

SIX NATIONS OF THE GRAND RIVER
CANNABIS CONTROL LAW

This statute was enacted as a law of the Six Nations of the Grand River at a duly convened meeting of Six Nations of the Grand River held on June 9, 2021 and comes into force on June 21, 2021, at which time the Cannabis Control Law passed by Six Nations of the Grand River in March 2019 is repealed.

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Part 1 Definitions, Jurisdiction and Purposes

Division I: Definitions

1. (1) In this Act, **regulations** means the *Six Nations Cannabis Control Regulations*.
- (2) The definitions set out in subsection 1(1) of the regulations are incorporated by reference into this Act.

Division II: Jurisdiction

Paramountcy of Law

2. (1) Through the enactment, application and enforcement of this Act and its regulations, Council is occupying the jurisdiction of cannabis regulation at the exclusion of the federal and provincial governments of Canada, except as specified under this Act.

Jurisdiction

3. (1) The Council is asserting its inherent right to self-determination, which includes the right to freely determine its political status and freely pursue its economic, social and cultural development. To advance and protect the political integrity and economic security of Six Nations, the Council shall ensure the development of a safe, strong regulated cannabis economy on its Territory from seed to sale. In upholding its responsibility, the Council shall respect the socioeconomic needs of the Six Nations people, with a vision of respecting and providing for the faces coming beneath the earth.

Application

4. (1) This Act and its regulations apply to all individuals and businesses located, operating, or found at Six Nations in relation to the production, distribution, sale, possession, import and export of cannabis.
- (2) This Act and its regulations are binding on Council and all Six Nations governmental and non-governmental agencies.
- (3) Upon the coming into force of this Act and its regulations on the date specified by Council, the Cannabis Control Law passed by Council in March 2019 is repealed.

Division III: Purposes

Purposes

5. (1) The purposes of this Act are to:
 - (a) protect the health and safety of the people of Six Nations and other persons found within the Six Nations territory and, in particular, to protect the health and safety of young persons by restricting their access and exposure to cannabis;

- (b) ensure that enforcement of the Act recognizes the inherent governing jurisdiction of Six Nations and is carried out in a manner that respects the culture, values and worldview of the people of Six Nations. Six Nations may negotiate agreements concerning the enforcement of the Act with other governmental entities, as Six Nations deems appropriate;
- (c) facilitate a regulated and controlled cannabis industry that will promote and enhance socio-economic development, fiscal self-sufficiency and tangible benefits for the people of Six Nations;
- (d) provide for the legal production, distribution, sale, possession, import and export of quality-controlled cannabis;
- (e) deter illicit and illegal activities in relation to cannabis, including:
 - (i) preventing cannabis from being diverted into the illicit or illegal market;
 - (ii) preventing illicit or illegal cannabis from entering the source of supply of the legal cannabis market;
 - (iii) through appropriate sanctions and enforcement measures;
- (f) balance the interests of all Six Nations community members, while the health and safety of the community remains paramount;
- (g) protect Six Nations land and natural environment in connection with activities regulated under the Act and the regulations; and
- (h) minimize the risk that the Six Nations cannabis industry becomes a monopoly or an oligopoly.

Part 2 Six Nations Cannabis Commission

Division I: Empowerment of Commission

Empowerment, fairness, accountability and governance

- 6. (1) The Commission is empowered to administer the Act and its regulations and shall do so with regard to the best interests of Six Nations community members and in accordance with the highest standards of public health, public safety, honesty and integrity.
- (2) The Commission shall administer the Act and its regulations in accordance with the following principles of natural justice and procedural fairness:
 - (a) the Commission shall exercise its discretion in an impartial manner, free from bias and relying on all available and relevant evidence;
 - (b) when the Commission is in possession of evidence not presented by a person directly affected by a decision of the Commission, it must allow the person an opportunity to know and respond to that evidence;

- (c) for any decision of the Commission that is subject to appeal, the Commission shall provide an opportunity for a person directly affected by a decision of the Commission to present whatever evidence they wish to be considered to the Commission;
 - (d) when requested by a person directly affected by a decision of the Commission, the Commission shall provide disclosure of the primary evidence to support its decision; and
 - (e) the Commission shall provide reasons for its decisions.
- (3) Notwithstanding subsection (2), the Commission is not required to disclose evidence if the disclosure would result in the breach of any applicable law, competing duty of the Commission under this Act or its regulations or expose the Commission or any other person to legal action by a person other than the person affected by the decision of the Commission.
- (4) The Commission will be accountable to Council as specified in the Act but otherwise will function independently from Council and any other Six Nations agency or governing body including the Haudenosaunee Confederacy Chiefs Council.
- (5) Subject to this Act and its regulations, the Commission shall be governed in accordance with its constating documents and applicable corporate law.

Council powers

7. (1) In addition to its other rights and powers, Council is responsible for:
- (a) approving any amendments to this Act or its regulations;
 - (b) selecting, appointing and, where necessary, removing commissioners;
 - (c) providing the Commission with funding for its operating expenses to ensure the Commission has the resources to satisfy its responsibilities under this Act until such time as the Commission is receiving fees and other amounts from licence holders sufficient to sustain its own operations; and
 - (d) determining the remuneration for commissioners.
- (2) If any member of Council has a conflict of interest in connection with the Council's responsibilities in relation to the Commission, the member of Council must proceed in accordance with the applicable Council policy respecting conflicts of interest.

Community contribution

8. (1) All fees and other amounts collected by the Commission in excess of its operational expenses and other liabilities shall be held by the Commission or its chosen banking or investment services provider and ultimately made available for (a) Six Nations community initiatives as determined by the Commission in consultation with Council, the community, and other Six Nations funding agencies and (b) for legal defence, in accordance with section 9.
- (2) The Commission may solicit and receive legacies, rights, grants, settlements, bequests, endowments and donations in the furtherance of the Act's purposes and the mission and mandate of the Commission.

Legal defence of cannabis regulatory regime

9. (1) The Commission shall defend itself, Council, any Six Nations governmental agency recognized by Council, and any person holding (in good standing) a licence issued by the Commission under this Act, and shall be responsible for all reasonable costs, charges, expenses, damages and other liabilities sustained or incurred by such bodies or persons, in connection with any action, suit or other proceeding which is commenced against them if such action, suit or other proceeding challenges the validity or enforceability of this Act, its regulations or the right of Six Nations or Council to establish the cannabis regulatory regime contemplated hereunder.
- (2) If the Commission has insufficient funds to fulfil its obligations under subsection (1), then Council shall provide such resources to the Commission as are necessary to do so.

Division II: Testing, Stamping, Wholesale and Other Powers

Testing

10. (1) Testing required in order for cultivation licence or manufacturing licence holders to comply with the requirements of Part 6 Division IV and Part 7 of the regulations must be performed by a testing facility operated or approved by the Commission.
- (2) The Commission shall employ or engage such personnel, construct or otherwise acquire such facilities, purchase or lease such equipment and enter into such other contracts or arrangements as may be necessary to establish and operate such testing facility.

