

A BILL

entitled

MEDICINAL CANNABIS ACT 2019

TABLE OF CONTENTS

PART 1
PRELIMINARY

- 1 Citation
- 2 Interpretation
- 3 Object of this Act

PART 2
MEDICINAL CANNABIS AUTHORITY

- 4 Establishment of the Medicinal Cannabis Authority
- 5 Functions of the Authority
- 6 Ministerial direction

PART 3
ACCESS TO MEDICINAL CANNABIS

Use of Medicinal Cannabis

- 7 Use of Medicinal Cannabis
- 8 Dose limitation
- 9 Keeping of records

Caregivers

- 10 Caregivers

Issuance of Identification Cards

- 11 Identification cards
- 12 Procedures to be developed
- 13 Change in the name or address of patient or caregiver
- 14 Loss etc. of identification card
- 15 Changing of caregiver
- 16 Maintenance of confidential register

PART 4
MEDICINAL CANNABIS LICENSING SCHEME

FOR CONSULTATION PURPOSES ONLY

MEDICINAL CANNABIS ACT 2019

17	Establishment of scheme
18	Prohibition; medicinal cannabis without a licence
19	Types of licences
20	Application for the grant or renewal of a licence
21	Duration of licence
22	Revocation of licence
23	Eligibility to apply
24	Protection from criminal liability
	PART 5
	ANALYSIS
25	Authorisation of analysts
26	Analysis
27	Certificate of analyst
	PART 6
	ENFORCEMENT
28	Designation of inspectors
29	Warrant issued by magistrate
	PART 7
	APPEALS
30	Appeals to the Supreme Court
	PART 8
	OFFENCES
31	Offences
	PART 9
	GENERAL PROVISIONS
32	Review of the Act
33	Regulations
	PART 10
	FINAL PROVISIONS
34	Amends the Misuse of Drugs Act 1972
35	Amends the Pharmacy and Poisons Act 1979
36	Commencement
	SCHEDULE 1
	Medicinal Cannabis Authority Constitution and Procedure

WHEREAS it is expedient to establish a Medicinal Cannabis Authority in accordance with international obligations to regulate the possession of medicinal cannabis for administration by inhalation, domestic cultivation, import for domestic cultivation, manufacture, research and development and transport of cannabis for medicinal purposes;

MEDICINAL CANNABIS ACT 2019

to establish a licensing scheme for the local cultivation and manufacturing of cannabis for medicinal and scientific purposes; to provide for monitoring, inspection and enforcement powers for inspectors; to give the Minister the power to give directions to the Authority;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

PART 1 PRELIMINARY

Citation

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

Interpretation

2 (1) In this Act—

“analyst” means an analyst authorised under section 25 of this Act;

“Authority” means the Medicinal Cannabis Authority established under section 4;

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

“caregiver” means a person who—

- (a) is over 21 years of age;
- (b) has agreed, in writing, to assist with a patient's use of medicinal cannabis;
- (c) has not been convicted of a criminal offence; and
- (d) assists no more than two patients with the use of medicinal cannabis;

“cannabis material” means cannabis, cannabis resin and any other raw material derived from the cannabis plant;

“cannabis resin” has the meaning provided in section 1 of the Misuse of Drugs Act 1972;

“Chairman” means the Chairman of the Authority;

“cultivation” means any activity involving the planting, growing, harvesting, drying, curing grading or trimming of medicinal cannabis plants;

“dwelling house” means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes—

- (a) a building or structure within the curtilage of a dwelling house that is connected to it by a doorway or by a covered and enclosed passageway; or
- (b) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence;

MEDICINAL CANNABIS ACT 2019

“identification card” means a document issued by the Authority to a patient or caregiver who is registered in accordance with section 11, which—

- (a) attests to the validity of the identity of the patient or caregiver to whom the card is issued; and
- (b) authorises the patient or caregiver, subject to the provisions of this Act, to obtain, possess, store, administer or use medicinal cannabis;

“inspector” means a person appointed as an inspector under section 28 and includes a police officer and a person appointed as an inspector under the Pharmacy and Poisons Act 1979;

“licence” means a licence issued to an applicant by the Authority in accordance with section 19;

“licensee” means a person to whom a licence has been issued in relation to an application;

“medical practitioner” means a person registered to practise in Bermuda as a medical practitioner under the Medical Practitioners Act 1950;

“medicinal cannabis” means—

- (a) cannabis seeds, immature cannabis plants as well as all parts of the cannabis plant, along with cannabis resin extracted from any part of the cannabis plant; and
- (b) every compound, manufacture, salt, derivative, mixture or preparation from cannabis,
that is cultivated, processed or manufactured under a licence;

“medicinal cannabis product” means a substance, compound, preparation or mixture that is produced or manufactured from cannabis material for medicinal purposes;

“medicinal purposes” means the treatment of various medical conditions;

“Minister” means the Minister responsible for drug prevention;

“prescribed” means prescribed by regulations made under this Act;

“regulations” means regulations made under this Act;

“storage area” means, in respect of a site provided in a licence, an area where medicinal cannabis is stored;

(2) The Authority shall discharge its functions under this Act after consultation with the Minister.

Object of this Act

3 The object of this Act is to provide for a regulatory and licensing regime to regulate the local cultivation, possession, manufacture and transport of cannabis for medicinal purposes.

MEDICINAL CANNABIS ACT 2019

PART 2

MEDICINAL CANNABIS AUTHORITY

Establishment of the Medicinal Cannabis Authority

4 (1) There is established a body corporate to be known as the Medicinal Cannabis Authority which shall, subject to any general directions of the Minister, have the powers conferred and discharge the duties imposed upon it by or under this Act.

