



MINISTERIAL STATEMENT To the Senate

By

**Senator the Hon. Kathy L. Simmons, JP
Attorney-General and Minister of Legal Affairs**

**Medicinal Cannabis Act 2019
Medicinal Cannabis (Licensing) Regulations 2019**

Wednesday, 18th December, 2019

Madame President, I am pleased to present to this honourable Senate the Bill entitled “**Medicinal Cannabis Act 2019**” and the Regulations entitled the **Medicinal Cannabis (Licensing) Regulations**.

Madame President, there is strong public support for relaxation of the existing laws to permit greater local availability of cannabis for medicinal purposes. This Government made a commitment in the 2018 Speech from the Throne, to provide a scheme for access to medicinal cannabis as a therapeutic option for patients suffering from certain chronic illnesses. The Throne Speech stated:

“...increasing numbers of medical professionals are embracing the science surrounding cannabis and its positive impact on pain relief and the management of chronic medical conditions. During this session, the Government will advance a regime whereby licensed medical practitioners are permitted to prescribe medicinal cannabis to aid in the treatment of such conditions. This will be implemented concurrently with the establishment of a licensing regime to regulate domestic production of medical-grade cannabis products.”

Madame President, this Bill will seek to establish a Medicinal Cannabis Authority to regulate: domestic cultivation, import for domestic cultivation, possession when prescribed by a medical practitioner for administration by inhalation, export, manufacture, research and development and transportation of cannabis for medicinal purposes. It also establishes a licensing scheme for the local cultivation and manufacturing of cannabis for medicinal and scientific purposes; to provide for monitoring, inspection and enforcement powers for inspectors; and to empower the Minister to give directions to the Authority.

Madame President, the Regulations will be stringent, providing extensive provisions for the application for the various types of licenses available under the medicinal cannabis scheme and will also prescribe to whom and how a licence will be granted or may be renewed or revoked. Part 3 of the Regulations contains the provisions applicable to the specific types of licences available under the Act. Furthermore, the Regulations give the Medicinal

Cannabis Authority sufficient discretionary powers to impose various conditions on a licence before it is granted.

Madame President, this honourable Chamber will recall that the Legislature recently passed the **Misuse of Drugs (Hemp) Amendment Act 2019** which now creates a legal distinction between cannabis and hemp, allowing for the import, possession, supply or sale of hemp products in Bermuda. That law is now in operation, as of 26th November 2019. Casting our minds back to around this time two (2) years ago, the Legislature enacted the **Misuse of Drugs (Decriminalisation of Cannabis) Amendment Act 2017**, making simple possession of 7 grams or less of Cannabis no longer a criminal offence.

Bermuda is not unique in having evolving attitudes about cannabis, particularly acceptance of the many health and wellness benefits of hemp and cannabis. As global trends have indicated, liberalisation of cannabis laws is inevitable and

unavoidable, even for a remote island like Bermuda. In this regard, this Government has taken a measured approach in tackling this issue; understanding that to achieve long-term transformation of public attitudes toward the medicinal benefits of cannabis requires leadership. Leadership is needed to undo decades of negative stereotyping, psychological conditioning and demonisation of the cannabis plant, to the disadvantage of not exploiting all of its many health benefits to the human body.

Madame President, forgive me for being graphic, but our community has family members, loved ones and neighbours suffering—daily—from debilitating ailments such as pain associated with terminal cancer, seizures, Parkinson’s disease, glaucoma and Crohn’s disease, to name a few. Their only relief, or hope for recovery, comes from being able to take medically-prescribed cannabis or to run the risk of reverting to street-level or illicit cannabis which has not been tested and optimised for medicinal efficacy.

It is expected that the current demand for medicinal cannabis for inhalation is slight based on the few applications received for licences under the pre-existing prescribing mechanisms. However, as this new scheme is operationalized, and as medical practitioners become confident prescribing medicinal cannabis for inhalation, we expect the number of prescription users to increase gradually year over year. As a society with high expectations of access to the best, and latest, medical interventions and therapies, there is no longer a public policy justification for our laws to deny patients' access to medicinal cannabis for inhalation as prescribed by a medical practitioner, and for the law to create a framework to establish domestic cultivation to support that demand.