Stamping

11. (1) Prior to delivery of cannabis to a retail sale licence holder or to a purchaser specified on an export permit, as applicable, the Commission shall affix a Commission stamp to unstamped cannabis retail products.
- (2) A retail sale licence holder shall not sell to any consumer any product containing cannabis unless it is a cannabis retail product to which a Commission stamp has been applied by the Commission.
- (3) Unless authorized by the Commission in writing, no person shall produce, possess, sell or otherwise supply, or offer to supply anything that is intended to resemble or pass for a Commission stamp.
- (4) Unless authorized by the Commission in writing, no person shall apply a Commission stamp to any container or package that contains cannabis.

Wholesale distribution

12. (1) The holder of a retail sale licence shall only purchase or receive for sale cannabis retail products that are purchased from the Commission.
- (2) Despite subsection (1), a retail sale licence holder that operates more than one cannabis retail store is permitted to transfer between its stores any cannabis retail products purchased from the Commission.

Ancillary Powers

13. (1) The Commission shall employ or engage such personnel, construct or otherwise acquire such facilities, purchase or lease such equipment, enter into such other contracts or arrangements and otherwise incur such expenses as may be necessary to carry out its functions and duties under this Act and its regulations, including as necessary to establish and operate the necessary facilities and to otherwise carry out the functions contemplated in subsections 10(1), 11(1) and 12(1).
- (2) The Commission may engage the services of persons having technical or specialized knowledge to advise the Commission in respect of its powers, duties or functions under this Act or its regulations and fix their remuneration.

Other Responsibilities

14. (1) In addition to its other responsibilities, rights or powers specified in the Act or its regulations, the Commission's responsibilities include:
 - (a) establishing, implementing and enforcing guidelines and policies necessary for the effective administration of the Act and regulations;
 - (b) monitoring the impacts of the Act on the health and safety of the people of Six Nations;
 - (c) working with the Six Nations Police, Six Nations Justice and other Six Nations agencies to ensure mechanisms are in place to enforce compliance with the Act and its regulations;
 - (d) obtaining, implementing and maintaining such software, systems, networks and databases as the Commission requires to fulfill its mandate;
 - (e) ensuring commissioners and other Commission staff undertake training to enable them to fulfill their respective mandates effectively and efficiently;
 - (f) providing quarterly reports to Council on such matters relating to the administration of the Act as may be directed by Council; and
 - (g) ensuring effective communication between the Commission, Council, the Haudenosaunee Confederacy Chiefs Council and the people of Six Nations in connection with the Six Nations cannabis regulatory regime.

Division III: Organization

Composition

15. (1) The Commission shall be governed by a board comprised of three, four or five commissioners, as determined and appointed by Council from time to time.

Appointment

16. (1) Subject to any increase or decrease in the size of the board of the Commission as determined by Council pursuant to section 15, Commissioners selected by Council shall be appointed at each annual general meeting of the Commission at which any commissioner's term in office is expiring.

Term

17. (1) Commissioners shall serve for terms of either two, three or four years such that the term of not more than two commissioners may end in any particular year. The Chief Commissioner of the Commission shall serve for a term of four years, and the remaining commissioners for such two, three or four year terms as determined by Council at the time of their appointment having regard to the foregoing sentence.
- (2) The first terms of the initial commissioners shall be deemed to commence on the date this Act comes into force.
- (3) A commissioner whose term is expiring shall remain in office until the dissolution of the meeting at which his or her successor is appointed.
- (4) Except by a resolution passed by two-thirds of the members of Council entitled to vote on the resolution, commissioners may only serve for two consecutive terms.

Eligibility

18. (1) To be eligible to be appointed as a commissioner, a person must:
- (a) be a Six Nations band member;
 - (b) be at least nineteen years old;
 - (c) have experience with regulated industries or prior organizational governance experience;
 - (d) not personally have, or have a family member or friend that has, a direct or indirect interest in a private cannabis business that, to his or her knowledge, operates at Six Nations or intends to apply, or has applied for or a licence to operate a cannabis business on the Territory that Council determines, in its discretion, is an interest of a nature that is sufficient to influence, or be perceived to influence, the exercise of the commissioner's duties and responsibilities;
 - (e) have no criminal conviction for an indictable offence unless a full pardon has been received for any such conviction; and
 - (f) provide a police check acceptable to the Commission that demonstrates compliance with subsection (e).

Remuneration

19. (1) The remuneration of commissioners shall be determined by Council (in accordance with procedures established in the Commission's constating documents).

Termination

20. (1) The office of commissioner shall be automatically vacated if:
- (a) the commissioner ceases to meet the eligibility requirements under section 18;
 - (b) a commissioner resigns his or her office by delivering a written resignation to the Chief Commissioner of the Commission in which case such resignation shall be effective on the date specified in such resignation;
 - (c) the commissioner is declared incapable by a court;
 - (d) the commissioner has the status of bankrupt;
 - (e) at a meeting of Council, a resolution is passed by two-thirds of the members of Council entitled to vote on the resolution at such meeting that the commissioner be removed from office for cause, as determined by Council in its sole discretion, including if the commissioner:
 - (i) has failed to act diligently and in good faith with a view to the best interests of the Commission or other breach of fiduciary duty;
 - (ii) has an unacceptable or unresolvable conflict of interest;
 - (iii) has been dishonest in connection with the performance of his or her duties as a commissioner;
 - (iv) has habitually neglected his or her duties as a commissioner; or
 - (v) has misappropriated property of the Commission or Council; or
 - (f) the commissioner dies.
- (2) Before a commissioner may be removed under subsection (1)(e) above Council shall establish and implement a process that provides procedural fairness and natural justice similar to those under which the Commission must operate pursuant to section 6(2).

Filling of vacancy and candidate list

21. (1) A vacancy in the office of any commissioner shall be filled by Council as soon as possible following the event causing such vacancy and in all events within ninety days. The new commissioner shall serve for the balance of the vacated commissioner's term.
- (2) The Commission shall maintain a list of potential future commissioners that meet commissioner eligibility requirements, have skills or experience that would usefully enhance the Commission's expertise and have expressed a willingness to serve as a commissioner.
- (3) When it is necessary for Council to appoint one or more new commissioners, the Commission shall recommend potential commissioners to Council from the list in subsection (2), for Council's consideration.

- (4) If Council determines, at its sole discretion, that there are extenuating circumstances making all commissioners on the Commission's list ineligible, they may appoint any other eligible individual to fill a vacancy in the office of the Commission.

