



Misuse of Drugs (Industrial Hemp) Regulations 2006

Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 26th day of June 2006

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 37 of the Misuse of Drugs Act 1975, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Misuse of Drugs (Industrial Hemp) Regulations 2006.

2 Commencement

These regulations come into force on 1 August 2006.

3 Object

The object of these regulations is to enable the cultivation and distribution of industrial hemp under a licensing regime that ensures that other forms of cannabis are not cultivated and distributed under the guise of industrial hemp.

4 Interpretation

In these regulations, unless the context otherwise requires,—
approved cultivar means a cultivar of hemp approved under regulation 5

approved laboratory means the Institute of Environmental Science and Research Limited or any other laboratory approved by the Director-General for the purpose of testing samples of hemp under these regulations

authorised person means a person authorised in writing by the Director-General to exercise the powers specified in these regulations

cannabis means *Cannabis sativa*

cultivar means a variety that has arisen as a result of cultivation

director means,—

- (a) in relation to a company, any person occupying the position of a director of the company by whatever name called:
- (b) in relation to a partnership, any partner:
- (c) in relation to a body corporate other than a company or partnership, any person occupying a position in the body that is comparable with that of a director of a company

Director-General means the Director-General of Health

general licence means a licence described in regulation 7

hemp means cannabis plant, seed, or fruit

hemp product means a product of a kind that is derived, in whole or in part, from industrial hemp

industrial hemp means hemp in the form of—

- (a) plants with a THC content that is—
 - (i) generally below 0.35%; and
 - (ii) is not above 0.5%; or
- (b) seeds harvested from plants of that kind

licence means a general licence or a research and breeding licence

licence holder means the person in whose name a licence is issued

location means a distinct area of land or premises

register means a register required to be kept under these regulations

research and breeding licence means a licence described in regulation 8

responsible person, in relation to a licence held or sought by a body corporate or partnership, means an individual approved by the Director-General for the purposes of the licence

THC means tetrahydrocannabinol

THC content, in relation to a hemp plant, means the content of THC of the plant expressed as a percentage of the dry weight of the plant

variety means a distinct form of a species of plant.

Approval of cultivars of industrial hemp

5 Director-General may approve cultivars of industrial hemp

- (1) For the purposes of the cultivation of industrial hemp under these regulations, the Director-General may, by written determination, approve any cultivar of industrial hemp described in the determination.
- (2) The Director-General may approve a cultivar on the Director-General's initiative or on an application under regulation 6.
- (3) If at any time the Director-General ceases to be satisfied that an approved cultivar is a cultivar of industrial hemp, the

Director-General must promptly, by written determination, revoke the approval of that cultivar.

- (4) A determination under this section must be published in the *Gazette*.

6 Applications for approvals of cultivars of industrial hemp

- (1) Any person may apply to the Director-General for approval of a cultivar of industrial hemp.
- (2) The application must be in a form provided by the Director-General and must contain the following information:
 - (a) the name of the cultivar for which approval is sought;
 - (b) the pedigree of the cultivar, including the source of parent cultivars, the THC content of those parent cultivars, and information about the history of their cultivation in New Zealand or overseas or both;
 - (c) the intended use of the cultivar, whether as oil, seed, or fibre;
 - (d) details of the history of at least 2 years of cultivation of the cultivar in New Zealand;
 - (e) the crop characteristics of the cultivar;
 - (f) the test results of the THC content of the cultivar for each of the years of cultivation detailed under paragraph (d).

Nature of licences and eligibility requirements

7 General licence

- (1) A general licence authorises the licence holder to undertake, in accordance with the licence and these regulations, any of the following activities that are specified in the licence:
 - (a) the procurement within New Zealand of industrial hemp;
 - (b) the cultivation of industrial hemp;
 - (c) the supply within New Zealand of industrial hemp;
 - (d) the processing of industrial hemp into specified hemp products;
 - (e) the possession of industrial hemp for the purposes of the activities specified in the licence.
- (2) A licence holder is authorised to undertake the activities specified in a general licence only in respect of approved

cultivars or, if the licence is limited to particular approved cultivars, the approved cultivars specified in the licence.

8 Research and breeding licence

A research and breeding licence authorises the licence holder to undertake, in accordance with the licence and these regulations, any of the following activities specified in the licence:

- (a) the procurement by a person within New Zealand of hemp of specified cultivars and varieties that are not approved cultivars:
- (b) the cultivation, for research purposes only, of specified cultivars and varieties of hemp that are not approved cultivars:
- (c) the breeding, for research purposes only, of new cultivars and varieties of hemp:
- (d) the conduct of research into the suitability of cultivars and varieties of hemp referred to in paragraphs (b) and (c) for industrial uses:
- (e) the supply, within New Zealand, of specified cultivars and varieties of hemp that are not approved cultivars, but only to holders of research and breeding licences:
- (f) the possession of specified cultivars and varieties of hemp that are not approved cultivars for the purposes of the activities specified in the licence.

9 Individuals who are eligible to hold licences

An individual is eligible to hold a licence if the individual—

- (a) has duly completed an application for the licence; and
- (b) is 18 years or older; and
- (c) has not held a licence, under these regulations or under the Misuse of Drugs Regulations 1977, that has been revoked at any time in the 5 years immediately preceding the date of his or her application; and
- (d) has not been convicted of—
 - (i) an offence against the Misuse of Drugs Act 1975 or of any other drug-related offence; or
 - (ii) a crime involving dishonesty within the meaning of the Crimes Act 1961; or
 - (iii) an offence outside New Zealand that, if committed in New Zealand, would fall within subparagraph (i) or subparagraph (ii); and

- (e) is entitled to use the location or locations specified in the application for the activities for which the licence is sought; and
- (f) is familiar with, and has the expertise and the resources to comply with, the obligations imposed, under these regulations, on a licence holder of a licence of the kind sought by the application; and
- (g) has the expertise and the resources to undertake the activities for which the licence is sought.

