

Yukon's Cannabis Control and Regulation Act

A Draft Legislative Summary for Engagement



Introduction

On April 13, 2017, the Government of Canada introduced Bill C-45, the Cannabis Act, **“an Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts”**. The proposed Cannabis Act would create a national framework to provide Canadians with access to cannabis, and to control production, import, distribution, sale, export and possession. The proposed Act would also allow provinces and territories to establish the regime for the distribution and retail of cannabis in their respective jurisdictions.

When the Government of Canada introduced Bill C-45, it also stated its intention to bring the Act into force in July 2018. The federal act contains provisions that would allow people in a jurisdiction without its own cannabis legislation to purchase cannabis from a federal e-commerce site.

In response to federal legislation planned for July 2018, the Government of Yukon is now developing a new act to regulate cannabis here in the territory – the Cannabis Control and Regulation Act.

Should the proposed federal Cannabis Act be passed by Parliament and receive Royal Assent, cannabis would be removed from the *Controlled Drugs and Substances Act*, and would instead be subject to the Cannabis Act and its regulations. The Cannabis Act also amends other federal acts which will apply as amended.

The Yukon government is taking a proactive approach to the implementation of legalized cannabis while considering the values and priorities of Yukoners and Yukon communities.

Our new Act will provide for legal, controlled access to cannabis in order to displace illegal and criminal activity.

It will prioritize public health, safety and harm reduction, with a focus on protecting youth from negative health effects, and it will ensure that concerns about public health, safety and enforcement are addressed.

This document provides a summary of the proposed legislation for cannabis legalization in Yukon that aligns with the framework introduced by the Government of Canada.

Disclaimer: The contents of this summary reflect proposed legislative provisions. No final decisions have been made and the content may change during the public engagement process.

Overview of Engagement

The purpose of this engagement is to solicit feedback on the Yukon government's proposed Cannabis Control and Regulation Act. The Act will be used to govern the possession, consumption, distribution, retail and personal cultivation of cannabis within Yukon. The Act will be supported by regulations that will be developed over the coming months.

The Government of Yukon is undertaking discussions with First Nation governments and municipalities, and will also be holding public meetings where officials will be available to present information and answer questions.

The Government of Yukon welcomes comments from all Yukoners on this proposed approach. Please send any comments or feedback to cannabis@gov.yk.ca by February 12, 2018.

Part 1: Introductory

The purpose of the Cannabis Control and Regulation Act, which supports our guiding principles, is:

- To permit legal access to reasonable amounts of cannabis, while not promoting its consumption.
- To ensure that cannabis being legally accessed was lawfully produced.
- To protect public health and safety by regulating the importation, sale, distribution, possession, purchase, cultivation and personal consumption of cannabis.
- To protect young persons (under the age of 19) and restrict their access to cannabis.
- To ensure that cannabis is legally distributed through a corporation designated for that purpose and legally sold in accordance with the regulations set out in the Act.

The introductory section of the Act will define a number of key terms that are used throughout the Act. These definitions are essential to understanding how cannabis may be distributed, sold, consumed and cultivated.

For instance, “consumption” of cannabis will be defined to include:

- Smoking or inhaling cannabis vapour.
- Eating, drinking or ingesting cannabis in any way.
- Applying a cannabis-infused lotion/topical to a person’s body.

Another key term that is defined is “dwelling house.” A dwelling house will be defined as a building or part of a building, structure or other unit that is kept or occupied as a permanent or temporary residence and the land that is attached to the residence. This may include a privately owned home and may also include:

- A structure or unit that is designed to be temporary but is used as a residence.
- A private guest room in a hotel, motel or bed and breakfast that is designated as a place in which consumption is permitted.

The definition would also include a description of the other places where consumption would be not allowed:

- A common area in a hotel, motel or bed and breakfast.
- A common area in a building that contains multiple units.
- A condominium that has bylaws that prohibit consumption.
- A rental unit in which a landlord may legally prohibit some forms of consumption.

Part 2: Distribution

What is distribution? Distribution refers to the importing, warehousing, transporting and selling of cannabis to retailers in Yukon for commercial purposes.