Conflicts of interest

22. (1) If a commissioner has any actual, apparent or potential interest (whether personal or professional) in connection with a licence application, licence, permit, contract, transaction or other business of the Commission, the commissioner must disclose such interest to the Commission immediately upon becoming aware of it.
- (2) An interest that must be disclosed pursuant to subsection (1) arises in, but is not limited to, the following circumstances:
- (a) a Commission decision will provide personal or professional benefit or gain (monetary or otherwise) to the commissioner or the commissioner's immediate family or a close personal friend; or
 - (b) a Commission decision relates to interests or issues otherwise directly impacting the commissioner or an immediate family member or close personal friend of the commissioner.
- (3) Without limiting each commissioner's fiduciary duty to the Commission, no commissioner shall use his or her position to intentionally advance the private interests of any particular person or business, whether for himself or herself, his or her family or friend, or otherwise.
- (4) A commissioner with an interest described in subsection (3) shall immediately disclose such interest and shall not participate in any portion of any Commission meeting where the applicable matter is discussed or voted on.
- (5) Should a commissioner find that he or she is in a conflict of interest that will prevent him or her from carrying on a material portion of his or her duties as a commissioner on an ongoing basis, he or she is required to resign from the Commission.
- (6) Notwithstanding a conflict of interest, if the Commission (excluding the conflicted commissioner) determines that the making of a decision, issuance of a licence or permit or entering into of a contract or transaction is in the best interests of Six Nations, then the existence of the conflict alone shall not cause such licence, permit, contract, transaction or decision to be invalid.
- (7) If a commissioner becomes aware that another commissioner may have an actual, apparent or potential conflict of interest, he or she shall request the Chief Commissioner of the Commission to determine whether a conflict of interest exists.
- (8) The Commission shall report any commissioner conflicts of interest to Council so that the Council may determine if the commissioner should be required to resign from the Commission pursuant to subsection (5) or is otherwise ineligible to serve as a commissioner pursuant to subsection 18(1).

Annual report and annual plan

23. (1) The Commission shall consider strategic direction for the future of the Commission and document same in an annual plan which shall form part of the annual report on the activities of the Commission in each year to be presented at each annual general meeting of the Commission.
- (2) The annual plan prepared in accordance with subsection (1) shall take into account the following:
- (a) the prior years' financial statements;
 - (b) business model evaluation;
 - (c) technology evaluation;
 - (d) environmental considerations;
 - (e) community feedback;
 - (f) industry feedback;
 - (g) interjurisdictional issues;
 - (h) community contribution; and
 - (i) such other considerations as the Commission deems relevant.

Books and records

24. (1) The Commission shall ensure that all books and records of the Commission required by its constating documents, by the public accountant for audit purposes or by applicable law are regularly and properly kept in accordance with such requirements.

Audit

25. (1) The Commission's constating documents shall require that the commissioners annually appoint a public accountant to audit the accounts of the Commission in accordance with applicable generally accepted accounting principles.
- (2) The public accountant appointed under subsection (1) shall present the results of its audit at each annual general meeting of the Commission.

Division IV: Review and Report

Review of Act

26. (1) Three years after this section comes into force, the Commission must cause a review of this Act and its administration and operation to be conducted, including a review of the impact of this Act on public health and, in particular, on the health and consumption habits of young persons in respect of cannabis

use, the impact of cannabis on Six Nations residents and the Six Nations community and the impact of the cultivation of cannabis plants in a dwelling-house.

Report to Council

- (2) No later than 12 months after the day on which the review begins, the Commission must cause a report on the review, including any findings or recommendations resulting from it, to be laid before Council.

Part 3 Prohibitions

Division I: Criminal Prohibitions

Possession

27. (1) Unless authorized under this Act, it is prohibited:

- (a) for an individual who is 19 years of age or older to possess, in a public place, cannabis of one or more classes of cannabis the total amount of which is equivalent, as determined in accordance with Schedule 3 to the regulations, to more than 30 g of dried cannabis;
- (b) for an individual who is 19 years of age or older to possess any cannabis that they know is illicit cannabis;
- (c) for an individual to possess, in a public place, one or more cannabis plants that are budding or flowering;
- (d) for an individual to possess more than four cannabis plants that are not budding or flowering; or
- (e) for an organization to possess cannabis.

Distribution

28. (1) Unless authorized under this Act, it is prohibited:

- (a) for an individual who is 19 years of age or older:
 - (i) to distribute cannabis of one or more classes of cannabis the total amount of which is equivalent, as determined in accordance with Schedule 3 to the regulations, to more than 30 g of dried cannabis;
 - (ii) to distribute cannabis to an individual who is under 19 years of age; or
 - (iii) to distribute cannabis that they know is illicit cannabis;
- (b) to distribute cannabis to an organization;
- (c) for an individual to distribute one or more cannabis plants that are budding or flowering or more than four cannabis plants that are not budding or flowering; or

(d) for an organization to distribute cannabis.

Possession for purpose of distributing

(2) Unless authorized under this Act, it is prohibited to possess cannabis for the purpose of distributing it contrary to subsection (1).

Distribution other than by licensed producers

(3) Unless authorized under this Act in respect of a holder of a manufacturing licence or cultivation licence, a person may only distribute (or possess for the purpose of distributing) cannabis if it was purchased from a retail sale licence holder and such person is otherwise permitted to so distribute under this Act.

Selling

29. (1) Unless authorized under this Act, it is prohibited to sell cannabis (or any substance represented or held out to be cannabis) to any individual or organization.

Prohibition on sale to persons under 19

(2) No person authorized by this Act to sell cannabis shall knowingly sell cannabis to a person under 19 years of age.

Prohibition on sale, distribution to intoxicated person

(3) No person shall knowingly sell or distribute cannabis to a person who is or appears to be intoxicated.

Possession for purpose of selling

(4) No person shall possess cannabis for the purpose of selling it contrary to subsections (1) to (3).

Prohibition on sale and distribution of recalled cannabis

(5) It is prohibited to sell or distribute cannabis that is the subject of a recall order made under section 59.

Prohibited types

(6) It is prohibited for a person that is authorized to sell or produce cannabis to sell or produce cannabis of any class other than specified in Schedule 4 to the regulations.

Prohibitions on young persons

30. (1) Unless authorized under this Act for holders of a medical use permit, no person under 19 years of age shall possess, consume, purchase, sell, distribute, cultivate, propagate, harvest or manufacture cannabis, or offer to purchase, sell, distribute, cultivate, propagate, harvest or manufacture cannabis.

Transporting cannabis

31. (1) No person shall drive or have the care or control of a vehicle or boat, whether or not it is in motion, while any cannabis is contained in the vehicle or boat except with respect to cannabis that is:
- (a) in its original and unopened packaging or packed in baggage that is not readily available to any person in the vehicle or boat; or
 - (b) in respect of transportation of cannabis by holders of a cultivation licence or a manufacturing licence, safely loaded and secured for transport by a qualified commercial transportation services provider and packaged in a manner that ensures the security of its contents, such that:
 - (i) it will not open or permit the escape of its contents during handling or transportation;
 - (ii) it is sealed so that it cannot be opened without the seal being broken;
 - (iii) it prevents the escape of odours associated with cannabis plant material; and
 - (iv) it prevents the contents from being identified without an outer container being opened.
- (2) For the purposes of subsection (1):
- (a) **boat** includes any ship or boat or any other description of a vessel used or designed to be used in the navigation of water; and
 - (b) **vehicle** means:
 - (i) a motor vehicle as defined in the *Highway Traffic Act* (Ontario);
 - (ii) a motorized snow vehicle as defined in the *Motorized Snow Vehicles Act* (Ontario); or
 - (iii) any other vehicle that may be prescribed in the regulations.

Landlords

32. (1) No person shall knowingly permit a premises of which he or she is a landlord to be used in relation to an activity prohibited under this Act.
- (2) For the purposes of subsection (1), **landlord** means a person who is lessor, owner or person permitting the occupation of the premises, and includes an owner of a premises that has not been vacated by the tenant despite the expiry of the tenant's lease or right of occupation.

