

CANNABIS REGULATIONS

as of July 2018

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The purpose of this memo is to outline the new legislative framework that governs the production, distribution, sale and possession of cannabis. Key components of the federal legislation, coming into force on October 17, 2018 will be highlighted, alongside specific regulations that are currently proposed for British Columbia.

1. Regulatory History of Cannabis

Canadians have had access to dried cannabis for medical purposes since 1999 as per the federal government's Medical Marihuana Access Program (the "MMPA"), which governed the possession, purchase and production of medical cannabis. Under the MMPA, individuals could obtain licences which authorized them to possess or to produce medical cannabis for personal use. Health Canada produced medical cannabis under the MMPA and sold it to individuals who were authorized to possess medical cannabis.

In 2012, the Minister of Health announced that the Government of Canada was proposing extensive changes to the MMPA. The Government's stated position was that the MMPA was susceptible to abuse, and that the proposed changes would "reduce the risks to public health, security and safety of Canadians, while significantly improving the way in which individuals access marihuana for medical purposes."¹

In July 2013, the *Marihuana for Medical Purposes Regulations* (the "MMPR") were proclaimed and came into effect.² The MMPR ended the government's role as a producer and supplier of medical cannabis and established a regulated commercial market of licensed producers who were responsible for the production and distribution of medical cannabis. These licensed producers were required to meet much stricter security and quality control requirements than were required under the MMPA. Under the MMPR, licensed producers were not permitted to grow cannabis in a private dwelling or outdoors.

The MMPR did not require individuals to apply to Health Canada for authorization to possess medical marihuana. Instead, individuals may obtain a medical declaration from an authorized healthcare practitioner, which then authorizes them to possess a certain quantity of medical marihuana. Once a person has obtained this declaration, he or she can purchase medical marihuana from a licensed producer, in much the same manner as one would take a prescription to a pharmacy to obtain medication.

Effective March 31, 2014, the MMPR repealed the MMPA's enabling legislation, ending the MMPA. Health Canada's supply of medical marihuana ceased to be available as of that day. According to the provisions of the MMPR, only those individuals authorized to possess or produce medical marihuana under the MMPA would be permitted to possess or produce medical marihuana if they met the requirements of the MMPR. However, in *Allard et al. v. Canada*,³ an injunction was granted on March 21, 2014, grandfathering 28,000

¹ Marihuana for Medical Purposes Regulations: Objectives, (December 15, 2012) C Gaz 1, online: Canada Gazette< <http://gazette.gc.ca/rp-pr/p1/2012/2012-12-15/html/reg4-eng.html>>.

² SOR/2013-119.

³ *Allard et al. v. Her Majesty the Queen in Right of Canada*, 2014 FC 280.

permit holders under the *MMPR* to possess cannabis, pending trial, and this injunction continues to date.

In *R. v. Smith*,⁴ decided on June 11, 2015, the court held that the limitation on cannabis to only its dried form was unreasonable and that patients could possess cannabis in any of its forms immediately. Further submissions were then made in *Allard*⁵ and on February 24, 2016 a final decision was rendered declaring the *MMPR* to be unconstitutional as it unreasonably restricted patient access to cannabis. This led to the creation of the current *Access to Cannabis for Medical Purposes Regulations* (the “**ACMPR**”), which came into force on August 24, 2016, repealing the *MMPR*.

Under the *ACMPR*, Canadians who have been authorized by their health care practitioner to access cannabis for medical purposes will continue to have the option to purchase cannabis from producers licensed by Health Canada. Canadians can also produce a limited amount of cannabis for their own medical purposes.

On April 13, 2017, Bill C-45, *An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts* (the “**Cannabis Act**”) was introduced to Parliament with the plan to legalize cannabis by July 2018. The *Cannabis Act* creates a legal framework for controlling the production, distribution, sale and possession of cannabis across Canada and would allow for national use by individuals aged 18 or older. Each province and territory can also enact its own provincial or territorial cannabis act and regulations governing distribution, subject to some provisions in the federal *Cannabis Act* with respect to promotion and advertising like tobacco and alcohol regulations.⁶

Bill C-45 achieved Royal Assent on June 21, 2018 and cannabis will be legal as of October 17, 2018, subject to provincial or territorial restrictions. The *ACMPR* will become the medical cannabis regulations under the *Cannabis Act*.

