

THE INDUSTRIAL HEMP BILL, 2021

MEMORANDUM

The objects of this Bill are to provide for—

- (a) the licensing of growers, processors, distributors, buyers, exporters of and researchers of industrial hemp;
- (b) the production and multiplication of industrial hemp;
- (c) the import and export of industrial hemp; and
- (d) matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

THE INDUSTRIAL HEMP BILL, 2021

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A BILL

ENTITLED

An Act to provide for the licensing of growers, processors, distributors, buyers, exporters of and researchers on industrial hemp; provide for the production and multiplication of industrial hemp; provide for the import and export of industrial hemp; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia

Enactment

PART I

PRELIMINARY PROVISIONS

- 5 **1.** This Act may be cited as the Industrial Hemp Act, 2021, and shall come into operation on the date that the Minister may appoint by statutory instrument. Short title and commencement
- 2.** In this Act unless the context otherwise requires— Interpretations
- “authorised officer” has the meaning assigned to the words in the Cannabis Act, 2021; Act No. of 2021
- 10 “Committee” has the meaning assigned to the word in the Cannabis Act, 2021;
- “Lead Agency” has the meaning assigned to the word in the Cannabis Act, 2021; Act No. of 2021
- 15 “legally disqualified” means the absence of legal capacity as provided in section 4 of the Mental Health Act, 2019; Act No. of 2021

Act No. 6 of 2019	<p>“licensed activity” means an activity authorised under a licence issued by the Agency;</p> <p>“licensee” means a person issued with a licence to grow, process, distribute, buy, export or conduct research on industrial hemp under section 5; and</p> <p>“industrial hemp” means a plant of cannabis and any part or derivative of that plant, including viable seed, whether growing or not with a <i>delta-9 -tetrahydrocannabinol</i> concentration of not more than 0.3% on a dry weight basis.</p>	5
	<p>PART II</p> <p>LICENSING OF GROWERS, PROCESSORS, DISTRIBUTORS, BUYERS, EXPORTERS AND RESEARCHERS OF INDUSTRIAL HEMP</p>	10
Licensing by Lead Agency	<p>3. The Lead Agency shall be responsible for the issuance of licences for the growing, processing, distribution, buying, export and conducting of research on industrial hemp under this Act.</p>	15
Prohibition from growing, processing, distributing, buying, exporting of and researching on industrial hemp without licence	<p>4. (1) A person shall not grow, process, distribute, buy, export or conduct research on industrial hemp without a licence issued under this Act.</p> <p>(2) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a penalty specified in the Narcotic Drugs and Psychotropic Substances Act.</p>	20
Cap. 96 Application for licence	<p>5. (1) A person who intends to grow, process, distribute, buy, export or conduct research on industrial hemp shall apply to the Agency in a prescribed manner and form on payment of a prescribed fee.</p> <p>(2) The Lead Agency shall, on the recommendation of the Committee, within sixty days, of receipt of the application under subsection (1), approve or reject the application.</p> <p>(3) Where the Lead Agency rejects an application, the Lead Agency shall, within fourteen days of the decision, inform the applicant of the decision stating the reasons for the rejection.</p> <p>(4) The Lead Agency may request further particulars or information in respect of an application.</p>	25
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	<p>6. (1) The Lead Agency may, issue a licence under this Act if the—</p> <p>(a) application is in accordance with the provisions of this Act; and</p> <p>5 (b) applicant is financially and technically capable of meeting the applicant’s obligations and the terms and conditions of the licence.</p> <p>(2) A licence issued under subsection (1) shall contain the terms and conditions of the licence as prescribed.</p>	<p>Issue of licence</p>
10	<p>7. A licence issued under section 6 is valid for a period of five years.</p>	<p>Validity of licence</p>
15	<p>8. (1) A licensee who intends to renew a licence issued under this Act shall apply to the Lead Agency, within sixty days before the expiration of the licence, in a prescribed manner and form on payment of a prescribed fee.</p> <p>(2) The Lead Agency shall, on the recommendation of the Committee, within sixty days of receipt of the application under subsection (1), approve or reject the application.</p> <p>(3) Where the Lead Agency rejects an application to renew a</p> <p>20 licence, the Lead Agency shall inform the licensee in writing of the decision stating the reasons for the rejection.</p>	<p>Renewal of licence</p>
25	<p>9. (1) The Lead Agency may, in consultation with the Committee, suspend or revoke the licence where the licensee</p> <p>(a) breaches a condition of the licence;</p> <p>(b) obtained the licence by fraud, misrepresentation or concealment of a material fact;</p> <p>(c) is legally disqualified to undertake the licenced activity; or</p> <p>(d) is convicted of an offence under this Act or any other written law and sentenced to a term of imprisonment</p> <p>30 exceeding six months without an option of a fine.</p> <p>(2) The Lead Agency shall before suspending or revoking a licence under subsection (1), notify the licensee of the Lead Agency’s intention to suspend or revoke the licence and shall</p> <p>(a) state the reasons for the intended suspension or revocation;</p> <p>35 and</p> <p>(b) require the licensee to show cause, within a period of not more than fourteen days, why the licence should not be suspended or revoked.</p>	<p>Suspension or revocation of licence</p>

