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CANNABIS ACT

The Minister of Border Security and Organized Crime Reduction, pursuant to subsection 82(1) of the *Cannabis Act*, makes the annexed *Cannabis Tracking System Order*.

Ottawa, May 31, 2019

William Sterling Blair  
Minister of Border Security and Organized Crime Reduction

## **Cannabis Tracking System Order**

### **Interpretation**

#### **Definitions**

**1 (1)** The following definitions apply in this Order.

- **Act** means the *Cannabis Act*. (*Loi*)
- **book value** means the value of an asset according to its balance sheet account balance. (*valeur comptable*)
- **cannabis extract** has the same meaning as in subsection 1(1) of the Regulations. (*extrait de cannabis*)
- **cannabis product** has the same meaning as in subsection 1(2) of the Regulations. (*produit du cannabis*)
- **edible cannabis** has the same meaning as in subsection 1(1) of the Regulations. (*cannabis comestible*)
- **licence for analytical testing** means a licence referred to in paragraph 8(1)(c) of the Regulations. (*licences d'essais analytiques*)
- **licence for cultivation** means a licence referred to in paragraph 8(1)(a) of the Regulations. (*licence de culture*)
- **licence for processing** means a licence referred to in paragraph 8(1)(b) of the Regulations. (*licence de transformation*)
- **licence for research** means a licence referred to in paragraph 8(1)(e) of the Regulations. (*licence de recherche*)
- **licence for sale for medical purposes** means a licence referred to in subsection 8(5) of the Regulations. (*licence de vente à des fins médicales*)
- **public body** includes a Crown corporation. (*organisme public*)
- **Regulations** means the *Cannabis Regulations*. (*Règlement*)
- **site** has the same meaning as in subsection 1(2) of the Regulations. (*lieu*)

- **unpackaged cannabis** means cannabis other than cannabis contained in a cannabis product. (*cannabis non emballé*)

## Interpretation

(2) For the purposes of this Order,

- (a) cannabis contained in a cannabis product includes cannabis that is a cannabis product; and
- (b) a reference to the sale or distribution of cannabis — including cannabis products — does not include
  - (i) the return of cannabis,
  - (ii) the sale or distribution of cannabis for the purposes of destruction, or
  - (iii) the import or export of cannabis.

## Federal Licences

### Information to be provided

**2 (1)** A holder of a licence for cultivation, a licence for processing or a licence for sale for medical purposes that authorizes the possession of cannabis must, no later than the 15th day of each month, provide the Minister with the following information, as applicable, in respect of the site specified in the licence:

- (a) the number of cannabis products that formed part of the inventory on the first day of the previous month;
- (b) the quantity of unpackaged cannabis that formed part of the inventory on the first day of the previous month;
- (c) the number of cannabis products that were added to the inventory during the previous month by virtue of
  - (i) the sale or distribution of cannabis products to the holder,
  - (ii) the packaging and labelling of cannabis, or a cannabis accessory containing cannabis, by the holder for sale to consumers at the retail level,
  - (iii) the return of cannabis products to the holder, or
  - (iv) any other reason;
- (d) the quantity of unpackaged cannabis that was added to the inventory during the previous month by virtue of
  - (i) being sold or distributed to the holder,
  - (ii) being produced from other unpackaged cannabis,
  - (iii) being imported,
  - (iv) being returned to the holder, or
  - (v) any other reason;
- (e) the number of cannabis products that ceased to form part of the inventory during the previous month by virtue of

- **(i)** the sale or distribution of cannabis products,
  - **(ii)** the destruction of cannabis products,
  - **(iii)** being lost or stolen in circumstances that require notice to be provided under paragraph 246(1)(b) of the Regulations,
  - **(iv)** the return of cannabis products by the holder, or
  - **(v)** any other reason;
- **(f)** the number and book value of cannabis products that ceased to form part of the inventory during the previous month by virtue of
  - **(i)** the retail sale of cannabis products to consumers, other than as a result of a purchase order referred to in section 289 of the Regulations,
  - **(ii)** the sale of cannabis products as a result of a purchase order referred to in section 289 of the Regulations, and
  - **(iii)** the sale or distribution of cannabis products to a person that is authorized under a provincial Act referred to in subsection 69(1) of the Act to sell cannabis, and
  - **(iv)** the sale or distribution of cannabis products to another holder of a licence for cultivation, a licence for processing or a licence for sale for medical purposes;
- **(g)** the quantity of unpackaged cannabis that ceased to form part of the inventory during the previous month by virtue of **(h)** the quantity of unpackaged cannabis used in the production of cannabis of a class set out in any of items 8 to 14 of Schedule 2, in relation to each class;
  - **(i)** being sold or distributed by the holder to another holder of a licence for cultivation, a licence for processing, a licence for sale for medical purposes, a licence for analytical testing or a licence for research,
  - **(ii)** being used to produce other unpackaged cannabis,
  - **(iii)** being packaged and labelled, either alone or within a cannabis accessory, by the holder for sale to consumers at the retail level,
  - **(iv)** being destroyed,
  - **(v)** being lost due to drying or other normally accepted business activities,
  - **(vi)** being lost or stolen in circumstances that require notice to be provided under paragraph 246(1)(b) of the Regulations,
  - **(vii)** being returned by the holder, or
  - **(viii)** any other reason;
- **(i)** the quantity and book value of unpackaged cannabis that ceased to form part of the inventory during the previous month by virtue of **(j)** the number and book value of cannabis products, and the quantity of cannabis contained in those cannabis products, that formed part of the inventory on the last day of the previous month; and