10 Bodies corporate and partnerships that are eligible to hold licences

A body corporate or partnership is eligible to hold a licence if—

- (a) an application for the licence has been duly completed for the body corporate or partnership by a person authorised to do so; and
- (b) every director of the body corporate or partnership is 18 years or older; and
- (c) no licence (if any) previously issued, under these regulations or under the Misuse of Drugs Regulations 1977, to the body corporate or to the partnership or to any person who is a director of the body corporate or partnership has been revoked at any time in the 5 years immediately preceding the date of the application; and
- (d) neither the body corporate or partnership, nor any person who is a director of the body corporate or partnership, has been convicted of—
 - (i) an offence against the Misuse of Drugs Act 1975 or of any other drug-related offence; or
 - (ii) a crime involving dishonesty within the meaning of the Crimes Act 1961; or
 - (iii) an offence outside New Zealand that, if committed in New Zealand, would fall within subparagraph (i) or subparagraph (ii); and
- (e) the body corporate or partnership is entitled to use the location or locations specified in the application for the activities for which the licence is sought; and
- (f) the body corporate or the partnership has nominated 1 or more individuals to be responsible persons, being individuals who are eligible under regulation 11; and

- (g) 1 or more directors of the body corporate or partnership, or employees of the body corporate or partnership, have the expertise—
 - (i) to comply with the obligations imposed, under these regulations, on a licence holder of a licence of the kind sought by the application; and
 - (ii) to undertake the activities for which the licence is sought; and
- (h) the body corporate or partnership has the resources—
 - (i) to comply with the obligations imposed, under these regulations, on a licence holder of a licence of the kind sought by the application; and
 - (ii) to undertake the activities for which the licence is sought.

11 Eligibility of responsible person

An individual is eligible to be approved under these regulations as a responsible person if the individual—

- (a) is authorised by the body corporate or partnership concerned to control the activities for which the licence is sought, and to communicate, on behalf of the body corporate or partnership, with the Director-General or any authorised person; and
- (b) is familiar with, and has the expertise to comply with, the obligations imposed, under these regulations, on a licence holder of a licence of the kind sought by the application; and
- (c) is 18 years or older; and
- (d) has not held a licence, under these regulations or under the Misuse of Drugs Regulations 1977, that has been revoked at any time in the 5 years immediately preceding the date of his or her nomination; and
- (e) has not been convicted of—
 - (i) an offence against the Misuse of Drugs Act 1975 or of any other drug-related offence; or
 - (ii) a crime involving dishonesty within the meaning of the Crimes Act 1961; or
 - (iii) an offence outside New Zealand that, if committed in New Zealand, would fall within subparagraph (i) or subparagraph (ii); and
- (f) resides in New Zealand.

12 Person may not hold research and breeding licence without holding general licence

A person is not eligible to hold a research and breeding licence if the person does not hold a general licence.

13 Locations specified in applications must be safe

- (1) Every location specified in an application must be safe.
- (2) For the purposes of subclause (1), a location is safe if,—
 - (a) in the case of a location intended for storage of industrial hemp, it has a stable structure in which industrial hemp can be securely stored; and
 - (b) it is protected against access by unauthorised individuals and wandering animals; and
 - (c) it is located at least 5 kilometres from an area zoned residential.
- (3) The Director-General may waive the requirement stated in subclause (2)(c) if satisfied that, having regard to the features of the location and the surrounding geographical area, the proximity of the residential area does not detract from the object of these regulations.
- (4) An application may specify more than 1 location only if all locations are included in the same property.

*Making and assessment of applications***14 Application for licences**

- (1) Every application for a licence must be in a form provided by the Director-General.
- (2) The form must require the person completing the form to give the following information:
 - (a) the name, address, and contact details of the applicant;
 - (b) in the case of a body corporate or partnership,—
 - (i) the name of every director; and
 - (ii) the name, address, and contact details of every person nominated to be a responsible person;
 - (c) whether a general licence or a research and breeding licence is sought;
 - (d) the activities for which the licence is sought;

- (e) the description, address, and, if required for the purposes of identification, a plan of the location or locations to be used for the activities for which the licence is sought:
 - (f) the place where the registers will be kept:
 - (g) sufficient additional information to enable the Director-General to assess whether the applicant is eligible to hold the licence sought.
- (3) Every address shown in the application must be in New Zealand.
 - (4) The application must be signed and dated by or on behalf of the applicant.

15 Fees for applications

- (1) Every application must be accompanied by the appropriate fee.
- (2) The fee for a general licence is \$500.
- (3) The fee for a research and breeding licence is \$150.
- (4) The fees set by this regulation include goods and services tax.
- (5) The Director-General may refuse to consider an application or issue a licence until the appropriate fee has been paid.

16 Director-General to check applications received

- (1) On receipt of an application, the Director-General must check whether or not the application appears to be in order.
- (2) If the application does not appear to be in order, the Director-General must return the application to the applicant for completion or, as the case requires, advise the applicant that the applicant does not appear to be eligible to hold the licence sought.
- (3) The Director-General may request any further information from the applicant, or the person who completed the application, if the information appears to be incomplete or there is any matter about which the Director-General needs to be satisfied.
- (4) The Director-General may require that any information or further information submitted with or in relation to the application be verified by statutory declaration.

