

# CANADA

## I. Introduction

### 1. Identify the geographic scope and limits of your answers to the questions below.

The answers refer to Canada and the applicable provinces and/or territories of Canada.

## II. Legislation

### 2. Please provide links to applicable statutes and regulations.

Within Canada's constitutional division of powers, the federal Cannabis Act and its regulations govern the medical and recreational cannabis industry in Canada generally, but with much of the products' regulation in the hands of provinces and territories, including the distribution and retail sale of cannabis and related products. Among other things, the federal statutory regime regulates (\* denotes matters also subject to additional provincial and territorial rules):

- a. Possession limits\*;
- b. Trafficking;
- c. Advertisements and packaging;
- d. Impaired driving\*;
- e. Medical cannabis;
- f. Seed-to-sale tracking system;
- g. Production;
- h. Age limit\*;
- i. Public health\*;
- j. Education\*;
- k. Taxation\*; and
- l. Home cultivation\*.

Within the federally-regulated and permitted scope, each province and territory has its own regime to further regulate the cannabis industry within its respective borders. For example, with respect to the asterisked activities listed above, various provinces and territories have prescribed their own additional rules for the following:

Retail model, including locations, distribution and wholesale

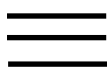
- a. Workplace safety;
- b. Public consumption;
- c. Home cultivation; and
- d. Land use/zoning.

Further, each province and territory has the authority to delegate some regulation responsibility to its municipalities. Some areas of municipal regulation include:

- a. Retail location and rules;
- b. Public consumption; and
- c. Land use/zoning.

The chart below sets out the primary Canadian federal, provincial and territorial statutes and regulations specific to the cannabis industry.

<u>Jurisdiction</u>	<u>Statute(s) and Regulation(s)</u>
Federal	Cannabis Act Cannabis Act (Police Enforcement) Regulations Cannabis Act Regulations Industrial Hemp Regulations Qualifications for Designation as Analyst Regulations (Cannabis)



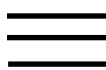
<b>Jurisdiction</b>	<b>Statute(s) and Regulation(s)</b>
British Columbia	Cannabis Control and Licensing Act Cannabis Distribution Act Cannabis Licensing Regulation Cannabis Control Regulation Cannabis Control and Licensing Transitional Regulation
Alberta	Gaming, Liquor and Cannabis Act Gaming, Liquor and Cannabis Act Regulation
Saskatchewan	The Cannabis Control (Saskatchewan) Act The Cannabis Control (Saskatchewan) Regulations
Manitoba	The Safe and Responsible Retailing of Cannabis Act The Cannabis Harm Prevention Act
Ontario	Cannabis License Act, 2018 Regulation 468/18 (Regulation under the Cannabis License Act, 2018) Cannabis Control Act, 2017 Regulation 327/18 (Regulation under the Cannabis Control Act, 2017) Regulation 20/18 (Regulation under the Cannabis Control Act, 2017)
Québec	Cannabis Regulation Act Regulation respecting training on the retail sale of cannabis and information to be communicated to a purchaser in the course of a cannabis sale
New Brunswick	Cannabis Management Corporation Act Cannabis Control Act Cannabis Education and Awareness Fund Act
Prince Edward Island	Cannabis Control Act Cannabis Control Act Cannabis Control Regulations Cannabis Management Corporation Act Cannabis Management Corporation Regulations
Nova Scotia	Cannabis Control Act Newfoundland and Labrador Newfoundland and Labrador Cannabis Regulations Control and Sale of Cannabis Act
Yukon	Cannabis Control and Regulation Act Yukon Liquor Corporation designated as distributor (Regulation under the Cannabis Control and Regulation Act) Cannabis Control and Regulation (Periods for Transfer of Net Revenue by the Distributor Corporation) (Regulation under the Cannabis Control and Regulation Act) Cannabis Control and Regulation General Regulation (Regulation under the Cannabis Control and Regulation Act) Cannabis Licensing Regulation (Regulation under the Cannabis Control and Regulation Act)
Nunavut	Cannabis Act Northwest Territories Cannabis Legalization and Regulation Implementation Act

**A. Is there any pending legislation that could materially alter applicable statutes or regulations?**

No, but see #3 below.

**B. Is there any proposed legislation that could materially alter applicable statutes or regulations?**

No, but see #3 below.



### **3. Are cannabis laws in your jurisdiction pretty well settled or are they constantly changing in material ways?**

The Federal laws and regulations establishing the legal and regulatory framework for the production, distribution, sale and possession of cannabis in Canada have been in place since October 2018, with the regulation of the production and sale of three new classes of cannabis, namely edible cannabis, cannabis extracts and cannabis topicals, implemented in October 2019. While no legislation is currently pending or proposed that would reasonably be expected to materially alter the applicable statutes and regulations, given the relative infancy of the industry and the regulated regime, it can be reasonably expected that the applicable rules and regulations to one or more aspects of the industry will be subject to changes, refinements and/or updates in the future.