This part of the Act defines who will be responsible for distribution of cannabis within the Yukon as well as their responsibilities.

Specifically, the Act would allow the Government of Yukon to designate either a new or existing public corporation to undertake the role of the Distributor Corporation.

As of July 2018, the Government of Yukon is proposing that the Yukon Liquor Corporation carry out the functions of the Distributor Corporation. The Act would allow for that designation to change in the future to a new or existing corporation.

The proposed roles of the Distributor Corporation would include:

- The purchase and import of cannabis for commercial retail sale.
- The distribution of cannabis to both public and private retail outlets.
- The operation of public retail stores. It is currently expected that only one store will be operated by the Distributor Corporation. It will be in Whitehorse.
- Providing e-commerce sale and delivery of cannabis.
- The operation of a warehouse.
- The distribution of cannabis to licensed private retailers in accordance with the Regulations and decisions of the Licensing Board.
- Setting the price of cannabis, as well as the varieties and brands of cannabis to be sold.
- The authority to receive and review licence applications from those seeking to become private retailers.

The financial accounts of the Distributor Corporation will be subject to audits to be completed by the Auditor General of Canada. These audits would consider whether the financial accounts are being managed in accordance with accounting policies and are consistent from year to year; whether the financial statement is representative; and whether the transactions that have taken place are within the powers of the Distributor Corporation assigned under the Act. The Act will also allow the Auditor General to call attention to any other matter within its scope.

The Distributor Corporation would be required to provide an annual report to the responsible Minister, which would include the following information: the amount of business carried out over the course of a year; a statement that sets out its assets and liabilities, including profits and losses; measures taken by the Distributor Corporation during the fiscal year to ensure cannabis is not being diverted to the illicit market; measures taken to facilitate responsible consumption and to enhance public awareness of the health risks associated with cannabis use; and remarks on the implementation of Yukon's cannabis law.

This annual report would be tabled each year in the Legislative Assembly for review.

Part 3: Retail Licensing Board

What is retail? Retail is the sale of goods to the public in relatively small quantities for use or consumption rather than for resale.

The proposed model would require private retailers to obtain a license issued by the Cannabis Licensing Board. This section of the Act defines the composition and roles of the Cannabis Licensing Board.

Initially, there will be one government retail store and an e-commerce site, with licensing of private business to follow.

The Cannabis Licensing Board would be responsible for licensing private retail stores and would consist of five members who will be appointed by the Government of Yukon for three year terms. One of the members will be appointed as Chair and one member as Vice-Chair.

The Cannabis Licensing Board is independent in its role as a licensing body. It is possible for the Government of Yukon to name one or more members of the board appointed under Yukon's *Liquor Act* as the members of the Cannabis Licensing Board, although it is not a requirement.

The Cannabis Licensing Board may make rules with respect to its operations and proceedings, but the Board will be bound by the Act and supporting regulations. The Cannabis Licensing Board members will be remunerated for their work.

No board member may be directly or indirectly involved in a business that sells cannabis or a property from which cannabis is sold to ensure there is no conflict.

The Cannabis Licensing Board would have the following powers:

- The Board would have the authority to issue, refuse or cancel a licence.
- The Board may suspend a licence and issue warnings in circumstances where a licensee is thought to be operating in contravention to the Act.
- The Board may hold hearings for licence applications where there is interest or concern.

Part 4: Retail Licensing

This part of the Act is intended to detail the process and requirements in order to obtain a licence to sell cannabis within Yukon.

A licence issued under this Act expires at the end of its licence period. This period begins the day the licence is issued or renewed, and ends on the March 31 that is not more than three years from the day of issue or renewal.

All licences would be subject to conditions set out in the act and regulations, and any other conditions the Cannabis Licensing Board considers necessary in the circumstances.

The classes, or types, of licences will be set out by regulation.

Any parties interested in becoming a licensed cannabis retailer in Yukon would be required to submit a licence application to the Distributor Corporation.

The Distributor Corporation would then complete a review of the documentation and information provided by the applicant to ensure that it is adequate. The Distributor Corporation may ask the applicant for more information should the application be deemed incomplete.

