

South Australia

Industrial Hemp Regulations 2017

under the *Industrial Hemp Act 2017*

Contents

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|----|--|
| 1 | Short title |
| 3 | Interpretation |
| 4 | Definition of certified hemp seed (section 3 of Act) |
| 5 | Definition of drug related offence (section 3 of Act) |
| 6 | Suitability of applicant—prescribed requirements (section 10(1)(c) of Act) |
| 7 | Prescribed terms and conditions of licence (section 12(2) of Act) |
| 8 | Renewal of licence—prescribed particulars (section 13(3)(e) of Act) |
| 9 | Suspension or cancellation of licence—surrendered material (section 16(5) of Act) |
| 10 | General powers of inspector—seized documents and other things (section 19(3) of Act) |
| 11 | Cost of examination and testing |
| 12 | Inspector has power to seize material (section 20(2) of Act) |
| 13 | Industrial Hemp Register (section 26 of Act) |
| 14 | Fees |

Legislative history

1—Short title

These regulations may be cited as the *Industrial Hemp Regulations 2017*.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Industrial Hemp Act 2017*;

employ means—

- (a) employ under a contract of employment; or
- (b) employ under a training contract; or
- (c) engage under any other contract to perform a specified task authorised under a licence;

industrial hemp cultivation area means an area of land within which industrial hemp is cultivated under a licence;

industrial hemp cultivation period means a period commencing on the day on which certified hemp seed is sown in an industrial hemp cultivation area and ending on the day on which the harvesting of an industrial hemp crop in the area is completed.

4—Definition of certified hemp seed (section 3 of Act)

For the purposes of the definition of *certified hemp seed* in section 3 of the Act, hemp seed will be taken to be certified if the plant that produced the seed has been tested and analysed, in a manner that the Chief Executive thinks fit, to determine that the seed will typically produce hemp plants with a concentration of THC in the leaves and flowering heads of not more than 0.5%.

5—Definition of drug related offence (section 3 of Act)

The following offences are prescribed for the purposes of paragraph (d) of the definition of *drug related offence* in section 3 of the Act:

- (a) a summary offence involving possession or cultivation of, or trafficking in, a drug of dependence;
- (b) a summary offence under Part 5 Division 4 of the *Controlled Substances Act 1984*;
- (c) a summary offence under the law of another jurisdiction involving possession or cultivation of, or trafficking in, a drug of dependence.

6—Suitability of applicant—prescribed requirements (section 10(1)(c) of Act)

- (1) The Chief Executive must not grant a licence to an applicant unless the Chief Executive is satisfied that the applicant meets the following requirements:
 - (a) that the applicant's property or premises is suitable for the possession, cultivation or processing of industrial hemp (as the case requires) in relation to location, facilities and proposed security arrangements;
 - (b) that the applicant has a lawful and genuine purpose for the possession, supply, cultivation or processing of industrial hemp;
 - (c) if the applicant is a natural person—that the applicant is of or above the age of 18 years.
- (2) The Chief Executive must not renew a licence on application by a licence holder unless the Chief Executive is satisfied that the licence holder meets the following requirements:
 - (a) that the applicant's property or premises is suitable for the possession, cultivation or processing of industrial hemp (as the case requires) in relation to location, facilities and proposed security arrangements;
 - (b) that the applicant has a lawful and genuine purpose for the possession, supply, cultivation or processing of industrial hemp.

7—Prescribed terms and conditions of licence (section 12(2) of Act)

- (1) A licence authorising the possession, cultivation and supply of industrial hemp is subject to the following conditions:
 - (a) a condition that the licence holder must only cultivate industrial hemp at premises identified in the licence or notified to the Chief Executive under paragraph (c);
 - (b) subject to subregulation (2), a condition that an industrial hemp cultivation area must not be less than 1 hectare in area;

