

**GENERAL EXPLANATORY NOTE:**

— Words in red underlined with a solid line indicate proposed insertions to the Bill as originally tabled.

[ ] Words in red brackets indicate deletion to the Bill as originally tabled.

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## **CANNABIS FOR PRIVATE PURPOSES BILL**

***Portfolio Committee on Justice and Correctional Services***  
***23 March 2022***

*(As introduced in the National Assembly (proposed section 75); explanatory summary of Bill published in Government Gazette No. 43595 of 7 August 2020) (The English text is the official text of the Bill)*

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**(MINISTER OF JUSTICE AND CORRECTIONAL SERVICES)**

**BILL**

To—

- \* provide for commercial activities in respect of recreational cannabis;
- \* provide for cultivation, possession and supply cannabis plants and cannabis by organisations for religious purposes in adherence to the Rastafarian faith, on behalf of its members;
- \* respect the right to privacy of an adult person to possess cannabis plant cultivation material; to cultivate a prescribed quantity of cannabis plants; to possess a prescribed quantity of cannabis; **[and]** to consume cannabis; and to use cannabis for palliation or medication;
- \* regulate the possession of cannabis plant cultivation material; the cultivation of cannabis plants; the possession of cannabis; and the consumption of cannabis by an adult person;
- \* protect adults and children against the harms of cannabis;
- \* provide for the expungement of criminal records of persons convicted of possession or use of cannabis;
- \* delete and amend provisions of certain laws; and
- \* provide for matters connected therewith.

BE IT ENACTED by the PARLIAMENT of the Republic of South Africa as follows:—

**ARRANGEMENT OF SECTIONS***Sections*

1. Definitions and interpretation
  - 1A. Commercial activities in respect of recreational cannabis
  - 1B. Special measures to accommodate the Rastafarian faith
2. Prescribed quantities for personal use by adult person
3. Cultivation offences
4. Cannabis offences
5. Consumption offences
6. Offences involving a child
7. Penalties
8. Expungement of criminal records of persons convicted of possession or use of cannabis

9. Regulations
10. Repeal or amendment of laws
11. Short title and commencement

### Schedule 1

Cannabis plant equivalent

### Schedule 2

Cannabis equivalent

### Schedule 3

Prescribed quantity

### Schedule 4

Trafficable and commercial quantities

### Schedule 5

Laws repealed or amended

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## Definitions and interpretation

1. (1) In this Act, unless the context indicates otherwise—
- "**adult person**" means a person who is 18 years or older;
- "**cannabis**" means—
- (a) the flowering or fruiting tops **[and the leaves]** of a cannabis plant that have been separated from the plant, but excludes any seed, seedling, the stalk **[and], leaves and** branches without any **[leaf,]** fruit or flower, and the roots of a cannabis plant; **[and ]**
  - (b) any substance which contains more than 2% THC per volume<sup>1</sup>; and
  - (c) any substance concerned in an offence in terms of—
    - (i) section 4(3) or 6(1)(a)(iv) or (v), (2)(c) or (3)(c), which contains more than 0.2% THC per volume;

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<sup>1</sup> JPC recommendation: Substitute 1% with 2%.

- (ii) section 5, involving the smoking of cannabis, which contains more than 0.2% THC per volume; or<sup>2</sup>
- (iii) section 5(5)(b), which contains more than 0.2% delta-9-tetrahydrocannabinol per volume; and<sup>3</sup>
- (iv) section (6)(5), which contains—
  - (aa) more than 0.01% delta-9-tetrahydrocannabinol per volume; or
  - (bb) more than 0.2% delta-9-tetrahydrocannabinolic acid per volume,<sup>4</sup>

and fresh cannabis, dried cannabis and cannabis concentrate, are classes of cannabis;

"**cannabis concentrate**" means cannabis that has undergone a process to concentrate the THC content, and cannabis solid concentrates and cannabis liquid concentrates are classes of cannabis concentrate;

"**cannabis equivalent**" means a quantity referred to in Column 2 of Schedule 2, in respect of any class of cannabis referred to in Column 1 of that Schedule which is deemed to be equivalent to one gram of dried cannabis;

"**cannabis plant**" means a plant of the genus *Cannabis*, but excludes hemp, and for purposes of this Act, an immature cannabis plant and a flowering cannabis plant are classes of a cannabis plant;

"**cannabis plant cultivation material**" means seeds of a cannabis plant and seedlings;

"**cannabis plant equivalent**" means a quantity referred to in Column 2 of Schedule 1, in respect of any class of cannabis plant referred to in Column 1 of that Schedule which is deemed to be equivalent of one flowering cannabis plant;

"**cannabis product**" means anything that is intended for human or animal consumption which contains THC or any other phytocannabinoid found in a cannabis plant;

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<sup>2</sup> The smoking of vaping of a substance in contravention of clause 5, is limited to a substance containing more than 2% THC per volume (see paragraph (b) of this definition). This unintended result is addressed by means of subparagraph (ii). (Substances available for vaping, are in some instances already converted to delta-9-tetrahydrocannabinol)

<sup>3</sup> Clause 5(5), makes it an offence to smoke or consume cannabis in a vehicle on a public road. Subparagraph (ii) addresses smoking or vaping of a substance in contravention of clause 5(5). The consuming of a substance in contravention of clause 5(5), is limited to a substance containing more than 2% THC (delta-9-tetrahydrocannabinol and delta-9-tetrahydrocannabinolic acid, per volume. Subparagraph (iii) limits the offence to the consumption of a substance containing more than 0.2% delta-9-tetrahydrocannabinol (psychoactive chemical), per volume, and the 2% delta-9-tetrahydrocannabinolic acid (non- psychoactive chemical), per volume (see paragraph (b)), will otherwise apply. Clause 4(6) can be used to regulate cannabis in a vehicle on a public road. See consequential amendments to clauses 4(6) and 5(5).

<sup>4</sup> Subparagraph (ii) "section (6)(5), which contains more than 0.01% THC", substituted - delta-9-tetrahydrocannabinolic acid is a non-psychoactive chemical.

"**child**" means a person who is under the age of 18 years;

"**Children's Act**" means the Children's Act, 2005 (Act No. 38 of 2005);

"**commercial quantity**", for purposes of the sections referred to in Column 1 of Schedule 4, means **[ the quantity that exceeds ]**—

(a) the quantity of any flowering cannabis plant or its cannabis plant equivalent; or

(b) the quantity of any dried cannabis or its cannabis equivalent,

respectively, referred to in Column 3 of that Schedule **and any quantity in excess thereof**;

"**consideration**" means any form of compensation, gift, reward, favour or benefit;

"**consumption**" means to smoke, eat, drink or otherwise to self-administer cannabis and "consume" has a corresponding meaning;

"**cultivate**" includes to plant, propagate, nurture, tend, grow or harvest a cannabis plant and "**cultivation**" has a corresponding meaning;

"**deal in**" means to provide for consideration, receive for consideration, sell, buy, offer for sale, offer to purchase, import, advertise for sale, export and any other conduct to facilitate selling;

"**Director-General**" means the Director-General: Justice and Constitutional Development;

"**dried cannabis**" means the flowering or fruiting tops **[ and the leaves ]** of a cannabis plant that have been separated from the plant and that have been subjected to a drying process;

"**dwelling**" means any part of a formal or informal structure that is occupied as a residence, or any part of a structure or outdoor living area that is accessory to, and used principally for the purposes of, a residence;

"**flowering cannabis plant**" means the gametophytic or reproductive state of a cannabis plant in which the plant produces flowers, trichomes and cannabinoids characteristic of cannabis;

"**fresh cannabis**" means the flowering or fruiting tops **[ and the leaves ]** of a cannabis plant that have been separated from the plant and that has not been subjected to a drying process;

"**guardian**" means a guardian referred to in section 1 of the Children's Act, 2005;<sup>5</sup>

"**harvest**" means to obtain and process cannabis from a cannabis plant;

"**hemp**" means a plant of the genus *Cannabis* which—

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<sup>5</sup> In terms of the Child Justice Act, 2008 (Act No. 75 of 2008), "guardian" is defined as "a guardian referred to in section 1 of the Children's Act". The Children's Act defines "guardian" "a parent or other person who has guardianship of a child"; and "guardianship" as "guardianship as contemplated in section 18". The Bill follows the broader definition in the Children's Act.

