

**REPUBLIC OF VANUATU**

**BILL FOR THE**

**INDUSTRIAL HEMP AND MEDICAL CANNABIS**

**ACT NO. OF 2021**

**Explanatory Note**

This Bill provides for the control on the importation and cultivation of Hemp and Cannabis seeds, and the manufacture and exportation of Industrial Hemp and Medical Cannabis.

Cannabis is classified as a “cannabinoid drug”. Industrial Hemp and Medical Cannabis are of the same genus *Cannabis Sativa*. Cannabis is the only plant genus that contains the unique cells of molecular compounds called cannabinoids. Two in particular are of significant importance:

- i) THC(Tetrahydrocannabinol) – This is the psychoactive ingredient of Cannabis (the chemical when inhaled causes hallucinations (feeling doped or high)), particularly on humans;
- ii) CBD(Cannabidiol) – This is the anti-psychoactive ingredient of Cannabis.

Medical cannabis is one type of cannabis that is high in the psychoactive cannabinoid THC and low in the anti-psychoactive cannabinoid CBD.

Industrial Hemp is the other type of cannabis high in CBD and low in THC.

Currently, the cultivation of Cannabis is prohibited under the Dangerous Drugs Act [CAP 12]. The Dangerous Drugs Act will be amended to allow the cultivation of Cannabis for the purposes of producing Industrial Hemp and Medical Cannabis.

The cultivation and manufacturing for local consumptions of Cannabis is still prohibited under the Dangerous Drugs Act and this Act.

The purpose of this Bill is:

- (a) to distinguish between the types of Cannabis being –Hemp/Industrial Hemp (non-psychoactive) and Cannabis/Medicinal Cannabis (psychoactive); and
- (b) to allow for the importation and cultivation of Cannabis and Hemp seeds; and
- (c) to allow for the manufacturing and exportation of Industrial Hemp and Medical Cannabis; and
- (d) to generate revenue and create local employment opportunities.

**Minister of Agriculture, Livestock, Forestry, Fisheries and Biosecurity**



## REPUBLIC OF VANUATU

# BILL FOR THE INDUSTRIAL HEMP AND MEDICAL CANNABIS ACT NO. OF 2021

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# REPUBLIC OF VANUATU

## BILL FOR THE INDUSTRIAL HEMP AND MEDICAL CANNABIS ACT NO. OF 2021

An Act to regulate and control the importation and cultivation of Hemp and Cannabis seeds, and the manufacturing and exportation of Industrial Hemp and Medical Cannabis and for related matters.

Be it enacted by the President and Parliament as follows-

### PART 1 PRELIMINARY MATTERS

#### 1 Purpose of this Act

The purpose of this Act is to provide for the restricted:

- (a) cultivation of Hemp for use in the production of a wide range of products, including foods and beverages, cosmetics and personal care products, nutritional supplements, fabrics and textiles, construction and insulation materials and other manufactured goods; and
- (b) cultivation of Cannabis for medical use purely for export purposes while prohibiting domestic cultivation for all non-medical use of Cannabis.

#### 2 Interpretation

In this Act, unless the contrary intention appears:

**Committee** means the Industrial Hemp and Medical Cannabis Advisory Committee established under section 3;

**Industrial Hemp** means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta -9 tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis;

**Medical Cannabis** means the use of cannabis including constituents of cannabis, tetrahydrocannabinol and other cannabinoids that are prescribed by physicians for their patients;

**Minister** means the Minister responsible for Agriculture.

## **PART 2 ESTABLISHMENT, FUNCTIONS AND POWERS OF THE INDUSTRIAL HEMP AND MEDICAL CANNABIS ADVISORY COMMITTEE**

### **3 Establishment**

The Industrial Hemp and Medical Cannabis Advisory Committee is established.