Once the licence application is deemed to be complete, the Distributor Corporation will issue notifications for a duration of three weeks.

During the three-week period, any parties who may be (or believe they may be) affected by the licence application, or who would like to object to the application, will be invited to submit in writing their reasons for objecting.

Following the three-week notice period, the Distributor Corporation would provide the Cannabis Licensing Board with

the application, a corporate analysis, and any objections received.

The Cannabis Licensing Board will then review the application, the analysis, and any objections received.

The Cannabis Licensing Board would consider the following information when reviewing licence applications:

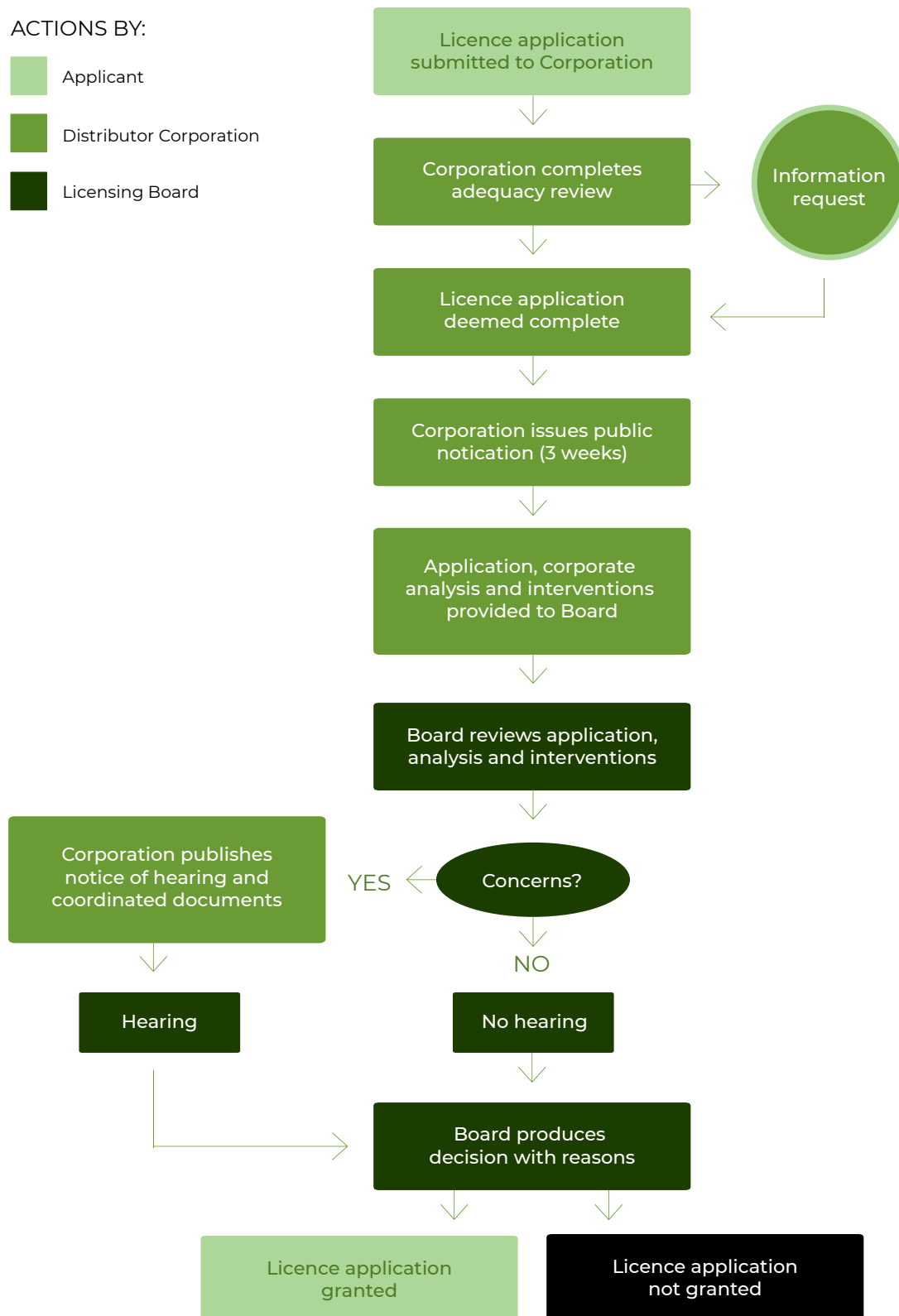
- The number and type of licences already in the area.
- The population of the area, including seasonal variations.
- Any economic benefits it may bring to the area.
- The views of the people in the area.
- Whether the premises are sanitary, secure and otherwise suitable.
- The financial character and legal history of the applicant.
- Any other applicable information.

