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I Assent

[L.S.]

ERROL CHARLES,
*Acting Governor-General.**December 8, 2023.*

SAINT LUCIA

No. 26 of 2023

AN ACT to establish the Regulated Substances Authority, Regulated Substances Tribunal, Regulated Substances Fund, to provide for the licensing of regulated substances and for related matters.

[11th December, 2023]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows:

PRELIMINARY**Short title**

1. This Act may be cited as the Regulated Substances Act, 2023.

Interpretation

2. In this Act —

“Authority” means the Regulated Substances Authority established under section 5;

“Board” —

(a) in relation to the Authority, means the Board of the Authority appointed under section 22;

(b) in relation to the Fund, means the Regulated Substances Fund Board appointed under section 79;

“Bureau” means the Saint Lucia Bureau of Standards established under section 3 of the Standards Act, Cap. 13.25;

“Chairperson” means the Chairperson of the Board under section 23;

“Chief Executive Officer” means the Chief Executive Officer under section 9;

“Commissioner of Police” means the Commissioner of Police under the Police Act, Cap. 14.01;

“Comptroller of Customs” means the Comptroller of Customs under the Customs (Control and Management) Act, Cap. 15.05;

“Corporate Secretary” means the Corporate Secretary employed by the Authority under section 14(3);

“Deputy Chairperson” means the Deputy Chairperson of the Board elected under section 24;

“Director of the Bureau” means the Director of the Bureau appointed under section 6 of the Standards Act, Cap. 13.25;

- “Fund” means the Regulated Substances Fund established under section 76;
- “inspector” means a person employed by the Authority under section 11;
- “licence” means —
- (a) a licence issued under section 48 or section 56(3);
 - (b) an amended licence issued under section 53(4);
- “licensee” means a person issued a licence;
- “licensed premises” means an area, a site or other place in which a regulated substance is being kept or used;
- “Minister” means the Minister responsible for commerce;
- “Ministry” means the Ministry responsible for commerce;
- “Permanent Secretary” means the Permanent Secretary in the Ministry;
- “proposed premises” means an area, a site or other place that a person intends to keep or use a regulated substance;
- “Recording Secretary” means the Recording Secretary of the Tribunal under section 72;
- “regulated substance” means a substance declared as a regulated substance under section 4;
- “Secretary” means —
- (a) the Secretary to the Board appointed under section 34;
 - (b) the Secretary designated under section 79;
- “security bond fee” means an amount of money payable by a person as security for the performance of his or her obligations under an agreement with the Authority;
- “Tribunal” means the Regulated Substances Tribunal established under section 64.

Act binds the Crown

3. This Act binds the Crown.

PART I
ADMINISTRATION

Division 1
Regulated Substances

Declaration of regulated substances

4.—(1) The Minister may, by Order published in the *Gazette*, declare a substance to be a regulated substance.

(2) An Order under subsection (1) must specify —

- (a) the scientific or other name of the substance;
- (b) a description of the substance;
- (c) any other information relating to the substance.

Division 2
Regulated Substances Authority

Establishment of the Regulated Substances Authority

5.—(1) There is established a body to be known as the Regulated Substances Authority.

(2) The Authority is a body corporate to which section 19 of the Interpretation Act, Cap. 1.06 applies.

(3) The Regulated Substances Authority shall have a Board which is the governing body of the Regulated Substances Authority, to exercise and perform the functions and powers conferred under this Act.

Functions of the Authority

6.—(1) The functions of the Authority are to —

- (a) review policies and guidelines for a regulated substance;
- (b) review an application for a licence;
- (c) impose conditions on a licence;
- (d) issue a licence;
- (e) suspend or revoke a licence;
- (f) consider an application to renew a licence;

- (g) maintain oversight over the administrative and financial operations of the Authority;
- (h) prepare, in collaboration with a Ministry, Department or, an agency, policies and guidelines for the use of and activities relating to a regulated substance;
- (i) facilitate scientific research and development in respect of a regulated substance;
- (j) develop and implement, in collaboration with a Ministry, Department or an agency —
 - (i) a comprehensive public health education and training programme to raise public awareness, especially for high-risk groups,
 - (ii) social, emotional and mental support programmes for persons dealing with a regulated substance,
 - (iii) proper procedures for the safe storage and disposal of regulated substances,
 - (iv) to consult with the Minister for setting the retail price of a regulated substance based on market trends;
- (k) receive, assess and make recommendations to the Board with regard to an application for a licence;
- (l) issue, suspend or revoke a licence issued under this Act;
- (m) issue an identification card to an inspector;
- (n) establish the qualification requirements and training programmes for an inspector;
- (o) establish and maintain —
 - (i) a manual and an electronic tracking system for a regulated substance,
 - (ii) a manual and an electronic register of —
 - (A) licenses issued under this Act;
 - (B) any other register and database the Authority considers necessary or expedient for the purpose of carrying out its functions;

- (p) prepare and submit to the Minister an annual audit report;
- (q) to conduct research, develop policies and have stakeholder consultations on substances as the Board directs;
- (r) do all things as the Board considers necessary or expedient for the purpose of carrying out its functions;
- (s) perform other functions under this Act or another enactment.

(2) Where the Board reviews an application for a licence under subsection (1)(b), the Board shall consider the advice of a body established under another enactment for that regulated substance.

Powers of the Authority

7.—(1) The powers of the Authority are to —

- (a) appoint a committee to assist in effectively and efficiently performing its functions;
- (b) determine, after conducting an analysis of the market, whether to place a limit on the number of licenses issued for an activity related to a regulated substance;
- (c) request a licensee to have a regulated substance tested at a prescribed laboratory;
- (d) inspect the proposed premises on receipt of an application for a licence;
- (e) inspect licensed premises;
- (f) consult and collaborate with Government agencies as it considers necessary or expedient for the purpose of carrying out its functions;
- (g) issue due diligence requirements with respect to an application for a licence;
- (h) charge and collect —
 - (i) a prescribed non-refundable licence fee,
 - (ii) a prescribed refundable security bond fee,
 - (iii) prescribed fees for a service provided by the Authority;
- (i) waive the requirement for payment of a licence fee or to obtain a licence;

- (j) enter into an agreement with a person for a security bond;
 - (k) do other things as the Authority considers necessary or expedient for the purpose of carrying out its functions.
- (2) The members of a committee appointed under subsection (1)(a) —
- (a) must include a member of the Board;
 - (b) may, subject to the approval of the Minister, include persons who are not members of the Board or employees of the Authority.

