

CANNABIS COMMERCE FORUM NPC

A Non-Profit Company Registered in terms of the Companies Act 71 of 2008

Registration Number: [\_\_\_\_\_]

---

5 March 2026

The Department of Justice and Constitutional Development

For the attention of: Mr M Mokulubete

Momentum Centre, Room E1431

239 Pretorius Street

Pretoria, 0001

Per email: [MMokulubete@justice.gov.za](mailto:MMokulubete@justice.gov.za)

---

**RE: WRITTEN SUBMISSIONS ON THE DRAFT CANNABIS FOR PRIVATE PURPOSES  
REGULATIONS, 2025**

*Published in Government Gazette No. 54061 dated 2 February 2026 (Notice No. R. 7067)*

*Issued in terms of Section 6 of the Cannabis for Private Purposes Act, 2024 (Act No. 7 of  
2024)*

---

**EXECUTIVE SUMMARY**

The Cannabis Commerce Forum NPC ("CCF") welcomes the publication of the Draft Cannabis for Private Purposes Regulations, 2025 and commends the Department for initiating this consultation. These submissions identify several areas where the Draft Regulations require clarification or amendment to ensure that they are constitutionally compliant, practically workable, and capable of consistent enforcement.

The CCF's principal concerns relate to the following:

(a) *Possession limits*

The Draft Regulations do not specify whether the 750-gram limit refers to wet or dried cannabis, creating immediate uncertainty for persons harvesting lawfully cultivated plants. The temporal qualifier ("at any given time during the course of a single day") is

ambiguous and should be simplified. The regulations are silent on household possession in multi-adult dwellings.

(b) *Cultivation*

The five-plant limit may be insufficient for sustained annual private use and does not accommodate communal or traditional cultivation practices recognised by the Act's own definition of "*private place*."

(c) *Transportation*

Several transport provisions are internally contradictory, particularly the simultaneous prohibition on inspecting cannabis during transport and the obligation on drivers to verify passenger quantities. The "permissible strain" requirement references legislation that does not yet exist. The provisions are unworkable in the public transport context relied upon by the majority of South Africans.

(d) *Processed cannabis products*

The regulations are entirely silent on cannabis oils, concentrates, edibles, and other processed products, creating significant uncertainty regarding the application of possession limits to these products.

(e) *Expungement*

While welcomed, the expungement provisions place undue procedural burdens on historically disadvantaged applicants and lack prescribed decision-making timelines.

(f) *Regulatory certainty*

Taken together, several provisions of the Draft Regulations create uncertainty regarding the precise scope of lawful conduct. In a regulatory framework that carries potential criminal consequences, citizens must be able to determine with reasonable certainty whether their conduct is lawful.

(g) *Regulatory coherence and lawful access*

The Draft Regulations regulate possession, cultivation, and transportation of cannabis for private purposes. However, these activities exist within a broader regulatory chain that includes production, distribution, and lawful acquisition. The effective operation of the private-use framework will ultimately depend on clarity across the entire regulatory

chain. The regulatory framework governing private possession inevitably interacts with the mechanisms through which individuals lawfully obtain cannabis.

(h) *Regulatory coordination*

Cannabis regulation currently spans several departments. Coherent interdepartmental coordination will be essential to ensure that the regulatory framework develops consistently and avoids uncertainty for both the public and emerging industry participants.

These submissions provide regulation-by-regulation analysis, identify structural omissions, highlight regulatory coherence considerations, and conclude with a consolidated summary of recommendations. The CCF recognises that cannabis regulation in South Africa is developing progressively. The present regulations represent an important step in implementing the private-use framework and will benefit from continued refinement as the broader regulatory environment evolves. The CCF remains committed to constructive engagement with the Department throughout this process.

## **1. INTRODUCTION AND STANDING**

1.1 The Cannabis Commerce Forum NPC ("CCF" or "the Forum") submits these written comments on the Draft Cannabis for Private Purposes Regulations, 2025 ("the Draft Regulations") published in Government Gazette No. 54061 on 2 February 2026, in response to the Department's invitation for public comment.

1.2 The CCF is a non-profit company established to support the development of a safe, regulated, and economically inclusive cannabis industry in South Africa. Its constitutional objectives include advocating for regulatory frameworks that enable lawful cannabis commerce while protecting public health; supporting economic inclusion and participation of previously disadvantaged communities in the cannabis value chain; promoting responsible adult use through education and compliance standards; and contributing to youth protection initiatives through industry revenue allocation to rehabilitation programmes.