(2) The Authority shall have perpetual succession and a common seal, and shall have the power to sue and be sued in its own name and to hold and dispose of property.

(3) The provisions of Schedule 1 shall have effect with respect to the constitution and procedure of the Medicinal Cannabis Authority.

Functions of the Authority

5 (1) The Authority shall—

- (a) issue licences in relation to the use by inhalation, cultivation and possession of medicinal cannabis in accordance with the provisions of this Act and regulations;
- (b) develop enforcement procedures in relation to the inspection of premises that are operated by licensees in order to ensure compliance with the provisions of this Act or any regulations;
- (c) issue identification cards for the possession of medicinal cannabis for use by inhalation;
- (d) establish and maintain a confidential register of patients and caregivers, in accordance with Part 3 and such other registers as may be prescribed;
- (e) establish and maintain an electronic database to include information relating to licensees and identification cards;
- (f) provide for the electronic tracking of the possession of locally cultivated medicinal cannabis in accordance with this Act or regulations;
- (g) provide for the distribution of educational materials and conduct training programmes in relation to the development of the medicinal cannabis industry;
- (h) submit recommendations to the Minister in relation to the issuing of identification cards and licences;
- (i) advise the Minister on matters of general policy relating to the management and development of a regulated medicinal cannabis industry;
- (j) appoint committees to assist it in the carrying out of its functions under this Act;
- (k) carry out any other function assigned to it by this Act or by the Minister.

MEDICINAL CANNABIS ACT 2019

- (2) In performing the functions in subsection (1), the Authority may—
- (a) charge fees for services provided by or on behalf of the Authority;
 - (b) formulate standards and prescribe codes of practice to be observed by licensees or other persons involved in the medicinal cannabis industry in Bermuda;
 - (c) facilitate scientific research in respect of medicinal cannabis and where applicable, apply the results of such research in the development of the medicinal cannabis industry in Bermuda;
 - (d) do all such things as the Authority considers necessary or expedient for the purpose of carrying out its functions.

(3) The Authority shall be responsible for advising the Minister on issues affecting the medicinal cannabis regime in Bermuda.

Ministerial direction

6 The Minister may, after consultation with the Chairman, give to the Authority directions as to the policy to be followed by the Authority in the performance of its functions, as appear to the Minister to be necessary in the public interest and the Authority shall give effect to these directions.

PART 3

ACCESS TO MEDICINAL CANNABIS

Use of Medicinal Cannabis

Use of Medicinal Cannabis

7 (1) A person shall only use medicinal cannabis by inhalation where that medicinal cannabis is prescribed by a medical practitioner.

(2) A person who consumes medicinal cannabis by inhalation without being authorised by a prescription from a medical practitioner is guilty of an offence and is liable on summary conviction to a fine of \$20,000 or to imprisonment for a term of 8 years or to both.

Dose limitation

8 Where a prescription by a medical practitioner requires repeated usage over a period of 3 months, a pharmacy shall not dispense to that patient more than a 30 day supply of individual doses at a time.

Keeping of records

9 (1) A medical practitioner shall maintain a record of every patient prescribed medicinal cannabis and where that patient has a caregiver, the medical practitioner shall also enter into the record the name, address and contact information for the caregiver.

MEDICINAL CANNABIS ACT 2019

(2) All information acquired by the medical practitioner under subsection (1) is confidential, but the medical practitioner shall submit to the Authority, at such times as the Authority may direct, a report containing information on the quantity of medicinal cannabis prescribed, excluding the name of the patient and address of the patient and the patient's medical condition from the report.

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

Caregivers

Caregivers

10 (1) Subject to the provisions of this section, a patient may designate a person who has responsibility for the immediate care and safety of the patient, as a caregiver, to assist him in obtaining and administering medicinal cannabis.

(2) A person who is under the age of 21 shall not be designated as a caregiver.

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

(4) A caregiver shall not be a person—

(a) who has been charged or convicted of an offence under—

(i) the Misuse of Drugs Act 1972;

(ii) the Criminal Justice (International Co-operation)(Bermuda) Act 1994;
or

(iii) the Proceeds of Crime Act 1997; or

(b) who has a history of substance abuse.

(5) A caregiver shall be required to provide a consent letter to the Authority to demonstrate his willingness to undertake the immediate care and safety of a patient and to assist the patient in obtaining and administering medicinal cannabis.

(6) A consent letter in subsection (5) shall be in such form and contain such particulars as the Authority may require.

Issuance of Identification Cards

Identification cards

11 (1) Where a patient is prescribed medicinal cannabis to be administered by inhalation, an identification card shall be issued by the Authority for the patient or, where applicable, a caregiver, in a form to be determined by the Authority and shall contain the following information—

(a) the name of the holder of the identification card;