Importing and exporting

33. (1) Unless authorized under this Act, it is prohibited to import cannabis to or export cannabis from Six Nations or to possess cannabis for such purpose.

Production

34. (1) Unless authorized under this Act, it is prohibited to:

- (a) cultivate, propagate or harvest any cannabis plant or any other living thing from which cannabis may be extracted or otherwise obtained, or to offer to do any of those things;
- (b) obtain cannabis by any method or process, including by manufacturing, by synthesis or by using any means of altering the chemical or physical properties of cannabis or any other living thing from which cannabis can be extracted or otherwise obtained, or to offer to do any of those things; or
- (c) alter or offer to alter the chemical or physical properties of cannabis by the use of an organic solvent.

Authorized personal alteration

(2) An individual may alter the chemical or physical properties of any cannabis that they are not prohibited by this Act from possessing.

Authorized personal cultivation

- (3) Except as may be permitted in connection with a medical use permit, an individual 19 years of age or older may cultivate, propagate or harvest, or offer to cultivate, propagate or harvest:
- (a) a cannabis plant that is from a seed or plant material lawfully obtained from the holder of a licence under this Act; and
 - (b) up to four cannabis plants at any one time in their dwelling-house or such other place as may be authorized by the Commission.

Authorized personal cultivation limit

(4) The restriction to four cannabis plants in a dwelling-house in subsection (3)(b) above applies whether there are one or more individuals ordinarily resident in such dwelling-house.

Definition of dwelling-house

(5) For the purposes of this section, **dwelling-house**, in respect of an individual, means the dwelling-house (including a yard, garden or any similar land) where the individual ordinarily resides and includes any immediately contiguous land that the individual owns or otherwise has a right to occupy and any building or structure on any such land.

Prohibition on facilitating illicit cannabis

35. (1) It is prohibited to possess, produce, sell, distribute, import or export anything with the intention that it will be used to produce, sell or distribute illicit cannabis.

Use of young person

36. (1) It is prohibited to involve a young person in the commission of any offence under this Act.

Possession of proceeds

37. (1) No person shall knowingly possess the proceeds of an offence under this Act.

Exceptions

38. (1) There shall not be a contravention of this Act or its regulations if:

- (a) an individual possesses illicit cannabis of one or more classes of cannabis so long as:
 - (i) the total amount is equivalent, as determined in accordance with Schedule 3 to the regulations, to less than 30 g of dried cannabis, and
 - (ii) such possession would not contravene the provisions of the *Criminal Code of Canada*, R.S.C., 1985, c. C-46 (Canada); the *Cannabis Act*, S.C. 2018, c. 16 (Canada), the *Cannabis Licence Act, 2018*, S.O. 2018, c. 12 (Ontario), or the *Cannabis Control Act, 2017*, S.O. 2017, c. 26 (Ontario) if such possession took place in Canada; and
- (b) a holder of a licence issued under the *Cannabis Act*, S.C. 2018, c. 16 (Canada) or the *Cannabis Licence Act, 2018*, S.O. 2018, c. 12 (Ontario), or an agent of such holder, possesses illicit cannabis of one or more classes of cannabis so long as:
 - (i) such possession is solely for the purposes of transiting through Six Nations territory;
 - (ii) such cannabis or classes of cannabis are not intended be consumed, sold, distributed, stored, cultivated, propagated, harvested or manufactured at Six Nations; and
 - (iii) such possession would not contravene the provisions of the *Criminal Code of Canada*, R.S.C., 1985, c. C-46 (Canada); the *Cannabis Act*, S.C. 2018, c. 16 (Canada), the *Cannabis Licence Act, 2018*, S.O. 2018, c. 12 (Ontario), or the *Cannabis Control Act, 2017*, S.O. 2017, c. 26 (Ontario) if such possession took place in Canada.

Division II: Administrative Prohibitions

Non-application of promotion prohibitions

39. (1) Section 40 does not apply to:

- (a) a literary, dramatic, musical, cinematographic, scientific, educational or artistic work, production or performance that uses or depicts cannabis, a cannabis accessory or a service primarily related to cannabis (or a brand element of any of those things) whatever the mode or form of its expression, if no consideration is given, directly or indirectly, for that use or depiction in the work, production or performance;

- (b) a report, commentary or opinion in respect of cannabis, a cannabis accessory, a service primarily related to cannabis (or a brand element of any of those things), if no consideration is given, directly or indirectly, for the reference to the cannabis, cannabis accessory, service or brand element in that report, commentary or opinion; and
- (c) a promotion, by a person that is authorized to produce, sell or distribute cannabis or cannabis accessories, that is directed at any person that is authorized to produce, sell or distribute cannabis or cannabis accessories, but not, either directly or indirectly, at consumers.

Promotion

40. (1) Unless authorized under this Act or the regulations, it is prohibited to promote cannabis, a cannabis accessory or a service primarily related to cannabis.

Exception — promotions to adults

- (2) Subject to this Act and the regulations, a person may promote cannabis, a cannabis accessory or a service primarily related to cannabis if the promotion is:
 - (a) in a communication that is addressed and sent to an individual who is 19 years of age or older and is identified by name;
 - (b) in a place where young persons are not permitted by law including a licensed cannabis retail store;
 - (c) communicated by means of a telecommunication, where the person responsible for the content of the promotion has taken reasonable steps to ensure that the promotion cannot be accessed by a young person; or
 - (d) done in a place or manner prescribed in the regulations.

Exception — brand element on other things

- (3) Subject to the regulations, a person may promote cannabis, a cannabis accessory or a service primarily related to cannabis by displaying a brand element of it on a thing that is not cannabis or a cannabis accessory, other than a thing that is associated with young persons or are likely to be appealing to young persons.

False promotion — cannabis

- (4) It is prohibited to promote cannabis in a manner that is false, misleading or deceptive or that is likely to create an erroneous impression about its characteristics, value, quantity, composition, strength, concentration, potency, purity, quality, merit, safety, health effects or health risks.

False promotion — cannabis accessory

- (5) It is prohibited to promote a cannabis accessory in a manner that is false, misleading or deceptive or that is likely to create an erroneous impression about its design, construction, performance, intended use, characteristics, value, composition, merit, safety, health effects or health risks.

Publication, etc. of prohibited promotions

- (6) It is prohibited to publish, broadcast or otherwise disseminate, on behalf of another person, with or without consideration, any promotion that is prohibited by Section 40, except if that person did not know, at the time of the dissemination, that it included a promotion that is prohibited.

Part 4 Medical Use

Medical use permits

41. (1) Subject to Part 5 *Licensing* and the regulations, the Commission may issue medical use permits to Six Nations band members.

Permitted production for medical use

42. (1) A medical use permit holder who is registered to produce cannabis for their own medical purposes may do so in accordance with the conditions set out in their medical use permit and the regulations.
- (2) A designated medical grower who is named in a medical use permit as being the designated medical grower for the medical use permit holder may produce cannabis for the medical purposes of the medical use permit holder in accordance with the conditions set out in the medical use permit and the regulations.