Madame President, when analysing best practice methods to institute a scheme for medicinal cannabis, we looked to jurisdictions such as the United Kingdom and our North American neighbours of Canada and the United States who have each

successfully pioneered regulation of medicinal cannabis with varying degrees. We also looked to our Caribbean cousins in such islands as Barbados and St. Vincent and the Grenadines. These model jurisdictions were used as a reference point, but after extensive consultation with local stakeholders such as the Ministry of Health (including the Chief Medical Officer), Bermuda Police Service, Department of National Drug Control and Customs Department, it became clear that we had to design a bespoke Bermudianised scheme which is pragmatic and fits into existing regulatory oversight mechanisms.

Specifically, the **Medicinal Cannabis Act** is not intended to encroach upon the existing regulation of cannabis-derived pharmaceutical products listed in the Third and Fourth Schedules to the Pharmacy and Poisons Act 1979 and other regulatory powers of the Minister with responsibility for drug prevention under the Misuse of Drugs Act 1972 and the Misuse of Drugs Regulations.

Rather, **Madame President**, medicinal cannabis, as defined for the purpose of the new scheme, includes medical-grade cannabis plant material, cannabis resin and other preparations used for inhalation (by smoking or vaping), exclusively. Medicinal cannabis, like pharmaceutical products scheduled under the Pharmacy and Poisons Act, will only be available on prescription by a medical practitioner and dispensed by a pharmacist.

Madame President, turning to some of the detail in the Bill, part of the responsibilities of the newly formed Medicinal Cannabis Authority will be to regulate and control the terms of access for patients to medicinal cannabis for administering by inhalation. Authorised use of medicinal cannabis by inhalation will be monitored by way of an identification (ID) card issued by the Authority, a central register and mandated record keeping by medical practitioners. Patients in receipt of a prescription by a medical practitioner, and who meet other qualifying criteria, will be able to apply for an ID card which will permit them to use and

carry their prescribed medicinal cannabis. Provision is also made to allow authorised caregivers to be designated by the patient to obtain an ID card so that a care provider can lawfully assist with obtaining and administering medicinal cannabis on the patient's behalf without committing an offence.

Madame President, the Medicinal Cannabis Bill has been meticulously drafted to ensure it accords with Bermuda's international obligation to comply with the requirements of the International Narcotics Control Board ("INCB"). The INCB is the independent and quasi-judicial monitoring body for the implementation of the United Nations International Drug Control Conventions. The Conventions and the INCB standards establish a control regime that ensures the availability of controlled substances for medical and scientific purposes while preventing their illicit production, trafficking and abuse. The INCB directs that all governments with established programmes for the use of cannabis for medicinal purposes ensure that prescribing cannabis

for medicinal use is performed with the competent medical knowledge and supervision; and that prescribing practices are based on available scientific evidence and consideration of any side effects.

Madame President, in this regard, our medical practitioners and pharmacists are well versed in upholding prescribing standards of the cannabis-derived pharmaceuticals already available under existing laws. Thus, they are in good stead to continue to be guided by their legislated professional codes of conduct, inclusive of ethical standards, scope of practice and standards of practice in prescribing and dispensing, whenever prescribing and dispensing medicinal cannabis for inhalation to authorised patients.

Madame President, the proposed Medicinal Cannabis Authority will also regulate and control the import of cannabis for use by inhalation (on prescription by a medical practitioner) and import of

cannabis intended to be cultivated locally for use by inhalation (also on prescription by a medical practitioner); and the local cultivation, possession, manufacture and transport of cannabis for medicinal purposes. A licensing scheme, authorising permitted activities, will allow eligible Bermudians and permanent residents or Bermuda registered companies to apply to the Authority for:

a cultivation licence – to allow for the cultivation of medicinal cannabis for inhalation;

an import licence – for the import of medicinal cannabis intended for cultivation of medicinal cannabis for inhalation;

an export licence – for the export of medicinal cannabis cultivated locally;

a manufacturing licence – to allow for activities relating to the processing and manufacturing of medicinal cannabis products;

a research and development licence – to allow for the conduct of product-based scientific research, clinical trials,

etc. relating to the development of medicinal cannabis;
and/or

a transport licence – to provide safe and secure transport of medicinal cannabis in Bermuda.

