



## MISUSE OF DRUGS (CANNABIS LICENCES) (DATA PROCESSING) REGULATIONS 2022

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Statutory Document No. 2022/0202



*Misuse of Drugs Act 1976*

## MISUSE OF DRUGS (CANNABIS LICENCES) (DATA PROCESSING) REGULATIONS 2022<sup>1</sup>

*Approved by Tynwald: 21 June 2022*  
*Coming into Operation: in accordance with regulation 2*

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The Isle of Man Gambling Supervision Commission makes the following Regulations under sections 10, 22, 30A and 31 of the Misuse of Drugs Act 1976.

### 1 Title

These Regulations are the Misuse of Drugs (Cannabis Licences) (Data Processing) Regulations 2022.

### 2 Commencement

If approved by Tynwald, these Regulations come into operation immediately upon such approval<sup>1</sup>.

### 3 Interpretation

In these Regulations —

“the applicant” means —

- (a) a natural person or a body corporate that applies for a licence referred to in Schedule 1 to the Transfer of Functions (Cannabis) Order 2020<sup>2</sup>;
- (b) a natural person or body corporate that —
  - (i) becomes associated with a medicinal cannabis licence, after the licence has been granted; and
  - (ii) would have been subject to data processing by the Commission had the person or body corporate been referred to in the application;

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<sup>1</sup> Under section 31(3) of the Misuse of Drugs Act 1976 these Regulations shall not have effect until they have been approved by Tynwald

<sup>2</sup> SD 2020/0547

“**the applied GDPR**” means the contents of the Annex to the Data Protection (Application of GDPR) Order 2018<sup>3</sup>;

“**authorised witness**” means a person approved by the Commission to attest to the destruction of controlled drugs;

“**the Commission**” means the Isle of Man Gambling Supervision Commission;

“**certificate of good standing**” means any alternative to an enhanced DBS check in a jurisdiction other than the Isle of Man or the United Kingdom that supplies information –

- (a) obtained from an independent and reliable source;
- (b) to a standard equivalent to that of an enhanced DBS check; and
- (c) to an extent that is necessary, reasonable and proportionate to an application for a medicinal cannabis licence;

“**controller**” has the meaning given in Article 4(7) of the applied GDPR;

“**DBS**” means Disclosure Barring Service or its successors;

“**director**” includes a director that is appointed in a non-executive or purely advisory capacity;

“**due diligence**” means an investigation performed to confirm –

- (a) the integrity of a person;
- (b) the competence of a person to participate in the regulated medicinal cannabis sector;
- (c) the means by which a person intends to own or control a cannabis licensee; or
- (d) the financial standing of a person;

“**identity information**” means the minimum amount of personal data which –

- (a) it is reasonable to require;
- (b) is proportionate to the application for the class of medicinal cannabis licence applied for by the applicant; and
- (c) is necessary to enable the identity of a person to be verified, including the person’s name, address and date of birth;

“**issued list**” means a list or database issued by an official institution or by a body acting in the interests of commerce, which contains data about the status of a person, or facts about their identity;

“**key person**” means –

- (a) the responsible person;

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<sup>3</sup> SD 2018/0143

- (b) a person nominated by the responsible person to control the business conducted by the medicinal cannabis licensee, including –
  - (i) the person nominated to be responsible for legal compliance;
  - (ii) the person in charge;
- (c) a director of a company that is a medicinal cannabis licensee;
- (d) a person with a direct or indirect financial interest in the medicinal cannabis licence, including –
  - (i) shareholders with more than five percent of a private company’s shares who acquire voting rights or qualification for dividends;
  - (ii) shareholders with more than 20 percent of a public company’s shares, or concert parties holding the same percentage in aggregate;
  - (iii) investors regardless of any reward that accrues from investment;
  - (iv) trustees in an arrangement that confers ownership of, or financial privileges arising from, the licensee;
  - (v) any other person receiving money from a licensee or contributing money to a licensee other than as a customer or salaried employee;
- (e) an authorised witness;

“**market participant information**” means the minimum information necessary for the regulator of a national or regional medicines or healthcare products market to commence a relationship with the a medicinal cannabis licensee;

“**medicinal cannabis licence**” means any class of licence prescribed in the Misuse of Drugs (Cannabis) Regulations 2020<sup>4</sup>;

“**medicinal cannabis licensee**” means a person or a body corporate that holds a licence issued by the Commission;