### **4 Composition**

The Committee consists of the following persons:

- (a) the Director General of the Ministry of Agriculture; and
- (b) the Director General of the Ministry of Health; and
- (c) the Director General of the Office of the Prime Minister; and
- (d) the Director General of the Ministry of Internal Affairs; and
- (e) the Director General of the Ministry of Finance and Economic Management; and
- (f) the Director General of the Tourism, Trade, Industry, Commerce and Ni-Vanuatu Business Development; and
- (g) the First Political Advisor of the Office of the Prime Minister; and
- (h) the Commissioner of Police.

### **5 Functions**

The Committee has the following functions:

- (a) to advise the Government on matters relating to the administration of this Act; and
- (b) to advise the Government on specific matters relating to Industrial Hemp and Medical Cannabis; and
- (c) to consider applications for licences under this Act; and

- (d) to make recommendations to the Minister for the approval of licences to be issued under this Act; and
- (e) to make recommendations to the Minister for the suspension or cancellation of a licence under this Act; and
- (f) such other functions as may be conferred on it under this Act or any other Act.

## **6 Powers of the Committee**

The Committee has the power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

## **7 Chairperson and Deputy Chairperson of the Committee**

- (1) The Director General of the Ministry of Agriculture is the Chairperson of the Committee.
- (2) The Director General of the Ministry of Health is the Deputy Chairperson of the Committee.

## **8 Meetings of the Committee**

- (1) The Committee is to meet at least 4 times in a year and may hold such other meetings as are necessary for the proper performance of its functions under this Act.
- (2) The Chairperson of the Committee is to preside at all meetings of the Committee and in his or her absence, the Deputy Chairperson is to preside at these meetings.
- (3) The Ministry of Agriculture is the secretariat of the Committee.
- (4) The quorum for a meeting of the Committee is 5 members of the Committee, present at the meeting.
- (5) A member present at a meeting of the Committee has one vote and questions arising at a meeting are to be decided by a majority of votes.
- (6) If the voting at a meeting is equal, the Chairperson or the Deputy Chairperson (if he or she is presiding over the meeting), has a casting vote.

- (7) If the Chairperson and the Deputy Chairperson are both not available for a meeting of the Committee, they must each nominate a Director from each of their Ministry to attend the meeting of the Committee on their behalf.
  
- (8) Subject to this Act, the Committee may determine and regulate its own procedures.

**9 Sitting Allowance**

A member of the Committee including the Chairperson and Deputy Chairperson is entitled to a sitting allowance of VT10,000 for each day in which the Committee meets.

## **PART 3 LICENCES**

### **Division 1 General Provisions**

#### **10 Licences for Industrial Hemp and Medical Cannabis**

- (1) Subject to subsection 14(1), the Minister may only:
  - (a) issue at least 3 licences for the importation and the cultivation of Hemp seeds, and the manufacture and export of Industrial Hemp; and
  - (b) issue at least 2 licences for the importation and cultivation of Cannabis seeds, and the manufacture and export of Medical Cannabis.
- (2) To avoid doubt, a licence issued under subsection (1), is for a person to carry out importation and cultivation of Hemp or Cannabis seeds, and the manufacture and export of Industrial Hemp or Medical Cannabis.

#### **11 Application**

- (1) A person may apply to the Minister for a licence under this Part.
- (2) The application must:
  - (a) be in the prescribed form; and
  - (b) be accompanied by the prescribed application fee.
- (3) The Minister must, within 7 working days of receiving an application under this section, provide the application to the Committee.

#### **12 Consideration of applications by the Committee**

- (1) The Committee must, within 7 working days of receiving an application by the Minister, consider the application.
- (2) In considering an application, the Committee must be satisfied that the applicant (whether the applicant is a body corporate or an individual) has met the following criteria in relation to the relevant application:

- (a) must have at least 10 years' experience in the cultivation and manufacturing of Industrial Hemp or Medical Cannabis; and
  - (b) must demonstrate by way of a bank account statement that the applicant has not less than VT10,000,000 deposited in a local bank account in Vanuatu; and
  - (c) must be the registered holder of the Agricultural lease title on which the cultivation will occur; and
  - (d) must provide proof of an existing market or a potential buyer for the export of Industrial Hemp or Medical Cannabis.
- (3) After considering an application under subsection (2), the Committee must recommend to the Minister the names of the applicants who are to be issued with licences under this Act.

