

Social Justice Bermuda

Response to Government Revisions on a Regulated Cannabis Scheme for Bermuda
August 17, 2020

Social Justice Bermuda (SJB) was encouraged by the fact that the Government responded to some of the public feedback by revising their proposed cannabis regulation policy in real time. We look forward to reviewing revised versions of the policy document and legislative draft bill that clarifies the proposed changes to both the policy and legislation.

We were disappointed that the public was only allowed five days to respond to the revisions. Public engagement and follow-up posts from respondents would add more value if a more reasonable timeframe for dialog and digestion of the revisions was afforded. Given the nature of the revisions, 2 weeks for responses would provide a more equitable opportunity for everyone to respond.

In addition to the extension of the public consultation deadlines we would also like to see clarification of the language in the policy document and draft bill to improve accessibility and understanding of their implications.

Social Justice Bermuda has provided responses to the proposed revisions:

(1) Adding a new category of licence for 'personal cultivation'

SJB was relieved to see consideration for the general public by way of including this additional category of licensing. However, it was disappointing to see the prohibitive pricing of the personal cultivation licence. This fee excludes many of our country's lower income earners from participating in the legal growing scheme and restricts their options for accessing what in many cases, is their medicine and in all cases a more economical option for health. \$750 per year is prohibitive for many people especially Black Bermudians that are within a lower socioeconomic status. While this may be unintentional, the effect is a racialized policy that disproportionately affects Black citizens. We feel that this high annual fee for a personal cultivation license will encourage people to grow cannabis illegally and the illicit market will continue.

We also feel that the private property cultivation eligibility criteria regarding minors in the home is discriminatory. Parents or guardians that wish to cultivate cannabis for medicinal or personal use should be permitted to apply for a license. Children's safety is paramount, and the legislation and policy should protect that, but the current proposed restriction effectively excludes the vast majority of residents, given our culture of multi-generational cohabitation. If the cultivation area is adequately

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secured - similar to any other substance not intended for consumption or use by children - equal opportunity for cultivation should be considered.

(2) Removing 'increased penalty zones'

SJB was relieved to see the government remove language related to 'increased penalty zones' from the cannabis scheme. We were disappointed to see the inclusion of mandatory minimum sentencing in the legislative draft, given its legacy of disproportionately affecting communities of colour and the impracticality of avoiding all "increased penalty zones". We believe that discreet consumption on a public beach or park does not warrant increased penalties given the restorative justice intentions referenced in the policy and the need to balance public harm vs the restrictions around consumption in a rented property.

(3) Clarification on the consumption of Cannabis within a retail licensed establishment or in private property.

SJB appreciated the clarification on consumption of cannabis in private property. We believe that the policy needs to be more specific with regards to how consumption of cannabis is defined. With regards to smoking cannabis, we are in agreement that this should be handled in the same manner as rental agreements that typically require a landlord's permission to smoke cigarettes. Smoking any substance affects both property and other people. However, there are many consumption methods that have no effect on the landlord's property, such as the use of tinctures, edibles, oils, etc. We do not believe that tenants should require permission from a landlord to consume cannabis in these non-smoking methods. Further, this part of the policy, if implemented, would be discriminatory to people who may need to or choose to consume cannabis for medicinal or religious reasons.

While we acknowledge the business need for allowing cannabis to be consumed in licensed retail establishments, we also feel that purchasers should be able to consume cannabis in an appropriate public space if they so wish. This component of the policy will permit renters and visitors who might not have a permitted space to consume cannabis, the ability to consume it in another appropriate area.

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(4) Other items that we would like to see addressed in the policy:

Destigmatize Cannabis

We feel that the Government should take some initiative to re-educate the public about the benefits and associated risks of consuming cannabis. Any policy should play an active role in dispelling the harmful myths around cannabis use and educate people about responsible use of the plant.

Cannabis Agriculture & Procurement

The growth stages of a cannabis plant must be established and defined. Licensees that wish to grow cannabis on their private property should be able to purchase or make an exchange for seeds from any available source and from anywhere that is willing to sell or exchange them. We agree that licensees should have to purchase or exchange cannabis seedlings or mature plants from an official approved source in Bermuda or abroad.

Quality Control & Labeling

We feel that it is important for the Cannabis Advisory Authority to play an active role in ensuring that cannabis quality control is managed to ensure informed and responsible consumption. We also feel that it is important for compound level testing to be completed to ensure that cannabis consumers are aware of the levels of cannabinoids and pesticides in the products. It is absolutely critical for the Cannabis Advisory Authority to ensure that all cannabis products are labeled appropriately.

