

ANTIGUA AND BARBUDA



THE CANNABIS BILL, 2018

NO. OF 2018

THE CANNABIS BILL, 2018

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THE CANNABIS BILL, 2018

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AN ACT to to provide for the regulation and control of cannabis for religious use, by documented members of registered religious organizations, to uphold the constitutional rights afforded to each citizen of Antigua and Barbuda;

And to provide for the regulation and control of cannabis for medicinal and scientific use within Antigua and Barbuda, to establish the Antigua and Barbuda Medicinal Cannabis Authority whose functions will be described herein, to authorize medicinal and alternative health practitioners to recommend medicinal cannabis, to establish scientific research protocol for medicinal cannabis, and to establish a licensing structure and complete tracking system for medicinal cannabis businesses.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Cannabis Act, 2018.

2. Interpretation

In this Act, unless the context otherwise requires-

“Antigua Cannabis Tracking System” means the complete seed to sale RFID monitoring system that will be used to conform with international regulations and to prevent diversion;

“Approved Alternative Health Care Professional” means an alternative health care professional that is properly certified in any of the following alternative health disciplines:

- a) Naturopathic Doctor
- b) Doctor of Chiropractic
- c) Master of Acupuncture or oriental medicine
- d) Physical Therapist
- e) Doctor of Ayurvedic Medicine
- f) Homeopathic Doctor

g) Nutritionists;

“Authorized health care professional” means any medicinal doctor, veterinarian, dental surgeon or approved alternative health care practitioner, that is authorized by the Authority;

“Authorized Patient” means a person in possession of an authorized recommendation and Medicinal Patient Identification Card;

“Authority” means the Antigua and Barbuda Medicinal Cannabis Authority that will be responsible for the administration, implementation and management of the Act and is created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, processing, extraction, import, export, testing, research, distribution, and sale of Medicinal Cannabis;

“Board” means the members comprising the Antigua and Barbuda Medicinal Cannabis Authority;

“Cannabis” has the meaning assigned to it in the Misuse of Drugs Act, CAP 283;

"Container" means the sealed package in which Medicinal Cannabis or a Medicinal Cannabis -Infused Product is placed for sale to an authorized patient and that has been labeled according to the requirements set forth in Rules ABMCA1002 et. seq.;

“Chairperson” means the Chairperson of the Antigua and Barbuda Medicinal Cannabis Authority;

"Division" means the Medicinal Cannabis Inspectorate Division convened pursuant to the Medicinal Cannabis Act;

“Good Moral Character” means an individual with a personal history demonstrating honesty, fairness, and respect for the rights of others and for the law;

“GMP” means Good Manufacturing Practice means Good Manufacturing Practice and is a system for ensuring that products are consistently produced and controlled according to quality standards;

“GPP” means Green Public Procurement (GPP) and is defined as a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured;

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

“HACCP” means Hazard Analysis and Critical Control Points. This is a preventative food safety system in which every step in the manufacture, storage and distribution of a food product is scientifically analysed for microbiological, physical and chemical hazards;

“Law Enforcement” means any member of the Antigua and Barbuda police service or any other branch of this Country’s protective services;

“License” means a license granted to an individual or entity by the Authority pursuant to this Act;

"Licensed Premises" means the premises specified in an application for a license pursuant to the Medicinal Cannabis Regulations that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, process, extract, distribute, sell, or test Medicinal Cannabis or Medicinal Cannabis infused product in accordance with the provisions of the Cannabis Regulations;

"Licensee" means any person licensed or registered pursuant to the Medicinal Cannabis Regulations, including a manager or staff licensee;

“Medicinal Cannabis” means Cannabis that is grown and sold pursuant to this Cannabis Act and does include seeds and Immature Plants and includes all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including Cannabis concentrate that is cultivated, manufactured, distributed, or sold by a licensed Medicinal Cannabis Establishment. "Medicinal Cannabis" does not include industrial Hemp, nor does it include fiber produced from stalks, oil or cake made from the seeds of the plant, sterilized seeds of the plant which is incapable of germination, or the weight of any other ingredient combined with Cannabis to prepare topical or oral administrations, food, drink, or other product;

"Medicinal Cannabis Cultivation Operation" means a person or company licensed pursuant to the Cannabis Regulations to operate a business involving the germination, cultivation, drying and wholesale packaging of medicinal Cannabis flowers and extracts for distribution to a licensed medicinal Cannabis dispensary operation but not to authorized patients;

"Medicinal Cannabis Cultivation Facility" means a structure licensed pursuant to the Cannabis Regulations in which the Medicinal Cannabis Cultivation operation is conducted;

“Medicinal Cannabis Testing Facility” means an entity licensed and certified where the analytical information is determined and certification of the safety and potency of Medicinal Cannabis or medicinal cannabis infused products is carried out;

"Medicinal Cannabis Business" means a licensed Medicinal Cannabis Dispensary, a licensed Medicinal Cannabis-Infused Products Manufacturer, a licensed Medicinal Cannabis Cultivation Operation, a licensed Medicinal Cannabis Lounge operation, a licensed Medicinal Cannabis Transport operation, a Medicinal Cannabis processing and export operation, a licensed Medicinal Cannabis Research and development operation or a licensed Medicinal Cannabis Testing Facility;

"Medicinal Cannabis Lounge" means a place authorized under the regulations, where authorized patients can consume medicinal cannabis;

"Medicinal Cannabis Dispensary" means a Person or entity that is licensed pursuant to these Medicinal Regulations to operate a business that sells Medicinal Cannabis to authorized patients or authorized caregivers, but is not a caregiver;

"Medicinal Cannabis-Infused Product" means a product infused with Medicinal Cannabis that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures and such products shall not be considered a food or drug for purposes of the Antigua and Barbuda Bureau of Standards, such medicinal edible products will undergo testing for safety at a licensed Medicinal Cannabis Testing Facility;

"Medicinal Cannabis-Infused Products Manufacturer" means a Person or entity licensed pursuant to these Medicinal cannabis regulations to operate a business manufacturing Cannabis infused edibles, oils, tinctures and extracts as well as packaging and labelling of these;

"Medicinal Cannabis Processor and Extractor" means a person or entity that is licensed pursuant to the medicinal cannabis regulations to operate a business that processes and extracts raw cannabis into medicinal cannabis derivatives;

"Mental disorder" means mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of the mind;

"Minister" means the Minister of Government responsible for justice and legal affairs, except in division two, part two where Minister means the Minister of Government responsible for health;

"Minor" means a person who is under the age of eighteen years;

"Non-citizen" means a person who is not a citizen and includes—

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

(b) any company incorporated outside of Antigua and Barbuda;

“Person” means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof; except that “Person” does not include any governmental organization;

“Place of worship” means a place designated by the Minister by Order under section 4, as a place of worship for the purposes of this Act;

“Private Dwelling” means the house in which a person lives with his family; a residence, apartment or building, or group of buildings, occupied by a family as a place of residence;

“Public Place” A public place is generally an indoor or outdoor area, whether privately or publicly owned, to which the public have access by right or by invitation, expressed or implied, whether by payment of money or not;

“qualifying medicinal condition” means a serious illness or condition that is likely to result, or continue to result in, a significant reduction in the quality of life of a person, whether from the symptoms of the illness or condition or from treatment for the symptoms of the illness or condition, including any of the following—

- (a) pain associated with cancer;
- (b) severe and treatment resistant nausea and vomiting due to chemotherapy;
- (c) status of human immunodeficiency virus or acquired immune deficiency syndrome;
- (d) Parkinson’s disease;
- (e) multiple sclerosis;
- (f) severe intractable epilepsy;
- (g) damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity;
- (h) post-traumatic stress disorder;
- (i) rheumatoid arthritis or any similar chronic autoimmune inflammatory disorder with severe or debilitating conditions;

