

## THE DANGEROUS DRUGS ACT

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### The Dangerous Drugs (*Cannabis* Licensing Appeal Tribunal) Regulations, 2018

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In exercise of the power conferred upon the Minister by section 29(1) of the Dangerous Drugs Act, and every other power hereunto enabling, the following Regulations are hereby made:-

**Citation.** 1. These Regulations may be cited as the Dangerous Drugs (*Cannabis* Licensing Appeal Tribunal) Regulations, 2018.

**Interpretation.** 2. In these Regulations -  
“member” means a member of the Tribunal;  
“Tribunal” means the *Cannabis* Licensing Appeal Tribunal established by regulation 3.

**Appeal Tribunal.** 3. - (1) There is hereby established, for the purposes of section 9A (7) of the Act, an appeal tribunal to be known as the *Cannabis* Licensing Appeal Tribunal.

(2) The Tribunal shall, subject to sub-paragraph (3), consist of five members, appointed by the Minister as follows –

- (a) at least one member shall be an attorney-at-law who has practiced law for at least ten years;
- (b) at least one member shall be a person who appears to the Minister to be representative of the private sector;
- (c) at least one member shall be a person who appears to the Minister to be representative of the security sector; and
- (d) the remaining members shall be appointed from among

persons who appear to the Minister to be qualified as having experience in matters relating to the fields of medicine, science or scientific research and development.

(3) The persons eligible to be appointed under sub-paragraph (2) shall not include –

- (a) a member of the Senate or House of Representatives;
- (b) a director, officer, employee or auditor of any entity that deals, or has an interest in, the regulated *cannabis* industry; or
- (c) any member, committee member, employee, or auditor, of the Cannabis Licensing Authority.

(4) For the hearing of any appeal under this Act, the Appeal Tribunal shall consist of at least three members sitting together.

(5) The Tribunal shall be deemed to be properly constituted notwithstanding a vacancy in the appointment of any member, if –

- (a) there are at least three members appointed to the Tribunal; and
- (b) not more than sixty days have elapsed since the membership of the Tribunal was reduced below five.

(6) Where any circumstance occurs that causes, or is likely to cause, the membership of the Tribunal to be reduced below five for a period of sixty days or more, the chairperson of the Tribunal or, in the case of absence of the chairperson, another member of the Tribunal selected by the remaining members, shall so inform the Minister forthwith.

**Tenure.**

4. The members of the Tribunal shall, subject to the provisions of these Regulations, hold office for a period of five years and shall be eligible for reappointment.

**Chairperson.**

5. - (1) The Minister shall appoint one of the members of the

Tribunal to be the chairperson thereof.

(2) Where, at any sitting of the Tribunal, the chairperson is for any reason absent or unable to perform the duties of chairperson, the remaining members shall select one of their number to act as chairperson of that sitting.

**Acting appointments.**

6. In the case of the absence or inability to act of the chairperson or any other member of the Tribunal, the Minister may appoint another person to act in place of that member.

**Resignation.**

7. – (1) Any member of the Tribunal, other than the chairperson, may at any time resign membership by notice in writing to the Minister, transmitted through the chairperson, and such resignation shall take effect as from the date of receipt by the Minister of the notice.

(2) The chairperson may at any time resign membership by notice in writing to the Minister, and such resignation shall take effect as from the date of receipt by the Minister of the notice.

**Revocation of appointment.**

8. The Minister may terminate the appointment of any member of the Tribunal if the member –

- (a) becomes of unsound mind or becomes permanently unable to perform that member's functions by reason of ill health;
- (b) becomes bankrupt or compounds with, or suspends payment to, his or her creditors;
- (c) is convicted and sentenced to a term of imprisonment or to death;
- (d) is convicted of any offence involving dishonesty;
- (e) fails to carry out the functions conferred or imposed on the member by the Act or these Regulations;

- (f) becomes ineligible for appointment under paragraph 3;
- (g) fails to make a disclosure as required under paragraph 13; or
- (h) engages in any activity that may reasonably be considered to be prejudicial to the interests of the Tribunal or of the Cannabis Licensing Authority.

**Filling of vacancies.**

9. - (1) A vacancy in the membership of the Tribunal shall be deemed to arise where –

- (a) a member dies;
- (b) the appointment of a member is revoked under these Regulations; or
- (c) a member resigns membership.

(2) If a vacancy arises in the membership of the Tribunal, the vacancy shall be filled by the appointment of another person, having similar qualifications as those required under these Regulations in respect of the former member to whom the vacancy relates, to be a member for the remainder of the term of that former member.

**Publication of membership.**

10. The names of all the members of the Tribunal as first constituted, and every change in membership thereof, shall be published in the *Gazette*.

**Remuneration of members.**

11. There shall be paid to the chairperson and the other members of the Tribunal, in respect of each appeal, an honorarium and such allowances as may be determined by the Minister responsible for finance.

**Expenses.**

12. All expenses incurred by the Tribunal for the hearing of an appeal shall be met out of the budget of the Cannabis Licensing Authority, and shall be set off against the award of costs in the appeal.

**Voting.**

13. - (1) Subject to the provisions of this paragraph and paragraph

3(5), the decisions of the Tribunal shall be by a majority of votes of the members, and in addition to an original vote, the chairperson shall have a casting vote in any case in which the voting is equal.

(2) A member of the Tribunal who has an interest, whether directly or indirectly, in any matter brought before the Tribunal, shall declare the interest, recuse himself or herself (as the case may be) from the sittings of the Tribunal at which deliberations or decisions are made in respect of the matter, and shall not take part in any such deliberations or decision.

(3) A declaration made under sub-paragraph (2) shall be in writing to the chairperson or, in the case of a declaration made by the chairperson, to the [Minister], and upon being so made shall be deemed to be sufficient for the purposes of this paragraph.

(4) Where a declaration is made to the chairperson pursuant to sub-paragraph (3), the chairperson shall notify the Minister of the declaration.

(5) The Minister may, if the Minister considers it appropriate, appoint another person to act in place of a recused member at sittings of the Tribunal in relation to the matter concerned.

**Power to regulate own proceedings.**

14. Subject to the provisions of these Regulations, the Tribunal shall regulate its own proceedings, and shall have the power to make such orders as it considers fit in respect of the matters before it.

**Orders on appeal.**

15. - (1) On hearing an appeal, the Tribunal may determine the matter by –

- (a) confirming the decision of the Cannabis Licensing Authority and dismissing the appeal; or
- (b) allowing the appeal and varying or setting aside the decision of

the Authority,

and shall notify the Authority and the appellant of the Tribunal's determination within two days thereafter, giving the reasons therefor.

(2) Notwithstanding sub-paragraph (1), the Tribunal is not obliged to disclose the reasons for its determination to an appellant if the Tribunal considers that the disclosure would not be in the interests of national security.

**Power to call witnesses, etc.**

16. - (1) The Tribunal may call for and enforce the attendance of the appellant and such witnesses as the Tribunal considers to be of importance in the proceedings before the Tribunal.

(2) A person called as a witness before the Tribunal may be required by the Tribunal to give evidence before it.

(3) Evidence may be given before the Tribunal by affidavit or orally, and may be produced in the form of books, papers, statements, or any other documents relating to the appeal as are in the possession of the person called to provide the evidence.

(4) A person who is called to attend, or give evidence, before the Tribunal and who fails to do so commits an offence and shall be liable on conviction before [ ] to [ ].

**Office not a public office.**

17. The office of chairperson or member of the Appeal Tribunal shall not be a public office for the purposes of Chapter V of the *Constitution of Jamaica*.