## **Division 2 Issuing of licence**

### **13 Interpretation**

For the purpose of this Division, **licence** means a licence issued for the purposes of Industrial Hemp or Medical Cannabis.

### **14 Issuing of licence**

- (1) The Minister must, upon receiving a recommendation from the Committee under subsection 12(3), issue a licence with conditions.
- (2) The period for a licence issued under this section is 10 years.
- (3) A licence issued by the Minister in contravention of subsection (1), is invalid.

### **15 Effect of licence issued for Hemp**

- (1) The licensee, the licensee's employees and any person nominated as a contractor of the licensee, may carry out cultivation of Hemp according to the conditions provided in the licence.
- (2) The cultivation of Hemp carried out by a nominated contractor of a licensee is taken to be a cultivation carried out by the licensee.

- (3) If a nominated contractor of a licensee fails to carry out cultivation of Hemp in accordance with the conditions of a licence, the failure is taken to be a failure by the licensee.
- (4) A licensee must not nominate a contractor for the cultivation of Cannabis.

#### **16 Conditions of licence**

A licence is subject to:

- (a) the provisions of this Act and any other relevant Acts; and
- (b) International Standards of cultivating and manufacturing Industrial Hemp and Medical Cannabis; and
- (c) any other conditions which may be prescribed, by Order, by the Minister, on the recommendation of the Committee.

#### **17 Transfer of licence**

A licence must not be transferred to any other person.

#### **18 Suspension and cancellation of licence**

- (1) If the Committee is satisfied that:
  - (a) there is a breach of a condition of a licence; or
  - (b) there is a breach of a provision of the Act or its Regulations; or
  - (c) the licensee is importing Hemp or Cannabis seeds in contravention of the provisions of this Act or its Regulations; or
  - (d) the licensee is conducting the cultivation of Hemp or Cannabis or the manufacturing of Industrial Hemp or Medical Cannabis in contravention of the provisions of this Act or its Regulations,

the Committee must advise the Minister to serve a notice of non-compliance to the licensee as required under subsection (3).

- (2) In addition to subsection (1), if the Committee is satisfied that there is a serious breach of the licence, the Committee must advise the Minister to suspend the licence.
- (3) A notice of non-compliance must specify:
- (a) the conditions of the licence or provision of the Act or its Regulation that was breached; and
  - (b) the penalty payable under the licence; and
  - (c) the period the penalty must be paid ; and
  - (d) the period the breach is to be rectified.
- (4) If the licensee fails to rectify the breach of the licence or fails to pay the penalty within the period specified in the notice, the Minister must on the advice of the Committee:
- (a) suspend the licence; and
  - (b) serve a notice of suspension to the licensee; and
  - (c) allow the licensee to provide reasons why the licence should not be cancelled.
- (5) Subject to subsection (4), all commercial operations must cease until the Committee advises the Minister and the licensee that the suspension is lifted.
- (6) If the licensee fails to comply with paragraph (4)(c), the Minister must, on the advice of the Committee, cancel the licence and the Minister must serve a notice of the cancellation to the licensee.

### **19 Cancellation of licence**

A licence may be cancelled if:

- (a) the licensee becomes bankrupt; or
- (b) for a body corporate, the Court appoints a liquidator in respect of the licensee; or

- (c) the licensee is convicted of an offence under this Act.

## **PART 4 APPOINTMENT OF ENFORCEMENT OFFICERS**

### **20 Appointment of enforcement officers**

The Minister may, on the advice of the Committee, appoint the following persons to be enforcement officers for the purposes of this Act:

- (a) a pharmacist; and
- (b) a customs officer; and
- (c) a police officer; and
- (d) a biosecurity officer.

