Cannabis Report Recommendations Would Delay Legalization to 2018 or 2019

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Legalizing cannabis for non-medical or "recreational" use is one of the most anticipated changes to Canadian society. In his election campaign, Prime Minister Justin Trudeau promised to legalize and regulate non-medical cannabis use.[1] In April 2016, Federal Health Minister Jane Philpott said in a speech to the United Nations that Canada would "... introduce legislation in spring 2017 that ensures we keep marijuana out of the hands of children and profits out of the hands of criminals."

Subsequently, in June 2016, Minister Philpott appointed a nine-member panel to consult with Canadians and prepare a report on the new legislative and regulatory framework for legal access to cannabis (the “Panel”). While drafting the Report, the Panel considered nine public policy objectives, although the chief objectives were "... keeping cannabis out of the hands of children and youth and keeping profits out of the hands of organized crime."[2]

On December 13, 2016, the federal government published the Panel's final report, "A Framework for the Legalization and Regulation of Cannabis in Canada" (the "Report")[3]. The Report's approximately 80 recommendations would make the regulation of cannabis very similar to tobacco and alcohol.

Despite the federal government's stated intention to move quickly to legalize and regulate non- medical cannabis use, the Panel's recommendations contained in the Report have been interpreted as a "go slow" approach.[4] Passing and implementing the required legislation, regulations and other related measures, such as drug impairment detection devices, would likely take until 2018 or 2019 to implement.[5]

Highlights from the Panel's recommendations are paraphrased below:

A. Minimizing Harms of Use

1. Minimum age of purchase of 18, or other provincial minimum age for purchase of alcohol (e.g., 19 in Ontario).
2. Restrictions on advertising and promotion of cannabis, including sanctions for false or misleading promotion and encouragement of excessive consumption, and regulation of therapeutic claims.

3. Plain and childproof packaging that meets new labeling requirements.
4. Prohibit any product deemed to be “appealing to children,” (e.g., candy style or cartoon packaging).
5. Restrictions on size and contents of edible cannabis products.
6. Prohibit products that mix cannabis with alcohol, tobacco, nicotine or caffeine.
7. Tax cannabis products, including a price and tax scheme to discourage purchase of high-potency products.
8. Work with existing federal, provincial and territorial bodies to better understand potential occupational health and safety issues related to cannabis impairment and facilitate the development of workplace impairment policies.

B. Establishing a Safe and Responsible Supply Chain

1. Regulate production of cannabis and other products (e.g., edibles).
2. Use licensing to encourage diverse competitive cannabis market.
3. No co-location of alcohol or tobacco and cannabis sales, wherever possible.
4. Limits on the density and location of storefronts, including appropriate distance from schools.
5. Permit a direct-to-consumer mail-order system.
6. A limit of four plants, maximum 100 cm, per residence.
7. Reasonable security measures to prevent theft and youth access.

C. Enforcing Public Safety and Protection

1. Maintain criminal offences for trafficking to use, illicit production, possession for the purposes of export.
2. Limit of 30 grams for the personal possession of non-medical dried cannabis in public.
3. Restrict cannabis smoking and vaping in the same manner as public tobacco smoking.
4. Permit cannabis lounges and tasting rooms, with safeguards to prevent underage use and co-consumption with alcohol.
5. Create national public education strategy to avoid impaired driving.
6. Develop roadside drug screening device for detecting impairment due to cannabis.

D. Medical Access

1. Maintain a separate medical access framework to support patients.
2. Apply the same tax system for medical and non-medical cannabis products.
3. Research use of cannabis for medical purposes.

Until the federal government implements legislation to legalize cannabis and regulate its production and use, the current criminal restrictions remain in place. Prime Minister Trudeau was recently quoted as saying the "current prohibition [of cannabis] stands", emphasizing that the federal government would not be "legalizing marijuana to please recreational users."[6]

There is particular concern over storefront dispensaries in Toronto and Montréal that are operating in contravention of the current criminal and municipal laws.[7] Under the laws currently in force, the only legal marijuana is that supplied for medicinal purposes to users with a prescription from a medical doctor. There are thirty-six producers in Canada that are licensed to supply marijuana by registered mail. Production, sale, possession and use for so-called “recreational use” remains a criminal offence. Storefront dispensaries are operating in contravention of the current laws, and will be targeted for enforcement by police and municipal authorities until the laws have changed.

We will continue to monitor the development of the legislation and related measures for the legalization of cannabis. As marijuana use becomes more mainstream, educators and employers will need updated policies and procedures to detect and deter impairment in the workplace and school environment.

[1] Liberal Party of Canada, "Marijuana,".

[2] Canada, "A Framework for the Legalization and Regulation of Cannabis in Canada: The Final Report of the Task Force on Marijuana Legalization and Regulation," 30 November 2016, updated 13 December 2016.

[3] *Ibid.*

[4] Paul Wells, "Report on legalization of pot contains highs and lows," *Toronto Star* (14 December 2016).

[5] Daniel Leblanc, "Ottawa plans to open up legal market for cannabis by 2019," *The Globe and Mail* (13 December 2016).

[6] Robert Benzie, "Trudeau urges police to ‘enforce the law' on marijuana," *Toronto Star* (3 December 2016).

[7] See for example Brennan Doherty "'Prince' and 'Princess of Pot' arrested and released in Montreal dispensary raids," *Toronto Star,* (17 December 2016).

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