(a) has a concentration of THC in the leaves and flowering heads that does not exceed the percentage as may be prescribed in terms of; and

(b) is cultivated under authority of,  
a law that regulates its cultivation;

"immature cannabis plant" means a non-flowering cannabis plant **[ that is—**

**(a) taller than 15 centimetres; or**

**(b) wider than 15 centimetres,**

**measured according to the criteria prescribed by regulation], but excludes a seedling;**

"Minister" means the Cabinet member responsible for the administration of justice;

"National Road Traffic Act" means the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"personal use" means for the exclusive use of an adult person;

"possess in private" for purposes of section 2(1)(c) and (e), means to keep, store, transport or be in control of cannabis or a cannabis plant, respectively, in a manner that conceals it from public view;

"prescribed quantity" means for purposes of the sections referred to in Column 1 of Schedule 3, the quantity that does not exceed—

(a) the quantity of cannabis plant cultivation material;

(b) the quantity of any flowering cannabis plant or its cannabis plant equivalent; or

(c) the quantity of any dried cannabis or its cannabis equivalent,

respectively, referred to in Column 2 of that Schedule;

"private place" means any place, including a building, house, room, shed, hut, tent, mobile home, caravan, boat or land or any portion thereof, to which the public does not have access as of right;

"public place" means any place to which the public has access as of right;

"public road" means a "public road" as defined in section 1 of the National Road Traffic Act, 1996;

"remuneration" means any form of compensation, gift, reward, favour or benefit;

"seedling" means a non-flowering cannabis plant that is not—

(a) taller than **[15] 30** centimetres; or

(b) wider than **[15] 30** centimetres,

measured according to the criteria prescribed by regulation;

"smoke" means to —

**(a)** inhale or exhale the smoke produced by ignited cannabis or holding or otherwise having control of ignited cannabis or any device or object that contains ignited cannabis; or

(b) inhale or exhale the vapour or aerosol of cannabis produced by a vaping device or holding or otherwise having control of a vaping device producing cannabis vapour or aerosol;

"THC" means delta-9-tetrahydrocannabinol ((-)- $\Delta^9$ -trans-tetrahydrocannabinol), a psychoactive chemical and includes THCA;

"THCA" means delta-9-tetrahydrocannabinolic acid ((-)- $\Delta^9$ -trans-tetrahydrocannabinolic acid), a non-psychoactive chemical that may be converted to delta-9-tetrahydrocannabinol;

"this Act" includes the regulations;

"**trafficable quantity**" means for purposes of the sections referred to Column 1 of Schedule 4, the quantity that exceeds—

- (a) the quantity of any flowering cannabis plant or its cannabis plant equivalent; or
- (b) the quantity of any dried cannabis or its cannabis equivalent,

respectively, referred to in Column 2 of that Schedule but is less than a commercial quantity; and

"**vehicle**" means a "vehicle" as defined in section 1 of the National Road Traffic Act, 1996.

(2) The provisions of this Act do not apply to any person who is permitted or authorised in terms of any other Act of Parliament to—

- (a) deal in cannabis plant cultivation material, cannabis plants, cannabis or a cannabis product; or
- (b) cultivate cannabis plants.

### Commercial activities in respect of recreational cannabis

1A. (1) Subject to the enactment of national legislation contemplated in subsection (2), commercial activities in respect of recreational cannabis are hereby authorised.

(2) National legislation may be enacted to authorise and regulate commercial activities in respect of recreational cannabis.

(3) Without limiting the scope of national legislation contemplated in subsection (2), to authorise and regulate commercial activities in respect of recreational cannabis, due consideration should be given to—

- (a) harm reduction;
- (b) demand reduction;

- (c) public education and awareness campaigns in respect of the harms associated with recreational cannabis;
- (d) the prevention of persons under the age of 18 years to access recreational cannabis;
- (e) the prohibition of advertising or promotion of recreational cannabis; and
- (f) population level monitoring of use and associated harms of recreational cannabis.

(4) For purposes of this section—

- (a) "**commercial activities**" means any activity relating to cannabis plant cultivation material, cannabis plants, cannabis or cannabis products, which is authorised and regulated in terms of national legislation contemplated in subsection (2); and
- (b) "**recreational cannabis**" means cannabis plant cultivation material, cannabis plants, cannabis or cannabis products that is for recreational use.

### Special measures to accommodate cultural or religious communities

1B. (1) (a) An authorised representative of a cultural or religious community may, in the prescribed manner, make an application to the Minister for the issuing of a permit, which authorises that cultural or religious community to—

- (i) possess, obtain and supply cannabis plant cultivation material;
- (ii) cultivate cannabis plants in a private place;
- (iii) possess in private, cannabis plants in a public place;
- (iv) possess, obtain and supply cannabis plants;
- (v) provide, obtain and supply cannabis;
- (vi) possess in private, cannabis in a public place;
- (vii) possess cannabis in a private place; or
- (viii) perform any other activity in relation to anything specified in subparagraphs (i) to (vii),

for cultural or religious purposes, on behalf of its members.

(b) The application in paragraph (a)—

- (i) must be in the prescribed form;
- (ii) must contain the full names and surname, identity number, business and residential address, contact details and such other information that may be prescribed, of the authorised representative;

- (iii) must be accompanied by the written authority of the authorised representative to make the application in subsection (1)(a) on behalf of the cultural or religious community concerned;
- (iv) must contain the applicable information in paragraph (c) and such other information prescribed by regulations that may be made in terms of subsection (8); and
- (v) may be accompanied by supporting affidavits or affirmed declarations, documents and other information, relevant to the application.

(c) The application in subsection (a) must—

- (i) identify and describe the cultural or religious community;
- (ii) describe the conditions or requirements for membership of the cultural or religious community;
- (iii) provide proof to the satisfaction of Minister that the cultural or religious practices of the community concerned involves the use of cannabis plants or cannabis;
- (iv) specify the activities which are required to be authorised in terms of paragraph (a) and provide full particulars regarding the reasons why the cultural or religious community must be authorised to perform such activities with reference to its cultural or religious practices, as the case may be;
- (v) indicate whether the cultural or religious community keeps record of its members, or describe the manner used by the cultural or religious community to identify its members;
- (vi) specify the number of adult members belonging to the cultural or religious community;
- (vii) give estimated quantities of—
  - (aa) cannabis plants that is required to be cultivated per cultivation season;
  - and
  - (bb) cannabis that is required for a four months period,  
for the purposes of cultural or religious practices by its members, and specify the manner in which such quantities have been calculated with reference to the number of adult members in item (vi);
- (viii) provide proof to the satisfaction of Minister that the cultural or religious community is the owner, lessee or occupier of—
  - (aa) land which is to be used to cultivate cannabis plants in private as contemplated in this Act and in respect of which access can be restricted, as contemplated in subsection (7);

- (bb) dwelling which is to be used to store or supply cannabis plant cultivation material, cannabis plants or cannabis and in respect of which security measures, as contemplated in subsection (7), will be implemented, to prevent unauthorised access to cannabis plants or cannabis; or
- (cc) land or a dwelling, which is to be used for cultural or religious practices and in respect of which access can be restricted, as contemplated in subsection (7);
- (ix) identify all authorised members of the cultural or religious community, as the case may be, who will be involved in the activities which are required to be authorised in terms of paragraph (a);
- (x) provide assurances to the satisfaction of the Minister that the authorised representative and the community concerned is in a position to effectively monitor, manage and enforce compliance with the conditions, restrictions, obligations or requirements of the permit and the regulations that may be made in terms of subsection (8); and
- (xi) provide proof, to the satisfaction of Minister that the community complies with any other requirement or criteria for the issuing of such permit as prescribed by the regulations that may be made in terms of subsection (8).