- (j) autism;
- (k) glaucoma;
- (l) sickle cell anaemia;
- (m) anxiety;
- (n) sleep disorders;
- (o) chronic pain;
- (p) Alzheimer’s disease;
- (q) Crohn’s disease;
- (r) Hepatitis B;
- (s) Dravett’s syndrome; and
- (t) any other illness or condition approved by the authorized health care profession;

“Qualifying Patient” means a person suffering from a qualifying medicinal condition;

“Regulations” means the Antigua and Barbuda Medicinal Cannabis Regulations established pursuant to the Medicinal Cannabis Act;

“Recommendation” means physical counterfoil recommendation that is issued to a patient by Regulations made pursuant to this Act;

“Religion” means the moral belief system followed by an individual;

“Religious body” means a group or association of persons engaged in the same belief system;

“Sacrament” means a thing of mysterious and sacred significance; a religious symbol;

“Strain” means any individual named strain of a Medicinal Cannabis Plant differentiated from another by its cannabinoid profile. There are thousands of Strains of Cannabis each with its own different cannabinoid profile thereby producing different therapeutic effects;

“Taxes” mean the Antigua and Barbuda Sales Tax or the export duties levied on the sale or export of medicinal cannabis, medicinal cannabis derivatives and medicinal cannabis infused products.

(2) The provisions of the Misuse of Drugs Act, Cap. 283, the Money Laundering Prevention Act 1996 and the Proceeds of Crime Act, shall not prohibit, or otherwise restrict or render unlawful, the cultivation, processing, extraction, distribution, import, export, research, possession and use of cannabis in accordance with the provisions of this Act or Regulations made pursuant to this Act.

DIVISION 1

Cannabis for Religious Purposes

3. Permitted use of Cannabis for religious purposes.

(1) Subject to an Order made by the Minister under section 4 and except as otherwise provided for under this Act, a person who is an adherent of a religious body, including, but not limited to, the Rastafarian faith, or an organization comprising of such persons, may register with the Authority to -

- (a) cultivate more than 4 cannabis plants to be used solely for religious purposes as a sacrament in adherence to a religious practice of the religious body, on lands designated by Order of the Minister,
- (b) possess more than 15 grams of cannabis, which is to be less than or equal to such amount as may be specified by the Authority or Minister by Order, to be used solely for religious purposes as a sacrament in adherence to a religious practice of the religious body;
- (c) transport more than 15 grams of cannabis which is cultivated for religious purposes, to a place of worship or pursuant to section 10, at an event declared by Order of the Minister to be an exempt event for the purposes of this Act, in compliance with such guidelines as may be issued by the Minister by Notice published in the Gazette, for use as a sacrament in adherence to a religious practice of a religious body;
- (d) dispense cannabis solely for religious purposes as a sacrament in adherence to a religious practice of the religious body, at a

sacramental dispensary designated and approved by Order of the Minister;

- (2) Persons, groups, organizations and religious bodies authorized under this part of the Act for religious purposes may not possess, cultivate, transport, or use cannabis for any type of commercial benefit or engage in any type of sale or supply transaction involving cannabis for money or for any profit, financial or monetary gain or compensation.
- (3) A person who contravenes subsection (1) or subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding six months or to both a fine and imprisonment.
- (4) For the avoidance of doubt, where there are reasonable grounds to suspect that there is an intention to contravene the provisions of the Misuse of Drugs Act, Cap. 283, subsection (1) shall not restrict the exercise of the discretion of the Director of Public Prosecutions from prosecuting a person for a relevant offence under that Act or any other relevant enactment.

4. Application for Authorization by the Authority

- (1) Pursuant to section 3, a person, organization of persons or religious group, who is member of a religion which proposes to use cannabis for religious purposes, as a sacrament in adherence to a religious practice of the religion, shall apply to the Minister, in the prescribed manner, to be authorized to cultivate cannabis for religious purposes, to authorize a sacramental dispensary or to have the proposed place of worship authorized for the purposes of this Act
- (2) An application under subsection (1) shall include, but shall not be limited to—

- (a) the name, address and contact information of the person or group or organisation that is applying;
- (b) the name, address and contact information of the person appointed as leaders of the religious body;
- (c) the address of the place of worship of the religion;
- (d) a survey plan of the land on which cannabis for use in accordance with this Act is to be cultivated; and
- (e) the proposed arrangements for the transportation of the cannabis from the land on which it is proposed to be cultivated, to the place of worship or to the sacramental dispensary.

(3) Where the Minister is satisfied that a religious body will comply with the provisions of this Act and any regulations or orders made hereunder, he shall approve the application and cause to be published in the Gazette, an Order—

(a) authorizing -

- (i) the body or group of persons as a religious organization that is authorized to cultivate, possess, transport, dispense and use cannabis for religious purposes in accordance with the provisions of this Act;
 - (ii) the place of worship of the religious body, as a place of worship where the members of the religion are authorized to cultivate, possess, and use cannabis for religious purposes in accordance with the provisions of this Act;
 - (iii) the Sacramental Dispensary, as a place where the members of the religion are authorized to obtain cannabis for religious purposes in accordance with the provisions of this Act; and
- (b) designating the lands specified in the Order, as lands to be used for the cultivation of cannabis for religious purposes in accordance with the provisions of this Act; and

- (c) authorizing the members of the religion to use cannabis for religious purposes, at a place of worship, in accordance with the provisions of this Act or pursuant to section 10, at an event declared by Order of the Minister to be an exempt event for the purposes of this Act.

5. Cultivation of cannabis by a religious body

Only the prescribed amount of cannabis shall be cultivated by a religious body in the prescribed manner and the lands upon which the cannabis is cultivated shall be subject to such inspections and recommendations, as the Authority or Minister may deem necessary, so as to ensure compliance with the provisions of this Act or regulations made pursuant to this Act.

6. Sacramental Dispensaries

- (1) Sacramental Dispensaries may be authorized by the Minister as a place where registered adherents of authorized religious associations are allowed to obtain cannabis for religious purposes.
- (2) Sacramental Dispensaries shall—
 - (a) follow all regulations guiding medicinal cannabis dispensary operations;
 - (b) only operate as non-profit organizations;
 - (c) only dispense to persons registered as adherents to Rastafarian associations;
 - (d) dispense no more than 15 grams to any single adherent; and
 - (e) keep all records as prescribed by the Authority.

7. Possession of cannabis authorized for religious use

- (1) Subject to section 6A of the Misuse of Drugs (Amendment) Act 2018, the possession of no more than 15 grams of cannabis by any person who is an adherent of a religion, at a place worship, private dwelling or, pursuant to section 10, at an event declared by order of the Minister, to be an exempt event for the purposes of this Act, is hereby authorized for the purposes of

this Act and no person shall be liable to arrest, detention or prosecution for any offence, or any other penalty, as regards to 15 grams or less of cannabis being transported to, or which is possessed, or used at the place of worship, private dwelling or exempt event.

- (2) Possession in Public or transport of any amount of cannabis exceeding 15 grams shall be authorized by the authority and will be subject to such conditions as may be prescribed.
- (3) A person who contravenes subsection (1) or subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding six months or to both a fine and imprisonment.

8. Use of cannabis only at private dwelling, place of worship or at exempt event

(1) The use of cannabis by any person under this section of the Act shall only be at and in relation to, a private dwelling, a place of worship or, pursuant to section 10, an event declared by Order of the Minister to be an exempt event for the purposes of this Act; and may not be used in public spaces.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding six months or to both a fine and imprisonment.