1.3 The CCF represents a membership base comprising over 450 members, establishments and numerous stakeholders across the cannabis value chain. The CCF has engaged extensively with governmental stakeholders including the Department of

Trade, Industry and Competition ("the dtic"), the South African Police Service (Gauteng Provincial), and the Department of Social Development.

1.4 These submissions are made in the CCF's own interest, in the interest of its members, and in the public interest. The CCF's standing to make these submissions is derived from section 33 of the Constitution, read with section 4 of the Promotion of Administrative Justice Act 3 of 2000 ("PAJA"), which require meaningful public consultation in the making of subordinate legislation.

1.5 The CCF acknowledges and commends the Department for publishing these Draft Regulations. The promulgation of regulations under the Cannabis for Private Purposes Act 7 of 2024 ("the CfPPA" or "the Act") is long overdue and represents a welcome step toward bringing the Act into operation. However, the CCF submits that the Draft Regulations as published require material amendment in several respects, as detailed below.

## **2. CONSTITUTIONAL AND LEGISLATIVE CONTEXT**

The regulations must facilitate the exercise of constitutional rights.

2.1 The Constitutional Court in *Minister of Justice and Constitutional Development and Others v Prince and Others* [2018] ZACC 30 ("the *Prince* judgment") declared unconstitutional the criminalisation of the private use, possession, and cultivation of cannabis by adults. The Court found that the criminalisation of cannabis use for private purposes was not reasonable and justifiable in an open and democratic society founded on human dignity, equality, and freedom.

2.2 The regulations issued under the CfPPA are subordinate legislation intended to give operational effect to the constitutional right recognised in the *Prince* judgment. As such, they must be assessed not only for internal consistency and practical workability, but also for whether they facilitate, rather than impede, the exercise of the right in question. Regulations that create unnecessary barriers to the exercise of a constitutional right, or that generate criminal exposure for persons acting in good faith reliance on that right, risk constitutional challenge on grounds of irrationality.

2.3 The CCF observes that cannabis regulation logically operates within a sequence: production, distribution, acquisition, possession, and consumption. The Draft Regulations primarily address the final stages of this sequence—possession, cultivation for personal use, and transportation. These are properly characterised as downstream regulatory provisions. The effective operation of these downstream provisions will ultimately depend on clarity across the entire regulatory chain, including the mechanisms through which individuals lawfully obtain cannabis for private use. The CCF raises this observation not to expand the scope of these regulations beyond their statutory mandate, but to note that the private-use framework will function most effectively where it operates within a coherent regulatory environment.

2.4 The Court suspended its declaration of invalidity for 24 months to afford Parliament the opportunity to correct the constitutional defects. That suspension expired on 18 September 2020. Parliament subsequently enacted the CfPPA, which was signed into law on 28 May 2024 and published on 3 June 2024. The Act has not yet been brought into operation because the regulations contemplated in section 6 have not been promulgated and the presidential proclamation required by section 8 has not been issued.

2.5 The delay in promulgating these regulations has had severe consequences. The South African Human Rights Commission ("SAHRC") documented in its *Rights of Rastafari Roundtable Report* (November 2025) that cannabis users and cannabis communities, particularly the Rastafari, have been subjected to arbitrary arrests and police harassment due to the absence of clear quantitative thresholds. This is notwithstanding the SAPS National Commissioner's Directive of 23 August 2023 directing members not to arrest private users and cultivators. The SAHRC has confirmed that arrests have continued, exposing users to detention, prosecution, and criminal records in a legal environment characterised by uncertainty.

2.6 Against this backdrop, the CCF urges the Department to finalise these regulations with urgency, while ensuring that the final regulations are constitutionally compliant, practically workable, and capable of consistent and lawful enforcement.