(2) (a) The Minister must submit the application, together with the Minister's recommendation thereon, to the—

- (i) Commission;
  - (ii) responsible MEC of any province that may be affected by the application; and
  - (iii) Cabinet members responsible for policing and trade and industry,
- for their recommendations.

(b) Paragraph (a) does not divest the Minister to consult any other Cabinet member, person, functionary or agency with regard to the application.

(3) (a) The Minister must, if satisfied from the application and the recommendations in subsection (2), that—

- (i) the cultural or religious community is a *bona fide* cultural or religious community;
- (ii) the cultural or religious practices of the community concerned traditionally involves the use of cannabis plants or cannabis;
- (iii) the activities in subsection (1)(a) which are required to be authorised, are reasonably necessary for cultural or religious practices of its members;
- (iv) the conditions, restrictions, obligations or requirements in subsection (7), which the Minister intends to impose in terms of the permit are reasonable to achieve the objectives prescribed in subsection (7)(a); and

(v) the cultural or religious community is in a position to effectively monitor, manage and enforce compliance with the conditions, restrictions, obligations or requirements of the permit and the regulations that may be made in terms of subsection (8).

approve the application.

(b) A permit contemplated in this section—

- (i) must be in the prescribed form;
- (ii) must be issued in the name of the authorised representative of the cultural or religious community concerned;
- (iii) may authorise any or all of the activities specified in subsection (1)(a)(i) to (viii).
- (iv) is subject to—
  - (aa) such conditions, restrictions, obligations or requirements specified therein, which the Minister may impose in terms of subsection (7); and
  - (bb) the regulations that may be made in terms of subsection (8), or such provisions of the regulations specified therein; and
- (v) must be published in the Gazette;
- (vi) comes into effect on the fifteenth day from the date of publication in the Gazette; and
- (vii) is, subject to earlier termination in terms of subsection (6), valid for a period of three years from the date of publication in the Gazette and shall be renewable.

(c) The Minister must table copies of the permit, the application and written reasons for the Minister's decision, in Parliament before publication of the permit in the Gazette.

(4) (a) The Minister must, if not satisfied as contemplated in subsection (3)(a) that the permit must be issued, refuse the applications.

(b) The Minister must—

- (i) inform the authorised representative in writing of the decision in terms of paragraph (a); and
- (ii) provide written reasons for that decision.

(5) The Minister may, at any stage before a decision to issue or refuse a permit is made, in the prescribe form and manner, require the authorised representative—

- (a) to furnish such further information in writing, including a certified copy of any document, as the Minister may deem necessary for the proper consideration of the application;
- (b) to give notice of the application, to any person who may have an interest therein and furnish proof to the satisfaction of the Minister that notice was given; or

(c) to furnish an affidavit or affirmed declaration obtained from an identified person or any person belonging to a category of persons, to confirm any aspect relevant to the application.

(6) (a) The Minister may, subject to paragraph (b)—

(i) terminate the permit—

(aa) if the application or any statement or document in support of the application is false in a material aspect, or omits to state any material fact which was required to be stated in the application; or

(bb) in the event of a serious or repeated or continued failure to comply with any conditions, restrictions, limitations or requirement specified therein; or

(ii) amend the permit if he or she is of the opinion there are good reasons for doing so.

(b) The Minister must—

(i) in the prescribed form and manner inform the authorised representative of the cultural or religious community, of the Minister's intention to terminate or amend the permit and the reasons on which such intention is based;

(ii) afford the authorised representative of the cultural or religious community an opportunity to make written representations, within 30 calendar days after the representative has been so informed, why the permit should not be terminated or amended;

(iii) consider the written representations; and

(iv) in the prescribed form and manner inform the authorised representative in writing, within 30 calendar days after a decision is made, of the decision and must provide written reasons for that decision.

(c) The Minister may, at any stage before a decision to terminate or amend a permit is made, in the prescribe form and manner, obtain an affidavit or affirmed declaration from any person who in the opinion of the Minister may be able to give information of material importance concerning the matter, or who is believed to have in their possession or custody or under their control any document or other information which may have a bearing on the matter.

(d) The Minister must—

(i) give notice of the termination of a permit; or

(ii) publish any amendments to a permit,

in the Gazette, which termination of, or amendments to, the permit shall come into effect on the date of publication.

(e) The Minister must, as soon as possible, after the publication in terms of paragraph (d), table a copy of the notice of termination, or the amendments, published in the Gazette and written reasons for the decision, in Parliament.

(7) (a) The Minister must in terms of a permit, impose such conditions, restrictions, obligations or requirements on any or all of the activities specified in subsection (1)(a)(i) to (viii), that the Minister considers reasonably necessary to—

- (i) confine access to, and supply of, cannabis plants and cannabis to adult members of the cultural or religious community concerned;
- (ii) restrict the cultivation of cannabis plants and the possession, storing and supply of cannabis, to such quantities that are reasonably required by the adult members of the cultural or religious community for purposes of cultural or religious practices;
- (iii) protect child members of the cultural or religious community concerned against the harms associated with the smoking or consumption of cannabis;
- (iv) protect any other person who is not a member of the cultural or religious community concerned against the harms associated with the smoking or consumption of cannabis; and
- (v) curb dealing in, and other criminal activities associated with, cannabis.

(b) Without restricting the generality of the Minister's powers to impose conditions, restrictions, obligations or requirements on any or all of the activities specified in subsection (1)(a)(i) to (viii), to achieve the objectives set out in paragraph (a), the Minister may, in terms of the permit—

- (i) limit the quantity of—
  - (aa) cannabis plant cultivation material that may be possessed, obtained and supplied;
  - (bb) cannabis plants that may be cultivated in a private place;
  - (cc) cannabis plants that may be possessed in private, in a public place;
  - (dd) cannabis plants that may be possessed, obtained and supplied;
  - (ee) cannabis that may be possessed, obtained and supplied;
  - (ff) cannabis that may be possessed in private, in a public place; or
  - (gg) cannabis that may be possessed in a private place,by a cultural or religious community, to a quantity prescribed in the permit;
- (ii) limit the quantity of—
  - (aa) cannabis plant cultivation material that may be possessed, obtained and supplied;

- (bb) cannabis plants that may be cultivated in a private place;
  - (cc) cannabis plants that may be possessed in private, in a public place;
  - (dd) cannabis plants that may be possessed, obtained and supplied;
  - (ee) cannabis that may be possessed, obtained and supplied;
  - (ff) cannabis that may be possessed in private, in a public place; or
  - (gg) cannabis that may be possessed in a private place,  
by an adult member of a cultural or religious community for cultural or religious  
purposes, to a quantity prescribed in the permit, which quantity may be in  
excess of a prescribed quantity contemplated in section 2;
  - (iii) impose such record keeping and reporting obligations as the Minister considers  
necessary;
  - (iv) in relation to subsection (1)(c)(viii), specify conditions, restrictions, obligations  
or requirements which must comply with to—
    - (aa) restrict access to the land which is to be used for cultivation of cannabis;
    - (bb) secure a dwelling that is to be used to store or supply cannabis plants or  
cannabis, against unauthorised access; or
    - (cc) restrict access to land or a dwelling which is to be used for cultural or  
religious purposes;
  - (v) provide for oversight mechanisms and procedures for monitoring compliance  
with the permit by the authorised representative; or
  - (vi) prohibit any activity specified in subsection (1)(a)(i) to (vii) or any activity in  
subsection (1)(a)(viii), in relation to activity in subsection (1)(a)(i) to (vii).
- (8) (a) The Minister may make regulations to—
- (i) prescribe additional information that must be furnished in an application  
contemplated in subsection (1)(a);
  - (ii) prescribe additional criteria and requirements that must be complied with before  
a permit may be issued;
  - (iii) provide for on-site examinations or inspections by an authorised person, to  
monitor compliance with the provision of a permit;
  - (iv) regulate the destruction of cannabis plant cultivation material, cannabis plants  
and cannabis in excess of the quantities in subsection (7)(b)(i);
  - (v) provide for infringement notices and administrative penalties in respect of a  
contravention or failure to comply with —
    - (aa) any condition of a permit; and
    - (bb) any regulation contemplated in subparagraph(iv) or (vi);<sup>6</sup> and

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<sup>6</sup> Additional provisions must be inserted to give effect to infringement notices and administrative penalties – see among others section 122 of Act 60 of 2000

(vi) prescribe or regulate any other matter which is necessary or expedient to achieve the objects of this section.

