

REGULATION OF CANNABIS BILL

7 January 2019 X

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(As introduced in the National Assembly (proposed section 75); explanatory summary of Bill published in Government Gazette No. of 2019) (The English text is the official text of the Bill)

(MINISTER OF JUSTICE AND CORRECTIONAL SERVICES)

[B—2019]

BILL**Definitions and interpretation**

1. In this Act, unless the context indicates otherwise—

"adult person" means a natural person who is 18 years or older;

"cannabis" means—

(a) any substance containing THC;

(b) any part of a cannabis plant, but exclude—

(i) the seeds;

(i) the stalk, without any leaf, fruit, flower, or branch; and

(ii) the roots,

of such a plant;

"cannabis plant" means a plant of the genus *Cannabis*, but exclude **"hemp"**;

"cannabis plant cultivation material" means viable seeds, seedlings and immature cannabis plants;

"cannabis plant equivalent" means a quantity referred to in Column 2 of Schedule 1, in respect of any class of cannabis plant referred to in Column 1 of that Schedule which is deemed to be equivalent of one flowering cannabis plant;

"consumption" or **"consume"** means to smoke, eat, drink or otherwise to self-administer cannabis;

"cultivate" includes to plant, propagate, nurture, tend, grow or harvest a cannabis plant;

"deal" means any conduct to facilitate the provisioning to, or obtaining from, another for the exchange of remuneration;

"dried cannabis" means cannabis that has been subjected to a drying process and **"to dry cannabis"** must be interpreted accordingly;

"dried cannabis equivalent" means a quantity referred to in Column 2 of Schedule 2, in respect of any class of cannabis referred to in Column 1 of that Schedule which is deemed to be equivalent to one gram of dried cannabis;

"**flowering cannabis plant**" means the gametophytic or reproductive state of a cannabis plant in which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of cannabis;

"**harvest**" means to obtain or to dry "**cannabis**", from a cannabis plant;

"**hemp**" means a plant of the genus *Cannabis* having no more than 0,2 percent THC;

"**immature cannabis plant**" means a non-flowering cannabis plant that is not—

(a) taller than 60 centimetres; and

(b) wider than 40 centimetres,

measured in accordance with the manner determined prescribed by regulation;

"**minor person**" means a natural person who has not yet attained the age of 18 years;

"**Minister**" means the Cabinet member responsible for the administration of justice;

"**person**" means a legal person, an adult person and a minor person;

"**personal use**" means for the exclusive use of an adult person;

"**private place**" means any place, including a building, house, room, shed, hut, tent, mobile home, caravan, boat or land or any portion thereof, to which the public does not have access as of right;

"**public place**" means any place to which the public has access as of right and includes a place open to public view;

"**remuneration**" means any form of compensation, gift, reward, favour or benefit;

"**seeds**" means viable seeds of a cannabis plant;

"**prescribed quantity**" means for purposes of the sections referred to Column 1 of Schedule 3, the quantity that does not exceed the quantity of any class of cannabis plant cultivation material, cannabis plants or cannabis referred to in Column 2 of that Schedule;

"**THC**" means (-)-trans-delta-9-tetrahydrocannabinol; and

"**trafficable quantity**" means for purposes of the sections referred to Column 1 of Schedule 4, the quantity that exceeds the quantity of any class of cannabis plant cultivation material, cannabis plants or cannabis referred to in Column 2 of that Schedule, but which quantity is less than a commercial quantity.

Prescribed quantity for personal use

- 2.** (1) An adult person may for personal use—
- (a) possess a prescribed quantity of cannabis plant cultivation material;
 - (b) cultivate a prescribed quantity of cannabis plants in a private place;
 - (c) possess a prescribed quantity of cannabis in a public place; and
 - (d) possess a prescribed quantity of cannabis in a private place.
- (2) An adult person may consume cannabis in a private place.
- (3) An adult person may without the exchange of remuneration—
- (a) provide to; or
 - (b) obtain from,
- another adult person, for personal use, a prescribed quantity of—
- (i) cannabis plant cultivation material;
 - (ii) cannabis plants; or
 - (iii) cannabis.