- (3) The Lead Agency shall not suspend or revoke a licence under this section if the licensee takes remedial measures to the satisfaction of the Lead Agency within the period specified under subsection (2).
- (4) The Lead Agency shall, in making the final determination on the suspension or revocation of a licence, consider the submissions made by the licensee under subsection (2). 5
- (5) The Lead Agency may suspend or revoke a licence if the licensee after being notified under subsection (2), fails to show cause or does not take any remedial measures, to the satisfaction of the Lead Agency, within the time specified in that subsection. 10
- (6) Where a licence is suspended or revoked under this Act, the Lead Agency shall inform the licensee, in writing, of the revocation of the licence and the licensee shall surrender that licence, subject to the conditions that the Lead Agency may impose with respect to the winding up of the licensed activity. 15
- 10.** A licence issued under this Act is not transferable.
- Transfer of licence
- 11.** (1) A licensee shall, at any time during the validity of the licence, apply to the Lead Agency in a prescribed manner and form on payment of a prescribed fee, for the variation of the terms and conditions of the licence. 20
- Variation of licence
- (2) The Lead Agency shall, on the recommendation of the Committee, within thirty days of receipt of an application under subsection (1)
- (a) vary the terms and conditions of the licence or reject the application; and 25
- (b) notify the licensee of the variation or rejection thereof.
- 12.** (1) A licensee shall, where there are changes relating to a licensed activity, notify the Lead Agency within thirty days of the change of the particulars relating to the licensed activity in the prescribed manner and form on payment of a prescribed fee. 30
- Notice of change of particulars
- (2) The Lead Agency shall, within thirty days of receipt of the notice under subsection (1)
- (a) endorse the change of the particulars relating to the licensed activity on the licence and in the register; and 35
- (b) notify the licensee of the change thereof.
- 13.** The Committee shall, in consultation with an appropriate authority, designate areas for growing, processing, distribution and buying of industrial hemp, taking into account—
- Designation of growing, processing, distributing and buying area

	(a) risk of diversion;	
	(b) risk of contamination, subject to the Environmental Management Act, 2011;	Act No. 12 of 2011
	(c) economic decentralisation; and	
5	(d) any other factor that the Minister may consider reasonably necessary.	
	14. (1) An owner or occupier of premises licensed to grow industrial hemp shall not cultivate or permit the cultivation of cannabis on those premises.	Prohibition of cultivation of cannabis on land designated for industrial hemp
10	(2) A person who contravenes subsection (1) is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.	
	(3) The Lead Agency shall, where a person contravenes subsection (1), in addition to the penalty under subsection (2)	
15	(a) seize the cannabis plant and cause that person’s land to be cleared in the presence of an inspector; or	
	(b) supervise the cultivation of the crop until maturity before seizure of the plant.	
20	(4) For the purposes of this section “cannabis” has the meaning assigned to the word in the Cannabis Act, 2021.	Act No. of 2021
	15. A person who intends to import and export industrial hemp seed shall do so in accordance with this Act, the Plant Variety and Seeds Act and the Plant Pests and Diseases Act.	Import and export of industrial hemp seed Cap. 236 Cap. 233
25	16. The Minister may, by statutory instrument, prescribe the seed variety or cultivar of industrial hemp to be grown in the Republic.	Industrial hemp seed variety Industrial hemp seed production and multiplication Cap. 236
	17. The production and multiplication of industrial hemp seed shall be carried out in accordance with the Plant Variety and Seed Act.	
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	18. (1) An independent laboratory shall, for purposes of verification, test industrial hemp before it is distributed, exported or sold.	Quality control of industrial hemp
	(2) An independent laboratory under subsection (1) shall be a recognised laboratory, as prescribed.	
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PART III