### 3. **REGULATION-BY-REGULATION COMMENTARY**

#### 3.1 Regulation 1 — Definitions

### 3.1.1 *Absence of weight distinction (wet vs. dried cannabis)*

The Draft Regulations are silent on whether the 750 gram possession limit in regulation 2 refers to wet (freshly harvested) or dried cannabis. This is a critical omission. Freshly harvested cannabis can weigh four to five times its dried equivalent due to moisture content. A cultivator who harvests five plants, as permitted under regulation 3, could easily possess well in excess of 750 grams of wet cannabis before any drying process takes place. If the 750-gram limit applies to wet weight, the regulations would criminalise the very act of harvesting cannabis that one has lawfully cultivated. This creates an internal irrationality that the Department must address.

#### **Recommendation**

The regulations should expressly state whether the 750 gram limit refers to dried cannabis (as is the international standard) or wet cannabis. The CCF submits that the limit should refer to dried cannabis weight, with a separate and higher threshold for freshly harvested cannabis in the possession of the cultivator, to prevent criminalisation of the harvest and drying process.

### 3.1.2 *Circular and incomplete definition of "hemp"*

The definition of "*hemp*" refers to cannabis with a THC concentration "*not more than a percentage as may be prescribed in terms of*" and "*cultivated under the authority of*" a law that regulates its cultivation. This definition is circular and depends on the existence of other legislation that may not yet be in force or may be amended. Currently, the Plant Improvement Act Regulations define hemp as *Cannabis sativa* L. with THC not exceeding 0.2%. The Draft Regulations should either incorporate this threshold expressly or cross-reference the relevant instrument with precision, rather than leaving the definition indeterminate.

#### **Recommendation**

Define "*hemp*" by reference to a specific THC concentration threshold (currently 0.2% as prescribed under the Plant Improvement Act Regulations, as amended on 29 October 2021) to provide legal certainty and avoid definitional circularity.

## 3.2 Regulation 2 — Maximum amount of cannabis for possession

### 3.2.1 *The 750-gram limit*

Generally supported but requires clarification.

The CCF generally supports the proposed 750-gram possession limit as a reasonable threshold for private use. However, the limit must be contextualised with the cultivation right. Five cannabis plants at maturity can yield significantly more than 750 grams per harvest cycle. If a person lawfully cultivates five plants and harvests them simultaneously, as is agriculturally necessary, they may temporarily possess quantities exceeding 750 grams. The regulations must accommodate this reality or render the cultivation right illusory.

#### **Recommendation**

Insert a provision exempting cannabis freshly harvested from plants lawfully cultivated under regulation 3, for a reasonable period (the CCF suggests 30 days) to allow for drying, curing, and processing, from the 750-gram possession limit.

### 3.2.2 *The phrase "at any given time during the course of a single day"*

The temporal qualifier "*at any given time during the course of a single day*" is unclear and potentially unworkable. If 750 grams may be possessed "*at any given time*," the additional qualifier "*during the course of a single day*" is redundant and confusing. It is uncertain whether this creates a daily rolling limit or a point-in-time maximum.

#### **Recommendation**

Simplify to: "*The amount of cannabis that may be possessed by an adult person in a private place for private purposes may not exceed 750 grams at any given time.*" The daily temporal qualifier should be removed as it introduces ambiguity without adding regulatory value.

### 3.2.3 *Household vs. individual limits*

The regulations prescribe limits per "*adult person*" but are silent on whether multiple adults in a single household may each possess 750 grams. In a household of four adults, the combined lawful possession would be 3 kilograms. While the CCF does not object to individual limits, the regulations should expressly address the household context to prevent enforcement uncertainty and to protect adults living in shared accommodation from

prosecution based on aggregate household quantities. The *Prince* judgment was premised on the right to privacy in the home, this must extend to all adults within that private space.

**Recommendation:**

Insert a clarifying provision confirming that each adult in a household is entitled to the prescribed maximum independently, and that aggregate household quantities shall not form the basis for a presumption of dealing.

3.2.4 Processed cannabis products - A material omission

The Draft Regulations define "*cannabis*" by reference to the Act's definition (flowering or fruiting tops and products made therefrom) but impose possession limits exclusively by weight. The regulations are entirely silent on how the 750-gram limit applies to processed cannabis products such as oils, concentrates, tinctures, edibles, and topical preparations. This omission creates significant uncertainty. Cannabis concentrates, for example, may contain substantially higher levels of THC per gram than dried flower. Conversely, cannabis-infused edibles may contain negligible THC content per gram of total product weight. A 750-gram weight limit applied to concentrates produces outcomes disproportionate to the private-use rationale, while the same limit applied to edibles may be unnecessarily restrictive.