2. ***Cannabis Act* Overview**

2.1 Objectives

The *Cannabis Act* aims to achieve the following objectives:⁷

- restrict youth access to cannabis;
- protect young people from promotion or enticements to use cannabis;
- deter and reduce criminal activity by imposing serious criminal penalties for those breaking the law, especially those who import, export, or provide cannabis to youth;
- protect public health through strict product safety and quality requirements;

⁴ *R. v. Smith*, 2015 2 SCR 602 (SCC).

⁵ *Allard et al. v. Her Majesty the Queen in Right of Canada*, 2016 FC 236.

⁶ John W. Conroy, “Cannabis in Canada” (2018) 30 BarTalk 14, online: <<https://www.cbabc.org/Bar-Talk/Features/In-this-Issue/June-2018/Cannabis-in-Canada>> .

⁷ Health Canada, *Proposed Approach to the Regulation of Cannabis*, online: <<https://www.canada.ca/en/health-canada/programs/consultation-proposed-approach-regulation-cannabis/proposed-approach-regulation-cannabis.html>> at 2.

- reduce the burden on the criminal justice system;
- provide for the legal production of cannabis to reduce illegal activities;
- allow adults to possess and access regulated, quality-controlled legal cannabis; and
- enhance public awareness of the health risks associated with cannabis.

2.2 General Prohibitions

Adults who are 18 years of age or older would be legally able to:⁸

- possess up to 30 grams of legal cannabis, dried or equivalent in non-dried form in public
- share up to 30 grams of legal cannabis with other adults
- buy dried or fresh cannabis and cannabis oil from a provincially-licensed retailer
 - in provinces and territories without a regulated retail framework, individuals would be able to purchase cannabis online from federally-licensed producers
- grow, from licensed seed or seedlings, up to 4 cannabis plants per residence for personal use
- make cannabis products, such as food and drinks, at home as long as organic solvents are not used to create concentrated products

Cannabis edible products and concentrates will be legal for sale approximately one year after the *Cannabis Act* has come into force on October 17, 2018.

The 30-gram possession limit in the *Cannabis Act* is based on dried cannabis. One gram of dried cannabis is equal to:

- 5 grams of fresh cannabis
- 15 grams of edible product
- 70 grams of liquid product
- 0.25 grams of concentrates (solid or liquid)
- 1 cannabis plant seed

Individuals would be prohibited from selling cannabis, unless explicitly authorized to do so under the *Cannabis Act* or its regulations. No person may sell or provide cannabis to any person under the age of 18. The *Cannabis Act* creates new criminal offences for:

⁸ Justice Laws Canada, *Cannabis Legalization and Regulation*, online: <<http://www.justice.gc.ca/eng/cj-jp/cannabis/>>.

- giving or selling cannabis to youth
- using a youth to commit a cannabis-related offence

Much like the restrictions on advertising for tobacco products, the *Cannabis Act* aims to discourage youth cannabis use by prohibiting:

- products that are appealing to youth
- packaging or labelling cannabis in a way that makes it appealing to youth
- selling cannabis through self-service displays or vending machines
- promoting cannabis, except in narrow circumstances where young people could not see the promotion.

The Federal government is responsible for setting:

- strict requirements for producers who grow and manufacture cannabis
- industry-wide rules and standards, including:
 - types of cannabis products available for sale
 - packaging and labelling requirements for products
 - standardized serving sizes and potency
 - prohibitions on the use of certain ingredients
 - good production practices
 - tracking requirements of cannabis from seed to sale to keep it out of the illegal market
 - restrictions on promotional activities

Provinces and territories are responsible for developing and enforcing systems to oversee the distribution and sale of cannabis. They would also be able to:

- increase the minimum age in their province or territory (but not lower it)
- lowering the personal possession limit in their jurisdiction
- create additional rules for growing cannabis at home, such as lowering the number of plants per residence
- restricting where adults can consume cannabis, such as in public or in vehicles.