17 Director-General may inspect locations specified in application

The Director-General may inspect every location specified in the application to check whether it is safe in terms of regulation 13.

18 Director-General to ask police for information on applicant

In order to ascertain whether an applicant or any directors of an applicant and any person nominated as a responsible person have convictions of the kind specified in regulation 9, 10, or 11, the Director-General must ask the New Zealand Police to check if any of those persons has a conviction of that kind.

*Issue, changes to, and renewal of licences***19 Decision to issue licence or to decline licence**

- (1) The Director-General may approve an application if the Director-General—
- (a) is satisfied that the applicant is eligible, under these regulations, to hold the licence sought; and
 - (b) approves every individual nominated under regulation 10(f) as a responsible person; and
 - (c) is satisfied that every location specified in the application is safe in terms of regulation 13.
- (2) If, after considering an application, the Director-General is not satisfied about a matter specified in subclause (1)(a) or (c) or does not approve a nominated individual as a responsible person, the Director-General must decline the application.
- (3) If the Director-General decides to decline an application, the Director-General must notify the applicant of the decision and of the reasons for the decision.

20 Director-General may impose conditions

In issuing a licence, the Director-General may impose any conditions, in addition to the conditions imposed by these regulations, that the Director-General considers, in the circumstances of the particular case, necessary or desirable to meet the object stated in regulation 3.

21 Issue and form of licence

- (1) As soon as practicable after approving an application under regulation 19, the Director-General must issue a licence that states the following:
 - (a) whether the licence is a general licence or a research and breeding licence;
 - (b) the name of the licence holder;
 - (c) if the licence is issued to a body corporate or a partnership, the name of every responsible person;
 - (d) the activities that are authorised;
 - (e) each location where industrial hemp may be—
 - (i) stored; and
 - (ii) if applicable, cultivated; and
 - (iii) if applicable, processed;
 - (f) in the case of a general licence, the approved cultivar or approved cultivars to which the licence is limited;
 - (g) in the case of a research and breeding licence, the names or descriptions of cultivars (including cultivars that have not been approved) or varieties of hemp to be used in research programmes or breeding programmes or both;
 - (h) the period for which the licence is in force;
 - (i) any conditions imposed by the Director-General under regulation 20.
- (2) The Director-General must sign and date the licence and give or send it to the licence holder.

22 Duration and extension of licence

- (1) A licence is in force for the period stated in the licence.
- (2) The stated period may not exceed,—
 - (a) in the case of a licence that authorises the cultivation of industrial hemp, 1 year;
 - (b) in any other case, 3 years.
- (3) A licence holder whose licence has been issued for a period of less than 3 years may, before the expiry of the licence, apply to the Director-General for an extension of the period.
- (4) If satisfied that the licence holder has complied with the conditions of the licence holder's licence imposed by or under these regulations and with every other provision of these regulations, the Director-General may, by notice to the licence

holder, extend the period by a further period stated in the notice.

- (5) No extension may be granted that would result in a licence being in force for more than 3 years after the date of its issue.
- (6) As long as subclause (5) is complied with, the Director-General may extend the period of a licence on 2 or more occasions.
- (7) Subclause (1) is subject to subclause (4).

23 Renewal of licence

- (1) If an application for renewal of a licence is made not more than 90 days and not less than 30 days before the expiry of the licence, the licence continues in force until the application for renewal is determined.
- (2) These regulations apply to an application for a renewal of a licence as if it were an application for a new licence.
- (3) Despite subclause (2), the Director-General may, if satisfied that the licence holder continues to be eligible to hold a licence, waive the requirements in regulation 17 or regulation 18 or both.
- (4) A licence issued on an application under this regulation must be treated as a licence issued under regulation 21.
- (5) This regulation overrides regulation 22.

24 Surrender of licence

A licence holder may, at any time, surrender his or her licence to the Director-General, in which case the licence expires on the date on which the licence is received by the Director-General.

25 Certain changes not to be made without prior approval of Director-General

- (1) A licence holder may not change any of the following matters without the prior approval of the Director-General:
 - (a) the composition of the board of directors of the body corporate or partnership;
 - (b) the locations specified in the licence;
 - (c) the cultivars or varieties specified in the licence;
 - (d) any responsible person.

- (2) An approval under this regulation must be sought—
 - (a) by written application accompanied by the licence; and
 - (b) at least 30 days before a proposed change is to take effect.
- (3) If the Director-General approves a change of the kind described in subclause (1)(b) to (d), the Director-General must amend the licence or issue a replacement licence to reflect the approved change.

26 Replacement of responsible person

- (1) This regulation applies if there is no responsible person in respect of a licence held by a body corporate or partnership because the individual who was the responsible person has—
 - (a) died, become incapacitated, or for any other reason has become unable to hold the position of responsible person; or
 - (b) ceased to be a responsible person as a result of a cancellation of approval under regulation 27.
- (2) The licence holder concerned must, as soon as practicable, seek the Director-General's approval, under regulation 25, for an eligible individual to replace the individual who has ceased to be a responsible person.