**Recommendation**

The regulations should either introduce separate possession limits for processed cannabis products (by reference to THC content per unit or product category), or expressly clarify that the 750-gram limit applies to dried cannabis flower only, with processed products addressed through subsequent regulation. In the interim, the regulations should provide that products made from lawfully possessed cannabis are not separately subject to the possession limit.

3.3 Regulation 3 - Maximum number of cannabis plants for cultivation

3.3.1 *Five plants - Potentially insufficient for sustained personal use*

The CCF submits that a limit of five cannabis plants may be insufficient for sustained personal use throughout a year. Cannabis cultivation is seasonal

(outdoor) or cyclical (indoor), and a single outdoor harvest may occur once per year. Depending on strain and growing conditions, a single plant may yield between 50 grams and 500 grams of dried flower. A person consuming cannabis regularly for private purposes could reasonably far more per annum.

### **Recommendation**

The CCF recommends increasing the cultivation limit to eight plants per adult person, or alternatively, distinguishing between flowering plants and vegetative plants to allow for continuous cultivation cycles. At minimum, seedlings and plants in vegetative growth (not yet flowering) should be excluded from the five-plant count, as only flowering plants produce the cannabis defined in the Act.

#### **3.3.2 *No provision for communal or traditional cultivation***

The regulations do not address communal cultivation practices, which are integral to traditional cannabis cultivation in South Africa, particularly in the Eastern Cape, KwaZulu-Natal, and Limpopo. The Act itself recognises "*communal land*" in its definition of "*private place*," yet the regulations apply per person limits that are ill-suited to communal farming practices. This omission risks criminalising traditional cultivation methods that predate colonial prohibition and that are constitutionally protected under section 31 of the Constitution (cultural, religious, and linguistic communities).

### **Recommendation**

Include a provision recognising communal cultivation by members of a community on communal land, with an aggregate plant limit calculated per participating adult member, to give effect to the Act's recognition of communal land and to protect constitutionally entrenched cultural practices.

#### **3.4 Regulations 4, 5 and 6 on Transportation of cannabis**

##### **3.4.1 *Internal contradictions in transport provisions***

The prohibition on "*in any way handl[ing], hold[ing], examin[ing] or inspect[ing] the cannabis being transported*" (regulation 5(3)(b)) is directly contradicted by the driver's obligation under regulation 5(4)(b) to verify the quantity of cannabis brought onto the vehicle by a passenger. Verification necessarily requires

inspection. This internal contradiction renders the provision impractical and creates a situation where compliance with one obligation necessarily involves breach of another.

Furthermore, the prohibition conflicts with section 22 of the Criminal Procedure Act 51 of 1977, which empowers police officers to search persons and vehicles. A person stopped at a roadblock who is required by a police officer to produce or identify the cannabis they are transporting would be in breach of this regulation by complying with a lawful police instruction.

### **Recommendation**

Insert an exception to regulation 5(3)(b): "save where required to do so by a peace officer in the lawful exercise of his or her duties, or where verification is required under regulation 5(4)(b)." Alternatively, clarify that the prohibition refers only to consumption or manipulation of cannabis during transport, not to any form of handling.

#### **3.4.2 *Prohibition on disclosure (regulation 5(3)(c))***

The prohibition against "*reveall[ing] to other people who are not passengers, that the vehicle is transporting cannabis*" is constitutionally problematic. It potentially infringes the right to freedom of expression (section 16 of the Constitution) and creates absurd outcomes - a person could be prosecuted for truthfully answering a question about the contents of their vehicle. This provision is also unenforceable in the context of visible police stops, breakdowns, or accidents where vehicle contents become apparent.

### **Recommendation**

This prohibition should be deleted or substantially narrowed to target only deliberate public display or advertising of cannabis during transport, rather than any form of disclosure.

#### **3.4.3 *Undefined permissible strains (regulations 5(6) and 6(6))***

Regulations 5(6) and 6(6) state that "*only the variety or strain of cannabis permissible by any applicable law in the Republic may be transported.*" No catalogue of permissible strains currently exists under the CfPPA or any other legislation applicable to private-use cannabis. This provision anticipates future

legislation that does not yet exist and creates immediate legal uncertainty, effectively, every strain is potentially impermissible because no strain has been expressly permitted. This renders the provision irrational and unenforceable.

