

GUIDELINES FOR HEMP (LOW THC CANNABIS) FOR CULTIVATION FOR AGRICULTURAL AND INDUSTRIAL PURPOSES

1. INTRODUCTION

The Plant Improvement Act, 1976 (Act no 53 of 1976) (hereafter referred to as PIA) and its Regulations provide a legal framework for cultivation, distribution and sale of hemp propagating material in South Africa. Hemp has been declared in terms of the PIA subject to the conditions as stipulated in the Notices and regulations in relation to sections 2, 6, 13, 23, 26, 27 and 27A of the PIA. This guideline must be read in conjunction with the Act and regulations. Reference to the applicable sections in the Act, regulations and notices for provisions of the PIA are indicated in brackets at the respective headings.

2. PURPOSE

To provide clear guidelines and procedures with regard to the requirements, forms and actions role-players need to take to comply with the legislative requirements for the cultivation of hemp in South Africa for agricultural and industrial purposes.

3. SCOPE

The scope of this document is limited to activities undertaken with plants and propagating material of hemp varieties intended for cultivation for agricultural and industrial purposes with low Tetrahydrocannabinol (THC) content, not exceeding 0.2%.

Any person, who intends to become involved in the hemp industry, must be aware of the following:

- a. No activity may be undertaken without a valid Hemp Permit in terms of Plant Improvement Act (PIA).
- b. Any type of business as defined in the PIA, that conducts business with hemp plants or propagating material for cultivation purposes, must be registered and be in possession of a valid registration certificate; no exemptions are applicable on hemp businesses.
- c. Copy of analytical report must always accompany hemp propagating material and harvested material (with clear traceability in relation to the material concerned);
- d. Compulsory authorisation for import of hemp propagating material in addition to the import permit for phytosanitary purposes, for both listed and unlisted varieties;
- e. Compulsory transport declaration must accompany distribution of hemp propagating material and harvested material;
- f. Compulsory varietal listing for Hemp varieties (cultivars);
- g. Compulsory certification of hemp plants and propagating material;
- h. Clear understanding of the provisions and requirements of the PIA;
- i. *Cannabis* varieties with THC levels more than 0.2% are subject to the provisions of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965) and the Drugs and Drugs Trafficking Act, 1992 (Act No. 140 of 1992);
- j. Compulsory disclosure of all criminal records. Anyone with a criminal record must mention such in the application process and if it's for serious drug offences or organised crime the hemp permit will not be issued.

4. DEFINITIONS AND ACRONYMS

“Authorised inspector” means an inspector from DALRRD, SAPS including the DPCI and designated authority of an established certification scheme in terms of the PIA;

“DALRRD” means Department of Agriculture, Land Reform and Rural Development;

“Designated Authority” means the authority designated by the Minister to exercise the powers, perform the functions and carry out the duties conferred upon and assigned to under a certification scheme in terms of the PIA;

“DPCI” means Directorate for Priority Crime Investigation;

“**Hemp**” means low THC plants or parts of plants of *Cannabis sativa* L. cultivated for agricultural or industrial purposes, of which the leaves and flowering heads do not contain more than 0.2% THC;

“**PIA**” means Plant Improvement Act, 1976 (Act No. 53 of 1976);

“**Register**” means an official list or record of names, activities or items.

“**Registrar**” means the officer designated under section 3 as Registrar of Plant Improvement, 1976 (Act no 53 of 1976)

“**SAPS**” means South African Police Services;

“**THC**” means (-)-transdelta-9-tetrahydrocannabinol that occurs in plants and parts of plants of *Cannabis sativa* L.;

“**Propagating material**” means any material of a plant, including seed that can be used for the propagation of a plant.