Legal person and minor persons

- 3.** (1) Subject to any other law, a legal person who—
- (a) obtains, possesses or provides, whether for remuneration or not, cannabis cultivation material;
 - (b) cultivates a cannabis plant;
 - (c) obtains, possesses or provides, whether for remuneration or not, a cannabis plant;
- or
- (d) obtains, possesses or provides, whether for remuneration or not, cannabis,
- is guilty of a Class A offence.
- (2) A minor person who—
- (a) possess a prescribed quantity of cannabis plant cultivation material;
 - (b) cultivate a prescribed quantity of cannabis plants in a private place;
 - (c) possess a prescribed quantity of cannabis in a public place;
 - (d) possess a prescribed quantity of cannabis in a private place;
 - (e) consume cannabis in a private place;

- (f) without the exchange of remuneration provide to or obtains from another person, a prescribed quantity of—
- (i) cannabis plant cultivation material;
 - (ii) cannabis plants; or
 - (iii) cannabis,
- is guilty of a Class E offence.

Cannabis plant cultivation material offences

4. A person who is in possession for personal use of a quantity that exceeds the prescribed quantity contemplated in section 2(1)(a), but which is less than a trafficable quantity, of cannabis plant cultivation material, is guilty of a Class E offence.

Cultivation offences

5. (1) A person who in a private place for personal use, cultivates more than the prescribed quantity contemplated in section 2(1)(b), but less than a trafficable quantity, of cannabis plants, is guilty of a Class E offence.

(2) A person who cultivates a cannabis plant at any place and who fails to—

- (a) take reasonable steps to ensure that the cannabis plant is inaccessible to a minor person; or
- (b) comply with any requirement or standard regarding the cultivation of cannabis plants in a private place for personal use as prescribed by regulation,

is guilty of a Class D offence.

Possession offences

6. (1) A person who possesses for personal use in a public place more than the prescribed quantity contemplated in section 2(1)(c), but less than a trafficable quantity, of cannabis, is guilty of a Class D offence.

(2) A person who possesses in a private place for personal use more than a prescribed quantity contemplated in section 2(1)(d), but less than a trafficable quantity, of cannabis, is guilty of a Class E offence.

(3) A person who is in possession of any quantity of cannabis at any place and who fails to store such cannabis—

(a) in a secure space that is inaccessible to a minor person; or

(b) in a manner that does not comply with any requirement or standard regarding the storing of cannabis prescribed by regulation,

is guilty of a Class D offence.

Offences regarding providing or obtaining

7. (1) An adult person—

(a) who provides to; or

(b) obtains from,

an adult person, for personal use, without the exchange of remuneration a quantity that exceeds the prescribed quantity contemplated in section 2(3), but less than a trafficable quantity, of—

(i) cannabis plant cultivation material; or

(ii) cannabis plants,

is guilty of a Class E offence.

(2) An adult person—

(a) who provides to; or

(b) obtains from,

an adult person, for personal use, for the exchange of remuneration, a quantity that is less than the prescribed quantity contemplated in section 2(3) of—

(i) cannabis plant cultivation material; or

(ii) cannabis plants,

is guilty of a Class E offence.

(3) An adult person—

(a) who provides to; or

(b) obtains from, an adult person for the exchange of remuneration, a quantity that exceeds a prescribed quantity contemplated in section 2(3), but less than a trafficable quantity of—

- (i) cannabis plant cultivation material; or
- (ii) cannabis plants,

is guilty of a Class D offence.

(4) An adult person who provides to or obtains from an adult person for remuneration, a quantity that does not exceed the prescribed quantity of cannabis contemplated in section 2(3), is guilty of a Class C offence.

(5) An adult person who provides to or obtains from an adult person for the exchange of remuneration, a quantity that exceeds the prescribed quantity contemplated in section 2(3), but less than a trafficable quantity of cannabis, is guilty of a Class B offence

Consumption offences

8. (1) A person who consumes cannabis—

- (a) in a public place; or
 - (b) in a private place in the presence of any non-consenting adult person,
- is guilty of a Class D offence.

(2) A person who smokes cannabis in a private place—

- (a) within a distance prescribed by regulation from a window of, ventilation inlet of, doorway to or entrance into another place; or
- (b) forming part of any place where persons congregate within close proximity of one another and where the smoke is likely to cause a hindrance to any person at that place,

is guilty of a Class D offence.

