

## FTR Now

# ***Cannabis Act* In Force October 17, 2018: Preparing Your Workplace**

**Date:** June 20, 2018

On June 19, 2018, the Senate passed Bill C-45, the [Cannabis Act](#) (Federal Act), which legalizes the consumption of recreational cannabis across Canada. The federal government has announced October 17, 2018 as the date it comes into force. Learn more about the new legislation and next steps for employers in this *FTR Now*.

## **The Cannabis Legislation**

The Federal Act is intended to control and regulate the production, distribution and sale of cannabis, to establish product safety and quality and to prevent young persons (generally defined as those under 18 years old) from accessing cannabis, among other things. Strict penalties are imposed for any criminal activity in relation to cannabis. Persons are also authorized to possess 30 grams and four home-grown plants per residence.

In anticipation of the Federal Act, the Ontario government passed the [Cannabis Act, 2017](#) (Provincial Act), which is expected to come into force at the same time as the Federal Act. It establishes prohibitions relating to the sale, distribution, purchase, possession, cultivation, propagation and harvesting of cannabis in Ontario, among other things. Persons under 19 years of age are prohibited from possessing, consuming, purchasing or attempting to purchase cannabis.

Consumption of cannabis is prohibited in a public place, a “workplace” within the meaning of the *Occupational Health and Safety Act* (OHSA), a vehicle or boat, or any prescribed place. Exceptions may exist for persons who consume cannabis for medical purposes, subject to any prohibitions or restrictions under the new *Smoke-Free Ontario Act, 2017* and its regulations (in force July 1, 2018).

Contravention of the Provincial Act may result in a fine of not more than \$250,000 for a corporation and, for an individual, not more than \$100,000 or imprisonment for a term of not more than one year, or both.

## **Next Steps for Employers**

In preparing your workplace for the pending reforms, keep the following in mind:

- Employees do not have a right to be impaired in the workplace.

- Employers may have a legal obligation to accommodate medical cannabis, depending on the circumstances; generally, there is no similar duty with respect to recreational cannabis.
- Dependence on the use of recreational cannabis may, however, be a disability requiring accommodation. Employees should be encouraged to report addiction issues related to the use of recreational cannabis so that, where applicable, they can be accommodated in compliance with the *Human Rights Code* (Code).
- The Provincial Act explicitly prohibits the consumption of recreational cannabis in the workplace.
- Presently, there is no effective way to accurately measure impairment from the use of cannabis.
- Testing for cannabis and other drug use is permissible only in limited circumstances; accordingly, drug and alcohol testing policies should be carefully reviewed and considered with counsel.
- Legal guidance should be sought before disciplining or terminating employees who use cannabis to ensure that any applicable Code requirements have been considered.

*Editor's Note: Updated June 21, 2018.*

Should you have any questions about the cannabis legislation, please contact your [regular Hicks Morley lawyer](#).

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