### **21 Functions and powers of enforcement officers**

- (1) An enforcement officer is to perform any functions or exercise any powers that may be performed or exercised for the purposes of this Act, for a period of time as determined by the Committee.
- (2) The Committee is to provide to each enforcement officer, an identity card that will provide evidence of the identity of that person and of the appointment of that person as an enforcement officer.
- (3) An enforcement officer who holds an identity card issued under this section must, on the termination of his or her appointment, surrender the identity card to the Committee.

### **22 Inspection**

- (1) For the purposes of implementing, inspecting and ensuring compliance with the provisions of this Act and its Regulations, an enforcement officer may do all or any of the following:
  - (a) enter and inspect any cultivation and manufacturing site;
  - (b) inspect any Hemp or Cannabis crop or Industrial Hemp or Medical Cannabis product, wherever it may be.
- (2) In carrying out an inspection under subsection (1), all enforcement officers must be present.

## **PART 5 OFFENCES AND PENALTIES**

### **23 Offence**

- (1) A person must not:
  - (a) import or cultivate Hemp seeds, or manufacture or export Industrial Hemp; or
  - (b) import or cultivate Cannabis seeds, or manufacture or export Medical Cannabis,without a valid licence issued under this Act.
- (2) A person must not provide or sell to another person a Hemp or Cannabis seed or plant contrary to the provisions of this Act.
- (3) A person must not interfere or obstruct an enforcement officer in carrying out his or her functions or in exercising his or her powers under this Act.
- (4) A person must not provide false or misleading information in any application made under this Act.

### **24 Penalties**

- (1) A person who contravenes subsection 23(1) is liable on conviction:
  - (a) in the case of an individual- to a fine not exceeding VT5,000,000 or to imprisonment for a term not exceeding 3 years, or to both; or
  - (b) in the case of a body corporate- to a fine not exceeding VT15,000,000.
- (2) A person who contravenes subsection 23(2) is liable on conviction to a fine not exceeding VT5,000,000 or to imprisonment for a term not exceeding 3 years, or to both.
- (3) A person who contravenes subsection 23(3) is liable on conviction to a fine not exceeding VT1,000,000 or to imprisonment for a term not exceeding 12 months, or to both.
- (4) A person who contravenes subsection 23(4) is liable on conviction:

- (a) in the case of an individual- to a fine not exceeding VT1,000,000;  
or
- (b) in the case of a body corporate- to a fine not exceeding  
VT2,000,000.

## **PART 6 MISCELLANEOUS PROVISIONS**

### **25 Immunity**

- (1) A civil or criminal proceedings must not be brought against the Minister, any Committee member (including the Chairperson and Deputy Chairperson) and enforcement officers, for anything done or omitted to be done in good faith by him or her in carrying out his or her functions and in exercising his or her powers under this Act.
- (2) Subsection (1) does not apply if the Minister, any Committee member (including the Chairperson and Deputy Chairperson) and enforcement officers acted in bad faith by him or her in carrying out his or her functions and in exercising his or her powers under this Act.

### **26 Regulations**

- (1) The Minister may, on the advice of the Committee, make Regulations:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.
- (2) Without limiting subsection (1), the Minister, on the advice of the Committee, may make Regulations for all or any of the following:
  - (a) the zoning of cultivation sites;
  - (b) the process for cultivation;
  - (c) the process for harvesting;
  - (d) the process for importing Hemp or Cannabis seeds;
  - (e) the processing and manufacturing of substances and materials from Industrial Hemp and Medical Cannabis;
  - (f) the use of substances and materials from Industrial Hemp and Medical Cannabis;
  - (g) the testing and verifying of export products;

- (h) to prescribe licence fees for importation, cultivation, manufacturing and exportation.

**27 Commencement**

This Act commences on the day on which it is published in the Gazette.