5. HEMP PERMIT [SEC. 2; NOTICE: APPLICATION OF THE ACT]

5.1 Any person who wants to engage in any of the following activities relating to hemp must be in possession of a Hemp Permit issued by the Registrar of the Plant Improvement Act:

- a. Import of plants or propagating material for breeding, research or cultivation;
- b. Propagation of plants by a breeder or researcher in relation to a breeding or research programme to develop new or improved hemp varieties;
- c. Sale of hemp seed, seedlings, plants or cuttings;
- d. Cultivation of hemp for -
 - seed production;
 - seedling production;
 - production of grain or material for industrial purposes;
- e. Cleaning and/or conditioning seed for cultivation; and
- f. Export of plants or propagating material for cultivation purposes.

- 5.1.1 Application for a permit must be submitted on the application form [PIA-HP application] obtainable from the DALRRD website (www.dalrrd.gov.za) under Plant Production link.
- 5.1.2 Application form must be accompanied by proof of payment in accordance with the latest approved tariffs and copies of the documents as stipulated in the application form.
- 5.1.3 Applications must be submitted to Hemp.PIA@Dalrrd.gov.za or physically at Harvest House Building, Office no. 354, 30 Hamilton Street, Arcadia, Pretoria.
- 5.1.4 The hemp permit is valid for a period of 3 years and not transferable to another person.
- 5.1.5 If there is any change in information contained in the permit, the registrar must be notified within 30 days of the occurrence of the change to avoid revocation of the permit.
- 5.2 Requirements for applicant (holder) of a hemp permit:
- a. must be 18 years or older
 - b. must have suitable qualifications, skills and /or experience to conduct the activities specified in the permit
 - c. have knowledge of the PIA requirements and offences as well as related legislation dealing with *Cannabis* and cannabis components
- 5.3 Activities relating to hemp may only be conducted on the locations indicated on the permit.
- 5.4 If the activities are conducted on rented premises, written consent from the owner of the land must be obtained and ensured that the conditions attached to the permit are adhered to at all times.
- 5.5 The Registrar reserves the right to exercise his/her discretion to -
- a. Amend the permit and/or conditions, as appropriate and applicable.
 - b. Revoke the permit in the event of breach of any permit conditions or requirements.
- 5.6 A register for planting, sampling, sales and inspections must be kept on the premises.
- 5.7 The maximum size allowed for hemp production is **50 hectares**.

5.7

6. REGISTRATION OF PREMISES TO CONDUCT BUSINESS WITH HEMP PLANTS AND SEED [SEC. 6 – 12; REG. 2 TO 15]

- 6.1 Any person who wants to conduct any of the following kinds of business in terms of Section 6 of the Act, must have registered premises for:
- a. Sale of propagating material
 - b. Cleaning or conditioning of seed
 - c. Cultivation and sale of plants/seedlings (nursery)
- 6.2 If the type of business has not yet been registered in terms of the PIA, an application must be submitted on the form obtainable from the DALRRD website (www.dalrrd.gov.za) under Plant Production link or from the office of the Registrar (LindaSN@Dalrrd.gov.za or FrancinaM@dalrrd.gov.za).
- 6.3 The application form must be accompanied by proof of payment in accordance with the latest approved tariffs and a copy of the valid Hemp Permit.
- 6.4 Exemption from registration as stipulated in section 10 of the Act and Notice: Exemption from registration, as amended, is not applicable on any premises where hemp is handled.

7. IMPORT OF HEMP SEED [SEC. 26; REG. 41]

- 7.1 Any person who wants to import hemp seed for cultivation purposes must have the following documentation:
- a. Import authorisation in terms of PIA (for both listed and unlisted varieties) and
 - b. Permit for import of controlled goods in terms of Agricultural Pests Act, 1983. (<https://www.dalrrd.gov.za/Services/Imports/importauthorisation> ; E-mail PlantHealthPermits@Dalrrd.gov.za)
- 7.2 The application form for authorisation to import hemp seed is obtainable from the DALRRD website (www.dalrrd.gov.za) under Plant Production link. The

application must be accompanied by proof of payment in accordance with the latest approved tariffs and:

- a. Copy of the valid Hemp Permit of the importer
- b. In the case of varieties bred and developed in another country, by proof of variety registration or filing of an application for such registration and/or certification of the material in question in terms of a recognized certification scheme or confirmation of source;
- c. In the case of germplasm or material for breeding and/or research, by a copy of the material transfer agreement (MTA) from the owner of the material;
- d. An analytical report stating the THC content of the plants from which the plants or propagating material is derived; and
- e. In case where the THC content of the plants or propagating material exceed 0.2%, a valid permit/ license issued in terms of the Medicines Act.

