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LEGAL OPINION: THE STATUTORY POSITION ON CBD AND THC PRODUCTS, THE REQUIREMENTS FOR SCHEDULE 0, AND THE RISKS OF RETAIL ACCESS BY CHILDREN

1. Introduction

This opinion sets out the legal status of CBD- and THC-containing products in South Africa and explains why general retail stores, including supermarkets, pharmacies, convenience stores, and liquor outlets, cannot lawfully sell CBD beverages, CBD water, cannabinoid-infused foods, or any THC-containing product under the classification of Schedule 0. It also addresses the public-health and child-safety risks associated with unrestricted retail access to cannabinoid products.

The analysis is based on the **Medicines and Related Substances Act 101 of 1965**, the **Foodstuffs, Cosmetics and Disinfectants Act 54 of 1972**, and the **Drugs and Drug Trafficking Act 140 of 1992**, read with the **Cannabis for Private Purposes Act 7 of 2024**. The SAHPRA scheduling amendments (Government Notice 586 of 2020) constitute the authoritative basis for the scheduling of CBD and THC. [SAHPRA](#)

2. The Medicines Act: Scheduling, Exemptions, and Requirements for Schedule 0

2.1 CBD's default legal position

SAHPRA confirms that cannabidiol (CBD) is ordinarily a **Schedule 4** substance, except where it meets the exemption criteria published in Government Notice 586 of 2020. [SAHPRA](#)

2.2 What qualifies a CBD product for Schedule 0

A CBD product may be treated as Schedule 0 **only** if it meets *all* of the following criteria:

- Maximum **20 mg CBD per daily dose**
- Maximum **600 mg CBD per sales pack**
- Maximum **0.001% THC**

- Only **general health-enhancement, health-maintenance, or minor-symptom-relief** claims
- Manufactured as a **medicinal product**, not a food or beverage
- Compliant with medicinal-product labelling, packaging, and GMP standards

These limits are confirmed by SAHPRA and the Traditional & Natural Health Alliance. [SAHPRA tnha.co.za](http://SAHPRA.tnha.co.za)

2.3 Schedule 0 products fall under Category D – Complementary Medicines

Schedule 0 CBD products are classified as **Category D complementary medicines**, and although they do not require pre-registration, they remain subject to **all production, import, and distribution requirements** of the Medicines Act. tnha.co.za

2.4 The process required for a product to be lawfully sold as Schedule 0

A product does **not** become Schedule 0 merely because it meets the numerical limits. It must also:

- be formulated as a medicinal product (oil, capsule, tablet, topical),
- be manufactured under **GMP** for medicines,
- comply with medicinal labelling and packaging rules,
- be sold as a medicine through authorised sellers,
- make only low-risk, non-disease claims.

Products exceeding the limits or making therapeutic claims become **Schedule 4** and require SAHPRA registration. tnha.co.za

2.5 Why CBD beverages cannot qualify as Schedule 0

CBD beverages and CBD water **cannot** meet the Schedule 0 requirements because:

- They are **foodstuffs**, not medicinal dosage forms.
- They are not manufactured under medicinal GMP.
- They are not labelled or regulated as medicines.
- They are consumed for hydration or recreation, not medicinal use.
- They cannot make medicinal claims.

Therefore, CBD beverages **cannot** be Schedule 0 under any circumstances.

3. The Foodstuffs Act: Cannabinoids Are Not Approved Food Additives

The Foodstuffs Act prohibits the sale of any food or beverage containing an ingredient that is **not expressly approved** as a food additive.

CBD and THC are **not approved food additives** in South Africa.

This means:

- CBD water
- CBD-infused drinks
- CBD gummies
- CBD chocolates
- Any cannabinoid-containing edible

have **no lawful pathway** under the Foodstuffs Act.

Even if a CBD drink met the CBD/THC limits for Schedule 0, it would still be unlawful because the exemption applies only to **medicinal products**, not foods.

4. The Drugs and Drug Trafficking Act: THC and Cannabis Preparations Remain Prohibited

4.1 THC remains a prohibited substance

SAHPRA confirms that THC is a **Schedule 6** substance except in extremely narrow circumstances, such as processed products containing **0.001% THC or less** intended for ingestion. [SAHPRA](#)

The DDTA classifies:

- cannabis,
- cannabis resin, and
- **any preparation containing THC**

as **prohibited substances**, unless authorised under the Medicines Act.

4.2 The DDTA does not distinguish between “high-THC” and “low-THC” products

The DDTA contains **no threshold** below which THC is permitted in consumer products. Any THC in a product sold for general consumption makes it a **cannabis preparation**.

4.3 The 0.001% THC allowance applies only to medicinal products

The 0.001% THC threshold appears **only** in the SAHPRA scheduling notice and applies exclusively to **medicinal products** manufactured and sold within the medicinal regulatory framework. It does **not** create a retail exemption.

4.4 Why CBD beverages violate the DDTA

A CBD beverage becomes an unlawful cannabis preparation if:

- it contains **any THC**,
- it is sold for general consumption,
- it is not a Schedule 0 medicinal product,
- it is not authorised under the Medicines Act.

Retail sale of such a product constitutes **dealing in a prohibited substance**.

4.5 The DDTA does not recognise “wellness products” or “controlled retail environments.”

The DDTA regulates **the substance**, not the shelf.

Therefore:

- wellness aisle placement,
- ID checks,
- age restrictions,
- controlled-access cabinets,

do **not** create legality.

5. Child-Safety and Public-Health Risks of Retail Access to CBD and THC Products

5.1 Children are uniquely vulnerable

Children's brains and bodies are still developing.

Exposure to cannabinoids, especially THC, can affect:

- cognitive development,
- memory and learning,
- emotional regulation,
- behaviour and impulse control.

5.2 Retail environments increase accidental ingestion

CBD and THC products sold in:

- beverage form,
- colourful packaging,
- sweet flavours,
- formats resembling soft drinks or snacks,

are easily mistaken by children for ordinary consumables.

5.3 Lack of dosage control in retail products

Medicinal CBD products are manufactured under GMP with strict dosage control.

Retail CBD beverages are not.

This creates risks of:

- inconsistent CBD concentrations,
- undisclosed THC contamination,
- unpredictable effects in children.

5.4 THC exposure poses significant developmental risks

Even trace THC can cause:

- intoxication,
- panic reactions,
- impaired coordination,
- cognitive disruption.

5.5 Retail sale normalises cannabinoid consumption for minors

When CBD or THC products appear in:

- supermarkets,
- convenience stores,
- liquor stores,

children perceive them as ordinary consumer goods, increasing the likelihood of experimentation.

6. Why Retail Stores Cannot Sell CBD or THC Products as Schedule 0

- Schedule 0 applies only to medicinal products.
- CBD and THC are not approved food additives.
- Any THC in a non-medicinal product is prohibited under the DDTA.
- Shelf placement and marketing language do not change statutory classification.
- Commercial sale of cannabis remains prohibited.

7. Conclusion

The combined effect of the Medicines Act, Foodstuffs Act, and DDTA is unequivocal:

- CBD beverages and cannabinoid-infused foods cannot be Schedule 0 products.
- Retail stores cannot lawfully sell CBD or THC products in food or beverage form.
- Only true Schedule 0 medicinal CBD products may be sold, and only when they meet strict SAHPRA criteria and are sold as medicines.

- Marketing language, shelf placement, or age-restriction measures do not create legality.
- Unrestricted retail access exposes children to significant health and developmental risks.

A lawful, controlled-access framework is required to protect public health, ensure regulatory compliance, and prevent harm to minors.