(b) Any regulation made in terms of paragraph (a)(v), must specify the amount of the administrative fine payable, which amount may not exceed R50 000.

(c) Any regulations made in terms of paragraph (a)(iii), (iv) or (vi), may provide that any person who contravenes or fails to comply with a provision thereof, shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding two years.

(d) Any regulation made in terms of this subsection must, before publication thereof in the *Gazette*, be approved by Parliament.

(9) Subject to subsection (7)(b)(ii), sections 2, 3, 4, 5 and 6 of this Act, apply to members of a cultural or religious community.

(10) Any person who—

(a) furnishes information or a document or makes a statement, in an application or in support of an application;

(b) enters or records information in terms of subsection (8)(b)(iii); or

(c) furnishes information or a document or makes a statement in a report in terms of subsection (7)(b)(iii),

knowing it to be false or not knowing or believing it to be true is guilty of a Class B offence.

(11) For the purposes of this section—

(a) "**authorised person**" in subsection (8)(a)(iii), means a person belonging to the category or class of persons designated the Minister by notice in the *Gazette* and includes a police official;

(b) "**Commission**" means the "Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities" referred to in section 3 of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act, 2002 (Act No. 19 of 2002);

(c) "**cultural community**" or "**religious community**" has the meaning assigned to it in in section 31 of the Constitution and includes a community that primarily consists of members who are adherents of the Rastafarian faith ;

(d) "**land**" includes any part or area of land; and

(e) "**members**" means persons who are *bona-fide* members of a cultural or religious community.

## Prescribed quantities for personal use by adult person

2. (1) Subject to this Act, an adult person may for personal use—
- (a) possess the prescribed quantity of cannabis plant cultivation material;
  - (b) cultivate the prescribed quantity of cannabis plants in a private place;
  - (c) possess in private, the prescribed quantity of cannabis in a public place;
  - (d) possess the prescribed quantity of cannabis in a private place; and
  - (e) possess in private, the prescribed quantity of cannabis plants in a public place.

(2) Subject to this Act, an adult person may consume cannabis in a private place.

(3) Subject to this Act, an adult person may without the exchange of consideration per occasion provide to, or obtain from, another adult person, for personal use, the prescribed quantity of —

- (a) cannabis plant cultivation material;
- (b) cannabis plants; and
- (c) cannabis.

(4) (a) An adult person who has been issued with a certificate by an authorised person, in which it is certified that they require palliation or suffer from moderate to severe chronic debilitating physical or mental health conditions, and who intends to self-medicate, may for personal use—

- (i) cultivate the prescribed quantity of cannabis plants in a private place;
- (ii) possess in private, the prescribed quantity of cannabis in a public place;
- (iii) possess the prescribed quantity of cannabis in a private place; and
- (iv) possess in private, the prescribed quantity of cannabis plants in a public place.

(b) Notwithstanding subsection (3), any adult person may provide to an adult person in paragraph (a), who may obtain from any adult person, without the exchange of consideration, per occasion for personal use, the prescribed quantity of—

- (i) cannabis plants; and
- (ii) cannabis.

(c) An adult person in paragraph (a), may in private use cannabis in a public place.

(d) The certificate contemplated in paragraph (a), must be in the form and must contain the information, prescribed by regulation.

- (e) For purposes of subsection (4)—
- (i) "authorised person" means—

- (aa) a psychiatrist, medical practitioner and dentist registered under the Health Professions Act, 1974 (Act 56 of 1974); and
- (bb) any category of persons designated by the Minister in consultation with the cabinet member responsible for health, by notice in the Gazette;
- (ii) **"in private use "** means to—
- (aa) consume cannabis in a manner that conceals it from public view; or
- (bb) smoke cannabis, in a public place in contravention of section 5(1), in a manner that conceals it from public view and without contravening the provisions of section (5)(2) to (5);
- (iii) **"person who requires palliation"** means a person who in the opinion of an authorised person has an advanced progressive life-limiting health condition and is nearing the end of their life; and
- (iv) **"self-medicate"** means to smoke or consume cannabis, any part of a cannabis plant or any extraction therefrom—
- (aa) by a person contemplated in subsection (4)(a)(i) in order to palliate pain or suffering, whether physical or mental; or
- (bb) by a person contemplated in subsection (4)(a)(ii) in order treat or mitigate the physical or mental health condition or the symptoms thereof.

### **Cultivation offences**

3. (1) An adult person who in a private place, cultivates—
- (a) more than the prescribed quantity, contemplated in section 2(1)(b) or (4)(a)(i), but less than a trafficable quantity of cannabis plants, is guilty of a **[Class C] Class D** offence;
- (b) a trafficable quantity of cannabis plants, is guilty of a **[Class B] Class C** offence; or
- (c) a commercial quantity of cannabis plants, is guilty of a **[Class A] Class B** offence.
- (2) An adult person who cultivates a cannabis plant at any place and who fails to—
- (a) take reasonable measures to ensure that the cannabis plant is inaccessible to a child; or**
- (b) ]comply with any requirement or standard regarding the cultivation of cannabis plants in a private place for personal use as prescribed by regulation, is guilty of a Class C offence.**

(3) An adult person who cultivates a cannabis plant in a public place, is guilty of a Class B offence.

(4) An adult person who provides to, or obtains from, an adult person without the exchange of remuneration—

(a) a quantity that exceeds the prescribed quantity contemplated in section 2(3)(b) or (4)(b)(i), but which is less than a trafficable quantity of cannabis plants, is guilty of a **[Class C]** Class D offence;

(b) a trafficable quantity of cannabis plants, is guilty of a **[Class B]** Class C offence;  
or

(c) a commercial quantity of cannabis plants, is guilty of a **[Class A]** Class B offence.

(5) An adult person who is in possession in a public place of—

(a) a quantity that exceeds the prescribed quantity, contemplated in section 2(1)(e) or (4)(a)(iv), but which is less than a trafficable quantity of immature cannabis plants, is guilty of a **[Class C]** Class D offence;

(b) a trafficable quantity of immature cannabis plants, is guilty of a **[Class B]** Class C offence; or

(c) a commercial quantity of immature cannabis plants, is guilty of a **[Class A]** Class B offence.

(6) (a) Any person who deals in—

(i) an immature cannabis plant, is guilty of a **[Class C]** Class D offence;

(ii) a trafficable quantity of immature cannabis plants, is guilty of a [Class B] Class C offence; or

(iii) a commercial quantity of immature cannabis plants, is guilty of a [Class A] Class B offence.

(b) Any person who deals in a flowering cannabis plant, is guilty of a Class A offence.

(7) Any person who deals in cannabis plant cultivation material, is guilty of a Class D offence.

(8) An adult person who provides to, or obtains from, an adult person without the exchange of remuneration a quantity that exceeds the prescribed quantity of cannabis plant cultivation material contemplated in section 2(3)(a), is guilty of a Class D offence.

(9) Any person who is in possession in a public place of cannabis plant cultivation material or a cannabis plant that is not concealed from public view, is guilty of a Class D offence.

## Cannabis offences

4. (1) Any person who is in possession in a public place of—
- (a) a quantity that exceeds the prescribed quantity, contemplated in section 2(1)(c) or (4)(a)(ii), but which is less than a trafficable quantity of cannabis, is guilty of a Class C offence;
  - (b) a trafficable quantity of cannabis, is guilty of a Class B offence; or
  - (c) a commercial quantity of cannabis, is guilty of a Class A offence.

- (2) An adult person who is in possession in a private place of—
- (a) a quantity that exceeds the prescribed quantity, contemplated in section 2(1)(d) or (4)(a)(iii), but which is less than a trafficable quantity of cannabis, is guilty of a **[Class C]** Class D offence;
  - (b) a trafficable quantity of cannabis, is guilty of a **[Class B]** Class C offence; or
  - (c) a commercial quantity of cannabis, is guilty of a **[Class A]** Class B offence.