9. Revocation of Order

(1) The Minister may revoke an Order made under this Act if any of the conditions of the Order or the provisions of this Act is contravened by a person or member of the religious body.

(2) Where an Order is revoked pursuant to subsection (1), the Minister may order that all cannabis cultivated by the religious body be seized and destroyed by the Authority.

10. Declaration of exempt event

(1) The Minister or Authority may, by Order, declare an event to be an exempt event for the purposes of this Act, if he is satisfied that the event is—

- a) promoted or sponsored by a person who is an adherent of a prescribed religious body; and
- b) primarily for religious purposes, in accordance with the provisions of this Act.

(2) Where an event is declared under this section to be an exempt event for the purposes of this Act, no person at the event shall be liable to arrest, detention or prosecution for any offence or any other penalty as regards cannabis being transported to, or which is possessed, supplied or used at the exempt event in such amount and under such conditions as are specified in the Order by the Authority or Minister.

11. Prohibitions

(1) No person shall import cannabis into Antigua and Barbuda or export cannabis from Antigua and Barbuda for religious purposes unless the Authority or the Minister authorizes such in writing.

(2) The provisions of the Misuse of Drugs Act, Cap. 283, the Money Laundering Prevention Act 1996 and the Proceeds of Crime Act, shall not prohibit, or otherwise restrict or render unlawful, the cultivation, processing, extraction, distribution, import, export, research, possession and use of cannabis in accordance with the provisions of this Act or Regulations made pursuant to this Act.

(3) No person shall permit a minor to use cannabis at a place of worship or at an exempt event.

(4) A person who contravenes subsection (1) or subsection (2) commits a summary offence and is liable on conviction to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding six months.

12. Issuance of guidelines by the Minister

The Minister may, by Notice published in the Gazette, issue guidelines to assist in the effective operation of this Act.

DIVISION 2-MEDICINAL CANNABIS

PART I

THE MEDICINAL CANNABIS AUTHORITY

13. Establishment of the Authority

- (1) There is hereby established, for the purposes of this Act, a body to be known as the Medicinal Cannabis Authority.
- (2) The Authority shall be a body corporate and shall have perpetual succession and a common seal, which shall be judicially noted and shall have the power to sue and be sued in its own name and to hold and dispose of property.
- (3) The Authority shall consist of a board whose members collectively make up the Authority.

14. Functions of the Authority

- (1) The Authority shall –
 - (a) monitor and conduct all the administrative operations relating to medicinal cannabis, medicinal cannabis businesses and cannabis for religious use;
 - (b) enforce, maintain and modify policies, procedures and guidelines relating to medicinal cannabis and cannabis for religious use;
 - (c) enforce policy for the licensing and regulating the cultivation, processing, production of infused products, testing facilities, research, dispensing, sale, import, export and use of medicinal cannabis;
 - (d) establish and maintain a confidential register of patients and caregivers and such other registers as may be prescribed;
 - (e) charge fees for services provided by or on behalf of the Authority.
 - (f) review, investigate and approve or deny applications in relation to the issuing of licences and other authorizations;
 - (g) enforce procedures in relation to the inspection of premises that are in relation to license applications or on those premises operated on by licensees in order to ensure compliance with the provisions of this Act or any Regulations made pursuant to this Act;

- (h) establish an inspectorate division to conduct all inspections relating to medicinal cannabis, medicinal cannabis businesses and cannabis for religious use;
- (i) issue medicinal cannabis identification cards to patients and caregivers;
- (j) evaluate religious cannabis applications and issue religious cannabis authorizations;
- (k) ensure proper labelling of medicinal cannabis containers;
- (l) enforce the use of authorized complete seed to sale tracking systems;
- (m) establish and maintain an electronic database to document registered patients, Authorized Healthcare Professionals, licensees and other persons registered with the Authority;
- (n) create and provide for the distribution of educational materials and conduct training programmes and certification courses in relation to the development of medicinal cannabis
- (o) appoint sub-committees to assist it in the carrying out of its functions under this Act;
- (p) 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;
- (q) track and monitor all aspects of the medicinal cannabis industry in accordance with International guidelines; and
- (r) do all such things and perform such other functions assigned to as the Authority reasonably considers necessary or expedient for the purpose of carrying out its functions under this Act.

15. Ministerial directions

The Minister may, acting on the advice of Cabinet and after consultation with the Chairperson, give to the Authority, directions of a general character 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.

16. Exercise of functions of the Authority

The exercise of the functions of the Authority under this Act may be carried out by the Board, the Chairperson, Deputy Chairperson or a member of staff or agent of the Authority.

17. Authority to be consulted

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

18. Establishment and Members of the Board of the Authority

(1) For the purposes of this Act, there is hereby established a Board of the Authority.

(2) The Board shall be appointed by the Cabinet and shall consist of –

(a) the following members –

- (i) the Attorney General or his nominee;
- (ii) the Chief Medicinal officer or his nominee
- (iii) the Commissioner of Police or his nominee
- (iv) the Comptroller of Customs or his nominee;
- (v) the Chief Agricultural Officer or his nominee;
- (vi) a person nominated by the Minister who represents the Rastafarian Community;
- (vii) a person nominated by the Minister responsible for Social Transformation; and

(b) two other persons, (hereinafter referred to as “appointed members”) drawn from the following disciplines or groups; namely, medicine, scientific research, business or cannabis science.

(3) The appointed members of the Board shall be persons appearing to Cabinet to be of integrity, capable of exercising competence, diligence, sound judgment and impartiality in fulfilling their functions pursuant to the provisions of this Act.

19. Non-citizen investment

(1) The provisions of the Non-Citizens Land Holding Regulations Act shall be applicable to any non-citizen who is a director or shareholder of a company who invests in a medicinal cannabis business.

(2)(a) A non-citizen holding a medicinal cannabis business licence pursuant to this Act with company ownership between 30 percent and 79 percent, shall issue to the Government a 15 percent risk-free perpetual equity ownership of that company; and

(b) A non-citizen holding a medicinal cannabis business licence pursuant to this Act that is between 80 percent and 100 percent owned by a foreign entity shall issue to the Government a 25 percent risk-free perpetual equity ownership of that company.

20. Leave of absence and temporary appointments

(1) Cabinet may, on the application of any member of the Board, grant to the member, leave of absence for a period not exceeding three months.

(2) Cabinet may direct a member of the Board to proceed on leave of absence if the member has been charged with –

- (a) an offence under the Misuse of Drugs Act, Cap. 283, the Money Laundering Prevention Act 1996, the Proceeds of Crime Act 1993 or an offence that is similar to any such offence in another country; or
- (b) any offence involving fraud, dishonesty or moral turpitude.

(3) In the case of the absence or inability of any member of the Board to carry out his functions, the Cabinet may appoint a person to act temporarily in the place of the member; so however that; such appointment shall be made in the same manner and from the category of persons as would be required in the case of the original appointment.

21. Tenure of office

(1) The appointment of a member of the Board shall be evidenced by instrument in writing and such instrument shall state the tenure of office of the member, which period shall not exceed three years.

(2) A member of the Board shall be eligible for reappointment.

22. Publication in Gazette

The appointment, resignation, termination of appointment or death of a member of the Board and every change thereof, shall be published in the Gazette.

23. Vacancy in membership

(1) A vacancy in the membership of an appointed member shall occur—

- (a) on the death, resignation or termination of the appointment of a member;
- (b) on the absence of a member from three consecutive meetings of the Board, unless the absence is authorized by Cabinet;
- (c) on the expiration of the term specified in the instrument of appointment of the member.

(2) If any vacancy occurs in the membership of the Board, such vacancy shall be filled by the appointment of another appointed member, so however that; such appointment shall be made in the same manner and from the same category of persons as would be required in the case of the original appointment.

