



Gouvernement
du Canada

Government
of Canada

Legislative Background:

An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts (Bill C-45)

MAY 2017

Canada

Information contained in this publication or product may be reproduced, in part or in whole, and by any means, for personal or public non-commercial purposes, without charge or further permission, unless otherwise specified.

You are asked to:

exercise due diligence in ensuring the accuracy of the materials reproduced;

indicate both the complete title of the materials reproduced, as well as the author organization; and

indicate that the reproduction is a copy of an official work that is published by the Government of Canada and that the reproduction has not been produced in affiliation with or with the endorsement of the Government of Canada.

Commercial reproduction and distribution is prohibited except with written permission from the Department of Justice Canada. For more information, please contact the Department of Justice Canada at: www.justice.gc.ca.

© Her Majesty the Queen in Right of Canada,
represented by the Minister of Justice and Attorney General of Canada, 2017

ISBN 978-0-660-08581-4
Cat. No. J2-450/2017E-PDF

Table of Contents

Legalizing and strictly regulating cannabis: the proposed <i>Cannabis Act</i>	4
Context.....	4
Bill Overview	6
Controlling and strictly regulating cannabis – what would be allowed and how access would be restricted.....	6
Controlling promotion, packaging, labelling and display.....	7
Retail framework -- selling and distributing cannabis; shared provincial and territorial roles:	8
A legal, well-regulated cannabis supply.....	9
How the new measures would be enforced.....	10
Regulation-making and other Acts	11
Detailed Bill Guide.....	12
Structure – how the proposed <i>Cannabis Act</i> is laid out	12
Scope of the proposed <i>Cannabis Act</i> – what “cannabis” and “cannabis accessory” mean	13
Prohibitions, Obligations and Offences	14
Other Prohibitions.....	22
Ticketable Offences.....	26
General licensing scheme for persons authorized to distribute, sell, produce, import or export cannabis	27
Ministerial Orders - Provision of Information, Test and Studies, Mandatory Recall.....	28
Cannabis Tracking System.....	28
General Authorizations – provincial and territorial.....	29
Inspections, Search Warrants, and Disposition of Seized Things	29
Fines and Penalties for certain offences and administrative monetary penalties	30
Disclosure of Information	31
Transitional Provisions, Related, Consequential and Coordinating Amendments	31
Transitional Provisions	31
Related Amendments	32
Consequential Amendments.....	32
Coordinating Amendments.....	32

Coming into Force	33
Coming into Force of the Proposed <i>Cannabis Act</i>	34
What would be legal?	34
Where would adults be able to purchase cannabis?	34
What would adults be able to purchase?	35
Access to Cannabis for Medical Purposes.....	36
Differences between the proposed <i>Cannabis Act</i> and the <i>Access to Cannabis for Medical Purposes Regulations</i>	36
Impact on Access to Cannabis for Medical Purposes	36
Charter Statement	37
Annex 1 – Task Force Report: Executive Summary.....	43
Annex 2 - Roles and Responsibilities.....	51
Annex 3 – Health Effects of Cannabis	53

Legalizing and strictly regulating cannabis: the proposed *Cannabis Act*

Context

In the 2015 Speech from the Throne, the Government of Canada committed to introducing legislation to legalize, regulate and restrict access to cannabis.

The Minister of Justice and Attorney General of Canada, Minister of Public Safety and Emergency Preparedness, and Minister of Health were mandated by the Prime Minister to work towards the legalization and regulation of cannabis.

To this end, in June 2016, the Ministers announced the creation of the Task Force on Cannabis Legalization and Regulation ("the Task Force"). The Task Force engaged in extensive cross-country consultations with provincial, territorial and municipal governments, experts, patients, advocates, Indigenous governments and representative organizations, youth, employers and industry to provide advice on the design of a new legislative and regulatory framework for legal access to cannabis. In addition to the in-person consultations, the Task Force received approximately 30,000 submissions.

A Discussion Paper prepared by the Government, entitled "Toward the Legalization, Regulation and Restriction of Access to Marijuana," informed the Task Force's work and provided a basis for its consultations. The Discussion Paper identified nine public policy objectives in the areas of public health and safety, child and youth protection, and criminal justice. Chief among these are keeping cannabis out of the hands of children and youth and keeping profits out of the hands of organized crime. The Discussion Paper also provided a comprehensive overview of relevant considerations and background information on legalizing and strictly regulating cannabis to help inform the public conversation.

The Task Force's report—delivered to the Ministers and the public on December 13, 2016—made 85 recommendations. (Please refer to Annex 1 – Task Force Report: Executive Summary.) The proposed legislation is informed by and closely aligned with the recommendations of the Task Force.

The proposed *Cannabis Act* would create a strict framework for controlling the production, distribution, sale, import, export and possession of cannabis in Canada. The proposed Act would create a comprehensive national framework that would enable provinces and territories (P/Ts) to tailor certain rules in their jurisdictions. (Please refer to Annex 2 – Roles and Responsibilities).

The proposed *Cannabis Act* seeks to achieve the following objectives:

- restrict youth access to cannabis;
- protect young persons by prohibiting promotion or enticements to use cannabis;
- enhance public awareness of the health risks associated with cannabis;
- deter and reduce criminal activity by imposing serious criminal penalties for those breaking the law, especially those who provide cannabis to young persons;
- protect public health through strict product safety and quality requirements;
- provide for the legal production of cannabis to reduce illegal activities;
- allow adults to possess and access regulated, quality-controlled, legal cannabis; and,

- reduce the burden on the criminal justice system.

Currently, it is illegal to possess, sell, produce, import or export cannabis unless it is authorized under the *Controlled Drugs and Substances Act* and its regulations, such as the *Access to Cannabis for Medical Purposes Regulations*. The current program for access to cannabis for medical purposes would continue under the proposed Act.

Cannabis will remain prohibited as the Bill moves through the legislative process. If it is approved by Parliament, the Bill could become law no later than July 2018.

Bill Overview

This legislative backgrounder is intended to provide a general, plain-language overview of the main elements of the proposed *Cannabis Act*. Not all elements of the proposed *Cannabis Act* are reflected in this document. This backgrounder reflects the version of the proposed *Cannabis Act* introduced in the House of Commons on 13 April 2017 and therefore, does not reflect any amendments that may subsequently be made in Parliament.

Controlling and strictly regulating cannabis – what would be allowed and how would access be restricted

The proposed *Cannabis Act* would control and strictly regulate cannabis¹ – in a way that allows only adults to access it through an appropriate retail framework, sourced from a well-regulated industry, or grown in limited amounts at home.

General criminal prohibitions would be established for:

- **Possession over a certain limit** – adults (individuals aged 18 years or older) could legally possess up to 30 grams of legal² dried cannabis or its equivalent while in public (possession in private would be allowed without the 30 gram limit). Amounts equivalent to 1 gram of dried cannabis of other classes of cannabis, such as solids containing cannabis (e.g., baked goods), would be specified in Schedule 3 of the proposed Act. Young persons (individuals 12 years of age or older but under 18 years of age) would not face criminal prosecution or be subject to criminal records for possessing up to 5 grams of dried cannabis or its equivalent in other classes of cannabis.³ For possession of more than 5 grams of dried cannabis or its equivalent, young persons would be subject to a possession offence and to provisions of the *Youth Criminal Justice Act*.
- **Distribution (and possession for the purpose of distribution)** – adults could legally share up to 30 grams of legal dried cannabis (or amounts equivalent to 30 grams of dried cannabis in other classes of cannabis) with other adults. As with possession, young persons would not face criminal prosecution or be subject to criminal records for sharing very small amounts (up to 5 grams) of dried cannabis or its equivalent.⁴
- **Sale (and possession for the purpose of sale) including sale to a young person** – selling cannabis, or possessing to do so, would only be lawful if authorized under the proposed

¹ For the purpose of the legislation “cannabis” is defined as a plant that belongs to the genus *Cannabis*. Further, Schedule 1 clarifies what is included (e.g., any part of the plant, any substance or mixture of substances that contain any part of the plant), and Schedule 2 clarifies what is excluded from the definition (e.g., non-viable seeds, fibre derived from the stalk).

² Illegal cannabis would be cannabis that was sold, produced, imported or distributed by a person who was not authorized to do so.

³ However, young persons could be subject to any provincial or territorial laws that prohibit possession of any amount of cannabis, thereby permitting police to seize any amount in a young person’s possession. Provincial and territorial governments would be able to set a higher minimum age for possession or reduce the amount allowed to be possessed for young persons, including to zero.

⁴ As with possession, young persons could also be subject to provincial laws prohibiting the distribution of any amount of cannabis.

Act (e.g., a licence or permit has been issued allowing sale or possession for sale) or if it has been authorized under provincial or territorial legislation. To better protect youth, the proposed Act would create a new separate offence of selling or providing cannabis to a young person.

- **Import into Canada and export from Canada (and possession for the purpose of export)** – the importation or exportation of cannabis would be allowed in exceptional circumstances authorized by the Minister of Health (i.e. only for scientific or medical purposes, or for industrial hemp, and this would require a licence or permit).
- **Production** – production of cannabis would only be lawful if authorized under the proposed Act (e.g., a licence or permit has been issued allowing production of cannabis). In addition, adults would be allowed, without being issued a licence, to cultivate their own cannabis plants at home, if grown from legal seeds or plants. Adults could not grow more than 4 plants per residence, limited to no more than 100 cm in height. Individuals would also be allowed to alter cannabis that is lawfully possessed to prepare different types of products (such as foods or beverages containing cannabis) provided that they do not use dangerous chemicals or solvents to do so.
- **Using a young person to commit a cannabis-related offence** – to further protect young persons, the proposed Act would create a new separate offence of using a young person in the commission of a cannabis-related offence in the proposed Act, including distribution, sale, and production. In this circumstance, the offender would face strong penalties.

Controlling promotion, packaging, labelling and display

Promoting cannabis, cannabis accessories (e.g., rolling papers, pipes and vaporizers), and services related to cannabis would be prohibited except in limited circumstances. Subject to the regulations, promotion would be limited to informational or brand preference promotion in certain circumstances such as in a place where young persons are not permitted by law. That is, factual, accurate, information about cannabis products (including ingredients, THC and CBD levels, production methods, use of pesticides and solvents) would be permitted. This would provide the public with the information required to make an informed choice about purchasing cannabis. Information that allows for identification of the brand name and strain name would also be permitted as part of the informational or brand preference promotion.

Unless authorized under the proposed Act, promotion would not be allowed if there are reasonable grounds to believe that it would be appealing to young persons. No false, misleading or deceptive promotion would be permitted, and similarly no promotion through sponsorship, testimonials and endorsements, or using the depiction of a person, celebrity, character or animals would be allowed.

While the proposed Act allows for intra-industry sharing of samples of cannabis or provision of cannabis accessories, it is prohibited in all other circumstances to provide samples of cannabis or cannabis accessories unless specifically provided for in regulations. Incentives for the purchase of cannabis such

as the right to participate in a game, draw, lottery or contest, or provision of a service would be prohibited.

For the packaging and labelling of cannabis or cannabis accessories, prohibitions would require similar restrictions as are in place for tobacco sales, including restrictions on packaging or labelling that is appealing to young persons, or including testimonials, endorsements or lifestyle promotion. Labelling and packaging would be prohibited from containing false, misleading or deceptive information, or from using any term, expression, logo, symbol or illustration specified in regulations. The federal government would have the ability to require plain packaging in the regulations.

Unless authorized under the proposed Act, it would be prohibited for a person authorized to sell cannabis to display cannabis or cannabis accessories, or any package or label of cannabis or cannabis accessories, in a manner that could be seen by young persons.

Retail framework -- selling and distributing cannabis; shared provincial and territorial roles:

Unless authorized under the proposed *Cannabis Act*, minimum requirements for selling and distributing cannabis and cannabis accessories would be as follows:

- Selling cannabis or cannabis accessories would be prohibited if they have an appearance, shape or attribute that could be appealing to a young person.
- Cannabis accessories would be prohibited from being sold to a young person.
- Cannabis could only be sold in categories allowed by Schedule 4 of the proposed Act. Initially, these categories would include dried cannabis, cannabis oil, fresh cannabis, and seeds and seedlings. Additional categories (e.g., edibles) could be added by regulation.
- Cannabis products could not contain ingredients set out in Schedule 5 of the proposed Act (e.g., nicotine or caffeine).
- Recalled cannabis could not be sold.
- Selling or distributing cannabis or cannabis accessories by means of a vending machine or self-service display would be prohibited.

A person could only legally sell cannabis if they are authorized to do so under the proposed Act, or if they have been authorized by a provincial government under provincial legislation that meets minimum federal conditions.⁵ Those minimum federal conditions are that an authorized person cannot:

- sell cannabis that has not been produced by a federally authorized producer;
- sell cannabis to a person younger than 18;
- sell without keeping appropriate records respecting their activities (e.g., promotion activities, etc.) in relation to cannabis that they possess for commercial purposes; or

⁵ It is intended that distribution and retail sale would be authorized by provincial and territorial governments. In doing so, provinces and territories could set additional regulatory requirements for retailers, such as where they can be located, how they are staffed, and whether young persons would be allowed on the premises. The federal Minister of Health would reserve the ability to license sale for medical and non-medical purposes as a backstop where provincial or territorial governments have yet to enact a legislative framework.

- sell without taking adequate measures to prevent diversion to an illegal market or activity.

A legal, well-regulated cannabis supply

The proposed *Cannabis Act* sets out the parameters to create a legal, well-regulated system for the production of cannabis. The Minister of Health would have the power to issue licences or permits for the production of cannabis. The Minister would also have the ability to suspend, amend or revoke those licences or permits when warranted. Grounds for refusing to issue, renew or amend a licence or permit include:

- where issuing, renewing or amending would create a risk to public health or public safety, including the risk of diversion to the illegal market;
- false, misleading or forged information or documentation was provided;
- an applicant has contravened the proposed Act, the *Controlled Drugs and Substances Act* or the *Food and Drugs Act* and their regulations, including advertising, in the past 10 years; or
- if a security clearance in respect of the applicant has been refused or cancelled.

Given federal responsibility for the oversight and licensing of production, requirements in the proposed Act, along with additional requirements set out in supporting regulations, would establish a series of risk-based physical and personnel security requirements for licensees. Requirements would also aim to identify links to organized crime and verify that the cannabis they are producing is not diverted to illegal markets or activities. Requirements would also be established to verify that supply is acceptable from a health and safety point of view.