(3) A person who consumes cannabis in, at or near any place prescribed by regulation, is guilty of a Class D offence.

Offences involving minor persons

9. (1) A person who has a minor person in his or her care or under his or her supervision or control, and who knowingly permit the minor person to—

- (a) possess cannabis cultivation material;
- (b) deal in cannabis cultivation material;
- (c) cultivate a cannabis plant;
- (d) possess cannabis;
- (e) deal in cannabis; or
- (f) consume cannabis,

is guilty of a Class D offence.

(2) A person who engage a minor person, whether for remuneration to the minor or a third person or not, to deal in—

- (a) cannabis;
- (b) cannabis cultivation material; or
- (c) cannabis plants,

is guilty of a Class A offence.

(3) A persons who engage a minor person, whether for remuneration to the minor or a third person or not, in the cultivation of cannabis plants, is guilty of a Class B offence.

(4) A person who provides to a minor person, whether for remuneration or not, cannabis cultivation material or a cannabis plant, is guilty of a Class B offence.

(5) A person who provides to a minor person, whether for remuneration or not, cannabis, is guilty of a Class A offence.

(6) A person, other than a "medical practitioner" as defined in section 1 of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965), who administers cannabis to a minor person, with or without the permission of the minor person, is guilty of a Class A offence.

(7) A person who smokes cannabis in a private place or public place in the immediate presence of a minor person, is guilty of a Class D offence.

Trafficable quantity offences

- 10.** A person who—
- (a) possesses a trafficable quantity of cannabis cultivation material;
 - (b) cultivates a trafficable quantity of cannabis plants;
 - (c) possesses a trafficable quantity of cannabis in a public place;
 - (d) possesses a trafficable quantity of cannabis in a private place;
 - (e) provide to or obtain from another person, whether for remuneration or not, a trafficable quantity of—
 - (i) cannabis plant cultivation material; or
 - (ii) cannabis plants; or
 - (f) provide to or obtain from another person, whether for remuneration or not, a trafficable quantity of cannabis,
- is guilty of a Class A offence.

Sentencing

- 11.** A person who is convicted of—
- (a) a Class A offence is liable on conviction to a fine or to imprisonment for a period not exceeding eight years or to both a fine and such imprisonment;
 - (b) a Class B offence is liable on conviction to a fine or to imprisonment for a period not exceeding six years or to both a fine and such imprisonment;
 - (c) a Class C offence is liable on conviction to a fine or to imprisonment for a period not exceeding four years or to both a fine and such imprisonment;
 - (d) a Class D offence is liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment; or
 - (e) a Class E offence is liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

Expungement of criminal records of persons convicted of possession or use of cannabis

12. (1) Where a court has convicted a person of a contravention of —

- (a) section 2(b) of the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act No. 41 of 1971), in that the person used or possessed the dependence-producing drug or plant of cannabis (dagga);
- (b) section 4(b) of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), in that the person used or possessed the undesirable dependence-producing substance of cannabis (dagga); or
- (c) any law of the former Republic of South Africa, the former Republic of Transkei, Bophuthatswana, Ciskei or Venda, or in any former self-governing territory, as provided for in the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), before the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), that criminalise the use or possession of cannabis (dagga),

the criminal record, containing the conviction and sentence in question, of that person in respect of that offence must be expunged automatically by the Criminal Record Centre of the South African Police Service.

(2) Where the criminal record of a person referred to in subsection (1) has not been expunged automatically as provided for in that subsection, the criminal record of that person must, on his or her written application in the prescribed form and manner, be expunged.

(3) The Director-General: Justice and Constitutional Development must, on receipt of the written application of an applicant referred to in subsection (2), issue a prescribed certificate of expungement, directing that the conviction and sentence of the person be expunged, if the Director-General is satisfied that the person complies with the criteria set out in subsection (1).

(4) An applicant to whom a certificate of expungement has been issued as provided for in subsection (3) must, in the prescribed manner, submit the certificate to the head of the Criminal Record Centre of the South African Police Service, to be dealt with in accordance with subsection (5).