(3) An adult person who is in possession of cannabis at any place and who~~—~~

- (a) fails to store such cannabis in a secure space that is inaccessible to a child; or**
- (b) ]stores such cannabis in a manner that does not comply with any requirement or standard regarding the storing of cannabis prescribed by regulation, is guilty of a Class C offence.**

(4) An adult person who provides to or obtains from an adult person without the exchange of remuneration—

- (a) a quantity that exceeds the prescribed quantity, contemplated in section 2(3)(c) or (4)(b)(ii), but which is less than a trafficable quantity of cannabis, is guilty of a Class C offence;
- (b) a trafficable quantity of cannabis, is guilty of a Class B offence; or
- (c) a commercial quantity of cannabis, is guilty of a Class A offence.

(5) Any person who deals in cannabis, is guilty of a Class A offence.

(6) (a) An adult person who transports cannabis in a vehicle on a public road **[in a manner that does not] and who contravenes or fails to** comply with any condition, restriction, prohibition, obligation, requirement or standard regarding the transportation of cannabis, that may be prescribed by regulation, is guilty of a Class C offence.

(b) The regulations contemplated in paragraph (a), apply mutatis mutandis to any person who is a passenger in a vehicle on a public road.

(7) Any person who is in possession in a public place of cannabis that is not concealed from public view, is guilty of a Class C offence.

### Smoking and consumption offences

5. (1) Any person who smokes or consumes cannabis in a public place, is guilty of a Class D offence.

(2) Any person who smokes cannabis in a public or private place in the immediate presence of any non-consenting adult person, is guilty of a Class D offence.

(3) Any person who smokes cannabis in a public or private place in the immediate presence of a child, is guilty of a Class C offence.

(4) Any person who smokes cannabis in a private place—

(a) within a distance prescribed by regulation from a window of, ventilation inlet of, doorway to or entrance into another place; or

(b) forming part of any place where persons congregate within close proximity of one another and where the smoke is likely to cause a hindrance to any person at that place,

is guilty of a Class D offence.

(5) Any person who —

(a) smokes; or

(b) consumes cannabis,

in a vehicle on a public road, is guilty of a Class C offence.<sup>7</sup>

### Offences involving a child

6. (1) (a) The guardian of a child who permits a child—

(i) to possess cannabis plant cultivation material or a cannabis plant;

(ii) to deal in cannabis plant cultivation material or a cannabis plant;

(iii) subject to paragraph (b), to cultivate a cannabis plant;

(iv) to possess cannabis;

(v) to deal in cannabis; or

(vi) to smoke or consume cannabis,

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<sup>7</sup> See option 2 of the definition of cannabis.

is guilty of a Class D offence.

(b) The prohibition referred to in paragraph (a)(iii), does not apply where the child assists with the cultivation of cannabis plants which the guardian of the child may lawfully **[possess] cultivate** for **[his or her] their** personal use in a private place, in the presence and under the supervision of that guardian.

(2) Any person who engages a child, whether for consideration to the child or a third person or not, to deal in—

- (a) cannabis plant cultivation material;
- (b) a cannabis plant; or
- (c) cannabis,

is guilty of a Class A offence.

(3) Any person who provides to a child, whether for consideration or not—

- (a) cannabis plant cultivation material;
- (b) a cannabis plant; or
- (c) cannabis,

is guilty of a Class A offence.

(4) Subject to subsection (1)(b), an adult person who engages a child, whether for consideration to the child or a third person or not, in the cultivation of a cannabis plant, is guilty of a Class A offence.

(5) Any person who administers cannabis to a child, is guilty of a Class A offence.

## Penalties

7. **[(1)]** A person who is convicted of—
- (a) a Class A offence is liable on conviction to a fine or to imprisonment for a period not exceeding **[15 years] eight years** or to both a fine and such imprisonment;
  - (b) a Class B offence is liable on conviction to a fine or to imprisonment for a period not exceeding **[six years] four years** or to both a fine and such imprisonment;
  - (c) a Class C offence is liable on conviction to a fine or to imprisonment for a period not exceeding **[four years] 12 months** or to both a fine and such imprisonment;  
or
  - (d) a Class D offence is liable on conviction to a fine or to imprisonment for a period not exceeding **[two years] six months** or to both a fine and such imprisonment.

## Expungement of criminal records of persons convicted of possession or use of cannabis or dealing in cannabis on the basis of a presumption

8. (1) (a) Where a court has convicted a person of a contravention of —

**[(a)](i)** section 2(b) of the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act No. 41 of 1971), in that the person used or possessed the dependence-producing drug or plant of cannabis (dagga);

**[(b)](ii)** section 4(b) of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), in that the person used or possessed the undesirable dependence-producing substance of cannabis (dagga); or

**[(c)](iii)** any law of the former Republics of Transkei, Bophuthatswana, Ciskei or Venda, or of any former self-governing territory, as provided for in the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), before the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), that criminalised the use or possession of cannabis (dagga), the criminal record, containing the conviction and sentence in question, of that person in respect of that offence must be expunged automatically by the Criminal Record Centre of the South African Police Service.

**[(2)] (b)** Where the criminal record of a person referred to in **[subsection (1)] paragraph (a)** has not been expunged automatically as provided for in that **[subsection] paragraph**, the criminal record of that person must, on **[his or her] their** written application to the Director-General: Justice and Constitutional Development, in the prescribed form and manner, be expunged.

**[(3)] (c)** The Director-General: Justice and Constitutional Development must, on receipt of the written application of **[an applicant] a person** referred to in **[subsection (2)] paragraph (b)**, issue a prescribed certificate of expungement, directing that the conviction and sentence of the person be expunged, if the Director-General is satisfied that the person complies with the criteria set out in **[subsection (1)] paragraph (a)**.

**[(4)] (d)** An applicant to whom a certificate of expungement has been issued as provided for in **[subsection (3)] paragraph (c)** must, in the prescribed manner, submit the certificate to the head of the Criminal Record Centre of the South African Police Service, to be dealt with in accordance with subsection **[(5)](3)**.

(2) (a) Where a court has convicted a person of a contravention of —

- (i) section 2(a) of the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971, on the basis of the operation of any presumption in section 21(1)(a)(i), (b), (d) or (e) of that Act, in terms of which it is presumed that the person dealt in the dependence-producing drug or plant of cannabis (dagga);
- (ii) section 5(b) of the Drugs and Drug Trafficking Act, 1992, on the basis of the operation of any presumption in section 21(1)(a)(i), (b), (c) or (d) of that Act, in terms of which it is presumed that the person dealt in the undesirable dependence-producing substance of cannabis (dagga); or
- (iii) any law of the former Republics of Transkei, Bophuthatswana, Ciskei or Venda, or of any former self-governing territory, as provided for in the Self-governing Territories Constitution Act, 1971, before the commencement of the Constitution of the Republic of South Africa, 1993, on the basis of the operation of any presumption similar to the laws in subparagraph (i) and (ii), in terms of which it is presumed that the person dealt in cannabis (dagga).

the criminal record, containing the conviction and sentence in question, of that person in respect of that offence must, subject to paragraphs (b), on the person's written application, be expunged.

(b) The Director-General: Justice and Constitutional Development must, on receipt of the written application, in the prescribed form, of a person referred to in paragraph (a), issue a prescribed certificate of expungement, directing that the criminal record of the person be expunged, if the Director-General is satisfied from the application that the person applying for expungement was convicted of the offence of dealing in the undesirable dependence-producing substance of cannabis (dagga), on the basis of the operation of any presumption referred to in paragraph (a).

(c) The Director-General: Justice and Constitutional Development must, in the prescribed manner, submit every certificate of expungement that has been issued as provided for in paragraph (b), to the head of the Criminal Record Centre of the South African Police Service to be dealt with in accordance with subsection (3).