Further, to provide for responsive oversight of the industry, the Minister would have additional powers. The Minister could order a person with a licence or permit for cannabis related activities to:

- provide further information necessary to address an issue of public health or safety, or to verify compliance or prevent non-compliance;
- conduct further tests and studies to address an issue of public health or safety, or to verify compliance or prevent non-compliance; or
- recall cannabis where necessary to protect public health or public safety.

In addition, the proposed Act would allow for the establishment of a national cannabis tracking system to track cannabis from seed to sale; prevent cannabis from being diverted to an illegal market or activity; and prevent illegal cannabis from being a source of supply of cannabis in the legal market. The proposed Act would set out the authorities for the Minister to disclose to certain persons the information contained in the national cannabis tracking system for purposes such as verifying compliance or preventing non-compliance, or meeting international obligations.

How the new measures would be enforced

The proposed Act would include a range of compliance and enforcement tools, including modern inspection powers, authority to issue administrative monetary penalties, and the ability for police officers to issue tickets for specific offences.

Inspection powers to verify compliance or prevent non-compliance with the proposed Act would be in keeping with similar federal legislation, and would include:

- the power for inspectors to enter a place in which they believe on reasonable grounds an activity that may be regulated under the proposed Act is being conducted, in order to carry out inspections activities such as, opening and examining receptacles and packages; examining labels, promotional materials, records, books, electronic data or other documents; or seizing and detaining anything in respect of which there are reasonable grounds to believe the proposed Act or the regulations have been contravened.
- the power to inspect a residence – in such a circumstance, an inspector would only be able to enter with the consent of an occupant or under the authority of a warrant.

The proposed Act would set out procedures relating to the seizure, disposition or forfeiture of cannabis or property that is related to the commission of a contravention or offence.

The proposed Act would provide for a range of measures for enforcement and compliance, including:

- **Tickets** – for minor violations of certain offences, in respect of small amounts of cannabis (including for possession, distribution to an adult, production), adults could be given a \$200 ticket.
- **Criminal activities** – adults in contravention of more serious offences, including selling to an adult, distribution, production, import or export would be liable:
 - for conviction on indictment, to imprisonment for not more than 14 years; or
 - on summary conviction, to a fine of not more than \$5,000 or to imprisonment for not more than six months or to both.

A young person who commits these activities would be subject to a youth sentence under the *Youth Criminal Justice Act*. An organization would be subject to a fine in an amount determined by the Court for conviction on indictment, or to a fine in an amount of not more than \$100,000 on summary conviction.

An adult selling to a young person or who uses a young person to commit a cannabis related offence would be liable:

- for conviction on indictment to imprisonment for not more than 14 years;
 - on summary conviction to a fine of not more than \$15,000 or to imprisonment for not more than 18 months or to both.
- **Other contraventions** – persons contravening: (1) provisions of the proposed Act other than those which have specified punishments such as possession, distribution, selling, production or promotion as above; (2) provisions of the regulations; or, (3) a ministerial order, would be liable:

- for conviction on indictment to a fine of not more than \$5,000,000 or imprisonment for not more than three years, or to both; or
- on summary conviction for a first offence to a fine of not more than \$250,000 or to imprisonment for not more than six months or to both, or to a fine of not more than \$500,000 for a second offence and subsequent offence, or to imprisonment for not more than 18 months or to both.
- **Administrative monetary penalties** – for certain contraventions of the proposed Act, administrative monetary penalties would be available. If proceedings against a person for an act or omission are initiated under the administrative monetary penalty scheme, a criminal prosecution could not also be commenced for the same act or omission. Administrative monetary penalties would not be available for the criminal activities found in Division 1 of Part 1 of the proposed Act.

The purpose of these penalties would be to promote compliance with the proposed Act and its regulations. Penalties would be subject to civil enforcement through the courts.

Regulation-making and other Acts

The proposed *Cannabis Act* sets out regulation making powers that would allow the government to put in place the necessary regulatory frameworks including for licensing, importing or exporting, packaging and labelling, and amending schedules of the proposed Act. These regulation making powers would include an ability to make regulations necessary to provide for any transitional matter arising from the coming into force of any provision of the proposed Act.

The proposed Act would also make necessary changes to other Acts, such as the *Controlled Drugs and Substances Act* (to align penalties and definitions); the *Canada Consumer Product Safety Act* (to exclude cannabis from application, except for cannabis accessories), the *Non-smokers' Health Act* (to protect persons from exposure to cannabis smoke), the *National Defence Act*, the *Corrections and Conditional Release Act*, and the *Criminal Code*.

Detailed Bill Guide

Structure – how the proposed *Cannabis Act* is laid out

The proposed *Cannabis Act* would provide for adult access to cannabis through a legal retail framework, sourced from a well-regulated industry or through cultivation in limited amounts at home.

To accomplish this, the proposed *Cannabis Act* would be structured as follows:

Clauses 1 to 7 would set out the short title of the proposed Act (*Cannabis Act*); terms that are defined for the purposes of the proposed Act; the application of the *Youth Criminal Justice Act* to the proposed Act; the binding nature of the proposed Act on federal and provincial governments; and the purpose of the proposed Act.

PART 1 would set out the main prohibitions, obligations and offences relating to cannabis. Within this Part, the Divisions would, amongst other things, deal with:

- criminal activities by individuals relating to the possession, distribution, sale, production, importation and exportation of cannabis, as well as the use of a young person in the commission of a cannabis-related offence;
- prohibitions and obligations that focus on those who sell and distribute cannabis and cannabis accessories related to promotion, packaging and labelling, display, selling and distributing of those products; and
- prohibitions and obligations that focus on those who provide services related to cannabis.

PART 2 would provide for a ticketing scheme related to certain offences under the proposed Act.

PART 3 would set out authorities to issue licences and permits for the conduct of certain activities prohibited in **PART 1**, such as producing, distributing and selling cannabis.

PART 4 would recognize provincially and territorially authorized selling; set out minimum public health and public safety standards to be included in provincial and territorial legislation for authorizing distribution and sale; and authorize certain activities in relation to the administration and enforcement of cannabis legislation or in relation to the authorized sale, distribution or production of cannabis.

PART 5 would provide the Minister of Health with the authority to issue orders to verify compliance and prevent non-compliance or to address issues of public health or public safety.

PART 6 would allow the Minister of Health to set up a national seed-to-sale tracking system for cannabis.

PART 7 would provide a broad and modern inspection scheme similar to that of other federal legislation under the responsibility of the Minister of Health such as the *Tobacco Act*, the *Canada Consumer Product Safety Act*, and the proposed changes to the *Controlled Drugs and Substances Act* (Bill C-37).

PART 8 would deal with search warrants to allow police officers to conduct cannabis-related searches and seizures.

PART 9 would set out requirements for the control and management of cannabis, chemicals and other property seized, found or otherwise acquired, including when they may be forfeited and destroyed.

PART 10 would set out an administrative monetary penalties scheme for certain contraventions of the proposed Act.

PART 11 would be a general part providing for diverse matters such as disclosure of information under the proposed Act, and which regulations could be made under the proposed Act to support it.

PART 12 would deal with transitional provisions and related consequential and coordinating amendments to other Acts or Bills.

PART 13 would set out amendments to the *Controlled Drugs and Substances Act* to provide for consistency between it and the proposed Act.

PART 14 would introduce changes to the *Criminal Code* to align references to provisions of the proposed *Cannabis Act*.

PART 15 would deal with the coming into force of the proposed Act should it be passed by Parliament.

Scope of the proposed *Cannabis Act* – what “cannabis” and “cannabis accessory” mean

The proposed *Cannabis Act* would apply to the possession, distribution, sale, production, importation and exportation of cannabis and to the distribution and sale of cannabis accessories.

“cannabis” would be defined in **subclause 2(1)** of the proposed *Cannabis Act* as a cannabis plant which is a plant that belongs to the genus *Cannabis*.

Two Schedules to the proposed *Cannabis Act* further clarify what “cannabis” includes and what it does not. These Schedules would be able to be amended over time by regulation under **subclause 151(1)**. The ability to add and delete items from these two Schedules by regulation would allow the government to keep oversight up to date and amend the scheme as research and science evolves. The process of adding or deleting items on the Schedules by regulation would normally include public consultations before finalizing an amendment to the Schedules.

Schedule 1 clarifies what would be included in the definition of cannabis. The initial Schedule 1 includes three items: (1) any part of the cannabis plant, including the phytocannabinoids produced by the plant, other than a part of the plant referred to in **Schedule 2**; (2) any substance or mixture of substances that contain any part of the plant; and (3) any substance that is identical to phytocannabinoids produced by the plant, regardless of how the substance was obtained (i.e., naturally or synthetically).

Schedule 2 clarifies what would be excluded from the definition of cannabis. The initial Schedule 2 contains four items: (1) non-viable seeds of a cannabis plant; (2) a mature stalk, without any leaf, flower,

seed or branch, of such a plant; (3) fibre derived from the stalk (i.e. hemp); and (4) the root or any part of the root of the cannabis plant.

“**cannabis accessory**” would be defined in **subclause 2(1)** as (a) a thing, including rolling papers or wraps, holders, pipes, water pipes, bongs and vaporizers used in the consumption of cannabis or the production of cannabis; or (b) a thing deemed under **subclause 2(3)** to be represented to be used in the consumption of cannabis or the production of cannabis. **Subclause 2(3)** provides that a thing that is commonly used in the consumption or production of cannabis would be considered a cannabis accessory if that thing was sold at the same point of sale as cannabis.

Also of note, several regulation making abilities could further affect the scope of the proposed *Cannabis Act*. **Subclause 139(1)** would allow the government to define “industrial hemp” by regulation for the purposes of the proposed Act. Industrial hemp does meet the definition of cannabis and is currently regulated under the *Industrial Hemp Regulations* under the *Controlled Drugs and Substances Act*. Going forward, industrial hemp is intended to be subject to the proposed *Cannabis Act*. The Governor in Council could also exempt by regulation any cannabis or cannabis accessory (or class of either of them) from the proposed Act.

Prohibitions, Obligations and Offences

Criminal Offences

The proposed *Cannabis Act* would prohibit the possession, distribution, sale, production, importation and exportation of cannabis in such a way that:

- certain allowances would be made for adults (individuals aged 18 years or older); and
- young persons would not face prosecution or get criminal records for possessing very small amounts of cannabis. For purposes of the prohibitions on possession, distribution and production in **Division 1**, “young person” would be defined in **subclause 2(1)** as individuals who are 12 years or older but less than 18 old, and for other provisions of the proposed Act, individuals under the age of 18 years.

Additionally, there would be a new offence of using a young person in the commission of a cannabis-related offence in the proposed Act, including distribution, sale, and production. In this circumstance, the offender would face harsh penalties.

The proposed approach provides scope for provinces and territories to tailor certain rules and requirements to reflect individual circumstances and priorities, in a manner that is consistent with the objectives of the proposed *Cannabis Act*. Those objectives include protecting youth by restricting their access to cannabis, while providing access to a quality-controlled supply of legal cannabis for adults (see the legislative purpose at clause 7 of the Bill). Both federal and provincial governments may validly legislate over matters addressing public health and public safety. As a result, situations may arise in which an issue will be considered to have a double aspect. That is to say, regulation of a particular activity will fall within federal jurisdiction in one respect, while falling within provincial jurisdiction in

another. The proposed approach set out in the *Cannabis Act* reflects the views and concerns expressed by provincial and territorial officials to the Task Force on Cannabis Legalization and Regulation.

Possession

Division 1, paragraph 8(1)(a) would prohibit adults from possessing cannabis in a public place over a certain amount unless authorized under the proposed Act (i.e., have a licence or permit allowing them to possess). The amount would be limited to a maximum of 30 grams of dried cannabis or its equivalent for other classes of cannabis (such as solids containing cannabis, e.g., baked goods), as set out in Schedule 3 of the proposed Act. A “public place” is defined in **subclause 2(1)** as including any place to which the public has access as of right or by invitation, express or implied, and any motor vehicle located in a public place or in any place open to public view.

The intent is to set out an upper limit for cannabis possession in federal law, with scope for provincial limits to be more restrictive (i.e. set an adult possession limit of less than 30 grams or further restrict possession in certain places). The federal objective of allowing adults to possess no more than 30 grams of dried cannabis (or its equivalent) in public would be frustrated by recognizing a higher provincial limit of, say, 50 grams. If a court finds that the higher provincial limit conflicts with the federal law because allowing possession of 50 grams would purport to allow what Parliament has said is not allowed, then the higher provincial limit would be rendered inoperable. A limit set by provincial legislation that is less than 30 grams could operate alongside the federal provision as it would be consistent with federal purposes and it is possible for an individual to comply with both laws by adhering to the lower limit.

The provinces and territories could also impose a higher age limit than 18 for the possession of cannabis (for example, should they wish to align the age with that of their drinking age) through provincial and territorial legislation that could be subject to their compliance and enforcement measures. If a province enacts a higher age for possession, complying with that law would also be possible, while giving effect to the objective of the federal prohibition because individuals at the higher provincial age would also be “18 years of age or older”. A person could comply with both laws.

Paragraph 8(1)(b) would prohibit adults from possessing any cannabis that they know is illicit; “**illicit cannabis**” would be defined in **subclause 2(1)** as cannabis that was sold, produced, distributed or imported by a person who is prohibited from doing so under the proposed Act or under any applicable provincial legislation. This provision is intended to clearly indicate that possession of cannabis obtained outside of the regulated supply remains illegal.

Paragraph 8(1)(c) would prohibit young persons from possessing cannabis over a certain amount. The amount would be limited to a maximum of 5 grams of dried cannabis or its equivalent for other classes of cannabis (such as solids containing cannabis like baked goods), as set out in **Schedule 3** of the proposed *Cannabis Act*.

Since two of the purposes of Bill C-45 are to protect the health of young persons by restricting their access to cannabis and to reduce the burden on the criminal justice system (e.g., by not criminalizing youth for possession of small amounts of cannabis), it would be possible for a province to set a lower

amount for youth possession, for example 0 grams. A limit set by provincial legislation that is less than 5 grams could work operate alongside the federal provision as it is possible for an individual to comply with both laws. The provincial legislation would be consistent with federal purposes.