Delegation of functions and powers

8. The Authority may delegate its functions and powers under sections 6 and 7 to the Chief Executive Officer or an employee of the Authority.

Chief Executive Officer

9.—(1) The Board shall employ a person to be the Chief Executive Officer of the Authority.

(2) The Chief Executive Officer shall not engage or be employed in the handling of a regulated substance or have an actual or contingent pecuniary interest in a company, firm or other entity regulated by the Authority.

Functions of the Chief Executive Officer

10. Subject to the directions of the Board, the functions of the Chief Executive Officer are —

- (a) to manage the day-to-day affairs of the Authority;
- (b) to attend and participate in all meetings of the Board;
- (c) to do all things necessary or convenient to be done for or in connection with the performance of his or her functions.

Inspectors of the Authority

11. The Authority may employ a person to be an inspector for carrying out an inspection under section 84.

Identification card of an inspector

12.—(1) The Authority shall issue an identification card to an inspector.

(2) An inspector shall, when exercising a power conferred on him or her under section 13, produce the identification card issued to him or her under subsection (1).

Powers of an inspector

13.—(1) An inspector is responsible for carrying out an inspection of proposed premises or licensed premises, a place or vehicle where the Authority has reasonable grounds to believe that any trade, business or activity which is or may be subject to a licence is being or has been carried on or that documents relating to the trade, business or activity are kept.

(2) Without limiting the generality of subsection (1), an inspector

—
(a) may at reasonable times, enter the licensed premises, place or vehicle and —

(i) search and take samples of a regulated substance,

(ii) take copies of or extracts from a document, file, papers or an electronic information system,

(iii) request the production of documents or information;

(b) shall prepare and submit to the Authority a report of the inspection.

(3) An inspector shall not be engaged directly or indirectly or have an actual or contingent pecuniary interest in any company, firm or entity that is regulated by the Authority.

Employees of the Authority

14.—(1) The Authority may employ persons as it considers necessary for the effective and efficient performance of its functions.

(2) An employee of the Authority shall not be engaged directly or indirectly or have an actual or contingent pecuniary interest in any company, firm or entity which is regulated by the Authority.

(3) The Authority shall employ a Corporate Secretary on terms and conditions as the Board determines.

(4) Notwithstanding this section, the Authority may engage an expert, adviser or consultant on contractual terms to assist in carrying out its functions and any advice or other service under the contract shall be provided in such a manner that avoids any conflict of interest or improper influence on the decision making of the Authority.

(5) The engagement of a person under subsection (4) does not relieve the Authority of its functions under this Act.

Transfer of a public officer to the Authority

15.—(1) The Public Service Commission may approve the transfer of a public officer from the public service to the service of the Authority.

(2) When the transfer of a public officer from the public service to the Authority is approved under subsection (1), the Authority shall make arrangements with the Government for the preservation of the pension rights of the public officers, where applicable.

Head office or principal place of business

16.—(1) The Authority shall establish and maintain a head office and principal place of business in Saint Lucia.

(2) The Authority shall publish in the *Gazette*, the location of its head office and principal place of business.

Seal of Authority

17.—(1) The Authority may have an official seal.

(2) The affixing of the official seal of the Authority must be in the presence of, witnessed and signed by the Chief Executive Officer, the Chairperson or Deputy Chairperson of the Board.

(3) All documents, other than those required by law to be under seal, which are executed by, and all decisions of the Authority must be signed by —

(a) the Chairperson or a member of the Board authorized in writing by the Chairperson to act on behalf of the Chairperson; and

(b) the Chief Executive Officer.

Service of documents

18. The service of documents on the Authority is deemed to be effective if delivered at the head office or principal place of business of the Authority.

Tax exemptions

19. Notwithstanding the Income Tax Act, Cap. 15.02, the Land and House Tax Act, Cap. 15.13 and the Stamp Duty Act, Cap. 15.11 and any other enactment, the Authority is exempt from corporation tax, property tax and stamp duty.

Directions to the Authority

20. The Minister may, on the recommendation of Cabinet and after consultation with the Chairperson of the Board, give written directions to the Authority as the Minister considers necessary in the public interest.

Finance management of the Authority

21. Part XIII of the Public Finance Management Act, Cap. 15.01 applies to the Authority with regard to finance management.

Division 3
Board of the Authority

Appointment of the members of the Board of the Authority

22.—(1) The Minister shall appoint the members of the Board of the Authority.

(2) The Board comprises —

- (a) the Permanent Secretary of the Ministry;
- (b) the Permanent Secretary of the Ministry of Finance;
- (c) the Director of the Bureau;
- (d) a representative of civil society;
- (e) three persons with expertise in —
 - (i) business,
 - (ii) medicine,
 - (iii) science or research.

(3) A member of the Board under subsection (2)(a) to (c) may designate a public officer who holds a post of the head or director of a Department or Unit within a Ministry, to serve as an alternative member, to attend a meeting of the Board in his or her absence.

(4) A member of the Board under subsection 2(e), with the requisite expertise relating to the regulated substance for which an application for a licence is made under section 43, must be present at the meeting of the Board.

Chairperson of the Board

23. The Minister shall appoint a person under section 22 as the Chairperson of the Board.

Deputy Chairperson of the Board

24. The members of the Board shall, at its first meeting, elect a Deputy Chairperson from amongst its members.

Tenure of a member of the Board

25.—(1) Subject to subsection (2), a member of the Board under section 22(2)(d) and (e) is appointed for a term not exceeding three years.

