

# AN INTRODUCTION TO THE NEW ACCESS TO CANNABIS FOR MEDICAL PURPOSES REGULATIONS (ACMPR)

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While the federal government works towards the eventual legalization of marijuana, including launching a dedicated task force and announcing plans to have a law tabled by spring 2017, the status of the medical marijuana industry has been unclear. Some of that uncertainty was alleviated on August 24, 2016, when the new *Access to Cannabis for Medical Purposes Regulations* (“**ACMPR**”) came into force, with the overarching goal of improving access to medical marijuana. The ACMPR replaces the previous *Marijuana for Medical Purposes Regulations* (“**MMPR**”), which was ruled unconstitutional earlier this year.

The MMPR, in effect since June 2013, established a licensing system for marijuana production and supply whereby authorized patients were required to purchase medical marijuana solely from producers who were licensed by Health Canada. Prior to the introduction of the MMPR, a different set of regulations (the *Marijuana Medical Access Regulations*, or “**MMAR**”) allowed authorized patients to produce their own marijuana, designate someone to produce it for them, or purchase directly from Health Canada. The MMPR replaced and repealed the MMAR in order to, among other reasons, avoid the inherent risks associated with patients growing marijuana at home such as the risk of fire, mold, and break-ins, for better quality control, and to delegate the responsibility of growing and supplying marijuana as Health Canada had become unable to keep up with increasing demand.

However, once medical marijuana had to be purchased directly from licensed producers under the MMPR, it became unaffordable for a number of patients – it was cheaper for some patients to grow their own. Following the introduction of the MMPR, a series of court decisions soon followed that knocked down various aspects of the Regulation. Most significantly the *Allard v. Canada* [1] decision released in February 2016 ruled that the MMPR was unconstitutional because it did not provide patients with reasonable access to medical marijuana. The federal government was given 6 months to introduce replacement regulations, and as a result the ACMPR was developed.

The ACMPR essentially both codifies the court decisions arising from the MMPR, and reintroduces some key aspects of the MMAR with the mandate of improving access to medical marijuana.

The ACMPR reintroduces two additional means of accessing medical marijuana that were similarly available under the MMAR:

- a. Patients can grow a limited quantity for personal use (personal production); or
- b. Patients can designate an individual to grow medical marijuana on their behalf (designated production).

An individual can only be the designated producer for a maximum of two patients.

Personal and designated producers must each apply for a registration certificate under Health Canada's new registration scheme. Starting materials (marijuana seeds and plants) and an interim supply of medical marijuana must be purchased from licensed producers.

Patients will still be able to purchase medical marijuana from licensed producers. Producers licensed under the MMPR will be transitioned to the ACMPR. The regulation of licensed producers under the ACMPR is similar to the MMPR, with a few small differences. Licensed producers will be permitted to sell dried marijuana, fresh marijuana, or cannabis oil to patients, and as mentioned above, will also be able to provide starter materials (marijuana seeds or marijuana plants) to specified individuals. Initially under the MMPR, licensed producers were only able to sell dried marijuana to authorized patients; fresh marijuana and cannabis oil were allowed by way of an exemption following the decision in *R. v. Smith*<sup>[2]</sup> in which the Supreme Court of Canada ruled that only allowing access to dried marijuana was against the Canadian Charter of Rights and Freedoms. The ability to sell starter materials to individuals for personal or designated production was not allowed under the MMPR, but now is under the ACMPR. In fact, licensed producers will become the only legal source of starting materials and interim supply to individuals who are registered to grow their own or have someone grow medical marijuana for them, removing Health Canada from the supply equation.

Licensed producers will also have 6 months to comply with new packaging and labelling requirements. For example, licensed producers must list the carrier oil used in the production of cannabis oil, and for cannabis oil in dosage form, will be required to list the net weight of the container, the number of doses in each container, and the dosage volume.

Further information on the *Access to Cannabis for Medical Purposes Regulations* is available [here](#).

All applications that were submitted under the MMPR prior to August 24, 2016, will continue to be processed by Health Canada, and all licenses and security clearances granted under the MMPR will still be valid under the ACMPR. Going forward, Health Canada has said that a new application form will become available, which consolidates what were previously several applications under the MMPR. This will allow an applicant to apply to produce and sell fresh and dried marijuana, cannabis oil, and marijuana seeds and plants, all in one application.

## **Conclusion**

According to Health Canada, the ACMPR is not a long term plan but a temporary fix to address issues with the MMPR. Health Canada is also investigating alternative distribution options, such as pharmacies, and given the current government's stance on legalizing marijuana for recreational use, and its stated timeline, we can anticipate that there will be new developments in this industry in the future.

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1 *Allard v Canada*, 2016 FC 236, 394 DLR (4th) 694.[ps2id id='1' target='']

2 *R v Smith*, 2015 SCC 34, [2015] SCR 602[ps2id id='2' target='']

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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