(5) (a) The head of the Criminal Record Centre of the South African Police Service or a senior person or persons at the rank of Director or above, employed at the Centre, who has or have been authorised, in writing, by the head of the Centre to

do so, must expunge the criminal record of a person if he or she is furnished by the applicant with a certificate of expungement as provided for in subsection (3).

(b) The head of the Criminal Record Centre of the South African Police Service must, on the written request of an applicant, in writing, confirm that the criminal record of the person has been expunged.

(6) Where the Director-General: Justice and Constitutional Development, in terms of subsection (3), has issued a certificate of expungement, and it subsequently appears that the applicant did not qualify for the expungement of his or her criminal record, the Director-General must—

- (a) inform the applicant in writing of the information that has come to his or her attention and that he or she intends to revoke the certificate of expungement;
- (b) afford the applicant an opportunity to furnish compelling written reasons to him or her within 90 working days after he or she is informed of the intention to revoke, why his or her record should remain expunged;
- (c) inform the applicant in writing within 30 working days after a decision is made of—
 - (i) his or her decision; and
 - (ii) the reasons for revoking the certificate of expungement; and
- (d) inform the head of the Criminal Record Centre of the South African Police Service, in writing within 14 working days after the decision was made, to revoke the certificate of expungement and to reinstate the convictions and sentences in question.

(7) If the applicant fails to furnish compelling reasons contemplated in subsection (6)(b), the Director-General may, subject to the Promotion of Administrative Justice Act, 2000 (Act No. 2 of 2000), revoke the certificate of expungement.

(8) (a) The Director-General: Justice and Constitutional Development may delegate any power or assign any duty conferred upon or assigned to him or her in terms of subsection (3) or (6) to an appropriately qualified official in the employ of the Department of Justice and Constitutional Development at the rank of Deputy Director-General.

- (b) A delegation or assignment in terms of paragraph (a)—

- (i) is subject to any limitation, condition and direction which the Director-General may impose;
- (ii) must be in writing; and
- (iii) does not divest the Director-General of the responsibility concerning the exercise of the power or the performance of the duty.

(c) The Director-General may—

- (i) confirm, vary or revoke any decision taken in consequence of a delegation or assignment in terms of this subsection, subject to any rights that may have accrued to a person as a result of the decision; and
- (ii) at any time, in writing, withdraw a delegation or assignment.

Regulations

13. (1) The Minister, in consultation with the Cabinet member responsible for policing, may make regulations to prescribe—

- (a) the manner of measuring immature cannabis plants as contemplated in section 1;
- (b) requirements or standards regarding the cultivation of cannabis plants in a private place for personal use as contemplated in section 5(2)(b);
- (c) requirement or standard regarding the storing of cannabis as contemplated in section 6(3)(b);
- (d) the distance from a window of, ventilation inlet of, doorway to or entrance into another place as contemplated in section 8(2)(a); or
- (e) any place where cannabis may not be consumed as contemplated in section 8(3).

(2) The Minister—

- (a) must make regulations regarding—
 - (i) the form on which a person's written application for the expungement of his or her criminal record must be made, as provided for in section 12(2);
 - (ii) the certificate of expungement to be issued by the Director-General: Justice and Constitutional Development as provided for in section 12(3); and
 - (iii) the manner in which the Director-General must submit certificates of expungement that have been issued, to the head of the Criminal Record

Centre of the South African Police Service, as provided for in section 12(4);
and

- (b) may make regulations regarding any other matter which is necessary or expedient in order to achieve the objects of section 12.

Repeal or amendment of laws

14. The laws mentioned in Schedule 5 are hereby amended to the extent reflected in the third Column of the Schedule.

Short title and commencement

15. This Act is called the Regulation of Cannabis Act, 2019, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

Schedule 1*(Section 1)***CANNABIS PLANT EQUIVALENT**

Column 1 Class of cannabis plant	Column 2 Quantity that is equivalent to one flowering cannabis plant
Immature cannabis plant	Two plants

Schedule 2*(Section 1)***DRIED CANNABIS EQUIVALENT**

Column 1 Class of cannabis	Column 2 Quantity that is equivalent to 1 gram of dried cannabis
(a) Fresh cannabis	Five grams
(b) Cannabis solid concentrates	0, 25 gram
(c) Cannabis liquid concentrates	0, 25 gram

