



Edibles, Extracts, and Topicals **A High Level Guide to** **the Proposed Regulations**

by Rick Moscone with contributions by leading practitioners

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Background

It is expected that no later than October 17, 2019, it will be legal to sell “edible cannabis,” “cannabis extracts,” and “cannabis topicals” in Canada. The legalization of these new classes of cannabis will significantly expand the number of cannabis products available.

On December 22, 2018, the Government of Canada released its proposed regulations to amend the Cannabis Regulations (the “Regulations”), which address the legalization and regulation of cannabis edibles, extracts, and topicals. The amendments to the Regulations were made public for a 60-day consultation period and address the public health and safety risks associated with the new classes of cannabis. The changes would also amend Schedule 4 to the *Cannabis Act* (the “Act”) to add the new classes¹.

As of the date of this article, the public consultation period has ended. However, final regulations have yet to be published.

This article provides a high-level overview of the proposed regulations and amendments pertaining to the introduction of these new classes of cannabis.

Packaging and Labelling

Part 7 of the Regulations identifies requirements that currently apply to the packaging and labelling of cannabis products. In addition to current requirements, such as the standardized cannabis symbol, health warning messages, tetrahydrocannabinol (“THC”) and cannabidiol content, and child-resistant packaging, the proposed regulations would:

- Restrict packaging for all classes of cannabis from including any representations regarding health benefits or cosmetic benefits
- Prohibit against any representation that associates a cannabis product, its package, or its label with an alcoholic beverage or a company that manufactures alcoholic beverages
- Prevent sampler packs by prohibiting an exterior container from containing more than one immediate container
- Prohibit the immediate container of the cannabis product from being pressurized (except for edible cannabis in liquid form)
- Allow the use of expanded panels on labels for certain required information when the immediate container is too small to accommodate all the required information
- Allow the use of containers that contain metal (e.g., a beverage can)
- Provide that the exterior surface of any container in which a cannabis product is packaged will no longer need to have a matte finish

The proposed regulations would provide additional packaging and labelling requirements depending on the class of cannabis see following.

Edible Cannabis

Edible cannabis includes products containing cannabis intended to be consumed in the same manner as food (i.e., to eat or drink). The proposed regulations provide various restrictions on the types of edible cannabis products allowed and their composition, including:

- Limiting the amount of THC per package to 10 milligrams
- Prohibiting the mixing of ethyl alcohol with edible cannabis (exceeding 0.5% w/w) and the addition of vitamins and minerals
- Limiting the amount of caffeine in a package to 30 milligrams
- Requiring edible cannabis products to be shelf-stable (i.e., not require refrigeration or freezing)
- Prohibiting the use of meat, poultry, and fish products as ingredients, unless dried

The following labelling and packaging requirements are proposed for edible cannabis products:

- A label would be required to include a list of ingredients; the common name of the cannabis product; an indication of the source of an allergen or gluten or that sulphites have been added to the product; a best before date if the product is expected to deteriorate over a period of 90 days or less, and a cannabis-specific nutrition facts table (“NFT”)
- A prohibition against making any nutrient content representations that go beyond those permitted on the list of ingredients and cannabis-specific NFT (including those that are currently permitted on food such as “low fat”)
- The use of food-grade packaging for the immediate container of edible cannabis and for any wrappers
- A prohibition on co-packaging edible cannabis and a food or co-packaging more than one class of cannabis

¹The draft regulations also propose to remove “cannabis oil” from Schedule 4 of the Act six months after the amended regulations come into force. Following this six-month transition period, cannabis oil would be subsumed under the new product classes.

Cannabis Extracts

Cannabis extracts include products that are produced using extraction processing methods or by synthesizing phytocannabinoids. Similar to edible cannabis, the proposed regulations contain many restrictions with respect to cannabis extracts, such as:

- Limiting the amount of THC per discreet unit (i.e., per use such as a capsule) to 10 milligrams and the THC per package to 1,000 milligrams
- Restricting the use of nicotine or caffeine and prohibiting the addition of any vitamins or minerals
- Prohibiting the use of sugars, colours, sweeteners, or sweetening agents or making any representation of certain flavours that are appealing to youth (such as dessert flavours)

The following labelling and packaging requirements are proposed for cannabis extracts:

- A label would be required to include a list of ingredients, the identity of the cannabis product in terms of its common name or function, a list of allergens, and the intended use of the product (i.e., for “vaping”)
- A container for the extract would have to be designed so that it could not be easily poured or drunk directly from the container

Cannabis Topicals

Cannabis topicals include products that use cannabis as an ingredient and are intended to be used on external body surfaces (i.e., skin, hair, and nails).

The proposed regulations would prohibit the use of a topical on the eyes or damaged skin, and would limit the maximum amount of THC to 1,000 milligrams per package.

The draft regulations propose that a cannabis topical also include on its label:

- A list of ingredients
- Intended use of the product (i.e., “apply to skin”)
- Directions for use (but the content would not be prescribed)
- The following warning statement: “Do not swallow or apply internally to broken, irritated, or itching skin.”

It would not be permitted to make any cosmetic benefit claim, such as “reduces the appearance of wrinkles” or “softens skin.”

Record-Keeping

It should be noted that the proposed regulations would require additional record-keeping requirements, such as recording all ingredients used in the production of the new classes of cannabis and the supplier of those ingredients, to be kept for a period of two years.

About the Authors

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