

LIDSTONE & COMPANY
BARRISTERS AND SOLICITORS

MEMORANDUM

TO: Clients
FROM: Ian Moore
DATE: November 22, 2017
RE: Cannabis Legalization Update

I. INTRODUCTION

Health Canada recently released “Consultation Paper: Proposed Approach to the Regulation of Cannabis.” This bulletin summarizes the portions of the Consultation Paper that are most relevant to local governments.¹

The purpose of the Consultation Paper is to solicit feedback on the initial set of regulatory proposals Health Canada is considering under the proposed *Cannabis Act*. In order to meet the government’s commitment of bringing the proposed *Cannabis Act* into force no later than July 2018, the Consultation Paper will be the only consultation conducted prior to final regulations being published in the *Canada Gazette*, Part II. In other words, draft regulations will not be pre-published; however, Health Canada intends to publish a summary of comments received and a detailed outline of changes made to the regulatory proposal as a result of consultation.

II. SCOPE OF THE CONSULTATION PAPER

The proposed regulatory framework draws on the current regulatory framework under the *Controlled Drugs and Substances Act* (“CDSA”) as it relates to cannabis.

Regulations governing the production of food-based cannabis products (e.g. edibles), concentrates, and resins (e.g. hash) will be subject to separate consultations at a later date—these regulations are scheduled to come into force one year after the *Cannabis Act* comes into force. The Consultation Paper also does not cover regulations made on the recommendation of the Minister of Public Safety and Emergency Preparedness (pertaining to law

¹ See <https://www.canada.ca/en/health-canada/programs/consultation-proposed-approach-regulation-cannabis/proposed-approach-regulation-cannabis.html>

enforcement) or on the recommendation of the Attorney General of Canada (pertaining to tickets).

The paper is divided into eight sections, one of which is of particular relevance to local governments (bolded below):²

- **Licences, Permits and Authorizations**
- Security Clearances
- Cannabis Tracking System
- Cannabis Products
- Packaging and Labelling
- Cannabis for Medical Purposes
- Health Products and Cosmetics Containing Cannabis
- Miscellaneous Issues

III. PROVISIONS RELEVANT TO LOCAL GOVERNMENTS: Licences, Permits and Authorizations

Health Canada's proposed system of licences, permits, and authorizations may have implications for local government regulatory regimes, including zoning and business regulation. The following types of authorizations are proposed:

- Cultivation: standard cultivation, micro-cultivation, industrial hemp, and nurseries
- Processing: standard processing and micro-processing
- Sale (federal level): sale for medical purposes and sale for non-medical purposes to adults in provinces and territories that have not yet enacted a retail framework
- Analytical testing
- Import/export
- Research

Local governments may wish to provide feedback on the following matters:

- the proposed distinctions between standard cultivation and micro-cultivation,³ and standard processing and micro-processing;⁴
- the proposed approach to the sale of cannabis for non-medical purposes in the absence of a provincial/territorial scheme;⁵

² Note: Questions 1-3 of the consultation questions found in Annex 1 (page 68) are the most relevant to local governments.

³ See 2.2.1 (page 12), 2.2.2 (page 12), and pages 30-31.

⁴ See 2.2.5 (page 15), 2.2.6 (page 15) and pages 30-31.

⁵ See 2.2.8 (page 16)

- the supplemental activities proposed to be allowed within each licence class;⁶
- the proposed requirement that local governments receive notice of all licence classes other than industrial hemp, analytical testing, and for sale licences where cannabis is not stored on-site;⁷
- the prohibition of any licensed activity in a dwelling-house and other location-related regulations (e.g. regulations regarding preventing the escape of odours and pollen);⁸ and
- the requirement for licenced persons to maintain records of notices and communications sent to local authorities.⁹

IV. PROVIDING FEEDBACK

Feedback can be provided via an online questionnaire, by written submission sent to cannabis@canada.ca, or by written submission in hard-copy format.¹⁰ The deadline for feedback is January 20, 2018.

⁶ See bottom of page 19

⁷ See 2.3.1 (page 20)

⁸ See 2.3.3 (page 20)

⁹ See page 28

¹⁰ More details, including the link to the questionnaire and the address for hard-copy feedback can be found at: https://www.canada.ca/en/health-canada/programs/consultation-proposed-approach-regulation-cannabis.html?_ga=2.181702951.1638133587.1511297115-738319140.1498752035