Note that the analytical report referred to in (d) above, must have been issued by a competent accredited or registered laboratory and a copy of the registration certificate of such laboratory must accompany the analytical report.

8. TRANSPORTING HEMP PROPAGATING MATERIAL, PLANTS AND HARVESTED MATERIAL [SEC. 27A; NOTICE: DISTRIBUTION OF MATERIAL]

- 8.1 Any consignment of hemp (i.e. seeds, plants or harvested material) that is to be distributed/transported must be accompanied by the following:
- a. Transport declaration on the form obtainable from the DALRRD website under the Plant Production link.
 - b. Packing list or detailed invoice of the consignment; and
 - c. Copy of the valid Hemp Permit of the consignor and the consignee, issued by the Registrar.

9. VARIETY DENOMINATIONS AND THE VARIETAL LIST [SEC. 13]

- 9.1 In terms of section 13 of the Plant Improvement Act, 1976 plants and propagating material shall only be sold for cultivation -
- a. If it is of a variety entered in the varietal list;
 - b. Under the denomination entered in respect thereof in the varietal list.
- 9.2 The varietal list is a list of denominations of kinds of plants to which the provisions of the Plant Improvement Act, 1976 applies.
- 9.3 The Registrar of Plant Improvement enters a denomination in the list under certain conditions as determined in the Plant Improvement Act, Sec. 17, namely -
- a. That it is clearly distinguishable from any other variety of the same kind of plant;
 - b. That it is sufficiently uniform with regard to the characteristics thereof;
 - c. That it is stable in that the characteristics of the variety remains unchanged after repeated propagation;
 - d. That it is identified by an acceptable denomination, which complies with certain conditions.
- 9.4 Authorisation must be obtained from the Registrar for establishment of unlisted varieties. The application form is obtainable from DALRRD website (www.dalrrd.gov.za) under Plant Production link, and must be accompanied by a copy of the hemp permit of the person requesting authorization, analytical report stating the THC content of the plants from which the propagating material was obtained, detail list of names and addresses of the intended recipients of the material as well as the purpose of the intended establishment.

10. REGISTRATION OF VARIETIES [SEC. 15 – 21; REG. 16 – 20]

- 10.1 Registration of hemp varieties is compulsory and the following documentation must be submitted as soon as the suitability and performance evaluations have been completed:
- a. VL application form is obtainable from DALRRD website (www.dalrrd.gov.za) under the Plant Production link.
 - b. Technical questionnaire
 - c. Proxy (if application is submitted on behalf of breeder)

- d. Proof of payment in accordance with the latest approved tariffs
- e. Confirmation of variety registration by the registration or designated authority of another country, if the variety is imported;
- f. Copy of the Hemp Permit of the applicant/agent;
- g. Analytical report confirming the THC content in the plants (flowering heads and leaves) of the variety from which the propagating material was obtained; and
- h. If the THC content exceeds 0.2%, a copy of the relevant permit/ license in terms of the Medicines Act.

11. SEED CERTIFICATION [SEC. 23; REG. 24, 26, 32]

- 11.1 It is compulsory that all seed for cultivation purposes must have been certified by a designated authority and must be accompanied by the relevant proof.
- 11.2 If the seed is not certified, application must be made to the registrar to request authorisation for exemption containing variety specific information (including lot number, mass of lot, number of containers of the lot) and motivation. The application must be accompanied by an analytical report confirming the THC content.
- 11.3 The South African Seed Organization (SANSOR) must be contacted regarding certification procedures at <https://www.sansor.org/>
- 11.4 Copies of seed registration certification to be kept on site and accompanied by all transports and sales, exports etc.