**[(5)](3) (a)** The head of the Criminal Record Centre of the South African Police Service or a senior person or person at the rank of Director or above, employed at the Centre, who has been authorised, in writing, by the head of the Centre to do so, must expunge the criminal record of a person if he or she is furnished **[by the applicant]** with a certificate of expungement as provided for in subsection **[(3)](1)(d) or (2)(c).**

(b) The head of the Criminal Record Centre of the South African Police Service must, on the written request of an applicant, in writing, confirm that the criminal record of the person has been expunged.

**[(6)](4)** Where the Director-General: Justice and Constitutional Development has, in terms of subsection **[(3)](2)(c)**, **[has ]**issued a certificate of expungement, and it subsequently appears that the applicant did not qualify for the expungement of **[his or her] their** criminal record, the Director-General must—

- (a) inform the applicant in writing of the information that has come to **[his or her] their** attention and that he or she intends to revoke the certificate of expungement;
- (b) afford the applicant an opportunity to furnish compelling written reasons to him or her within 90 working days after he or she is informed of the intention to revoke, why **[his or her] their** record should remain expunged;
- (c) inform the applicant in writing within 30 working days after a decision is made of—
  - (i) **[his or her] their** decision; and
  - (ii) the reasons for revoking the certificate of expungement; and
- (d) inform the head of the Criminal Record Centre of the South African Police Service, in writing within 14 working days after the decision was made, to revoke the certificate of expungement and to reinstate the convictions and sentences in question.

**[(7)](5)** If the applicant fails to furnish compelling reasons contemplated in subsection **[(6)(b)](4)(b)**, the Director-General may, subject to the Promotion of Administrative Justice Act, 2000 (Act No. 2 of 2000), revoke the certificate of expungement.

**[(8)](6)** (a) The Director-General: Justice and Constitutional Development may delegate any power or assign any duty conferred upon or assigned to him or her in terms of **[subsection (3) or (6)] subsection (1)(c), (2)(c) or (4)**, to an appropriately qualified official in the employ of the Department of Justice and Constitutional Development at the rank of Deputy Director-General.

- (b) A delegation or assignment in terms of paragraph (a)—
  - (i) is subject to any limitation, condition and direction which the Director-General may impose;
  - (ii) must be in writing; and
  - (iii) does not divest the Director-General of the responsibility concerning the exercise of the power or the performance of the duty.

(c) The Director-General may—

- (i) confirm, vary or revoke any decision taken in consequence of a delegation or assignment in terms of this subsection, subject to any rights that may have accrued to a person as a result of the decision; and
- (ii) at any time withdraw a delegation or assignment.

## Regulations

- 9.** (1) The Minister must make regulations to prescribe—
- (a) the manner of measuring immature cannabis plants and seedlings as contemplated in section 1;
  - (b) the requirements or standards regarding the cultivation of cannabis plants in a private place for personal use as contemplated in section 3(2)(b);
  - (c) the requirements or standards regarding the storing of cannabis as contemplated in section 4(3)(b);
  - (d) the requirements or standards regarding the transportation of cannabis as contemplated in section 4(6);
  - (e) the distance from a window of, ventilation inlet of, doorway to or entrance into another place as contemplated in section 5(4)(a);
  - (f) the form on which a person's written application for the expungement of **[his or her] their** criminal record must be made, as provided for in **[section 8(2)] section 8(1)(b) and (2)(a)**;
  - (g) the certificate of expungement to be issued by the Director-General: Justice and Constitutional Development as provided for in **[section 8(3)] section 8(1)(c) and (2)(b)**; and
  - (h) the manner in which the Director-General must submit certificates of expungement that have been issued, to the head of the Criminal Record Centre of the South African Police Service, as provided for in **[section 8(4)] sections 8(1)(d) and (2)(c)**.

- (2) The Minister may make regulations to prescribe—
- (a) the manner in which cannabis plants or cannabis in excess of the prescribed quantity must be disposed of; and
  - (b) any other matter which is necessary or expedient to achieve the objects of this Act.

(3) Regulations made in terms of subsection (2)(b) and (c), may prescribe penalties for any contravention thereof or failure to comply therewith, not

exceeding a fine or imprisonment for a period of six months or both a fine and such imprisonment.

(4) The Minister, in consultation with the cabinet member responsible for health, must, make regulations to prescribe the form and content of a certificate, contemplated in section 2(4)(d).

### **Repeal or amendment of laws**

**10.** The laws mentioned in Schedule 5 are hereby repealed or amended to the extent reflected in the third Column of the Schedule.

### **Short title and commencement**

**11.** This Act is called the Cannabis for Private Purposes Act, 2020, and comes into operation on a date fixed by the President by Proclamation in the *Gazette*.

**Schedule 1***(Section 1)***CANNABIS PLANT EQUIVALENT**

<b>Column 1</b> <b>Class of cannabis plant</b>	<b>Column 2</b> <b>Quantity that is equivalent to one flowering cannabis plant</b>
Immature cannabis plant	Two plants

**Schedule 2***(Section 1)***CANNABIS EQUIVALENT**

<b>Column 1</b> <b>Class of cannabis</b>	<b>Column 2</b> <b>Quantity that is equivalent to 1 gram of dried cannabis</b>
(a) Fresh cannabis	Five grams
(b) Cannabis solid concentrates	0, 25 gram
(c) Cannabis liquid concentrates	0, 25 gram

**Schedule 3***(Sections 1 and 2)***PRESCRIBED QUANTITY**

<b>Column 1</b> <b>Sections</b>	<b>Column 2</b> <b>Quantity of class</b>
(a) Section 2(1)(a)	Unlimited seeds and seedlings
(b) Section 2(1)(b)	(i) Four flowering cannabis plants or cannabis plant equivalent per adult person; or (ii) eight flowering cannabis plants or cannabis plant equivalent per dwelling which is occupied by two or more adult persons
(c) Section 2(1)(c)	100 grams dried cannabis or cannabis equivalent
(d) Section 2(1)(d)	(i) 600 grams dried cannabis or cannabis equivalent per adult; or (ii) 1200 grams dried cannabis or cannabis equivalent per dwelling which is occupied by two or more adult persons
(e) Section 2(1)(e)	<b>[One flowering cannabis plant or cannabis plant equivalent]</b> <u>Two immature cannabis plants</u>
(f) Section 2(3)(a)	30 seeds or seedlings or any combination thereof
(g) Section 2(3)(b)	<b>[One flowering cannabis plant or cannabis plant equivalent]</b> <u>Two immature cannabis plants</u>

(h) Section 2(3)(c)	100 grams dried cannabis or cannabis equivalent
<u>(i) Section 2(4)(a)(i)</u>	<u>Eight flowering cannabis plants or cannabis plant equivalent per adult person</u>
<u>(j) Section 2(4)(a)(ii)</u>	<u>200 grams dried cannabis or cannabis equivalent</u>
<u>(k) Section 2(4)(a)(iii)</u>	<u>1200 grams dried cannabis or cannabis equivalent per adult person</u>
<u>(l) Section 2(4)(a)(iv)</u>	<u>Two flowering cannabis plants or cannabis plant equivalent</u>
<u>(m) Section 2(4)(b)(i)</u>	<u>Two flowering cannabis plants or cannabis plant equivalent</u>
<u>(n) Section 2(4)(b)(ii)</u>	<u>200 grams dried cannabis or cannabis equivalent</u>

#### Schedule 4

(Sections 1, 3 and 4)

#### TRAFFICABLE AND COMMERCIAL QUANTITIES

Column 1 Sections	Column 2 Trafficable quantity of class	Column 3 Commercial quantity of class
(a) Section 3(1)(b)	<p>(i) Six flowering cannabis plants or cannabis plant equivalent per adult person; <b>[or]</b></p> <p>(ii) twelve flowering cannabis plants or cannabis plant equivalent per dwelling which is occupied by two or more adult persons; <u>or</u></p> <p><u>(iii) twelve flowering cannabis plants or cannabis plant equivalent per adult persons referred to in section 2(4)(a)</u></p>	
(b) Section 3(1)(c)		<p>(i) <b>[Nine]</b> <u>Ten</u> flowering cannabis plants or cannabis plant equivalent per adult person; <b>[or]</b></p> <p>(ii) <b>[Eighteen]</b> <u>Twenty</u> flowering cannabis</p>

