

## THE LEGALIZATION OF RECREATIONAL MARIJUANA – ARE YOU PREPARED?

By Sheryl L. Johnson

As employers are aware, until October 17, 2018, it is illegal to buy, possess or use cannabis for anything other than authorized medical or research purposes. However as of tomorrow, medical and recreational marijuana will both be legal - **but what is legal?**

Under the federal government's *Cannabis Act* all adult Canadians, subject to provincial or territorial restrictions, who are 18 years of age or older, may:

- possess up to 30 grams of legal cannabis, dried or equivalent in non-dried form in public
- share up to 30 grams of legal cannabis with other adults
- buy dried or fresh cannabis and cannabis oil from a provincially-licensed retailer
  - in provinces and territories without a regulated retail framework, individuals would be able to purchase cannabis online from federally-licensed producers
- grow, from licensed seed or seedlings, up to 4 cannabis plants per residence for personal use
- make cannabis products, such as food and drinks, at home as long as organic solvents are not used to create concentrated products

Public consumption of recreational marijuana is not legal under the Ontario regulations to the *Cannabis Act*. As such, marijuana cannot be smoked or vaped in workplace designated smoking areas. Additionally, it cannot be smoked in Ontario workplaces as it has the same second-hand smoke dangers as tobacco and the *Smoke Free Ontario Act* and the *Occupational Health and Safety Act* still apply.

While the federal government with the *Cannabis Act* legalized recreational marijuana, each province and territory will have the ability to set its own rules for cannabis, including on legal minimum age, where it can be purchased, where it can be used and how much can be possessed. As such, employers must ensure that its employees when conducting business on their behalf are educated about and complying with the laws of the province, territory, municipality or Indigenous community that they are in, whether they operate out of them or are visiting them for business purposes. Ontario has set the legal age limit for recreational marijuana at 19. It is illegal for minors to possess, use or share any amount of recreational marijuana.

It will remain illegal to: (a) take any amount of cannabis across Canada's international borders; and (b) be impaired at work in a manner that prevents them from being able



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to meet or maintain acceptable performance standards as the right to use marijuana will never override the right to maintain a safe workplace.

Knowing this, have you ensured that you have appropriately educated employees on what is acceptable and unacceptable workplace conduct when it comes to marijuana use? Have you addressed the following important considerations?: Do your employees engage in business travel between jurisdictions in Canada or outside of Canada? Do your employees entertain clients and are you going to treat recreational marijuana use the same as alcohol consumption? Do you employ minors? Do you have any employees who are allergic to the scent of marijuana? Have you updated codes of conduct, expense, anti-intoxicant, smoking and scent policies in addition to your health and safety policies? Do your policies ensure that you do not automatically equate use with impairment? Have you educated your employees on your updated policies so that they are educated and aware of how to your expectations, the workplace rules, how to identify behavioural symptoms of both: (i) problematic use and dependence on marijuana; and (ii) intoxication, in order to prevent health issues as well as workplace accidents, so as to avoid conflict, confusion and potential exposure to liability? Being forearmed is being fore ready.