MEDICINAL CANNABIS ACT 2019

- (b) the designation as to whether the holder of the identification card is a patient or caregiver;
 - (c) a random alphanumeric identification number that is unique to the holder of the identification card;
 - (d) the date of issuance and expiration date of the identification card;
 - (e) if the holder of the identification card is a caregiver, the random alphanumeric identification number of the patient whom the caregiver is registered to assist shall also be included on the identification card; and
 - (f) a photograph of the holder of the identification card.
- (2) Before an identification card is issued, a medical practitioner shall submit written confirmation to the Authority that a patient is being prescribed medicinal cannabis for administration by inhalation as part of his ongoing treatment.
- (3) A written confirmation submitted to the Authority shall—
- (a) be in such form and contain such particulars as the Authority may require;
 - (b) be accompanied by the prescribed fee; and
 - (c) shall be signed by the medical practitioner and the patient to whom the written confirmation relates.
- (4) An identification card that is issued under this Act to—
- (a) a patient, shall authorise the patient to possess, store and use medicinal cannabis for administration by inhalation;
 - (b) a caregiver, shall authorise the caregiver to—
 - (i) obtain medicinal cannabis on behalf of the patient whom he is registered to assist; and
 - (ii) possess and store medicinal cannabis on behalf of, and administer medicinal cannabis to, the patient whom he is registered to assist.
- (5) An identification card shall be valid for a period not exceeding one year, from the date of issuance or for such other period as may be prescribed.
- (6) An identification card shall be renewed in the same manner in which it was issued.
- (7) A person shall have his identification card on his person at all times whilst he is in possession of medicinal cannabis for use by inhalation.
- (8) A medical practitioner who makes a false statement on a written confirmation commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months, or to both.

MEDICINAL CANNABIS ACT 2019

Procedures to be developed

12 The Authority shall develop and implement a procedure to issue identification cards.

Change in the name or address of patient or caregiver

13 (1) A patient or, where applicable, a caregiver, who has been issued with an identification card shall notify the Authority, within 7 days of any change in the name or address of the patient or caregiver.

(2) A patient or caregiver who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding one month or to both.

Loss etc. of identification card

14 (1) Where an identification card is lost, defaced or destroyed, the holder of the identification card shall forthwith notify the Authority.

(2) The Authority may, if satisfied as to the loss, defacement or destruction thereof and on payment of the prescribed fee, grant to the holder a replacement identification card.

(3) A person who contravenes subsection (1), commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding one month or to both.

Changing of caregiver

15 (1) If a patient wishes to change his caregiver, the patient shall notify the Authority as soon as practicable and the Authority shall without delay, revoke the registration of the caregiver and shall so notify the caregiver.

(2) Upon receipt of the notice issued by the Authority under subsection (1), the caregiver shall, within five days of such receipt, return his identification card to the Authority.

(3) A person who contravenes subsection (2) commits an offence and shall be liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for three months or to both.

Maintenance of confidential register

16 (1) The Authority shall maintain a 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, except to employees who have been authorised 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 patient's name and other identifying information contained in the confidential register shall not be subject to disclosure.

MEDICINAL CANNABIS ACT 2019

(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 shall be liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months or to both.

PART 4

MEDICINAL CANNABIS LICENSING SCHEME

Establishment of scheme

17 (1) The Minister shall make regulations to provide for the establishment of a scheme which authorises the following activities—

- (a) the possession of medicinal cannabis for use by inhalation;
- (b) the cultivation of cannabis for medicinal purposes;
- (c) the transporting of medicinal cannabis;
- (d) the manufacturing of medicinal cannabis products;
- (e) the research and development of medicinal cannabis;
- (f) the importing of medicinal cannabis for cultivation;
- (g) the exporting of locally cultivated medicinal cannabis;
- (h) the issuing of licences for the activities specified under paragraphs (a) to (g);
- (i) the imposition and variation of conditions of licences; and
- (j) the suspension or revocation of licences.

(2) The negative resolution procedure shall apply to regulations made under this section.

Prohibition; medicinal cannabis without a licence

18 (1) A person shall not conduct any activity for the purposes specified under section 17(1)(a) to (g), unless the person is the holder of the relevant licence specified under section 19, issued in accordance with regulations.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding five years or to both.

Types of licences

19 (1) The types of licences that may be granted are—

MEDICINAL CANNABIS ACT 2019

- (a) a cultivation licence, to allow for the growing, harvesting, drying, trimming, curing or packaging of medicinal cannabis;
- (b) an import licence, to allow, for cultivation, the import of medicinal cannabis planting material from any country from which it is legal to do so;
- (c) an export licence, to allow for the exportation of locally cultivated medicinal cannabis to a country in which it is lawful to do so;
- (d) a manufacturing licence, to allow for activities relating to the processing and manufacturing of cannabis material and medicinal cannabis products, including but not limited to, edibles and other derivatives;
- (e) a research and development licence, to allow for the conduct of scientific research relating to the development of medicinal cannabis; and
- (f) a transport licence, to allow for the transport of medicinal cannabis.

(2) A person shall comply with all the conditions attached to a licence and the requirements of this Act or any regulations.

(3) Where a person applies for a research and development licence and the licence is granted, that person shall also receive an export licence which shall only be used for purposes in connection with the research and development licence.

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

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

Application for the grant or renewal of a licence

20 (1) An application for the grant or renewal of a licence shall—

- (a) be made in writing and be in such form as the Authority shall determine;
- (b) contain such particulars, and meet such other requirements as the Executive Director may require; and
- (c) be accompanied by such fee as prescribed by regulations under section 34.***

(2) The Authority shall consider every such application and may either grant or renew, or refuse to grant or renew a licence.

Duration of licence

21 The duration of a licence shall be as prescribed by regulations under section 19.

Revocation of licence

22 The Authority may, in writing, at any time revoke a licence granted under section 19 if he is satisfied that a person—

MEDICINAL CANNABIS ACT 2019

- (a) has made a false declaration in an application for a licence under this Act or submitted false information or documentation;
- (b) has failed to comply with any condition of a licence or any provision of this Act; or
- (c) is no longer a fit and proper person.