## **III. General information (e.g., governing bodies, licenses, import/export)**

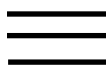
### **4. What governing body regulates/licenses or enforces activities that are allowed in your jurisdiction?**

As noted, the cannabis industry is subject to regulation by different levels of governments depending on the nature of the underlying activity. Below are the main, but is not an exhaustive list of, federal and provincial bodies that have jurisdiction over one or more aspects of the industry and related activities:

<b><u>Jurisdiction</u></b>	<b><u>Governing Body</u></b>
Federal	Government of Canada Minister of Health (Health Canada)
British Columbia	Government of British Columbia Cannabis Legalization and Regulation Secretariat The Liquor and Cannabis Regulation Branch Liquor Distribution Branch/BC Cannabis Stores Community Safety Unit
Alberta	Government of Alberta Alberta Gaming, Liquor and Cannabis Commission
Saskatchewan	Government of Saskatchewan Saskatchewan Liquor and Gaming Authority
Manitoba	Government of Manitoba Liquor, Gaming and Cannabis Authority of Manitoba
Ontario	Government of Ontario Alcohol & Gaming Commission of Ontario
Québec	Government of Québec
New Brunswick	Government of New Brunswick
Prince Edward Island	Government of Prince Edward Island
Nova Scotia	Government of Nova Scotia
Newfoundland and Labrador	Government of Newfoundland and Labrador Newfoundland and Labrador Liquor Corporation
Yukon	Government of Yukon
Nunavut	Government of Nunavut
Northwest Territories	Government of the Northwest Territories

### **5. What cannabis functions are allowed in your jurisdiction? E.g., growing, processing, retailing.**

In Canada, cannabis is legalized for both medical and recreational purposes. Provided that a license from Health Canada has been obtained, the following functions are allowed with respect to permitted forms of



cannabis (generally, seeds, flowers, plants, edibles, topicals and extracts):

- Cultivation (including micro and standard cultivation or nursery);
- Processing (including micro or standard processing);
- Sale for medical purposes;
- Analytical testing;
- Research.

In addition, the sale for cannabis for non-medical purposes is also permitted in each province and territory of Canada. Depending on the province or territory (including Ontario, throughout Central and Western Canada as well as Newfoundland and Labrador), the sale of recreational cannabis is done through government-owned licensed retailers or (such as Quebec, most of the Maritime Provinces and the territories) a government-owned and operated entity.

#### **6. What sales or use is allowed in your jurisdiction? E.g., edibles, vaping, tinctures, food additives, etc.**

In Canada, subject to appropriate licensing under the Federal Cannabis Act and its regulations and the respective provincial or territorial statute and regulations relating to retail sales and consumption, any part of a cannabis plant can be sold or used for medical and non-medical purposes, including dried cannabis, cannabis oil, fresh cannabis, cannabis plants, cannabis plant seeds, edible cannabis, cannabis extracts and cannabis topicals.

As well, limited parts of cannabis or hemp plants (i.e., only parts of the cannabis and hemp plants not considered cannabis under the Cannabis Act or that are excluded from the application of the Cannabis Act, such as non-viable seeds and hemp-seed derivatives that are compliant with the Industrial Hemp Regulations) may be used in a natural health product (under the Natural Health Product Regulations) and veterinary health product (under the Food and Drug Regulation). Mature stalks that do not include any leaves, flowers, seeds or branches and fibre from such stalks are allowed in a natural health product but not in veterinary health products.

Notably, CBD, regardless of whether it is extracted from cannabis or from hemp plants, is subject entirely to the cannabis regulatory regime, and not the more permissive industrial hemp regime.

#### **A. Are the rules different for medical vs. adult recreational use?**

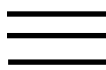
While there is generally no difference in the rules between medical and recreational use cannabis, the following are certain key exceptions:

- Importation/exportation - licenses and permits authorizing the importation or exportation of cannabis may be issued in respect of cannabis for medical but not recreational purposes.
- Sales direct to consumers - to sell medical cannabis to consumers, a prospective seller requires a sale for medical purposes license issued by Health Canada and the sale can only be done online; in contrast, to sell recreational cannabis to consumers, a prospective seller requires a license from the applicable provincial or territorial regulating body, provided the province or territory's retail regime allows for private retailing (as opposed to exclusively government-run retail sales – see #5 above).

#### **B. Are retail sales of any cannabis products restricted to specific retail channels? E.g., medical dispensaries, government-owned stores, etc.**

Retail sales of any cannabis products are restricted to specific retail channels. Each province has their own established retail regime (see #5 above).