“**the legal obligation**” means the Commission’s duty to perform the functions transferred to it by the Transfer of Functions (Cannabis) Order 2020<sup>5</sup>;

“**processing**” has the meaning given in Article 4(2) of the applied GDPR but, as used in these Regulations, relates only to processing performed by a controller in furtherance of the determination of an application for a licence referred to in Schedule 1 to the Transfer of Functions (Cannabis) Order 2020<sup>6</sup>;

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<sup>4</sup> SD2020/0581

<sup>5</sup> SD 2020/0547

<sup>6</sup> *ibid*

“**responsible person**” means a person named on a medicinal cannabis licence that is listed in Schedule 2 of the Misuse of Drugs (Cannabis) Regulations 2020<sup>7</sup>;

“**source of wealth check**” means an investigation that determines in relation to a licence —

- (a) the financial instrument to be used to supply the funds; and
- (b) the underlying activity that generated those funds;

“**the task**” means any task carried out by the Commission in furtherance of complying with the legal obligation.

#### 4 Necessity for processing in compliance with the legal obligation

- (1) The types of personal data to be processed in connection with the legal obligation are —
- (a) name of the applicant;
  - (b) name of the responsible person, if different from (a);
  - (c) names of the key persons;
  - (d) for agents of the applicant —
    - (i) name;
    - (ii) correspondence address;
    - (iii) authority to represent; and
    - (iv) any additional information necessary for the Commission to transact with the agent;
  - (e) the following in respect of each person falling within subparagraphs (a) or (c) —
    - (i) title;
    - (ii) any aliases or previous names;
    - (iii) date of birth;
    - (iv) residential address and previous addresses;
    - (v) sufficient proof of identity in a form prescribed by the Commission;
    - (vi) a declaration as to whether they are fit and proper persons for association as a responsible person or a key person with a licence as specified in the second column of the table in Schedule 3;
    - (vii) for each person associated with a licence in Schedule 3, a declaration of “enhanced DBS” in the second column of the table in Schedule 3;

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<sup>7</sup> Ibid.

- (viii) the role the person holds, or intends to hold, in the entity holding the medicinal cannabis licence;
  - (ix) a curriculum vitae;
  - (x) for each person defined in subparagraph (d)(i) to (iii) of the definition of a key person in regulation 3 who is also a person associated with a licence in Schedule 3, a declaration certifying compliance with the “Fit and proper person requirement” in the second column of the table in Schedule 3;
  - (xi) material specified by the Commission necessary for the Commission to conduct a source of wealth check;
  - (xii) declarations of whether the person —
    - (A) is being or has been prosecuted;
    - (B) is or has been a defendant in civil proceedings;
  - (xiii) declarations of whether that person has been sanctioned by a regulatory authority and, if so —
    - (A) the nature of the sanction;
    - (B) the reason for the sanction;
    - (C) the name of the regulatory authority; and
    - (D) the date the sanction was issued.
- (2) The purpose of the processing of the personal data in respect of the matters listed in paragraph (1) is to enable the Commission to assess an application for a medicinal cannabis licence and determine whether or not its granting, renewal, revocation or amendment of the medicinal cannabis licence would be appropriate.
- (3) If the Commission is unable to obtain satisfactory conclusions from the matters in Schedule 3, the Commission may —
- (a) refuse to grant a licence;
  - (b) suspend or revoke a licence;
  - (c) instruct that activity under a licence be paused or ceased with the licence remaining in force;
  - (d) unilaterally amend the conditions of a licence;
  - (e) refuse to permit a person to be associated with a licence as a responsible person or a key person; or
  - (f) disclose information to competent authorities identified in Schedule 1.

## **5 Entities to which, and purposes for which, personal data may be disclosed**

- (1) Schedule 1 specifies the entities to which personal data may be disclosed; for what purposes personal data may be disclosed; and which data sets may be disclosed, provided that any disclosure as set out in Schedule 1 may be made only where it is necessary, reasonable and proportionate to make such disclosure for the purposes of these Regulations.
- (2) A reference to —
  - (a) a party in the first column of the table in Schedule 1 is to be construed as if it were a designated authority in Article 3 of the Gambling Supervision (Permitted Disclosures) Order 2010<sup>8</sup>;
  - (b) the purpose for disclosure in the second column of table in Schedule 1 is to be construed as if it were a function in Article 3 of the Gambling Supervision (Permitted Disclosures) Order 2010<sup>9</sup>; and
  - (c) the functions in sub-paragraph (b) apply to the extent necessary to discharge the Commission's statutory function to prevent the misuse of drugs.