Permitted possession for medical use

43. (1) Notwithstanding possession prohibitions in Part 3 *Prohibitions* but subject to the other provisions of this Part 4 *Medical Use* and the regulations, the following individuals are authorized to possess, in a public place, cannabis (other than cannabis plants or cannabis plant seeds) that has been obtained under the Act:
- (a) an adult who:
 - (i) holds a medical use permit issued by the Commission;
 - (ii) obtained the cannabis as an inpatient or outpatient of a hospital;
 - (iii) is named in a medical use permit as being responsible for an adult or young person who is a medical use permit holder and who possesses the cannabis for the medical purposes of that individual;
 - (iv) is named in a medical use permit as being a designated medical grower and who possesses and produces such cannabis solely for use by the permit holder;
 - (v) is responsible for an adult or young person that obtained cannabis as an inpatient or outpatient of a hospital and who possesses the cannabis for the medical purposes of that individual; or

- (vi) possesses the cannabis in the presence of a medical use permit holder or adult or young person who obtained cannabis as an inpatient or outpatient of a hospital for the purpose of providing assistance in administering it to the individual; or
- (b) a young person who:
 - (i) holds a medical use permit issued by the Commission; or
 - (ii) obtained the cannabis as an inpatient or outpatient of a hospital.

Maximum amount

- (2) The maximum amount of cannabis that an individual possessing cannabis for medical purposes pursuant to subsection (1) shall be entitled to possess, in a public place, is 30 g of dried cannabis, or its equivalent determined in accordance with Schedule 3 to the regulations.

Distribution by responsible adult

- (3) An adult referred to in subsection (1) shall be entitled to distribute to the individual for whom they are responsible, or transport for that individual, up to 30 g of dried cannabis or its equivalent determined in accordance with Schedule 3 to the regulations.

Distribution by designated medical grower

- (4) A designated medical grower referred to in subsection (1) shall be entitled to distribute (including transport) to the holder of the applicable medical use permit whatever cannabis is permitted to be produced pursuant to the medical use permit.

Assistance

- (5) An adult referred to in subsection (1) shall be entitled to administer, give, transfer, provide or otherwise directly make available to the individual to whom the assistance is being provided up to 30 g of dried cannabis, or its equivalent determined in accordance with Schedule 3 to the regulations.

Discount on cannabis retail products

- 44. (1) A holder of a medical use permit shall be entitled to purchase cannabis retail products from retail sales licence holders at the retail sale price available to Six Nations band members less the amount of any wholesale margin that has been applied by the Commission in respect of such cannabis retail product pursuant to Part 10 of the regulations.

Proof of identity

- (2) Retail sale licence holders shall require a medical use permit holder seeking to purchase cannabis retail products at a discount to show the medical use permit together with such other photo identification sufficient to prove the individual purchasing cannabis is the individual named in the medical use permit.

Tracking discounted sales

- (3) Without limitation other record keeping requirements, retail sale licence holders shall track all sales of discounted cannabis retail products to medical use permits holders, including the cannabis retail products sold, their sale price, the name and permit number of the medical use permit holder, and the form of other photo identification used to prove the permit holder's identity. All such information shall be recorded and remitted to the Commission in the form and manner prescribed by the Commission.

Reimbursement of discounts

- (4) Subject to compliance with the requirements of this section 44, the Commission shall pay to a retail sale licence holder an amount equal to the discount provided to a medical use permit holder pursuant to subsection (1).

Part 5 Licensing

Authority to issue, renew and amend

45. (1) The Commission may, on application, issue, renew or amend licences and permits set out in the regulations that authorize activities in relation to cannabis.
- (2) For the purposes of exercising its power under subsection (1) to issue, renew or amend licences and permits, the Commission may:
- (a) establish eligibility criteria and conditions that must be met before or during the consideration of applications;
 - (b) provide for the disposition of applications;
 - (c) require the submission of any additional information that is necessary for the Commission to consider the application;
 - (d) refuse to consider an application if any information required to be provided is not provided; and
 - (e) otherwise determine the most efficient manner in which applications are considered.
- (3) An application for issuance of a licence or permit, or for its renewal or amendment, must be filed with the Commission in the form and manner specified by the Commission.

Refusal

46. (1) The Commission may refuse to issue, renew or amend a licence or permit in accordance with the regulations.
- (2) If the Commission refuses an application, the applicant may not submit a new application for the same type of licence or permit unless, in the opinion of the Commission, the circumstances relating to the reasons for the refusal have materially changed such that the reasons for the refusal no longer exist.

Conditions

47. (1) Every licence or permit is subject to the conditions set out in regulations or otherwise made by the Commission.

Amendment, suspension and revocation

48. (1) The Commission may amend, suspend or revoke a licence or permit in accordance with the regulations.

Security clearances

49. (1) Subject to the regulations, the Commission may grant, refuse to grant, suspend or cancel a security clearance.
- (2) The Commission may specify, by name or position, any person — in addition to a person specified in the regulations — who must hold a security clearance if the Commission is of the opinion that the person:
- (a) performs, has performed or is about to perform activities related to a licence or permit that is issued under this Part 5 *Licensing* or that is the subject of an application under this Part 5 *Licensing*; or
 - (b) has, has had or is about to have custody, management or control of the place where activities related to a licence or permit that is issued under this Part or that is the subject of an application under this Part, are being or will be performed.

Termination of applications

50. (1) If this Act or its regulations are amended to change the classes of licences or permits that may be issued by the Commission, then the Commission may terminate a class of applications on any date fixed by it for such purpose.
- (2) Any fees paid in respect of an application terminated under subsection (1) must be returned, without interest, to the person that paid them.
- (3) No person has a right of recourse or indemnity against Six Nations or the Commission in connection with a termination under this section.

Restriction on retail sale licences

51. (1) An applicant for or a holder of a cultivation licence or a manufacturing licence is permitted to apply for, or hold, a retail sale licence only at the same location as the site listed on its cultivation or manufacturing application or licence.
- (2) An application for a retail sale licence will be refused if more than 25% of the applicant corporation is owned or controlled, directly or indirectly, by one or more holders of a cultivation licence or a manufacturing licence, or their affiliates.

Maximum permissible retail sale licences

52. (1) The Commission may issue an order from time to time specifying the maximum number of retail sale licences an applicant and its affiliates may hold between them, expressed as a finite number and/or a percentage of all issued retail sale licences.

Part 6 Import and Export

Import by Commission of retail-packaged cannabis

53. (1) The Commission may import retail-packaged cannabis products (as defined in the *Cannabis Regulations*, SOR/2018-144) if cultivation and manufacturing licence holders are unable to supply unstamped cannabis retail products to the Commission of such quantity, quality and variety as are adequate, in the discretion of the Commission, to supply the needs of retail sale licence holders and cannabis consumers.

Ancillary authorizations

- (2) The Commission is authorized to possess, transfer, transport, receive, deliver and sell to retail licence holders the cannabis imported pursuant to subsection (1).

Community contribution

- (3) The price paid to the Commission by retail sale licence holders purchasing cannabis retail products imported by the Commission shall be inclusive of the Commission's wholesale margin as contemplated in Part 10 of the regulations.

Import and export by licence holders

54. (1) A holder of a cultivation licence or manufacturing licence is authorized to import cannabis (other than unstamped cannabis retail products or cannabis retail products) or export cannabis if they hold an import permit or export permit, as applicable, for each shipment of such cannabis to be imported or exported.