Paragraph 8(1)(d) would prohibit an individual (including adults and young persons) from possessing in a public place (as defined) one or more cannabis plants that are budding or flowering. This would prevent mature plants from being accessed in public.

Paragraph 8(1)(e) would prohibit an individual (including adults and young persons) from possessing more than four cannabis plants that are not budding or flowering, unless authorized to do so under the proposed Act. This would allow for the possessing in a public place of seedlings for purposes of producing cannabis plants. Licenced retailers, with the appropriate authorization, would be permitted to possess more than four plants.

Paragraph 8(1)(f) would prohibit an organization from possessing cannabis unless authorized to do so under the proposed Act. **Subclause 2(1)** would define “**organization**” as having the same meaning as in the *Criminal Code* (a public body, body corporate, society, company, firm, partnership, trade union or municipality, or an association of persons that (i) is created for a common purpose, (ii) has an operational structure, and (iii) holds itself out to the public as an association of persons).

Punishments for possession

Adults who contravene the possession offences in **subclause 8(1)** would be liable, as set out in **subclause 8(2)**:

- for conviction on indictment, to imprisonment for not more than five years less a day; or
- on summary conviction, to a fine of not more than \$5,000 or to imprisonment for not more than six months or to both.

A young person would be subject, on indictment or summary conviction, to the trial procedures and a youth sentence under the *Youth Criminal Justice Act (YCJA)*. The YCJA emphasizes community-based responses that promote rehabilitation and reintegration. For less serious offences, alternatives to charging are encouraged such as taking no further action, warning the young person, or referring the young person to a community program or agency, to help address the circumstances underlying their behaviour.

An organization would be liable to a fine:

- for conviction on indictment, to a fine in an amount determined by the Court; or
- on summary conviction, to a fine of not more than \$100,000.

Law enforcement would be able to issue a ticket under **clause 51** of the proposed Act in the amount of \$200 to adults in possession of a total amount of more than 30 grams but not more than 50 grams of dried cannabis, or the equivalent set out in **Schedule 3**, or in possession of five or six non-flowering or non-budding cannabis plants (see Ticketable Offences below).

Distribution

Paragraph 9(1)(a) would prohibit adults from distributing (i.e., sharing, transporting, sending or delivering) cannabis, unless authorized under the proposed Act:

- to another adult in an amount over 30 grams of dried cannabis or the equivalent set out in **Schedule 3**;
- to a person under 18 years of age;
- to an organization; or
- that they know is illegal.

Paragraph 9(1)(b) would prohibit young persons, unless authorized by the proposed Act, from distributing cannabis in an amount over 5 grams of dried cannabis or the equivalent set out in **Schedule 3**, or from distributing any amount to an organization.

As stated above, two of the purposes of Bill C-45 are to protect the health of young persons by restricting their access to cannabis and to reduce the burden on the criminal justice system (e.g., by not criminalizing youth for distribution of small amounts of cannabis). As a result, it would be possible for a province to set a lower amount for youth distribution, for example 0 grams, which would be in keeping with the purposes of Bill C-45. A limit set by provincial legislation that is less than 5 grams could operate alongside the federal provision as it is possible for an individual to comply with both laws. The provincial legislation would be consistent with federal purposes.

Paragraph 9(1)(c) would prohibit an individual, unless authorized under the proposed Act, from distributing any cannabis plants that are budding or flowering, or more than four cannabis plants that are not budding or flowering, unless authorized to do so under the proposed Act. This would allow for the distribution of legal seedlings for purposes of producing cannabis plants at a person's residence.

Paragraph 9(1)(d) would prohibit an organization from distributing cannabis, unless authorized to do so under the proposed Act.

Subclause 9(2) would prohibit the possession of cannabis for the purposes of distributing contrary to the prohibitions on distribution in **subclause 9(1)**, unless otherwise authorized under the proposed Act.

Punishments for Distribution

Adults who contravene the distribution offences in **subclause 9(1)** and **9(2)** would be liable, as set out in **subclause 9(5)**:

- for conviction on indictment, to imprisonment for a term of not more than 14 years; or
- on summary conviction, to a fine of not more than \$5,000 or to imprisonment for not more than six months or to both.
- In the case of an adult who has distributed to a person under 18 years of age or possessed for purposes of distributing to such a person, on summary conviction, to a fine of not more than \$15,000 or to imprisonment for not more than 18 months or to both.

A young person would be subject, on indictment or on summary conviction, to trial procedures and a youth sentence under the *Youth Criminal Justice Act*.

An organization would be subject:

- for conviction on indictment, to a fine in an amount determined by the Court; or
- on summary conviction, to a fine of not more than \$100,000.

Except for the offences of distributing to a young person or distributing one or more budding or flowering plants, a police officer would be able to issue a ticket under **clause 51** of the proposed Act in the amount of \$200 to adults for distributing a total amount of more than 30 grams but not more than 50 grams of dried cannabis, or the equivalent set out in **Schedule 3**, or distributing five or six non-budding or non-flowering cannabis plants.

Subclauses 9(3) and (4) provides that it is not a defence to a charge of distributing to a person under 18 years of age or possessed for purposes of distributing to such a person, that the accused believed that the person was 18 years of age or older, unless the accused took reasonable steps to ascertain their age.

Sale

Subclause 10(1) would prohibit the sale of cannabis, unless authorized under the proposed Act, to an adult, a youth or an organization. This means that a sale would occur only with a licence or permit.

Subclause 10(2) would prohibit the possession of cannabis for the purpose of selling, unless authorized under the proposed Act.

Punishments for Sale

Adults who contravene the sale offences in **subclauses 10(1) or 10(2)** would be liable, as set out in **subclause 10(5)**:

- for conviction on indictment, to imprisonment for a term of not more than 14 years; or
- on summary conviction, to a fine of not more than \$5,000 or to imprisonment for not more than six months or to both.
- In the case of an adult who sells to a person under 18 years of age or possesses for purposes of selling to such a person, on summary conviction, would be liable to a fine of not more than \$15,000 or to imprisonment for not more than 18 months or to both.

A young person would be subject, on indictment or summary conviction, to trial procedures and a youth sentence under the *Youth Criminal Justice Act*.

An organization would be subject to a fine on summary conviction of not more than \$100,000.

Except for the offence of selling to a person under 18 years of age, a police officer would be able to issue a ticket under **clause 51** of the proposed Act in the amount of \$200 to adults selling 50 grams or less of dried cannabis, or the equivalent set out in **Schedule 3**.

Subclauses 10(3) and **(4)** provide that it is not a defence to a charge of selling to a person under 18 years of age or possession for purposes of selling to such a person, that the accused believed that the person was 18 years of age or older, unless the accused took reasonable steps to ascertain their age.

Importing and exporting

Subclause 11(1) would prohibit the import or export of cannabis, unless it is authorized under the proposed Act. **Subclause 11(2)** would prohibit the possession of cannabis for the purpose of exporting it, unless it is authorized under the proposed Act. Licences or permits to allow the import or export would be only for scientific or medical purposes or in respect of industrial hemp as set out in **subclause 62(2)**.

Punishments for importing or exporting

A person who imports or exports cannabis or who possesses cannabis for the purpose of export, in contravention of the offences in **subclauses 11(1)** and **(2)**, would be liable, as set out in **subclause 11(3)**:

- for conviction on indictment, to imprisonment for a term of not more than 14 years; or
- on summary conviction, to a fine of not more than \$5,000 or to imprisonment for not more than six months or to both.

An organization would be subject to a fine on summary conviction of not more than \$100,000.

Production

Clause 12 would set out a series of prohibitions related to the production of cannabis, unless it is authorized under the proposed Act. The proposed Act would prohibit the production of cannabis using dangerous organic solvents; prohibit the cultivation, propagation and harvesting of cannabis by young persons; and prohibit adults from cultivating, propagate and harvest cannabis in their private residence over certain limits.

Subclause 12(1) would prohibit, unless authorized under the proposed *Cannabis Act* (e.g., issued a licence or permit to do so), any person from obtaining or offering to obtain cannabis through any method or process. This includes manufacturing, by synthesis or altering the chemical or physical properties of cannabis; or from altering the chemical or physical properties of cannabis by any means, including by the use of an organic solvent. An “organic solvent” would be defined under **subclause 12(3)** as any organic compound that is explosive or highly or extremely flammable, and includes petroleum naphtha and compressed liquid hydrocarbons such as butane, isobutane, propane and propylene.

Subclause 12(2) would permit an individual to alter the chemical or physical properties of cannabis that they are allowed to possess. This would still be subject to **subclause 12(1)**, such as the limitation on the use of an organic solvent. It would allow adults to use, for example, cannabis oil to make baked goods for personal consumption or to share with another adult.

Paragraph 12(4)(a) would prohibit adults from cultivating, propagating and harvesting cannabis (or offer to do so) if the cannabis plant is from a seed or plant material that they know is illegal cannabis.

Paragraph 12(4)(b) would prohibit adults to cultivate, propagate and harvest more than four cannabis plants (up to 100 cm in height – see subclause 12(6)) at any one time in their residence.

Two objectives of Bill C-45 are to provide for the legal production of cannabis to reduce illegal activities in relation to cannabis, and to provide access to a quality-controlled supply of legal cannabis for adults. The proposed legislation seeks to achieve these objectives, in part, by permitting personal cultivation of no more than four plants. A lower plant limit may be set in provincial legislation that is consistent with the federal objectives and allows for dual compliance with both provincial and federal limits, however a complete provincial prohibition on personal cultivation could be seen as frustrating the federal objective and thus be deemed inoperable.

Subclause 12(8) further specifies that for the purposes of **clause 12**, “dwelling house”, in respect of an individual, means the dwelling-house in which the individual ordinarily resides and includes surrounding land such as yards and gardens and any building or structure on such land.

The term “dwelling house” would be defined in **subclause 2(1)** of the proposed Act as having the same meaning as in the *Criminal Code* (the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence, including, for example, a unit that is designed to be mobile and is being used as such a residence).

Subclause 12(5) would prohibit the cultivation, propagation or harvesting of any cannabis plant by two or more adults ordinarily residing in the same residence if doing so results in there being more than four such plants being cultivated, propagated or harvested, unless they are authorized to do so under the proposed Act.

Subclause 12(6) would place further restrictions on adults so that they would not, unless authorized under the proposed Act, be able to (a) cultivate, propagate or harvest any cannabis plant that is more than 100 cm in height at their residence; (b) cultivate, propagate or harvest any cannabis at a residence that is not their own, or offer to do so; or (c) cultivate, propagate or harvest any living thing that is not cannabis, but from which cannabis may be extracted, or offer to do so.

Subclause 12(7) would prohibit young persons or organizations, unless authorized under the proposed Act, from cultivating, propagating or harvesting any cannabis plant or any other living thing from which cannabis may be extracted, or offer to do so.

Punishments for production

An adult who produces, cultivates, propagates, or harvests cannabis in contravention of the offences in **clause 12** would be liable, as set out in **subclause 12(9)**:

- for conviction on indictment, to imprisonment for a term of not more than 14 years; or
- on summary conviction, to a fine of not more than \$5,000 or to imprisonment for not more than six months or to both.

An organization would be subject to a fine on summary conviction of not more than \$100,000.

A young person who commits the following would be subject, as **subclause 12(10)** provides, on indictment or summary conviction, to a youth sentence under the *Youth Criminal Justice Act*:

- obtains or offers to obtain, or alters or offers to alter, cannabis in contravention of **subclause 12(1)**; or
- cultivates, propagates or harvests it or any other living thing from which cannabis may be extracted in contravention of **subclause 12(7)**.

A police officer would be able to issue a ticket under **clause 51** of the proposed Act in the amount of \$200 to adults:

- obtaining or offering to obtain cannabis by any method or process, including by manufacturing, by synthesis or by using any means of altering the chemical or physical properties of cannabis for a total amount of more than 30 grams but not more than 50 grams of dried cannabis in contravention of **paragraph 12(1)(a)**, or the equivalent set out in **Schedule 3**;
- cultivating, propagating or harvesting five or six cannabis plants in contravention of **paragraph 12(4)(b)**;
- cultivating, propagating or harvesting one or two cannabis plants in contravention of **subclause 12(5)**; or
- having plants that are more than 100 cm in height but not more than 150 cm in contravention of **paragraph 12(6)(a)**.

Possession for use in production or distribution of illegal cannabis

Subclause 13(1) would prohibit the possession, production, sale, distribution or import of anything with the intention that it would be used to produce, sell or distribute illegal cannabis. This will help reduce the ability of criminals and organized crime to maintain an illegal supply.

Punishments for use in production or distribution of illegal cannabis

As set out in **subclause 13(2)**, a person who contravenes **subclause 13(1)** would be liable:

- for conviction on indictment, to imprisonment for a term of not more than seven years; or
- on summary conviction, to a fine of not more than \$5,000 or to imprisonment for not more than six months or to both.

An organization would be subject to a fine on summary conviction of not more than \$100,000.

Using a young person to commit a cannabis-related offence

Subclause 14(1) would prohibit anyone from using the services of, or involving, a young person in committing any of the offences above relating to distributing, selling, importing or exporting, or producing.

Punishment for using a young person to commit a cannabis-related offence

A person who contravenes **subclause 14(1)** would be liable:

- for conviction on indictment, to imprisonment for a term of not more than 14 years; or
- on summary conviction, to a fine of not more than \$15,000 or to imprisonment for not more than 18 months or to both.

Sentencing

Clause 15 would set out guidance for sentencing for the above offences. The court, in imposing a sentence on an individual, would have to take into consideration under **subclause 15(2)** whether or not the offender carried, used or threatened to use a weapon; used or threatened to use violence; or sold or distributed cannabis in or near a school, school grounds or other public place frequented by young persons. In addition, the court would have to consider whether the individual has previously been convicted of a designated offence as defined in **subclause 2(1)** of the proposed Act or a designated substance offence as defined in subsection 2(1) of the *Controlled Drugs and Substances Act*. **Subclause 15(4)** allows the court to delay sentencing to enable an individual to participate in a drug treatment program. These treatment programs are intended to address problematic substance use, helping to break the cycle of addiction and criminal behaviour.

Other Prohibitions

Promotion

Division 2, Subdivision A would contain general prohibitions against the promotion (e.g., advertising) of cannabis, a cannabis accessory or any service related to cannabis. The proposed promotional restrictions are similar to the existing scheme for tobacco products, where promotional activities are prohibited except in limited circumstances. The proposed promotional offences and exceptions are intended to reduce incentives to use cannabis, in particular by those most at risk such as young persons. They are also designed to ensure that sufficient information is available for adult users to make informed decisions regarding consumption.