Eligibility to apply

23 A person who applies for a licence under section 20 shall—

- (a) if an individual, be 18 years of age or older and have Bermudian status;
- (b) if a body corporate or partnership, be incorporated, formed or registered under the law of Bermuda.

Protection from criminal liability

24 (1) The provisions of the Misuse of Drugs Act 1972, the Criminal Justice (International Co-operation)(Bermuda) Act 1994 and the Proceeds of Crime Act 1997 shall not prohibit or otherwise restrict or render unlawful the use, possession and cultivation of medicinal cannabis by any person in accordance with this Act or regulations.

(2) For the avoidance of doubt, a person is hereby authorised to undertake any activity under this Part, only to the extent that the activity is authorised by, and conducted in accordance with, the provisions of this Act or regulations.

PART 5

ANALYSIS

Authorisation of analysts

25 For the purposes of the administration and enforcement of this Act, the Minister may authorize a person, by notice in the Gazette, to analyse any medicinal cannabis product or sample of any product purporting to be a medicinal cannabis product.

Analysis

26 An inspector may submit any medicinal cannabis substance or product or sample of any substance purporting to be medicinal cannabis taken by the inspector to an analyst for analysis.

Certificate of analyst

27 (1) Without prejudice to section 29 of the Evidence Act 1905, but subject to subsection (2), in any proceedings for an offence under this Act, a certificate in the prescribed form purporting to be signed by an authorised analyst and certifying any substance specified in the certificate to be a controlled drug or to contain such proportion of a controlled drug as may be so certified shall, on its production by the prosecution, without further proof be prima facie evidence of the matters so certified and of the qualification of the analyst.

MEDICINAL CANNABIS ACT 2019

(2) Subsection (1) shall not apply to a certificate tendered on behalf of the prosecution—

- (a) unless a copy thereof has been served on the accused not less than ten days before the trial; or
- (b) if the accused not less than five days before the trial has served notice on the prosecution requiring the attendance at the trial of the person by whom the certificate was signed.

PART 6 ENFORCEMENT

Designation of inspectors

28 (1) The Authority shall designate, in writing, inspectors for the purposes of all or any of the provisions of this Act and such designation may be specified for a fixed period.

(2) Every inspector designated in accordance with this section shall be furnished with a warrant of designation and shall, when exercising any power conferred on him by this section, produce the warrant of appointment or a copy of it.

(3) An inspector may, for the purposes of obtaining any information which may be required in relation to a matter under investigation under this Act—

- (a) at all reasonable times, enter any premises or place or vehicle where there are grounds to believe that any trade, business or any activity which is or may be subject to a licence under this Act, is being, or has been, carried on, or that documents relating to such trade, business or activity are kept and search and inspect the premises, place or vehicle and any documents that are on, at or in such premises, place or vehicle;
- (b) secure for later inspection any, or any part of any, premises or place or any vehicle on, at or in which such documents are kept or there are reasonable grounds for believing that such documents are kept;
- (c) require any person who carries on such trade, business or activity or any person employed in such trade, business or activity to produce to him such documents and where the documents are kept in an illegible form, to reproduce them in a legible form or to provide him with any information as the inspector may reasonably require in relation to any entry in such documents;
- (d) inspect and take copies of or extracts from any such documents, files, papers or electronic information system on, at or in the premises, place or vehicle, including, in the case of information in an illegible form, copies of or extracts from such information in a permanent legible form;
- (e) remove and retain such documents for such periods as may be reasonable for future examination, subject to a warrant being issued for that purpose by a magistrate;

MEDICINAL CANNABIS ACT 2019

- (f) require any such person to give to the inspector any information which the inspector may reasonably require in respect of such trade, business or activity or in respect of the persons carrying on such trade, business or activity or employed in connection with such trade, business or activity;
 - (g) require any person by or on whose behalf data equipment is or has been used or any person having charge of, or otherwise concerned with the operation of the data equipment or any associated apparatus or material, to afford the inspector all reasonable assistance in relation to it and assist in the retrieval of information connected with the operation of such data equipment, apparatus or material;
 - (h) summon, at any reasonable time, any other person employed in connection with such trade, business or activity to give to the inspector, any information which the inspector may reasonably require in relation to such trade, business or activity and to produce to the inspector any documents which are in the control of that other person;
 - (i) have photographs taken of anything on, at or in the premises, place or vehicle and remove the photographs from the place; and
 - (j) inspect any vehicle relating to such trade, business or activity.
- (4) An inspector shall not, other than with the consent of the occupier, enter a dwelling house unless he has obtained a warrant from a magistrate under section 29.
- (5) Where an inspector, in the exercise of his powers under this section, is prevented from entering any premises, place or vehicle, an application may be made for a warrant under section 29 authorising such entry.
- (6) An inspector appointed under this section, when exercising any powers conferred on him by this Act, may be accompanied by such other persons as he considers necessary.

Warrant issued by magistrate

29 A magistrate who is satisfied by sworn information in writing of an inspector that there are reasonable grounds for suspecting that—

- (a) information an inspector has power to inspect are on any premises, place or vehicle and that their inspection is likely to disclose evidence of the commission of an offence under this Act or the regulations; or
 - (b) an offence under this Act or the regulations has been, is being, or is about to be committed on any premises, place or in a vehicle; and
 - (c) admission to the premises has been or is likely to be refused,
- may by warrant under his hand, which shall continue in force for a period of one month, authorise any inspector to enter the premises, if need be by force.

MEDICINAL CANNABIS ACT 2019

PART 7

APPEALS

Appeals to the Supreme Court

30 (1) A person who is aggrieved by a decision of the Authority may appeal to the Supreme Court by notice of motion filed in the Registry and served on the Attorney-General within 21 days of the date on which the notice took effect.