- **(i)** being sold or distributed to another holder of a licence for cultivation, a licence for processing or a licence for sale for medical purposes, or
  - **(ii)** being exported;
- **(k)** the quantity and book value of unpackaged cannabis that formed part of the inventory on the last day of the previous month.

### **Number, quantity and book value by class**

**(2)** In respect of cannabis products,

- **(a)** the number of cannabis products referred to in paragraphs (1)(a), (c), (e), (f) and (j) must be provided for each class specified in column 1 of Schedule 1;
- **(b)** the quantity of cannabis referred to in paragraph (1)(j) must be provided for each class specified in column 1 of Schedule 1 and expressed in the applicable unit of measurement specified in column 2; and
- **(c)** the book value of cannabis products referred to in paragraph (1)(j) must be provided for each class specified in column 1 of Schedule 1 and expressed in Canadian dollars, net of sales tax.

### **Quantity and book value by class**

**(3)** In respect of unpackaged cannabis,

- **(a)** the quantities of unpackaged cannabis referred to in paragraphs (1)(b), (d), (g) and (k) must be provided for each class of unpackaged cannabis specified in column 1 of Schedule 2 and expressed in the applicable unit of measurement specified in column 2;
- **(b)** the quantity of unpackaged cannabis referred to in paragraph (1)(i) must be provided for each class of unpackaged cannabis specified in items 1, 2, 4 and 5 and 8 to 14 of column 1 of Schedule 2 and expressed in the applicable unit of measurement specified in column 2; and
- **(c)** the book value of unpackaged cannabis referred to in paragraphs (1)(i) and (k) must be provided for each applicable class of unpackaged cannabis and expressed in Canadian dollars, net of sales tax.

### **Number and book value by province and class**

**(4)** In respect of the cannabis products referred to in paragraph (1)(f),

- **(a)** the number of cannabis products must be provided for each province in which the persons to which the cannabis products are sold or distributed are located and for each class specified in column 1 of Schedule 1; and
- **(b)** the book value must be provided for each province in which the persons to which the cannabis products are sold or distributed are located and for each class specified in column 1 of Schedule 1 and expressed in Canadian dollars, net of sales tax.

### **Quantity and book value by province and class**

**(5)** In respect of the unpackaged cannabis referred to in paragraph (1)(i),

- **(a)** the quantity must be provided for each province in which the persons to which the unpackaged cannabis is sold are located and for each class specified in column 1 of Schedule 2;
- **(b)** the quantity must be expressed in the applicable unit of measurement specified in column 2 of Schedule 2; and
- **(c)** the book value must be provided for each province in which the persons to which the unpackaged cannabis is sold are located and for each class specified in column 1 of Schedule 2 and expressed in Canadian dollars, net of sales tax.

### **Cessation of activities**

**(6)** A holder of a licence for cultivation, a licence for processing or a licence for sale for medical purposes that ceases to conduct all the activities authorized by the licence must, within 15 days after the day on which the activities cease, provide any information that has yet to be provided under subsection (1) in respect of the previous month, as well as information in respect of the month in which the activities cease.

### **Additional information**

**3 (1)** The information that is provided under section 2 must be accompanied by the following information:

- **(a)** the licence holder's licence number;
- **(b)** the month and calendar year to which the information relates; and
- **(c)** in the case of information that is provided by a holder of a licence for cultivation or a licence for processing, the total surface area that is authorized by the licence, in square metres, of all buildings on the site;
- **(d)** in the case of information that is provided by a holder of a licence for cultivation, the total surface area that is used for cultivating, propagating or harvesting cannabis, **(e)** in the case of information that is provided by a holder of a licence for processing, the total surface area, in square metres, that is used to produce cannabis.
  - **(i)** in the case of indoor cultivation, in square metres, and
  - **(ii)** in the case of outdoor cultivation, in hectares; and

### **Surface area — calculation**

**(2)** If the surface area referred to in paragraph (1)(d) consists of multiple surfaces, such as surfaces arranged above one another, the area of each surface must be included in the calculation of the total surface area.