- (c) a condition that the licence holder must, at least 28 days before the commencement of an industrial hemp cultivation period, notify the Chief Executive of the following:
 - (i) the type of industrial hemp product intended to be produced;
 - (ii) the variety of seed to be sown;
 - (iii) the source of the seed;
 - (iv) the premises at which industrial hemp is to be cultivated;
 - (v) the GPS coordinates of the proposed cultivation area;
 - (vi) any other information requested by the Chief Executive;
- (d) a condition that the licence holder must only cultivate a variety of industrial hemp notified to the Chief Executive under paragraph (c);
- (e) a condition that each batch or lot of industrial hemp seed to be stored on premises to which the licence relates must bear a label that clearly states—
 - (i) the variety of the seed; and
 - (ii) that the plant that produced the seed had a concentration of THC in the leaves and flowering heads of not more than 1%; and
 - (iii) if the industrial hemp seed is certified hemp seed—that the seed is certified hemp seed for the purposes of the Act;
- (f) a condition that a licence holder must ensure that any industrial hemp plants that are found growing on the premises of the licence holder (other than within an industrial hemp cultivation area) or on any land adjacent to such premises are destroyed within 7 days of being found;
- (g) a condition that a licence holder must ensure that if an industrial hemp crop fails, the flowering heads (including seeds) from the failed industrial hemp crop are destroyed within 7 days of the failure of the crop;
- (h) a condition that the licence holder must ensure that the flowering heads (including seeds) of any industrial hemp plants remaining in an industrial hemp cultivation area after the harvesting of industrial hemp are destroyed within 7 days of the harvest taking place;
- (i) a condition that the licence holder must ensure that any industrial hemp plants subsequently found growing in an industrial hemp cultivation area after the harvesting of industrial hemp are destroyed within 7 days of being found;
- (j) a condition that the licence holder must ensure that if samples of industrial hemp are taken at different stages of the growing cycle for examination, testing and agronomic assessment (such as soil, nutrient, pest and disease testing) such samples are dealt with in a manner approved by the Chief Executive;
- (k) a condition that the licence holder must only supply viable industrial hemp seed to a person within the State if that person holds a licence under the Act;
- (l) a condition that the licence holder must—

- (i) within 28 days after completion of the sowing of certified hemp seed—report to the Chief Executive the following details in relation to industrial hemp grown for the production of plant material or seed:
 - (A) the date on which the seeds were supplied to the holder of the licence;
 - (B) the quantity in kilograms of seed obtained for sowing;
 - (C) the quantity in kilograms of seed sown;
 - (D) the name and address of the person who supplied the seed;
 - (E) the date on which the seed was sown;
 - (F) the total area in hectares of seed sown;
 - (G) the variety of seed sown;
 - (H) the GPS coordinates of the cultivation area; and
- (ii) within 28 days after the failure of an industrial hemp crop of the licence holder—report to the Chief Executive—
 - (A) the date of the failure; and
 - (B) the total area in hectares of industrial hemp that failed; and
- (iii) within 28 days after harvesting an industrial hemp crop in an industrial hemp cultivation area—report to the Chief Executive—
 - (A) the following details in relation to industrial hemp grown for the production of plant material:
 - the total area in hectares of crop harvested;
 - the date on which the crop was harvested;
 - the total quantity in kilograms of plant material harvested;
 - the variety of industrial hemp harvested;
 - the GPS coordinates of the harvesting area; and
 - (B) the following details in relation to industrial hemp grown for the production of seed:
 - the total area in hectares of crop harvested;
 - the date on which the crop was harvested;
 - the total quantity in kilograms of seed harvested;
 - the variety of seed harvested;
 - the GPS coordinates of the harvesting area;
- (m) a condition that the licence holder must, within 28 days after the supply of harvested industrial hemp to a person—report to the Chief Executive—
 - (i) the following details in relation to the supply of industrial hemp seed:
 - (A) the date on which the seed was supplied;