### **Recommendation**

Delete regulations 5(6) and 6(6) in their entirety, or replace with a provision that cannabis cultivated and possessed in accordance with the Act and these regulations may be transported without restriction as to strain or variety.

#### **3.4.4 *Public transport considerations***

The driver-passenger notification obligations (regulations 5(4)(a) and 6(4)(b)) are framed for private vehicles. They do not adequately address public transport. How do these obligations apply to a minibus taxi, bus, or ride-hailing vehicle? Must a commuter notify a taxi driver? Must a bus driver notify all passengers? These provisions are practically unworkable in the South African public transport context, where minibus taxis are the predominant form of transport for the majority of the population. Failure to address this constitutes an unjustifiable limitation on the right to transport lawfully possessed cannabis for private use.

### **Recommendation**

Include specific provisions for public transport, recognising that notification obligations cannot practically apply in mass transit settings. A reasonable approach would be to require only that cannabis be concealed and not consumed during public transport, without imposing notification obligations on commuters or drivers of public transport vehicles.

#### **3.5 Regulations 7 to 10 — Expungement of criminal records**

3.5.1 The CCF welcomes the inclusion of expungement provisions and regards this as a critical component of restorative justice. The criminalisation of cannabis was historically used as an instrument of racial oppression, and the expungement of criminal records is an essential step toward redressing this legacy.

3.5.2 *Automatic expungement should be the primary mechanism*

Section 5(1)(a) of the CfPPA provides for automatic expungement by the Criminal Record Centre. The application-based process in regulations 7 to 10 should be a secondary mechanism for cases where automatic expungement has not occurred. The CCF is concerned that the regulatory framework places the burden on affected individuals - who may be disproportionately poor, rural, and historically disadvantaged and expect them to navigate an administrative process requiring clearance certificates, postal delivery, and correspondence with the Director-General. This creates practical barriers that may defeat the restorative purpose of the provision.

### **Recommendation**

The regulations should impose express timelines on the Criminal Record Centre to complete automatic expungement (the CCF suggests 6 months from commencement of the Act), with a reporting obligation to the Department. The application process should be simplified to permit electronic submission and should not require the applicant to first obtain a clearance certificate confirming non-expungement as this clearly imposes a cost and administrative burden on the very persons the provision is designed to assist.

#### **3.5.3 *No prescribed timeline for decision-making***

Regulation 9(1) provides that the Director-General must submit the expungement certificate to the Criminal Record Centre within 14 working days. Regulation 10(1) provides that the Criminal Record Centre must confirm expungement within 21 working days thereafter. However, there is no prescribed timeline for the Director-General to process and decide the application itself. An application could sit indefinitely before a decision is made. This omission is constitutionally impermissible and it amounts to a failure to prescribe a reasonable timeline for administrative action as required by PAJA.

### **Recommendation**

Insert a provision requiring the Director-General to process and decide expungement applications within 30 working days of receipt of a complete application. If further information is required under regulation 7(3), the clock should pause until the information is received and resume upon receipt.

## 4. ENFORCEMENT AND PRACTICAL IMPLEMENTATION CONCERNS

### 4.1 The principle of legal certainty in criminal law

4.1.1 Several provisions of the Draft Regulations, considered individually and cumulatively, create uncertainty regarding the precise scope of lawful conduct. The CCF respectfully submits that in a regulatory framework that carries potential criminal consequences, it is essential that citizens and enforcers are able to determine with reasonable certainty whether their conduct is lawful. The rule of law, as a founding value of the Republic under section 1(c) of the Constitution, requires that criminal prohibitions be sufficiently clear and precise to enable compliance. The legality principle demands no less.

4.1.2 The cumulative effect of the ambiguities identified in these submissions, notably it is submitted to include the absence of a wet/dried weight distinction, the undefined "permissible strain" requirement, the contradictory transport obligations, the silence on processed products, and the ambiguous temporal qualifier results in a scenario that a person acting in good faith may be unable to determine whether their conduct falls within or outside the scope of lawful private use. Clear and workable regulations will promote voluntary compliance and assist law enforcement authorities in applying the law consistently. Regulatory clarity is particularly important in an area where the legal framework is still evolving and where, as the SAHRC has documented, law enforcement has historically exercised broad and subjective discretion, which they noted to have had negative consequences which we note could be aggravated by the lack of specific clarity to avoid harm.

