NORTHERN TERRITORY OF AUSTRALIA

HEMP INDUSTRY REGULATIONS 2020

As in force at 25 May 2022

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 25 May 2022

HEMP INDUSTRY REGULATIONS 2020

Regulations under the *Hemp Industry Act 2019*

Part 1 Preliminary matters

1 Title

These Regulations may be cited as the *Hemp Industry Regulations 2020*.

2 Commencement

These Regulations commence on the day on which they are notified in the *Gazette*.

3 Definitions

In these Regulations:

class A research licence means a class A research licence referred to in section 8(2) of the Act.

class B research licence means a class B research licence referred to in section 8(3) of the Act.

commercial licence means a commercial licence referred to in section 8(1) of the Act.

cultivation area means an area of land on which hemp plants are cultivated.

infringement notice means an infringement notice served under regulation 28.

infringement notice offence means an offence against a provision specified in the Schedule.

licensed person means a person who may carry out activities authorised by a licence under section 8(4) of the Act.

prescribed amount for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in the Schedule.

Part 2 Licences

Division 1 Fees and costs

4 Licence application fees

For section 9(2)(b) of the Act, the prescribed fee for an application is as follows:

(a) for a commercial licence – 1 033 revenue units;

(b) for a class A research licence – 1 446 revenue units;

(c) for a class B research licence – 2 479 revenue units.

5 Licence amendment fees

For section 17(3)(b) of the Act, the prescribed fee for an amendment or revocation of a condition of a licence is 83 revenue units.

6 Licence renewal fees

For section 18(3)(b) of the Act, the prescribed fee for renewal of a licence is the same as the application fee in regulation 4.

7 Waiver of fees

The CEO may waive, in whole or in part, the fee under regulation 4, 5 or 6 otherwise payable for an application by the Agency in relation to a class A or class B research licence.

8 Cost recovery

The amount of any reasonable costs incurred in relation to the following may be recovered by the Territory from a licensee as a debt owed to the Territory:

(a) taking, removing or analysing samples of the licensee's hemp;

(b) conducting tests of the licensee's hemp;

(c) dealing with material seized or surrendered from the licensee, including destroying hemp plant under regulation 22(5) or 23(5).

Division 2 Suitability of applicant

9 Suitable applicant

(1) For section 12(1)(c) of the Act, an applicant must be a fit and proper person to hold a licence.

(2) Without limiting subregulation (1), a person is not a fit and proper person to hold a licence if the person was found guilty of any of the following offences within 10 years before the day the application is made:

(a) an indictable offence involving dishonesty or fraud;

(b) an indictable offence against Part II, Division 1, Subdivisions 1 to 3 of the *Misuse of Drugs Act 1990*;

(c) an indictable offence involving the possession, use or supply of a prohibited substance under the *Medicines, Poisons and Therapeutic Goods Act 2012*;

(d) an offence against Chapter 9, Part 9.1 of the *Criminal Code* (Cth);

(e) an offence against the *Narcotic Drugs Act 1967* (Cth).

Division 3 General conditions for all licences

10 General conditions

Regulations 11 to 14 are prescribed as conditions for all licences.

11 General operating conditions

(1) If supplying live hemp plants, hemp tissue culture or viable hemp seed under a licence, a licensed person must provide a consignment notice to accompany the hemp.

(2) The consignment notice must be in the approved form.

(3) A licensed person must not import hemp from outside Australia unless licensed or permitted to import the hemp under the *Customs (Prohibited Imports) Regulations 1956* (Cth).

(4) If marketing low THC hemp under a licence, a licensed person must not state or imply that low THC hemp is psychoactive.

12 Cultivating hemp generally

(1) Within 7 days after planting hemp, a licensee must notify the CEO of the location, including Global Positioning System coordinates, of the cultivation area.

(2) A licensed person must not cultivate hemp from any hemp seed, cutting, germplasm or other material unless it is supplied by a person authorised to do so under the Act or a corresponding law.