12. REQUIREMENTS FOR PROPAGATING MATERIAL

[SEC. 13; REG. 21-40]

- 12.1 Anybody registered to sell propagating material, must ensure all containers are marked or labelled in accordance with the requirements stipulated in the Regulations as well as in compliance with the quality standards.

13. EXPORT CERTIFICATE FOR HEMP SEED

[SEC. 27; REG. 45]

- 13.1 Any person who wants to export hemp seed for cultivation purposes must apply for an export certificate. The application form is obtainable from the DALRRD website (www.dalrrd.gov.za) under the Directorate Inspection Services link. The following must accompany the application:
- a. Seed test laboratory report not older than 6 months (germination and purity)
 - b. Analytical report on the THC content of the plants from which the seed was obtained
 - c. Copy of the valid hemp permit of exporter
 - d. Proof of payment in accordance with the latest approved tariffs.

14. CULTIVATION [NOTICE: APPLICATION OF THE ACT]

- 14.1 Any person who wants to cultivate hemp must be in possession of a hemp permit. The permit holder must submit a notice of planting to the Registrar as well as a copy of the notice to the nearest police station within 28 days after planting. The Registrar must issue an acknowledgement notice to the grower (permit holder) and a copy to SAPS and DALRRD Inspection Services.
- 14.2 Cultivation areas must be sufficiently fenced with controlled access. It is compulsory to erect notices that clearly state the cultivated plants are hemp (low THC Cannabis) in both English and one of the local languages of the area.
- 14.3 Planting maps, photographs of the premises and its security measures and GIS coordinates indicating the location(s) of each variety on each planting site must be submitted to Registrar; in case of any change in this information, Registrar must be notified.
- 14.4 Clear and comprehensive directions to each site as well as contact details of the responsible person who will also accept legal responsibility for the premises and activities on each premises must be provided.

15. INSPECTIONS [SEC. 24A, 25]

- 15.1 Provision has been made under the PIA for inspection of premises by authorised inspectors. These officials may visit any permitted site in accordance with the relevant Hemp Permit at regular intervals for monitoring and sampling as appropriate, at the cost of the permit holder in accordance with the latest approved tariffs. Sampling of material on cultivation sites for testing at an accredited facility, will be at the cost of the grower. All inspection reports and test results must also be submitted to the Registrar's office for record keeping.
- 15.2 Guidelines for sampling are provided for in a separate document.

16. RECORD KEEPING [REG. 9-14]

- 16.1 It is compulsory for all the types of business registered in terms of the PIA to keep records relating to propagating material of all relevant permits, authorizations, certifications and documentation.
- 16.2 Apart from records kept in respect of registered premises, permits and authorisations, the following information should be indicated in a record relating to seed:
- a. Date on which the lot was received;
 - b. Kind and variety of the seed;
 - c. Name and address of the person from whom the concerned lot was received;
 - d. Total mass seed in the lot concerned and the number of containers in which it were packed;
 - e. Lot number;
 - f. Number of the certificate issued in respect of the lot, if the seed was certified; and
 - g. Date on which the lot concerned, was sold out, to whom, exact details, quantities details of purchaser copy of purchasers identifying documents person/company and the relevant copies of permits, licenses etc.

17. SUBMISSION OF ANNUAL REPORTS

The permit holder is required to submit a detailed report annually by 30 June, reporting on the activities performed in relation to the permit. The report should contain amongst others variety information, amounts of seed, number of clients, outcome of the fields planted in accordance with the planting notification information, number of inspections conducted, samples taken and analytical results thereof, amount of harvested material, in accordance with the activity for which the permit was issued.

18. OFFENCES AND PENALTIES [SEC. 35]

- a. It is an offence if any provision of the Plant Improvement Act, 1976 (Act no. 53 of 1976) is not complied with and such offence may lead to prosecution in terms of Section 35 of the PIA.
- b. It is an offence if any provisions of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965) and the Drugs and Drugs Trafficking Act, 1992 (Act No. 140 of 1992); are not complied with and such offence may lead to conviction as outlined in the Act.

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