

Out of the Weeds: What You Need to Know About the Cannabis Act as an Employer

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On June 20, 2018, the Government of Canada passed Bill C-45, the *Cannabis Act*, which will, among other things, legalize the recreational use of cannabis. The *Cannabis Act* will come into force on October 17, 2018. Employers must be aware of the implications that the legalization of recreational cannabis may have on its workplace and be ready to act proactively.

The Cannabis Act: What You Need to Know

The federal *Cannabis Act* will allow individuals over the age of 18 to purchase cannabis and cannabis products from retailers authorized by provincial and territorial authorities. Individuals will also be permitted to possess and share up to 30 grams of dried legal cannabis or its equivalent in public with other adults.

The *Cannabis Act* will also permit each household to grow up to four cannabis plants for personal use; however, it will be illegal for a person to sell any cannabis cultivated personally. Individuals will also be permitted to create products with legal cannabis at home, provided that the use of dangerous organic solvents is not involved.

While the current legal framework regarding medical cannabis is not changed by the *Cannabis Act*, the Government of Canada has indicated that it will be reviewed within the next five years.

The provinces and territories are currently developing laws within their respective jurisdictions in response to the legalization of recreational cannabis. For example, the *Smoke-Free Ontario Act, 2017*, S.O. 2017, c. 26, Sched. 3 came into force on July 1, 2018 and applies to medical but not recreational cannabis. This legislation prohibits the smoking of medical cannabis in any enclosed workplace in Ontario or other designated area over which the employer exercises control, and also requires employers to remove anybody from the workplace who refuses to comply.

Implications for Employers

Although the non-medicinal use of cannabis will remain illegal until October 17, 2018, employers should consider the following practical tips to effectively manage the implications that recreational use of cannabis may have on employee productivity, accommodation under human rights legislation, workplace safety, and job performance.

1. **Employers should update or establish workplace drug and alcohol policies that address cannabis use.** Current workplace policies may classify cannabis as an illegal substance or may not address cannabis use at all. Once these policies are updated or

drafted, employers should ensure that employees are informed about these policies. Despite the legalization of cannabis, employers will still have a duty to maintain a safe workplace, and therefore employers will continue to have the right to prohibit the possession and use of cannabis in the workplace and from attending or performing work while impaired. Employers will also have the right to take disciplinary action against employees impaired by cannabis in the workplace or when they present a risk to the health and safety of other employees.

2. Employers should provide information and training to managers, supervisors, and other staff relating to cannabis.

Specifically, these employees must understand signs of impairment or abuse, and how to promptly address such situations. Employees must be informed about who they should speak with if workplace issues relating to cannabis arise, or when they need guidance or assistance. Employers must be sure to educate employees and management on workplace responsibilities and expectations before the Cannabis Act comes into force.

3. Employers should be aware about the implications of human rights legislation. Employers have a duty under human rights legislation to accommodate employees in respect of specific grounds, including disability. This means employees may be entitled to workplace accommodation with respect to the consumption of medical cannabis or an addiction to cannabis. Employers must understand that such employees have the same rights as employees who take other medication prescribed by a licensed physician or whose addiction impacts their employment.

4. Employers must take the initiative and have an honest dialogue with employees. Although diverse industries and workplaces may face different challenges, employers must be ready to discuss such challenges and accept any changes that need to be made in the workplace by creating a culture of openness. Cannabis in the workplace should not be a taboo topic.

Employers will benefit from staying informed, being proactive in making changes to their workplace policies and practices, and consulting legal counsel when necessary. For more information on the topic discussed in this update, or to ensure that you are prepared for the *Cannabis Act* when it comes into force, please contact [WeirFoulds' Employment Law Group](#).

Do you manage a commercial or residential property? Contact [WeirFoulds' Leasing Group](#) to ensure that you are prepared for the implications that recreational cannabis legalization may have on your lease agreements and rental units.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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