27 Cancellation of approval of responsible person

- (1) The Director-General may cancel the Director-General's approval given in respect of an individual, under regulation 19, if the Director-General is satisfied that the individual—
 - (a) has ceased to be eligible under regulation 11; or
 - (b) has breached a provision of these regulations or a condition of the licence.
- (2) Before cancelling an approval of an individual, the Director-General must—
 - (a) notify the individual of the proposal to cancel the approval; and
 - (b) give the individual an opportunity to make submissions within a reasonable period on the proposal; and
 - (c) take into account any submissions received within that period.

- (3) The Director-General must give notice of a cancellation under this regulation to the individual concerned and to the licence holder concerned.

28 Certain changes to be notified to Director-General

Whenever there is a change in the place where a licence holder's registers are kept or a change in the address or the contact details of a responsible person, the licence holder must, not later than 15 days after the change, give the Director-General notice of the change.

29 Licence must be securely kept

The licence holder must keep the licence issued to the licence holder in a secure place at all times when the licence is not required to be produced under these regulations.

Terms and conditions relating to authorised activities

30 Activity may be undertaken only in specified location

An activity authorised by a licence may be undertaken only in the location specified for the activity in the licence.

31 Activity must be undertaken under control of licence holder or responsible person

An activity authorised under a licence may be undertaken only if it is undertaken under the control of—

- (a) the licence holder, if the licence holder is an individual; or
- (b) a responsible person, if the licence holder is a body corporate or a partnership.

32 Hemp to be dealt with responsibly

Every licence holder and every responsible person must deal with hemp that is in their possession or control in a way that effectively guards against the risk of misuse for unlawful purposes.

33 Compliance with conditions and provisions

- (1) Every licence holder and every responsible person must—

- (a) comply with all conditions imposed on the licence holder by or under these regulations and with all other provisions of these regulations; and
 - (b) take all reasonable steps to ensure that every employee, agent, and contractor complies with those conditions and provisions.
- (2) The expenses incurred in complying with all conditions imposed by or under these regulations and with all other provisions of these regulations must be met by the licence holder.

34 Licence holder limited to cultivar or variety specified in licence

- (1) A licence holder may undertake the activities authorised by the licence only in respect of approved cultivars or varieties.
- (2) A licence holder who holds a research and breeding licence and who is authorised to procure a cultivar or variety of hemp that is not an approved cultivar may procure that cultivar or variety only from another licence holder who holds a research and breeding licence and who is authorised to supply that cultivar or variety.
- (3) A licence holder who holds a research and breeding licence and who is authorised to supply a cultivar or variety of hemp that is not an approved cultivar may supply that cultivar or variety only to another licence holder of a research and breeding licence who is authorised to procure that cultivar or variety.
- (4) Nothing in this regulation affects a licence under the Misuse of Drugs Regulations 1977 to import or export hemp.

35 Hemp seeds may be procured only from licence holders

A licence holder must not procure hemp seeds from a person in New Zealand who is not a licence holder authorised to supply seeds of that cultivar or variety.

36 Security of hemp

A licence holder must store all hemp in a building or container that is securely locked or guarded.

37 Police to be notified after planting

As soon as practicable after a licence holder sows or plants any hemp in a location, the licence holder must give notice of that fact to the member of the police in charge of the police station nearest to the location.

38 Police and Director-General to be notified of unauthorised removal, loss, or activity

- (1) This regulation applies if—
 - (a) the licence of a licence holder is removed without authority or lost; or
 - (b) any hemp that is in the licence holder's possession or control is removed without authority or lost; or
 - (c) there is any unauthorised activity at a place where hemp is cultivated or stored.
- (2) The licence holder must report the removal, loss, or activity to the Director-General—
 - (a) immediately after the licence holder or any employee or agent of the licence holder becomes aware of the removal, loss, or activity, to the member of the police in charge of the police station nearest to the location where the removal, loss, or activity occurred; and
 - (b) as soon as practicable and, in any event, not later than 3 days after the licence holder or any employee or agent of the licence holder becomes aware of the removal, loss, or activity.

39 Director-General to be notified if seeds not sown or crop fails

- (1) This regulation applies if—
 - (a) a licence holder fails, in any season, to sow hemp seeds intended for sowing; or
 - (b) for any reason, the seeds sown by a licence holder fail to germinate or any crop of hemp plants fails to attain maturity.
- (2) The licence holder must, not later than 30 days after the seed would normally have been sown, or 30 days after the failure to germinate becomes apparent, whichever is applicable, report the failure to the Director-General.

40 Locations must be available for inspection

- (1) If an authorised person wishes to inspect, at a reasonable time, a location specified in a licence, the licence holder must permit the authorised person to enter the land that comprises or includes the location.
- (2) The licence holder and every employee or agent of the licence holder must give an authorised person who inspects a location any reasonable assistance that the authorised person requires for the purposes of the inspection.
- (3) Assistance, referred to in subclause (2), includes, without limitation,—
 - (a) giving the authorised person records kept under these regulations; and
 - (b) copying those records or permitting the authorised person to remove those records for copying; and
 - (c) co-operating with the authorised person in the taking of samples of hemp plants.
- (4) An authorised person who undertakes an inspection under this regulation must carry on their person identification and other documentation that confirms the person's authority to inspect, and must show that identification and authorising documentation on request.

*Testing of samples of hemp***41 Licence holders must provide samples**

- (1) The Director-General may, by written direction to a licence holder, direct the licence holder to take a specified number of samples of each cultivar or variety of hemp growing in a location specified in the licence holder's licence.
- (2) The licence holder must comply with the direction and take each sample—
 - (a) from mature plants that are in a condition and growing in areas of the location that the Director-General considers appropriate for testing by the approved laboratory; and
 - (b) in accordance with any protocol that the Director-General has—
 - (i) developed to ensure the accuracy of test results; and
 - (ii) notified to the licence holder.