(2) Rules of Court may be made under section 62 of the Supreme Court Act 1905 for the purpose of regulating the practice and procedure on appeals under this section.

(3) On an appeal under this section, the Supreme Court may confirm, reverse, vary or modify the decision of the Authority or may remit the matter to the Authority with the opinion of the Supreme Court thereon.

PART 8

OFFENCES

Offences

31 (1) A person shall not—

- (a) have in his possession medicinal cannabis for administration by inhalation in an increased penalty zone;
- (b) have medicinal cannabis in his possession, if that person is not a patient, caregiver or licensed to use medicinal cannabis under this Act;
- (c) use medicinal cannabis for recreational purposes;
- (d) engage in the use of medicinal cannabis for administration by inhalation—
 - (i) in an increased penalty zone;
 - (iii) in a public service vehicle;
 - (iv) in any motor vehicle;
- (e) sell or offer for free distribution medicinal cannabis, any derivatives or any derivatives or samples thereof at any convention, trade show, or at a public or private event;
- (f) drive, or attempt to drive, or have care or control of a vehicle on a road or other public place, whether it is in motion or not, when his ability to drive is impaired by medicinal cannabis, commits an offence.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding four years or to both.

MEDICINAL CANNABIS ACT 2019

(3) In this section “increased penalty zone” has the meaning provided in section 27A of the Misuse of Drugs Act 1972.

PART 9 GENERAL PROVISIONS

Review of the Act

32 The Minister shall carry out a comprehensive review of this Act within two years of its coming into operation, and shall submit a report to the House of Assembly within 12 months after beginning the review.

Regulations

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

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

- (a) prescribing the fees for the application of a licence and the granting or renewal of a licence;
- (b) prescribing particulars or information to be included in an application for the issue of a licence or renewal of a licence;
- (c) regulating, restricting or prohibiting premises, vehicles or equipment used or intended to be used for or in connection with the cultivation, research and development, manufacture and transport of medicinal cannabis;
- (d) regulating or prohibiting the cultivation or transport of medicinal cannabis, including in relation to specific geographical areas or regions in Bermuda;
- (e) matters to be considered by the Authority in relation to the suitability of premises for the cultivation of medicinal cannabis;
- (f) standards or requirements as to security of access to premises in which medicinal cannabis is cultivated;
- (g) 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 cultivation and transport of medicinal cannabis;
- (h) the manner in which inspections, searches, detentions and seizures under this Act are to be carried out;
- (i) documents to be kept in relation to medicinal cannabis;

MEDICINAL CANNABIS ACT 2019

- (j) the safe custody, storage and security of locally cultivated medicinal cannabis;
 - (k) the zoning of designated areas to be used for or in connection with the cultivation of medicinal cannabis;
 - (l) generally, any other matter or thing that is authorised 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) regulating or controlling the safe custody and storage of locally cultivated medicinal cannabis;
 - (b) requiring persons engaged in the cultivation of medicinal cannabis to keep records and provide information in writing or otherwise;
 - (c) the custody, accumulation, destruction and storage of locally cultivated medicinal cannabis, including, but not limited to—
 - (i) the specifications of cupboards and other receptacles;
 - (ii) the manner of storage of any form of medicinal cannabis;
 - (d) regulating and controlling the advertising by any person of medicinal cannabis, including the form and content of advertisements;
 - (e) the colouring of medicinal cannabis;
 - (f) the inspection of premises (other than a dwelling house), mobile facilities, stocks, records and any other documents relating to the cultivation of medicinal cannabis.
- (4) Regulations may—
- (a) be of general or limited application;
 - (b) differ according to differences in place or circumstances;
 - (c) apply to different classes of person, licences, authorisations or product;
 - (d) confer powers or discretions or impose duties on the Authority, an inspector or any other specified person;
 - (e) exempt specified persons or things or classes of persons or classes of things 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) Regulations may provide for the imposition of penalties on summary conviction to a fine not exceeding \$25,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment.
- (6) Except for subsection (2)(a), regulations made under this section shall be subject to the negative resolution procedure.

MEDICINAL CANNABIS ACT 2019

(7) The affirmative resolution procedure shall apply to regulations made under subsections (2)(a).

PART 10 FINAL PROVISIONS

Amends the Misuse of Drugs Act 1972

34 The Misuse of Drugs Act 1972 is amended by inserting the following after section 1—

“Medicinal Cannabis Act 2019

1A Except as otherwise provided, nothing in this Act affects any provision of or made under the Medicinal Cannabis Act 2019 or renders unlawful anything done in accordance with a licence granted under the Medicinal Cannabis Act 2019.”.

Amends the Pharmacy and Poisons Act 1979

35 The Pharmacy and Poisons Act 1979 is amended by inserting the following after section 2—

“Medicinal Cannabis Act 2019

2A Except as otherwise provided, nothing in this Act affects any provision of or made under the Medicinal Cannabis Act 2019 or renders unlawful anything done in accordance with a licence granted under the Medicinal Cannabis 2019.”.

Commencement

36 This Act shall come into operation on such day as the Minister may appoint by notice published in the Gazette.

MEDICINAL CANNABIS ACT 2019

SCHEDULE 1

(Section 4(3))

MEDICINAL CANNABIS AUTHORITY
CONSTITUTION AND PROCEDURE

Constitution of the Authority

- 1 (1) The Authority shall consist of—
- (a) five persons who are voting members of the Authority, hereinafter referred to as “appointed members” one each from the disciplines of medicine, scientific research, business, planning and agriculture; and
 - (b) the following ex officio members—
 - (i) the Attorney-General;
 - (ii) the Commissioner of Police;
 - (iii) the Collector of Customs;
 - (iv) the Director of National Drug Control ;
 - (v) the Chair of the Bermuda Medical Doctors Association.

