

Goodmans^{LLP} Update

Cannabis Legislation Coming Into Force October 2018 – Practical and Operational Considerations

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**”) received Royal Assent on June 21, 2018 and is scheduled to come into force on October 17, 2018. In this interim period, while the provincial and territorial governments, among others, work to introduce and pass their respective legislation and regulations, existing and prospective industry participants must work to understand precisely how the *Cannabis Act* will be implemented when it comes into force in October.

Forthcoming Regulations

While the *Cannabis Act* legalizes recreational cannabis and sets up a broad mechanism for controlling and standardizing how cannabis is to be grown, distributed and sold, it does not provide a detailed regulatory scheme outlining the precise parameters within which cannabis business operators will legally access the market and conduct their operations.

Detailed regulations which will set out these parameters will be published as imminently as [this week](#) in the form of *Regulations* made under the *Cannabis Act* (the “**Cannabis Act Regulations**”). As indicated in November 2017, when Health Canada published the “Proposed Approach to the Regulation of Cannabis” (the “**Proposed Approach**”) to solicit comments and feedback, the *Cannabis Act Regulations* will not be published for further public comment. See our January 2018 Article, [Developments in Cannabis: “Bye Bye Cole”, CSA Reconsiders, New Federal Regulatory Paper, Provincial Updates, and What to Watch for in 2018](#). Based on the Proposed Approach and subsequent updates, it is expected that the *Cannabis Act Regulations* will govern, among others, the following key areas:

- Licenses, permits and authorizations allowing individuals and companies to grow and sell cannabis;
- Security clearances for certain parties connected to licensed cannabis operators;
- A national cannabis tracking system;
- Packaging and labelling; and
- Health products and cosmetics with cannabis.

Key Practical and Operational Considerations

The passage of the *Cannabis Act Regulations* will require all individuals and companies operating or proposing to enter into the industry to review multi-faceted aspects of their business operations to ensure compliance with the new regulatory scheme and ensure rapid market entry. This review ought to encompass, at minimum, the following:

- Is your business ready to obtain a new license under the *Cannabis Act* and comply with the detailed requirements which will be particularized in the *Cannabis Act Regulations*? What kind of license is best suited for your proposed business given the introduction of new license types such as micro-sale, research, testing, and import and export?
- How will your business compete with micro-scale growers, and is this an area that your business should consider?
- Is your business ready to comply with security clearance requirements?
- Does your business comply with packaging and labelling requirements?
- Does your business have a robust marketing and branding plan, given the restrictions that will be imposed on the industry?
- What is the intellectual property strategy for your business? Is your business properly protecting its inventions and ready to adapt to new processes, methods and other innovations that are sure to come?
- Is your business ready to comply with Health Canada’s national seed-to-sale tracking system for cannabis?

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Intimate knowledge of the *Cannabis Act Regulations* is essential to ensure that your business can rapidly obtain the necessary license approval and, when obtained, operate within the regulatory scheme to avoid jeopardizing the license.

Other Key Considerations

With the passage of the *Cannabis Act*, there will be legal risks (and opportunities) that arise upon implementation in October 2018. Business operators should consider all aspects of their operations to take advantage of these opportunities and to minimize any risks. This can be accomplished by undertaking regulatory review of operations, considering all aspects of intellectual property (including trade secrets, maintenance of proprietary information and patentability of newly developed strains of cannabis) and ensuring that marketing and distribution activities fully comply with the *Cannabis Act* and the *Cannabis Act Regulations*.

Over the coming months, Goodmans Cannabis Group will provide updates highlighting key provisions in the *Cannabis Act* and the *Cannabis Act Regulations*.

Goodmans Cannabis Group

Goodmans LLP has a leading cannabis practice in the corporate/commercial field, having been actively involved in the industry from the beginning. Our corporate cannabis lawyers have extensive knowledge of the various players in the industry and have provided strategic business advice on governance, financing, licensing, regulation, capital markets, mergers and acquisitions and real estate matters. Our clients include start-ups, importers and exporters, and financial institutions related to the cannabis industry.

In addition, Goodmans is uniquely positioned with its extensive regulatory, health and intellectual property practices to advise new and existing market entrants. In particular, given our extensive work with respect to “traditional” pharmaceuticals regulated under the *Food and Drugs Act* and its associated *Regulations* (legislation used, in part, as the model for the upcoming *Cannabis Act Regulations*), we uniquely understand the industry, are equipped to address regulatory concerns that may arise, and know how to best protect and enforce our clients’ intellectual property. This includes matters such as licensing and regulation in the industry’s preliminary stages and future issues that may arise with regulators and competitors, including with respect to labelling and packaging, patent and trademark applications and prosecutions and the protection of trade secrets and confidential information.

For more information on any of the above information, please contact any member of our [Cannabis Group](#).

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