- (3) The licence holder must place each sample in a separate packet and write on the packet the following information:
 - (a) the name of the cultivar or variety;
 - (b) the date on which the sample was taken;
 - (c) the area of the location from which the sample was taken;
 - (d) the name of the licence holder and the number of the licence;
 - (e) any other particulars that the Director-General may require, in a form approved by the Director-General, for the purpose of enabling the samples to be satisfactorily tested.
- (4) The licence holder must promptly send or deliver each packet to the approved laboratory specified in the Director-General's request.

42 Licence holder may be required to provide additional samples

- (1) If the approved laboratory considers any original samples inadequate for satisfactory testing, the laboratory may request the licence holder to provide any additional samples within 10 working days from the date on which the request is made.
- (2) The licence holder must comply with the request.

43 Licence holder to report test results to Director-General

- (1) As soon as practicable after the licence holder receives the test results from the approved laboratory, the licence holder must report those results to the Director-General.
- (2) This regulation is subject to regulation 44.

44 Position where THC content above 0.35%

- (1) In this regulation,—

adverse test result means the result of a test carried out by an approved laboratory that indicates that hemp plant material, delivered or sent to the laboratory as a sample, has a THC content above 0.35%

affected plants means the hemp plants that—

 - (a) are being, or have been, cultivated in the same location as the sample to which the adverse test result relates; and

- (b) are of the same cultivar or variety as that sample.
- (2) Not later than 5 days after a licence holder receives an adverse test result, the licence holder must provide the Director-General with the following information:
 - (a) particulars of the adverse test result;
 - (b) the location of the affected plants and the name of the cultivar or variety of the affected plants;
 - (c) the source of the seeds from which the affected plants were cultivated;
 - (d) all relevant records in the cultivation register on the affected plants;
 - (e) the name and address of any person to whom affected plants or seeds from affected plants have been supplied.
- (3) The Director-General may, by notice to the licence holder, require further tests to be done of the affected plants and may take, or oversee the taking of, further samples for that purpose.
- (4) The Director-General may, by notice to the licence holder, require the licence holder to harvest the affected plants within 10 days after the date of the notice.
- (5) In any case where an adverse test result indicates that a sample has a THC content above 0.5%, the Director-General may do 1 or more of the following:
 - (a) give a notice under subclause (3) to the licence holder in respect of the affected plants;
 - (b) give a notice under subclause (4) to the licence holder in respect of the affected plants;
 - (c) by notice to the licence holder, require the licence holder—
 - (i) to destroy the affected plants within 10 days after the date of the notice; and
 - (ii) to provide the Director-General with evidence, in a form directed by the Director-General, of the destruction of the plants.

45 Provisions governing issue of notices under regulation 44

- (1) A notice given under regulation 44 takes effect as soon as it is given to the licence holder.
- (2) A notice under regulation 44(4) or (5) may be given in respect of any plants whether or not a notice under regulation 44(3) has been given in respect of those plants.

- (3) Every notice given under regulation 44 must—
 - (a) give reasons for the requirement set out in the notice; and
 - (b) be dated and signed by the Director-General.

46 Review of adverse test result

- (1) A licence holder who has been required, under regulation 44(5)(c), to destroy affected plants may apply to the Director-General for a review of the adverse test result on which that requirement is based.
- (2) The licence holder must apply for a review under subclause (1) not later than 5 days after the day on which the notice under regulation 44(5)(c) is given to the licence holder.
- (3) The Director-General must appoint a person to conduct the review (the **reviewer**); the reviewer may be an employee of the Ministry of Health but must not have had any previous involvement in the case.
- (4) If, after conducting the review, the reviewer—
 - (a) has reason to doubt the accuracy of the adverse test result, the reviewer must recommend that the notice under regulation 44(5)(c) (so far as it requires the destruction of plants) be set aside;
 - (b) does not have reason to doubt the accuracy of the adverse test result, the reviewer must recommend that the review be dismissed.
- (5) After considering the recommendation, the Director-General must, by notice to the licence holder,—
 - (a) set aside the notice under regulation 44(5)(c) (so far as it requires the destruction of plants) and also direct that further tests be done; or
 - (b) dismiss the review.
- (6) A direction under subclause (5) has effect as a notice under regulation 44(3).
- (7) The requirement to destroy plants under a notice under regulation 44(5)(c) is—
 - (a) suspended in the period that—
 - (i) commences with the day on which a review is lodged against an adverse test result; and
 - (ii) ends with the close of the day on which the review is dismissed or withdrawn; and

- (b) cancelled if that notice is set aside under this regulation.
- (8) In the period commencing on the day on which the application is lodged and ending with the close of the day on which the application is withdrawn or determined, the applicant is not prevented from harvesting and storing the plants concerned, but must not do any of the following without the prior written permission of the Director-General:
 - (a) supply the plants or seeds derived from the plants to any person:
 - (b) export the plants or seeds derived from the plants:
 - (c) transport the plants or seeds derived from the plants to a destination that is not a location specified in the licence.
- (9) A permission given under subclause (8) may be subject to any stated restrictions or conditions or both.

Abandoned or dispersed hemp

47 Abandoned hemp

- (1) If the Director-General believes on reasonable grounds that a licence holder has abandoned any growing or harvested hemp that is subject to the licence holder's licence, the Director-General may treat the hemp as surrendered to the Director-General.
- (2) The Director-General may recover from the licence holder any costs incurred in managing or disposing of the hemp.
- (3) This regulation applies whether or not the licence of the licence holder has expired or been revoked.
- (4) In this regulation, **licence holder** includes a former licence holder.

