

## The Cannabis Act and How Employers Should Respond

In the near future, the use of cannabis for recreational (non-medical) purposes will be legal across Canada. The legalization of marijuana not only affects the general public, but it will also have a sweeping influence on how employers manage their workforce. As such, it's crucial that employers adopt clear policies on the use of drugs and alcohol to prevent workplace accidents, increases in sick claims and decreases in employee productivity.

To respond effectively to the legalization of marijuana, employers need to have a basic understanding of the impact of the Cannabis Act itself and what steps they should take to ensure a safe and healthy workplace.

### The Impact of the Cannabis Act on Employers

Through the Cannabis Act, Canada becomes the first G-7 country to legalize the drug nationwide. Among other things, the federal law allows the provinces to create specific regulations for cannabis use related to impaired driving and workplace safety.

The most important thing to remember about the Cannabis Act is that it does not alter the responsibilities of employers and employees when it comes to the use of drugs and alcohol in the workplace. With that in mind, the following are some major items of note regarding the legalization of marijuana:

- Despite the fact that marijuana will be legal recreationally, employers retain the right to regulate the consumption, possession and trafficking of cannabis at work. Employers may

also prohibit employees from working under the influence of cannabis.

---

The legalization of marijuana not only affects the general public, but it will also have a sweeping influence on how employers manage their workforce.

---

- The Cannabis Act does not change an employee's responsibility to promote workplace safety. Employees must continue to perform their work with care and ensure they do not endanger the health, safety or physical well-being of their co-workers. Failing to uphold workplace safety practices may result in disciplinary action, up to and including dismissal.
- In general, random drug tests, screenings and searches in the workplace are prohibited. However, employers may verify employee possession or intoxication if there's a reasonable suspicion of restricted workplace marijuana use, a workplace accident occurs or the employee recently returned to work following previous issues of restricted marijuana use. When it comes to interviewing and hiring employees, employers may require a drug test for cannabis in the following two circumstances:

---

Provided by Lloyd Sadd Insurance Brokers Ltd

# The Cannabis Act and How Employers Should Respond

1. Where the workplace or position has major safety concerns that would be exacerbated by the use of marijuana in the workplace
  2. Where an employer has reasonable grounds to believe that a prospective employee consumes marijuana in an unhealthy way that could affect his or her work performance
- Under human rights legislation, employers are obligated to accommodate employees who are addicted to drugs. However, this obligation applies only to employees with a real problem of dependency. If an employee's substance usage is determined to be an addiction, employers cannot fire him or her for reasons related to the addiction.
  - Employers must ensure that the adoption, modification and enforcement of drug or alcohol policies is performed in accordance with the provisions of applicable collective bargaining agreements.

## Action Steps for Employers

Organizations that fail to adapt to the legalization of recreational marijuana could face a number of HR, workplace safety and administrative challenges. To effectively respond to the Cannabis Act, employers should do the following:

- **Set clear expectations**—Because recreational marijuana usage will be legalized, employees may be under the false impression that they can smoke during work hours or come to work under the influence of marijuana. As an employer, it's important to set clear expectations about recreational marijuana usage. Throughout the onboarding process and during training updates, remind employees that recreational marijuana use is strictly prohibited in the workplace.
- **Update drug policies**—Legalizing recreational marijuana could increase the number of employees who smoke. Accordingly, employers must update existing drug policies and communicate new rules to employees. These guidelines should outline testing procedures and define when testing may take place. While marijuana use will no longer be illegal, employers can restrict the possession of marijuana in the workplace. Above all, you must clearly outline the differences between medical and recreational use, and ensure each is addressed with specificity. The following are some key policy conditions and terms to consider:
  - The definition of a drug
  - The definition of a workplace
  - If current policy language around the use of alcohol in the workplace can be used for marijuana usage
  - Policy language around permitted use of recreational marijuana during breaks, at lunch, at client functions or at company functions, if applicable
  - Policy language related to required sober periods before work, if applicable
  - Policy language related to disclosing marijuana addiction and medical marijuana usage
- **Accommodate health needs**—Remember, marijuana can be used to treat an illness or medical condition. In these cases, it may be helpful to review existing policies and procedures related to the use of prescription medications in the workplace.
- **Discipline employees when applicable**—Remember that marijuana legalization does not give employees the right to freely smoke in the workplace. Employers should expect their

# The Cannabis Act and How Employers Should Respond

---

employees to show up sober and ready to work. Employers should be empowered to discipline employees when marijuana usage has an adverse impact on job performance.

- **Understand the impact of marijuana—** Marijuana in the workplace can have many ill effects, and it's important for employers to have an understanding of the drug. Above all, take time to understand the effects of marijuana and the workplace issues it can create.

Now more than ever before, both employers and employees must know how to discuss and deal with marijuana at work. One of the best things you can do as an organization is to stay informed, be prepared for questions that may come up and understand the implications of marijuana.

It should be noted that occupational health and safety legislation across Canada requires employers to ensure a safe workplace. Employers that fail to follow workplace laws could face serious fines and penalties.

For more workplace risk management solutions, contact Lloyd Sadd Insurance Brokers Ltd today.