24. Resignation

An appointed member of the Board, other than the Chairperson, may at any time, resign his office by instrument in writing, addressed to the Cabinet and from the date of receipt by the Cabinet of such instrument, the person shall cease to be a member of the Board.

25. Disqualification from membership of the Board

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

- (a) is suffering from a mental disorder;
- (b) becomes permanently unable to perform his functions by reason of ill-health;
- (c) is an undischarged bankrupt; or
- (d) has at any time been convicted of an offence under the Misuse of Drugs Act, Cap. 283, the Proceeds of Crime Act and the Money Laundering (Prevention) Act or any offence involving fraud, dishonesty or moral turpitude.

26. Termination of appointment of member

Cabinet may, at any time, terminate the appointment of a member if that member —

- (a) is disqualified from membership pursuant to section 25;

- (b) has engaged in or is engaging in conduct which, in the opinion of the Cabinet, disqualifies the member from holding office on the Board;
- (c) has engaged in or is engaging in activities that are reasonably considered to be prejudicial to the interest of the Authority; and
- (d) fails to carry out the functions of his office as specified by or under this Act.

27. Proceedings and meetings of the Board

(1) The Board shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such times and on such days as the Board shall determine.

(2) Notwithstanding subsection (1), the Chairperson shall call a meeting if requested, in writing, to do so by at least five members.

(3) The Chairperson, or in the case of the inability of the Chairperson to act, the Deputy Chairperson, shall preside at all meetings of the Board, and when so presiding the Chairperson, or the Deputy Chairperson shall have a casting vote in any case where the voting is equal.

(4) In the case of the Chairperson or Deputy Chairperson being absent from or unable to act at any meeting, members of the Board present at the meeting shall elect one of their members to act as Chairperson at that meeting.

(5) A quorum of the Board shall be five members.

(6) The validity of the proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of any member of the Board.

(7) Subject to the provisions of this Act, the Board may regulate its own proceedings.

(8) Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed as soon as practicable at a subsequent meeting of the Board.

(9) All documents and decisions of the Board may be signified under the hand of the Chairperson, the Deputy Chairperson or other member authorized by the Board.

28. Seal of the Authority.

(1) The seal of the Authority shall be authenticated by the signature of the Chairperson, or any other member of the Board authorized to act in that behalf and shall be judicially and officially noted.

(2) All documents, other than those required by law to be under seal, and all decisions of the Board may be signified under the hand of the Chairperson, or any other member of the Board or the Chairperson authorized to act in that behalf.

29. Remuneration

There shall be paid to the Chairperson, the Deputy Chairperson and other members of the Board and Division, such remuneration as the Cabinet may determine.

30. Committees of the Board

(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 subsection (1) may include persons who are not members of the Board or employees of the Authority, so however that; the appointment of any such persons shall be subject to the approval of the Cabinet.

31. Disclosure of interest

(1) A member of the Board who is in any way directly or indirectly interested in any contract or other matter whatsoever which falls to be considered by the Board, or in any contract made or proposed to be made by the Board, shall forthwith disclose the nature of his interest to the other members of the Board upon a conflict of interest arising, and the disclosure shall be recorded in the minutes of the next meeting of the Board, 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 Board under subsection (1), to the effect that he is a director or shareholder of, or has a significant economic relationship with, a specific company, firm or other entity or is to be regarded as interested in any 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 Board need not attend in person at a meeting of the Board in order to make a disclosure that he is required to make under this section, if the members 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.

32. Reports to Minister

(1) The Board 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 Board's opinion, require the special attention of the Cabinet.

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

(3) The Board shall submit an annual estimate of the amount of medicinal cannabis to be used within Antigua and Barbuda to the Minister.

33. Appointment of Chairperson

(1) Subject to the provisions of this section, there shall be a Chairperson of the Authority who shall be appointed by the Board, subject to the approval of the Cabinet.

(2) Subject to subsection (4), the Chairperson 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 sections 25 and 26 of this Act, shall not be eligible to be appointed as the Chairperson.

(4) A person shall not be appointed as Chairperson 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 the section 21, the Chairperson shall hold office for a period of three years and shall be eligible for re-appointment.

(6) The Board, may, subject to the approval of the Cabinet, terminate the appointment of the Chairperson for the inability of the Chairperson to discharge the functions of his office, whether arising from infirmity of the body or mind, dereliction of duty, misbehaviour, or where he becomes an undischarged bankrupt, or is convicted of an offence under the Misuse of Drugs Act, Cap. 283, the Proceeds of Crime Act and the Money Laundering (Prevention) Act or any offence involving dishonesty or moral turpitude or for any other cause.

34. Functions of the Chairperson and delegation of such functions

(1) The Chairperson 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 made pursuant to this Act;
- (c) assigning personnel as may be necessary to ensure that applications for licences and other authorizations are submitted to the Authority for approval within the prescribed period after the making thereof;

- (d) ensuring the timely implementation of the decisions and directions of the Board;
- (e) submitting quarterly reports to the Minister in relation to the activities of the Authority, in such manner as may be approved by Cabinet;
- (f) preparing the budget of the Authority and submitting the same to the Minister for approval by Cabinet;
- (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 Chairperson by the Minister or under this Act or any other enactment.

(2) The Chairperson shall attend the meetings of the Board, and shall have a vote at any meeting of the Board.

(3) The Chairperson may, in writing, subject to the approval of the Minister, delegate any of his functions, (save and 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 subsection (3) shall not prevent the exercise of the powers or the performance of the duties by the Chairperson.

35. Establishment and duties of Inspectorate Division

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

(2) The Authority, the Chairperson, the Deputy Chairperson, and Division Inspectors shall have all the powers of any peace officer to—

- (a) investigate violations or suspected violations of this Act and any rules promulgated pursuant to it.
- (b) serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Medicinal Cannabis and Medicinal Cannabis-Infused Product;
- (c) assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request;

- (d) inspect, examine, or investigate any Licensed Premises where Medicinal cannabis, medicinal cannabis derivative or medicinal cannabis-infused product are or are to be grown, stored, cultivated, manufactured, processed, tested, distributed, or sold, and any books and records in any way connected with any licensed activity;
- (e) require any Licensee, upon demand, to permit an inspection of Licensed Premises during business hours or at any time of apparent operation, cannabis equipment, and cannabis accessories, or books and records; and, to permit the official testing of or examination of Medicinal cannabis, medicinal cannabis derivative or medicinal cannabis-infused product;
- (f) require Applicants to submit complete and current applications and fees and other information the Division deems necessary to make licensing decisions and approve material changes made by the Applicant or Licensee;
- (g) conduct investigations into the character, criminal history, and all other relevant factors related to suitability of all licensees and applicants for medicinal cannabis licenses and such other persons with a direct or indirect interest in an applicant or licensee, as the Authority may require;
- (h) require any person by or on whose behalf data equipment is or has been used or any person having charge of, or otherwise concerned with the operation of the data equipment of any associated apparatus or material, to afford 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;
- (i) summon, at any reasonable time, any other person employed in connection with such trade, business or activity to give to the inspector, any information which the inspector may reasonably require in relation to such trade, business or activity and to produce to the inspector any documents which are in the control of that other person;
- (j) have photographs taken of anything on, at or in the premises, place or vehicle and remove the photographs from the place; and
- (k) inspect any vehicle relating to such trade, business or activity.

(3) An inspector shall not, other than with the consent of the occupier, enter a private dwelling unless he has obtained a warrant from the Magistrate under section 36.

(4) Where an inspector, in the exercise of his powers under this section, is prevented from entering any premises, place or vehicle, an application may be made for a warrant under section 36 authorizing such entry.