48 Dispersed plants

- (1) This regulation applies if the Director-General is satisfied that—
 - (a) hemp plants (**dispersed plants**) are growing in an area that is not a location specified in a licence; and
 - (b) the dispersed plants—
 - (i) have been planted by a licence holder or by any of the licence holder's employees or agents; or
 - (ii) have spread to the area from a location specified in the licence issued to the licence holder.

- (2) The Director-General must give the licence holder a notice requiring the licence holder to destroy the dispersed plants.
- (3) If the licence holder does not promptly comply with the notice, the Director-General may—
 - (a) destroy, or arrange for the destruction of, the dispersed plants; and
 - (b) recover the costs of the destruction from the licence holder.
- (4) In this regulation, **licence holder** includes a former licence holder.

Maintenance of records

49 Seed register

- (1) Every licence holder who is authorised to possess hemp seeds must, for each occasion on which seeds are supplied or procured by or on behalf of the licence holder, record in a register, to be known as the seed register, the following particulars:
 - (a) the amount by weight of the seeds supplied or procured;
 - (b) the cultivar or variety of those seeds;
 - (c) the date when those seeds were supplied or procured;
 - (d) the name of the person to whom those seeds were supplied or from whom they were procured;
 - (e) the number of the licence issued under these regulations to the person named under paragraph (d).
- (2) The licence holder must maintain in the seed register a tally of the seeds that are at any time in the licence holder's possession.

50 Cultivation register

- (1) Every licence holder who is authorised to cultivate hemp must record in a register to be known as a cultivation register the following particulars:
 - (a) for each occasion on which hemp seeds are sown,—
 - (i) the amount by weight of the seeds sown;
 - (ii) the cultivar or variety of those seeds;
 - (iii) the location where those seeds are sown;
 - (iv) the date of the sowing;
 - (b) for each occasion on which hemp plants are planted,—
 - (i) the number of plants planted;
 - (ii) the cultivar or variety of those plants;

- (iii) the location where those plants are planted:
- (iv) the date of the planting:
- (c) for each occasion on which hemp seeds or hemp plants are destroyed,—
 - (i) the amount by weight of the seeds destroyed or the number of plants destroyed:
 - (ii) the cultivar or variety of those plants or seeds:
 - (iii) why those plants or seeds were destroyed:
 - (iv) the date on which those plants or seeds were destroyed.

(2) In this regulation **to destroy** includes to compost.

51 Harvest register

Every licence holder who is authorised to cultivate hemp must record in a register to be known as the harvest register the following particulars:

- (a) the quantity of the hemp plants harvested:
- (b) the cultivar or variety of those plants:
- (c) the location from which those plants were harvested:
- (d) the amount by weight of any seeds obtained from harvested plants:
- (e) the cultivar or variety of the plants from which those seeds were obtained:
- (f) for each supply of any of those plants or seeds or of any material derived from them,—
 - (i) the quantity of plants, seeds, or material supplied:
 - (ii) the state of those plants, seeds, or materials, and, in particular, whether the plants are fresh or dried, and whether the seeds are viable or are treated to be non-viable:
 - (iii) the name of the person to whom those plants, seeds, or materials were supplied:
 - (iv) the number of the licence issued under these regulations to the person named under subparagraph (iii):
 - (v) the date of the supply.

52 Keeping of registers

- (1) Each register must be kept in the place notified to the Director-General.

- (2) Each register must state the name of the person responsible for recording any matter or any class of matter in the register.
- (3) Every matter recorded in a register must be retained for at least 5 years after the record was made.
- (4) The registers may be kept on paper or in electronic form.
- (5) Each register must be readily accessible, retrievable, and secure from tampering.

53 Copy of registers to be provided on request

- (1) Every licence holder must provide to the Director-General a copy of a register as soon as practicable after the Director-General requests a copy.
- (2) The copy may be provided on paper or in electronic form.

54 Annual report

- (1) For every period of 12 months in which a licence holder holds a licence, the licence holder must provide a report to the Director-General on the authorised activities undertaken by the licence holder in that period.
- (2) The report must—
 - (a) be provided within the time that the Director-General directs; and
 - (b) cover the matters that the Director-General directs.
- (3) A direction under subclause (2) may be general or specific.
- (4) A direction under subclause (2)(b) must relate to, or be ascertainable from, 1 or more of the following matters:
 - (a) any particulars required to be recorded in a register:
 - (b) the financial reports of the licence holder:
 - (c) any processing of hemp undertaken by the licence holder:
 - (d) the progress of any research or breeding programme undertaken by the licence holder.

Suspension and cancellation of licences

55 Suspension of licence

- (1) The Director-General may, by notice to the licence holder, suspend a licence if satisfied that—
 - (a) the licence holder has breached any condition of the licence or provision of these regulations; or

- (b) hemp that is not industrial hemp has been grown as a result of activities undertaken, or purportedly undertaken, under the licence.
- (2) The notice must provide the following information:
- (a) the start date of the suspension (which may not be before the date on which the notice is given to the licence holder):
 - (b) the end date of the suspension (which may not be more than 30 days after the start date):
 - (c) the breach that has occurred (including the growth, or expected growth, of hemp that is not industrial hemp):
 - (d) the corrective action to be taken to remedy or mitigate the breach or to guard against hemp that is not industrial hemp (by, for example, the harvesting or destruction of hemp):
 - (e) the right of the licence holder to apply for a review of the suspension.
- (3) The notice must also state that—
- (a) the Director-General will, unless the suspension is set aside on review, keep a record of the suspension:
 - (b) the record will be taken into account in the consideration of any future application that involves the licence holder, any directors of the licence holder, or any individual who, in relation to the licence of the licence holder, is a responsible person.