(3) In this regulation:

corresponding law means one of the following laws or an instrument made under one of the following laws:

(a) *Customs (Prohibited Imports) Regulations 1956* (Cth);

(b) *Drugs Misuse Act 1986* (Qld);

(c) *Drugs, Poisons and Controlled Substances Act 1981* (Vic);

(d) *Hemp Fibre Industry Facilitation Act 2004* (ACT);

(e) *Hemp Industry Act 2008* (NSW);

(f) *Industrial Hemp Act 2004* (WA);

(g) *Industrial Hemp Act 2015* (Tas);

(h) *Industrial Hemp Act 2017* (SA);

(i) *Narcotic Drugs Act 1967* (Cth).

13 Change of information

A licensee must, within 7 business days, notify the CEO of any changes to the information required from the licensee for the hemp industry register under section 39(2) of the Act.

14 Reporting

(1) A licensee must give an annual report to the CEO describing the activities carried out under the licence during the year.

(2) The report must be given each year in which the licence is in force and within the time and in the manner the CEO specifies by written notice.

(3) The CEO may direct a licensee, or a class of licensees, to include in the report specified information regarding activities carried out under a licence or class of licences.

Division 4 Conditions for commercial licence

15 Commercial conditions

Regulations 16 to 19 are prescribed as conditions for all commercial licences.

16 Commercial cultivation area

A cultivation area must be at least 2 ha.

17 Commercial supply

(1) A licensed person must not supply hemp seed for human or animal consumption unless the hemp seed is hulled by the licensee or will be hulled by the person to whom it is being supplied.

(2) A licensee may supply hemp seed that is viable for propagation to another licensee if the parent crop of the hemp seed has a THC concentration in the leaves and flowering heads of not more than 0.5%

(3) A licensed person must not supply or use hemp leaf material as stock feed.

(4) A licensed person must not supply or use raw or processed hemp crop stubble for the purpose of landscaping or gardening outside a cultivation area.

18 Commercial production

(1) A licensed person must not produce cannabis resin.

(2) A licensed person must not extract or isolate substances from hemp.

Examples for subregulation (2)

Cannabinoids and terpenes.

(3) A licensed person must not process hemp leaf or unfertilised hemp flower heads.

Division 5 Research conditions

21 Producing hemp under class B research licence

It is a condition of a class B research licence that the activities authorised under the licence must be conducted only for the purpose of producing low THC hemp.

Examples for regulation 21

1 *Conducting a plant breeding program to produce new varieties of low THC hemp plants.*

2 *Crossbreeding disease resistant, but high THC, hemp plants to produce a disease resistant, low THC plant.*

Part 3 Surrender, seizure and destruction

22 Dealing with surrendered or seized hemp

(1) This regulation applies to hemp that is:

(a) surrendered by a licensee under section 20(4) of the Act; or

(b) seized from a licensee under section 29(1)(f) of the Act.

(2) An inspector must catalogue the hemp and provide a receipt to the licensee.

(3) An inspector must ensure the hemp is stored securely in a way that minimises its degradation.

(4) The hemp must be destroyed if it has a THC concentration of more than 1%.

(5) The destruction of the hemp must be done under the supervision of an inspector as soon as possible after the inspector becomes aware of that the hemp has a THC concentration of more than 1%.

(6) The CEO or Commissioner of Police may return the hemp to the licensee if the hemp has a THC concentration of 1% or less.

23 Licensee destruction of hemp plants

(1) A licensee with a commercial licence must destroy any hemp plant cultivated under the licence with a THC concentration of more than 1%.

(2) A licensee must destroy any hemp plant cultivated or possessed by the licensee contrary to the licence.

(3) The hemp plant must be destroyed as soon as possible after the licensee becomes aware of the circumstances referred to in subregulation (1) or (2).

(4) The destruction must be conducted under the supervision of an inspector.