Should the Cannabis Licensing Board have concerns about the application or have received objections from a third party, it will notify the applicant and any person who objected to the date of the hearing.

Following the hearing (where required), the Cannabis Licensing Board will make a decision with reasons to grant or to not grant the licence.

YUKON'S PROPOSED LICENSING PROCESS FOR THE PRIVATE RETAIL SALE OF CANNABIS

ACTIONS BY:



Part 5: Cannabis Control

This part of the Act provides the rules by which cannabis may be imported, used, grown or possessed within Yukon.

DOMESTIC IMPORTATION OF CANNABIS

Cannabis would only be imported in to Yukon for commercial sale by the Distributor Corporation. In some circumstances, which would be identified through regulation, minimal amounts (e.g. up to 30 grams) may be transported back to Yukon by an individual who purchased the cannabis legally while out of the territory.



SALE OF CANNABIS

The only person that would be permitted to sell cannabis in Yukon would be the Distributor Corporation and retailers who are licensed by the Cannabis Licensing Board.

A licensed retailer would not be allowed to deliver cannabis or sell it outside its licensed premises.

No person would be able to sell cannabis to a person under 19 years of age, or to a person who appears to be intoxicated.

All cannabis sold by the Distributor Corporation must be lawfully acquired and must be produced by a person who is licensed to produce cannabis under the federal Cannabis Act.

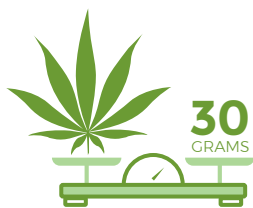
Only cannabis purchased from the Distributor Corporation may be sold by licensed retailers.

Both the Distributor Corporation and licensed retailers are subject to a number of obligations relating to their operations. These include requirements to:

- Keep appropriate records about the cannabis that they possess for commercial purposes.
- Take adequate measures to ensure that the cannabis they possess was not diverted to the illicit market.
- Ensure that individuals who sell cannabis at a retail store have completed coursework in cannabis-server training (details to be defined in the regulations).

Alcohol, or other substances or products set out in the regulations, would not be sold at a cannabis retail store.

Cannabis would not be consumed in a cannabis retail store operating under a general retail licence.



POSSESSION OF CANNABIS

Only persons 19 years of age and older would be allowed to possess cannabis.

The cannabis held by an individual must have been lawfully purchased from a person authorized to sell cannabis in Yukon or grown for personal use as permitted by the Act unless otherwise prescribed.

The limit for personal possession of cannabis in public would be 30 grams of dried cannabis, or an equivalent amount of another legal cannabis product.

A person who is in possession of cannabis must take reasonable measures to ensure that a young person cannot access the cannabis. If there are measures prescribed by regulation, the person must take those measures.

Equivalencies to dried cannabis

The possession limit of 30 grams refers to dried cannabis flowers, commonly known as marijuana. According to Schedule 3 of the federal Bill C-45:

One (1) gram of dried cannabis is equivalent to:

- 5 grams of fresh cannabis
- 70 grams of liquid (e.g. oil) product
- 1 cannabis plant seed

Thirty (30) grams of dried cannabis is equivalent to:

- 150 grams of fresh cannabis
- 2100 grams of liquid (e.g oil) product
- 30 cannabis plant seeds

In July 2018 the federal legislation is expected to legalize dried cannabis, fresh cannabis, and cannabis oils. It is not expected that edible products and concentrates will be legalized at that time.

The federal Cannabis Act allows for the sale and purchase of cannabis seeds and seedlings only. A plant that is flowering may not be legally sold or possessed in a public place.