## **6 Processing operations and procedures**

Schedule 2 specifies the processing operations and procedures that the Commission is permitted to undertake with personal data, subject to such processing operations and procedures being necessary, reasonable and proportionate for the purposes for which the processing is carried out.

**MADE 6TH JUNE 2022**

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<sup>8</sup> SD 0834/10

<sup>9</sup> *ibid*



**SCHEDULE 1**

**ENTITIES TO WHICH, AND PURPOSES FOR WHICH, PERSONAL DATA MAY  
BE DISCLOSED**

[regulations 3, 4 & 5]

<b>Entity to which disclosed</b>	<b>Purpose for disclosure</b>	<b>Data to be disclosed</b>
The Isle of Man Financial Intelligence Unit (“FIU”).	Due diligence; under statutory obligations, or as necessary, reasonable and proportionate for the purpose of ongoing regulatory supervision.	Identity information of the responsible person and key persons in the first instance.  Any additional personal data if requested by the FIU under its powers.
The Isle of Man Constabulary (“the Constabulary”).	Due diligence under statutory obligations, or as necessary; the reporting of a suspected criminal offence.	Identity information of the responsible person and key persons in the first instance.  Any personal data if requested by the Constabulary under its powers.
The United Kingdom’s designated national cannabis agency, presently an agency of the Home Office (“National Cannabis Agency”).	Due diligence; and obligations under prevailing memoranda of understanding between the Commission and the National Cannabis Agency.	All personal data in the possession of the Commission to the extent necessary to allow a National Cannabis Agency to discharge its functions under the prevailing memoranda of understanding.
National Cannabis Agencies, including the United Kingdom’s designated national cannabis agency, presently the Home Office.	Due diligence, including the establishment of regulatory compliance records under foreign regulation.	Identity information of the responsible person and key persons.
The Isle of Man Treasury, including the Isle of Man	Due diligence	Identity information of the responsible person

Customs and Excise Division.		and the contact information of the responsible person.
The Isle of Man Treasury, including the Isle of Man Income Tax Division.	Compliance with a request for information to be supplied to a foreign taxation competent authority.	Any personal data requested by the Assessor or the Assessor's delegates.
Entities in other countries that supply sanctions and convictions data, including as the case may be in a territory, international law enforcement agencies, institutions of justice, civilian and other vetting agencies.	Due diligence under statutory obligations, or as necessary, reasonable and proportionate, subject to the provisions of Schedule 3.	Identity information of the responsible person and key persons.
National and regional entities that receive reports of crime or handle the recording of statistics for the purposes of reporting on crime, including fraud.	Reporting	Identity information of a person of concern.
Private agencies that compile due diligence reports on a professional basis.	Due diligence	Identity information of the responsible person and key persons.
Controlled Drug Liaison Officers or international equivalents	Intelligence sharing	Identity information of the responsible person and key persons
Agencies that supply ongoing monitoring of open source data and issued lists to detect matters of regulatory interest concerning people subject to licensing by the Commission.	Due diligence, including checks made during an application and checks made after an application. Under statutory obligations, or as necessary.	Identity information of the responsible person and key persons.
Subject matter experts that provide expertise on the authenticity of	Due diligence, including the authentication of	Discrete documentation, including passports, bank statements and

<p>documentation, including the Isle of Man Passport Office.</p>	<p>documentation. Under statutory obligations, or as necessary.</p>	<p>proof-of-address documents, the authenticity of which the Commission seeks to establish.</p>
<p>The regulators of national or regional medicines or healthcare products markets in the Isle of Man or in other countries, to the extent their cooperation is necessary in order for a licensee to qualify for access to a medicines market, including the United Kingdom's Medicines and Healthcare Products Regulatory Agency, or its European equivalent(s).</p>	<p>Introductions by the Commission of a person holding a medicinal cannabis licence seeking evaluation for participation in a medicines or healthcare products market.</p> <p>Requests from the Commission for evaluations of a person holding a medicinal cannabis licence for participation in a medicines or healthcare products market.</p>	<p>Market participant information.</p>