### 4.2 Roadside enforcement practicalities

4.2.1 The regulations do not address practical enforcement scenarios. For example, how will a police officer at a roadblock determine whether cannabis weighs more or less than 750 grams? Will roadside weighing equipment be required? What procedures apply if the weight is disputed? How will an officer distinguish between five plants' worth of freshly harvested cannabis (which may exceed 750 grams wet) and cannabis held in excess of the limit? Without operational guidance, the regulations will be applied inconsistently, perpetuating the very

discretion and arbitrariness that the SAHRC and the SAPS National Commissioner's Directive of 23 August 2023 sought to eliminate.

#### 4.3 Distinguishing private use from dealing

4.3.1 The regulations prescribe maximum quantities for private use but provide no guidance on the evidentiary threshold for distinguishing lawful private possession from unlawful dealing. The SAPS Directive of 23 August 2023 expressly noted that there is also no legislation that allows for a presumption of dealing where cannabis quantities above a certain threshold is found in the possession of a person. While the Draft Regulations now propose a threshold of 750 grams, they do not address what inferences, if any, may be drawn from possession of quantities slightly in excess of the limit. Does possession of 800 grams constitute dealing, or simply an administrative infraction? The absence of clarity on this point risks reintroducing the very presumption-based enforcement that the SAPS Directive and the Prince judgment sought to curtail.

4.3.2 Enforcement of possession limits may also be assisted by greater regulatory clarity regarding lawful acquisition. Where the legal framework clearly identifies legitimate pathways through which cannabis may be obtained, law enforcement authorities are better placed to distinguish between lawful possession and unlawful dealing. In the absence of such clarity, police officers are left to exercise the same subjective discretion that the SAHRC has documented as producing arbitrary and discriminatory enforcement outcomes. A clear and regulated pathway for lawful access would provide both citizens and law enforcement with the certainty required for consistent application of the law.

#### 4.4 Determination of plant ownership in shared properties

4.4.1 The regulations prescribe a five-plant limit per adult person but do not address how plant ownership or attribution is to be determined in shared households. If ten plants are found growing in a garden shared by two adults, are each attributed five plants? What if three adults share the property? What evidence is required to establish which plants belong to which person? Without clear guidance, this provision invites inconsistent enforcement and arbitrary attribution.

## 5. EQUALITY AND ACCESS CONSIDERATIONS

- 5.1 The private cultivation model implicitly assumes that individuals have access to private residential space suitable for cultivation. The constitutional right recognised in the *Prince* judgment must be accessible to all adults, not only those with suitable private property. The regulations as drafted may disadvantage individuals living in rental accommodation (where landlords may prohibit cultivation), residents of informal settlements, persons living in high-density housing, and those in communal living arrangements. This raises equality concerns under section 9 of the Constitution.
- 5.2 The CCF does not suggest that the regulations alone can resolve access inequalities. However, the regulations should, at minimum, not entrench or exacerbate existing socioeconomic disparities in the exercise of constitutional rights. The absence of any provision for shared or cooperative cultivation spaces, read together with the exclusive emphasis on private place cultivation, risks creating a regulatory framework that is accessible primarily to property owners and those with means.

### Recommendation

The Department should consider provisions recognising shared cultivation arrangements or community cultivation spaces, consistent with the Act's inclusion of communal land within the definition of "*private place*." This would extend the practical benefit of the regulations to a broader cross-section of the population.

## 6. STRUCTURAL DEFICIENCIES AND OMISSIONS

### 6.1 The structural gap between private use and lawful access

- 6.1.1 The media statement accompanying the Draft Regulations expressly acknowledges that "*matters relating to the commercial cultivation, buying or selling of cannabis or cannabis products, as well as the recognition of traditional growers, fall outside the scope of the Act and are being addressed by other*

*government departments.*" The CCF accepts that *these specific regulations* are confined to private use.

6.1.2 However, the CCF respectfully observes that the regulatory framework governing private possession inevitably interacts with the mechanisms through which individuals lawfully obtain cannabis. A person can only possess cannabis if they first acquire it. Possession limits, transportation rules, and storage requirements will be most effective where they operate within a coherent framework governing lawful acquisition. The present regulations regulate downstream activities including possession, cultivation, and transportation, but do not address the upstream question of how non-cultivating adults lawfully obtain cannabis for private use.