(2) The appointed members in subparagraph (1)(a) shall be persons appearing to the Minister to be of integrity, capable of exercising diligence, sound judgment and impartiality in fulfilling their functions pursuant to the provisions of this Act..

(3) Each member of the Authority listed in subparagraphs (1)(b)(i) to (v) may nominate a person of appropriate seniority to serve on the Authority in his place

Tenure of office

2 A person appointed to be a member of the Authority shall, unless his appointment is sooner terminated, hold office for a period not exceeding three years as shall be specified in his instrument of appointment, but he shall be eligible for reappointment upon the expiration of his term of office.

Chairman and Deputy Chairman

3 There shall be a Chairman and a Deputy Chairman of the Authority, both of whom shall be appointed by the Minister from among the appointed members of the Authority and each of whom shall hold office, subject to paragraph 2.

Temporary appointment

4 In case of the absence or inability of any appointed member to act, the Minister may appoint a person to act temporarily in his place.

MEDICINAL CANNABIS ACT 2019

Resignation

5 (1) Any member, other than the Chairman, may at any time resign his office in writing addressed to the Minister and transmitted through the Chairman and, from the date of receipt by the Minister of such writing, such member shall cease to be a member.

(2) The Chairman may at any time resign his office in writing addressed to the Minister and, from the date of receipt by the Minister of such correspondence, the Chairman shall cease to be a member.

Effect of vacancy on the Authority

6 Subject to this Schedule, the Board shall be deemed to be properly constituted notwithstanding that there is a vacancy in the office of Chairman or any other member.

Disqualification from membership of the Authority

7 A person shall not become, or continue to be, a member of the Authority if the person—

- (a) is a member of the Legislature, a person who is appointed or elected to any municipality, parish council or any other public authority;
- (b) is suffering from a mental disorder within the meaning of the Mental Health Act 1968 or is otherwise adjudged to be of unsound mind under any statutory provision;
- (c) becomes permanently unable to perform his functions by reason of ill health;
- (d) is an undischarged bankrupt; or
- (e) has at any time been convicted of an offence under the Misuse of Drugs Act 1972, the Criminal Justice (International Co-operation)(Bermuda) Act 1994 or the Proceeds of Crime Act 1997 or any offence involving fraud, dishonesty or moral turpitude.

Removal of member

8 The Minister may at any time declare the office of a member of the Board vacant if he is satisfied that the member—

- (a) has failed without sufficient cause to attend three consecutive meetings of the Board;
- (b) is incapacitated by physical or mental illness; or
- (c) is otherwise unable, unfit or unwilling to carry out his functions as a member.

Procedure at meeting

9 (1) The Authority shall meet at such times and on such days as may be necessary or expedient for the transaction of its business.

MEDICINAL CANNABIS ACT 2019

(2) The minutes of each meeting of the Authority shall be kept in proper form.

(3) The Chairman may at any time call a meeting of the Authority and shall call a meeting within five days of a written request for that purpose addressed to him by any three members.

(4) The Chairman shall preside at all meetings of the Authority at which he is present, and in his absence the Deputy Chairman shall preside, and in the absence of the Chairman and the Deputy Chairman the members present and constituting a quorum shall elect a chairman from among the members to preside at that meeting.

(5) Every appointed member shall have one vote; the Chairman shall have an original vote but in the event of an equality of votes he shall have a casting vote.

(6) Subject to sub-paragraph (5), decisions of the Authority shall be by majority vote.

(7) Subject to this Schedule, the Authority may regulate its own proceedings.

(8) A quorum of the Authority shall be six.

(9) The validity of any proceedings of the Authority shall not be affected by any defect in the appointment of a member.

Remuneration

10 Fees shall be paid to members of the Authority in accordance with the Government Authorities (Fees) Act 1971.

Committees of the Authority

11 (1) The Board may appoint such committees, for any general or special purposes, with which the Board may be concerned, as in the opinion of the Board would be better regulated and managed by means of a committee.

(2) A committee appointed pursuant to subparagraph (1) may include persons who are not members of the Board or employees of the Authority, so that the appointment of any such persons shall be subject to the approval of the Minister.

Disclosure of interest

12 (1) A member of the Authority who is in any way directly or indirectly interested in any contract or other matter whatsoever to be considered by the Authority, or in any contract made or proposed to be made by the Authority, shall forthwith disclose the nature of his interest to the other members of the Authority upon a conflict of interest arising, and the disclosure shall be recorded in the minutes of the next meeting of the Authority, and the member shall not take part in any deliberation or decision of the Board with respect thereto.

(2) A disclosure made by a member of the Authority under subparagraph (1), to the effect that he is a director or shareholder of, or has a significant economic relationship with, a specific company, firm or other entity or is to be regarded as interested in any

MEDICINAL CANNABIS ACT 2019

contract which is made with the company, firm or other entity, shall for the purposes of subsection (1), be a sufficient disclosure of his interest in relation to any contract so made.

(3) A member of the Authority need not attend in person at a meeting of the Authority in order to make a disclosure that he is required to make under this paragraph, if the member takes reasonable steps to ensure that the disclosure is made by notice which is taken into consideration and read at the next meeting held after the disclosure is made.