Federal and provincial/territorial governments would share responsibility for the oversight and licensing of the cannabis supply chain. The Federal government would be responsible for licensing, cultivating

and processing cannabis and the provincial/territorial governments would be able to use their legislative authority to authorize the distribution and retail sale of cannabis in their respective jurisdictions, should they choose to do so.⁹

2.3 Transitioning into the *Cannabis Act*

Cannabis is currently subject to the *Controlled Drugs and Substances Act* (the “*CDSA*”) and the Food and Drugs Act (the “*FDA*”). When the *Cannabis Act* enters into force on October 17, 2018, cannabis would be removed from the *CDSA* and would instead be subject to the *Cannabis Act* and its regulations. To ensure a smooth transition from the various acts and regulations that regulated cannabis prior to the *Cannabis Act*, a number of transitional provisions are included. These transitional provisions, for example, include licences issued under previous regulation would remain in effect until they are either expired or revoked. New regulations under the *Cannabis Act* will be enacted, addressing specific requirements for various types of licence holders, or packaging and labelling requirements for different types of cannabis products.

The *Narcotic Control Regulations* under the *CDSA* would be amended to delete relevant references to cannabis and its derivatives. References to the *ACMPR*, *MMPR* and *MMAP* would also be deleted where necessary.

3. **Licenses, Permits and Authorizations**

Health Canada is proposing a system of licences, permits and authorizations with the aim of enabling a competitive legal cannabis market while reducing the risk that organized crime will infiltrate the legal industry. The regulations would establish different types of authorizations, each with rules and requirements specific to their category. The Minister of Health would have the authority to:

- issue licences and permits
 - include any conditions on the licences and permits that the Minister considers appropriate
- amend, renew, suspend or revoke licences or permits when warranted
- refuse to issue a licence or permit as per grounds in the *Cannabis Act*
- set out the application process and requirements

6.1 Authorization Types

Each licensed activity would be subject to specific regulatory requirements tailored to the level of risk associated with the activity involved. Individuals or organizations can be authorized to conduct multiple activities per site. The Minister can issue authorizations for the following activities:¹⁰

3.1.1 Cultivation

3.1.1.1 Standard cultivation

⁹ *Supra* note 7 at 2.

¹⁰ *Supra* note 7 at 10.

- Would authorize the large-scale growing of cannabis plants and harvesting material from those plants, as well as associated activities.

3.1.1.2 Micro-cultivation

- Would authorize the small-scale growing of cannabis plants and harvesting material from those plants, as well as associated activities.

3.1.1.3 Industrial hemp

- Would authorize the growing of industrial hemp plants (those containing 0.3% THC or less) and associated activities.

3.1.1.4 Nursery

- Would authorize the growing of cannabis plants to produce starting material (seed and seedlings) and associated activities.

3.1.2 Processing

3.1.2.1 Standard processing

- Would authorize the large-scale manufacturing, packaging and labelling of cannabis products destined for sale to consumers, and the intra-industry sale of these products, including to provincially/territorially authorized distributors, as well as associated activities.

3.1.2.2 Micro-processing

- Would authorize the small-scale manufacturing, packaging and labelling of cannabis products destined for sale to consumers, and the intra-industry sale of these products, including to provincially/territorially authorized distributors, as well as associated activities.

3.1.3 Sale to the public

3.1.3.1 Medical purposes

- Would authorize the sale of cannabis products to registered clients for medical purposes.

3.1.3.2 Non-medical purposes

- Would authorize the sale of cannabis to adults in provinces/territories that have not yet enacted a framework for distribution and sale.

3.1.4 Analytical testing

- Would authorize the possession of cannabis by independent, third-party laboratories for the purposes of analytical testing of cannabis to verify that it meets regulatory requirements for

safety and quality.

3.1.5 Import/export

- Would authorize the import or export of cannabis for medical or scientific purposes, or in respect of industrial hemp.

3.1.6 Research

- Would authorize activities with cannabis for the purposes of research and/or development by persons who are not otherwise permitted to conduct such activities under another licence or permit under the *Cannabis Act*.