Madame President, the Medicinal Cannabis Bill and Regulations also set up the legislative framework to build a viable domestic medicinal cannabis industry in Bermuda. Private enterprise and free market forces will determine, over time, the size and economic benefits of such an industry. Assuredly, Bermuda's economic heritage allows us to capitalise on our strengths such as size and ease to regulation. Our prudential reputation and sound judicial system continue to make us a jurisdiction of choice for business innovation. Homegrown innovations have spawned our world-class insurance and reinsurance sector and our range of international business offerings. This scheme creating a medicinal cannabis industry is no different – the vision is: if we build it (well), they will come.

Further, **Madame President**, this Government is not only expecting to attract international investment under this new scheme, it is designed so that entry into the marketplace is also accessible to local enterprises and start-ups. Once the Authority is established, it is anticipated that it will undertake such technical and expert consultation to inform additional Regulations to support the Act. This includes setting the appropriate licence fees so that there is diversity of entry points into the medicinal cannabis market. Accessibility to small and medium sized enterprises is a priority, as it aligns with this Government's mandate to spark entrepreneurship for economic empowerment. In this vein, the Bill also provides that, with the approval of the Minister of Finance, the Authority may use a portion of its licence fee revenue to assist licensees with training for cultivation of medicinal cannabis and to grant funding for scientific and medical research relating to medicinal cannabis.

Madam President, it was a natural fit to include a social policy component in the Medicinal Cannabis Bill. In addition to allocating funds to support licensees, the Authority can also apportion part of its revenue to strengthening social programmes for drug abuse prevention and treatment. This is a tangible measure to add value to some of some of the existing social programmes run by charities who suffer under limited private-sector donations; and ultimately lessen their dependence on traditional government grant funding.

Madame President, it is apt to quote Victor Hugo, the French romanticist poet and author who once remarked, “nothing can stop an idea whose time has come”. In the light of this universal truism, the time has come for our community to continue frank conversations about the legacy impacts of the misguided and over-enforced criminalisation of cannabis use. It goes without saying that we all know the particular demographic of our citizenry

who bore the true cost of including cannabis in the perpetual war on drugs; and the theories of why they were marginalised.

The time has also come for us, as a community, to consider progressive and restorative ways to alleviate past injustices. This Government is prepared to “give action to words” by committing to exploring policy options which can best achieve the legal expungement of past criminal records for convictions of simple possession of cannabis so that patients with convictions will be able to have the same levels of access to medicinal cannabis. We also want to preserve our young people’s futures instead of allowing historic systems of inequality to write them off for having made one bad choice because of cannabis possession.

Madame President, in full understanding of the passionate views held in respect of relaxation of cannabis laws generally, and differing opinions of medical experts on the efficacy of medicinal cannabis, I am presenting this Bill and Regulations today as

public consultation drafts. Public consultation is meaningful, at this stage, because now that a draft framework is fleshed out in legislation, we hope it encourages constructive feedback and comments, rather than fueling polarizing arguments in the abstract. I implore all sectors of society—not just interest groups and entrepreneurs, but all Bermudians—to take time to read and comment on this Bill and Regulations. Instructions on how to submit comments and feedback will be available on the government web portal, www.gov.bm. We will review and analyse the comments to optimise the Bill and Regulations before they are Tabled in the Legislature.

Madame President, I can confidently say that this Bill and Regulations will fulfill this Government's promise to deliver new mechanisms for lawful access to medicinal cannabis by way of a prescription from a medical professional and dispensed by a pharmacist, whilst also satisfying Bermuda's international obligations. The scheme will also include sufficient regulation and

controls to prevent abuse of the domestic medicinal cannabis scheme.

Thank you, **Madame President.**