Reports to Minister

13 (1) The Authority shall submit to the Minister an annual report relating generally to the execution of its functions and may, at any time, submit a report relating to any particular matter or matters which, in the Authority's opinion, require the special attention of the Minister.

(2) Notwithstanding subparagraph (1), the Authority may at any time, be required by the Minister to submit a report in respect of any matter or activity in which it is involved under this Act.

ADMINISTRATION

Appointment of Executive Director

14 (1) Subject to the provisions of this section, there shall be an Executive Director of the Authority who shall be appointed by the Board, subject to the approval of the Minister.

(2) Subject to subsection (4), the Executive Director shall be a person who possesses the knowledge, skills and experience which are necessary for the intended functions to be carried out by the person under this Act.

(3) A person who would not be eligible to be appointed as a member of the Board by virtue of paragraph 7 shall not be eligible to be appointed as the Executive Director.

(4) A person shall not be appointed as Executive Director unless the Board is satisfied that the person is a person of integrity, capable of exercising diligence, sound judgment and impartiality in carrying out his functions.

(5) Subject to subparagraph (6), the Executive Director shall hold office for a period of three years and shall be eligible for re-appointment.

(6) The Minister may terminate the appointment of the Executive Director—

- (a) for the inability to discharge the functions of his office, whether arising from infirmity of the body or mind, dereliction of duty or misbehaviour;
- (b) where he becomes an undischarged bankrupt; or
- (c) where he is convicted of an offence under the Misuse of Drugs Act 1972, the Criminal Justice (International Co-operation)(Bermuda) Act 1994 or the Proceeds of Crime Act 1997 or any offence involving dishonesty or moral turpitude or for any other cause.

MEDICINAL CANNABIS ACT 2019

Functions of the Executive Director and delegation of such functions

15 (1) The Executive Director shall be responsible for the day to day management of the affairs of the Authority which shall include the following—

- (a) coordinating the functions of the Authority;
- (b) the taking of any administrative and managerial actions as are necessary and appropriate for the effective implementation of this Act and any regulations;
- (c) assigning personnel as may be necessary to ensure that applications for licences and other authorisations are submitted to the Minister for approval within the prescribed period after the making thereof;
- (d) assigning personnel to ensure that identification cards are issued to patients and caregivers, where applicable, within 10 days of a medical practitioner submitting a written confirmation of the prescription of medicinal cannabis for administration by inhalation;
- (e) ensuring the timely implementation of the decisions and directions of the Authority;
- (f) preparing the budget of the Authority;
- (g) implementing operational policies and procedures in relation to the functions of the Authority; and
- (h) performing such other functions as may be assigned to the Executive Director under this Act or any other enactment.

(2) The Executive Director shall attend the meetings of the Authority, but shall not have a vote at any meeting of the Authority.

(3) The Executive Director may, in writing, subject to the approval of the Authority, delegate any of his functions, except the power of delegation, in relation to the performance of any of the duties conferred on him by, or under this Act, to a person specified in the instrument of delegation.

(4) A delegation under subparagraph (3) shall not prevent the exercise of the powers or the performance of the duties by the Executive Director.

Appointment of staff of the Authority

16 (1) The Executive Director shall consult with the Minister in establishing the qualifications for the various offices established within the Authority and shall advise the Minister on all appointments to fill said offices.

(2) Consistent with its approved budget, and subject to this Act and all applicable laws, the Executive Director shall establish the remuneration, terms and conditions of employment of each member of the staff of the Authority.

MEDICINAL CANNABIS ACT 2019

Obligation of confidentiality

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

(2) A person to whom information is communicated by a person in subparagraph (1) shall regard and deal with the information as confidential.

(3) A person who contravenes subparagraph (1) or (2) commits an offence and shall be liable on summary conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding six months or to both.

(4) Notwithstanding subparagraphs (1) and (2) a person may disclose information in any of the following circumstances—

- (a) pursuant to an order of the Court;
- (b) to an employee of the Authority who is so authorised; or
- (c) where disclosure is permitted under any other enactment.

Protection from liability

18 No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board or employee or agent of the Authority in respect of any act done bona-fide in pursuance or execution or intended execution of this Act.

Financial Provisions, Accounts and Reports

Funds and resources of the Authority

19 (1) The funds and resources of the Authority shall consist of—

- (a) such sums as may, from time to time, be placed at the disposal of the Authority by the Legislature; and
- (b) all other sums and property which may, in any manner, become payable to or vested in the Authority in respect of any matter incidental to its functions.

(2) The expenses of the Authority, including the remuneration of members of the Board and employees and agents of the Authority shall be paid out of the funds of the Authority and thereafter all remaining revenues received in respect of any matter incidental to the functions of the Authority shall be paid into the Consolidated Fund within such period as may be specified by the Minister of Finance, in writing.

(3) The Authority may, with the approval of the Minister of Finance, direct that such percentage of sums received from licences and other authorisations fees be applied for the following purposes—

- (a) the strengthening of social programmes related to drug abuse prevention and treatment;

MEDICINAL CANNABIS ACT 2019

- (b) the training of licensees in the cultivation of medicinal cannabis;
- (c) the funding of scientific and medical research relating to medicinal cannabis;
- (d) such other purposes, as may be determined by the Authority, after consultation with the Minister.

Accounts of Authority

20 (1) The Authority shall cause proper statements of its financial affairs to be maintained and shall prepare in respect of each financial year a statement of its accounts in such form as required by applicable accounting standards.

(2) The accounts of the Authority shall be audited by the Auditor-General or by an auditor appointed annually by the Auditor-General.

