

Cannabis Cultivation (Amnesty) Bill, 2018.

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Cannabis Cultivation (Amnesty) Bill, 2018.

AN ACT to provide for the grant of an amnesty, for the period commencing on August 01, 2018 and ending on July 31st, 2019 or such further period as the House of Assembly may determine by resolution, to persons engaged in the cultivation of cannabis, contrary to section 8 of the Drugs (Prevention of Misuse) Act and any other relevant enactment, who may otherwise be liable to criminal prosecution for certain criminal offences and other proceedings under that Act or any other relevant enactment in force.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same as follows:-

Short title

1. This Act may be cited as the Cannabis Cultivation (Amnesty) Bill, 2018, and shall come into operation on such day to be appointed by the Minister by Notice published in the Gazette.

Interpretation

2. In this Act, unless the context otherwise requires-

“Authority” means the Medicinal Cannabis Authority established under the Medicinal Cannabis Industry Act;

“amnesty” means the relief set out in section 8;

“amnesty period” means the period specified in section 10 ;

“appointed day” means the day appointed under section 3 for the coming into operation of this Act;

“inspector” has the meaning assigned to it under the Medicinal Cannabis Industry Act;

“Minister” means the Minister responsible for Legal Affairs;

“ traditional cultivator’s licence” means a licence issued pursuant to the Medicinal Cannabis Industry Act;

“cannabis” has the meaning assigned to it in the Drugs (Prevention of Misuse)Act.

Declaration of amnesty

3. (1) Subject to the provisions of this Act and notwithstanding any provision to the contrary in any other enactment, an amnesty is hereby declared whereby, for the duration of the amnesty period, a person (hereinafter referred to as a “qualifying person”) who-

- (a) on or before the commencement of the amnesty period, is or was engaged in the cultivation of cannabis contrary to the provisions of section 8 of the Drugs (Prevention of Misuse) Act; and
- (b) may be liable to criminal prosecution for certain criminal offences and other proceedings under that Act or any other relevant enactment or Regulations in force,

shall be entitled to the relief specified in section 8, subject to the conditions listed under subsection (2).

(2)For the purposes of subsection (1),the conditions are that the qualifying person shall, during the amnesty period-

(a) register with the Authority by submitting the information specified under section []; and

(b) subject to subsection (3), surrender all cannabis that is in his possession, to the Authority, at a place designated by Order of the Minister, (hereinafter referred to as a “designated place”) and subject to the conditions stipulated therein.

(3) A person who is or has been involved in the cultivation of cannabis on behalf of another person, on or before the commencement of the amnesty period, notwithstanding the fact that the person is not in possession of any cannabis to surrender to the Authority during said period, may register with the Authority pursuant to subsection (2) (a), by providing the information specified under section [] and, such person shall be deemed to be a qualifying person for the purposes of this Act and be entitled to the relief specified in section 8.

Submission of information

4 A qualifying person who wishes to be granted an amnesty under this Act shall submit to the Authority, the information required in Form A of the Schedule, which shall include-

(a) for the purposes of section 3 (2)-

- (i) the full name and address of the qualifying person;
- (ii) his national identification number;
- (iii) the location of the land on which the cannabis is cultivated or if harvested, the premises where the cannabis is stored;
- (iv) a statement indicating the quantity of cannabis under cultivation or if harvested, the quantity of cannabis that is stored at the premises; and
- (v) a declaration to the effect that he been acting in contravention of section 8 of the Drugs

(Prevention of Misuse) Act and that the information provided under paragraphs (a) to (d) is accurate to the best of his knowledge and belief;

(b) for the purposes of section 3 (3)-

(i) the full name and address of the qualifying person;

(ii) his national identification number; and

(iii) a declaration to the effect that he has been acting in contravention of section 8 of the Drugs

(Prevention of Misuse) Act and that the

information provided is accurate to the best of his knowledge and belief.

Request for additional information

5. The Authority may, by notice in writing, require a qualifying person who has submitted the information under section 4, to furnish such additional information or documents as may be specified in the notice.

Inspection

6. (1) The Authority may, for the purpose of verifying the information submitted under section 4 (a), cause three inspectors, one of whom shall be a police officer not below the rank of corporal, to visit the land or premises, as the case may be, and conduct such investigation and inspection in order to verify the information submitted by the qualifying person and shall submit to the Authority, a report in respect of such investigation or inspection.

Issuance of certificate of amnesty

7. (1) The Authority shall, after consideration of the report submitted by the inspectors and verification of the information submitted by the qualifying person, in the case of section 4 (a), or consideration of the information submitted, in the case of section 4 (b), make a recommendation to the Minister for the issuance of a

certificate of amnesty in the Form set out in Form B of the Schedule , subject to the following conditions-

- (a) that, in the case of a qualifying person who submits the information specified under section 4 (a), that all cannabis which is cultivated on or before the commencement of the amnesty period and harvested before or during the amnesty period by the qualifying person, shall be surrendered to the Authority at the designated place;
- (b) that, in the case of a qualifying person who submits the information specified under section 4 (a) and (b), that such qualifying person shall notify the Authority, in writing, if he intends to apply for a Traditional cultivator's licence to pursuant to the provisions of the Medicinal Cannabis Industry Act, and where he intends so to do, specify the proposed date of such application;
- (c) that the qualifying person shall not engage in the cultivation of cannabis during the amnesty period (save and except for the harvesting of said cannabis cultivated on or before the commencement of the amnesty period) and after the amnesty period, save and except under a licence issued under the Medicinal Cannabis Industry Act and failure to so comply shall constitute an offence under section 7 and 8 of the Drug (Prevention of Misuse) Act; and
- (d) such other conditions as the Minister may consider appropriate.