- (B) the total quantity in kilograms of seed supplied;
 - (C) the variety of seed supplied;
 - (D) the name and address of the person to whom the seed was supplied;
 - (E) the purpose for which the seed was supplied;
 - (F) the condition of the industrial hemp seed (including whether seeds are viable or have been treated to make the seeds non-viable);
 - (G) the name, including the registered business or company name, and address of the person transporting the seed;
 - (H) a statement confirming that the notice referred to in paragraph (n)(ii) accompanied the industrial hemp seed supplied to the person; and
- (ii) the following details in relation to the supply of industrial hemp plant material:
- (A) the date on which the plant material is supplied;
 - (B) the total quantity in kilograms of plant material supplied;
 - (C) the variety of industrial hemp supplied;
 - (D) the name and address of the person to whom the plant material is supplied;
 - (E) the purpose for which the plant material is supplied;
 - (F) the form of the industrial hemp sold or supplied (including whether the plant material is fresh or dried and whether leaves, flowers or seed form part of the industrial hemp plant material supplied);
 - (G) the name, including the registered business or company name, and address of the person transporting the plant material;
 - (H) a statement confirming that the notice referred to in paragraph (n)(ii) accompanied the industrial hemp plant material supplied to the person;
- (n) if industrial hemp is to be transported from premises at which industrial hemp is authorised to be cultivated under the licence—a condition that the licence holder must—
- (i) ensure that the transport of the industrial hemp is undertaken in a manner that ensures that the industrial hemp is protected from theft and spillage while in transit; and
 - (ii) provide a notice accompanying the industrial hemp stating that the industrial hemp was cultivated and supplied pursuant to a licence under the Act;
- (o) a condition that the licence holder must not use, or permit the use of, industrial hemp as stock feed unless—

- (i) in the case of industrial hemp plant material—the plant material no longer contains leaves, flowers or seed; or
 - (ii) in the case of seed—the seed is non-viable;
 - (p) a condition that the licence holder must immediately notify the Chief Executive—
 - (i) if the licence holder or an associate of the licence holder is convicted of a drug related offence; or
 - (ii) if there is a change in the position of director, trustee, partner, manager, secretary or other executive position, however designated, or a change in the structure of the business to which the licence relates; or
 - (iii) of any unauthorised interference with, or theft of, industrial hemp cultivated or possessed under the licence;
 - (q) a condition that the licence holder must only employ or engage persons who are suitable to carry out the activities authorised under the licence;
 - (r) a condition that if a person becomes employed in carrying out activities in the business conducted under the licence, the licence holder must, within 14 days after the person commences employment, notify the Chief Executive of the full name, date of birth, residential address and position of the new employee;
 - (s) any other conditions the Chief Executive thinks fit.
- (2) A licence authorising the cultivation and supply of industrial hemp for scientific research, instruction, analysis or study is not subject to the condition in subregulation (1)(b).
- (3) A licence authorising the possession, processing and supply of industrial hemp is subject to the following conditions:
 - (a) a condition that the licence holder must only process industrial hemp at premises identified in the licence;
 - (b) a condition that the licence holder must ensure that any industrial hemp plants found growing in the premises used by the licence holder to undertake activities authorised by the licence are destroyed immediately;
 - (c) a condition that each batch or lot of industrial hemp seed to be stored on premises to which the licence relates must bear a label that clearly states—
 - (i) the variety of the seed; and
 - (ii) that the plant that produced the seed had a concentration of THC in the leaves and flowering heads of not more than 1%; and
 - (iii) if the seed is certified hemp seed—that the seed is certified hemp seed for the purposes of the Act;
 - (d) a condition that the licence holder must only supply viable industrial hemp seed to a person within the State if that person holds a licence under the Act;
 - (e) a condition that the licence holder must immediately notify the Chief Executive—

- (i) if the licence holder or an associate of the licence holder is convicted of a drug related offence; or
 - (ii) if there is a change in the position of director, trustee, partner, manager, secretary or other executive position, however designated, or a change in the structure of the business to which the licence relates; or
 - (iii) of any unauthorised interference with, or theft of, industrial hemp possessed under the licence;
 - (f) a condition that the licence holder must only employ or engage persons who are suitable to carry out the activities authorised under the licence;
 - (g) a condition that if a person becomes employed in carrying out activities authorised under the licence, the licence holder must, within 14 days after the person commences employment, notify the Chief Executive of the full name, date of birth, residential address and position of the new employee;
 - (h) if industrial hemp is to be transported from the premises to which the licence relates—a condition that the licence holder must—
 - (i) ensure that the transport of the industrial hemp is undertaken in a manner that ensures that the industrial hemp is protected from theft and spillage while in transit; and
 - (ii) provide a notice to accompany the industrial hemp stating that the industrial hemp was processed and supplied pursuant to a licence under the Act;
 - (i) a condition that, within 28 days of the end of each financial year, the licence holder must report to the Chief Executive on the following in relation to activities carried out under the licence in respect of that financial year:
 - (i) the method of the processing undertaken;
 - (ii) the quantity in kilograms of industrial hemp processed by each processing method;
 - (iii) the quantity in kilograms of certified hemp seed supplied;
 - (iv) the names and addresses of each person to whom certified hemp seed is supplied;
 - (v) the name, including the registered business or company name, and address of each person who has transported viable industrial hemp seed from the premises to which the licence relates;
 - (j) any other conditions the Chief Executive thinks fit.
- (4) A licence authorising the possession and supply of viable industrial hemp seed is subject to the following conditions:
- (a) a condition that the licence holder must only store viable industrial hemp seed on premises to which the licence relates, or notified to the Chief Executive under paragraph (d);
 - (b) a condition that each batch or lot of viable industrial hemp seed to be stored on premises to which the licence relates, or notified to the Chief Executive under paragraph (d), must bear a label that clearly states—