Medical cannabis can only be sold by holders of a sale for medical purposes license issued by Health Canada. If authorized by such license, the licensee may sell or distribute cannabis products to a client and sell or distribute cannabis products other than plants or seeds to a hospital employee for the purpose of and in connection with their duties.



**C. Are there zoning restrictions on where medical, wellness, or adult-use (recreational) outlets can be located? Applicable to all cannabis products?**

With respect to recreational retail outlets, each province, territory and municipality in Canada has the authority to determine zoning restrictions on where such retailer may be located. Some municipalities have banned such retailers in their jurisdiction while other jurisdictions have implemented restrictions with respect to distances to schools, for example.

With respect to medical sales, which is limited to direct online distribution directly by the licensed producers to the patient, there are no such restrictions other than general restrictions on the location and licensing of the licensed production facility.

**7. What import and export is allowed in your jurisdiction?**

The Cannabis Act and its regulations prohibits exporting or importing cannabis for any purposes other than medical or scientific purposes or in respect of industrial hemp (provided that such exporter/importer is duly licensed to do so).

**A. Are there restrictions in relation to the countries of origin, i.e. which countries of origin are permitted?**

An import or export permit may be refused if the Minister has reasonable grounds to believe that the shipment to which the permit application pertains would contravene the laws of the country of export or import, as applicable, or any country of transit or transshipment. Additionally, an export permit may be refused if the Minister has reasonable grounds to believe that the shipment would not comply with the permit for importation issued by the competent authority of the country of import.

**B. Please describe restrictions on the import of cannabis seeds.**

See #7(A) above.

**8. Does your region distinguish between different types of cannabis products? (E.g., high or low concentrations of THC.)**

**A. If so, what distinctions exist?**

**B. If so, briefly describe the differences.**

**C. Identify any related laws that should be considered when answering this question.**

The Cannabis Act and its regulations distinguishes between cannabis and industrial hemp. Industrial hemp is defined as a cannabis product with 0.3% THC or less in the flowering head and leaves.

Notably however, only limited parts of cannabis or hemp plants (i.e., only parts of the cannabis and hemp plants not considered cannabis under the Cannabis Act or that are excluded from the application of the Cannabis Act, such as non-viable seeds and hemp-seed derivatives that are compliant with the Industrial Hemp Regulations) are considered to be industry hemp and regulated under Industrial hemp is regulated under the Federal Industrial Hemp Regulations.

In addition, as noted in #6 above, CBD, regardless of whether it is extracted from cannabis or from hemp plants, is subject entirely to the cannabis regulatory regime, and not the more permissive industrial hemp regime.

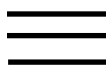
**9. Are there legal requirements on Cannabidiol (CBD) products (without THC)?**

CBD is regulated in the same manner as THC under the Cannabis Act and its regulations and is not regulated under the Industrial Hemp Regulations, regardless of its source.

## IV. Patients and prescriptions

**10. What specific medical conditions, if any, are recognized for treatment with cannabis?**

There are no specific medical conditions stipulated in or specifically recognized for treatment in the cannabis statutes or regulations.



### **11. Is there a licensed practitioner requirement in order to prescribe cannabis for medical purposes?**

Medical cannabis can be prescribed by a licensed health care practitioner, subject to the provincial or territorial health care licensing authority guidelines and policies.

### **12. Are there patient registration or cardholder requirements?**

There are no patient registration or cardholder requirements, however, similar to the regime for prescription drugs, the patient must be authorized by their licensed health care provider to obtain cannabis for medical purposes.

## **V. Special requirements**

### **13. Does your jurisdiction require any recordkeeping from seed planting to the time of end user sale? For all cannabis products?**

Yes. Recordkeeping is regulated pursuant to the Cannabis Tracking System Order issued under the Cannabis Act and applies to (i) a holder of a federal licence for cultivation, a license for processing or a licence for sale for medical purposes that authorizes the possession of cannabis, (ii) a public body authorized under an act of a province to sell cannabis; and (iii) persons other than a public body authorized under an act of a province to sell cannabis.

These requirements apply to all cannabis and cannabis products, which includes dried or fresh cannabis, oil, plants, plant seeds, edibles, extracts and topicals, as well as a cannabis accessory that contains such cannabis after it has been packaged and labelled for sale to a consumer at the retail level, but does not include cannabis or a cannabis accessory that is intended for an animal or a drug containing cannabis.

### **14. Are special taxes imposed? On what and when?**

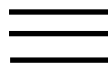
Yes. A federal excise duty is payable by a licensed cannabis producer when the cannabis products they package are delivered to a purchaser. Each province and territory has imposed, with the exception of Manitoba, an additional excise tax on a cannabis product packaged by a cannabis licensee when delivered to a purchaser. A summary of such taxes is available online.

