**New proposal**

**Part II**

**COMMERCIAL HEMP** **ACTIVITIES**

**Definitions and interpretation**

**10A.** (1) In this Part, unless the context indicates otherwise—

**~~"approved cultivar"~~** ~~means a cultivar of hemp plants prescribed by regulations;~~

**"approved cultivar"** means any hemp plant or its propagating material―

*(a)* contemplated in section 13 of the Plant Improvement Act, 1976,[[1]](#footnote-1) that can be sold for purposes of a commercial hemp activity; or

*(b)* that is prescribed and approved by regulation for the purposes of a commercial hemp activity;

**"commercial hemp activities"** means any authorised activity in respect of the cultivation and production of hemp, the processing of hemp in hemp products and the trade–in hemp products, as prescribed by regulation;

**~~"concentration of THC"~~** ~~in relation to a hemp plant, means the content of delta 9-tetrahydrocannabinol and delta 9-tetrahydrocannabinolic acid of the plant expressed~~

~~as a percentage of the dry weight of the plant;~~

**"concentration of THC"**―

*(a)* in relation to a hemp plant, means the content of THC expressed as a percentage of the dry weight of the leaves and flowering heads; and

*(b)* in relation to a hemp product, the content of THC expressed as a percentage of the―

(i) weight of a solid or semi-solid product; or

(ii) volume of a liquid product,

calculated in accordance with the method prescribed by regulation;

**~~"cultivar"~~** ~~means a variety that has arisen as a result of cultivation;~~

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

**"Department"** means the Department of Agriculture, Land Reform and Rural Development;

**"Director-General"** means the Director-General: Agriculture, Land Reform and Rural Development;

~~"~~**~~hemp~~**~~" means a plant of the variety~~ *~~Cannabis~~* ~~which—~~

*~~(a)~~* ~~is an approved cultivar;~~

*~~(b)~~* ~~has a concentration of THC that does not exceed the percentage as prescribed in terms of the regulations; and~~

*~~(c)~~* ~~is intended for industrial use;~~

**"hemp**" means―

*(a)* a plant of the variety *Cannabis*, whether growing or not*,* which―

(i) is an approved cultivar; and

(ii) has a concentration of THC in the leaves and flowering heads that does not exceed the percentage as prescribed by regulation; and

*(b)* includes any part of a plant in paragraph *(a)*;

**~~"hemp commercial activities"~~** ~~means to—~~

*~~(a)~~* ~~cultivate hemp; and~~

*~~(b)~~* ~~supply, procure, sell, possess, process hemp into specified hemp products, import or export hemp products,~~

~~under authority of a licence issued in terms of the regulations that authorises a licence holder to undertake the activities specified in such licence only in respect of approved cultivars;~~

~~"~~**~~hemp products~~**~~" means any product of a kind that is derived, in whole or in part, from a hemp plant and includes a hemp plant that has been harvested, the seeds of a hemp plant and THC;~~

"**hemp product**" means any product that is derived from processing hemp including the seeds, fibre, hurds, oil and CBD;

~~"~~**~~hemp seeds~~**~~" means the seeds of a hemp plant;~~

**~~"licence holder"~~** ~~means the person in whose name a licence is issued;~~

**"Medicines and Related Substances Control Act, 1965"** means the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);

"**Minister**" means the Cabinet member responsible for agriculture, land reform and rural development;

**"permit holder"** means the person in whose name a permit is issued;

**"person"** means—

*(a)* a natural person that is 18 years or older; or

*(b)* a juristic person;

**"Plant Improvement Act, 1976"** means the Plant Improvement Act, 1976 (Act No. 53 of 1976);

**"propagating material"** means seeds, seedlings and plant material that can be used for the propagation of a plant;

**"regulations"** means the regulations made in terms of section 10**B/C**; and

**"THC"** means of delta 9-tetrahydrocannabinol.

**~~"variety"~~** ~~means a distinct form of a species of a plant.~~

**Commercial hemp activities**

**~~10B.~~** ~~(1) Subject to subsection (2) and the regulations referred to in section 10D, commercial activities in respect of hemp is hereby authorised.~~

~~(2)~~ *~~(a)~~* ~~The Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), applies to hemp products that is medicine or veterinary medicine as defined in section 1 of that Act.~~

*~~(b)~~* ~~The Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), applies to hemp products that is cosmetics, disinfectants and foodstuff as defined in section 1 of that Act.~~

**10B.** (1)The Minister may by regulation authorise any prescribed activity, as a commercial hemp activity.

(2)The Minister must if the activity contemplated in subsection (1)*―*

*(a)* affect the area of responsibility of the Cabinet member responsible for trade and industry, make the regulations in consultation with the Cabinet member;

*(b)* has substantive financial implications, make the regulations in consultation with the Cabinet member responsible for finance; or

*(c)* affect the area of responsibility of any other Cabinet member or MEC, make the regulations in consultation with the Cabinet member or MEC.

(3) A commercial hemp activity in subsection (1) may only be conducted in terms of a permit that authorises the permit holder to undertake, in accordance with the permit and the regulations, the activities specified in the permit only in respect of approved cultivars specified in the permit.