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

36. Issue of warrant by Magistrate

(1) Without prejudice to the powers conferred on an inspector by or under any provision of this section, if a Magistrate is satisfied, on the sworn statement of an inspector, that there are reasonable grounds for suspecting that there is information required by him under this section held on the premises or any part thereof, or any place or in any vehicle, the Magistrate may issue a warrant authorizing an inspector, who for this purpose shall be a police officer above the rank of sergeant, at any time within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter the premises, place or vehicle, if need be, by reasonable force, and exercise all or any of the powers conferred on an inspector under section 35.

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

(3) A person who –

- (a) obstructs or impedes an inspector in the exercise of a power under this section;
- (b) without reasonable excuse, refuses to comply with a request under this section;
- or
- (c) in purported compliance with such a request, knowingly or recklessly gives information that is false or misleading in a material respect,

commits an offence and is liable, on conviction before a Magistrate's Court to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding six months.

37. Appointment and employment of employees of the Authority

(1) For the proper carrying out of the functions of the Authority, the Board may appoint and employ, to any office of the Authority, such employees, at such remuneration and on such terms and conditions as the Board considers necessary, with the approval of Cabinet.

(2) The Board shall consult with the Minister in establishing the qualifications for the various offices established within the Authority and shall advise the Cabinet on all appointments to fill said offices.

38. Obligation of secrecy

(1) Every person having an official duty or being employed in the administration of this Act, shall regard and deal with as secret and confidential, all information, 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 subsection (1) shall regard and deal with the information as secret and confidential.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction in a Magistrate's Court to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding six months.

(4) Notwithstanding subsections (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 authorized; or
- (c) where disclosure is permitted under any other enactment.

39. Protection from liability

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.

40. Funds and resources of the Authority

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

- (a) such sums as may be allocated at the disposal of the Authority by Parliament; 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 responsible for finance in writing.

(3) The Authority may, with the approval of the Minister responsible for finance, direct that a percentage of sums received from licences and other authorization fees be applied for the following purposes –

- (a) the strengthening of public health and education facilities;
- (b) the strengthening of public health and education programmes related to drug abuse prevention and treatment;
- (c) the training of licensees, medicinal and alternative health practitioners, pharmacists, and other professionals, in the authorized manufacture, processing, supply and use of medicinal cannabis;
- (d) the funding of scientific and medicinal research relating to medicinal cannabis; and
- (e) any other purposes, as may be determined by the Authority, after consultation with the Minister.

41. Accounts and audit of the Authority

(1) The Authority shall keep proper accounts and records in relation to its functions and shall prepare annually a statement of accounts in a form satisfactory to the Minister and conforming to internationally accepted accounting principles.

(2) The accounts of the Authority shall be audited annually by the Director of Audit or by an auditor appointed by the Authority with the approval of the Director of Audit.

(3) Pursuant to sections 34, 35 and 37 of the Audit Act CAP 168, the Director of Audit shall be entitled at all times to examine the accounts of the Authority.

42. Annual reports and returns

(1) The Authority shall, within six months after the end of each financial year or within such longer period, as the Minister may on special circumstances approve, cause to be made and transmitted to the Minister, a report dealing generally with the activities of the Authority during the preceding financial year.

(2) The Minister shall cause a copy of the report, together with the annual statement of accounts and the auditor's report thereon, to be laid in the House of Assembly.

(3) The Authority shall furnish the Minister with such returns, accounts and other information as he may require with respect to activities of the Authority, and shall afford him facilities for verifying such information in such manner and at such times as the Minister may reasonably require.

43. Estimates and operating plan

The Authority shall in each financial year, before a date specified by the Minister, submit to the Minister for his approval, the following –

- (a) estimates of the amount of cannabis utilised within the regulated system for a financial year and for an estimate for the following financial year;
- (b) estimates of the income and expenditure for the ensuing financial year; and
- (c) an operating plan for that year as to the projects to be promoted or sponsored, or both, by the Authority, the operational framework within which the Authority shall carry out its functions, and such other matters as the Minister may require.

44. Schedule of Taxes on Medicinal Cannabis Business Operations

Antigua and Barbuda Sales Tax of 15% is levied on a taxable supply of medicinal cannabis, medicinal derivatives and medicinal cannabis products and an export tax duty of 25% is levied on the export of medicinal cannabis, medicinal derivatives and medicinal cannabis products.

PART II

ACCESS TO MEDICINAL CANNABIS

45. Authorized Health Care Professionals

(1) Medical and alternative health care professionals shall complete a minimum required set of continuing medicinal education courses on medicinal cannabis with topics that shall be mandated by the Authority, to be authorized to recommend medicinal cannabis.

(2) Authorized Health Care Professionals shall be registered by the Authority and approved by the Minister.

46. Duties of health care professional recommending medicinal cannabis

(1) An authorized health care professional who prescribes medicinal cannabis to a patient in accordance with this Act, shall immediately and without delay notify the Authority, in writing, where—

- (a) the patient no longer suffers from the qualifying medicinal condition for which a medicinal certification was approved by the Authority;
- (b) medicinal cannabis is no longer proving to be therapeutic or palliative in the treatment of the patient for qualifying medicinal condition;
- (c) the patient is no longer under the care of the Authorized Healthcare Professional; or
- (d) the patient has died.

(2) An authorized health care professional who fails to comply with subsection (1) commits an offence and is liable on conviction in a Magistrate's Court to a fine not exceeding fifty thousand dollars or imprisonment for a term not exceeding six months.

47. Authorized Medicinal Cannabis recommendations

The Authority shall issue numbered and authorized counterfoil medicinal cannabis recommendations as approved by the Minister, to an authorized health care professional

for the Authorized Healthcare Professional to issue to his qualifying patient to obtain, store and use medicinal cannabis.

48. Medicinal Cannabis Patient Identification Card

- (1) Authorized Patients in possession of an authorized medicinal cannabis recommendation from an authorized health care professional may apply for a Medicinal Cannabis Patient Identification Card that may be issued by the authorized health care professional and ultimately by the Authority.
- (2) Medicinal Cannabis Patient Identification cards will be valid for a period of one year.
- (3) Subject to the provisions of this Part of the Act, a patient is hereby authorized under this Act, to obtain, possess, store and use medicinal cannabis, if the patient is issued a medicinal cannabis recommendation by an authorized Authorized Healthcare Professional and is issued a medicinal Cannabis patient identification card.
- (4) 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.
- (5) An identification card shall be renewed in the same manner in which it was issued.
- (6) A person shall have his Medicinal cannabis patient identification card on his person at all times whilst he is engaging in any activity involving medicinal cannabis
- (7) A person visiting Antigua and Barbuda holding a valid medicinal cannabis recommendation from another jurisdiction may utilize services at an authorized medicinal cannabis dispensary and shall—
 - (a) be registered on the Antigua and Barbuda Cannabis Tracking System; and
 - (b) not transport or attempt to transport any medicinal cannabis outside the State of Antigua and Barbuda.

49. Keeping of records – The Antigua and Barbuda Cannabis Tracking system

- (1) The Authority may mandate—

- (a) the use of a universal tracking and monitoring system to be utilised by all approved medicinal cannabis business operations and licensees;
 - (b) the utilization of a fully integrated computerised operating system to be monitored by the Authority and utilizes RFID tracking systems for all medicinal cannabis within the regulated framework which utilizes electrical backup and offsite monitoring;
 - (c) that all information regarding cannabis for religious use, inclusive of all authorized operations, places of worship, authorized transport, authorized sacramental dispensary and adherents shall be entered into the Antigua and Barbuda Cannabis Tracking System;
 - (d) all information regarding the medicinal cannabis system inclusive of patient and caregiver registry, medicinal cannabis business licenses, all persons employed in medicinal cannabis businesses, and all medicinal cannabis transactions will be input and stored in the Antigua and Barbuda Cannabis Tracking System;
 - (e) all medicinal cannabis business operations will be monitored and tracked by the Authority via the Antigua and Barbuda Cannabis Tracking system;
- (2) A person who does not in comply with the rules regarding the Antigua and Barbuda Cannabis Tracking System commits an offence and is liable on summary conviction in a Magistrate’s Court to a fine not exceeding seventy-five thousand dollars or to imprisonment for a term not exceeding two years.