(3) A person shall not be qualified for appointment as an auditor under subparagraph (2) unless he is a public accountant who is registered or deemed to be registered under the Chartered Professional Accountants of Bermuda Act 1973.

(4) The statement of accounts must present fairly and accurately—

- (a) the financial transactions of the Authority during the financial year to which they relate; and
- (b) the financial position of the Authority at the end of the financial year.

(5) The auditor shall state in his report whether—

- (a) proper accounting and other records have been kept; and
- (b) the receipt, expenditure and investment of monies and the acquisition and disposal of assets by the Authority during the year have been in accordance with the provisions of this Act.

(6) The auditor may at any other time report to the Minister of Finance through the Authority upon any matter arising out of the performance of his audit.

(7) Where the Auditor-General has not been appointed to be the auditor, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General before they are submitted to the Authority.

(8) As soon as the accounts of the Authority and the financial statements have been audited in accordance with the provisions of this Act, but not later than six months after the end of the financial year, a copy of the audited financial statements signed by the Chairman, together with a copy of any report made by the auditor, shall be submitted to the Minister.

Tabling of annual report and accounts

21 (1) The Authority shall, as soon as practicable after the close of each financial year but no later than 31st May of each year, cause to be made and transmitted to the Minister—

MEDICINAL CANNABIS ACT 2019

- (a) a copy of the annual report of the operations of the Authority during that year; and
 - (b) a copy of the audited annual statement of accounts of the Authority certified by the Auditor-General.
- (2) The Minister shall as soon as practicable after receipt of the annual report and annual statement of accounts cause a copy of each to be laid before both Houses of the Legislature.

MEDICINAL CANNABIS BILL 2019 CONSULTATION DRAFT

EXPLANATORY MEMORANDUM

This Bill seeks to establish a Medicinal Cannabis Authority in accordance with international obligations to regulate the local cultivation, possession, manufacture and transport of cannabis for medicinal purposes; to establish a licensing scheme for the local cultivation and manufacturing of cannabis for medicinal and scientific purposes; to provide for monitoring, inspection and enforcement powers for inspectors; to give the Minister the power to give directions to the Authority.

Clause 1 provides a title of the Bill.

Clause 2 provides for the interpretation of terms used in the Bill including the definition for “medicinal cannabis”.

Clause 3 provides for the object of the Act.

Clause 4 establishes the Medicinal Cannabis Authority (“the Authority”), which is a body corporate whose powers and duties are provided for in the Act.

Clause 5 provides for the functions of the Authority and provides that the Authority may charge fees for services that are provided by or on behalf of the Authority.

Clause 6 provides that the Minister may, after consultation with the Chairman of the Authority, give the Authority directions as to the policy that is to be followed by Authority’s in its functions.

Clause 7 provides that a person may only use medicinal cannabis for administration by inhalation on prescription by a medical practitioner registered in Bermuda.

Clause 8 provides for the functions of the Authority and provides that the Authority can establish committees to assist with its functions.

Clause 9 provides that a pharmacist will only dispense a 30 day supply of individual doses where a medical practitioner prescribes medicinal cannabis by inhalation for repeated usage over a 3 months period.

Clause 10 prohibits the cultivation, manufacture, research and import of medicinal cannabis for prescribed purposes without a licence and creates an offence.

Clause 11 provides that persons prescribed medicinal cannabis for administration by inhalation will be issued an identification card by Authority to acknowledge the lawful possession of medicinal cannabis for that use.

Clause 12 provides that the Authority will implement and develop procedures for the issuance of identification cards.

Clause 13 provides that a patient or caregiver issued an identification card must advise the Authority of any change of address within 7 days.

MEDICINAL CANNABIS BILL 2019 CONSULTATION DRAFT

Clause 14 provides that the Authority should be notified as soon as possible of a loss or destruction of an identification card and creates an offence for failure to do so.

Clause 15 provides that a patient who has changed a caregiver should notify the Authority to revoke the registration of that caregiver and creates an offence for failure to do so.

Clause 16 provides that the Authority is to maintain a register of all persons issued an identification card.

Clause 17 provides for the establishment of a licensing scheme for medicinal cannabis in Bermuda.

Clause 18 provides the prohibition of any activity that requires a licence under the Act.

Clause 19 provides the types of licences obtainable under the Act and that those licences are non-transferrable.

Clause 20 provides for the application or renewal for a licence.

Clause 21 provides for the duration of a licence.

Clause 22 gives the Minister the power to revoke a licence in certain circumstances.

Clause 23 provides for those who are eligible to apply for a licence under the Act.

Clause 24 protects a person who is authorised by a licence to conduct any activity provided in the licence from criminal liability.

Clauses 25, 26 and 27 provide that a person authorized by the Minister may analyse any medicinal cannabis substance or product and a certificate of that analyst may be used in any proceedings for an offence under the Act.

Clause 28 empowers the Authority to designate inspectors to obtain information as required in regulating and enforcing the medicinal cannabis industry.

Clause 29 provides for inspectors to obtain a warrant from a magistrate for suspected withheld information the inspector wishes to obtain.

Clause 30 provides that a person may appeal to the Supreme Court against a decision of the Authority.

Clause 32 provides that the Minister will carry out review of the Act within a prescribed time of the Act coming into operation and to submit a report to the Legislature.

Clause 33 empowers the Minister to make regulations.

Clause 34 provides a consequential amendment to the Misuse of Drugs Act 1972.

Clause 35 provides a consequential amendment to the Pharmacy and Poisons Act 1979.

Clause 36 provides for the commencement of the Act.