POSSESSION OF CANNABIS IN A VEHICLE

A person cannot possess cannabis in a vehicle unless it is in a closed container and is inaccessible to all people in the vehicle.



PURCHASE OF CANNABIS

Adults aged 19 and over would be able to purchase cannabis from a person who is authorized to sell cannabis under this Act and the federal Cannabis Act and regulations.

Licensed retailers of cannabis would only purchase that cannabis from the Distributor Corporation.



CULTIVATION OF CANNABIS

Commercial cannabis (i.e., cannabis grown for retail sale) can only be grown by a producer that is licensed under the federal Cannabis Act.

A person who is 19 years of age or older would be able to grow up to four cannabis plants for personal use, as long as the plants are grown from seeds or plant material that were legally obtained. Four plants is the maximum number allowed at any one dwelling house.

An adult who chooses to grow cannabis plants would be required to do so at their dwelling house (residence or adjoining property) out of public sight, or as set out in regulation.



CONSUMPTION OF CANNABIS – GENERAL

A person who is 19 years of age or older would only be able to consume cannabis in a dwelling house (residence) and adjoining property or in another place where it is permitted by regulations. The cannabis being consumed must be legally obtained.

An individual would not be able to consume cannabis by inhaling smoke or vapour in the presence of a person who is providing health services, or other people as detailed by regulations, and who has requested that there be no smoking or vaping in the presence of the health service provider.

An individual would not be able to consume cannabis by inhaling smoke or vapour in an enclosed space that is a daycare, pre-school or other licensed child care home, whether or not children are present.

Cannabis would not be consumed by inhaling smoke or vapour in any group living facility as defined by the *Smoke-Free Places Act*.

NURSING HOMES

Adults who live in nursing homes or other specified health care facilities will be allowed to consume cannabis in designated areas only. Further restrictions may apply by facility.

INTOXICATED PERSON IN PUBLIC SPACE

A person must not be intoxicated by either (or both) cannabis or alcohol in a public place.

TAKING INTOXICATED PERSON INTO CUSTODY

If a peace officer believes a person is intoxicated in a public place, the officer would be able to take the person into custody instead of charging the person. The person would be released from custody as soon as the peace officer (or other person responsible) believes that the person has recovered and is no longer intoxicated, or if another capable person can care for the person on their release.

If a young person (under the age of 19) is taken into custody under this section, the peace officer must inform the young person's parent (or the person who ordinarily has care of the young person) as soon as possible.

Intoxicated

A person is intoxicated when their capabilities are so impaired by a substance or combination of substances (including cannabis and alcohol) that the individual is likely to cause injury to themselves, or to be a danger, nuisance, or disturbance to others.

EXEMPTIONS

This Act does not apply to the sale, distribution, purchase, possession, consumption or cultivation of cannabis for medical purposes as authorized by federal legislation. However certain limits (for example not being permitted to smoke or vape "medical marijuana" in the presence of a health care worker) would apply to cannabis used for medical purposes.

Part 6: Enforcement

OFFENCE

It will be an offence to contravene a provision of this Act, its associated regulations, or a condition of a licence. It would also be an offence to contravene an order of the Cannabis Licensing Board.

If a person is charged with an offence under this Act, prosecution must begin within a year of the alleged date of the offence (one-year limitation period).

In very limited circumstances, evidence that was discovered by personnel who were responding to certain types of emergencies would not be admissible in a prosecution under the Cannabis Control and Regulation Act.



GENERAL PENALTY

The Government of Canada is proposing changes to the Criminal Code that will deal with offences under the federal legislation.

Under the proposed territorial legislation penalties for offences (for breaching the Act) will depend upon the seriousness of the offence.

While the details of the fines are being developed, we anticipate that serious offences (e.g. the large scale sale of cannabis without a licence) will be subject to significant penalties.

Minor offenses, such as public consumption, that are carried out by an adult will be subject to a standard fine. Similarly, licensed conditions contravened by a retail licensee will also be subject to a fine that will be leveled and processed by the Cannabis Licensing Board.

LIABILITY OF OFFICERS, ETC.