Promotion – what it does not apply to

The promotion prohibitions of the proposed Act would only apply to certain activities. **Clause 16** would clarify for example that the promotion prohibitions do not apply to a literary, dramatic, artistic, or educational work that depicts cannabis. For example, depicting cannabis in a film (not as a product placement for consideration) would not be subject to the prohibitions. The prohibitions would also not apply to a report, commentary, or opinion on cannabis where no payment of any kind is given for the reference to cannabis. In addition, a person authorized to produce, sell, or distribute cannabis, cannabis accessories, or services related to cannabis would not be restricted from promoting to others who would also be authorized to conduct those activities (but not at consumers).

What promotion is prohibited and what is allowed

Subclause 17(1) would prohibit, unless authorized under the proposed Act, the promotion of cannabis, cannabis accessories or services related to cannabis in a manner that there are reasonable grounds to believe could be appealing to young persons; the promotion through testimonials or endorsements; promotion using the depiction of a person, character or animal, whether real or fictional; or lifestyle promotion.

However, **subclauses 17(2) to 17(6)** would allow for certain exceptions to the promotion prohibitions, and these could be further elaborated in regulations (for example made under **subclause 139(1)**). This includes informational promotion in places where young persons are not permitted by law, such as signs

in places where young persons cannot access, online where there is an appropriate age verification mechanism, and direct mailings addressed to an adult identified by name. Informational promotion includes factual information about a cannabis product, such as THC and CBD levels, the effects of the product, use of pesticides, solvents and ingredients, and information that would allow for differentiation between brands. The legislation would also permit, subject to regulations, a person who is authorized to sell cannabis or cannabis accessories to promote it at a point of sale (e.g. retail store), if the promotion is limited to price and availability. This may include points of sale where young persons are permitted, if supported by provincial legislation. In addition, the proposed Act would allow for the display of brand elements on items other than cannabis and cannabis accessories, provided that those items are not associated with young persons, that there are not reasonable grounds to believe that they could be appealing to young persons; or that they are not associated with a certain lifestyle.

Under **clause 18**, it would be prohibited to promote cannabis or a cannabis accessory in a way that could be false, misleading, or deceptive, or that could create an erroneous impression about the product.

Clause 19 would prohibit the use of certain terms, expressions, logos, symbols or illustrations that are specified in regulations made under **subclause 139(1)** to promote cannabis, cannabis accessories or services related to cannabis.

Clause 20 would prohibit the promotion of cannabis, a cannabis accessory, a service related to cannabis or a brand element of any of those things in a manner that would contravene **Part 1** of the proposed Act through a publication, broadcast, or other communication that originates outside of Canada.

There would be further restrictions on sponsorship, set out in **clause 21**, including a prohibition of the display of a cannabis brand element or the name of a person who produces, sells or distributes cannabis as part of a sponsorship of a person, entity, event, activity or facility. It would also be prohibited to display a cannabis brand element, or the name of a person who produces, sells, or distributes cannabis, on a facility used for a sporting or cultural event (**clause 22**).

Subclause 23(1), with limited exceptions in **clause 23(2)**, would also prohibit the dissemination, on behalf of another person, any promotion that is already prohibited in **clauses 17 to 22**. The exceptions would only apply to distribution for the sale of an imported publication, certain types of broadcasting, and in respect of a person who disseminates a promotion without knowing that it contains a prohibited promotion.

Promotion through giving samples would also be prohibited. For example, unless it is otherwise authorized in regulations, it would be prohibited for a person who sells cannabis to provide cannabis for free (**paragraph 24(a)**), to provide as an inducement for the purchase of cannabis a right to participate in a game, draw, lottery or contest (**paragraph 24(b)**), or to provide a service as an inducement to purchase cannabis (**paragraph 24(c)**).

Prohibited activities for packaging and labelling for persons authorized to sell cannabis or cannabis accessories

Clauses 25 and 26 would set out prohibitions for packaging and labelling for persons authorized to sell cannabis and persons who sell cannabis accessories.

This would include prohibitions dealing with packaging and labelling:

- considered appealing to young persons;
- that use a testimonial or endorsement in any form;
- that contain false or misleading information; and
- that create associations with ‘lifestyle’ elements or images or depiction of a person, character or animal.

Clause 25 would prohibit a person authorized to sell cannabis to do so unless packaged or labelled in accordance with regulations made under the proposed *Cannabis Act*.

Specific packaging and labelling requirements such as those requiring the use of child-resistant packaging and warning labels would be set out in regulations.

Prohibited activities with respect to displaying cannabis

Clauses 29 and 30 would set out prohibitions for persons authorized to sell cannabis to display cannabis (including any package or labels for cannabis) where they may be seen by a young person, including at point of sale. A similar prohibition would apply to persons who sell cannabis accessories.

This is intended to minimize exposure to cannabis and cannabis accessories, and protect young persons from incentives to use. It would also mitigate the concern that the presence of any cannabis promotion could work against youth education efforts.

The Governor in Council would be able to make regulations respecting the display of cannabis or cannabis accessories (**clause 139(1)(p)**).

Selling and distributing cannabis and cannabis accessories

Division 2, Subdivision D sets out specific prohibitions respecting selling and distributing cannabis and cannabis accessories. These prohibitions would be in addition to the criminal prohibitions set out in **clauses 9 and 10** concerning the distribution and sale of cannabis. The approach is similar to federal controls for tobacco and proposed oversight for vaping products under Bill S-5. It is also consistent with the Task Force recommendations related to the protection of youth, aiming to restrict youth access and prevent inducement to use by minimizing exposure and easy access to cannabis. Relevant regulations could be made regarding sale and distribution under **subclause 139(1)**.

Clauses 31 to 38 of Subdivision D would enact the following:

- Selling cannabis or cannabis accessories would be prohibited if they have an appearance, shape or attribute that could be appealing to a young person (**clause 31**);
- It would be prohibited to sell cannabis accessories to a young person (**clause 32(1)**);

- It would not be a defence to a charge under **subclause 32(1)** that an accused person believed the person to whom they sold the cannabis accessory was at least 18 years of age, unless the accused took reasonable steps to determine the person's age (**subclause 33(2)**);
- Only classes of cannabis referred to in **Schedule 4** could be sold (i.e., dried cannabis, cannabis oil, fresh cannabis; cannabis plants; seeds) (**clause 33**);
- Cannabis could not be sold if it contains ingredients set out in **Schedule 5** of the proposed Act (e.g., nicotine or caffeine) (**clause 34**);
- Recalled cannabis could not be sold or distributed (**clause 35**); and
- Selling or distributing cannabis or cannabis accessories by means of a self-service display (**clause 36**) or by dispensing device, such as a vending machine (**clause 37**), would be prohibited.

Other Prohibitions

Division 2, Subdivision E would set out additional prohibitions in support of the administration and enforcement of the proposed Act and its regulations. In many cases these prohibitions would work alongside the provisions set out in **Part 7: Inspections**. The legislation would prohibit the obstruction of an inspector when they are carrying out their duties and functions (**subclause 38(1)**), the making of false or misleading statements to an inspector (**subclause 38(2)**), and moving, altering or interfering with anything seized by an inspector under **clause 86 (subclause 38(3))**. It would also prohibit the making of false or misleading statements in records or documents that would be required to be kept and maintained (**clause 39**).

Obligations for persons authorized to sell cannabis or cannabis accessories

Clause 40 would require holders of licences or permits to comply with the conditions set out in the licence or permit. The conditions could be common requirements applicable to all holders of a type of licence or permit, in addition to specific requirements tailored for a specifically authorized facility. Conditions are important because they typically complement or reinforce health and safety requirements set out in regulation, and provide regulators with the ability to set additional restrictions such as specific product types authorized for manufacture and sale, how cannabis is to be cultivated, and permitted annual production amounts. The Governor in Council would be able to make relevant regulations respecting the issuance of licences, permits or other authorizations, and their renewal, duration and conditions (**subclause 139(1)**).

Clause 41 would require the holder of a licence or permit to cease conducting any activities to which suspension of the licence or permit relates.

Clauses 42 and 43 provide for the public disclosure of information or providing information to the Minister of Health. The details for public disclosure would be set out in regulations and could, for example, include federal requirements for providing information about promotional activities.

Ticketable Offences

In addition to the procedures set out in the *Criminal Code* for prosecuting the offences in Division 1 of the proposed Act, **clauses 51 to 60** would create a ticketing scheme which would allow for police officers to issue tickets to individuals who are 18 years of age or older or to organizations.

Subclause 51(1) sets out the procedure for issuing a ticket, including the manner in which a police officer should complete a ticket.

Subclause 51(2) identifies the offences (possession, distribution, sale and production) for which a ticket could be issued. It is expected that the ability to issue tickets would reduce criminal prosecutions for less serious offences, thereby reducing the burden on police and on the criminal justice system.

Subclause 51(3) sets out the content of the tickets including a description of the offence, a statement signed by the police officer that he or she has reasonable grounds to believe that the accused committed the offence, the amount to be paid, and the manner in which and period within which the amount is to be paid. The ticket will also contain a statements that if the accused wishes to plead not guilty, the accused must appear in the court, at the place, day and time set out in the ticket; that if the accused pleads not guilty, he or she will be given an opportunity to indicate in which official language he or she wishes to be tried; and that if the accused does not enter a plea and does not pay the amount within the period set out in the ticket, a conviction will be entered in the judicial record of the accused.

The amount of the fine would be set at \$200, plus a victim surcharge calculated in accordance with subsection 737(2) of the *Criminal Code*, plus any applicable administrative fees (**subclause 51(4)**).

Clause 52 indicates that the consequences of paying the amount within the period set out in the ticket would constitute a plea of guilty to the offence, that a conviction would be entered in the judicial record; that the record would be kept separate and apart from other judicial records. In addition, the judicial record could not be used for any purposes that would identify the accused as a person who was dealt with under the proposed *Cannabis Act*.

Clause 53 provides that if an accused pleads not guilty and is convicted of the offence described in the ticket, the accused is liable to a fine of \$200, or, if in contravention of a provision specified in the regulations, to a fine equal to the amount specified in those regulations in respect of that contravention. If the accused is convicted of the offence and pays the amount owing in respect of the conviction, the judicial record of the accused in relation to the offence must be kept separate and apart from other judicial records and it must not be used for any purpose that would identify the accused as a person dealt with under the proposed Act.

Clause 54 would set out that the consequences of failing to pay the amount set out in the ticket would result in a criminal record and **clause 55** provides for possible imprisonment if the individual is able but unwilling to pay the fine or the amount of the victim surcharge.

Clause 56 states that no information under the *Criminal Code* may be laid in respect of an offence for which a summons portion of a ticket is delivered or sent.

Clause 57 provides that, except where otherwise provided by this Part of the proposed Act, Part XXVII of the *Criminal Code* applies to proceedings commenced under this Part.

Clause 58 gives the Crown prosecutor the ability to elect to proceed with a ticket where an information has been laid. It also sets out the procedure for informing the accused that the Crown has elected to proceed by way of a ticket and the consequences of this election.

Clauses 59 – 60 states that the Attorney General of Canada may enter into agreements with the provinces regarding the prosecution and enforcement of tickets and the sharing of fines and fees that are collected from the prosecution of tickets.

Under **subclause 139(1)**, the Governor in Council would be able to make regulations specifying additional offences as ticketable. However, this authority would only apply to offences that are not contained in Division 1 of Part 1 of the proposed Act.

General licensing scheme for persons authorized to distribute, sell, produce, import or export cannabis

Clauses 61 to 68 would set out a general licensing scheme for persons to distribute, sell, produce, import or export cannabis. The licensing scheme would allow for the creation of a cannabis industry in Canada that is strictly regulated. It would allow the Minister of Health to respond quickly to industry non-compliance that may pose risks to public health and public safety.

The licensing scheme would provide the Minister of Health with authority to issue licences and permits to conduct activities involving cannabis, and to add licence and permit conditions. It would allow the Minister of Health to establish classes of applications (e.g., applications for large scale producers). It would give the Minister of Health the authority to issue, amend, suspend or revoke a license or a permit.

Clauses would set out the grounds for refusal (**subclause 62(7)**), a requirement to notify in writing with respect to refusal or suspension, and proposed revocations (**subclauses 62(8)** and **64(2)** and **clause 66**).

The proposed legislation includes authority to request additional application information, including financial information (**subclauses 62(4)** and **(54)**), and to grant, refuse, suspend or cancel security clearances (**clause 67**). This information would be used to verify that the persons applying for a licence or permit have sufficient financial resources to conduct their business in a responsible manner (i.e., to mitigate the risk of organized crime infiltrating the legal cannabis supply chain).

Subclause 62(2) would limit import and export licences or permits to medical or scientific purposes, or for industrial hemp. This approach is consistent with current regulations pertaining to industrial hemp and cannabis for medical purposes.

Subclause 68(1) would allow the Minister of Health, by order, to set a date for the termination of applications for a certain class or classes of applications for a licence or permit. The approach would allow the Minister to terminate existing licence or permit applications in order to commence the issuance of those documents by a different process or mechanism.

Subclause 68(2) would require that any fees paid for terminated applications be returned.

Clauses 142 to 147 would allow the Minister of Health, by order, to set up a cost recovery scheme, including for approvals, authorizations, exemptions or regulatory processes that would be provided by Health Canada.

The Governor in Council would be able to make regulations respecting, for example, the issuance of licences and permits and establishing classes of licences and permits, the qualifications of individuals conducting activities with cannabis, and the composition, strength, concentration, potency, purity or quality or any other property of cannabis.

Ministerial Orders - Provision of Information, Test and Studies, Mandatory Recall

Clauses 73 to 76 would authorize the making of ministerial orders directed at persons authorized to conduct activities under the proposed Act or a relevant provincial statute. These orders might include requirements to:

- Provide compliance-related information to the Minister (**clause 73**);
- Conduct tests or studies and provide the Minister with the results (**clause 74**);
- Take measures to prevent or remedy non-compliance (**clause 75**); or
- Recall cannabis if the Minister believes it is necessary to protect public health or public safety (**clause 76**).

Tests to verify compliance could be ordered to verify whether cannabis meets quality control requirements. The content of an order, including reasons for the order and details of actions required, would also be specified in the order.