(2) A member of the Board under section 22(2)(d) and (e) is eligible for reappointment to serve for a maximum of three consecutive terms.

Leave of absence of a member of the Board

26. The Minister may approve a leave of absence for a member of the Board for a period not exceeding three months.

Disqualification of a member of the Board

27. A member of the Board who is appointed under section 22(2)(d) and (e) is disqualified from being a member of the Board if he or she is —

- (a) engaged directly or indirectly or has an actual or contingent pecuniary interest in a company, firm or other entity that is regulated by the Authority;

- (b) declared by a court to be a bankrupt;
- (c) declared by a court to be physically or mentally incapacitated by reason of unsoundness of mind;
- (d) convicted of a criminal offence, except where the offence is a minor traffic offence or has been spent in accordance with the Criminal Records (Rehabilitation of Offenders) Act, Cap. 3.13; or
- (e) convicted of a criminal offence under this Act or another enactment.

Resignation of a member of the Board

28.—(1) The Chairperson of the Board may resign by submitting a written notice of his or her resignation to the Minister.

(2) A member of the Board who is appointed under section 22(2) (d) may resign by submitting, through the Chairperson, a written notice of his or her resignation to the Minister.

Revocation of the appointment of a member of the Board

29.—(1) The Minister may revoke the appointment of a member of the Board who is appointed under section 22(2)(d) and (e), if satisfied that the member —

- (a) is disqualified from being a member of the Board under section 27;
- (b) is unable to perform the functions of his or her office;
- (c) is guilty of misconduct;
- (d) has failed to attend three consecutive meetings of the Board without presenting —
 - (i) a medical certificate issued by a health practitioner, or
 - (ii) a written excuse —
 - (A) in the case of the Chairperson, to the Minister;
 - (B) in the case of any other member, to the Chairperson;
- (e) has failed to act in the best interest of the Board.

(2) A member of the Board may be suspected of misconduct if the member —

- (a) votes in respect of a matter before the Board in which he or she has a direct or indirect interest;
- (b) seeks to influence the vote of any other member of the Board in relation to a matter before the Board in which he or she has a direct or an indirect interest.

(3) Where a member of the Board is suspected of being guilty of misconduct or failing to act in the best interest of the Board under subsection (1)(c) or (e), the Minister shall refer the matter to the Tribunal for determination.

(4) Where the Minister revokes the appointment of a member of the Board, the Minister shall state the reasons for the revocation.

Vacancy on the Board

30. The office of a member of the Board is vacated —

- (a) on the death of the member;
- (b) if the member becomes disqualified under section 27;
- (c) if the member resigns under section 28;
- (d) if the Minister revokes the appointment of the member under section 29;
- (e) on the expiry of the term of appointment of the member.

Appointment of temporary members on the Board

31.—(1) The Minister may appoint another person to act temporarily in place of the a member in accordance with section 22, where a member of the Board —

- (a) is unable to perform his or her functions;
- (b) is absent;
- (c) dies;
- (d) resigns under section 28; or
- (e) is no longer a member as a result of his or her appointment being revoked under section 29.

(2) A person appointed under subsection (1) shall be appointed in a manner that complies with section 22(2)(d) and (e) for the constitution of the Board and holds office —

- (a) in the case of the absence or inability of a member to perform his or her functions, only for the portion of the term of the absence or inability;
- (b) in the case of the death, resignation or revocation of appointment of the Chairperson or member, the unexpired portion of the term of the former member.

Meetings of the Board

32.—(1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, but not less than once a month, at a place and time and on a day as the Board determines.

(2) The Chairperson may call a special meeting of the Board at any time on issuing a notice to the members.

(3) Notwithstanding subsections (1) and (2), the Chairperson shall call a special meeting at the written request of at least five members, within seven days of the request and issue a notice for that special meeting.

(4) The Chairperson or, in his or her absence, the Deputy Chairperson shall preside at meetings of the Board, and in the absence of the Chairperson and Deputy Chairperson, the members present and forming a quorum shall elect one of their number to preside at the meeting.

(5) A quorum for a meeting of the Board is five members.

(6) The Chairperson and any other member are deemed to be present at a meeting of the Board if the Chairperson or the member participates by telephone, teleconference or video applications, and all members participating in the meeting are able to hear and speak to each other.

Disclosure of interest to and abstention from voting on the Board

33.—(1) A member of the Board who, directly or indirectly, has a pecuniary or other interest in a matter before the Board shall declare the nature of his or her interest at the first meeting of the Board at which it is practicable to do so.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board and after the disclosure the member concerned may not vote on the matter, and unless otherwise directed by the Board shall not be present at any meeting when the matter is being decided by the Board.

(3) A declaration and the member leaving the meeting in accordance with subsections (1) and (2) must be noted in the minutes of the meeting.

(4) Notwithstanding this section, where the Chief Executive Officer discloses any pecuniary or non-pecuniary interest in a matter before the Board or another matter that involves the Authority, the Board shall decide whether the functions of the Chief Executive Officer must be carried out by the Chief Executive Officer or otherwise.

Decisions of the Board

34.—(1) Decisions of the Board shall be by a majority of votes of members present and voting.

(2) In a case where the voting is equal —

(a) the Chairperson has a casting vote;

(b) and in the absence of the Chairperson, the Deputy Chairperson has a casting vote.

Secretary to the Board

35.—(1) The Board shall designate the Corporate Secretary appointed under section 14(3) to perform the functions of Secretary to the Board.

(2) The Secretary to the Board shall —

(a) make preparations for and attend meetings of the Board;

(b) prepare, and keep minutes of meetings of the Board; and

(c) assist the Board in all respects and in such manner as the Board may from time to time require in the discharge of its functions.

(3) The Secretary is not a member of the Board.

Protection of members of the Board and the Secretary

36. A member of the Board and the Secretary is not personally liable for any act or default of the Board done or omitted to be done in good faith.