### **Sale Authorized Under Provincial Act**

#### **Public body**

**4 (1)** A public body that is authorized under an Act of a province to sell cannabis must, no later than the 15th day of each month, provide the following information to the Minister in respect of each location at which the body sells cannabis or from which it sends or delivers cannabis:

- **(a)** the number of cannabis products that formed part of the inventory on the first day of the previous month;
- **(b)** the number of cannabis products that were added to the inventory during the previous month by virtue of
  - **(i)** the sale or distribution of cannabis products,
  - **(ii)** the return of cannabis products, or
  - **(iii)** any other reason;
- **(c)** the number of cannabis products that ceased to form part of the inventory during the previous month by virtue of
  - **(i)** the sale or distribution of cannabis products,
  - **(ii)** the destruction of cannabis products,
  - **(iii)** the loss or theft of cannabis products,
  - **(iv)** the return of cannabis products, or
  - **(v)** any other reason;
- **(d)** the number and book value of cannabis products that ceased to form part of the inventory during the previous month by virtue of
- **(e)** the number and book value of cannabis products, and the quantity of cannabis contained in those cannabis products, that formed part of the inventory on the last day of the previous month;
  - **(i)** the retail sale of cannabis products to consumers who were present at the location at the time of sale,
  - **(ii)** the retail sale of cannabis products to consumers who were not present at the location at the time of sale, or
  - **(iii)** the sale of cannabis products to persons that are authorized to sell them or the distribution of cannabis products to other locations at which such products are sold or distributed;
- **(f)** an indication of whether, during the previous month, the primary activity was
- **(g)** the business name of the person at that location that is selling, sending or delivering cannabis;
  - **(i)** the sale of cannabis products to persons that are authorized to sell them or the distribution of cannabis products to other locations at which such products are sold or distributed, or
  - **(ii)** the retail sale of cannabis products to consumers;
- **(h)** the unique identifier assigned to the location by the public body or, failing that, by the Minister;
- **(i)** the name of the municipality in which the location is situated, if any, and the postal code of the location; and
- **(j)** the month and calendar year to which the information referred to in paragraphs (a) to (f) relates.

### **Number and book value — not in inventory**

**(2)** In respect of the cannabis products referred to in paragraph (1)(d),

- **(a)** the number of cannabis products must be provided for each province in which the persons to which the cannabis products are sold or distributed are located and for each class specified in column 1 of Schedule 1; and
- **(b)** the book value must be provided for each province in which the persons to which the cannabis products are sold or distributed are located and for each class specified in column 1 of Schedule 1 and expressed in Canadian dollars, net of sales tax.

### **Number, quantity and book value — cannabis products in inventory**

**(3)** In respect of the cannabis products referred to in paragraph (1)(e),

- **(a)** the number of cannabis products must be provided for each class specified in column 1 of Schedule 1;
- **(b)** the quantity of cannabis contained in those cannabis products must be provided for each class specified in column 1 of Schedule 1 and expressed in the applicable unit of measurement specified in column 2; and
- **(c)** the book value must be provided for each class specified in column 1 of Schedule 1 and expressed in Canadian dollars, net of sales tax.

### **Cessation of activities**

**(4)** A public body referred to in subsection (1) that ceases to conduct all authorized activities at a location must, within 15 days after the day on which the activities cease, provide any information that has yet to be provided under that subsection in respect of the previous month, as well as information in respect of the month in which the activities cease.

### **Person other than public body**

**5 (1)** Subject to subsection (5), a person — other than a public body — that is authorized under an Act of a province to sell cannabis must, no later than the 10th day of each month, provide the following information, in writing, to the public body referred to in subsection (2), in respect of each location in the province at which they are authorized to sell cannabis or from which they send or deliver it:

- **(a)** the number of cannabis products that formed part of the inventory on the first day of the previous month;
- **(b)** the number of cannabis products that were added to the inventory during the previous month by virtue of
  - **(i)** the sale or distribution of cannabis products,
  - **(ii)** the return of cannabis products, or
  - **(iii)** any other reason;
- **(c)** the number of cannabis products that ceased to form part of the inventory during the previous month by virtue of
  - **(i)** the sale or distribution of cannabis products,
  - **(ii)** the destruction of cannabis products,
  - **(iii)** the loss or theft of cannabis products,
  - **(iv)** the return of cannabis products, or
  - **(v)** any other reason;