Similar to the *Canada Consumer Product Safety Act*, **clause 79** would set out the process to review these ministerial orders on grounds that involve questions of fact or questions of mixed law and fact by a review officer that has been designated by the Minister of Health.

Under **subclause 139(1)**, the Governor in Council would be able to make relevant regulations respecting the making, serving, and filing of an order, recall, and the review of orders.

Cannabis Tracking System

Division 4, Part 6 sets out the provisions for the Minister of Health to establish a national seed-to-sale tracking system for cannabis. The tracking system would enable cannabis to be tracked (**paragraph 81 (a)**), prevent cannabis from being diverted to an illegal market or activity (**paragraph 81 (b)**), and prevent illegal cannabis from becoming a source of supply into the legal market (**paragraph 81 (c)**).

The Minister of Health would have the authority to order federally and provincially or territorially authorized persons to provide any information relating to their activities, such as cannabis receipt, sales and disposal (**subclause 82 (1)**).

Paragraphs 83 (a) to (f) set out authorities for the Minister of Health to disclose information that is contained in the system:

- to a government of a province or territory, a public body, or a federal Minister for the purpose of verifying compliance or preventing non-compliance;
- if the Minister of Health has reasonable grounds to believe that disclosure is necessary to protect public health or public safety;
- to fulfill international obligations; or
- to any prescribed person or in a prescribed circumstance.

General Authorizations – provincial and territorial

Clause 69 sets out a framework for provinces and territories to authorize the selling of cannabis such that a person could possess, sell or distribute cannabis if they have been authorized to do so under provincial or territorial legislation that includes specific legislative measures. **Subclause 69(3)** would specify that the measures would require that provincially authorized sellers must:

- Only sell cannabis that has been produced by a federally authorized producer;
- Not sell cannabis to a person younger than 18;
- Keep appropriate records respecting their activities in relation to cannabis that they possess for commercial purposes; or
- Take adequate measures to prevent diversion to an illegal market or activity.

Inspections, Search Warrants, and Disposition of Seized Things

Clauses 84 to 109 would provide broad and modern administration and enforcement powers similar to existing provisions set out under the *Canada Consumer Product Safety Act* and amendments being proposed in Bill C-37 to the *Controlled Drugs and Substances Act*. Use of these powers would help to promote quality control of the supply of cannabis, mitigate risks of diversion to the illegal market, and facilitate enforcement of the proposed Act.

Subclause 84(1) would authorize the Minister to designate inspectors for the purposes of administration and enforcement of the proposed Act. **Clause 86** sets out the authorities for inspectors to carry out inspection activities, including the authority to:

- Enter any place, including a conveyance (e.g., a vehicle, boat, etc.) (**subclause 86(1)**), that an inspector believes on reasonable grounds an activity that may be regulated under the proposed Act is being conducted (e.g. places where regulated activities could be conducted under a license or authorization);
- Open and examine receptacles and packages (**paragraph 86(2)(a)**);
- Examine labels, promotional materials, records, books, electronic data or other documents (**paragraph 86(2)(b)**);
- Seize or detain anything in respect of which there are reasonable grounds to believe the proposed Act or the regulations have been contravened (**paragraph 86(2)(j)**); and

- Inspect a residence. An inspector would only be able to enter with the consent of the occupant or under the authority of a judicial warrant (**subclause 86(7)**). This would only be allowed in places where the criteria in **subclause 86(1)** are met, such as where the inspector has reasonable grounds to believe that an activity that may be regulated under the Act is being conducted.

Authority to enter a conveyance, such as a car, is an important tool for inspectors because they may need to stop and enter a conveyance for the purpose of an inspection, have them moved (e.g., to a testing facility), or have them parked (e.g., to keep the product from being taken away). This is similar to the amendment to the *Controlled Drugs and Substance Act* proposed in Bill C-37.

The proposed Act would also authorize the issuing of a search warrant in situations connected with contraventions of the Act (**subclause 87(1)**). It would enable an application for a search warrant to be submitted by telephone or by another means of telecommunication (**subclause 87(2)**) and would provide a police officer with the authority to enlist assistance and use force, if necessary (**clause 88**). It also allows a search warrant to be executed in another province or territory after it has been validated by a justice in that jurisdiction (**clause 87 (3)**).

The legislation sets out procedures for the reporting on, management, and disposal of property seized in connection with criminal offences while legal proceedings are concluded. **Part 9** distinguishes where the proposed Act would apply to cannabis, chemical that is not chemical offence-related property, chemical offence-related property (e.g., fertilizer, pesticides, solvents) and non-chemical offence-related property (e.g., money, vehicle, residence), and where procedures under the *Criminal Code* would apply.

Fines and Penalties for certain offences and administrative monetary penalties

Clause 44 sets out indictable and summary conviction offences, and maximum associated penalties, for contraventions to the proposed Act where a punishment is not otherwise provided, a regulation or an order. This includes penalties for offences related to promotion, packaging and labelling and displaying cannabis, contravention of a ministerial order, and failing to comply with a condition of licence. The maximum penalty for a person found guilty of an indictable offence is a fine up to \$5,000,000 or imprisonment for up to three years, or both.

This high level of fine would be consistent with the *Canada Consumer Product Safety Act* and the *Safe Food for Canadians Act*, and would allow the Government to take more effective action against licensed persons who jeopardize public health or public safety.

In addition to indictable and summary conviction offences, **clauses 110 to 127** would set out an Administrative Monetary Penalties (AMP) scheme that would be similar to those found in other health-related legislation (e.g. *Canada Consumer Product Safety Act* and proposed amendments to the *Controlled Drugs and Substances Act*). AMPs are a tool that could be used by inspectors to deal, for instance, with violations committed by a licence holder and provide for flexibility to issue a notice of violation with a monetary penalty amount instead of referring the matter for prosecution. **Subclause 111(1)** sets out a maximum penalty amount of \$1 million per day of a continuing violation, **clauses 112**

to 127 would set out procedures and rules, including a right to a review of alleged violations and the ability to enter into a compliance agreement with a reduced monetary penalty as a possibility.

Governor in Council regulation making authorities for AMPS would include classifying violations as minor, serious or very serious; and fixing maximum penalty amounts.

Disclosure of Information

Clause 128 would allow for the disclosure of any personal information, without consent or notice, in order to protect public health or public safety, subject to the definition of personal information in the *Privacy Act*.

In order to use this authority, the Minister must have evidence to demonstrate that the use of this power is necessary to protect public health or public safety.

Confidential business information (CBI) disclosure: **Clause 129(1)** introduces an authority to permit the Minister to disclose confidential business information (CBI) obtained under the proposed Act without notifying the person to whose business or affairs the information relates or obtaining their consent if it is necessary for the purpose of protecting public health or public safety.

Subclause 129(2) defines CBI and sets out the three conditions that must be met in order for information to be considered CBI. The definition reflects common law principles and is consistent with the definition of the same in other domestic legislation (i.e., *Canada Consumer Product Safety Act*, *Food and Drugs Act*).

This definition is necessary to support the Minister's power to disclose confidential business information for the purpose of protecting public health or public safety (**subclause 129(1)**).

Transitional Provisions, Related, Consequential and Coordinating Amendments

Part 12 of the Bill would allow for a transition scheme necessary to allow for an orderly transition as cannabis is removed from the oversight of the *Controlled Drugs and Substances Act* and placed under the proposed *Cannabis Act*. This Part of the Bill would also amend other federal legislation as a consequence of Parliament passing the Bill.

Transitional Provisions

Given that cannabis would be removed from the scope of *Controlled Drugs and Substances Act* and replaced with a new regime under the proposed *Cannabis Act* and its regulations, specific legislative provisions would be required to support this transition.

To this end, **clause 153** would allow decisions made by the Minister under the CDSA in relation to cannabis to be decisions made under the proposed Act. Clauses 154 and 155 would allow existing inspectors and analysts designated under the CDSA to continue their duties and functions in relation to cannabis without a new designation if and when the proposed Act is brought into force. The legislation

would also allow authorizations provided under the *Access to Cannabis for Medical Purposes Regulations* (i.e., licences, import and export, permits, security clearances) to continue to be valid until their expiry date, unless they are revoked or cancelled before that date.

There would also be provisions to transition existing schemes related to cannabis under the *Industrial Hemp Regulations* and the *Narcotic Control Regulations*.

There would be provisions to transition existing exemptions related to cannabis issued under section 56 of the *Controlled Drugs and Substances Act* to be exemptions under the proposed *Cannabis Act* (**clause 156**). **Clause 161** would allow the Governor in Council to make regulations as necessary to provide for any other transitional matter could come up as a result of the coming-into-force of the proposed Act.

Related Amendments

There would be a related amendment to the *Non-smokers' Health Act* (**clauses 162-164**) to prohibit the smoking and vaping of cannabis in federally regulated places and conveyances, similar to restrictions in place for tobacco smoking.

Consequential Amendments

In addition, there would be consequential amendments to federal statutes that previously applied to cannabis as a controlled substance under the *Controlled Drugs and Substances Act* where their application is still relevant.

The proposed Act would make necessary changes to the *Criminal Records Act* (**clause 165**), the *Identification of Criminals Act* (**clause 166**), the *Canada Consumer Product Safety Act* (to exclude cannabis from application, except for cannabis accessories) (**clause 186**), the *National Defence Act* (**clause 168**), the *Customs Act* (**clause 169-170**), the *Mutual Legal Assistance in Criminal Matters Act* (**clause 171**), the *Corrections and Conditional Release Act* (**clause 172**), the *Seized Property Management Act* (**clauses 173-181**), the *Firearms Act* (**clause 182**), the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (**clause 183**), the *Youth Criminal Justice Act* (**clause 184**), the *International Interests in Mobile Equipment (aircraft equipment) Act* (**clause 185**), and the *Canadian Victims Bill of Rights* (**clause 198**).

Coordinating Amendments

Clauses 188-193, 206 and 225 propose coordinating amendments with respect to other pieces of legislation or bills that are amending the same provisions as set out above and below.

Part 13 – Amendments to the *Controlled Drugs and Substances Act*

The proposed Act would make changes to the *Controlled Drugs and Substances Act* (**clauses 194-205**). Some of these changes are necessary as a result of the transfer of cannabis from the *Controlled Drugs and Substances Act* to the proposed *Cannabis Act* and some of them are to better align the two Acts, for example with respect to definitions and penalties.

Part 14 – Amendments to the *Criminal Code*

The proposed Act would make changes to the *Criminal Code* (**clauses 207-224**). Some of these changes are necessary as a result of the transfer of cannabis from the *Controlled Drugs and Substances Act* to the proposed *Cannabis Act*. Part XXII.1 of the *Criminal Code* with respect to offences related to instruments and literature for illegal drug use would be repealed given that the proposed *Cannabis Act* would deal with promotion of cannabis as well as activities with cannabis accessories.

Coming into Force

Clause 226 provides that certain provisions of the proposed Act would come into force at Royal Assent (regulation-making authority concerning transitional matters, coordinating amendments, and some *Controlled Drugs and Substances Act* amendments). Other provisions of the proposed Act would be brought into force on a date(s) set by the Governor in Council.

Coming into Force of the Proposed *Cannabis Act*

The Government intends to bring the proposed *Cannabis Act* into force no later than July 2018. At that time, adults would be able to legally possess, grow and purchase cannabis with restrictions. To deter criminal activity, the Government is committed to ensuring that there is a safe, legal supply of cannabis available for sale when the proposed Act comes into force.

What would be legal?

Under the proposed *Cannabis Act*, adults (individuals 18 years of age or older) would be able to possess cannabis, up to a limit of 30 grams of dried cannabis or its equivalent when in public. Consistent with the recommendations of the Task Force, adults would be allowed to grow cannabis plants at home up to a limit of 4 plants per residence, with each plant not to exceed 100 cm in height. They would be able to share up to 30 grams of dried cannabis or its equivalent with other adults and would be allowed to prepare different types of products (such as foods or beverages containing cannabis), provided that they do not use dangerous organic solvents to do so. Finally, they would be able to purchase cannabis from an authorized retailer or a federally licensed producer.

Both federal and provincial governments may validly legislate over matters addressing public health and public safety. That is to say, regulation of a particular activity will fall within federal jurisdiction in one respect, while falling within provincial jurisdiction in another, such as age of possession, possession and distribution amounts and personal cultivation. The approach proposed in Bill C-45 provides scope for provinces and territories to tailor their legislation to address their local circumstances in a manner that is consistent with the objectives of the proposed *Cannabis Act*.

Provinces, territories and municipalities would have the authority to set additional requirements to address areas of local concern. For example, they could set a higher minimum age limit, or more restrictive limits on possession or personal cultivation than those in the proposed Act. They may also establish rules for cannabis-based businesses, or restrict where cannabis may be consumed (e.g., where smoking tobacco is prohibited).

Where would adults be able to purchase cannabis?

Adults would be able to purchase cannabis from a provincially or territorially authorized retailer who, in turn, would be able to buy their supply only from a federally authorized producer in order to ensure that the commercial supply of cannabis is quality controlled and safe. The provinces and territories would be responsible for defining the type of distribution and retail system, number of authorized retailers that would operate in their jurisdiction, etc.

In provinces or territories that have not put in place a regulated retail framework by the time the proposed Act comes into force, adults would be able to purchase cannabis online from a federally licenced producer with secure home delivery through the mail or by courier. Once a provincial or

territorial system is operational, the ability to purchase directly from a federally licenced producer would be re-evaluated.

Possession, production, distribution and sale outside of the legal system would remain illegal and be subject to criminal penalties.

What would adults be able to purchase?

Initially, adults would be able to legally purchase fresh and dried cannabis, cannabis oil, and seeds or plants for personal cultivation. Other forms of cannabis products, such as edibles, would become available at a later date, once necessary federal regulations have been developed and brought into force.

Access to Cannabis for Medical Purposes

The Government is committed to maintaining access to cannabis for medical purposes. Upon the coming into force of the proposed *Cannabis Act*, the federal government would implement the recommendation of the Task Force and maintain the current access program for medical cannabis during the transition to the new legal regime.

When the proposed *Cannabis Act* comes into force, individuals with a medical need who are registered with a federally licensed producer would continue to be able to access fresh or dried cannabis or cannabis oil, or starting materials (seeds or plants). They would also continue to be able to produce a limited amount for their own medical purposes or designate someone to produce it on their behalf.

