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BARRISTERS AND SOLICITORS

MEMORANDUM

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

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**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.<sup>1</sup>

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

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<sup>1</sup> 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):<sup>2</sup>

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

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

<sup>3</sup> See 2.2.1 (page 12), 2.2.2 (page 12), and pages 30-31.

<sup>4</sup> See 2.2.5 (page 15), 2.2.6 (page 15) and pages 30-31.

<sup>5</sup> See 2.2.8 (page 16)

- the supplemental activities proposed to be allowed within each licence class;<sup>6</sup>
- 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;<sup>7</sup>
- 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);<sup>8</sup> and
- the requirement for licenced persons to maintain records of notices and communications sent to local authorities.<sup>9</sup>

#### IV. PROVIDING FEEDBACK

Feedback can be provided via an online questionnaire, by written submission sent to [cannabis@canada.ca](mailto:cannabis@canada.ca), or by written submission in hard-copy format.<sup>10</sup> The deadline for feedback is January 20, 2018.

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<sup>6</sup> See bottom of page 19

<sup>7</sup> See 2.3.1 (page 20)

<sup>8</sup> See 2.3.3 (page 20)

<sup>9</sup> See page 28

<sup>10</sup> 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](https://www.canada.ca/en/health-canada/programs/consultation-proposed-approach-regulation-cannabis.html?_ga=2.181702951.1638133587.1511297115-738319140.1498752035)