- **(d)** the number and book value of cannabis products that ceased to form part of the inventory during the previous month by virtue of
- **(e)** the number and book value of cannabis products, and the quantity of cannabis contained in those products, that formed part of the inventory on the last day of the previous month;
  - **(i)** the retail sale of cannabis products to consumers who were present at the location at the time of sale,
  - **(ii)** the retail sale of cannabis products to consumers who were not present at the location at the time of sale, or
  - **(iii)** the sale of cannabis products to persons that are authorized to sell them or the distribution of cannabis products to other locations at which such products are sold or distributed;
- **(f)** an indication of whether, during the previous month, the primary activity was
- **(g)** the business name of the person at that location that is authorized under a provincial Act referred to in subsection 69(1) of the Act to sell cannabis;
  - **(i)** the sale of cannabis products to persons that are authorized to sell them or the distribution of cannabis products to other locations at which such products are sold or distributed, or
  - **(ii)** the retail sale of cannabis products to consumers;
- **(h)** the unique identifier assigned to the location by the public body or, failing that, by the Minister;
- **(i)** the name of the municipality in which the location is situated, if any, and the postal code of the location; and
- **(j)** the month and calendar year to which the information referred to in paragraphs (a) to (f) relates.

### **Public body**

**(2)** The public body to which the information must be provided is

- **(a)** in the following cases, the public body that is responsible for authorizing the sale of cannabis in the province:**(b)** in any other case, the public body that is authorized under an Act of the province to sell cannabis.
  - **(i)** there is no public body that is authorized under an Act of the province to sell cannabis, or
  - **(ii)** the Minister and the public body that is responsible for authorizing the sale of cannabis in the province — or the Minister and the government of the province — have agreed that the public body will receive the information and provide it to the Minister; and

### **Number and book value — not in inventory**

**(3)** In respect of the cannabis products referred to in paragraph (1)(d),



- **(a)** the number of cannabis products must be provided for each province in which the persons to which the cannabis products are sold or distributed are located and for each class specified in column 1 of Schedule 1; and
- **(b)** the book value must be provided for each province in which the persons to which the cannabis products are sold or distributed are located and for each class specified in column 1 of Schedule 1 and expressed in Canadian dollars, net of sales tax.

### **Number, quantity and book value — cannabis products in inventory**

**(4)** In respect of the cannabis products referred to in paragraph (1)(e),

- **(a)** the number of cannabis products must be provided for each class specified in column 1 of Schedule 1;
- **(b)** the quantity of cannabis contained in those cannabis products must be provided for each class specified in column 1 of Schedule 1 and expressed in the applicable unit of measurement specified in column 2; and
- **(c)** the book value must be provided for each class specified in column 1 of Schedule 1 and expressed in Canadian dollars, net of sales tax.

### **Conditions**

**(5)** A person is required to provide the information referred to in subsection (1) only if

- **(a)** the public body to which the information is to be provided is required — or the public body or the government of the province agrees — to provide the information to the Minister; and
- **(b)** a notice specifying the effective date of the requirement or agreement is published on the Government of Canada website or is provided to the person.

### **Condition no longer met**

**(6)** If the condition set out in paragraph (5)(a) ceases to be met, the Minister must ensure that a notice to that effect is published on the Government of Canada website or is provided to the affected persons as soon as feasible.

### **Cessation of activities**

**(7)** A person referred to in subsection (1) that ceases to conduct all authorized activities at a location must, within 15 days after the day on which the activities cease, provide any information that has yet to be provided under that subsection in respect of the previous month, as well as information in respect of the month in which the activities cease.

### **General Provisions**

#### **Manner of providing information**

**6** A holder of a licence, or a public body, that is required to provide information under this Order must

- **(a)** provide the information through the dedicated website established by the Minister for that purpose; and
- **(b)** notify the Minister if an individual who was responsible for submitting the information on behalf of the holder or body is no longer responsible for doing so.

## **Retention**

**7 (1)** A person that is required to provide information under this Order must ensure that

- **(a)** the records, reports, electronic data and other documents containing the information are retained for a period of at least two years beginning on the day on which the information is provided;
- **(b)** the records, reports, electronic data and other documents — and any information on which the information contained in those documents is based — are **(c)** the calculations, measurements and other data on which the information is based are documented in a manner that will enable them to be examined in a timely manner.
  - **(i)** retained in a manner that will enable an audit of the documents or information to be made in a timely manner,
  - **(ii)** if the person holds a licence issued under subsection 62(1) of the Act, retained at the site specified in the licence, and
  - **(iii)** if the person does not hold a licence issued under subsection 62(1) of the Act, retained at their place of business in Canada or, if they do not have such a place of business, at a place of business in Canada; and

## **Continued retention**

**(2)** If a person is no longer required to provide information under this Order, they must ensure that the requirements set out in subsection (1) are complied with until the end of the applicable retention period.