(3) For the avoidance of doubt, a person who intends to apply for a traditional cultivator's licence shall do so in accordance with the provisions of the Medicinal Cannabis Industry Act.

(4) Subject to subsection (5), all cannabis, which is surrendered to the Authority at a designated place, shall be disposed of by the Authority in accordance with guidelines issued by the Authority.

(5) The provisions of subsection (4) shall not apply in the case where a qualifying person has, during the amnesty period and subsequent to the issuance of a certificate of amnesty, entered into contractual arrangements with a licensee under the Medicinal Cannabis Industry Act, or a religious body pursuant to the provisions of the Permitted Use of Cannabis for Religious Purposes Act, for the sale of the cannabis in his possession, subject to the approval of the Authority in an effort to ensure that the cannabis is not diverted for illicit purposes.

(5) The Authority shall establish guidelines to facilitate the transportation of cannabis under this Act and the storage of cannabis at designated places .

Relief

8.(1) Notwithstanding any provisions of the Drug (Prevention of Misuse) Act or any other relevant enactment, no criminal proceedings shall be taken against a qualifying person who complies with the provisions of this Act and the conditions of a traditional cultivation licence issued under this Act during the amnesty period.

(2) For the avoidance of doubt,-

(a) any person who cultivates cannabis after the commencement of the amnesty period shall not be entitled to any relief under this Act;

(b) the immunity from prosecution referred to under subsection (1), shall not extend in relation to-

- (i) any act committed by a qualifying person during or after the amnesty period, in contravention of this Act, the Drug (Prevention of Misuse) Act or any other relevant enactment ;
- (ii) a qualifying person who refuses to surrender to the Authority any cannabis that is cultivated, in contravention of the Drug (Prevention of Misuse) Act or any other relevant enactment and is in his possession.

Pending criminal proceedings

9. Where any criminal proceedings are pending against a qualifying person who is issued a traditional cultivation licence under this Act and complies with the provisions thereof, the Director of Public Prosecutions may enter a nolle prosequi or where such proceedings continue and result in a conviction, the provisions of section 65 of the Constitution relating to the prerogative of mercy shall apply.

Duration of Act

10. (1) This Act shall continue in force for a period commencing August 01, 2018 and ending on July, 31st, 2019, unless its duration is extended by resolution of Parliament.

(2) A resolution under subsection (1)-

- (a) shall specify the period for which the duration of this Act is extended; and
- (b) may amend the provisions of this Act.

SCHEDULE

FORM A

The Cannabis Cultivation (Amnesty) Bill, 2018
Medicinal Cannabis Authority
[address]

Part I -THE QUALIFYING PERSON (Please complete fully in type or block letters)

- 1.1 Contact Details
 - 1.1.1 Name and address of qualifying person
 - 1.1.2 Postal address (if different from above)
 - 1.1.3 Designated contact person
 - 1.1.4 Telephone number

Part- II INFORMATION RELATING TO LAND

- 2.1 Please provide location of the Land upon which cannabis is cultivated

- 2.2 Provide the approximate acreage or square footage of the land where cannabis is cultivated and the number of cannabis plants under cultivation. (Please note that ,cannabis plants cultivated subsequent to the commencement of the amnesty period will not be considered under this application.

- 2.3. If cannabis plants have been harvested prior to the commencement of the amnesty period, provide the date of harvesting and the amount harvested

- 1.2 Does the qualifying person intend to apply for a licence under the Medicinal Cannabis Act at the end of the amnesty period? [YES] [NO]



DECLARATION

All qualifying persons must sign this section for their application to be processed.

I, _____, declare that this form and all the attachments, statements, disclosures and supporting documents are true and correct to the best of my knowledge and belief. I further declare that this statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient to constitute an offence.

Signature

Date

**FORM B
CERTIFICATE OF AMNESTY**

CANNABIS CULTIVATION (AMNESTY) ACT
Certificate of amnesty

Registraton no. _____

This is to certify that pursuant to section 8 of the Cannabis Cultivatio (Amnesty) Act (the Act) _____ (Name of qualifying person) _____

_____ of _____ (Address of qualifying person) _____ has been granted amnesty for the amnesty period commencing....and ending..... And as a consequence is entitled to the relief specified in section 8 of the Act and may dispose of cannabis in his possession in the manner specfied thereunder. in keeping with the conditions set out below.

Conditions:

Dated this _____

_____ (Month) _____ (Year)

-

-

Signed: _____
Minister of Legal Affairs

OBJECTS AND REASONS

This Bill provides for an amnesty which relates to the cultivation and possession of cannabis and is designed to grant a reprieve to persons who would have been illegally cultivating cannabis on or before the amnesty period by providing such persons with an opportunity to surrender their crop or harvest upon the issuance of a Traditional cultivation licence.