Schedule 3*(Sections 1, 2 and 3)***PRESCRIBED QUANTITY**

Column 1 Sections	Column 2 Quantity of class
(a) Sections 2(1)(a) and 3(2)(a)	(i) 50 seeds; (ii) 30 seedlings; and (iii) 16 immature cannabis plants
(b) Sections 2(1)(b) and 3(2)(b)	Eight flowering cannabis plants or cannabis plant equivalent
(c) Sections 2(1)(c) and 3(2)(c)	80 grams dried cannabis or dried cannabis equivalent
(d) Sections 2(1)(d) and 3(2)(d)	1000 grams dried cannabis or dried cannabis equivalent

(e) Sections 2(3) and 3(2)(f)	<p>(i) <u>Cannabis cultivation material</u>:</p> <p>(aa) 25 seeds;</p> <p>(bb) 10 seedlings; and</p> <p>(cc) seven immature cannabis plants</p> <p>(ii) <u>Cannabis plants</u></p> <p>Three flowering cannabis plants or cannabis plant equivalent</p> <p>(iii) <u>Cannabis</u></p> <p>40 grams dried cannabis or dried cannabis equivalent</p>
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Schedule 4

(Sections 1 and 10)

TRAFFICABLE QUANTITY

Column 1 Sections	Column 2 Quantity of class
(a) Section 10(a)	<p>A quantity that exceeds—</p> <p>(i) 75 seeds;</p> <p>(ii) 45 seedlings; or</p> <p>(iii) 24 immature cannabis plants</p>
(b) Section 10(b)	<p>A quantity that exceeds 12 flowering cannabis plants or cannabis plant equivalent</p>
(c) Section 10(c)	<p>120 grams dried cannabis or dried cannabis equivalent</p>
(d) Section 10(d)	<p>1250 grams dried cannabis or dried cannabis equivalent</p>
(e) Section 10(e)	<p>(i) <u>Cannabis plant cultivation material</u></p> <p>A quantity that exceeds—</p> <p>(a) 50 seeds;</p> <p>(b) 30 seedlings; or</p> <p>(c) 16 immature cannabis plants</p> <p>(ii) <u>Cannabis plants</u></p>

	A quantity that exceeds eight flowering cannabis plants or cannabis plant equivalent
(f) Section 10(f)	A quantity that exceeds 120 grams of dried cannabis or dried cannabis equivalent

Schedule 5

(Section 14)

LAWS REPEALED OR AMENDED

Number and year of law	Short title	Extent of repeal or amendment
Act No. 140 of 1992	Drugs and Drug Trafficking Act, 1992	<p>(a) The following section is hereby substituted for section 11:</p> <p><u>Powers of police officials</u></p> <p>11. <u>In addition to other powers conferred on a police officer in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or any other law, a police official may for purposes of this Act—</u></p> <p><u>(a) examine any register, record or document or make an extract therefrom or a copy thereof, and require from any person an explanation of an entry in any such register, record or document;</u></p> <p><u>(b) instruct any person who has in his or her possession or custody or under his or her control any register, record or other document which in the opinion of the police official may have a bearing on any offence or alleged offence under this Act, to deliver to him or her then and there, or to submit to him or her at such time and place as may be determined by the police official, any such register, record or document;</u></p> <p><u>(c) require any vehicle, vessel or aircraft, which a police official on reasonable grounds believes is used for the conveyance of a scheduled substance, dependence-producing substance, dangerous dependence-producing substance or undesirable dependence-producing substance, to be stopped; or</u></p> <p><u>(d) instruct the master, pilot or owner of any vessel or aircraft on which any dependence-producing substance, dangerous dependence-producing substance or undesirable dependence-producing substance is found, to sail or to fly any such vessel or aircraft, or to cause it to be sailed or</u></p>