- (i) the variety of the seed; and
 - (ii) that the plant from which the seed derives had a concentration of THC in the leaves and flowering heads of not more than 1%; and
 - (iii) if the seed is certified hemp seed—that the seed is certified hemp seed for the purposes of the Act;
- (c) a condition that the licence holder must only supply viable industrial hemp seed to a person in the State if the person holds a licence under the Act;
- (d) a condition that the licence holder must, within 28 days after having been supplied with viable industrial hemp seed, report to the Chief Executive the following:
 - (i) the date on which the seed was supplied to the licence holder;
 - (ii) the total quantity in kilograms of seed supplied to the licence holder;
 - (iii) the premises at which the seed is being stored;
 - (iv) the variety of seed supplied;
 - (v) the name and address of the person who supplied the seed;
 - (vi) the purpose for which the seed was supplied;
 - (vii) the name, including the registered business or company name, and address of the person who transported the seed;
 - (viii) any other information requested by the Chief Executive;
- (e) if viable industrial hemp seed is to be transported from the premises to which the licence relates or premises notified to the Chief Executive under paragraph (d)—a condition that the licence holder must—
 - (i) ensure that the transport of the viable industrial hemp seed is undertaken in a manner that ensures that the seed is protected from theft and spillage while in transit; and
 - (ii) provide a notice to accompany the viable industrial hemp seed stating that the industrial hemp seed was supplied pursuant to a licence under the Act;
- (f) a condition that within 28 days of the end of each financial year, the licence holder must report to the Chief Executive on the following in relation to the supply of viable industrial hemp seed to a person under the licence in respect of that financial year:
 - (i) the quantity in kilograms of seed supplied;
 - (ii) the variety of seed supplied;
 - (iii) the names and addresses of each person to whom certified hemp seed was supplied;
 - (iv) the purpose for which the seed was supplied;
 - (v) the name, including the registered business or company name, and address of each person who has transported viable industrial hemp seed from the premises to which the licence relates;

- (g) a condition that the licence holder must immediately notify the Chief Executive—
 - (i) if the licence holder or an associate of the licence holder is convicted of a drug related offence; or
 - (ii) if there is a change in the position of director, trustee, partner, manager, secretary or other executive position, however designated, or a change in the structure of the business to which the licence relates; or
 - (iii) of any unauthorised interference with, or theft of, viable industrial hemp seed possessed under the licence;
 - (h) a condition that the licence holder must only employ or engage persons who are suitable to carry out the activities authorised under the licence;
 - (i) a condition that if a person becomes employed in carrying out activities authorised under the licence, the licence holder must, within 14 days after the person commences employment, notify the Chief Executive of the full name, date of birth, residential address and position of the new employee;
 - (j) any other conditions the Chief Executive thinks fit.
- (5) A report or notification to the Chief Executive under this regulation must be in a form, and undertaken in a manner, determined by the Chief Executive.

8—Renewal of licence—prescribed particulars (section 13(3)(e) of Act)

An application for the renewal of a licence must contain the full name, date of birth, residential address and position of each person currently employed in carrying out activities authorised by the licence.

9—Suspension or cancellation of licence—surrendered material (section 16(5) of Act)

If—

- (a) a licence holder surrenders industrial hemp or other material cultivated under this Act to the Chief Executive on suspension or cancellation of a licence; and
- (b) the licence holder agrees that the Chief Executive may deal with the surrendered material,

the Chief Executive may do any of the following:

- (c) dispose of the surrendered material;
- (d) direct the licence holder to dispose of the surrendered material;
- (e) harvest and deal with the surrendered material as appropriate;
- (f) harvest and destroy the surrendered material;
- (g) enter into an agreement with the licence holder or any other person to deal with the surrendered material as required in all of the circumstances;
- (h) anything reasonably necessary to ensure the security of the surrendered material.