6.2 License Requirements

For each class of licence, it is proposed that the regulations would set requirements related to:¹¹

3.2.1 Notice to local authorities

- Notice required to be provided to local government, fire and policing authorities for all licences except industrial hemp, analytical testing, or for sale licences where cannabis is not stored on-site.

3.2.2 Validity period

- All licences issued under the *Cannabis Act* would be valid for five years maximum.

3.2.3 Location

- Licensed activity in a dwelling-house is prohibited. Both indoor and outdoor cultivation are permitted. For indoor areas where cannabis is present, reasonable measures must be taken to prevent the escape of odours and pollen. These restrictions would apply to all licences, except industrial hemp, analytical testing, and sale licences.
- Under all licence classes, cannabis (excluding cannabis plants and industrial hemp) would need to be stored and processed indoors.

3.2.4 Physical security

- Physical security requirements would be primarily designed to mitigate the risk of cannabis being stolen from a licenced site and brought to an illegal market. Licences that authorize large quantities of cannabis products being present would face higher physical security requirements than compared to other licence classes.
- For standard cultivation and standard processing licences, as well as federal sale licences where cannabis is stored on-site, the following requirements will be met:

11 *Supra* note 7 at 20.

- Perimeter must be secured in a manner that prevents unauthorized access.
- Entire perimeter must be visually monitored at all times by a visual recording device. The recordings must be kept for one year.
- There must be an intrusion detection system that operates at all times.
- Access to areas where cannabis is present must be restricted to persons whose presence in those areas is required by their work responsibilities.
- For areas where cannabis is stored (but not where cannabis plants are cultivated or cannabis products are manufactured), the identity of every person entering or exiting these areas must be recorded.
- For micro-cultivation, nursery licences, micro-processing licences, industrial hemp licences, federal sale licences and analytical testing licences there are specific physical security requirements that are not as comprehensive.

3.2.5 Personnel security

For standard cultivation, micro-cultivation, nursery, standard processing, micro-processing, federal sale, and some research authorizations, the following personnel security requirements will be met:¹²

- Creation and maintenance of an organizational security plan, including designating the following “key positions”:
 1. Individual responsible for the licensed activities conducted by the organization;
 2. Chief of security;
 3. For processing licences, a quality assurance person;
 4. For cultivation licences, a master grower; and
 5. For licences to sell to the public, the head of client services.
- Any individual occupying a key position would be required to hold a valid security clearance issued by the Minister of Health.
- “Responsible person in charge” or “alternate person in charge” requirements under *ACMPR* would be removed.

3.2.6 Good production practices

The *Cannabis Act* establishes the following requirements, based on those found in the *ACMPR*.¹³

12 *Supra* note 7 at 24.

13 *Supra* note 7 at 26.

- Specific requirements must be met with respect to:
 1. Microbial and chemical contaminants (such as heavy metals);
 2. Maximum allowed limits of THC in cannabis oil (30 milligrams per millilitre);
 3. The presence of solvents used during the preparation of cannabis products, or present in the final product;
 4. The disintegration of capsules or other dosage forms; and
 5. The presence of unauthorized pesticides.
- Conduct mandatory analytical testing to verify that requirements are met prior to packaging and labelling.
- Establish and maintain an appropriate sanitation program for indoor cultivation and processing.
- Maintain equipment, whether used in outdoor or indoor cultivation or processing, to prevent contamination of cannabis.
- Establish a system to recall every lot or batch that has been made available for sale, and for processors, maintain a sample of product from every lot or batch made available for sale for 1 year following the date of availability for sale.
- Establish and maintain standard operating procedures to demonstrate that required good production practices applicable to the licence are properly implemented.
- For processing licences, employ a quality assurance person, with appropriate training, experience, and technical knowledge to approve the quality of cannabis products prior to making them available for sale.

3.2.7 Record keeping and reporting

The following records will be required to be maintained:¹⁴

- Records required to demonstrate compliance with required good production practices:
 1. Documents demonstrating that each batch or lot of product sold was produced, packaged and labeled in accordance with the requirements of the *Cannabis Act*;
 2. Copies of standard operating procedures and the sanitation program;
 3. The results of any required analytical testing and the methods used in the testing;
 4. Qualifications of the quality assurance person; or

14 *Supra* note 7 at 28.