Number and year of law	Short title	Extent of repeal or amendment
		<p style="text-align: right;"><u>flown, to such harbour or airport as may be indicated by the police official.”.</u></p> <p>(b) The following section is hereby substituted for section 12:</p> <p><u>"Magistrate may take evidence as to alleged drug offence</u></p> <p>12. (1) <u>A magistrate may, upon the request of a Director of Public Prosecutions or a public prosecutor authorized thereto in writing by the Director of Public Prosecutions, require the attendance before him or her or any other magistrate, for examination by the Director of Public Prosecutions or the public prosecutor authorized thereto in writing by the Director of Public Prosecutions, of any person who is likely to give material or relevant information as to any alleged drug offence, whether or not it is known by whom the offence was committed.</u></p> <p>(2) <u>The provisions of sections 162 to 165 inclusive, 179 to 181 inclusive, 187 to 189 inclusive, 191 and 204 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall, with the necessary changes required by the context, apply with reference to the proceedings under subsection (1).</u></p> <p>(3) <u>The examination of any person under subsection (1) may be conducted in private at any place designated by the magistrate.</u></p> <p>(4) <u>A person required in terms of subsection (1) to appear before a magistrate for examination, and who refuses or fails to give the information contemplated in subsection (1), shall not be sentenced to imprisonment as contemplated in section 189 of the Criminal Procedure Act, 1977, unless the magistrate concerned is also of the opinion that the furnishing of such information is necessary for the administration of justice or the maintenance of law and order.</u></p> <p>(5) <u>For the purposes of this section "magistrate" includes an additional magistrate."</u></p> <p>(c) Section 14 is hereby repealed.</p> <p>(d) The following section is hereby substituted for section 16:</p> <p>"Offences relating to powers of police officials</p> <p>16. Any person who—</p>

Number and year of law	Short title	Extent of repeal or amendment
		<p>(a) hinders or obstructs any police official in the exercise of his <u>or her</u> powers under section 11;</p> <p>(b) refuses or fails to comply to the best of his <u>or her</u> ability with [any requirement or request made by any police official in the exercise of his powers under] the provisions of section 11(a), (b), (c) or (d);</p> <p>(c) refuses or fails to answer to the best of his <u>or her</u> ability any question which any police official in the exercise of his <u>or her</u> powers under section 11 has put to him <u>or her</u> regarding an entry in any register, record or document; or</p> <p>(d) <u>in terms of section 11(a) and (b)</u>, wilfully furnishes to any police official information which is false or misleading, shall be guilty of an offence.”.</p> <p>(e) Section 17 is hereby amended by the substitution for paragraph (a) of the following paragraph: “(a) in the case of an offence referred to in section 16, to a fine, or to imprisonment for a period not exceeding [twelve months] two years, or to both such fine and such imprisonment.”.</p> <p>(f) Section 19 is hereby amended by the deletion of subsection (2).</p> <p>(g) Sections 20, 21 and 22 are hereby repealed.</p> <p>(h) Part III of Schedule 2 is amended by the deletion of the words "Cannabis (dagga), the whole plant or any portion or product thereof, except dronabinol [(–)-transdelta-9-tetrahydrocannabinol]”.</p>
Act No. 93 of 1996	National Road Traffic Act, 1996	<p>(a) The Index to the Act is amended by the substitution for item 65 of Chapter XI of the following item: "Driving or occupy driver's seat while under the influence of intoxicating liquor or drug having narcotic effect[, or with excessive amount of alcohol or in blood or breath]";</p> <p>(b) The insertion in section 1— (i) after the definition of "driving licence testing centre" of the following definition: "drug having a narcotic effect' means a substance that has an impairing effect on a person's ability to control his or her actions;"; and (ii) after the definition of "testing station" of the following definition:</p>