Column 1 Sections	Column 2 Trafficable quantity of class	Column 3 Commercial quantity of class
		<p>plants or cannabis plant equivalent per dwelling which is occupied by two or more adult persons; <u>or</u></p> <p><u>(iii) Twenty flowering cannabis plants or cannabis plant equivalent per adult persons referred to in section 2(4)(a)</u></p>
(c) Section 3(4)(b)	<p><b>[Two flowering cannabis plants or cannabis plant equivalent]</b></p> <p><u>Six immature cannabis plants;</u></p> <p><u>or</u></p> <p><u>Four flowering cannabis plants or cannabis plant equivalent per adult persons referred to in section 2(4)(b)(i)</u></p>	
(d) Section 3(4)(c)		<p><b>[Four flowering cannabis plants or cannabis plant equivalent]</b></p> <p><u>Fifteen immature cannabis plants; or</u></p> <p><u>six flowering cannabis plants or cannabis plant equivalent per adult persons referred to in section 2(4)(b)(i)</u></p>

Column 1 Sections	Column 2 Trafficable quantity of class	Column 3 Commercial quantity of class
(e) Section 3(5)(b)	<p><b>[Two flowering cannabis plants or cannabis plant equivalent]</b></p> <p><u>Six immature cannabis plants;</u>  <u>or</u>  <u>three flowering cannabis plants</u>  <u>or cannabis plant equivalent per</u>  <u>adult persons referred to in</u>  <u>section 2(4)(b)(i)</u></p>	
(f) Section 3(5)(c)		<p><b>[Four flowering cannabis plants or cannabis plant equivalent]</b></p> <p><u>Twelve immature cannabis plants;</u> <u>or</u>  <u>five flowering cannabis plants or cannabis plant equivalent per adult persons referred to in section 2(4)(b)(i)</u></p>
<u>) Section 3(6)(a)(ii)</u>	<u>Six immature cannabis plants</u>	
<u>) Section 3(6)(a)(iii)</u>		<u>Twelve immature cannabis plants</u>
(g) Section 4(1)(b)	<p>200 grams dried cannabis or cannabis equivalent; <u>or</u>  <u>300 grams dried cannabis or cannabis equivalent per adult persons referred to in section 2(4)(a)(ii)</u></p>	
(h) Section 4(1)(c)		300 grams dried cannabis or cannabis equivalent; <u>or</u>

Column 1 Sections	Column 2 Trafficable quantity of class	Column 3 Commercial quantity of class
		<u>400 grams dried cannabis or cannabis equivalent per adult persons referred to in section 2(4)(a)(ii)</u>
(i) Section 4(2)(b)	(i) 800 grams dried cannabis or cannabis equivalent per adult; <b>[ or]</b> (ii) 1500 grams dried cannabis or cannabis equivalent per dwelling which is occupied by two or more adult persons; <b>or</b> <u>(iii) 1500 grams dried cannabis or cannabis equivalent per adult persons referred to in section 2(4)(a)</u>	
(j) Section 4(2)(c)		(i) 1000 grams dried cannabis or cannabis equivalent per adult; <b>[ or]</b> (ii) 2000 grams dried cannabis or cannabis equivalent per dwelling which is occupied by two or more adult persons; <b>or</b> <u>(iii) 2000 grams dried cannabis or cannabis equivalent per adult persons referred to in section 2(4)(a)</u>

Column 1 Sections	Column 2 Trafficable quantity of class	Column 3 Commercial quantity of class
(k) Section 4(4)(b)	200 grams dried cannabis or cannabis equivalent; or <u>300 grams dried cannabis or cannabis equivalent per adult persons referred to in section 2(4)(b)(ii)</u>	
(l) Section 4(4)(c)		300 grams dried cannabis or cannabis equivalent; or <u>400 grams dried cannabis or cannabis equivalent per adult persons referred to in section 2(4)(b)(ii)</u>

### Schedule 5

(Section 10)

#### LAWS REPEALED OR AMENDED

Number and year of law	Short title	Extent of repeal or amendment
Act No. 140 of 1992	Drugs and Drug Trafficking Act, 1992	(a) Part II of Schedule 2 is amended by the deletion of the item: "Dronabinol [(-)-transdelta-9-tetrahydrocannabinol]." (b) Part III of Schedule 2 is amended by the deletion of the items: (i) "Cannabis (dagga), the whole plant or any portion or product thereof, except dronabinol [(-)-transdelta-9-tetrahydrocannabinol]"; and (ii) "Tetrahydrocannabinol".
Act No. 93 of 1996	National Road Traffic Act, 1996	(a) The Index to the Act is amended by— (i) the substitution for the heading to Chapter XI of the following heading: <b>"RECKLESS OR NEGLIGENT DRIVING, INCONSIDERATE DRIVING, DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR, THC OR A DRUG HAVING A NARCOTIC EFFECT, AND MISCELLANEOUS OFFENCES"</b> ; and (ii) the substitution for item 65 of Chapter XI of the following item: <b>"Driving or occupying driver's seat while under the influence of intoxicating liquor[ or], a drug having narcotic effect or THC, or with excessive amount of alcohol or THC or a drug having a narcotic effect in blood or breath";</b>

Number and year of law	Short title	Extent of repeal or amendment
		<p>(b) The insertion in section 1—</p> <p>(i) after the definition of "<b>driving licence testing centre</b>" of the following definition:  <u>"drug having a narcotic effect' means any substance or a combination of substances that have an impairing effect on a person's ability to control his or her actions, but excludes THC;"</u>; and</p> <p>(ii) after the definition of "<b>testing station</b>" of the following definition:  <u>"THC' means any substance containing (-)-trans-delta-9-tetrahydrocannabinol;"</u>.</p> <p>(c) The amendment of section 15 by the substitution in subsection (1) for paragraph (g) of the following paragraph:  "(g) if he or she is addicted to the use of any drug having a narcotic effect, or the excessive use of intoxicating liquor <u>or THC</u>; or".</p> <p>(d) The amendment of section 61 by the substitution in subsection (1) for paragraph (g) of the following paragraph:  "(g) not, except on the instructions of or when administered by a medical practitioner in the case of injury or shock, take any intoxicating liquor, <u>THC</u>, or drug having a narcotic effect unless he or she has complied with the provisions of paragraph (f), where it is his or her duty to do so, and has been examined by a medical practitioner if such examination is required by a traffic officer."</p> <p>(e) The amendment of section 65 by—</p> <p>(i) the substitution for the heading to that section of the following heading:  <b><u>"Driving or occupying driver's seat while under the influence of intoxicating liquor[ or], a drug having narcotic effect or THC, or with excessive amount of alcohol or THC or a drug having a narcotic effect in blood or breath"</u></b>;</p> <p>(ii) the substitution for subsections (1), (2) and (3) of the following subsections, respectively:</p> <p style="padding-left: 40px;">"(1) No person shall on a public road—</p> <p style="padding-left: 80px;">(a) drive a vehicle; or</p> <p style="padding-left: 80px;">(b) occupy the driver's seat of a motor vehicle the engine of which is running, while under the influence of intoxicating liquor, <u>THC</u> or a drug having a narcotic effect <u>or any combination thereof</u>.</p> <p style="padding-left: 40px;">(2) No person shall on a public road—</p> <p style="padding-left: 80px;">(a) drive a vehicle; or</p> <p style="padding-left: 80px;">(b) occupy the driver's seat of a motor vehicle the engine of which is running, while the concentration of—</p> <p style="padding-left: 120px;"><u>(i) alcohol;</u></p> <p style="padding-left: 120px;"><u>(ii) THC;</u></p> <p style="padding-left: 120px;"><u>(iii) a drug having a narcotic effect; or</u></p> <p style="padding-left: 120px;"><u>(iv) any combination of (i), (ii) and (iii),</u></p> <p style="padding-left: 80px;">in any specimen of blood taken from any part of his or her body is not less than <b><u>[0,05 gram per 100 millilitres, or in the case of a professional driver referred to in section 32, not less than 0,02 gram</u></b></p>