Ancillary authorizations

- (2) A holder of an import permit or export permit is authorized to possess, transfer, transport, send, deliver or sell, as applicable, the shipment of cannabis specified on such permit to the extent necessary to import or export the cannabis.

Import and export fees

- (3) A holder of an import permit or export permit importing or exporting cannabis must pay to the Commission the applicable import or export fees pursuant to Part 10 of the regulations.

Documentation

- (4) All licence holders importing cannabis pursuant to an import permit shall ensure that the imports are accompanied by such documents as required by the Commission, including certificates of analysis and other product release documentation specified by the Commission for each lot or batch of cannabis.

Qualified suppliers

55. (1) Unless otherwise specified in the Act or its regulations, any cannabis imported to Six Nations must have been produced, tested and, if applicable, packaged and labelled, by either:
- (a) the holder of a Health Canada cultivation licence or processing licence in compliance with all the requirements of such licence; or
 - (b) a cannabis producer operating pursuant to and in compliance with a cannabis licence or other authorization issued under a First Nation cannabis control law that has been adopted by a Band Council Resolution of such First Nation and that is able to demonstrate to the satisfaction of the Commission that it is (i) not involved in organized crime, and (ii) complying with production, testing, and if applicable, packaging and labelling standards that substantively meet or exceed the requirements of Part 6 *Good Production Practices*, Part 7 *Product Composition*, and Part 8 *Packaging, Labelling and Promotion* of the regulations.

Part 7 Commission Orders

Provision of information

56. (1) The Commission may, by order, require a person that is authorized under this Act to conduct any activity in relation to cannabis to provide the Commission with any information that the Commission considers necessary to address an issue of public health or public safety, or to verify compliance or prevent non-compliance with the provisions of this Act or its regulations.

Contents

- (2) The order must include a statement of the reasons for the making of the order and specify the information to be provided and the time and manner in which it is to be provided.

Tests and studies

57. (1) For the purpose of verifying compliance or preventing non-compliance with the provisions of this Act or its regulations or to address an issue of public health or public safety, the Commission may, by order, require a person that is authorized under this Act to conduct any activity in relation to cannabis to conduct tests or studies on the cannabis to which their activities relate or that they are authorized to sell, as the case may be, in order to obtain the information that the Commission considers necessary, and provide the Commission with that information and the results of the tests or studies.

Contents

- (2) The order must:

- (a) include a statement of the reasons for the making of the order;
- (b) specify the tests or studies that are to be conducted;
- (c) specify the information that is to be provided; and
- (d) specify the time and manner in which:
 - (i) the tests or studies are to be conducted; and
 - (ii) the information and the results of the tests or studies are to be provided.

Measures

58. (1) The Commission may, by order, require a person that is authorized under this Act to conduct any activity in relation to cannabis to take any measures that the Commission considers necessary:
- (a) to address an issue of public health or public safety; or
 - (b) to prevent non-compliance with the provisions of this Act or its regulations or, if the Commission has reasonable grounds to believe that there is such non-compliance, to remedy it.

Contents

- (2) The order must include a statement of the reasons for the making of the order and specify the measures to be taken and the time and manner in which they are to be taken.

Recall

59. (1) If the Commission believes on reasonable grounds that a recall of any cannabis or class of cannabis is necessary to protect public health or public safety, it may, by order, require a person that sells or distributes that cannabis or class of cannabis to recall it or send it — or cause it to be sent — to a place specified in the order, or to do both those things.

Contents

- (2) The order must include a statement of the reasons for the making of the order and specify the time and manner in which the recall is to be carried out.

Recall or measures taken by the Commission

60. (1) If a person does not comply with an order made under sections 58 or 59 within the time specified in the order, the Commission may, on its own initiative and at that person's expense, carry out the measures required or the recall.

Request for review

61. (1) An order that is made under any of sections 56 to 59 must be reviewed by the Commission on the written request of the person to which the order was addressed, and such request must:
- (a) be provided to the Commission within seven days after the day on which the order was provided; and
 - (b) state the grounds for review, set out the evidence that supports these grounds, and the decision that is sought.

Order in effect

- (2) An order made under any of sections 56 to 59 continues to apply during a review unless the Commission decides otherwise.

Completion of review

- (3) The Commission must complete the review within 60 days after the day on which the request is provided to the Commission.

Decision on completion of review

- (4) On the completion of a review the Commission must:
- (a) confirm, amend, terminate or cancel the order; and
 - (b) provide notice in writing to the person to which the order was addressed, and such notice shall include the Commission's decision under paragraph (a) and the reasons for such decision.

Part 8 Cannabis Tracking System

Establishment and maintenance

62. (1) The Commission shall, using the information collected under section 63 and any other information to which the Commission has access, establish and maintain a cannabis tracking system 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.

Information requirement

63. (1) For the purpose of section 62, the Commission may require a class of persons that are authorized to import, export, cultivate, manufacture, test, package, label, send, deliver, transport, sell, or dispose of cannabis to provide the Commission with information respecting their activities in relation to cannabis.

Contents

- (2) The Commission shall specify the information to be provided and the time within and the form and manner in which it is to be provided and may specify the following:
- (a) the manner in which and the place where the records, reports, electronic data or other documents containing the information — and any information on which the information is based — are to be retained;
 - (b) the period for which the records, reports, electronic data or other documents referred to in paragraph (a) are to be retained, which must not be more than three years from the date the information is provided to the Commission; and
 - (c) the manner in which calculations, measurements and other data on which the information is based are to be documented.

Part 9 General Administrative Appeals

Appeal of Commission decision

64. (1) With respect to a final Commission decision under any of the following provisions of the regulations, a person directly affected by the decision may appeal such decision to a third party arbitrator within 30 days after the later of notification of such decision or the issuance by the Commission of reasons for such decision:
- (a) Part 2 Division VI *Licence Refusal, Suspension and Revocation* of the regulations, except that decisions in respect of import or export permits are not subject to appeal;
 - (b) Part 2 Division VII *Changes Relating to Licence* of the regulations;
 - (c) Part 4 *Security Clearances* of the regulations; or
 - (d) Part 3 Division II *Medical Use Permits* of the regulations.

Person directly affected

- (2) For the purposes of this section, a “person directly affected” by a final decision of the Commission means:
- (a) in respect of a licence or permit, the applicant for or holder of the licence or permit,
 - (b) in respect of a security clearance, the applicant for or holder of the clearance.

Arbitrator

- (3) The independent arbitrator under subsection (1) shall be selected by the person appealing a decision of the Commission from a list of arbitrators to be maintained by the Commission from time to time.

Cost

- (4) All costs of the arbitrator associated with an appeal to an arbitrator under this section shall be borne by the appellant, and if the arbitrator's decision does not overturn the Commission's decision then the appellant shall also reimburse the Commission for its costs incurred in connection with the arbitration.

Stay

- (5) All Commission decisions have immediate effect despite the fact that an appeal may be or is made under this section, provided that the Commission may grant a stay of its decision until disposition of the appeal.

Respondent on appeal

- (6) The Commission is the respondent to an appeal under this section.