6.1.3 The transfer provision in the CfPPA (provision "*without consideration*") does not provide a workable acquisition mechanism. It offers no quality assurance, no traceability, no consumer protection, no potency standards, and no accountability. Where individuals are permitted to possess cannabis but lack clarity regarding lawful access, there is a risk that consumers may rely on unregulated sources that fall outside any quality or safety oversight. A clear and regulated pathway for lawful access would assist in promoting product safety, traceability, and consumer protection. These are objectives that are consistent with, and supportive of, the responsible adult use contemplated by the Act.

6.1.4 The CCF notes this as a matter requiring further policy development. As the regulatory framework continues to evolve, consideration will need to be given to how the downstream provisions established by these regulations interact with upstream regulatory frameworks governing cultivation, distribution, and lawful access. Clarity regarding lawful acquisition will also provide greater certainty for emerging participants in the cannabis sector, many of whom are seeking clarity regarding the long-term policy direction of cannabis regulation in South Africa.

## 6.2 No product safety standards

6.2.1 The regulations prescribe quantity limits but are entirely silent on product safety. A person may possess 750 grams of cannabis that is contaminated with

pesticides, heavy metals, mould, or synthetic cannabinoids, and the regulations provide no mechanism for addressing this. The responsible adult use that the Act implicitly contemplates cannot be achieved through quantity limits alone. Product safety, traceability, and quality assurance are ordinarily achieved through supply chain regulation. In the absence of any framework governing the production and distribution of cannabis for private use, these important public health protections remain unavailable to consumers exercising their constitutional right.

### 6.3 No transitional provisions

- 6.3.1 The Draft Regulations contain no transitional provisions addressing the position of persons who, between 18 September 2018 (the date of the *Prince* judgment) and the commencement of the Act, have been cultivating, possessing, or using cannabis in reliance on the constitutional right established in *Prince*. Are existing cultivations in excess of five plants to be destroyed upon commencement? What is the transitional period for compliance? The absence of transitional provisions creates legal uncertainty and potential retrospective application concerns.

### **Recommendation**

Include transitional provisions affording existing private cultivators a reasonable period (the CCF suggests 6 months) to bring their cultivation into compliance with the prescribed plant limits. Existing cannabis in possession in excess of 750 grams at commencement should not attract criminal liability if the person takes reasonable steps to reduce their possession to the prescribed limit within the transitional period.

## **7. REGULATORY COORDINATION**

- 7.1 The CCF notes that cannabis regulation currently spans several departments, including Justice, Health, Agriculture, Trade and Industry, and Treasury. Continued coordination between these departments will be important to ensure that the regulatory framework develops coherently and avoids uncertainty for members of the public and for emerging industry participants.
- 7.2 The private use framework established by these regulations forms only one component of what should be a comprehensive regulatory architecture. The

CfPPA addresses private use; the dtic is developing a commercialisation policy supposedly anticipated for April 2026; the Department of Agriculture regulates hemp under the Plant Improvement Act; SAHPRA regulates medicinal cannabis under the Medicines and Related Substances Act; and Treasury has yet to address the fiscal treatment of cannabis. In the absence of coordination, citizens, cultivators, and industry participants face overlapping, potentially contradictory, regulatory obligations.

7.3 As cannabis policy continues to develop across multiple departments, it will be important that the regulatory framework governing private use remains coherent with other regulatory initiatives relating to cannabis cultivation, agricultural production, and potential future industry development. The development of a coherent regulatory framework will also provide greater certainty for the significant number of South Africans already participating in the cannabis sector, whether as cultivators, traditional practitioners, or consumers all of who are seeking clarity regarding the long-term policy direction of cannabis regulation in South Africa.

7.4 The CCF urges the Department to recommend to the Minister that the regulations not be brought into operation in isolation but simultaneously with, at minimum, clear prosecutorial guidelines from the NDPP addressing the evidentiary threshold for dealing charges, and a gazetted commitment to the timeline for the development of the broader regulatory framework, including the anticipated commercialisation policy and the mechanisms through which lawful access to cannabis for private use will be facilitated.