## SCHEDULE 2

## PROCESSING OPERATIONS AND PROCEDURES

[regulations 3 &amp; 6]

Purpose	Operation	Rationale
Legislative compliance with lawful requests for data.	Supply of data that has been requested using a statutory power by another competent authority.	To allow the Commission to share data with other agencies for their lawful purposes.
Due diligence	Evaluation of data to establish the integrity of a person.	People with a history of crime, dishonesty or contempt for regulations create a risk of non-compliance with Isle of Man law.
Due diligence	Evaluation of data to establish the competence of a person.	People without competence create the risk of non-compliance with Isle of Man law and the Commission's policy, including requirements for security, environmental protection and quality assurance of product.
Due diligence	Evaluation of data to establish the financial standing of a person.	The Commission corroborates the financial assumptions underpinning licence applications; the sources of wealth are established to exclude the proceeds of crime.
Due diligence	Ongoing monitoring	The Commission continues to monitor the responsible person and key persons in order to detect events that have implications for the licence.

<p>For understanding the ownership and control of a corporate structure or other legal arrangement, including knowing the beneficial owners of an entity and verifying the means by which the entity is owned and controlled by them.</p>	<p>Establishment of people within a structure of a licensed body corporate.</p>	<p>To account for all people connected with the beneficial ownership and control of a company.</p>
<p>For understanding control of independent associations not under direct Commission supervision, including the identities of majority shareholders in group structures that have a controlling interest in a person holding a medicinal cannabis licence and concert parties within that ownership.</p>	<p>Establishment of people within a structure of a body corporate that is not licensed by the Commission that has ownership or control of the licensee.</p>	<p>To account for all people connected with the beneficial ownership and control of a body corporate.</p>
<p>Capture, maintenance, storage and disposal of records arising from the obligations under any statutory provision, including any obligations under cannabis legislation, public records legislation, anti-money laundering or countering the financing of terrorism legislation and proceeds of crime legislation.</p>	<p>Capture, storage, maintenance and disposal of data.</p>	<p>To comply with statutory obligations.</p>
<p>Data sharing with other competent authorities.</p>	<p>The transmission of data to, and receipt of data from, other domestic foreign competent authorities.</p>	<p>To share intelligence and other classes of data with others in order to prevent the misuse of drugs.</p>

## SCHEDULE 3

## FIT AND PROPER PERSON REQUIREMENTS

[regulation 4]

Licence type	Fit and proper person requirement	Source of wealth check arising from regulation 4(1)(ix)	Rationale
Class 1 Licence for low-THC cultivation without use	DBS check	None	This licence type gives the licence-holder no access to controlled substances.
Class 2 Licence for low-THC cannabis cultivation with use	Enhanced DBS check, or certificate of good standing.	Source of wealth checks	This licence type gives the licence-holder access to controlled substances.
Class 3 Licence for high-THC cannabis cultivation	Enhanced DBS check, or certificate of good standing.	Source of wealth checks	This licence type gives the licence-holder access to controlled substances.
Class 4 Licence for cultivation of cannabis using male plants	Enhanced DBS check, or certificate of good standing.	Source of wealth checks	This licence type gives the licence-holder access to controlled substances.
Class 5 Licence for transportation and storage	Enhanced DBS check, or certificate of good standing.	Source of wealth checks	This licence type gives the licence-holder access to controlled substances.
Class 6 Licence for extraction	Enhanced DBS check, or certificate of good standing.	Source of wealth checks	This licence type gives the licence-holder access to controlled substances.

Class 7 Licence for importing into the Isle of Man	Enhanced DBS check, or certificate of good standing.	Source of wealth checks	This licence type gives the licence-holder access to controlled substances.
Class 8 Licence for exporting from the Isle of Man	Enhanced DBS check, or certificate of good standing.	Source of wealth checks	This licence type gives the licence-holder access to controlled substances.
Class 9 Licence for manufacturing cannabis-derived products	Enhanced DBS check, or certificate of good standing.	Source of wealth checks	This licence type gives the licence-holder access to controlled substances.
Class 10 Licence for operating a test laboratory	Enhanced DBS check, or certificate of good standing.	Source of wealth checks	This licence type gives the licence-holder access to controlled substances.
Class 11 Licence for possession of substance	Enhanced DBS check, or certificate of good standing.	Source of wealth checks	This licence type gives the licence-holder access to controlled substances.

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.