If a corporation commits an offence under the Act or regulations, the following people also commit an offence and are liable to the same penalties as the corporation if they authorized, permitted or acquiesced in the offence:

- Each officer or employee of the corporation who was in charge of the premises where and when the offence occurred.
- Each director or officer of the corporation who caused or participated in the offence.
- Any other individual who controls the operations of the corporation.

CERTIFICATE OF ANALYST

An analyst who is certified would be able to issue a certificate that confirms that a product or substance that has been tested is, or is not, cannabis.



SEARCH AND SEIZURE

If a peace officer believes, with reasonable grounds, that there is cannabis in a vehicle that is not authorized under this Act, the officer would be able to search the vehicle and any persons inside the vehicle.

A justice would be able to authorize a peace officer by warrant to enter and search premises if the justice is satisfied (on oath) that it is likely there is cannabis in the premises that is not authorized by this Act.

If a peace officer believes that a contravention of this Act has been, or is about to be committed, the officer would be able to enter the premises (other than a private dwelling) without a warrant in certain limited circumstances.

DISPOSITION OF CANNABIS AFTER SEIZURE FROM LICENSEE

If a peace officer finds cannabis in a place and believes that there is no apparent owner, or that there is no authorization under the Cannabis Control and Regulation Act or the federal Cannabis Act for the cannabis to be in that place, the officer would be able to immediately seize and remove the cannabis from the place.

If a person believes that cannabis which has been seized is their property and that they are authorized to possess it under the Cannabis Control and Regulation Act, they may apply to the Distributor Corporation in writing within 30 days of the seizure for return of the cannabis.

Upon receiving such an application, the Distributor Corporation would be required to hold a hearing without delay. If the Distributor Corporation is satisfied with the person's claim, they would be required to return the cannabis to the person. If the Distributor Corporation is not satisfied that the person's claim is true, the cannabis is forfeited to the Government of Yukon. A person who disputes that decision may appeal it to the Cannabis Licensing Board.

If an application is not made for the return of the cannabis, it is forfeited to the Government of Yukon.

DISPOSITION OF CANNABIS ON CONVICTION

If a person is convicted of an offence under the Yukon Cannabis Control and Regulation Act, any cannabis seized with respect to that offence would be forfeited to the Government of Yukon.

DISPOSITION OF CANNABIS ON ACQUITTAL

If a person is charged with an offence under the Yukon Cannabis Control and Regulation Act and is acquitted, or if the charges are withdrawn, the person would be entitled to the return of cannabis that was seized.

DELIVERY OF FORFEITED CANNABIS

All cannabis forfeited to the Government of Yukon under the Yukon Cannabis Control and Regulation Act is to be delivered to the Distributor Corporation.

REPORT OF SEIZURE

If cannabis is seized by a peace officer, the officer must provide a written report of the seizure to the Distributor Corporation.



Part 7: General

REGULATIONS

The Government of Yukon may make any regulations necessary for the purpose of carrying out the Cannabis Control and Regulation Act.

These include:

- Establishing the price of cannabis to be sold by the corporation or a licensee.
- Setting fees such as licence application or licence issuance fees.
- The classes of licences and the conditions to which they are subject.
- The fitness of applicants for new licences and of licence holders seeking renewal.
- The records that must be kept by the Distributor Corporation and by licensees.
- Establishing what types of identification may be used for proof of age.
- Steps that must be taken by the corporation and licensees to reduce the risks of cannabis being diverted to the illicit market.
- Restrictions on cannabis possession.
- Requirements for internet sales and delivery.
- Circumstances and limits on personal importation.
- Restrictions on what can be sold at a cannabis retail store.
- Restrictions on advertising and display of cannabis for sale.
- Restrictions on the location of cannabis retail stores.
- Defining expressions in the act that are not defined, or further clarifying the meaning of defined terms.

- Exemptions from provisions of the Act.
- Authorizing the board or the president to subject a licence to conditions.
- Requiring that licensed premises and their facilities be approved by the board, the president, or another person or agency.
- Requiring that licensed premises be operated in a manner that meets the approval of the board or president of the Distributor Corporation.
- Creation of substance-specific restrictions on co-location for items such as alcohol and tobacco.