56 Duration of suspension

- (1) The period of suspension starts on the date stated in the notice.
- (2) The period of suspension ends on the date stated in the notice unless, at any time during that period the Director-General, by notice to the licence holder,—
 - (a) extends that period by a further period of not more than 30 days; or
 - (b) substitutes an earlier end date for the period.
- (3) The Director-General may extend the period of suspension only once.
- (4) The Director-General may, under subclause (2)(b), substitute an earlier date only if satisfied that the licence holder has taken the corrective action stated in the notice given under

regulation 55 or that the taking of that action is not, or no longer, required.

57 Effect of suspension

- (1) While the licence of a licence holder is suspended, the licence holder—
 - (a) may not sow or plant any hemp; and
 - (b) may not supply, procure, process, or transport any hemp without the prior written permission of the Director-General; but
 - (c) may tend growing industrial hemp plants and, if necessary, harvest them.
- (2) A permission given under subclause (1)(b) may be subject to any stated restrictions or conditions or both.

58 Revocation of licence

- (1) The Director-General may, by notice to the licence holder, revoke the licence of the licence holder if satisfied—
 - (a) that the licence holder has, within any period during which the licence holder's licence was suspended, failed to take the corrective action stated in the notice given under regulation 55; or
 - (b) the licence holder or any director of the licence holder has been convicted of an offence against the Misuse of Drugs Act 1975 or against the Misuse of Drugs Regulations 1977 or against these regulations; or
 - (c) the licence holder has deliberately breached a condition of the licence imposed by or under these regulations.
- (2) The notice must provide the following information:
 - (a) the date on which the revocation takes effect (which may not be before the 14th day after the date on which the notice is given to the licence holder):
 - (b) the reasons for the revocation:
 - (c) the right of the licence holder to apply, under regulation 60, for a review of the revocation.
- (3) The notice must also state that—
 - (a) the Director-General will, unless the revocation is set aside on review, keep a record of the revocation:
 - (b) the record will be taken into account in the consideration of any future application that involves the licence

holder, any directors of the licence holder, or any individual who, in relation to the licence of the licence holder, is a responsible person.

59 Duty to return licence when revocation takes effect

- (1) As soon as the revocation of a licence takes effect, the person who held that licence must return the licence to the Director-General.
- (2) For the purposes of these regulations, the revocation of a licence takes effect on the date stated under regulation 58(2)(a) unless the licence holder concerned applies for a review in accordance with regulation 60, in which case it takes effect if and when notice is given, under regulation 60(5), that the decision to revoke has been confirmed.

60 Review of suspension or revocation

- (1) A licence holder whose licence has been suspended under regulation 55 or revoked under regulation 58 may apply to the Director-General for a review of the suspension or revocation.
- (2) The licence holder must apply not later than 14 days after the day on which the notice of suspension or revocation is given to the licence holder.
- (3) The Director-General must appoint a person to conduct the review (the **reviewer**); the reviewer may be an employee of the Ministry of Health but must not have had any previous involvement in the case.
- (4) If, after conducting the review, the reviewer—
 - (a) considers the decision to suspend or revoke the licence well founded, the reviewer must recommend that the decision be confirmed:
 - (b) does not consider the decision to suspend or revoke the licence well founded, the reviewer must recommend that the decision be cancelled.
- (5) After considering the recommendation given by the reviewer, the Director-General must, by notice to the licence holder, confirm or cancel the decision.
- (6) A notice under subclause (5) has effect as soon as it is given to the licence holder.

- (7) In the period commencing on the day on which an application for review of the revocation of a licence is lodged and ending with the close of the day on which the application for the review is withdrawn or determined, the applicant—
- (a) may not—
 - (i) sow or plant any hemp; or
 - (ii) supply, procure, process, or transport any hemp; but
 - (b) may tend growing industrial hemp plants and, if necessary, harvest them.

61 Record of suspensions and revocations

- (1) The Director-General must keep a record of every suspension and revocation of a licence that has not been cancelled on review.
- (2) The Director-General may, to the extent that it is relevant to do so, use the record—
- (a) to determine the eligibility of an applicant for a licence; and
 - (b) to take into account the suitability of a person as a licence holder or as a responsible person.

Offences

62 Advertising concerning psychoactive effect of hemp prohibited

- (1) Every person commits an offence who publishes, or arranges for the publication of, any advertisement that states or implies that any of the following is psychoactive:
- (a) hemp or any material derived from hemp;
 - (b) a product that contains hemp or any thing derived from such a product.
- (2) In this regulation,—

advertisement means any words, whether written, printed, or spoken, and any pictorial representation or design, used or appearing to be used to promote the sale of, or to stimulate interest in,—

- (a) hemp or any material derived from hemp;
- (b) a product that contains hemp or any thing derived from such a product

publish means—

- (a) insert in a newspaper or other periodical publication printed, published, or distributed in New Zealand; or
- (b) send to any person, by post or otherwise; or
- (c) deliver to any person or leave upon premises in the occupation of any person; or
- (d) broadcast within the meaning of the Broadcasting Act 1989; or
- (e) include in any film or video recording; or
- (f) include in any disk for use with a computer; or
- (g) disseminate by means of any other electronic medium; or
- (h) distribute by any means; or
- (i) display by way of a sign, notice, poster, or other means; or
- (j) bring to the notice of the public in New Zealand in any other manner.