(4) Except where it is inconsistent with the context of or clearly inappropriate, the Minister may by notice in the *Gazette* declare the provision of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947), the Plant Improvement Act, 1976 (Act No. 53 of 1976), the Agricultural Research Act, 1990 (Act No. 86 of 1990), the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), the Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992), the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), and the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), applicable to an activity contemplated in subsection (1).

**Regulations**

**10C.** (1) The Minister may make regulations to—

*(a)* provide for the form and manner of making applications for permits;

*(b)* prescribe the information or documents that must accompany the application for a permit;

*(c)* provide for the inspection of any land, building, facility, equipment or apparatus relevant to the application for a permit;

*(d)* prescribe the criteria to be considered, either generally or in respect of specific a specific commercial hemp activity;

*(e)* provide for the issue of permits for commercial hemp activities;

*(f)* prescribe the form, duration, terms, and conditions of any permit and enabling additional conditions to be imposed;

*(g)* prescribe the fees payable in respect of applications for a permit;

*(h)* provide for the cancellation and suspension of permits;

*(i)* prohibit, limit or restrict and imposing conditions on, either generally or in relation to a particular case or cases or classes of cases or particular classes of person regarding commercial hemp activities;

*(j)* approve or prohibit cultivars of hemp for hemp commercial activities in general or in relation to a particular commercial hemp activity or a category or class of commercial hemp activities;

*(k)* control, restrict and regulate commercial hemp activities including—

(i) the manner to deal with THC obtained during the processing of hemp;

(ii) the destruction of prohibited cultivars of hemp or a hemp product derived from prohibited cultivars of hemp; or

(iii) the disposal of hemp waste;

*(l)* regulate the import, export, sale, distribution, possession, and destruction propagating material;

*(m)* provide for the weighing, counting, measuring, sealing, transporting, packaging, seizing, and taking of samples of hemp, hemp products or propagating material;

*(n)* providefor the taking of samples by an authorised person appointed by the Department for testing, the provision of samples to a designated laboratory by the permit holder for testing and the reporting of the test result to the Department;

*(o)* provide for the keeping and updating of records by the permit holder regarding any aspect as may be prescribed;

*(p)* prescribe the concentration of THC as contemplated in paragraph *(a)*(ii) of the definition of "hemp" in section 10A(1);

*(q)* prescribe the method of calculating the concentration of THC as contemplated in paragraph *(b)* of the definition of "concentration of THC" in section 10A(1);

*(r)* provide for the waiver of fees in whole or in part in particular cases or classes of cases and for the total or partial refund of fees in respect of payable for permit applications;

*(s)* provide for applications for exemption and the exemption of, any persons or classes of persons, from any provision of any regulation in terms of this section which imposes conditions or obligations;

*(t)* prescribe a hemp plant or its propagating material as contemplated in paragraph *(b)* of the definition of "approved cultivar" in section 10A(1); and

*(u)* provide for such matters as are contemplated by or necessary for giving full effect to the provisions of this Part and for its due administration.

(2) Any regulations made under subsection (1) may provide that any person who contravenes or fails to comply with a provision thereof or a term or condition of a permit granted under subsection (1)*(e)*, shall be guilty of an offence and liable on conviction to a fine of R100 000, or to imprisonment for a period not exceeding 12 months.

(3) Any regulations made in terms of this section or any amendment thereto must, before publication in the *Gazette*, be approved by Parliament.

**Application of Part II in relation to the Medicines and Related Substances Control Act, 1965**

**10D.** (1) Part II of this Chapter does not apply to any activity in respect of cannabis that is regulated in terms of the Medicines and Related Substances Control Act, 1965.

(2) For purposes of subsection (1)―

*(a)* **"activity"** includes the cultivation, manufacturing, importing, exporting, acting as a wholesaler or conducting research in accordance with terms or conditions of a permit, licence or authorisation in terms of the Medicines and Related Substances Control Act, 1965; and

*(b)* **"cannabis"** includes, where relevant to an activity in paragraph *(a)*, a cannabis plant, THC, CBD, any other product derived from cannabis or any medicine containing cannabis.

1. **Requirements relating to sale of plants and propagating material**

   **13**. (1) Plants and propagating material shall only be sold for purposes of cultivation-

   *(a)* if the plants and propagating material are of a variety which is entered in the varietal list;

   *(b)* under the denomination entered in respect thereof in the varietal list;

   *(c)* if no qualifying term or reference is added to or used in connection with the denomination referred to in paragraph *(b)*;

   *(d)* if the plant or propagating material, as the case may be, complies with the requirements prescribed in respect thereof; and

   *(e)* if, in the case of―

   (i) propagating material, the material is prepackaged or is packed in containers which comply with the prescribed requirements and are sealed and branded, marked or labelled in the prescribed manner with the prescribed information; or

   (ii) a plant, the prescribed information appears on a label affixed to the plant or on the container in which the plant grows or is packed.

   (2) The registrar may, on good cause shown in writing, give written exemption from compliance with one or more of the requirements referred to in subsection (1) subject to such conditions as he or she may in each case determine. [↑](#footnote-ref-1)