## **Repeal**

**8** The *Cannabis Tracking System Order*<sup>1</sup> is repealed.

## **Coming into Force**

### ***Regulations Amending the Cannabis Regulations (New Classes of Cannabis)***

**9** This Order comes into force on the day on which the *Regulations Amending the Cannabis Regulations (New Classes of Cannabis)*, other than subsection 1(2) of those Regulations, come into force, but if this Order is registered after that day, it comes into force on the day on which it is registered.

## **SCHEDULE 1**

(Subsections 2(2) and (4), 4(2) and (3) and 5(3) and (4))

Cannabis Products		
Item	Column 1 Class of Cannabis Products	Column 2 Unit of Measurement
1	cannabis plant seeds	number of seeds
2	cannabis plants	number of plants
3	<i>fresh cannabis</i> as defined in subsection 1(1) of the Regulations	kilograms
4	dried cannabis	kilograms
5	edible cannabis that is in solid form at a temperature of 22 ± 2°C	kilograms
6	edible cannabis that is not in solid form at a temperature of 22 ± 2°C	kilograms
7	cannabis extract that is intended for inhalation	kilograms
8	cannabis extract that is intended for <i>ingestion</i> as defined in subsection 1(2) of the Regulations	kilograms
9	cannabis extract that is intended for nasal, rectal or vaginal use	kilograms
10	<i>cannabis topical</i> as defined in subsection 1(1) of the Regulations	kilograms
11	any other class of cannabis products	kilograms

## SCHEDULE 2

(Paragraphs 2(1)(h), 2(3)(a) and (b) and subsection 2(5))

Unpackaged Cannabis		
Item	Column 1 Class of Unpackaged Cannabis	Column 2 Unit of Measurement
1	cannabis plant seeds	kilograms
2	cannabis plants that are not budding or flowering	number of plants
3	cannabis plants that are budding or flowering	number of plants
4	<i>fresh cannabis</i> as defined in subsection 1(1) of the Regulations	kilograms
5	dried cannabis	kilograms
6	flowering heads, leaves and branches of <i>industrial hemp</i> , as defined in subsection 1(2) of the <i>Industrial Hemp Regulations</i> , sold by a holder of a licence under those Regulations	kilograms
7	cannabis used in the production of cannabis of a class that is set out in any of items 8 to 14	kilograms
8	edible cannabis that is in solid form at a temperature of 22 ± 2°C	kilograms
9	edible cannabis that is not in solid form at a temperature of 22 ± 2°C	kilograms

10	cannabis extract that is intended for inhalation	kilograms
11	cannabis extract that is intended for <i>ingestion</i> as defined in subsection 1(2) of the Regulations	kilograms
12	cannabis extract that is intended for nasal, rectal or vaginal use	kilograms
13	<i>cannabis topical</i> as defined in subsection 1(1) of the Regulations	kilograms
14	any other class of unpackaged cannabis	kilograms

## REGULATORY IMPACT ANALYSIS STATEMENT

(*This statement is not part of the Order.*)

### Issues

No later than one year following the coming into force of the *Cannabis Act*, the legal sale of three new classes of cannabis (“edible cannabis,” “cannabis extracts,” and “cannabis topicals”) will be authorized. Coinciding with amendments to the *Cannabis Regulations* that are required to address the unique public health and public safety risks of these new classes of cannabis, a new Ministerial Order is also necessary to include the new classes in the Cannabis Tracking System (CTS).

This new ministerial order, the *Cannabis Tracking System Order*, will come into force alongside the *Regulations Amending the Cannabis Regulations (New Classes of Cannabis)* on October 17, 2019.

### Background

On April 13, 2017, the Government of Canada introduced Bill C-45 (the *Cannabis Act*) in the House of Commons. The Act received royal assent on June 21, 2018, and, along with the *Cannabis Regulations*, was brought into force on October 17, 2018.

The *Cannabis Regulations* establish six classes of federal licences (cultivation, processing, sale, analytical testing, research, and cannabis drug licences) that authorize specific activities with cannabis, as well as subclasses of licences for cultivation (standard cultivation, micro-cultivation, and nursery) and processing (standard processing and micro-processing).

Canada’s provinces and territories (P/Ts) have enacted legislation in support of the *Cannabis Act* and have implemented retail and distribution systems, of varying complexities, within their jurisdictions. Nationally, there is a mix of public and private distributors and retailers (some jurisdictions have elected to introduce hybrid public/private models). Together, federally, provincially and territorially authorized entities play an important role in the national cannabis supply chain, ensuring that an adequate supply of legal, quality-controlled cannabis is accessible to adults and Canadians consuming cannabis for medical purposes across the country.