Workplace Testing

We recognise that there are particular situations where it is necessary for a workplace to test an employee for irresponsible use of a substance, especially if an incident has occurred. However, we feel that it is discriminatory for a workplace to perform random drug testing for cannabis use. This policy marginalises people who choose to consume cannabis and should be adjusted to only test people who have been involved with some harmful incident in the workplace.

Cannabis & Religion

Bermudians have constitutional rights to freedom of conscience, freedom from religious discrimination and freedom of thought. Thus, restricting cannabis use at any place of worship as a religious sacrament is discriminatory and unconstitutional.

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Permission for Cannabis consumption at places of worship should be at the discretion of the faith leaders.

Additional Comments & Clarifications

The following considerations are updated and presented from our primary response to the proposed Cannabis Act policy and illustrative draft bill:

1. All non-violent cannabis-related convictions must be expunged contemporaneously with the passing of this legislation (including those people convicted of possessing more than seven (7) grams of cannabis).
2. Persons still currently incarcerated on a conviction of a non-violent cannabis related charge should be released from imprisonment contemporaneously with the passing of this legislation.
3. All future offenses associated with cannabis use/misuse should result only in drug treatment court, community service or fines and never jail time. We recommend that repeat offenders will be liable for increased fines and/or a penalty of ineligibility for all licences for a period of up to five years.
4. All people with previous non-violent cannabis related offences are eligible for deferred licence fees for up to one year for any category.
5. It is absolutely critical that revenue from cannabis taxation must be reinvested into the communities most impacted by the draconian prohibition of cannabis by:
 - Providing support & incentives for Bermudians to start cannabis-related businesses.
 - Promoting equitable employment opportunities targeting formerly incarcerated individuals (convicted on non-violent cannabis related charges) as well as reserving a percentage of licences for those with prior cannabis convictions.

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- Ensuring that employment/leadership in the industry is representative of the demographic of the impacted community to reduce the disparity and create economic equity.
 - Funding equity programs as well as producing a public yearly report from the Cannabis Advisory Authority that outlines how the revenue has been used for restorative justice.
 - Giving priority for licensing to those with past non-violent cannabis related convictions, so long as all other aspects of the licensing application are in order.
 - Allocating 10% of revenue from cannabis sales to be invested in prevention, youth outreach and education initiatives supported by the Department of National Drug Control and other Bermuda-based non profit organisations.
 - Allocating 50% of revenue from cannabis sales to be invested directly in island-wide community centres, public playgrounds, outdoor recreational spaces, sports facilities. This money should also be invested into the education system including all public schools and the Bermuda College to assist with upgrading facilities and providing support to teachers and staff.
6. Members of the Cannabis Advisory Authority must be representative of the demographics that exist in Bermuda and members must have proven knowledge of the cannabis culture and industry.
 7. License fees should be partially refundable if a license is not granted to ensure that people are not dissuaded from applying. The currently proposed commercial license fees are sensible and should not be higher. However, the personal cultivation license is exclusionary in nature and should be adjusted.
 8. Cannabis consumption should be permitted in designated outdoor public spaces and on private properties. Cannabis consumption, distribution or production should not be permitted within the grounds of schools, playgrounds, or government buildings. Permission for Cannabis consumption at places of

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worship should be at the discretion of the faith leaders. The untenable (half-mile from schools or places of worship) restriction on the cultivation and distribution of cannabis should be removed from the proposed legislation.

9. Elected or Appointed Members of the Legislature and Ministers of Government should not be allowed to participate economically in the cannabis industry.
10. Cannabis distribution should be permitted via both online shops and in bricks and mortar retail settings.
11. Delivery licenses should be issued to allow for retail shops to deliver cannabis to consumers/patients.
12. Commercial cannabis production should be tracked from seed to sale to ensure quality control.
13. The Cannabis Advisory Authority should ensure balance of THC and CBD in cannabis products and ensure that all products are clearly and properly labeled with ingredients, THC/CBD levels and potential allergens for consumers.

We feel that it is important to highlight all these recommendations to assist the Government of Bermuda with developing and enacting a modern law that is restorative.

It is crucial that Bermuda introduces a safe and accessible cannabis market for all, especially those most impacted by cannabis prohibition.

SJB appreciates what the Government of Bermuda is doing to update the local cannabis policies and look forward to providing further input to ensure that this policy and legislation represents the needs of our community.

Signed,

Social Justice Bermuda
Cannabis Reform Taskforce