Remuneration of a member of the Board

37. A member of the Board must be paid remuneration for his or her services as determined by Cabinet.

Board to regulate its meetings

38. Subject to this Act, the Board may regulate its meetings.

Reports to the Minister

39. The Minister may request the Board to prepare and submit a report to him or her with regard to any matter or activity in which the Authority is involved under this Act.

Publication of the names of members of the Board

40. The Minister shall, by Notice published in the *Gazette*, publish the names of the members of the Board as first constituted and every change in membership of the Board.

PART II
LICENCE FOR REGULATED SUBSTANCES

Requirement for a licence

41.—(1) A person shall not, on any premises which are used for the purposes of an undertaking carried on by him or her, keep, use or cause, permit to be kept or used, or deal with in any way a regulated substance, unless he or she satisfies the prescribed requirements under this Act or another enactment for the regulated substance and holds a valid licence under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years.

Exemption from licence requirements

42. The Minister may, by Order published in the *Gazette*, exempt —

- (a) a substance or product from the requirement for a licence under section 41; or

- (b) a person or class of persons from the payment of a licence fee under section 48.

Application for a licence

43.—(1) A person shall make an application for a licence to the Board to keep, use or cause or permit to be kept or used a regulated substance.

(2) An application under subsection (1) must be in the prescribed form and accompanied by the prescribed documents and the prescribed non-refundable application fee for each application for a licence.

Inspection of proposed premises

44. On receipt of an application under section 43, the Board shall cause an inspection to be carried out to assess the proposed premises for an application for a licence.

Approval of an application for a licence

45.—(1) Subject to subsection (2), the Board may grant approval of an application for a licence under section 43, if a person satisfies the prescribed requirements for a licence under section 41.

(2) Prior to approving an application under subsection (1), the Board shall consult a committee, Board or other body established under another enactment that provides advice with respect to a substance that is regulated under this Act.

Refusal of application for a licence

46.—(1) Subject to subsection (2), the Board may refuse an application for a licence under section 43 where a person —

(a) does not satisfy the prescribed requirements under section 41;

(b) fails to pay a fine under section 91.

(2) Prior to refusing an application under subsection (1), the Board shall consult a committee, Board or other body established under another enactment that provides advice with respect to a substance that is regulated under this Act.

Types and class of a licence

47. The Board may issue a licence in a prescribed type and class.

Issue of a licence

48. Where the Board grants approval of an application for a licence under section 45, the Board shall issue a licence in the prescribed form on payment of the prescribed licence fee.

Conditions of a licence

49. A licence may be issued with conditions.

Validity of a licence

50. A licence is valid for the period specified in the licence.

Non-transfer of a licence

51. A licence is non-transferable.

Application for amendment of a licence

52.—(1) A licensee may make an application to the Board for the amendment of a licence.

(2) An application for the amendment of a licence under subsection (1) must satisfy the prescribed requirements and —

- (a) be in the prescribed form;
- (b) outline the proposed amendment;
- (c) be accompanied by —
 - (i) the prescribed information relevant to the proposed amendment under paragraph (b),
 - (ii) a copy of the licence,
 - (iii) the prescribed non-refundable application for amendment of a licence fee.

(3) Notwithstanding subsection (1), the Board may, by giving written notice to the licensee, amend a licence to —

- (a) extend the period of validity of the licence;

(b) vary, remove or impose conditions;

(c) modify or reduce the activities authorized by the licence.

(4) A variation of a licence takes effect on the date specified in the notice under subsection (3).

Approval of an application for amendment of a licence

53.—(1) The Board may approve an application for an amendment of a licence, if a licensee satisfies the prescribed requirements under section 52(2) or under any other enactment.

(2) Where the Board approves an application under subsection (1), the Board shall give written notice, within seven business days, to the licensee of its approval.

(3) The conditions under which a licence is granted under sections 49 continue to apply with respect to the amended licence and the Board may impose additional conditions on an amended licence.

(4) The Board shall issue an amended licence to the licensee on payment of the prescribed non-refundable application for amendment of licence fee.

(5) Sections 59, 60, 61 and 62 with respect to the suspension, revocation, surrender and reinstatement of a licence applies to an amended licence.

Refusal of an application for amendment of a licence

54.—(1) Where a licensee does not satisfy the requirements under section 41, the Board may refuse an application for an amendment of a licence.

(2) Where the Board refuses an application under subsection (1), the Board shall give written notice, within seven business days, to the licensee of its refusal and the reasons for its refusal.

Application for renewal of a licence

55.—(1) A licensee may, at least thirty calendar days prior to the expiration date of a licence, make an application to the Board for renewal of a licence.

(2) An application for renewal of a licence under subsection (1) must —

- (a) be in the prescribed form;
- (b) be accompanied by —
 - (i) a copy of the previously issued licence,
 - (ii) where applicable, the prescribed refundable security bond fee,
 - (iii) any other document required by the Authority for processing an application for the renewal of a licence.

Extension of time for making an application for renewal of a licence

56.—(1) Where a licensee is unable to make an application for the renewal of a licence within the time period specified under section 55(1), the licensee shall make a written request to the Board to grant an extension of time for making that application.

(2) The Authority may, on receipt of a request under subsection (1), specify a further period not exceeding thirty calendar days.

(3) Where a completed application for renewal is submitted within the thirty calendar days period specified under subsection (2), the licensee may continue to operate until the Board approves or refuses the application for renewal.

Approval of an application for renewal of a licence

57.—(1) The Board may approve an application for renewal of a licence, if a licensee satisfies the prescribed requirements under section 55(2).

(2) Where the Board approves an application under subsection (1), the Board shall give written notice, within seven business days, to the licensee of its approval.

(3) The Board shall issue a new licence to the licensee on payment of the prescribed non-refundable application for renewal of a licence fee.

(4) Sections 48, 49, 50, 51, 56, 57, 58, 59, 62 with respect to the issue, conditions, validity, non-transfer, suspension, surrender,

reinstatement and revocation of a licence applies to a licence issued under this section.