Number and year of law	Short title	Extent of repeal or amendment
		<p>"THC' means any substance containing delta-9-tetrahydrocannabinol;".</p> <p>(c) The amendment of section 15 by the substitution in subsection (1) for paragraph (g) of the following paragraph: "(g) if he or she is addicted to the use of any drug having a narcotic effect or the excessive use of intoxicating liquor or <u>THC</u>; or".</p> <p>(d) The amendment of section 61 by the substitution in subsection (1) for paragraph (g) of the following paragraph: "(g) not, except on the instructions of or when administered by a medical practitioner in the case of injury or shock, take any intoxicating liquor, <u>THC</u>, or drug having a narcotic effect unless he or she has complied with the provisions of paragraph (f), where it is his or her duty to do so, and has been examined by a medical practitioner if such examination is required by a traffic officer."</p> <p>(e) The amendment of section 65 by—</p> <p>(i) the substitution for the heading to that section of the following heading: "Driving or occupy driver's seat while under the influence of intoxicating liquor or drug having narcotic effect[, or with excessive amount of alcohol or in blood or breath]";</p> <p>(ii) the substitution for subsections (1), (2) and (3) of the following subsections, respectively:</p> <p style="padding-left: 40px;">(1) No person shall on a public road—</p> <p style="padding-left: 80px;">(a) drive a vehicle; or</p> <p style="padding-left: 80px;">(b) occupy the driver's seat of a motor vehicle the engine of which is running, while under the influence of intoxicating liquor, THC or [a] any other drug having a narcotic effect or <u>any combination thereof</u>.</p> <p style="padding-left: 40px;">(2) No person shall on a public road—</p> <p style="padding-left: 80px;">(a) drive a vehicle; or</p> <p style="padding-left: 80px;">(b) occupy the driver's seat of a motor vehicle the engine of which is running, while the concentration of—</p> <p style="padding-left: 120px;">(i) alcohol;</p> <p style="padding-left: 120px;">(ii) <u>THC or other drug having a narcotic effect; or</u></p> <p style="padding-left: 120px;">(iii) <u>any combination of (i) and (ii)</u>.</p> <p>in any specimen of blood taken from any part of his or her body is not less than [0,05 gram per 100 millilitres, or in the case of a professional driver referred to in section 32, not less than 0,02 gram per 100 millilitres] the concentration of alcohol,</p>

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		<p><u>THC or other drug having a narcotic effect or a combination thereof specified in subsection (10).</u></p> <p>(3) <u>For purposes of subsection (2) or subsection 5(a) or (b)(ii), [1]if, in any prosecution for an alleged contravention of a provision of [subsection (2)] that subsections, it is proved that the concentration of alcohol, THC or other drug having a narcotic effect or a combination thereof, in any specimen of blood taken from any part of the body of the person concerned was not less than [0,05 gram per 100 millilitres] the concentration specified in subsection (10) or (11), respectively, at any time within two hours after the alleged contravention, it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than [0,05 gram per 100 millilitres at the time of the alleged contravention, or in the case of a professional driver referred to in section 32, not less than 0,02 gram per 100 millilitres] it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than [0,02 gram per 100 millilitres] the concentration specified in that subsections, respectively, at the time of the alleged contravention."</u></p> <p>(iii) the substitution for subsections (5) and (6) of the following subsections respectively:</p> <p style="padding-left: 40px;">"(5) No person shall on a public road—</p> <p style="padding-left: 40px;">(a) drive a vehicle; or</p> <p style="padding-left: 40px;">(b) occupy the driver's seat of a motor vehicle the engine of which is running,</p> <p style="padding-left: 40px;">while the concentration—</p> <p style="padding-left: 80px;">(i) <u>of alcohol in any specimen of breath exhaled by such person is not less than [0,24 milligrams per 1 000 millilitres, or in the case of a professional driver referred to in section 32, not less than 0,10 milligrams per 1000 millilitres] the concentration specified in subsection (11); or</u></p> <p style="padding-left: 80px;">(ii) <u>of alcohol in any specimen of breath exhaled by such person in combination with THC or other drug having a narcotic effect in any specimen of blood taken from any part of the body of the person concerned is not less than the concentration specified in subsection (11).</u></p> <p style="padding-left: 40px;">(6) If, in any prosecution for a contravention of a provision of subsection (5), it is proved that the concentration of alcohol in any specimen of breath of the person concerned [was not less than 0,24 milligrams per 1 000 millilitres of breath] taken at any time within two hours after the alleged contravention was not less than the</p>