5. Copies of complaints received, investigations undertaken and any resulting corrective action;
- Information respecting research and development undertaken by the licensed person, including information such as the purpose and description of the research and development activity, the type and amount of cannabis used, and the product or compound made as a result of the activity;
- Information respecting the system or control established to enable the recall of cannabis, as well as information about recalls;
- Information respecting adverse reactions to any cannabis product that the licensed person becomes aware of, the maintenance of an annual summary report, as well as the reporting of serious adverse reactions to Health Canada within 15 days;
- Records related to physical and personnel security, including, for example, records of employees accessing areas where cannabis is present;
- Notices and communications sent to local authorities;
- Copies of import and export declarations and permits; and
- Information respecting promotional activities.

For licences for sales for medical purposes, requirements would be consistent with the *ACMPR*, including providing details on:

- Medical client registration information;
- Filling of orders and refusal to fill orders;
- Medical documents provided by clients; and
- Communications with provincial or territorial health care licensing authorities.

Licences for sale of cannabis for non-medical purposes would be required to keep records of:

- Copies of standard operating procedures related to age verification and records demonstrating that the age of each purchaser has been verified as meeting the minimum age requirement in the province or territory to which the cannabis was shipped; and
- Copies of standard operating procedures related to geo-fencing and records demonstrating compliance with a restriction to fill orders and make shipments to consumers in those provinces and territories.

6.3 Permit and Authorization Requirements

3.3.1 Import and Export Permits

The Minister of Health will have the authority to issue import and export permits for medical or scientific purposes, or in respect of industrial hemp. The regulations would set out similar requirements to those

currently found in the *ACMPR* and the *Narcotic Control Regulations*. Licensed persons will be permitted to send or receive cannabis internationally. Permits would be valid for six months maximum.

3.3.2 Research Authorizations

Anyone in Canada is eligible to apply to conduct research. Security requirements will vary dependent upon the type of research being performed. Holders of research authorizations would be required to follow any specific reporting requirements ordered by the Minister of Health. Once research activities are complete, authorization holders will typically be required to destroy all cannabis used.

4. Security Clearance

Under the *Cannabis Act*, select personnel would be required to hold a valid security clearance. The Minister of Health would be able to refuse to grant clearance to individuals with ties to organized crime, drug trafficking, corruption or violent offences. This approach is consistent with the one currently in place under the *ACMPR*.

The Minister would have the authority to specify the validity period for each granted security clearance. If a security clearance is initially granted for less than five years, the Minister would have the ability to extend the validity period to five years total.¹⁵

Under the *ACMPR*, when employees left their respective organization to work for another licensee, their security licences would be cancelled. Under the *Cannabis Act*, individuals would be able to maintain a valid security clearance when transferring employment between licensees, reducing the administrative burden on the system.

Regulations will limit those individuals who are eligible to apply for a security clearance to only those individuals who are required to hold a security clearance:¹⁶

- Individuals occupying a “key position” in the organization.
- Directors and officers; any shareholders that own more than 25% of the organization (if it is privately held) or more than 25% of a privately held parent company; and individuals in a position to legally bind the licence applicant or holder.
- Individuals identified by the Minister as requiring a security clearance based on the nature of their position and the level of risk associated with same.

5. Cannabis Tracking System

The *Cannabis Act* authorizes the Minister of Health to establish a national Cannabis Tracking System (the “CTS”), to ensure cannabis is not diverted in and out of the legal market. Anyone authorized to conduct activities with cannabis would be required to report to the CTS. Reporting of any personal information about consumers who purchase cannabis at the retail level will not be allowed.

15 *Supra* note 7 at 37.

16 *Supra* note 7 at 39.

Reporting would be required for all transactions involving cannabis, including details on:¹⁷

- Cannabis sown, propagated and harvested;
- Cannabis obtained, returned, ordered, delivered, sent, and sold;
- Cannabis destroyed;
- Cannabis used at each stage of production (such as when it is transformed from one product class to form into another, or when it is chemically synthesized);
- Cannabis used in research and development; and
- Loss and theft.