50. Maintenance of confidential register

- (1) The Authority shall maintain a confidential register of all persons who are registered and issued identification cards in accordance with this Act.
- (2) The Authority may share the information contained in the register with such persons as may be prescribed and such information shall remain confidential and shall not be subject to disclosure to any person, save and except to employees who have been authorized by the Authority to access the information as necessary to perform the official duties of the Authority or such other persons as may be prescribed.
- (3) Notwithstanding subsection (2), a patient’s name and other identifying information contained in the confidential register shall be kept in the strictest of confidence and shall

not be subject to disclosure save and except in accordance with the circumstances specified thereunder.

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

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

51. Caregivers

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

(2) An authorized patient who is a minor shall have a caregiver, who shall be either a parent or legal guardian of the minor.

(3) Subject to any Regulations made under this Act, a person shall not be a caregiver for more than two patients.

(4) A caregiver shall not be –

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

(i) the Misuse of Drugs Act, Cap. 283;

(ii) the Proceeds of Crime Act;

(iii) the Money Laundering (Prevention) Act; or

(iv) any other relevant enactment prescribed by the Minister, by order; or

(a) a person who has a history of substance abuse;

(b) A person under the age of twenty one; or

(c) A medicinal cannabis business.

(5) Pursuant to subsection (1) and (2), where a patient designates a caregiver or is a minor, the Authorized Healthcare Professional shall issue a special caregiver authorisation

and enter the caregiver's information into the Antigua and Barbuda Cannabis Tracking system.

(6) In addition to the particulars outlined in this section, the caregiver shall be required to give proof of consent to undertake the immediate care and safety of the patient and will be thereby authorized to assist the patient in obtaining and administering medicinal cannabis and will be authorized to obtain, possess and store medicinal cannabis on behalf of the authorized patient.

52. Change in the name or address of authorized patient or caregiver

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

(2) A authorized patient or caregiver who contravenes the provisions of subsection commits an offence and is liable, on conviction in a Magistrate's Court, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one month.

53. Loss etc. of medicinal cannabis patient identification card

(1) Where a medicinal cannabis patient 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 substitute identification card.

(3) A person who contravenes the provisions of subsection (1), commits an offence and is liable on conviction in a Magistrate's Court to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one month.

54. Changing of caregiver

(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.

DIVISION 2- MEDICINAL CANNABIS

PART III

LICENSING A MEDICINAL CANNABIS BUSINESS

55. Establishment of scheme

(1) The Regulations made under this Act shall provide for the establishment of a scheme which authorises, regulates and licenses the following Medicinal Cannabis Business Operations to enable medicinal cannabis to be produced, tested, processed and obtained for use in accordance with this Act –

- (a) Medicinal Cannabis Cultivation Operations means engaging in the cultivation of cannabis for medicinal purposes;
- (b) Medicinal Cannabis Dispensary Operations means engaging in the storing and providing of medicinal cannabis to authorized patients and caregivers
- (c) Medicinal Cannabis Special Dispensing License means engaging in the dispensing of medicinal cannabis to authorized patients and caregivers
- (d) Medicinal Cannabis Lounge License means engaging in the operation of a medicinal lounge for approved patient use of medicinal cannabis.
- (e) Medicinal Cannabis Transport Operations means engaging in the transporting of medicinal cannabis;
- (f) Medicinal Cannabis Processors Operations means engaging in the processing and extraction of Medicinal Cannabis;
- (g) Medicinal Cannabis Infused Products Manufacturer Operations means engaging in the manufacturing of medicinal cannabis products;
- (h) Medicinal Cannabis Testing Facility Operations means engaging in the

quantitative and qualitative analysis and testing of Medicinal Cannabis

- (i) Medicinal Cannabis Research and Development Operations means engaging in the research and development of medicinal cannabis;
- (j) Medicinal Cannabis Export and Import Operations means engaging in the importing and exporting of medicinal cannabis;

(2) Regulations made under this Act shall make rules guiding the—

- (a) issuing of licences for the activities specified under paragraphs (a) to (j);
- (b) imposition and variation of conditions of licences; and
- (c) suspension or revocation of licences.

56. Prohibition against cultivation, processing, testing, dispensing, infused product manufacture, transport, export and import of medicinal cannabis without a licence and standards requirements

(1) A person shall not engage in the cultivation, processing, testing, dispensing, infused product manufacture, transport, export and import or use medicinal cannabis for any other purpose unless the person is the holder of the relevant licence specified under section 57, issued in accordance with Regulations made under this Act.

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

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

57. Types of licences

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

- (a) a **Medicinal Cannabis Cultivation Licence**, which shall be issued to allow for the growing, harvesting, drying, trimming, curing or packaging of medicinal cannabis;
- (b) a **Medicinal Cannabis Dispensary Licence**, which shall be issued to allow for the dispensing of medicinal cannabis to patients;
- (c) a **Medicinal Cannabis Special Dispensing License**, which shall be issued to a person that is certified by the authority to dispense Medicinal Cannabis at an authorized Medicinal Cannabis Dispensary;
- (d) a **Medicinal Cannabis Lounge License**, which shall be used to establish an authorized place for patients to medicate;
- (e) a **Medicinal Cannabis Testing Facility License**, which shall be issued to allow for the qualitative and quantitative analysis and testing of Medicinal Cannabis to ensure that Medicinal Cannabis entering the market is safe;
- (f) a **Medicinal Cannabis Processing and Extraction License**, which shall be issued to allow for the processing and extraction of raw medicinal cannabis material into concentrated or isolated products;
- (g) a **Medicinal Cannabis Infused Products Manufacturer License**, which shall be issued to allow for activities relating to the processing and manufacturing of medicinal cannabis products, including but not limited to, edibles and other derivative products, but does not include the extraction of Medicinal Cannabis;
- (h) a **Medicinal Cannabis Transport Licence**, which shall be issued to allow for the transport of medicinal cannabis; and
- (i) a **Medicinal Cannabis Research Licence**, which shall be issued to allow for the conduct of scientific research relating to the development of medicinal cannabis;
- (j) a **Medicinal Cannabis Import or Export License**, which shall be issued per transaction, to allow for the importation or exportation of medicinal cannabis and which will follow the International Narcotics Control Board regulations regarding controlled substances export and import procedures, with the addition of phytosanitary certification and other agriculture documents for medicinal cannabis plant material.

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

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

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

58. Medicinal Cannabis Businesses – Staff Licenses and Training

(1) Persons employed in a medicinal cannabis business operation are required to have a manager or staff license, which will identify an employee according to their job position and which will be entered into the Antigua Cannabis Tracking system and any staff within a dispensary with the responsibility of dispensing medicinal cannabis to authorized patients, shall undergo certification content created and issued by the Authority, and will be issued a special dispensing license.