Refusal of an application for renewal of a licence

58.—(1) Where a licensee does not satisfy the requirements under section 55(2), the Board may refuse an application for renewal of a licence.

(2) Where the Board refuses an application under subsection (1), the Board shall give written notice, within seven business days, to the licensee of its refusal and the reasons for its refusal.

Suspension of a licence

59.—(1) The Board may suspend a licence if the Authority is satisfied on reasonable grounds that —

- (a) a condition of the licence has been breached; or
- (b) the licensee has failed, without reasonable excuse to comply with any provision of the Act;
- (c) the licence was obtained or amended on the basis of information that —
 - (i) is false or misleading in a material particular,
 - (ii) omitted a matter or thing without which the information was misleading in a material particular;
- (d) the location, facilities or security arrangements at the premises at which activities authorized by the licence take place are no longer suitable for those activities;
- (e) the licensee has ceased to carry on the activities authorized by the licence;
- (f) the activities authorized by the licence to be undertaken at the premises by the licensee have been undertaken by the licensee other than at those premises;
- (g) the licensee is not taking all reasonable measures to ensure the physical security of the regulated substance in the licensee's possession or control; or
- (h) the licensee has not provided information required by a notice given under subsection (2) within the time frame specified in the notice.

(2) Before suspending a licence under subsection (1), the Authority shall give written notice of the proposed suspension to the licensee —

- (a) stating that the Authority proposes to suspend the licence and the reasons for the proposed suspension;
- (b) indicating that the licensee may make a written submission to the Authority on the proposed suspension.

(3) A notice under subsection (2) must specify a period within which the licensee may make a submission under subsection (2)(b) and such period shall not end earlier than thirty days after the date on which the notice was given.

(4) Where a licence is suspended under subsection (1), the licensee shall, for the duration of the suspension, cease conducting any activity for which the licence was issued.

Revocation of a licence

60.—(1) The Board shall revoke a licence if the Board is satisfied on reasonable grounds that the licensee —

- (a) has been convicted of a criminal offence except where the offence is —
 - (i) a minor traffic offence or has been spent in accordance with the Criminal Records (Rehabilitation of Offenders) Act, Cap. 3.13, is not eligible to make an application for a licence,
 - (ii) a possession offence under this Act or the Drugs (Prevention of Misuse) Act, Cap. 3.02;
- (b) has been convicted of a crime involving fraud or dishonesty;
- (c) has been convicted and sentenced in a country other than Saint Lucia, if the circumstances constituting the offence had occurred in Saint Lucia would constitute an offence under paragraph (a); and
- (d) does not satisfy the due diligence requirements specified by the Guidelines issued by the Authority under section 92.

(2) Where a licence is revoked under subsection (1), the licensee shall surrender the licence to the Authority.

Surrender of a licence

61.—(1) A licensee may surrender a licence at any time during the period of validity of the licence by submitting the licence to the Board for cancellation.

(2) Where a licensee intends to surrender a licence under subsection (1), the licensee shall, no later than sixty days before the surrender or expiration of the licence, submit a written report to the Board setting out a plan for disposal of all regulated substances estimated to be left in the possession of the licensee on the date of the termination or expiration of the licence.

Reinstatement of a licence

62. The Board shall, by notice to a licensee, reinstate a licence, in respect of any or all activities affected by the suspension if the licensee demonstrates to the Board that —

- (a) the failure which gave rise to the suspension has been rectified; or
- (b) the suspension was unfounded.

Publication of a list of licenses

63. The Authority shall maintain on its website a list of the licenses which contains —

- (a) the name of the licensee;
- (b) the effective date and expiry date of the licence.

PART III REGULATED SUBSTANCES TRIBUNAL

Establishment of the Regulated Substances Tribunal

64. There is established a Tribunal to be known as the Regulated Substances Tribunal.

Appointment of the Tribunal

65.—(1) Cabinet shall appoint the Tribunal.

- (2) The Tribunal comprises the following three persons —
- (a) an attorney-at-law with at least ten years of experience who is the Chairperson of the Tribunal; and
 - (b) two persons, having experience in —
 - (i) scientific research, or
 - (ii) finance.

Functions of the Tribunal

- 66.** The functions of the Tribunal are to hear matters relating to —
- (a) a disciplinary matter referred to it under section 29(3);
 - (b) an appeal against a decision of the Board of the Authority;
 - (c) a dispute regarding regulated substances.

Powers of the Tribunal

- 67.—**(1) The Tribunal has the power to —
- (a) summon a person to attend and give evidence or to produce a document before the Tribunal;
 - (b) make an order under section 75.
- (2) A person summoned under subsection (1)(a) has, in respect of his or her attendance, the giving of evidence, the disclosure of any communication or the production of any document, the same rights and privileges as a person summoned before a court of law.
- (3) A person who —
- (a) without sufficient cause, fails or refuses to obey a summons issued by the Tribunal;
 - (b) being a witness before the Tribunal, without sufficient cause —
 - (i) leaves the hearing without the permission of the Tribunal, or
 - (ii) refuses to answer any question put to him or her by or with the permission of the Tribunal; or

(c) without sufficient cause, obstructs or interrupts the hearing of the Tribunal, commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding one year or to both.

(4) In all legal proceedings, a document produced under subsection (1)(a) must be received as *prima facie* evidence of the truth of the statements contained in the document.

Resignation of a member of the Tribunal

68.—(1) A member of the Tribunal, may resign from office by giving written notice to Cabinet, through the Chairperson, and the resignation takes effect as from the date specified in the notice and if a date is not specified, the date of receipt of that notice by Cabinet.

(2) The Chairperson may resign from his or her office, by giving written notice to Cabinet, and such resignation takes effect as from the date specified in the notice and if a date is not specified, the date of receipt of that notice by Cabinet.

Revocation of the appointment of a member of the Tribunal

69.—(1) Cabinet may revoke the appointment of a member of the Tribunal, including the Chairperson, if the member or Chairperson —

- (a) neglects his or her duty as a member;
- (b) engages in misconduct; or
- (c) is absent from three consecutive meetings without an excuse.