10—General powers of inspector—seized documents and other things (section 19(3) of Act)

- (1) If an inspector seizes a document or thing or takes a sample of, or from, a thing under section 19 of the Act at premises occupied by a licence holder, the inspector must give a seizure receipt for the document or thing or sample to the licence holder from whom it was taken.
- (2) If an inspector is unable to give a seizure receipt to the relevant licence holder in respect of a document or thing or sample seized, the inspector must—
 - (a) leave the seizure receipt with, or post it to, the licence holder who occupies the premises from which the document or thing or sample was seized; and
 - (b) if a document is seized—leave a copy of the document, if practicable, with, or post it to, the licence holder who occupies the premises from which the document was seized.
- (3) A seizure receipt must—
 - (a) identify the seized document, thing or sample taken; and
 - (b) state the name of the inspector who seized the document or thing or took the sample; and
 - (c) state the reason why the document or thing was seized or the sample was taken.
- (4) A sample taken by an inspector must be dealt with in a manner approved by the Chief Executive.

11—Cost of examination and testing

If any sample or specimen taken in accordance with Part 3 of the Act is submitted to a laboratory or place approved by the Chief Executive for examination and testing, the holder of the licence to which the sample or specimen relates must meet the cost of the examination and testing.

12—Inspector has power to seize material (section 20(2) of Act)

- (1) If an inspector seizes any material under section 20 of the Act, the inspector must immediately—
 - (a) make a written record of the seizure; and
 - (b) give a seizure receipt to the licence holder that—
 - (i) identifies the seized material taken; and
 - (ii) states the name of the inspector who seized the seized material; and
 - (iii) states the reason for the seizure; and
 - (c) in the case of an inspector who is not a police officer—send a copy of the seizure receipt to the Chief Executive; and
 - (d) in the case of an inspector who is a police officer—send a copy of the seizure receipt to the Commissioner of Police and the Chief Executive.

- (2) If an inspector seizes any material under section 20 of the Act, the inspector, with any assistance necessary, may take or send the seized material to a place approved by the Chief Executive for it to be examined, tested or stored.
- (3) If an inspector seizes any material under this section, the Chief Executive may do any of the following:
 - (a) take reasonable steps to release or return the seized material to the licence holder from whom it was seized if the reason for seizure no longer exists;
 - (b) retain, in a place approved by the Chief Executive, any seized material that is required for evidence in a legal proceeding;
 - (c) harvest and deal with the seized material as appropriate;
 - (d) harvest and destroy the seized material;
 - (e) enter into an agreement with the licence holder or any other person to deal with the seized material as required in all of the circumstances;
 - (f) anything reasonably necessary to ensure the security of the seized material.
- (4) If the Chief Executive incurs any costs in dealing with seized material under this regulation, the Chief Executive may recover those costs in any court of competent jurisdiction as a debt due to the Crown.

13—Industrial Hemp Register (section 26 of Act)

- (1) For the purposes of section 26(2)(c) of the Act, the industrial hemp register is required to contain information in relation to each licence as is determined by the Chief Executive.
- (2) For the purposes of section 26(3) of the Act, the following classes of persons are prescribed:
 - (a) inspectors;
 - (b) persons engaged to administer or maintain the Industrial Hemp Register (whether employees, contractors or subcontractors, or employees of contractors or subcontractors).

14—Fees

The Chief Executive may waive or reduce payment of a fee prescribed for the purposes of the Act if satisfied that it is appropriate to do so in a particular case.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations and variations

New entries appear in bold.

| Year | No | Reference | Commencement |
|-------------|------------|--------------------------------------|----------------------|
| 2017 | 298 | <i>Gazette 31.10.2017 p4468</i> | 12.11.2017: r 2 |
| 2020 | 178 | <i>Gazette 4.6.2020 p3039</i> | 1.7.2020: r 2 |

Provisions varied

New entries appear in bold.

| Provision | How varied | Commencement |
|------------|--|-----------------|
| <i>r 2</i> | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>1.7.2020</i> |
| r 14 | inserted by 178/2020 r 4 | 1.7.2020 |