In addition to providing for a legal supply of cannabis in Canada, the *Cannabis Act* seeks to reduce and deter illegal activities in relation to cannabis through a range of measures, including effective monitoring and oversight, and appropriate sanctions and enforcement measures. To support this purpose, the *Cannabis Act* provides the Minister responsible for the administration of the *Cannabis Act* with the authority to

- (a) establish and maintain a national CTS to enable the tracking of cannabis; prevent cannabis from being diverted to an illicit market or activity; and prevent illicit cannabis from being a source of supply of cannabis in the legal market; and
- (b) make an order that would require a class of persons authorized to import, export, produce, test, package, label, send, deliver, transport, sell, or dispose of cannabis to provide information respecting their activities in relation to cannabis.

The Government of Canada published the original CTS Ministerial Order in the *Canada Gazette*, Part II, on September 5, 2018. The Order came into force on October 17, 2018, along with the *Cannabis Act*. The data collected through the CTS is used by authorities to: track the high-level movement of cannabis across the country (e.g. from cultivator to processor, from processor to province or territory, from within the province or territory to retailer, through to sales); to detect potential diversion from, or inversion to, the regulated market; and to verify compliance and prevent non-compliance.

The *Regulations Amending the Cannabis Regulations (New Classes of Cannabis)* contain a series of targeted amendments to the *Cannabis Regulations* that address the public health and public safety risks associated with edible cannabis, cannabis extracts, and cannabis topical. The amendments will also enable a comprehensive range of cannabis product forms, consistent with the objective of enabling the legal industry to displace the illegal industry.

## **Objectives**

The objective of the Order remains unchanged, which is to require the provision of information (including cannabis production, inventories, distribution and sales) from reporting parties, supporting the broader goal of tracking the high-level movement of cannabis throughout the supply chain. The new Order will continue to work in an integrated way with other regulatory measures designed to help prevent inversion of illegal cannabis into, and diversion of cannabis out of, the legal market, including compliance and enforcement regimes and rigorous physical and personal security, record keeping and other requirements set out in federal and provincial/territorial legislation.

## **Description**

The new Order will apply to

- holders of federally issued licences for cultivation, processing and sale for medical purposes, who are required to provide information to the Minister;
- public P/T bodies that are authorized to sell cannabis under a P/T Act, which are required to provide information to the Minister; and
- private distributors and retailers, who are required to provide data to the public body authorized to sell cannabis or that authorizes sale under P/T legislation (typically a Crown corporation or a provincial ministry).

As with the original Order, the new Order does not apply to holders of federally issued cannabis drug licences, and licences for industrial hemp cultivation, research, or analytical testing. Record keeping and reporting requirements for these classes of licence holders are specified in the *Cannabis Regulations*, some of which were amended in the *Regulations Amending the Cannabis Regulations (New Classes of Cannabis)*. Further reporting requirements could be added as specific conditions to a licence if deemed necessary. Separate mechanisms have been put in place to require designated public bodies in relevant jurisdictions to report to the Minister responsible for administration of the *Cannabis Act* information provided to them by private distributors and retailers. This information is communicated publicly on Health Canada's website, as well as directly to affected parties.

Individuals and organizations subject to this Order will be required to report on the quantity of cannabis that is

- produced, received, purchased, returned, sent, and sold;
- destroyed, lost, or stolen; and
- used at each stage of production (such as when it is transformed from one product class or form, or when it is packaged and labelled for sale).

In addition to providing information on the quantity of cannabis, entities to which the new Order applies are also required to report on the value, in Canadian dollars, of certain quantities of cannabis, namely cannabis that is

- part of the closing inventory; and
- sold (to other federal licence holders, to P/T distributors and retailers, to consumers, and that is exported outside Canada).

The new Order also requires the provision of information related to the number of packaged units of cannabis products.

The new Order does not require the reporting of any personal information about consumers who purchase cannabis at the retail level.

As is currently the case, all reporting parties must report electronically, through the Cannabis Tracking and Licensing System (CTLS), a web-based application and case management tool designed for the submission of cannabis licence applications and amendment requests, and monthly tracking information. The CTLS will be updated to allow for the submission of the data elements prescribed by the new Order. Within the CTLS, reporting parties will still be able to choose the reporting method that is preferable to them — data can be submitted manually using fillable fields or via a file upload.

The new Order continues to require that holders of licences for cannabis cultivation, processing, and/or sale for medical purposes and public P/T bodies report no later than the 15th day of the month immediately following the reporting period. Private retailers and distributors are required to report no later than the 10th day of the month to the public P/T bodies (on the condition that a mechanism is in place obligating the P/T public body to transmit the information to the Minister and that the private retailers and distributors are notified of the mechanism). In all cases, relevant records, reports and data will need to be retained for two years after they were required to be provided, in order to enable auditing.