(2) Where Cabinet revokes the appointment of a member of the Tribunal or the Chairperson, Cabinet shall state the reasons for the revocation.

Appointment of temporary members on the Tribunal

70.—(1) Cabinet may appoint another person to act temporarily in place of the Chairperson or a member where the Chairperson or a member of the Tribunal —

- (a) is unable to perform the functions of the office of Chairperson or member of the Tribunal;

- (b) is absent;
- (c) dies;
- (d) resigns under section 68; or
- (e) is no longer a member as a result of his or her appointment being revoked under section 69.

(2) A person appointed under subsection (1) shall be appointed in a manner that complies with section 65 and holds office —

- (a) in the case of the absence or inability of the Chairperson or member to perform his or her functions, only for the portion of the term of the absence or inability;
- (b) in the case of the death, resignation or revocation of appointment of the Chairperson or member, the unexpired portion of the term of the former member.

Publication of the names of the members of the Tribunal

71. The appointment of a member of the Tribunal and any change in the constitution of the Tribunal, whether by death, resignation, removal or otherwise, shall be published in the *Gazette*.

Recording Secretary

72.—(1) The Tribunal shall appoint a Recording Secretary of the Tribunal.

(2) The Recording Secretary shall keep a written record of all proceedings of the Tribunal, which shall be confirmed by the Chairperson.

Remuneration of a member of the Tribunal

73. A member of the Tribunal or the recording secretary must be paid remuneration and allowances as Cabinet determines.

Hearings of the Tribunal

74.—(1) Subject to subsection (2), a hearing of the Tribunal shall be conducted by the Chairperson of the Tribunal and two other members and must include an attorney-at-law.

(2) Where a member of the Tribunal, other than the Chairperson, is unable to conduct hearings to completion, the Chairperson and the

other member shall continue the hearings from the stage at which it was last heard by the previous member and conclude the hearing.

(3) The Tribunal shall convene a hearing under subsection (1) at a time, place and on a day as may be necessary or expedient for the discharge of its functions.

(4) At least fourteen days before the date fixed for a hearing, the Tribunal shall by notice in writing specify the date, time and place for the hearing.

(5) A notice under subsection (4) must be sent to the licensee and any other interested party personally to his or her given address for service or by sending the notice by registered mail.

(6) At least seven days before the hearing, the Tribunal, shall, whenever practicable, cause the notice referred to under subsection (4) to be published in the *Gazette*.

(7) Where the person making a complaint does not attend the hearing, having had due notice of the time and place of hearing, the Tribunal may dismiss the complaint, unless having received a reasonable excuse for the non-appearance of the person who made the complaint the Tribunal thinks it fit to adjourn the hearing.

(8) Where a person —

- (a) refuses or neglects without reasonable cause, to attend a hearing in compliance with the requirements of a notice under subsection (4); or
- (b) departs from a hearing without the authority of the person holding the hearing,

the Tribunal may proceed with the hearing and make a decision in his or her absence in accordance with this Act.

(9) At a hearing of the Tribunal a person may appear in person or by a representative.

(10) A hearing by the Tribunal must be in private.

(11) A member of the Tribunal shall, as soon as is practicable inform the Chairperson of a matter in which he or she has, directly or indirectly, personally or by his or her relative, partner, business associate or company, any pecuniary or business interest and that member shall not take part, directly or indirectly, in any hearing by the Tribunal on that matter.

(12) The validity of a hearing of the Tribunal is not affected by a vacancy in its membership or by a defect in the appointment of a member.

Orders of the Tribunal

75.—(1) The Tribunal may —

- (a) make an order;
- (b) vary an order;
- (c) revoke an order.

(2) An order of the Tribunal under subsection (1) —

(a) must be —

- (i) by a majority of votes of those members present and voting and, in addition to an original vote, the Chairperson has a second or casting vote in any case in which the voting is equal,
- (ii) authenticated by the signature of the Chairperson,
- (iii) sent to the Authority in writing;

(b) is legally binding on the parties.

(3) Where the Tribunal makes an order under this section, the Tribunal shall keep a record of its orders.

PART IV REGULATED SUBSTANCES FUND

Establishment of the Regulated Substances Fund

76. The Minister shall establish a special fund to be known as the Regulated Substances Fund in accordance with section 22 of the Public Finance Management Act, Cap. 15.01.

Functions of the Fund

77.—(1) The purpose of the Fund is to facilitate the operations of the Regulated Substances Authority.

(2) Notwithstanding subsection (1), Cabinet may declare the monies of the Fund to be used for specific matters relating to regulated substances or any other related matter.

Monies of the Fund

78.—(1) The monies of the Fund consists of —

- (a) sums allocated by Parliament;
- (b) grants received by the Ministry in relation to regulated substances;
- (c) any fees charged under this Act or another enactment relating to regulated substances;
- (d) any levy imposed under this Act or another enactment relating to regulated substances;
- (e) all other sums that may become payable to or vested in the Ministry in respect of matters incidental to its powers and duties under this Act or another enactment relating to regulated substances.

(2) Monies of the Fund must be deposited to the credit of the Fund in a financial institution approved by the Minister responsible for finance.

Regulated Substances Fund Board

79.—(1) The Fund shall be governed by the Regulated Substances Fund Board.

(2) The Board consists of no less than five members and no more than seven members to be appointed by Cabinet as follows —

- (a) the Permanent Secretary of the Ministry who is the Chairperson;
- (b) the Director of Finance;
- (c) the Chief Executive Officer;
- (d) a representative of the private sector;
- (e) a person with expertise in finance, economics or other related field.

(3) Cabinet shall appoint one member of the Board to be the Deputy Chairperson.

(4) The Board shall —

- (a) manage the monies and business of the Fund;

(b) ensure that monies are used for the purpose for which it was granted;

(c) do all things necessary or incidental to the effective performance of the functions of the Fund.

(5) The appointment of a member of the Board under subsection (2)(d) and (e) is for a term of three years.

