

MEDIA RELEASE

PUBLIC INTEREST: RESCHEDULING OF CBD

1. This media release serves, as a matter of public interest, to:
 - 1.1. notify the public that the Cannabis Trade Association Africa ("CTAA"), a voluntary non-profit, cannabis-based association of industry professionals and participants in the cannabis trade, intends, if necessary support is secured, to launch proceedings against the Department of Health ("DOH") and the South African Health Products Regulatory Authority ("SAHPRA"), in order to challenge what the CTAA says is currently the DOH's/SAHPRA's unjust and irrational scheduling of cannabidiol ("CBD");
 - 1.2. invite members of the public, businesses and other civil society organisations to participate in the above-mentioned legal proceedings; and
 - 1.3. notify the public further that, in order to participate, an email stating as much must be sent to cannalobby@schindlers.co.za by no later than **23 April 2021**.
2. The DOH's first amendment to the scheduling of CBD of **23 May 2019** was agreed to by the DOH, in settlement of previous legal proceedings launched by founding members of the CTAA, in conjunction with and supported by the Traditional and Natural Health Alliance ("TNHA").

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3. A year later, on **22 May 2020**, the DOH once again amended the scheduling of CBD, which amendment is still in effect.
4. Presently, all preparations/mixtures containing CBD are considered to be schedule 4 substances, unless either of the following 2 sets of requirements are met:
 - 4.1. **“Option 1”**, the preparation/mixture:
 - 4.1.1. is a complimentary medicine;
 - 4.1.2. contains no more than 600mg of CBD per sales pack and provides for a maximum daily dose of 20mg; and
 - 4.1.3. makes a general health enhancement, health maintenance or relief of minor symptoms claim (as opposed to claiming to cure a specific disease or ailment); or
 - 4.2. **“Option 2”**, the preparation/mixture:
 - 4.2.1. is a processed product made from raw cannabis plant material;
 - 4.2.2. is intended for ingestion; and
 - 4.2.3. contains 0,0075% or less of CBD, where only the naturally- occurring quantity of cannabinoids found in the source material are contained in the product,

in which case the preparation/mixture will be considered to be a schedule 0 substance (“schedule 0 CBD products”).
5. Schedule 4 substances can only be sold, on prescription, by pharmacists, doctors and certain other medical professionals.

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6. Schedule 0 substances, on the other hand, may be sold in an open shop (i.e. in the retail sector).
7. However, schedule 0 is not necessarily a free pass. Schedule 0 substances are still scheduled substances.
8. Therefore, one would also need a licence in terms section 22C(1)(b) of the Medicines Act in order to (i) manufacture, (ii) import, (iii) export, (iv) wholesale or (v) distribute schedule 0 CBD products ("s22C Licence").
9. The (what the CTAA says are) arbitrary limitations set by the DOH effectively:
 - 9.1. prevent local CBD traders from selling doses which contain more than 600mg of CBD per sales pack, with a maximum daily dose of 20mg;
 - 9.2. require all local producers of CBD to obtain a s22C Licence, which is costly and takes up to 18 months; and
 - 9.3. invite "Big Pharma" to obtain s22C Licences and dominate the CBD industry, to the exclusion of civil society, sole proprietors and/or SMEs.
10. Naturally, the CTAA believes that there is a massive public interest in challenging this position and in continuing with its efforts to ensure that CBD products (which are effective, inexpensive and of a high quality) can be traded in South Africa, free of what it will argue are the arbitrary limitations imposed by the DOH. The CTAA would like to ventilate, inter alia, the following jurisprudential issues:
 - 10.1. Whether "cognitive liberty" and "bodily autonomy" endow all human beings with the inalienable right to go wherever they please to and within their own bodies and minds, as well as with the freedom to ingest whatever they wish, as long as it does not harm others or themselves sufficiently to place an undue burden on state resources.
 - 10.2. Whether SAHPRA and/or the DOH can legitimately be the gatekeepers of all things "medicinal". What of the rights to self-medicate and/or self-elevate?

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- 10.3. Whether the constitutional right to freedom of trade, occupation and profession is unjustifiably infringed by the State's actions in stifling the emerging cannabis industry, especially relevant in the wake of economic destruction left behind by the Covid-19 pandemic.
11. However, just as the founding members of the CTAA had supported the TNHA in fighting for the first rescheduling of CBD of **23 May 2019**, the CTAA now requires support from any members of the public with an interest in fighting for the liberation of the CBD industry. The nature of the support required is both in terms of resources and funding. Schindlers will provide further details on request. However, in the meantime, please utilise the following link to view the CTAA's litigation mission statement: .
12. Lastly, the CTAA wishes to emphasise that a strategic investment at this crucial juncture could yield very substantial dividends, by enabling the emergence of comprehensive, common-sense CBD regulations that allow for the establishment of a successful, sustainable and inclusive CBD industry, many years earlier than would otherwise be possible.
13. CTAA's more detailed "Call to Arms" can be found at: https://www.ctaa.org.za/more_about/#why. What of the rights to self-medicate and/or self-elevate?

Kind regards

SCHINDLERS

PER: **THE CANNABIS DEPARTMENT**

BUSINESS DETAILS

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- ◇ **ZOOM NUMBER** ZOOM ID – **811-448-9600**
Please feel free to enter via Zoom and have your queries addressed by one of our professionals. Enter on: **<https://zoom.us/j/8114489600>**

- ◇ **VIRTUAL RECEPTION** We now have a virtual reception open between 08h30 to 17h00.

- ◇ **PRO BONO** Please also take note, our Pro Bono initiative to assist businesses in distress
www.cobra.org.za

◇ **PARTNERS**

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