Standard of review

- (7) Where an appeal is taken under this section, the arbitrator shall apply a standard of reasonableness to determine whether the Commission's reasons support its decision, and is justified in light of the Act, the regulations and the factual context.

Powers of an arbitrator on appeal

- (8) Where an appeal is taken under this section, the arbitrator may by its order direct the Commission to make such decision or to do such other act in connection with the subject matter of the appeal as the Commission is authorized and empowered to do under this Act or its regulations and as the arbitrator considers proper, having regard to the material and submissions before it and to this Act and its regulations, and the Commission shall make such decision or do such act accordingly.

Arbitrator's decision final

- (9) Subject to subsection (10), an order of an arbitrator made pursuant to subsection (8) is final and no appeal lies therefrom.

Further decisions

- (10) Despite an order of an arbitrator on an appeal, the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section.

Part 10 Compliance and Enforcement

Division I: Inspections

Inspectors

65. (1) The Commission may designate persons as inspectors for the purpose of carrying out inspections under, and ensuring compliance with, this Act and its regulations.
- (2) Every Six Nations Police officer is deemed to be an inspector for the purposes of this Act and its regulations.

Certificate

- (3) The Commission shall issue a certificate of designation in a form established by the Commission to every inspector, other than to Six Nations Police officers.

Proof of designation

- (4) A person that has been designated an inspector under subsection (1), shall, on request, if carrying out the duties of an inspector, produce his or her certificate of designation.

Inspections

66. (1) For the purposes of carrying out an inspection under this Act and its regulations, an inspector may, at any reasonable time, enter any place other than any place or part of a place that is actually being used as a dwelling-house for which there are reasonable grounds to believe the place is being used for an activity that is regulated under this Act, and such inspector shall be deemed to be taking such action under the authority of Council in order to oversee and maintain the health and safety of all persons at Six Nations.

Powers of inspector

- (2) An inspector conducting an inspection under this Act and its regulations may:
- (a) examine records or anything else that is relevant to the inspection, including examining and opening any receptacle or package;
 - (b) demand the production of a record or any other thing that is relevant to the inspection;
 - (c) on issuing a written receipt for it, remove a record or any other thing that is relevant to the inspection for review, examination, testing, copying or seizure, provided that inspectors may not remove or seize cannabis other than pursuant to paragraph (d);
 - (d) if the inspector is a Six Nations Police officer, upon issuing a written receipt, remove cannabis that is relevant to the inspection for examination, testing or seizure;

- (e) in order to produce a record in readable form, use data storage, information processing or retrieval devices that are normally used in carrying on business in the place;
- (f) take photographs or make any other kind of recording or sketch;
- (g) use any copying equipment at the place to make copies of any document; and
- (h) inquire into all financial transactions, records and other matters that are relevant to the inspection.

Written demand

- (3) A demand under this section that a record or any other thing be produced must be in writing and must include a statement of the nature of the record or thing required.

Obligation to produce and assist

- (4) If an inspector demands that any thing be produced under this section, the person who has custody of the thing shall produce it and, in the case of a record, the person shall, on request, provide any assistance that is reasonably necessary to interpret the record or to produce it in a readable form.

Records and things removed from place

- (5) A record or other thing that has been removed for review, examination, testing or copying:
 - (a) shall be made available on request to the person from whom it was removed and at a time and place that are convenient for the person and for the inspector; and
 - (b) shall be returned to the person within a reasonable time, unless, in the case of a thing that has been subject to testing, the thing has been made unsuitable for return as a result of the testing.

Same

- (6) Subject to section 67(2), an inspector who removes a thing under subsection (2) for review, examination, testing or copying, shall return it to the person from whom it was removed within 90 days of its removal.

Assistance

- (7) An inspector is entitled to call upon such experts as are necessary to assist in an inspection.
- (8) An inspector may, in executing any authority given by this Act or its regulations, call upon Six Nations Police officers for assistance, and Six Nations Police officers may use whatever force is reasonably necessary in the circumstances to effect the inspection.

Whistle-blowing protection

- (9) No person shall retaliate or threaten to retaliate against a worker, whether by act or omission, for the reason that the worker disclosed anything to the Commission or to an inspector conducting an inspection under this Act or its regulations.

Involvement of Six Nations Police

- (10) If an inspector that is not a Six Nations Police officer has reasonable grounds to believe that an offence has been committed which would warrant the laying of charges by the Six Nations Police under the *Criminal Code of Canada*, R.S.C., 1985, c. C-46 (Canada); the *Cannabis Act*, S.C. 2018, c. 16 (Canada), the *Cannabis Licence Act, 2018*, S.O. 2018, c. 12 (Ontario), or the *Cannabis Control Act, 2017*, S.O. 2017, c. 26 (Ontario) pursuant to section 75, the inspector shall preserve the scene, if applicable, and promptly call upon the Six Nations Police to attend.

Search of dwelling-house

- (11) If a Six Nations Police officer, in conducting an inspection under this Act or its regulations, determines that there are reasonable and probable grounds to believe that evidence of a contravention of this Act or its regulations is in a place, or part of a place, that is actually used as a dwelling-house, then the Six Nations Police officer shall, before entering into and inspecting the place, first obtain a warrant from an Ontario judge or justice of the peace.

Division II: Seized Items and Forfeiture

Order of restoration re: seized items

67. (1) A person from whom a thing has been seized under section 66(2) may apply to the Commission for the return of the thing, and on such application the Commission may, subject to subsection (2), order that the thing be returned, on terms that are just.
- (2) A thing that has been removed or seized under section 66(2) shall not be returned to the person from whom it was removed or seized, where an inspector demonstrates on application, and the Commission orders, that there are reasonable and probable grounds to conclude that:
- (a) it will be required as evidence in an SNCC hearing under section 76(5);
 - (b) its continued detention is necessary to prevent the commission or continuation of an offence under this Act; or
 - (c) it will be ordered forfeit to the Commission under subsection (4).
- (3) Applications under subsections (1) and (2) shall be made on notice to the inspector or the person from whom the thing was removed or seized, as applicable, and those persons shall have standing to make submissions on such applications.

Forfeiture

- (4) If the Commission determines that there has been a contravention of a provision of this Act on an SNCC hearing under section 76(5), the Commission shall order that anything seized and retained in connection with the contravention shall be forfeit to the Commission, unless forfeiture would be unjust in the circumstances.
- (5) If the Commission determines under subsection (4) that it would be unjust in the circumstances to order forfeiture in relation to a thing that has been seized, it can make any order in relation to that thing that would be just in the circumstances.
- (6) Orders under subsections (4) and (5) shall be made on notice to the person from whom the thing was seized, and anyone else known to have an interest in the thing, and those persons shall have standing to make submissions before the Commission with respect to the thing that was seized.

Removing persons from premises

68. (1) If an inspector has reasonable grounds to believe that this Act or its regulations are being contravened on any premises, the inspector may require that one or more persons vacate the premises and shall call on Six Nations Police to enforce such order.

Not to remain after being required to leave

- (2) No person shall remain on the premises after being required to vacate the premises under subsection (1) or re-enter the premises on the same day the person is required to vacate, unless an inspector authorizes the person to re-enter.

Persons residing in premises

- (3) Subsection (1) does not apply in respect of persons residing in the premises.

