



MEDIA RELEASE

UPDATE REGARDING THE HAZE CLUB & THE GROW CLUB MODEL

1 September 2022

1. We refer to the above matter.
2. This media release serves to address:
 - 2.1. The recent judgement from the Western Cape High Court under case number 2101/2021, also known as the “Haze Club Judgement”; and
 - 2.2. The effects of the judgement and any possible appeal.
3. Following the arrest of one of its directors, the Haze Club (“THC”) and others instituted application proceedings in Western Cape High Court wherein they sought a declaratory order that a “grow club” model and all actions related to a grow club model be declared lawful and consistent with the 2018 Constitutional Court Judgement.¹ Alternatively, the

¹ For an understanding of the grow club model, see our press release of October 2020. The 2018 Constitutional Court Judgement refers to the case of Minister of Justice and Constitutional Development v Prince [2018] ZACC 30 - a decision of the Constitutional Court of South Africa delivered on 18 September 2018, which found that it is unconstitutional for the state to criminalize the possession, use or cultivation of cannabis by adults for personal consumption in private.

applicants sought to have sections 4(b) and 5(b) of the Drugs and Drugs Trafficking Act 140 of 1992 declared inconsistent with the Constitution and therefore invalid to the extent that that it makes possession of cannabis by an adult person through the grow club model, for his or her personal consumption, a criminal offence.

4. The Western Cape High Court delivered its judgment in this matter, and we wish to inform the public that the application was dismissed. Resulting in an order that the grow club model is illegal.
5. THC is represented by Cliffe Dekker Hofmeyr ("CDH"). At the request of CDH and THC, Schindlers provided assistance on a *pro bono* basis in the matter.
6. THC has indicated via their social media accounts that an appeal in the matter will be lodged.
7. Noting of an appeal suspends the implementation of an order made by a court. Meaning pending an appeal the validity of the model will remain open for final determination by the appeal court.
8. Due to the uncertain nature of litigation, the risk remains that the appeal could also be dismissed, with the consequence that the grow club models will be found to have (always) been illegal.
9. Based on the aforesaid and judgement provided in this matter, there are continuing risks associated with operating as a grow club, or to (continue to) be a member of one. Arrest and/or prosecution are obvious examples of these risks. Caution and educated, adult decisions are, therefore, advised.
10. Any existing clients who have any specific concerns are welcome to send us an email at cannabis@schindlers.co.za.
11. We stand firm with the cannabis community in their efforts to find lawful ways to develop the industry and increase participation (and thereby promote job creation and investment) in the increasingly valuable South African cannabis supply chain.
12. Our case summary in relation to the judgement will be available on our website (www.schindlers.co.za) by the end of this week.

13. Our offices will continue to offer our legal advice and services on a *pro bono* basis to THC in the appeal process and will keep our clients apprised in this regard.

Kind regards,

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PER: THE CANNABIS DEPARTMENT

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