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

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

59. Protection from criminal liability

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

PART IV **OFFENCES**

60. Prohibitions

(1) A person shall not –

(a) undertake any task, whilst under the influence of medicinal cannabis, if doing so would constitute negligence, professional malpractice, or professional misconduct;

(b) have in his possession, medicinal cannabis –

(i) on a school bus;

(ii) on the premises of any pre-school, primary or secondary school or at a tertiary institution;

(iii) in a public passenger motor vehicle, except in such manner as may be prescribed;

(iv) in a private residence that is used at anytime to provide licensed child care or other similar social service care at the residence;

(c) engage in the use of medicinal cannabis –

(i) on a school bus;

(ii) on the premises of any preschool, primary or secondary school or at a tertiary institution;

(iii) in any motor vehicle;

(iv) in a private residence that is used at any time to provide licensed child care or other similar social service care at the residence; or

(v) in any public place;

(d) use medicinal cannabis for recreational purposes;

(e) operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or boat whilst under the influence of medicinal cannabis;

(f) use or have in his possession, medicinal cannabis, if that person has not been diagnosed with a qualifying medicinal condition and is not authorized to use medicinal cannabis under this Act;

(g) allow any person who is not authorized to use medicinal cannabis under this Act to use medicinal cannabis;

(h) knowingly make a misrepresentation to an inspector of any fact or circumstances relating to the use of medicinal cannabis; or

(i) makes a misrepresentation in relation to a qualifying medicinal condition to an authorized Authorized Healthcare Professional or fraudulently provides

material misinformation to the authorized Authorized Healthcare Professional in order to obtain a medicinal certification.

(2) A patient or caregiver shall not knowingly obtain, seek to obtain, or have in their possession, individually or collectively, an amount of medicinal cannabis from an authorized pharmacy or dispensary that would cause either the authorized patient or the caregiver to exceed the prescribed amount that they are authorized to have in their possession as provided for in a recommendation issued by a authorized Authorized Healthcare Professional.

(3) A patient or a caregiver shall not knowingly permit the unlawful use of a medicinal cannabis identification card by any person.

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

(5) A patient or caregiver who sells medicinal cannabis that is obtained under a prescription in this Act shall, in addition to the penalty prescribed under subsection (4), have his medicinal cannabis identification card revoked.

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

61. Prohibitions relating to an Authorized Authorized Healthcare Professional

(1) An Authorized Healthcare Professional shall not—

- (a) hold a direct or indirect economic interest in any operation or facility which supplies medicinal cannabis, if he is engaged in prescribing medicinal cannabis or is in a partnership with a Authorized Healthcare Professional who prescribes medicinal cannabis;
- (b) serve on the board of directors of a facility which supplies medicinal cannabis;

(c) issue a medicinal cannabis recommendation for his benefit or for the benefit of any member of his family.

(2) An Authorized Healthcare Professional who contravenes any of the provisions of subsection (1) commits an offence and is liable on conviction in a Magistrate's Court to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years.

PART V

APPEALS

62. Establishment of Appeals Tribunal

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

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

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

63. Appeals to the Appeals Tribunal

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

(2) The notice of appeal shall set out clearly the grounds of the appeal and shall be accompanied by copies of any correspondence, document or statement relevant to the appeal.

(3) A copy of the notice of appeal, together with copies of any correspondence, document or statement shall be served on the Authority.

(4) The Appeals Tribunal shall, within seven days of the receipt of a notice of appeal under subsection (1), request the Authority to furnish it with a statement in writing setting out the reasons for its decision.

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

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

- (a) of the date of the hearing of the appeal;
- (b) that they may appear themselves or be represented by their attorney-at-law;
and
- (c) that they may summon witnesses in their case.

(7) On hearing an appeal under this section, the Appeals Tribunal may –

- (a) dismiss the appeal and confirm the decision of the Authority;
- (b) allow the appeal and set aside the decision of the Authority;
- (c) vary the decision of the Authority; or
- (d) direct that the matter be referred to the Authority.

PART VI

GENERAL PROVISIONS

64. Regulations

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

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

- (a) prescribing quality standards for the supply of medicinal cannabis and the systems for certification to meet the prescribed standards,
- (b) prescribing fees;
- (c) without limiting paragraph (b), prescribing fees or levies to recover any compliance or administrative costs;
- (d) prescribing forms;
- (e) prescribing particulars or information to be included in any application for the issue of a licence or other authorisation or renewal thereof;
- (f) regulating, restricting or prohibiting premises, vehicles or equipment used or intended to be used for or in connection with the supply of medicinal cannabis;
- (g) regulating or prohibiting the transport of medicinal cannabis, including in relation to specific geographical areas or regions in Antigua and Barbuda;
- (h) matters to be considered by the Authority in relation to the suitability of premises for the supply of medicinal cannabis;
- (i) standards or requirements as to security of access to premises which supply medicinal cannabis;
- (j) requirements of signage at premises licensed in the prescribed manner and information to be displayed at those premises, or on equipment or vehicles used for or in connection with the supply of medicinal cannabis;
- (k) the manner in which inspections, searches, detentions and seizures under this Act are to be carried out;
- (l) documents to be kept in relation to medicinal cannabis;
- (m) the sale, supply and safe custody, storage and security of medicinal cannabis; and
- (n) the procedure for dispensing medicinal cannabis to visiting qualifying patients;
- (o) the zoning of designated areas to be used for or in connection with the cultivation and dispensing of medicinal cannabis;
- (p) generally, any other matter or thing that is authorized or required to be prescribed or necessary to be prescribed to carry out this Act.

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

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

(3) Regulations made under this Act may –

(a) be for controlling or restricting, the importation, exportation, transit, manufacturing, production, processing, extraction, sale and distribution of medicinal cannabis, medicinal cannabis derivatives and medicinal cannabis infused-products.

- (b) be of general or limited application;
- (c) differ according to differences in place or circumstances;
- (d) apply to different classes of person, licences, authorizations or product;
- (e) confer powers or discretions or impose duties on the Authority, an inspector or any other specified person;
- (f) exempt specified persons or things or classes of person or classes of thing from complying with all or any of the regulations –
 - (i) whether unconditionally or on specified conditions; and
 - (ii) either wholly or to such an extent as is specified

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

65. Amendment of Regulations

The Minister may, from time to time, amend, revoke or vary the provisions of Regulations made under this Act with the approval of Cabinet.

Passed by the House of Representatives on the _____, 2018. Passed by the Senate on the _____, 2018.

Speaker.

President.

Clerk to the House of Representatives.

Clerk to the Senate.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the laws regarding Cannabis and its derivatives within Antigua and Barbuda. The intention of this Bill is to uphold the rights of persons within Antigua and Barbuda to be treated with the alternative medicinal treatment option, Medicinal Cannabis, in cases where it has been found to be effective in the prevention, treatment and management of a qualifying medicinal condition as deemed by a properly qualified Authorized Healthcare Professional, approved and certified alternative medicine practitioners as specified under the Bill, Doctors of Veterinary Medicine and may be dispensed by qualified Pharmacists and approved, licensed dispensary staff all certified under provisions of this Bill. The Bill also seeks to uphold the constitutional religious rights and freedoms of persons within Antigua and Barbuda.

The Bill keeps six considerations as priority:

1. Ensuring that this Country keeps within the protocol of the International Drug Conventions
2. The Medicinal Benefits to the Population,
3. The Economic benefits to the population,
4. The Social Justice benefits to the population,
5. Ensuring the constitutional right of the population to freely practice one's religion is upheld, and
6. Immediately drastically reducing with the intent to totally eliminate the black market supply of cannabis through satisfying the population demand via a controlled, regulated medicinal market.

From the **International Perspective**, the Bill seeks to keep this country in line with current International Drug Conventions by recognising that the use, trade, cultivation, manufacture, processing, transport, import and export of cannabis for medicinal and scientific purposes is provided for by all three existing *International Drug Conventions* to which Antigua and Barbuda is a party.

