, by a fine of two hundred thousand dollars.

Clause 35 of the Bill gives the Minister the power to regulate the labelling and the advertising of industrial hemp and hemp related products including prohibiting the labelling and advertising of industrial hemp as a psychotropic substance.

Clause 36 of the Bill provides for the general penalty of any offence under the Act for which no penalty is expressed which shall be, on summary conviction, a fine of two hundred thousand dollars and imprisonment for one year. Whereas, **clause 37** provides that offences committed by a body corporate which is proved to have been committed with the consent or the connivance of, or attributable to any neglect on the part of a director, manager, secretary or any other officers of the body corporate, or any person who was purporting to act in such capacity, that person, as well as the body corporate, shall be guilty of that offence and liable to the same penalty.

Clause 38 gives the Minister the power to make regulations for the better carrying out of the provisions of the Act. Whereas, the final provision of the Act, **Clause 39**, provides that the Act does not condone or encourage the contravention of any other law. The Act shall be in addition to, and not in derogation from, other laws including the **Narcotic Drugs and Psychotropic Substance (Control) Act, Cap. 10:10**, which historically prohibits the possession and cultivation of any plant and any part thereof, including its seed or any derivative of the plant,

of the genus *cannabis*. The clause further provides that where any inconsistencies exists between the Act and any other law in relation to industrial hemp, seed and hemp related products the Act shall prevail.

Hon. Zulfikar Mustapha, M.P.
Minister of Agriculture