(5) If the licensee fails to destroy the hemp plant under this regulation, an inspector must:

(a) seize the plant as soon as practicable; and

(b) destroy the plant or arrange for the destruction of the plant under the supervision of an inspector.

Part 4 Miscellaneous matters

25 Hemp industry register

For section 39(2)(c) of the Act, the hemp industry register must contain the following additional information:

(a) the contact details of the licensee;

(b) the class of the licence;

(c) any terms and conditions of the licence imposed by the CEO;

(d) any other information relevant to the licence submitted by the licensee in the application for the licence, its renewal or any amendment or revocation of its conditions.

26 Sampling and testing

(1) The sampling of hemp from a crop under the Act must be conducted in a manner and at a time that provides a representative sample of the crop being assessed.

(2) Subject to regulation 27(3), any sampling and testing of hemp under the Act must be done by an inspector, other than a police officer.

27 Measuring concentration of THC

(1) For these Regulations, the concentration of THC in hemp must be measured as a percentage of the dry weight of the hemp.

(2) Any sampling of hemp from a crop to determine the concentration of THC must be conducted in a manner and at a time that produces results that reflect the average THC concentration of the crop.

(3) Any analysis under the Act to determine the concentration of THC in hemp must be conducted by a laboratory accredited by the National Association of Testing Authorities.

Part 5 Infringement notice offences

28 When infringement notice may be served

If an inspector believes on reasonable grounds that a person has committed an infringement notice offence, the inspector may serve an infringement notice on the person.

29 Contents of infringement notice

(1) The infringement notice must specify the following:

(a) the name and address of the person, if known;

(b) the date the infringement notice is served on the person;

(c) the date and time of the infringement notice offence and the place at which the infringement notice offence occurred;

(d) a description of the offence;

(e) the prescribed amount payable for the offence;

(f) the agency to which the prescribed amount is payable.

(2) The infringement notice must include a statement to the effect of the following:

(a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified agency within 28 days after the notice is served;

(b) the person may elect to have the offence dealt with by a court, instead of paying the prescribed amount, by completing a statement of election and returning it to the person stated in the notice;

(c) if the person wishes the offence to be dealt with by a court, the person should not pay the prescribed amount but should complete the relevant part of the notice and return the notice to the person stated in the notice;

(d) if the person does nothing in response to the notice, a summons may be issued requiring the person to appear before the Local Court to be dealt with for the offence.

(3) The infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

30 Expiation of offence

If the prescribed amount for the infringement notice offence is paid in accordance with the infringement notice, the offence is expiated and no further proceedings can be taken in relation to the offence unless the notice is withdrawn under regulation 32

31 Electronic payment and payment by cheque

(1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the payee's bank account.

(2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

32 Withdrawal of infringement notice

(1) The CEO may withdraw an infringement notice by written notice served on the person.

(2) The notice must be served:

(a) within 28 days after the infringement notice is served on the person; and

(b) before payment of the prescribed amount.

33 Application of Part

(1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice was served unless the offence is expiated.

(2) This Part does not:

(a) require an infringement notice to be served; or

(b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice was not served; or

(c) prevent more than one infringement notice for the same offence being served on a person.

(3) If more than one infringement notice for the same offence is served on a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

Schedule Infringement notice offences and prescribed amounts

regulations 28 and 29

Provision of Act	Prescribed amount (penalty units)
section 26(2)	1
section 27(2)	2
section 29(2)	5

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Hemp Industry Regulations 2020* (SL No. 7, 2020)**

Notified	6 May 2020
Commenced	6 May 2020

***Statute Law Amendment (Territory Economic Reconstruction) Act 2022* (Act No. 5, 2022)**

Assent date	14 April 2022
Commenced	pt 7: nc; rem: 25 May 2022 (*Gaz* G21, 25 May 2022, p 1)

3 LIST OF AMENDMENTS

r 16	amd Act No. 5, 2022, s 107
rr 19 – 20	rep Act No. 5, 2022, s 108
r 24	rep Act No. 5, 2022, s 108