The Task Force also recommended that the Government monitor and evaluate patients' reasonable access to cannabis for medical purposes during the implementation of the proposed *Cannabis Act* and then evaluate the medical access framework within five years. Health Canada will closely monitor and evaluate patient access to cannabis to medical purposes during the implementation of the new law and will make adjustments as necessary to maintain reasonable access.

Differences between the proposed *Cannabis Act* and the *Access to Cannabis for Medical Purposes Regulations*

Under both the proposed *Cannabis Act* and the *Access to Cannabis for Medical Purposes Regulations* (ACMPR), individuals can possess, cultivate and purchase cannabis within certain limits. However, given the different objectives of each regime, there are many differences between them in terms of:

- who can possess cannabis;
- how much they can possess, purchase, or grow; and,
- where they can purchase it.

For example, under the ACMPR, the number of plants an individual can grow is based on the daily dose authorized by their health care practitioner, whereas under the proposed *Cannabis Act*, the limit is 4 plants per residence.

Impact on Access to Cannabis for Medical Purposes

When the proposed *Cannabis Act* comes into force, the Government will look to adjust any limits under the medical access program that are more restrictive to be consistent with the proposed *Cannabis Act*. These changes would be few and very minor, and should not impact the end user. A limit on storage is one example where the ACMPR is more restrictive. There is no storage limit in the proposed *Cannabis Act*, and as such, this limit would be removed for the medical access program.

Conversely, if the limits are higher under the ACMPR, they will remain the same. Individuals would be required to demonstrate that they are authorized to possess or cultivate quantities that exceed the limits in the proposed *Cannabis Act* when requested.

Charter Statement

Explanatory Note

The Minister of Justice prepares a “Charter Statement” to help inform public and Parliamentary debate on a government bill. One of the Minister of Justice’s most important responsibilities is to examine legislation for consistency with the *Canadian Charter of Rights and Freedoms* [“the Charter”]. By tabling a Charter Statement, the Minister is sharing some of the key considerations that informed the review of a bill for consistency with the Charter. A Statement identifies Charter rights and freedoms that may potentially be engaged by a bill and provides a brief explanation of the nature of any engagement, in light of the measures being proposed.

A Charter Statement also identifies potential justifications for any limits a bill may impose on Charter rights and freedoms. Section 1 of the Charter provides that rights and freedoms may be subject to reasonable limits if those limits are prescribed by law and demonstrably justified in a free and democratic society. This means that Parliament may enact laws that limit Charter rights and freedoms. The Charter will be violated only where a limit is not demonstrably justifiable in a free and democratic society.

A Charter Statement is intended to provide legal information to the public and Parliament. It is not intended to be a comprehensive overview of all conceivable Charter considerations. Additional considerations relevant to the constitutionality of a bill may also arise in the course of Parliamentary study and amendment of a bill. A Statement is not a legal opinion on the constitutionality of a bill.

Charter Considerations

The Minister of Justice has examined Bill C-45, *An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts*, for consistency with the Charter pursuant to her obligation under section 4.1 of the *Department of Justice Act*. This review involved consideration of the objectives and features of the Bill.

What follows is a non-exhaustive discussion of the ways in which Bill C-45 potentially engages the rights and freedoms guaranteed by the Charter. It is presented to assist in informing the public and Parliamentary debate on the Bill.

Criminal offences (Part I, Division I)

Clauses 8 through 13 of the Bill would create a number of new criminal offences, including offences in relation to the possession, distribution and production of cannabis. These new offences would replace the offences currently applicable to the same conduct under the *Controlled Drugs and Substances Act* (CDSA). **Clause 8** would set out the basic **possession** offences, which would include different offences for adults (individuals over the age of 18) and young persons (individuals over the age of 12 but under 18). For example, under paragraph 8(1)(a), adults would be prohibited from possessing, in a public place, cannabis in an amount greater than the equivalent of 30 grams of dried cannabis. Under paragraph

8(1)(c), young persons would be prohibited from possessing more than 5 grams of dried cannabis or its equivalent. **Clause 9** would create a number of offences related to the **distribution** of cannabis. “Distributing” would be defined to encompass various means of making cannabis available, other than selling, which would be covered by a separate offence in clause 10. Adults would be prohibited from distributing cannabis to individuals under the age of 18 and from distributing more than 30 grams of dried cannabis or its equivalent to adults. Young persons would be prohibited from distributing more than 5 grams or its equivalent. **Clause 12** would create offences in relation to the **production** of cannabis and would prohibit, among other things, the cultivation, propagation or harvesting of more than four plants by an adult in their residence. Cultivation, propagation or harvesting by young persons would be prohibited. Individuals would be permitted to alter the physical or chemical properties of cannabis that they can lawfully possess, provided that they do not use explosive or highly flammable substances to do so.

The new offences would be similar to those contained in the CDSA, but the applicable penalties would be adapted to reflect the new legal environment in which access to cannabis would be permitted but strictly regulated. For all but two of the new offences, the maximum penalty would be lower than the maximum penalty that is currently applicable under the CDSA. For example, the offences of selling and distributing cannabis would be subject to a maximum penalty of 14 years’ imprisonment as opposed to a maximum penalty of life imprisonment for the corresponding offence of trafficking under the CDSA. The only two exceptions would be the offences of simple possession and cultivation of cannabis plants over the applicable limits. The maximum penalties for these offences would remain the same as those under the current provisions of the CDSA (five years less one day and 14 years, respectively). Importantly, the Bill would not include any mandatory minimum penalties and would preserve the discretion of judges to craft sentences that are proportionate to the gravity of the offence and the degree of responsibility of the offender.

Life, liberty and security of the person (section 7)

Any criminal prohibition that gives rise to the possibility of imprisonment engages the section 7 right to liberty, and must therefore accord with the principles of fundamental justice. These include the principles against arbitrariness, overbreadth and gross disproportionality. An arbitrary law is one that impacts section 7 rights in a way that is not rationally connected to the law’s purpose. An overbroad law is one that impacts section 7 rights in a way that, while generally rational, goes too far by capturing some conduct that bears no relation to the law’s purpose. A grossly disproportionate law is one whose effects on section 7 rights are so severe as to be “completely out of sync” with the law’s purpose.

The following considerations support the consistency of the offences with section 7. The complete prohibition on recreational cannabis was upheld by the Supreme Court of Canada in *R. v. Malmo Levine* (2003) and *R. v. Clay* (2003). As compared to the existing law, the proposed narrowed offences would promote liberty and autonomy by creating a zone of lawful conduct in relation to cannabis. The Bill would retain the overarching purposes of the existing law – the protection of public health and public safety – while adding a number of more specific purposes, including in relation to the protection of the health of young persons and the reduction of illegal activities in relation to cannabis. The new offences

target the specific risks associated with the use of cannabis by young persons and the diversion of cannabis into the illegal market. As such, they reflect a tailored approach to the legislative objectives.

Equality (section 15)

Section 15(1) of the Charter protects equality rights. It provides that every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination, including on the basis of age.

The new possession, distribution and production offences potentially engage section 15 because they apply differently to adults than to young persons – with a wider range of conduct being criminally prohibited for young persons as compared to adults. It is important to note that young persons would be dealt with under the *Youth Criminal Justice Act (YCJA)*, which tempers the effects of involvement with the criminal justice system in several ways. The YCJA recognizes that young people lack the maturity of adults, and incorporates principles and measures that are consistent with this reduced level of maturity. The YCJA encourages the use of measures outside of the formal court system for less serious offences in recognition of the fact that such measures are often the most appropriate and effective way to respond to youth offending. Police are required under the YCJA to consider taking no further action, or using measures such as warnings or referrals to community-based programs, before laying charges. Such measures are presumed to be adequate to respond to first-time, non-violent offences, including drug offences. Where formal charges are pursued and a young person is found guilty of an offence, the YCJA provides for flexibility in sentencing, including the option of reprimanding the young person, and imposes limits on the retention and use of criminal records.

The following considerations support the consistency of these offences with the Charter. The broader criminal prohibitions applicable to youth are based on a substantial body of scientific evidence concerning the heightened risks of cannabis use for young persons as compared to adults. In particular, the evidence suggests that cannabis use during adolescence, when the brain is still developing, poses greater health risks than use in adulthood. These risks include greater potential for addiction, negative effects on cognitive and intellectual development, and harms to mental health. In addition, the prohibitions applicable to young persons are specifically tailored to narrow the threat of criminal sanction in several ways, including the following: the possession of small amounts of cannabis by young persons is not criminalized and the prohibitions operate in the context of other prohibitions designed to prevent cannabis from getting into the hands of young persons in the first place. In this latter respect, it is important to note that the Bill would prohibit the sale of cannabis to a person under 18 years of age, distribution of cannabis by an adult to a person under 18 years of age, and distribution of more than 5 grams of cannabis by a young person.

Restrictions on promotion, packaging and labelling (Part I, Division 2, Subdivisions 1, 2)

The Bill would place a number of restrictions on the promotion, packaging and labelling of cannabis and cannabis accessories, similar to the restrictions applicable to tobacco products under the *Tobacco Act*. **Clauses 16-24** would restrict the promotion of cannabis but would not apply to artistic or scientific works provided that no payment or reward is given for the use or depiction of cannabis in the work. The

restrictions would include a general prohibition on the promotion of cannabis, cannabis accessories and services related to cannabis, subject to limited exceptions for informational and brand-preference promotion targeted at adults. Also included would be, among other things, prohibitions on false promotion and sponsorship. **Clauses 25-28** would establish comparable restrictions in respect of packaging and labelling, generally prohibiting packaging and labelling that could be appealing to young persons or encourage cannabis use.

Freedom of expression (section 2(b))

Section 2(b) of the Charter protects freedom of expression and generally extends to advertising and other expression that is done for commercial purposes, including commercial expression by corporations. The restrictions on promotion, packaging and labelling would limit the right to freedom of expression.

The following considerations support the consistency of the restrictions on promotion, packaging and labelling with the Charter. The restrictions on promotion, packaging and labelling are modelled on the approach taken in the *Tobacco Act*, which was upheld by the Supreme Court of Canada as a reasonable limit on expression rights in *Canada (A.G.) v. JTI-MacDonald* (2007). Although the risks associated with cannabis are not identical to those associated with tobacco, they are sufficiently serious to ground a comparable approach. The restrictions target expression that is of low value, namely, commercial expression that is used to induce people to engage in behaviour associated with health risks (particularly for vulnerable groups including young persons). The Bill would permit informational and brand-preference promotion, subject to placement restrictions to limit young persons' exposure to such promotion. This would allow adult consumers to make informed decisions about consumption while responding to the greater risks that cannabis poses for young persons.

Ticketable offences and administrative monetary penalties (Parts 2 and 10)

Part 2 (**clauses 51-60**) would create a ticketing option for certain offences. Specified proceedings against adults could be commenced by giving the accused a ticket setting out listed information, including: the police officer's reasonable grounds to believe that the accused committed the offence; the amount to be paid; the manner and period within which payment must be made; the consequences of payment and non-payment; and the procedure to be followed if the accused wishes to plead not guilty (**clause 51**). Payment would result in a conviction being entered in the judicial record of the accused. However, the effect would be the same as that of a pardon or record suspension – the judicial record would be kept separate and apart from other judicial records and could not be used to identify the accused as a person dealt with under the Act (**clause 52**). Where an accused pleads not guilty but is ultimately found guilty, a conviction would be entered and the accused would be liable to the fine that was set out in the ticket (**clause 53**). Non-payment of the ticket would also result in a conviction (**clause 54**). Although a finding of guilt or failure to pay the ticket would both result in a criminal record, the Bill would provide that upon payment of the amount owing, the judicial record would have to be treated in the same way as the records of people who initially pay the ticket (**subclauses 53(2), 54(2)**). The only circumstance in

which a ticket could lead to imprisonment is that of an accused who is able but unwilling to pay (**clause 55**).

Part 10 (**clauses 110-127**) of the Bill would create an administrative monetary penalty regime that would be available in respect of contraventions of the provisions of the Act (except the Criminal Activities provisions in clauses 8-14) and regulations or certain ministerial orders (**clause 111**). The Bill would provide for the issuance of a notice of violation setting out, among other things, the alleged violation, the penalty, and a summary of the named person's rights, including the right to seek review of the alleged facts or the penalty amount (**clause 112**). Proceeding with a notice of violation would preclude proceeding with criminal charges (**clause 126**) and would not give rise to the possibility of imprisonment.

Fair trial rights (section 11) and the presumption of innocence (section 11(d))

Section 11 of the Charter guarantees certain procedural rights to persons who have been charged with an offence. Its protections apply to proceedings that are "penal in nature" or that may lead to "true penal consequences". True penal consequences include imprisonment and fines with a punitive purpose or effect, as may be the case where the fine or penalty is out of proportion to the amount required to achieve regulatory purposes. Section 11(d) guarantees the right to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal.

Ticketable offences (Part 2)

A ticket can result in conviction in the absence of a hearing and therefore has the potential to impact section 11(d) rights. The following considerations support the consistency of Part 2 of the Bill with the Charter. The Bill would, through the requirements related to the delivery and content of the ticket, provide for adequate notice to the accused and an opportunity to assert their right to a hearing. The ticketing option would be limited to proceedings involving conduct that is on the less serious end of the spectrum (e.g., possession in public or distribution by an adult of more than 30 grams but not more than 50 grams of dried cannabis or its equivalent) and that is not associated with significant stigma. Finally, it would always be open to an accused who was convicted (whether by a finding of guilt or non-payment of the ticket) to pay the amount owing, at which point the judicial record would have to be kept separate and apart and could not be used to identify the accused as a person dealt with under the Act.

Administrative monetary penalties (Part 10)

Part 10 would give rise to the possibility of substantial monetary penalties and therefore has the potential to impact section 11 rights. The following considerations support the consistency of Part 10 with the Charter. The proceedings leading to the imposition of a monetary penalty would be administrative in nature. The penalty imposed would have to be based on the compliance-related factors listed in subclause 112(3) and serve the purpose of promoting compliance with the Act (subclause 111(2)). The Bill would authorize designated officials to impose potentially high penalties (up to \$1,000,000 per day of a continuing violation). However, high monetary penalties would only be imposed where necessary to provide sufficient economic incentives for compliance so that penalties are

not simply considered a cost of doing business by large corporations. Finally, penalties would be subject to civil enforcement in the Federal Court but could not result in imprisonment for non-payment.