INSPECTIONS

Power of authorised officer	<p>19. (1) An authorised officer may for the purposes of enforcing the provisions of this Act, and with a warrant, at any reasonable time—</p> <p>(a) enter and inspect any premises where an activity in relation to industrial hemp is undertaken;</p> <p>(b) search any premises where any activity in relation to industrial hemp is being undertaken;</p> <p>(c) require information to be given about any document, record, book, article, industrial hemp in any premises by—</p> <p style="padding-left: 20px;">(i) the owner of the premises;</p> <p style="padding-left: 20px;">(ii) the person in control of the premises;</p> <p style="padding-left: 20px;">(iii) any person who has control of the document, record, book, article, industrial hemp; or</p> <p style="padding-left: 20px;">(iv) any other person who may have the information;</p> <p>(d) seize any document, book, record, article, computer or other electronic storage device or industrial hemp that has a bearing on an inspection or investigation or is used for purposes contrary to the provisions of this Act;</p> <p>(e) take samples of industrial hemp as may be necessary for the purposes of testing, examination or analysis;</p> <p>(f) take extracts from, or make copies of, any book, record or document found on the premises that has a bearing on an inspection or investigation;</p> <p>(g) use any computer system or any other electronic device on the premises, or require the assistance of any person on the premises to use that computer system or electronic device to—</p> <p style="padding-left: 20px;">(i) search any data contained in, or available to the computer system or electronic device;</p> <p style="padding-left: 20px;">(ii) reproduce any record from the data;</p> <p style="padding-left: 20px;">(iii) seize any output from the computer or electronic device for examination and copying; and</p> <p style="padding-left: 20px;">(iv) attach and, if necessary, remove from the premises for examination and safeguarding any document, record, book or article that has a bearing on an inspection or investigation.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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(2) An authorised officer who removes any document, book, record or article from any premises under this section shall—

5 (a) issue a receipt for the document, book, record or article to the owner of, or person in control of, the premises; and

(b) return the document, book, record or article as soon as practicable after achieving the purpose for which it was removed.

10 (3) An authorised officer shall furnish a written report and any other information relating to an inspection to the Lead Agency, Committee and any appropriate authority, as the Lead Agency, Committee or the appropriate authority may require.

20. (1) A person shall not—

15 (a) delay, assault, threaten or obstruct an authorised officer in the performance of the authorised officer’s functions;

(b) refuse to give an authorised officer reasonable assistance that the authorised officer may require for the purpose of exercising the authorised officer’s powers;

20 (c) give an authorised officer false or misleading information in answer to an inquiry made by the authorised officer; or

(d) impersonate an authorised officer or present oneself to be an authorised officer.

25 (2) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Obstruction of authorised officer

PART IV
GENERAL PROVISIONS

30 21. (1) A person aggrieved with the decision of the Lead Agency may appeal to the Minister.

Appeals

(2) A person aggrieved by a decision of the Minister may appeal to the High Court.

35 22. (1) The Lead Agency shall cause to be kept and maintained a register of growers, processors, distributors, buyers, exporters of and researchers on industrial hemp licensed under this Act in a prescribed manner and form.

Register

(2) The register under subsection (1), shall contain particulars that the Minister may, by statutory instrument, prescribe.

Submission of annual returns and status report	<p>23. (1) A licensee shall submit to the Lead Agency in an annual return or nochange return in a prescribed manner and form on payment of a prescribed fee.</p> <p>(2) The Lead Agency may request a status report on a licensed activity in the prescribed manner and form.</p> <p>(3) The annual return shall cover the period from 1st January to 31st December of the preceding financial year and the licensee shall submit the annual return or nochange return by 31st March of the following financial year.</p> <p>(4) A licensee shall, where the status of the licensed activity has not changed, specify in a prescribed manner and form the financial year in which the return is filed and include a general statement of a nochange in any given particulars in the return from the filing of the previous return.</p> <p>(5) A person who fails to submit the annual report and status report within the prescribed period commits an offence.</p>	5
General penalty	<p>24. A person who commits an offence under this Act for which a specific penalty is not provided is, on conviction, liable to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.</p>	20
Preferential schemes	<p>25. The Minister shall, in consultation with the Citizen Economic Empowerment Commission, recommend preferential schemes for the purposes of this Act under the Citizens Economic Empowerment Act, 2006.</p>	25
Act No. 9 of 2006		
Regulations	<p>26. (1) The Minister may, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act.</p> <p>(2) Despite the generality of subsection (1), Regulations made under subsection (1) shall—</p> <p>(a) prescribe the manner and form of growing, processing, distributing, buying of industrial hemp and researching on industrial hemp and the fees payable;</p> <p>(b) provide for the details to be entered in the register; and</p> <p>(c) prescribe anything required to be prescribed under this Act.</p>	30 35