## **“One-for-One” Rule**

The “One-for-One” Rule requires that if a new administrative burden results from the introduction of a new regulation, departments must offset that new burden by removing a regulation from their stock of existing regulations. The purpose of the rule is to strictly control any new administrative burden resulting from regulations on a business. For purposes of the “One-for-One” Rule, a business does not include an organization that engages in activities for a public purpose, such as a provincial government, ministry or Crown corporation. The “One-for-One” Rule applies and the new Order will be an “IN.”

## **Assessment**

Consistent with the assumptions made in the cost-benefit analysis of the *Regulations Amending the Cannabis Regulations (New Classes of Cannabis)*, it is assumed that all holders of a cannabis licence that authorizes processing activities would manufacture the new classes of cannabis. It is also assumed that the reporting requirements for licence holders for non-processing activities (i.e. cultivation) would be similar to those under the original Order and as such, the impact is expected to be negligible. Therefore, it is assumed that cultivators would not incur incremental costs under the new Order. It is also expected that all P/T authorized distributors and retailers will buy and sell all of the new cannabis classes and would therefore incur incremental costs under the new Order.

Currently, parties subject to the Order must report not only the same information on cannabis quantities to Statistics Canada under the *Statistics Act*, but must also report to them the value, in Canadian dollars, associated with each quantity. When the new Order comes into force, which will require reporting of dollar values, Health Canada will share the data it collects with Statistics Canada as set out under an interdepartmental data sharing Memorandum of Understanding. As such, parties subject to the Order will no longer be required to report any information directly to Statistics Canada. As a result, there will be some cost savings.

An estimated 1 915 entities will incur incremental administrative costs over the 10-year period from 2019–2020 to 2028–2029. This includes an estimated 435 licensed processors and an estimated 1 265 private provincially authorized distributors and retailers that are expected to participate in the cannabis market. Incremental costs to these parties are related to the time and effort to compile, validate, format and submit the information to Health Canada or a public P/T body.

The estimated number of federal licence holders was forecasted using legal supply projections following the coming into force of the *Cannabis Act*, together with historical experience licensing producers under the former *Access to Cannabis for Medical Purposes Regulations* (e.g. licence processing time, time required to construct facilities). It is consistent with the estimate used to inform the cost-benefit analysis for the *Cannabis Regulations*. The estimated number of P/T authorized distributors and retailers was generated using publicly available information from provinces and territories on the size and scale of their projected retail model, together with information on retail growth experience in the State of Colorado.

It is estimated that the new Ministerial Order would result in a net cost to Canadians of approximately \$2.0 million net present value (PV) over 10 years, in 2018 dollars (or \$296,856

annually). These costs, which would be borne by licenced processors, public and private retailers, and public P/T bodies, are associated with costs to compile the required information.

The net impact (net present value) is comprised of an estimated total cost of \$3.6 million (or \$517,851 annually) PV over 10 years, and a total benefit of \$1.6 million (or \$221,266 annually) PV over 10 years. While the total costs are attributed to licensed processors and P/T authorized private retailers, the total benefits are attributed to all federal licence holders subject to the Order, as well to P/T authorized private and public retailers, and public P/T bodies. The total benefits would result from cost savings for the impacted stakeholders from no longer being required to compile and submit similar information to Statistics Canada. In accordance with the *Red Tape Reduction Act* and the *Red Tape Reduction Regulations*, the administrative burden costs on all affected industry stakeholders were estimated over a 10-year period (2019–2020 to 2028–2029), and presented in constant 2012 dollars, consistent with Treasury Board Secretariat guidelines. The total IN created by the regulations would be \$245,936 annualized, or \$228 per business. Because the requirements to compile and submit information to Statistics Canada were not counted as IN at the time of the creation of the CTS the cost reduction due their removal cannot be counted as an OUT.

### **Small business lens**

The purpose of the small business lens is to provide for a thorough analysis of small business realities to inform regulatory design, and to consider risk-based alternate compliance approaches that minimize costs for small business. The lens is mandatory for all regulatory proposals that impact small business and that have nationwide cost impacts of over \$1 million annually. As the nationwide cost impacts for this proposal are less than \$1 million annually, the small business lens is not mandatory. However, as the cannabis industry is currently comprised mostly of small businesses, their needs have been carefully considered throughout the development of the new Order. Based on internal Health Canada data and input from responses to questionnaires that were distributed to industry stakeholders in February 2018 and February 2019, it is assumed that 90% of licence holders will meet the definition of small business throughout the period from 2019–2020 to 2028–2029.