Inspection, requirement and disclosure powers (Parts 3, 5, 6, 7)

The Bill would create a number of regulatory powers analogous to those in other comparable laws. For the purpose of verifying compliance or preventing non-compliance with the Act or regulations, inspectors would, among other things, be authorized to enter and conduct inspections in places to which the regulatory requirements under the Act apply (**clause 86**) and to order any person authorized to conduct cannabis-related activities to provide documents, information or samples (**clause 85**). The Bill would also include several provisions authorizing the designated Minister to require information for regulatory purposes (**clauses 62, 73-74**), including for the purpose of establishing or maintaining a national cannabis tracking system (**clause 82**).

The Bill would authorize the disclosure of information in a number of circumstances. **Clause 83** would authorize disclosure by the Minister of information in the national cannabis tracking system including: disclosure to provincial governments or bodies for the purpose of verifying compliance or preventing non-compliance with a provincial law authorizing the selling of cannabis; disclosure to any federal Minister for the purpose of verifying compliance or preventing non-compliance with another federal Act that applies to cannabis or any cannabis-related activity; and disclosure that is necessary to enable Canada to fulfill its international obligations. Under **clauses 128 and 129**, the Minister would also be authorized to disclose any personal or confidential business information that the Minister considers necessary to protect public health or public safety.

Searches or seizures (section 8)

Section 8 of the Charter protects against “unreasonable” searches and seizures. A search or seizure will be reasonable if it is authorized by a law, the law itself is reasonable in the sense of striking an appropriate balance between privacy interests and the state interest being pursued, and the search is carried out in a reasonable manner. Because the inspection, requirement and disclosure powers have the potential to interfere with privacy interests they may engage section 8.

The following considerations support the consistency of these powers with the Charter. The inspection and requirement powers would be available for regulatory, not penal, purposes (e.g., to assist the Minister in making licensing decisions, to verify compliance or prevent non-compliance with the Act or regulations, etc.) in circumstances where privacy expectations are diminished. As such, the proposed powers are broadly analogous to inspection powers that have been upheld in the regulatory context. The disclosure powers would similarly be available for broadly regulatory purposes (e.g., verifying compliance or preventing non-compliance with provincial laws regulating the sale of cannabis and with federal laws applicable to cannabis; fulfilling international obligations; and protecting public health or public safety). Importantly, these provisions would confer a discretion on the Minister, which would have to be exercised in accordance with the Charter.

Annex 1 – Task Force Report: Executive Summary

Introduction: Mandate, Context and Consultation Process

On June 30, 2016, the Minister of Justice and Attorney General of Canada, the Minister of Public Safety and Emergency Preparedness, and the Minister of Health announced the creation of a nine-member Task Force on Cannabis Legalization and Regulation ("the Task Force"). Our mandate was to consult and provide advice on the design of a new legislative and regulatory framework for legal access to cannabis, consistent with the Government's commitment to "legalize, regulate, and restrict access."

To fulfill our mandate, we engaged with provincial, territorial and municipal governments, experts, patients, advocates, Indigenous governments and representative organizations, employers and industry. We heard from many other Canadians as well, including many young people, who participated in an online public consultation that generated nearly 30,000 submissions from individuals and organizations. The Task Force looked internationally (e.g., Colorado, Washington State, Uruguay) to learn from jurisdictions that have legalized cannabis for non-medical purposes, and we drew lessons from the way governments in Canada have regulated tobacco and alcohol, and cannabis for medical purposes.

A Discussion Paper prepared by the Government, entitled "Toward the Legalization, Regulation and Restriction of Access to Marijuana," informed the Task Force's work and helped to focus the input of many of the people from whom we heard. The Discussion Paper identified nine public policy objectives. Chief among these are keeping cannabis out of the hands of children and youth and keeping profits out of the hands of organized crime. The Task Force set out guiding principles as the foundation of our advice to Ministers: protection of public health and safety, compassion, fairness, collaboration, a commitment to evidence-informed policy and flexibility.

In considering the experience of other jurisdictions and the views of experts, stakeholders and the public, we sought to strike a balance between implementing appropriate restrictions, in order to minimize the harms associated with cannabis use, and providing adult access to a regulated supply of cannabis while reducing the scope and scale of the illicit market and its social harms. Our recommendations reflect a public health approach to reduce harm and promote health. We also took a precautionary approach to minimize unintended consequences, given that the relevant evidence is often incomplete or inconclusive.

Minimizing Harms of Use

In taking a public health approach to the regulation of cannabis, the Task Force proposes measures that will maintain and improve the health of Canadians by minimizing the harms associated with cannabis use.

This approach considers the risks associated with cannabis use, including the risks of developmental harms to youth; the risks associated with patterns of consumption, including frequent use and co-use of cannabis with alcohol and tobacco; the risks to vulnerable populations; and the risks related to interactions with the illicit market. In addition to considering scientific evidence and input from

stakeholders, the Task Force examined how other jurisdictions have attempted to minimize harms of use. We examined a range of protective measures, including a minimum age of use, promotion and advertising restrictions, and packaging and labelling requirements for cannabis products.

In order to minimize harms, the Task Force recommends that the federal government:

- Set a national minimum age of purchase of 18, acknowledging the right of provinces and territories to harmonize it with their minimum age of purchase of alcohol
- Apply comprehensive restrictions to the advertising and promotion of cannabis and related merchandise by any means, including sponsorship, endorsements and branding, similar to the restrictions on promotion of tobacco products
- Allow limited promotion in areas accessible by adults, similar to those restrictions under the *Tobacco Act*
- Require plain packaging for cannabis products that allows the following information on packages: company name, strain name, price, amounts of delta-9-tetrahydrocannabinol (THC) and cannabidiol (CBD) and warnings and other labelling requirements
- Impose strict sanctions on false or misleading promotion as well as promotion that encourages excessive consumption, where promotion is allowed
- Require that any therapeutic claims made in advertising conform to applicable legislation
- Resource and enable the detection and enforcement of advertising and marketing violations, including via traditional and social media
- Prohibit any product deemed to be "appealing to children," including products that resemble or mimic familiar food items, are packaged to look like candy, or packaged in bright colours or with cartoon characters or other pictures or images that would appeal to children
- Require opaque, re-sealable packaging that is childproof or child-resistant to limit children's access to any cannabis product
- Additionally, for edibles:
 - Implement packaging with standardized, single servings, with a universal THC symbol
 - Set a maximum amount of THC per serving and per product
- Prohibit mixed products, for example cannabis-infused alcoholic beverages or cannabis products with tobacco, nicotine or caffeine
- Require appropriate labelling on cannabis products, including:
 - Text warning labels (e.g., "KEEP OUT OF REACH OF CHILDREN")
 - Levels of THC and CBD
 - For edibles, labelling requirements that apply to food and beverage products
- Create a flexible legislative framework that could adapt to new evidence on specific product types, on the use of additives or sweeteners, or on specifying limits of THC or other components
- Provide regulatory oversight for cannabis concentrates to minimize the risks associated with illicit production
- Develop strategies to encourage consumption of less potent cannabis, including a price and tax scheme based on potency to discourage purchase of high-potency products
- Require all cannabis products to include labels identifying levels of THC and CBD

- Enable a flexible legislative framework that could adapt to new evidence to set rules for limits on THC or other components
- Develop and implement factual public education strategies to inform Canadians as to risks of problematic use and lower-risk use guidance
- Conduct the necessary economic analysis to establish an approach to tax and price that balances health protection with the goal of reducing the illicit market
- Work with provincial and territorial governments to determine a tax regime that includes equitable distribution of revenues
- Create a flexible system that can adapt tax and price approaches to changes within the marketplace
- Commit to using revenue from cannabis as a source of funding for administration, education, research and enforcement
- Design a tax scheme based on THC potency to discourage purchase of high-potency products
- Implement as soon as possible an evidence-informed public education campaign, targeted at the general population but with an emphasis on youth, parents and vulnerable populations
- Co-ordinate messaging with provincial and territorial partners
- Adapt educational messages as evidence and understanding of health risks evolve, working with provincial and territorial partners
- Facilitate and monitor ongoing research on cannabis and impairment, considering implications for occupational health and safety policies
- Work with existing federal, provincial and territorial bodies to better understand potential occupational health and safety issues related to cannabis impairment
- Work with provinces, territories, employers and labour representatives to facilitate the development of workplace impairment policies

The Task Force further recommends that:

- In the period leading up to legalization, and thereafter on an ongoing basis, governments invest effort and resources in developing, implementing and evaluating broad, holistic prevention strategies to address the underlying risk factors and determinants of problematic cannabis use, such as mental illness and social marginalization
- Governments commit to using revenue from cannabis regulation as a source of funding for prevention, education and treatment

Establishing a Safe and Responsible Supply Chain

The cannabis supply chain includes production (including cultivation and manufacturing), distribution and retail. As part of our deliberations, we considered the most appropriate roles for the federal, provincial, territorial and local governments, given their areas of responsibility, capacity and experience. We were asked to give consideration to the participation of smaller producers, to the environmental impact of production, and to the regulation of industrial hemp under a new system. We heard about the pros and cons of different models for the retail market and about concerns regarding the sale of cannabis in the same location as alcohol or tobacco. We examined the question of personal cultivation

in light of the experience of other jurisdictions, as well as the opinions of experts and the Canadian public.

To this end, the Task Force recommends that the federal government:

- Regulate the production of cannabis and its derivatives (e.g., edibles, concentrates) at the federal level, drawing on the good production practices of the current cannabis for medical purposes system
- Use licensing and production controls to encourage a diverse, competitive market that also includes small producers
- Implement a seed-to-sale tracking system to prevent diversion and enable product recalls
- Promote environmental stewardship by implementing measures such as permitting outdoor production, with appropriate security measures
- Implement a fee structure to recover administrative costs (e.g., licensing)
- Regulate CBD and other compounds derived from hemp or from other sources

The Task Force recommends that the wholesale distribution of cannabis be regulated by provinces and territories and that retail sales be regulated by the provinces and territories in close collaboration with municipalities. The Task Force further recommends that the retail environment include:

- No co-location of alcohol or tobacco and cannabis sales, wherever possible. When co-location cannot be avoided, appropriate safeguards must be put in place
- Limits on the density and location of storefronts, including appropriate distance from schools, community centres, public parks, etc.
- Dedicated storefronts with well-trained, knowledgeable staff
- Access via a direct-to-consumer mail-order system

The Task Force recommends allowing personal cultivation of cannabis for non-medical purposes with the following conditions:

- A limit of four plants per residence
- A maximum height limit of 100 cm on the plants
- A prohibition on dangerous manufacturing processes
- Reasonable security measures to prevent theft and youth access
- Oversight and approval by local authorities

Enforcing Public Safety and Protection

We believe that the new legal regime must be clear to the public and to law enforcement agencies, with enforceable rules and corresponding penalties that are proportional to the contravention.

In formulating our recommendations, we considered various ways of dealing with those who break the law and contravene rules, ranging from administrative to criminal sanctions. We were urged to avoid criminalizing youth. We looked at questions of personal possession limits and the public consumption of

cannabis, and considered whether existing laws or a new law would provide the most appropriate legal framework for the new system.

We carefully considered the scientific and legal complexities surrounding cannabis-impaired driving, recognizing the concerns of Canadians about this issue. We learned of the various approaches used to address cannabis-impaired driving both in Canada and abroad, including the possibility of establishing a *per se* limit for THC - that is, a level deemed to be consistent with significant psychomotor impairment and increased risk of crash involvement. Our recommendations reflect the fact that the current scientific understanding of cannabis impairment has gaps and that more research and evidence, investments in law enforcement capacity, technology and tools, and comprehensive public education are needed urgently.

To this end, the Task Force recommends that the federal government:

- Implement a set of clear, proportional and enforceable penalties that seek to limit criminal prosecution for less serious offences. Criminal offences should be maintained for:
 - Illicit production, trafficking, possession for the purposes of trafficking, possession for the purposes of export, and import/export
 - Trafficking to youth
- Create exclusions for "social sharing"
- Implement administrative penalties (with flexibility to enforce more serious penalties) for contraventions of licensing rules on production, distribution, and sale
- Consider creating distinct legislation - a "*Cannabis Control Act*" - to house all the provisions, regulations, sanctions and offences relating to cannabis
- Implement a limit of 30 grams for the personal possession of non-medical dried cannabis in public with a corresponding sales limit for dried cannabis
- Develop equivalent possession and sales limits for non-dried forms of cannabis

The Task Force recommends that jurisdictions:

- Extend the current restrictions on public smoking of tobacco products to the smoking of cannabis products and to cannabis vaping products
- Be able to permit dedicated places to consume cannabis such as cannabis lounges and tasting rooms, if they wish to do so, with no federal prohibition. Safeguards to prevent the co-consumption with alcohol, prevent underage use, and protect health and safety should be implemented

With respect to impaired driving, the Task Force recommends that the federal government:

- Invest immediately and work with the provinces and territories to develop a national, comprehensive public education strategy to send a clear message to Canadians that cannabis causes impairment and that the best way to avoid driving impaired is to not consume. The strategy should also inform Canadians of:

- the dangers of cannabis-impaired driving, with special emphasis on youth; and
- the applicable laws and the ability of law enforcement to detect cannabis use
- Invest in research to better link THC levels with impairment and crash risk to support the development of a *per se* limit
- Determine whether to establish a *per se* limit as part of a comprehensive approach to cannabis-impaired driving, acting on findings of the Drugs and Driving Committee, a committee of the Canadian Society of Forensic Science, a professional organization of scientists in the various forensic disciplines
- Re-examine *per se* limits should a reliable correlation between THC levels and impairment be established
- Support the development of an appropriate roadside drug screening device for detecting THC levels, and invest in these tools
- Invest in law enforcement capacity, including Drug Recognition Experts and Standardized Field Sobriety Test training and staffing
- Invest in baseline data collection and ongoing surveillance and evaluation in collaboration with provinces and territories

The Task Force further recommends that all governments across Canada consider the use of graduated sanctions ranging from administrative sanctions to criminal prosecution depending on the severity of the infraction. While it may take time for the necessary research and technology to develop, the Task Force encourages all governments to implement elements of a comprehensive approach as soon as feasible, including the possible use of administrative sanctions or graduated licensing with zero tolerance for new and young drivers.