(6) Cabinet may, on the recommendation of the Minister, designate a Secretary to the Board and determine the remuneration to be paid to a member of the Board.

Meetings of the Board

80.—(1) The Board shall meet when necessary or expedient for the transaction of business and a meeting must be held at a time, place and on a date as the Board determines.

(2) The Chairperson or Deputy Chairperson shall preside at a meeting of the Board.

(3) The quorum of the Board is the majority of members including the Chairperson or Deputy Chairperson.

(4) A decision of the Board is by a majority of votes and if the voting is equal the person who presides has the casting vote.

Disclosure of interest

81.—(1) A member of the Board who has a personal interest in a transaction of the Board or a matter before the Board shall disclose the nature of his or her interest to the Board.

(2) Failure of a member of the Board to make a disclosure under subsection (1) constitutes sufficient reason for the revocation of the appointment of the member from the Board.

Board to regulate its meetings

82. Subject to this Act, the Board may regulate its meetings.

Payment and accounting procedures of the Fund

83. Section 23 of the Public Finance Management Act, Cap. 15.01 applies with regard to the payment and accounting procedures of the Fund.

PART V
ENFORCEMENT

Division 1
Inspection

Inspection of proposed premises and licensed premises

84.—(1) For the purposes of monitoring compliance with the conditions of a licence, the Authority may cause an inspection of any land or premises to be carried out.

(2) In carrying out an inspection under subsection (1), an inspector may, for the purposes of obtaining information, with the consent of the owner of the premises or licensed premises —

- (a) at reasonable hours, enter, search and inspect, take samples from the premises, a place or a vehicle where there are reasonable grounds to believe that any trade, business or activity which is or may be subject to a licence under this Part, is being or has been, carried on, or that documents relating to the trade, business or activity are kept;
- (b) inspect and take copies of or extracts from documents, files, papers or electronic information system on, at or in the premises, place or vehicle, including, in the case of information in a non-legible form, copies of or extracts from such information in a permanent legible form;
- (c) remove and retain information for such periods as may be reasonable for future examination;
- (d) secure for later inspection licensed premises, or part of licensed premises or a place or a vehicle on, at or in which such substances or information are kept or there are reasonable grounds for believing that such substances or information is kept;
- (e) require a person carrying on a trade, business or activity or a person employed in a trade, business or activity to produce to him or her information and where the information is kept in a non-legible form, to reproduce them in a legible form or to provide him or her with information as the inspector may reasonably require in relation to an entry in the information;

- (f) take for analysis sufficient samples of regulated substances relevant to the inspection;
- (g) require a person to give to the inspector information which the inspector may reasonably require in respect of such trade, business or activity or in respect of the persons carrying on such trade, business or activity or employed in connection with such trade, business or activity;
- (h) require a person by or on whose behalf data equipment is or has been used or a person having charge of, or otherwise concerned with the operation of the data equipment of any associated apparatus or substance, to afford the inspector all reasonable assistance in relation to it and assist in the retrieval of information connected with the operation of such data equipment, apparatus or substances;
- (i) require, at any reasonable time, any other person employed in connection with a trade, business or activity to give to the inspector, any information which the inspector may reasonably require in relation to a trade, business or activity and to produce to the inspector information which are in the control of that other person; or
- (j) require a person who would be required or authorized to give a report, if the licence were to be issued, to submit to an interview for the purpose of assessing the person's capability to provide the report;
- (k) have photographs and videos taken of anything on, at or in the licensed premises, place or vehicle for the purpose of an inspection;
- (l) conduct inspections with or without notice and carry out any other such examination as may be necessary to verify compliance with the provisions of this Act.

(3) An inspector, when exercising a function under this section may be accompanied by a police officer, subject expert or other person as authorized by the Authority.

(4) A person shall not be required under this section to answer questions or give evidence tending to incriminate himself or herself.

(5) Where an inspector, in the exercise of his or her functions under this section, is not allowed to enter the licensed premises, a

place or vehicle, an application may be made for a warrant under section 85 authorizing such entry.

(6) An inspector shall not, other than with the consent of the occupier, enter a private dwelling without a warrant from the Magistrate under section 85(2).

(7) A person shall not knowingly make a misrepresentation to an inspector of any fact or circumstances relating to the use of a regulated substance.

(8) After conducting an inspection under this section, an inspector shall submit a report of the inspection to the Authority, together with the photographs, copies, extracts and results of any samples taken.

(9) In a case where the owner, operator or person in charge of the premises denies an inspector entry into the premises under this section, sections 85 and 86 apply.

Application for a warrant

85.—(1) The Authority shall, if necessary under section 85, make an application to a magistrate on behalf of an inspector for a warrant to carry out an inspection under section 86.

(2) Where an application for a warrant is made under subsection (1), the magistrate may issue a warrant to an inspector who is named in the warrant, to enter and carry out an inspection at the premises as specified in the warrant.

(3) A magistrate shall not issue a warrant under subsection (2) unless —

- (a) an affidavit has been furnished by the inspector to the magistrate setting out the grounds on which the issue of the warrant is being sought;
- (b) the inspector or some other person has given to the magistrate such further information, if any, on oath as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
- (c) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

- (4) A warrant issued under subsection (2) must specify —
- (a) the purpose for which the warrant is issued;
 - (b) the hours within which entry is authorized;
 - (c) the type of documents, goods or samples of goods authorized to be inspected or taken; and
 - (d) the date, not being less than seven days after the day on which the warrant is issued, after which the warrant ceases to have effect.

Inspection with a warrant

86.—(1) An inspector shall, before entering the premises under a warrant issued under section 85(2) —

- (a) announce that he or she is authorized to enter the premises;
- (b) give a person at the premises an opportunity to allow entry to the premises; and
- (c) give a copy of the warrant to the owner or person in charge of the premises, in the absence of such a person on the premises to a person who appears to be employed by the owner or person in charge of the premises.

(2) A person who interferes with an inspector in the execution of a warrant under this section commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or imprisonment for a term not exceeding one year.