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		<p><u>concentration specified in subsection (11), it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than [0,24 milligrams per 1 000 millilitres at the time of the alleged contravention, or in the case of a professional driver referred to in section 32, not less than 0,10 milligrams per 1000 millilitres, it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than 0,10 milligrams per 1 000 millilitres] the concentration specified in subsection (11) at the time of the alleged contravention.</u>";</p> <p>(iv) the substitution for subsection (8) of the following subsection:</p> <p style="padding-left: 40px;"><u>"(8) Except on the instruction of or when administered by a medical practitioner, no person detained for an alleged contravention of any provision of this section shall during his or her detention consume any alcohol, THC or a drug having a narcotic effect, nicotine, or any medication until the specimen referred to in subsection (3) or (6) has been taken."</u>; and</p> <p>(v) the addition of the following subsection after subsection (9):</p> <p style="padding-left: 40px;"><u>"(10) (a) Where a person is a professional driver referred to in section 32, a concentration of less than—</u></p> <p style="padding-left: 80px;"><u>(i) 0,02 gram alcohol per 100 millilitres of blood;</u></p> <p style="padding-left: 80px;"><u>(ii) 200 nanograms THC per 100 milliliters of blood;</u></p> <p style="padding-left: 80px;"><u>(iii) 0,01 gram alcohol and 100 nanograms THC per 100 millilitres of blood;</u></p> <p style="padding-left: 80px;"><u>(iv) 0,01 gram alcohol and any detectable concentration of a drug having a narcotic effect, other than THC, as may be prescribed, per 100 millilitres of blood; or</u></p> <p style="padding-left: 80px;"><u>(v) 100 nanograms THC and any detectable concentration of a drug having a narcotic effect, as may be prescribed, per 100 millilitres of blood.</u></p> <p style="padding-left: 40px;"><u>(b) Where a person is not a professional driver, a concentration of less than—</u></p> <p style="padding-left: 80px;"><u>(i) 0,05 gram alcohol per 100 millilitres of blood;</u></p> <p style="padding-left: 80px;"><u>(ii) 500 nanograms THC per 100 millilitres of blood;</u></p> <p style="padding-left: 80px;"><u>(iii) 0,025 gram alcohol and 250 nanograms THC per 100 milliliters of blood;</u></p> <p style="padding-left: 80px;"><u>(iv) 0,025 gram alcohol and any detectable concentration of a drug having a narcotic effect, other than THC, as may be prescribed, per 100 millilitres of blood; or</u></p> <p style="padding-left: 80px;"><u>(v) 250 nanograms THC and any detectable concentration of a drug having a narcotic</u></p>

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		<p><u>effect, as may be prescribed, per 100 millilitres of blood.</u></p> <p><u>(11) (a) Where a person is a professional driver referred to in section 32, a concentration of less than—</u></p> <p><u>(i) 0,10 milligrams alcohol per 1000 millilitres of breath;</u></p> <p><u>(ii) 0,5 milligrams alcohol per 1000 millilitres of breath and 100 nanograms THC per 100 millilitres of blood; or</u></p> <p><u>(iii) 0,5 milligrams alcohol per 1000 millilitres of breath and any detectable concentration of a drug having a narcotic effect, other than THC, as may be prescribed, per 100 millilitres of blood.</u></p> <p><u>(b) Where a person is not a professional driver, a concentration of less than—</u></p> <p><u>(i) 0,24 milligrams per 1 000 millilitres of breath;</u></p> <p><u>(ii) 0,12 milligrams alcohol per 1000 millilitres of breath and 250 nanograms THC per 100 millilitres of blood; or</u></p> <p><u>(iii) 0,12 milligrams alcohol per 1000 millilitres of breath and any detectable concentration of a drug having a narcotic effect, other than THC, as may be prescribed, per 100 millilitres of blood."</u></p> <p><u>(f) The amendment of section 75 by the insertion after subsection (1) of the following subsection:</u></p> <p><u>"(1A) The Minister may, in consultation with the Cabinet member responsible for health, prescribe any drug or category or class of such drugs having a narcotic effect for purposes of section 65(10) or (11)."</u></p>
Act No. 75 of 2008	Child Justice Act, 2008	<p><u>(a) The addition of the following item to Schedule 1:</u></p> <p><u>"19. A Class C, D or E offence in terms of the Regulation of Cannabis Act, 2019."</u></p> <p><u>(b) The addition of the following item to Schedule 2:</u></p> <p><u>"27. A Class A or B offence in terms of the Regulation of Cannabis Act, 2019."</u></p>