For industrial hemp, licence holders only need to report transactions involving the transfer of leaves, flowers and branches to another licence holder (and they would not need to report the destruction of this material in the CTS should they choose not to sell it).

The CTS expands on the current reporting process under the *ACMPR*. Under the *Cannabis Act*, information would need to be reported monthly, while losses and thefts are required to be reported within 10 days of detection. The Minister would be able to disclose information to other government authorities under certain circumstances, including for the purpose of enforcing provincial or territorial laws authorizing retail sale or wholesale distribution of cannabis.

The reporting process would be through an online portal. The data would then be captured into a case management system, where Health Canada could verify and analyze the data received.

6. Cannabis Products

The *Cannabis Act* and its regulations permit the sale of certain classes of cannabis that would be quality-controlled and aim to displace the illegal market. The Minister of Health would be authorized to develop regulations to add additional classes of cannabis.

Regulatory requirements will be implemented respecting the maximum THC content per unit based on how the product is represented to be consumed.

6.1 Classes of Cannabis Permitted to be Sold Immediately

The following five classes of cannabis would be permitted to be sold immediately upon the *Cannabis Act* coming into force:¹⁸

6.1.1 Dried cannabis

Dried cannabis will be defined in the *Cannabis Act* as “any part of a cannabis plant that has been subjected to a drying process, other than seeds.” This definition is consistent with the *ACMPR*.

17 *Supra* note 7 at 41.

18 *Supra* note 7 at 44.

6.1.2 Cannabis oil

Cannabis oil would be defined as an oil-based solution that contains cannabis, and that is in liquid form at room temperature (22 +/- 2 degrees Celsius), and does not contain more than 30 milligrams of THC per millilitre of oil.

6.1.3 Cannabis plant seeds

Cannabis seeds are defined as a viable seed from a cannabis plant.

6.1.4 Cannabis plants

Cannabis plants will be defined as “a plant belonging to the genus cannabis.”

6.1.5 Fresh cannabis

Fresh cannabis would be defined as freshly harvested parts of the cannabis plant that have not been subjected to a drying process, excluding seeds or other plant material that can be used to propagate cannabis. Fresh cannabis must have a total water content of 50% or more, by weight.

6.2 Classes of Cannabis that will be Permitted to be Sold

The following two classes of cannabis would be permitted to be sold one year after the *Cannabis Act* comes into force:¹⁹

6.2.1 Edibles containing cannabis

Edibles include foods or beverages that contain cannabis.

6.2.2 Cannabis concentrates

Cannabis concentrates include products such as hashish, wax, shatter and vaping solutions.

7. **Packaging and Labelling**

The *Cannabis Act* sets out requirements regarding the packaging and labelling of cannabis products. Health Canada is proposing strict limits on colours, graphics, and other packaging characteristics that could potentially make the products appealing to youth. Cannabis products would be required to be labelled with mandatory health warnings, similar to tobacco products, and marked with a standardized cannabis symbol.

All cannabis products would need to be packaged consistent with the requirements in the *ACMPR*. The maximum amount of cannabis in a single package would be 30 grams of dried cannabis or the equivalent amount for other classes, consistent with the amount that adults would be able to possess in public places.

8. **Cannabis for Medical Purposes**

The regulatory framework for medical cannabis would remain substantively the same as it is under the

19 *Supra* note 7 at 44.

ACMPR. A distinct framework for access to cannabis for medical purposes will be maintained under the *Cannabis Act*. Individuals with a medical need would continue to be able to access cannabis for medical purposes in the following ways:²⁰

1. by registering with a federally-licensed seller of cannabis for medical purposes to purchase quality-controlled cannabis and to have it delivered by means of secure shipping;
2. by registering with the Minister of Health to produce a limited amount for their own medical purposes; or
3. by registering with the Minister and designating someone to produce it on their own behalf.

The possession limit for medical purposes would be the lesser of either a 30-day supply or 150 grams of dried cannabis or equivalent. There would continue to be no age restrictions, however individuals under 18 could not register to produce cannabis themselves. Any limits for the storage of cannabis would be removed, as personal and designated producers would be allowed to securely store as much cannabis as they would like.