63 Offence to supply hemp to unauthorised persons

Every person commits an offence who, acting or purporting to act under a licence,—

- (a) supplies hemp in New Zealand to a person who is not authorised under a licence to procure hemp of the kind supplied; or
- (b) exports from New Zealand to a person in an overseas country who is not authorised, under the law of that country, to procure hemp of the kind exported.

64 Offence to cultivate unauthorised cultivars or varieties of hemp

Every person commits an offence who, acting or purporting to act under a licence, cultivates a cultivar or variety of hemp that is neither an approved cultivar nor a cultivar or variety that the person is by that licence authorised to cultivate.

65 Offence to breach conditions

Every person commits an offence who, being the licence holder of a licence or a responsible person, breaches a condition of the licence imposed by or under these regulations.

66 Penalty

Every person who commits an offence against these regulations is liable to a fine not exceeding \$500, and, if the offence is a continuing one, to a further fine not exceeding \$20 for every day or part of a day during which the offence has continued.

*Miscellaneous***67 Permission**

- (1) Every person is permitted to possess, use, and trade in—
 - (a) hemp products; and
 - (b) stalks of industrial hemp as long as those stalks are without leaves or fruit.
- (2) This regulation does not affect any other restrictions imposed by law.

68 Transitional provision

To the extent that any licence granted, before the commencement of these regulations, under the Misuse of Drugs Regulations 1977, relates to industrial hemp, the licence—

- (a) must be treated as if these regulations (other than this regulation) had not been made; and
- (b) continues, unless sooner revoked, to have effect until the expiry of the period for which it has been granted.

69 Giving of notices

- (1) A notice that is, under these regulations, required to be given to a person must be in writing and be given to the person in one of the following ways:
 - (a) by giving it to the person;
 - (b) by leaving it at the person's place of residence or place of business;
 - (c) by faxing it to the person;
 - (d) by sending it to the person by email.
- (2) A requirement under these regulations to give a notice to a licence holder who is a body corporate or a partnership is satisfied if the notice is given, in accordance with subclause (1), to an individual who, in relation to the licence of the licence holder, is a responsible person.

Rebecca Kitteridge,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 August 2006, establish a licensing system under the Misuse of Drugs Act 1975 to license the cultivation, processing, and distribution of industrial hemp as an agricultural crop. Other forms of *Cannabis sativa* (**cannabis**) will continue to be controlled by the Misuse of Drugs Act 1975 and the Misuse of Drugs Regulations 1977.

These regulations define industrial hemp and provide the eligibility requirements of applicants and the conditions that licensees must observe.

In particular, these regulations provide as follows:

- industrial hemp is defined as cannabis having tetrahydrocannabinol content generally below 0.35% and not above 0.5%:
- there are two licence types. A general licence permits cultivation and processing of any, or of specified, approved cultivars. A research and breeding licence permits the cultivation and processing of any, or of specified, cultivars, which are not approved cultivars, for research purposes:
- the Director-General of Health (the **Director-General**) will determine which cultivars are approved cultivars. An application may be made for the Director-General to consider further cultivars for approval:
- applications for licences must include specified information, including the location of the activities, and a fee is payable on application:
- in the case of an application by a body corporate or a partnership, a person must be nominated as the responsible person in respect of a licence. An applicant and a responsible person must meet certain conditions with respect to background and suitability. The Director-General must ask the New Zealand Police to check for any relevant criminal convictions in respect of an applicant, a director of an applicant, or a responsible person. An individual applicant or a responsible person must have the expertise to carry out the licensed activities and

to comply with the obligations placed on them under these regulations:

- the Director-General may approve an application that meets relevant criteria and may impose conditions on the issue of a licence. Licence applications may be refused on certain grounds:
- licences permitting cultivation may only be granted initially for up to 1 year, but this period may be extended, on application, up to 3 years. All other licences may be granted for up to 3 years, or the period extended up to 3 years on application:
- a licence will apply to a particular location and specify the activities and cultivars licensed:
- the location for licensed activities must be safe, be suitable for the relevant activity, and must usually be at least 5 kilometres from an area zoned as residential:
- the Director-General may inspect locations to which a licence or licence application applies:
- licence holders must keep the hemp secure, keep certain records, report on licensed activities to the Director-General, and report certain unauthorised activities to the police and to the Director-General:
- licensees may be required to have their crops tested for tetrahydrocannabinol (THC) levels. Results of testing must be provided to the Director-General. Where a test result shows that a crop has a THC level greater than 0.35%, or greater than 0.5%, the regulations prescribe different courses of action, which may include further testing of, harvest of, or a requirement to destroy, the crop:
- where hemp plants have been abandoned, the Director-General may manage or dispose of them, and where hemp plants are dispersed, they may be destroyed:
- a licence may be suspended or revoked for non-compliance with the conditions of the licence:
- it is an offence to advertise hemp for psychoactive purposes. It is also an offence to breach licence conditions or to supply hemp to unauthorised persons:
- the regulations exempt bare stalks and hemp products from the licensing requirements of the regulations.

Licences for the import and export of industrial hemp will continue to be issued under the Misuse of Drugs Regulations 1977.

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These regulations are administered by the Ministry of Health.