Medical Access

Canada's medical cannabis regime was created and then shaped over time by the federal government's response to successive court rulings regarding reasonable access. Today, medical cannabis falls within the purview of the *Access to Cannabis for Medical Purposes Regulations* (ACMPR).

In formulating our recommendations, we considered various aspects of access, including affordability, strains, potency, quality and adequacy of supply. We deliberated on the fundamental question of whether Canada should have a single system or two parallel systems, including separate access for medical cannabis. We also considered the strengths and weaknesses of the country's current medical cannabis system and regulations.

We considered the views and experiences of patients and their advocacy organizations, the medical community, other jurisdictions and the public. While opinions of stakeholders may differ on some key questions, there is consensus on the need for more research aimed at understanding, validating and approving cannabis-based medicines.

In our view, the outcomes of such research will be necessary to determine the need for and features of a separate system for cannabis for medical purposes. However, as the new regulatory regime is established, it is important that the federal government continue to provide patients with reasonable

access to cannabis for medical purposes, while contributing to the integrity of the overall cannabis regime and minimizing the potential for abuse and diversion.

To this end, the Task Force recommends that the federal government:

- Maintain a separate medical access framework to support patients
- Monitor and evaluate patients' reasonable access to cannabis for medical purposes through the implementation of the new system, with action as required to ensure that the market provides reasonable affordability and availability and that regulations provide authority for measures that may be needed to address access issues
- Review the role of designated persons under the ACMPR with the objective of eliminating this category of producer
- Apply the same tax system for medical and non-medical cannabis products
- Promote and support pre-clinical and clinical research on the use of cannabis and cannabinoids for medical purposes, with the aim of facilitating submissions of cannabis-based products for market authorization as drugs
- Support the development and dissemination of information and tools for the medical community and patients on the appropriate use of cannabis for medical purposes
- Evaluate the medical access framework in five years

Implementation

The successful implementation of a regulatory framework for cannabis will take time and require that governments meet a number of challenges with respect to capacity and infrastructure, oversight, co-ordination and communications.

Capacity: Canada's governments will need to move swiftly to increase or create capacity in many areas relating to the production and sale of cannabis. Success requires federal leadership, co-ordination and investment in research and surveillance, laboratory testing, licensing and regulatory inspection, training for law enforcement and others, and the development of tools to increase capacity ahead of regulation.

Oversight: To be satisfied that the system is minimizing harms as intended, it will need close monitoring and rapid reporting of results in a number of areas, including regulatory compliance and population health.

Co-ordination: The federal, provincial, territorial, municipal and Indigenous governments will need to work together on information and data sharing and co-ordination of efforts to set up and monitor all of the components of the new system. The Task Force believes that Canada should prioritize engagement of Indigenous governments and representative organizations, as we heard from Indigenous leaders about their interest in their communities' participation in the cannabis market.

Communications: We heard from other jurisdictions about the importance of communicating early, consistently and often with the general public. Youth and parents will need the facts about cannabis and

its effects. Actors in the new system - including employers, educators, law enforcement, industry, health-care practitioners and others - will require information tailored to their specific roles.

To this end, the Task Force recommends that the federal government:

- Take a leadership role to ensure that capacity is developed among all levels of government prior to the start of the regulatory regime
- Build capacity in key areas, including laboratory testing, licensing and inspection, and training
- Build upon existing and new organizations to develop and co-ordinate national research and surveillance activities
- Provide funding for research, surveillance and monitoring activities
- Establish a surveillance and monitoring system, including baseline data, for the new system
- Ensure timely evaluation and reporting of results
- Mandate a program evaluation every five years to determine whether the system is meeting its objectives
- Report on the progress of the system to Canadians
- Take a leadership role in the co-ordination of governments and other stakeholders to ensure the successful implementation of the new system
- Engage with Indigenous governments and representative organizations to explore opportunities for their participation in the cannabis market
- Provide Canadians with the information they need to understand the regulated system
- Provide Canadians with facts about cannabis and its effects
- Provide specific information and guidance to the different groups involved in the regulated cannabis market
- Engage with Indigenous communities and Elders to develop targeted and culturally appropriate communications
- Ensure that Canada shares its lessons and experience with the international community

These recommendations, taken together, present a new system of regulatory safeguards for legal access to cannabis that aim to better protect health and to enhance public safety. Their successful implementation requires the engagement and collaboration of a wide range of stakeholders. We believe that Canada is well-positioned to undertake the complex task of legalizing and regulating cannabis carefully and safely.

Annex 2 – Roles and Responsibilities

The proposed *Cannabis Act* would create a strict national framework for controlling the production, distribution, sale and possession of cannabis in Canada. All levels of government in Canada would be able to establish certain requirements with respect to cannabis, consistent with their jurisdictional authorities and experience, which aligns with the advice of the Task Force on Cannabis Legalization and Regulation.

Under the proposed *Cannabis Act*, the federal government would be responsible for establishing and maintaining a comprehensive and consistent national framework for regulating production, setting standards for health and safety, and establishing criminal prohibitions. More specifically, the federal government would be responsible for the following:

- Establishing restrictions on adult access to cannabis, including purchasing through an appropriate framework, sourcing from a well-regulated industry, or cultivating safely in limited amounts at home;
- Establishing serious criminal penalties for those operating outside the legal system, especially those who provide cannabis to youth;
- Creating rules to limit how cannabis or cannabis accessories can be promoted, packaged, labelled and displayed, to protect youth;
- Instituting a federal licensing regime for cannabis production that will set and enforce health and safety requirements and protect against the involvement of organized crime in the legal industry;
- Establishing industry-wide rules on the types of products that will be allowed for sale, standardized serving sizes and potency, the use of certain ingredients and good production practices, as well as the tracking of cannabis from seed to sale to prevent diversion to the illegal market;
- Creating minimum federal conditions that provincial and territorial legislation for distribution and retail sale would be required to meet, to ensure a reasonably consistent national framework to promote safety (e.g., adequate measures would need to be in place to prevent diversion, cannabis could not be sold to youth, and only legally produced cannabis could be sold);
- Establishing the ability for the federal government to license distribution and sale in any province or territory that does not enact such legislation; and
- Enforcing the law at the border, while maintaining the free flow of legitimate travel and trade.

The provinces and territories would license and oversee the distribution and sale of cannabis, subject to minimum federal conditions. Provinces and territories, together with municipalities, could also tailor certain rules in their own jurisdictions, and enforce them through a range of tools such as tickets. These rules may include:

- Licensing the distribution and retail sale in their respective jurisdictions, and carrying out associated compliance and enforcement activities;
- Setting additional regulatory requirements to address issues of local concern. For example, provinces and territories could set a higher minimum age or more restrictive limits on possession or personal cultivation, including lowering the number of plants or restricting where it may be cultivated;
- Establishing provincial zoning rules for cannabis-based businesses;
- Restricting where cannabis may be consumed; and
- Amending provincial traffic safety laws to address driving while impaired by cannabis (e.g., providing for 24-hour licence suspensions for adults or zero tolerance for young drivers).

Active involvement of provincial and territorial governments will be critical in helping to ensure that young people do not have access to cannabis and that those who sell outside the legal framework face stiff criminal penalties.

In Budget 2017, the federal government committed \$9.6 million over five years to a comprehensive public education and awareness campaign and surveillance activities. As health is a shared responsibility between the federal and provincial and territorial governments, provinces and territories complement federal public health programming, including management of public health and safety issues, and school-based education and counselling.

The Government of Canada is committed to ongoing collaboration with the provinces and territories as it delivers on the commitment to legalize, strictly regulate and restrict access to cannabis. In addition to working with provinces and territories to establish a secure supply chain, the Government of Canada will work with provinces and territories to raise public awareness and educate Canadians about the risks associated with cannabis use, and to monitor the impacts of providing strictly controlled access to cannabis.

Annex 3 – Health Effects of Cannabis

There are both potential therapeutic uses for and potential health risks of using cannabis (marijuana). A chemical called delta-9-tetrahydrocannabinol (THC) is responsible for the way your brain and body respond to cannabis. While it is used by some for therapeutic purposes, there are short- and long-term physical and mental health effects that can be harmful.

Short-term health effects

While cannabis may make you feel relaxed and happy, you could experience unpleasant, unwanted or negative effects on your brain and body.

Effects on the brain

The short-term effects of cannabis on the brain can include:

- confusion
- sleepiness (fatigue)
- impaired ability to:
 - remember
 - concentrate
 - pay attention
- anxiety, fear or panic
- reduced ability to react quickly

Cannabis use can also result in psychotic episodes characterized by:

- paranoia
- delusions
- hallucinations

Emerging evidence suggests that a chemical in cannabis called cannabidiol (CBD) may help dampen some of the psychoactive effects of THC such as:

- disturbances in mood
- psychotic symptoms

There is also evidence to suggest that combining tobacco with cannabis can increase:

- the strength of some psychoactive effects
- the risk of poor mental health outcomes, including dependence

Effects can be felt within seconds to minutes of smoking, vaporizing or dabbing cannabis. These effects can last up to 6 hours or longer.

If you eat or drink cannabis, these effects can occur within 30 minutes to 2 hours and can last up to 12 hours or longer.

Effects on the body

The short-term effects of cannabis on the body can include:

- damaged blood vessels caused by the smoke
- decreased blood pressure, which can cause people to faint or pass out
- increased heart rate, which can be dangerous for people with heart conditions and can lead to an increased risk of heart attack

Impairment

The THC in cannabis can impair your ability to drive safely and operate equipment. It can also increase the risk of falls and other accidents. This is because THC can affect your:

- coordination
- reaction time
- ability to pay attention
- decision-making abilities
- ability to judge distances

Cannabis use can increase the risk of accidents that lead to injury or death during higher-speed activities, such as driving, biking or skiing.

Impairment can last for more than 24 hours after cannabis use, well after other effects may have faded.

People who use cannabis regularly may have trouble with certain skills needed to drive safely for weeks after their last use.

Combining alcohol with cannabis greatly increases the level of impairment and the risk of injury or death from accidents.

Combining cannabis with other psychoactive substances, especially ones that have sedative effects, such as opioids and benzodiazepines, can increase the effects of the drugs. This could increase the risk of injury or harm, particularly with activities like driving.

Long-term health effects

Long-term effects develop gradually over time with frequent use (daily or near-daily) that continues over weeks, months or years. These effects can last from several days to months or longer after you stop using cannabis.

Effects on the brain

The long-term effects of cannabis on the brain can include an increased risk of addiction and harm to your:

- memory
- concentration
- intelligence (IQ)

- ability to think and make decisions

These effects appear to be worse for youth who start using early, and who use cannabis frequently and over a long period of time. They may not be fully reversible when cannabis use stops.

Effects on the body

Some of the long-term effects of smoking cannabis on the body are similar to the effects of smoking tobacco and can include risks to lung health, including:

- bronchitis
- lung infections
- chronic (long-term) cough
- increased mucus buildup in the throat

Potential therapeutic uses

There is some evidence of potential therapeutic uses of cannabis or its component chemicals (cannabinoids).

Health Canada provides information for health care professionals and for authorized patients on the use of cannabis and cannabinoids for medical purposes. This includes information on dosing, adverse effects, warnings and more.

Risks of illegal cannabis

There may be other health and safety risks associated with cannabis obtained illegally. For example, the THC potency of illegal cannabis is often unknown, so you could end up using a stronger product than expected. This could heighten or prolong effects such as confusion or anxiety.

The quality and purity of illegal cannabis cannot be guaranteed and is frequently mixed with or contains:

- pesticides
- other drugs
- heavy metals
- moulds or fungi
- other contaminants

There is also the serious risk of:

- interacting with criminals or criminal organizations
- criminal charge and prosecution

Mental health effects

In some people, cannabis use increases the risk of developing mental illnesses like psychosis or schizophrenia, especially in those who:

- start using cannabis at a young age
- use cannabis frequently (daily or almost every day)
- have a personal or family history of psychosis and/or schizophrenia

Frequent cannabis use has also been associated with an increased risk of:

- suicide
- depression
- anxiety disorders

Health effects on youth

Cannabis use that begins early in adolescence, that is frequent and that continues over time has been associated with increased risk of harms. Some of those harms may not be fully reversible.

Adolescence is a critical time for brain development, as research shows the brain is not fully developed until around age 25.

Youth are especially vulnerable to the effects of cannabis on brain development and function. This is because THC in cannabis affects the same biological system in the brain that directs brain development.

It is important for parents, teachers, coaches and other trusted adults to be ready to talk with youth about drugs.

Health effects on pregnancy and children

Just like with tobacco, a pregnant woman or new mother's use of cannabis can affect her fetus or newborn child, which can lead to health problems.

The toxins in cannabis are carried through the mother's blood to her fetus during pregnancy and in the breast milk following birth.

Heavy cannabis use during pregnancy can lead to lower birth weight of the baby. It has also been associated with longer-term developmental effects in children and adolescents, such as:

- decreases in:
 - memory function
 - the ability to pay attention
 - reasoning and problem-solving skills
- hyperactive behaviour
- increased risk for future substance use

Addiction

Contrary to popular belief, people can become addicted to cannabis. Individuals who use cannabis can develop a cannabis use disorder, which at its extreme can result in addiction.

Continued, frequent and heavy cannabis use can cause physical dependency and addiction.

Research has shown that THC in cannabis causes an increase in levels of dopamine, the pleasure chemical, in the brain. This motivates people to keep using it.

Addiction can develop at any age but youth are especially vulnerable as their brains are still developing.

Some people are also more prone to becoming addicted than others. It's estimated that 1 in 11 (9%) cannabis users will develop an addiction to it. This statistic rises to about 1 in 6 (17%) for people who started using cannabis as a teenager. If a person smokes cannabis daily, the risk of addiction is 25% to 50%.

Problematic cannabis use can include some or all of the following behaviours:

- failing to fulfill major duties at work, school or home
- giving up important social, occupational or recreational activities because of cannabis use
- consuming it often and in larger amounts or over a longer period than they intended
- being unable to cut down on or control cannabis use

People who display most or all of these behaviours over a 12-month period may have cannabis addiction.

Some people can develop a tolerance to the effects of cannabis. Tolerance is characterized by a need for a larger dose of a drug to maintain the original effects. Tolerance to some of the effects of cannabis can develop after a few doses. In some people, tolerance can eventually lead to physical dependence and/or addiction.