The Minister would continue to be able to share certain information with law enforcement and professional licensing authorities, including sharing information with provincial and territorial health care licensing authorities regarding practitioners who provided a medical document in support of a registration.

9. Health Products and Cosmetics with Cannabis

Market access would be maintained for previously approved health products with cannabis, including prescription drugs. Under the *Cannabis Act*, the use of cannabis in cosmetics would be allowed subject to the provisions of the *Act*.

Currently approved prescription health products with cannabis would maintain their prescription-only access.²¹ New drugs with cannabis would also be available by prescription only.

Health products containing cannabis, with lower levels of THC and CHB than found in currently approved prescription health products, would be made available as a non-prescription product if they are found to be safe and effective for use without the oversight of a healthcare practitioner. This is a new pathway to market under the *Cannabis Act*.

All health products with cannabis will be required to comply with the *FDA* and its regulations. Health product manufacturers will also have to comply with licensing requirements under the *Cannabis Act*, including security, good production practices and record keeping. Promotion, packaging and labelling requirements would also apply.

10. British Columbia's Proposed Regulatory Framework for Cannabis

The cannabis regulatory framework in BC will be governed by the proposed *Cannabis Distribution Act* (the “**CDA**”) and the Cannabis Control and Licensing Act (the “**CCLA**”). Cannabis licensing for businesses

20 *Supra* note 7 at 51.

21 *Supra* note 7 at 60.

will fall under the scope of BC's Liquor Control and Management Branch. Local governments, including First Nations, will play a significant role, with control over business licensing, zoning, public consumption, and distance requirements and will be empowered to cap the number of cannabis stores or even prevent cannabis sales within their jurisdiction.²² The *CDA* establishes a public wholesale distribution monopoly.²³

The *CCLA* will enable a private retail licensing scheme similar to the liquor system in BC. Licences will not be issued unless the local government for the area gives a recommendation to do so. Board or council have the authority to block any licensing applications. The provincial government does not have to grant a license to every recommended applicant.

Provinces will be able to control where and how cannabis may be grown and consumed, personal cultivation and smoking restrictions.²⁴ The *CCLA* prohibits the use of cannabis on school properties and in vehicles. Adults in BC will be authorized to grow up to 4 cannabis plants per household.

11. Cannabis and the Border

Although cannabis will become legal in Canada on October 17, 2018, it is currently illegal in the United States and many other countries. This prohibition applies if you are travelling to or from an area where cannabis has been legalized or decriminalized, such as crossing the border from British Columbia into Washington State. Cannabis is still illegal federally in the United States and border crossings are subject to federal law and administration.

Canadians involved in the legal cannabis industry in Canada can be denied access into other countries. The United States has recently been banning investors in the Canadian cannabis industry from the US for life if they do business with US companies or they invest in US cannabis companies. Border agents do not appear to be concerned with Canadians involved in the cannabis industry within Canada, as long as their businesses or investments do not extend into the US. Legal cannabis users are also being banned from the US for admitting that they used cannabis at any point in their lives.

Travelling within Canadian borders can also pose challenges for individuals using cannabis. Provinces can create their own rules regarding the maximum possession limit, the locations where cannabis can be consumed and the legal age for consumption of cannabis. It is important that travelers familiarize themselves with the laws in place in the jurisdiction that they are in and the jurisdictions in which they intend to travel to.

22 Brian K. Beitz, "BC's Regulatory Framework for Cannabis" (2018) 30 BarTalk 14, online: <<https://www.cbabc.org/BarTalk/Features/In-this-Issue/June-2018/BC's-Regulatory-Framework-for-Cannabis#ft1>>.

23 BC Laws, *B.C.'s Approach to Cannabis Legalization*, online: <<https://www2.gov.bc.ca/gov/content/safety/public-safety/cannabis>>.

24 Health Canada, *Introduction of the Cannabis Act: Questions and answers*, online: <<https://www.canada.ca/en/health-canada/programs/consultation-proposed-approach-regulation-cannabis/proposed-approach-regulation-cannabis.html>>.