## 8. **ADEQUACY OF THE CONSULTATION PERIOD**

8.1 The CCF records its concern regarding the duration of the consultation period. The Draft Regulations were published on 2 February 2026 with a deadline for submissions of 5 March 2026 constituting a period of 31 days. Given that these regulations have been awaited for over five years since the expiry of the *Prince* suspension period, and for nearly two years since the CfPPA was enacted, a 31-day consultation period is short. The regulations affect the constitutional rights of every adult in South Africa and have particular significance for historically marginalised communities, including the Rastafari, traditional cultivators, and rural communities.

- 8.2 The CCF requests that the Department consider extending the consultation period to allow for broader public engagement, particularly in rural areas and among historically marginalised communities. The CCF respectfully reserves its rights in this regard.

## 9. CONCLUSION AND SUMMARY OF RECOMMENDATIONS

- 9.1 The CCF reiterates its support for the publication of these Draft Regulations and commends the Department for initiating the consultation process. The CCF submits that the following amendments are necessary to ensure that the regulations are constitutionally compliant, practically workable, and capable of consistent enforcement:

### *Possession limits (Regulation 2):*

- (a) Clarify whether the 750-gram limit refers to wet or dried cannabis weight; the CCF submits the limit should apply to dried weight.
- (b) Insert an exemption for cannabis freshly harvested from lawfully cultivated plants, for a period of 30 days, to accommodate the drying and curing process.
- (c) Remove the ambiguous temporal qualifier "during the course of a single day."
- (d) Confirm that possession limits apply per individual adult, not per household, and that aggregate household quantities shall not form the basis for a presumption of dealing.
- (e) Address the application of possession limits to processed cannabis products, or expressly confirm that the 750-gram limit applies to dried flower only.

### *Cultivation (Regulation 3):*

- (f) Consider increasing the cultivation limit to eight plants, or distinguish between flowering and vegetative plants.
- (g) Exclude seedlings and plants in vegetative growth from the plant count.
- (h) Recognise communal and traditional cultivation practices consistent with the Act's inclusion of communal land within the definition of "private place."

### *Transportation (Regulations 4, 5 and 6):*

- (i) Resolve the contradiction between the handling prohibition (regulation 5(3)(b)) and the driver verification obligation (regulation 5(4)(b)).

- (j) Insert an exception to the handling prohibition for compliance with lawful police instructions.
- (k) Delete or substantially narrow the disclosure prohibition (regulation 5(3)(c)).
- (l) Delete regulations 5(6) and 6(6) (permissible strains) or replace with a clarifying provision.
- (m) Include specific provisions for public transport contexts.

*Expungement (Regulations 7 to 10):*

- (n) Impose express timelines on the Criminal Record Centre for automatic expungement.
- (o) Prescribe a 30-working-day decision-making timeline for the Director-General.
- (p) Permit electronic submission of expungement applications.
- (q) Remove the requirement for a clearance certificate as a prerequisite to application.

*General:*

- (r) Include transitional provisions for existing cultivators and possessors.
- (s) Address product safety standards, or acknowledge the need for a complementary framework governing product safety through supply chain regulation.
- (t) Provide operational guidance for law enforcement on roadside verification procedures and the evidentiary threshold for distinguishing private use from dealing.
- (u) Ensure that the regulations are brought into operation simultaneously with prosecutorial guidelines from the NDPP.

*Regulatory coherence and lawful access:*

- (v) Acknowledge in the regulations or an accompanying policy statement that the private-use framework forms part of a broader regulatory chain encompassing production, distribution, lawful acquisition, possession, and consumption, and that continued regulatory development will be required across this chain.\
- (w) Prioritise the development of regulatory clarity regarding lawful acquisition mechanisms to support consumer protection, product safety, and consistent enforcement of the private-use framework.

- (x) Ensure that the private-use framework remains coherent with other regulatory initiatives as the broader cannabis policy environment evolves, including the anticipated commercialisation policy and supporting legislative instruments.
  
- 9.2 The CCF remains committed to constructive engagement with the Department and all relevant governmental stakeholders in the development of a comprehensive regulatory framework for cannabis in South Africa. The CCF stands ready to provide further input, evidence, or technical assistance as may be required.
  
- 9.3 The CCF reserves its rights in all respects.

Yours faithfully,

---

CANNABIS COMMERCE FORUM NPC