As part of the implementation approach, the new Order was designed to minimize reporting burden and to continue to provide flexibility in the submission of the required data. The number of potential data elements in the new Order has increased to allow for the tracking of the new classes of cannabis. As well, it better accounts for real-world transaction scenarios and business to business relationships while still maintaining a focus on the minimum data required to trace the flow of cannabis throughout the supply chain and monitor for potential diversion to, and inversion from, the illegal market.

The number of data points that any given party will be required to report will vary depending on the number and types of licences the party holds and the scale and complexity of their operations. For example, it was estimated that a typical micro-cultivator would report a maximum of 70 data points; P/T authorized distributors and retailers would, however, report less than 300 data points; and a standard processor would report approximately 1 165 data points.

As is currently the case, reporting parties will be able to submit data manually using fillable fields in the CTLS, or upload a data file. This is intended to accommodate varying degrees of capacity and technological sophistication on the part of reporting parties across the supply chain. The data file allows public P/T bodies or federal licence holders with more than one



licensed facility to report data for multiple licensed facilities at once. Most internal inventory systems can easily be configured to export data to the required file format. A reporting tool will be made available to help reporting parties prepare the data file in the proper format.

Given that most parties will have some form of electronic inventory system in place to track inventory and inform business decisions, the incremental cost to small businesses of complying with the new Order should be limited.

## **Engagement and feedback**

### ***60-day consultation on the strict regulation of additional cannabis products***

On December 20, 2018, Health Canada launched a public consultation to solicit input and views on proposed amendments to the *Cannabis Regulations* to address the public health and safety risks of edible cannabis, cannabis extracts, and cannabis topicals. The proposed amendments were published in the *Canada Gazette*, Part I, on December 22, 2018. The Regulatory Impact Analysis Statement that accompanied the proposed amendments indicated to stakeholders Health Canada's intention to update the Order to reflect the new classes of cannabis.

### ***Federal-Provincial-Territorial Working Group***

In the fall of 2017, a Federal-Provincial-Territorial Working Group was established to inform the development of the CTS. Since then, the working group has met monthly via teleconference to discuss the implementation of the CTS as well as the design of the new Order's data requirements.

### ***Ongoing feedback and engagement with industry***

Health Canada officials responsible for administering the CTS have had ongoing engagement with reporting parties. The engagements have served to clarify the reporting requirements, identify reporting challenges and to enable reporting parties to make suggestions to improve the reporting system.

## **Rationale**

As set out in Section 7 of the *Cannabis Act*, the purpose of the Act is to protect public health and public safety, including providing for the legal production of cannabis to reduce illegal activities in relation to cannabis. The Order and the associated tracking system are consistent with these purposes and comprise one element of a comprehensive regulatory framework that works in an integrated way to support the Government's public health and public safety goals of restricting youth access to cannabis, minimizing the harms of cannabis use, and preventing criminals and organized crime from profiting from the production of cannabis.

### ***Expected costs and benefits***

There are anticipated costs to licensed processors, public and private retailers, and public P/T bodies (described under the "One-for-One" Rule) to comply with the new Order. There are also costs to the federal government to maintain the system and verify and process the data received. However, the resulting benefits, which include enabling the high-

level tracking of cannabis throughout the supply chain, monitoring for potential cannabis diversion and inversion, and contributing to the displacement of the illegal market for cannabis, have been assessed to outweigh the costs.

The shift from having to report to both Health Canada and Statistics Canada to only having to report to Health Canada will facilitate timely reporting and help reduce the administrative burden on the industry.

### **Implementation, compliance and enforcement, and service standards**

The successful implementation of the new Order depends on the ability of reporting parties to comply with its requirements accurately and in a timely manner.

Health Canada has a series of supports in place for users of the system, including

- advance notification of the data elements they will be required to collect and report on to enable them to configure internal inventory and reporting systems;
- a reporting guide on how to report using the system;
- a reporting tool to provide assistance in populating the reporting template;
- training sessions via WebEx; and
- ongoing user support via email at [hc.ctls-bi-sscdl-ie.sc@canada.ca](mailto:hc.ctls-bi-sscdl-ie.sc@canada.ca).

Health Canada officials have a range of authorities to enforce compliance with the Order, including

- issuing warning letters to non-compliant regulated parties;
- issuing public communications;
- suspending, revoking or adding conditions to licences;
- issuing administrative monetary penalties; and
- issuing a ministerial order to provide information, or take other measures.

Standard operating procedures and protocols for data storage, management, and sharing have been established and will enable Health Canada to ensure that the data provided is stored securely and can only be accessed by authorized personnel.

### **Contact**

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