Number and year of law	Short title	Extent of repeal or amendment
		<p><u>per 100 millilitres] the concentration of alcohol, THC or a drug having a narcotic effect or a combination thereof specified in subsection (10).</u></p> <p>(3) For purposes of subsection (2) or <u>subsection (5)(a) or (b)(ii), [1]if, in any prosecution for an alleged contravention of a provision of [subsection (2)] those subsections,</u> it is proved that the concentration of alcohol, <u>THC or other drug having a narcotic effect or a combination thereof,</u> in any specimen of blood taken from any part of the body of the person concerned was not less than <b>[0,05 gram per 100 millilitres]</b> <u>the concentration specified in subsection (10) or (11), respectively,</u> at any time within two hours after the alleged contravention, it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than <b>[0,05 gram per 100 millilitres at the time of the alleged contravention, or in the case of a professional driver referred to in section 32, not less than 0,02 gram per 100 millilitres it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than 0,02 gram per 100 millilitres]</b> <u>the concentrations specified in those subsections, respectively,</u> at the time of the alleged contravention.";</p> <p>(iii) the substitution for subsections (5) and (6) of the following subsections respectively:</p> <p style="padding-left: 40px;">"(5) No person shall on a public road—</p> <p style="padding-left: 40px;">(a) drive a vehicle; or</p> <p style="padding-left: 40px;">(b) occupy the driver's seat of a motor vehicle, the engine of which is running,</p> <p style="padding-left: 40px;">while the concentration—</p> <p style="padding-left: 80px;">(i) <u>of alcohol in any specimen of breath exhaled by such person is not less than [0,24 milligrams per 1 000 millilitres, or in the case of a professional driver referred to in section 32, not less than 0,10 milligrams per 1000 millilitres] the concentration specified in subsection (11); or</u></p> <p style="padding-left: 80px;">(ii) <u>of alcohol in any specimen of breath exhaled by such person in combination with THC or drug having a narcotic effect in any specimen of blood taken from any part of the body of the person is not less than the concentration specified in subsection (11).</u></p> <p>(6) If, in any prosecution for a contravention of a provision of subsection (5), it is proved that the concentration of alcohol in any specimen of breath of the person concerned <b>[was not less than 0,24 milligrams per 1 000 millilitres of breath]</b> taken at any time within two hours after the alleged contravention <u>was not less than the concentration specified in subsection (11),</u> it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than <b>[0,24 milligrams per 1 000 millilitres at the time of the alleged contravention, or in the case of a professional driver referred to in section 32, not less than 0,10 milligrams per 1000 millilitres, it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than 0,10 milligrams per 1 000 millilitres]</b> <u>the</u></p>

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		<p><u>concentration specified in subsection (11) at the time of the alleged contravention."</u>;</p> <p>(iv) <u>the substitution for subsection (8) of the following subsection:</u></p> <p style="padding-left: 40px;"><u>"(8) Except on the instruction of or when administered by a medical practitioner, no person detained for an alleged contravention of any provision of this section shall during his or her detention consume any alcohol, THC or a drug having a narcotic effect, nicotine, or any medication until the specimen referred to in subsection (3) or (6) has been taken."</u>; and</p> <p>(v) <u>the addition of the following subsection after subsection (9):</u></p> <p style="padding-left: 40px;"><u>"(10) (a) Where a person is a professional driver referred to in section 32—</u></p> <p style="padding-left: 80px;">(i) <u>a concentration of less than a concentration of a drug having a narcotic effect, as may be prescribed, per 100 millilitres of blood;</u></p> <p style="padding-left: 80px;">(ii) <u>a concentration of less than—</u></p> <p style="padding-left: 120px;"><u>(aa) 0,02 gram alcohol per 100 millilitres of blood;</u></p> <p style="padding-left: 120px;"><u>(bb) 200 nanograms THC per 100 milliliters of blood; or</u></p> <p style="padding-left: 120px;"><u>(cc) 0,01 gram alcohol and 100 nanograms THC per 100 millilitres of blood,</u></p> <p style="padding-left: 80px;"><u>without any detectable concentration of a drug having a narcotic effect, as may be prescribed;</u></p> <p style="padding-left: 80px;"><u>or</u></p> <p style="padding-left: 80px;">(iii) <u>a concentration of less than—</u></p> <p style="padding-left: 120px;"><u>(aa) 0,01 gram alcohol and any concentration of a drug having a narcotic effect, as may be prescribed, per 100 millilitres of blood; or</u></p> <p style="padding-left: 120px;"><u>(bb) 100 nanograms THC and any concentration of a drug having a narcotic effect, as may be prescribed, per 100 millilitres of blood.</u></p> <p style="padding-left: 40px;"><u>(b) Where a person is not a professional driver—</u></p> <p style="padding-left: 80px;">(i) <u>a concentration of less than a concentration of a drug having a narcotic effect, as may be prescribed, per 100 millilitres of blood;</u></p> <p style="padding-left: 80px;">(ii) <u>a concentration of less than—</u></p> <p style="padding-left: 120px;"><u>(aa) 0,05 gram alcohol per 100 millilitres of blood;</u></p> <p style="padding-left: 120px;"><u>(bb) 500 nanograms THC per 100 milliliters of blood; or</u></p> <p style="padding-left: 120px;"><u>(cc) 0,025 gram alcohol and 250 nanograms THC per 100 millilitres of blood,</u></p> <p style="padding-left: 80px;"><u>without any detectable concentration of a drug having a narcotic effect, as may be prescribed;</u></p> <p style="padding-left: 80px;"><u>or</u></p> <p style="padding-left: 80px;">(iii) <u>a concentration of less than—</u></p> <p style="padding-left: 120px;"><u>(aa) 0,025 gram alcohol and any concentration of a drug having a narcotic effect, as may be prescribed, per 100 millilitres of blood; or</u></p> <p style="padding-left: 120px;"><u>(bb) 250 nanograms THC and any concentration of a drug having a narcotic effect, as may be prescribed, per 100 millilitres of blood.</u></p>

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		<p style="text-align: center;"><u>(11) (a) Where a person is a professional driver referred to in section 32—</u></p> <p><u>(i) a concentration of less than—</u></p> <p style="padding-left: 40px;"><u>(aa) 0,10 milligrams alcohol per 1000 millilitres of breath; or</u></p> <p style="padding-left: 40px;"><u>(bb) 0,5 milligrams alcohol per 1000 millilitres of breath and 100 nanograms THC per 100 millilitres of blood,</u> without any detectable concentration of a drug having a narcotic effect, as may be prescribed; <u>or</u></p> <p><u>(ii) a concentration of less than 0,5 milligrams alcohol per 1000 millilitres of breath and any concentration of a drug having a narcotic effect, as may be prescribed, per 100 millilitres of blood.</u></p> <p style="padding-left: 40px;"><u>(b) Where a person is not a professional driver—</u></p> <p><u>(i) a concentration of less than—</u></p> <p style="padding-left: 40px;"><u>(aa) 0,24 milligrams alcohol per 1000 millilitres of breath; or</u></p> <p style="padding-left: 40px;"><u>(bb) 0,12 milligrams alcohol per 1000 millilitres of breath and 250 nanograms THC per 100 millilitres of blood,</u> without any detectable concentration of a drug having a narcotic effect, as may be prescribed; <u>or</u></p> <p><u>(ii) a concentration of less than 0,12 milligrams alcohol per 1000 millilitres of breath and any concentration of a drug having a narcotic effect, as may be prescribed, per 100 millilitres of blood.</u></p> <p>(f) The amendment of section 75 by the insertion after subsection (1) of the following subsection:  <u>"(1A) The Minister may, in consultation with the Cabinet member responsible for health, prescribe any drug or category or class of such drugs having a narcotic effect and the concentration thereof for purposes of section 65(10) or (11)."</u></p>
Act No. 75 of 2008	Child Justice Act, 2008	Amendment of Schedule I to the Act, by the addition of the following item, after item 18: <u>"19. An offence provided for in sections 3(6), (7) and (9), <span style="color: red;">4(6)</span> and (7) and 5 of the Cannabis for Private Purposes Act."</u>