(3) Any information or document furnished or produced by a person, and any information or document obtained by an inspector under this section, may only be used by an inspector or a person assisting an inspector in proceedings against a licensee for contravention of this Act.

Inspection report

87.—(1) After inspecting the licensed premises under section 84 or 86, the inspector shall prepare an inspection report.

- (2) An inspection report under subsection (1) must be —
- (a) submitted to the Authority for review;

(b) supported by any information, documents, evidence obtained by an inspector.

(3) The Authority shall, after reviewing an inspection report under subsection (1)(a), determine whether to suspend or revoke a licence under section 59 or 60.

Division 2

Seizure and Forfeiture of Regulated Substances Liable to Forfeiture

Powers to search premises to seize a regulated substance liable to forfeiture

88.—(1) Where a police officer has reasonable grounds to believe that an offence has been, is likely to be committed or is being committed with which a regulated substance is liable to forfeiture by virtue of the penalty to be imposed under section 91, the police officer may, on arresting the person also —

- (a) enter any building or place at any time, and search for, seize, detain or remove the regulated substance which appears to him or her that may be liable to forfeiture;
- (b) so far as is reasonably necessary for entry, search, detention or removal, break open any door, window or container and force and remove any other impediment or obstruction; and
- (c) search for and remove any invoice, bill of lading or any other document or book relating to a regulated substance liable to forfeiture.

(2) Without prejudice to the power conferred under subsection (1) or to any other power conferred under this Act, if a magistrate is satisfied by information on oath given by a police officer that there are reasonable grounds to suspect an offence has been, is likely to be committed or is being committed with which the regulated substance is liable to forfeiture, the magistrate may by warrant under his or her hand given on any day authorize the police officer or any other person named in the warrant to enter and search any building or place specified in the warrant.

Forfeiture order on judgment or conviction

89.—(1) Where a judgment is entered against a person in a civil matter or a person is convicted of a criminal offence under this Act, the court shall order the forfeiture of a regulated substance to the Government of Saint Lucia in respect of which the offence was committed.

(2) Forfeiture shall extend —

- (a) to any property which there is reason to believe has been obtained from the proceeds of anything relating to the offence for which a person is convicted under this Act or to a conspiracy to commit any such offence; or
- (b) to any thing into which any such property has been converted.

(3) Regulated substances forfeited under this section shall be delivered to the Commissioner of Police for immediate disposal.

(4) Before making an order for forfeiture under this section the Court shall summon a person who is the owner or agent of any article, vehicle or other means of conveyance to show cause why the article, ship, vessel boat, aircraft, vehicle, or other means of conveyance should not be forfeited.

**PART VI
MISCELLANEOUS**

Confidentiality and oath of secrecy or affirmation

90.—(1) A member of the Board and the Secretary and a member of the Tribunal, the Corporate Secretary and the Recording Secretary shall take the oath of secrecy as set out in the Schedule.

(2) A member of the Board, a Secretary and a member of the Tribunal and the Recording Secretary shall at all times preserve and aid in preserving confidentiality with regard to all matters coming to his or her knowledge in the performance of his or her functions under this Act.

(3) A member of the Board, Secretary, employee, agent or adviser of the Authority or a member of the Tribunal and the Recording Secretary shall not disclose any information relating to —

- (a) the business or affairs of the Authority;
- (b) any application made to the Authority under this Act;
- (c) the business or affairs of a licenced entity; or
- (d) the affairs of an applicant, medical practitioner, patient, caregivers or other such persons that the member, employee, agent or adviser has acquired in the course of his or her duties or in the exercise of the Authority's functions under this Act or any other law.

(4) Notwithstanding subsection (3), a person may disclose information in any of the following circumstances —

- (a) pursuant to an order of the court;
- (b) to a person or an employee of the Authority, as he or she is authorized to disclose to; or
- (c) where disclosure is permitted under any other enactment.

(5) A person who contravenes subsection (3) commits an offence and —

- (a) shall compensate for any loss suffered or benefits received from the use of the information; and
- (b) is liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding six months.

General penalty

91.—(1) A person who contravenes this Act commits an offence and is liable on summary conviction —

- (a) in the case of an individual, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years or to both;
- (b) in the case of a company, to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding five years or to both,

and forfeiture of goods or money in respect of the offence committed.

(2) Where a penalty under this Act conflicts with a penalty under any other enactment, the penalty under the other enactment prevails.

Guidelines

92. The Minister may, after consultation with the Authority, issue guidelines with regard to regulated substances.

Regulations

93.—(1) The Minister may make Regulations to give effect to this Act.

(2) Without limiting the generality of subsection (1), the Minister may make Regulations to prescribe —

- (a) fees required under this Act;
- (b) forms required under this Act;
- (c) the penalties to be imposed for contravention of the Regulations that does not exceed a fine of one hundred thousand dollars or a term of imprisonment for a period of three years;
- (d) any other matter that is necessary or expedient for carrying out the purposes of this Act.

SCHEDULE

(Section 90)

OATH OF SECRECY OR AFFIRMATION

I, _____, do solemnly *swear/affirm that I will faithfully, truly and to the best of my judgement, skill and ability, execute and perform the duties required of me as a *member/employee of the Authority and unless ordered so to do by a Court will not disclose, communicate or convey or allow to be disclosed, communicated or conveyed directly or indirectly to any person, any private or confidential information obtained by virtue of the performance of my duties with the Authority.

I further promise and *swear/affirm that I will not allow any person to inspect or have access to any documentation or record over which I have control, care or custody and I will conscientiously endeavour to prevent any person from inspecting, or having access to any such information or documentation.”

Oath/Affirmation taken at _____,

this ____ day of _____.

Before: _____

Passed in the House of Assembly this 24th day of November, 2023.

CLAUDIUS J. FRANCIS,
Speaker of the House of Assembly.

Passed in the Senate this 28th day of November, 2023.

ALVINA REYNOLDS,
President of the Senate.