### **15. Are there any special rules or limitations that apply to the industry? E.g., banking, patent or trademark protection, labeling requirements.**

Yes. Some key examples include:

**Packaging and Labeling Requirements** – The Federal Cannabis Regulations set out requirements pertaining to how cannabis and cannabis products must be packaged and labeled prior to sale, distribution or export. Specifically, the Cannabis Regulations require plain packaging and labeling for all cannabis products with restrictions on logos, colors and branding. Cannabis products must also be packaged in a child-resistant container and be labeled with the standardized cannabis symbol, the mandatory health warning message and include specific product information (e.g., brand name of the cannabis product, class of cannabis, THC and CBD information, licence holder information).

**Advertising and Promotions Rules** – The Federal Cannabis Act and the Cannabis Regulations contain a number of provisions relating to the prohibition on promotion of cannabis, cannabis accessories and services related to cannabis. For example, it is prohibited to promote cannabis or a cannabis accessory or any service related to cannabis including (i) by communicating information about its price or distribution; (ii) by doing so in a manner that there are reasonable grounds to believe could be appealing to young persons; (iii) by means of a testimonial or endorsement, however displayed or communicated; (iv) by means of the depiction of a person, character or animal, whether real or fictional; or (v) by presenting it or any of its brand elements in a manner that associates it or the brand element with, or evokes a positive or negative emotion about or image of, a way of life such as one that includes glamour, recreation, excitement, vitality, risk or daring. Additionally, it is prohibited to promote cannabis in a manner that is false, misleading or deceptive, promote using foreign



media, display the brand element of cannabis in a promotion that is used in the sponsorship of a person, entity, event, activity or facility, among other prohibitions.

**16. What is the legal status of access to financial services, including banking, merchant services, and cash handling?**

No special requirements.

**17. Is data collected to determine the social or health impact of the rules in your jurisdictions? E.g.,**

**A. Impact on use by under age/minors.**

**B. Impact on beer, wine and spirit sales.**

**C. Tax revenue.**

**D. Impact on crime, including drug and alcohol addiction.**

Yes. Federally, Statistics Canada collects data relating to a number of categories including, health, justice, economy, and prices and is available online.

## VI. Risks and enforcement

**18. What are the most critical issues currently facing the industry in your jurisdiction?**

As the industry and the regulatory regimes remains in relative infancy, critical issues include (i) the effectiveness of the regulatory regimes in light of the government's stated policy objectives, including protection of children and combating the black market; (ii) access to capital and financial services to allow industry participants to succeed; (iii) supply issues, including types of cannabis products; and (iv) health and safety considerations given the general lack of research on the effect of cannabis products, including the efficacy of cannabis in various forms.

**19. What is the current enforcement landscape with respect to cannabis? E.g., strict enforcement, low-enforcement, decriminalization, legalization.**

**A. Does enforcement differ based on quantity?**

**B. Does enforcement differ based on product type?**

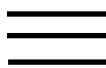
Medical and recreational cannabis is legalized and regulated in Canada. Federal, provincial and territorial governments share responsibility for overseeing the cannabis regulation system. Criminal penalties exist for those acting outside of the legal framework, such as organized crime. Penalties are set in proportion to the seriousness of the offence. Sanctions range from warnings and tickets for minor offences to criminal prosecution and imprisonment for more serious offences. Some offences specifically target people who make cannabis available to youth. For example, possession over the legal limit can range from a ticket (for small amounts) up to five years less a day in jail (for large amounts). Additionally, further penalties related to cannabis-impaired driving are also included in provincial motor vehicle and/or impaired driving statutes.

## VII. Your practice and useful links

**20. Tell us a little about your cannabis practice and how it interacts with other practices at your firm. Remember to include any recognition awards your firm has received in this practice area. How much experience does your firm have providing services to cannabis companies and how much interest does your firm have to grow its cannabis practice?**

Goodmans has a leading cannabis practice in the corporate/commercial field, having been actively involved in the industry from its beginning. Our corporate cannabis lawyers have an 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 Federal Cannabis Act Regulations), Goodmans uniquely understands the industry, is 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.

**21. Please provide links to any firm website, blogs, reputable trade publications, or attorneys that would help others understand the state of the law in your jurisdictions.**

**A. Are there any relevant trade organizations?**

Yes. Some examples include:

- [Canadian Chamber of Commerce, National Cannabis Working Group](#)

**B. Are there any relevant lobbying organizations?**

Yes. Some examples include:

- [Cannabis Council of Canada](#)
- [Association of Canadian Cannabis Retailers](#)
- [Hill+Knowlton Strategies](#)

## Contributors

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