The *Single Convention on Narcotic Drugs of 1961 amended by the 1972 protocol*, states for the following within its preamble-

“Recognising that the medicinal use of narcotic drugs continues to be indispensable for the relief of pain and suffering and that adequate provisions must be made to ensure the

availability of narcotic drugs for such purposes”. And “ Desiring to conclude a generally acceptable international convention replacing existing treaties on narcotic drugs, limiting such drugs to medicinal and scientific use, and providing for continuous international cooperation and control for the achievement of such aims and objectives,”

It also states in Article 4 that; “subject to the provisions of this Convention, to limit exclusively to medicinal and scientific purpose the production, manufacture, export, import, distribution trade in, use and possession of drugs.”

Attention was also paid to Articles 23, 28 which specifically governs cannabis, and 29 through 39 which guides the principles for Government authorized license programs for cannabis, possession, sale, cultivation, transport, import and export of a narcotic and the strict monitoring of such.

The Convention on Psychotropic Substances of 1971, within its preamble, states that, “Recognizing that the use of psychotropic substances for medicinal and scientific purposes is indispensable and that their availability for such purposes should not be unduly restricted,”

Article 5 section 2 states that, “Each Party shall, except as provided in article 4, limit by such measures as it considers appropriate the manufacture, export, import, distribution and stocks of, trade in, and use and possession of, substances in Schedules II, III and IV to medicinal and scientific purposes.”

Attention was paid to Article 5, which governs the use and trade only for medicinal and scientific purposes, and articles 6 through 16 which governs the specific rules relating to regulation that must be adopted within a regulated framework regarding licenses, prescriptions packaging, advertising, records and monitoring, international trade, export and import, transport, and inspections of the regulated medicinal cannabis market as well as reports to the International Commission.

The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, states in its preamble, “Aware that illicit traffic generates large financial profits and wealth enabling transnational criminal organizations to penetrate, contaminate and corrupt the structures of government, legitimate commercial and financial business, and society at all its levels,”

“Determined to deprive persons engaged in illicit traffic of the proceeds of their criminal activities and thereby eliminate their main incentive for so doing,”

“Desiring to eliminate the root causes of the problem of abuse of narcotic drugs and psychotropic substances, including the illicit demand for such drugs and substances and the enormous profits derived from illicit traffic,”

“Reaffirming the guiding principles of existing treaties in the field of narcotic drugs and psychotropic substances and the system of control which they embody,”

“Desiring to conclude a comprehensive, effective and operative international convention that is directed specifically against illicit traffic and that considers the various aspects of the problem as a whole, in particular those aspects not envisaged in the existing treaties in the field of narcotic drugs and psychotropic substances,”

Article 14 section 4 states, “The Parties shall adopt appropriate measures aimed at eliminating or reducing illicit demand for narcotic drugs and psychotropic substances, with a view to reducing human suffering and eliminating financial incentives for illicit traffic. These measures may be based, inter alia, on the recommendations of the United Nations, specialized agencies of the United Nations such as the World Health Organization, and other competent international organizations, and on the Comprehensive Multidisciplinary Outline adopted by the International Conference on Drug Abuse and Illicit Trafficking, held in 1987, as it pertains to governmental and non-governmental agencies and private efforts in the fields of prevention, treatment and rehabilitation. The Parties may enter into bilateral or multilateral agreements or arrangements aimed at eliminating or reducing illicit demand for narcotic drugs and psychotropic substances.”

Attention was paid to Article 12 sections 8 through 14 which governs the authorized licenses for manufacture, cultivation, processing, distribution, import and export, transport, reports and monitoring of a regulated medicinal cannabis system and Article 15 which governs commercial documents and labelling of exports and article 18 governing free trade zones and ports.

Prioritising all the above mentioned considerations, Antigua and Barbuda proposes this draft Medicinal Cannabis Bill will keep in line with all International Drug Treaties and Conventions to which we are a party.

From the Medicinal perspective

Recognizing that Cannabis, within its varied species and sub species, and its derivatives, in its various forms and preparations, now has been proven to have medicinal benefits towards a wide range of ailments, a lot of which afflict persons within Antigua and Barbuda, and recognising that persons should have the free choice and availability of different treatment options, and recognising that it is not enough to allow medicinal possession and cultivation on a personal level where there is little control of the drug without any formal medicinal guidelines, Antigua and Barbuda seeks to provide the population that is afflicted by various illness to which medicinal cannabis can be beneficial toward their ailment, with regulated access to this treatment option.

Persons wishing to access this treat option may apply through an approved physician for an authorized recommendation and medicinal cannabis patient identification card and use this to acquire medicinal cannabis and its derivatives from a properly licensed and regulated medicinal cannabis dispensary. All medicinal cannabis and its derivatives will be obtained from properly licensed, regulated medicinal cannabis cultivators and processors and must pass all required testing from a properly licensed and regulated testing facility before entering the licensed dispensary, thereby ensuring patient access to clean medicine that has been through rigorous quality control protocols.

From an Economic standpoint

Recognising that a number of countries amended their legislation toward the medicinal allowances for cannabis, and recognising that the business of medicinal cannabis has now evolved into an burgeoning industry of its own internationally, with an almost worldwide demand for the medicinal isolate or compound extractions of the various cannabinoid and terpene molecules of cannabis, Antigua and Barbuda has decided to engage with international, properly licensed, reputable medicinal cannabis companies that have a demand for medicinal extractions of cannabis and have expressed interest in doing the manufacturing, production and preparations aspect of their business here in Antigua and Barbuda. From these strategic partnerships the Country will benefit not only with sizeable revenues from taxes and duties imposed on this heavily regulated medicinal cannabis market, but will also share a stake ownership in these companies therefore earning more revenues through dividends. The Country will also benefit by the high demand for local trained employees by this fast upcoming industry.

From a Social Justice perspective

Recognising that Cannabis possession represents a high number of cases within the magistrate courts of our judiciary system, and that a lot of young citizens are especially affected due to this non-violent criminal offence preventing them access to tertiary education, we see the need to treat with cannabis possession as a public health issue as opposed to a criminal issue, thereby easing both the caseload on the courts and the country's expenditure in treating with these issues as criminal, as well as also freeing the time of the police service that can be concentrated on more serious crimes.

From the Constitutional perspective

Within section 10 of the Constitution titled 'Protection of Freedom of Conscience', all citizens must be afforded the right to practice their religion freely. In upholding the measures of the constitution, Antigua and Barbuda will uphold the religious rights and of persons of the Hindu faith and persons of the Rastafari faith. These persons may apply for a special religious license that would allow them to cultivate the plant within their private dwelling, use the plant for religious purposes within their private dwelling or within their approved place of worship, and to transport the plant between their private dwelling and approved place of worship. The special religious license will not permit any commercial or financial transaction involving any part of cannabis.

Addressing the Black Market

In an effort to reduce or altogether eliminate the black market for cannabis within Antigua and Barbuda we understand that a large black market exists within Antigua and Barbuda for cannabis, despite the best efforts in the past to suppress it, and understanding that the proceeds from this unregulated system go toward financing more detrimental crimes, we realise that a different approach needed to be taken. Simply, Black market supply exists only because of public demand for a drug. In this case, where the drug, cannabis, has been proven to have medicinal benefits without harmful side effects, a properly regulated Medicinal Cannabis market system locally with complete monitoring of every aspect through seed to sale tracking systems, will prevent any product diversion

to or inversion by the black market and will heavily reduce the demand from and supply by, the black market.

This Bill must not be deemed in any manner to advocate, authorize, promote or legally or socially accept the use of cannabis for non-medicinal or non-scientific use or for unauthorized religious use. In cognizance of this, the Bill provides for strict regulatory framework so as to ensure the effective and efficient implementation of the provisions of the Bill.

Hon. Steadroy C.O. Benjamin
Attorney General and
Minister for Justice and Legal,
Affairs Public Safety and Labour.