Interim closure of premises

69. (1) If an inspector has reasonable grounds to believe that a premises was used in relation to any of the following contraventions, the inspector may contact the Six Nations Police to cause the premises to be closed immediately and any persons on the premises to be removed:
 - (a) section 29(1);
 - (b) section 29(4), in relation to the selling of cannabis contrary to section 29(1); and
 - (c) section 32.

Barring of entry

- (2) If a premises is closed under subsection (1), Six Nations Police shall bar entry to all entrances to the premises, and no person (other than inspectors or emergency responders) shall enter or attempt to enter

a premises that is closed under subsection (1), until the final disposition of the charge, subject to an order under subsection (3).

Order lifting closure

- (3) On application by a person who has an interest in the premises, the Commission may order that entry to the premises cease to be barred, subject to any conditions specified by the Commission, if:
- (a) the Commission is satisfied that the use to which the premises will be put will not contravene the Act or its regulations; and
 - (b) if the applicant is the person charged, the applicant posts a cash bond for \$10,000 or such greater amount as the Commission may specify, for the term specified by the Commission, to ensure that the premises will not be used in contravention of the Act or its regulations.

Forfeiture of bond

- (4) If, after an applicant posts a cash bond under paragraph (3)(b), another charge is laid against the applicant for contravening the same provision in relation to the same premises while the first charge remains outstanding, the Commission may on application of an inspector order the forfeiture of the bond to the Commission.
- (5) An application for forfeiture under subsection (4) shall be made only if:
- (a) the Commission has made a finding that there was a contravention on the second charge pursuant to section 76(5); and
 - (b) the person charged receives notice of, and is given standing to make submissions on the application.

No appeal

- (6) No appeal lies from an order made under subsection (4).

Division III: Disposal of Forfeited Cannabis

Disposal of Forfeited Cannabis

70. (1) If cannabis has been forfeited to the Commission under section 67(4), the Six Nations Police must, within 60 days of forfeiture, in writing, seek direction from the Commission with respect to the disposal of the forfeited cannabis.
- (2) On receiving a written request for directions as provided for in subsection (1), the Commission shall provide written directions to the Six Nations Police, and Six Nations Police shall comply with same.

Notice to Commission

71. (1) The Six Nations Police must, within 60 days after the day on which cannabis is disposed of pursuant to section 83, notify the Commission in writing to that effect.

Division IV: Reports

Annual report

72. (1) The chief of the Six Nations Police or his delegate shall submit a written annual report to the Commission, within three months after the end of every calendar year, summarizing law enforcement activities and investigations relating to cannabis, including descriptions of any investigations carried out during the calendar year in the course of which any cannabis came into the possession of the Six Nations Police, the dates on which such investigations began and ended (if applicable), the total quantity of cannabis that came into the possession of the Six Nations Police, the total quantity of cannabis that has been disposed of by the Six Nations Police or that is otherwise no longer in the possession of the Six Nations Police and any other information that the Commission may request.
- (2) If any cannabis is lost or misplaced by, or stolen from, the Six Nations Police, then the chief of the Six Nations Police shall notify the Commission in writing as soon as possible, and such notice shall include a description of the circumstances in which the cannabis was lost, misplaced or stolen, the quantity of cannabis lost, misplaced or stolen and the date or dates on which the incident occurred.

Part 11 Offences and Penalties

Offences

73. (1) A person who is party to any contravention of any provision of this Act or its regulations, or any order made under this Act or its regulations, is guilty of an offence punishable by monetary penalty in accordance with section 80 in addition to any other enforcement action that the Commission may take pursuant to this Act or its regulations.

Primacy of Six Nations Jurisdiction

74. (1) No proceeding or prosecution under the *Cannabis Act*, S.C. 2018, c. 16 (Canada), the *Cannabis Licence Act*, 2018, S.O. 2018, c. 12 (Ontario), or the *Cannabis Control Act*, 2017, S.O. 2017, c. 26 (Ontario), or under any regulations made thereunder, shall be commenced unless reasonable and probable grounds exist to believe that a provision of this Act or its regulations has been contravened and the criteria under section 75 have been met.

Charges

- (2) Where reasonable and probable grounds exist to believe that a provision of this Act or its regulations has been contravened, and subject only to the exceptions created by sections 75 and 76(4), an inspector shall lay all applicable charges, and thereby commence a proceeding under this Act.

Proceeding under this Act

- (3) For the purposes of this Part, a proceeding under this Act pursuant to a charge laid under subsection (2) shall be referred to as an “SNCC hearing”.

Concurrency of jurisdiction

75. (1) Where reasonable and probable grounds exist to believe that a provision of this Act or its regulations has been contravened, the Six Nations Police may, in their discretion, in addition to laying a charge under this Act, also lay charges under each or any of the following statutes and/or regulations, as may be applicable: the *Criminal Code of Canada*, R.S.C., 1985, c. C-46 (Canada); the *Cannabis Act*, S.C. 2018, c. 16 (Canada), the *Cannabis Licence Act, 2018*, S.O. 2018, c. 12 (Ontario), or the *Cannabis Control Act, 2017*, S.O. 2017, c. 26 (Ontario); or under any regulations made thereunder, so long as reasonable and probable grounds exist to believe that a provision of one of these statutes or regulations has been contravened.

Restorative justice

- (2) Notwithstanding subsection (1), if the Six Nations Police determine that the applicable criteria set out at section 76(4) are satisfied, then the Six Nations Police may, in their discretion, instead refer the charge to Six Nations Justice for diversion or restorative justice.

SNCC hearings

76. (1) All charges laid under section 74(2) will be brought before the Commission for an SNCC hearing.

SNCC hearing procedure

- (2) All SNCC hearings before the Commission shall be conducted in accordance with rules of procedure to be published by the Commission from time to time and which shall comply with principles of procedural fairness and natural justice.
- (3) Charges laid under section 74(2) and brought before the Commission for an SNCC hearing shall be presented to the Commission by an inspector who is different from the inspector who initially laid the charge.

Diversion and restorative justice

- (4) At, or before, an SNCC hearing, the Commission may refer the charge to Six Nations Justice for diversion or restorative justice so long as:
- (a) if referred for diversion:
 - (i) the charged person has not had a contravention diverted before; and
 - (ii) the alleged contravention(s) does not, in the sole and absolute discretion of the Commission, warrant a fine;

- (b) if referred for restorative justice:
 - (i) the charged person is prepared to be accountable and accept responsibility for the alleged contravention; and
 - (ii) the Commission determines, in its sole and absolute discretion, that a referral would be beneficial to the charged person, and that the circumstances of the conduct and charged person, and the needs of the community, warrant a referral to restorative justice; and
- (c) the alleged contravention is not also the subject of prosecution under the *Criminal Code of Canada*, R.S.C., 1985, c. C-46 (Canada); the *Cannabis Act*, S.C. 2018, c. 16 (Canada); the *Cannabis Licence Act, 2018*, S.O. 2018, c. 12 (Ontario); or the *Cannabis Control Act, 2017*, S.O. 2017, c. 26 (Ontario); or under any regulations made thereunder, in accordance with section 75.

Commission hearing and decision

- (5) At an SNCC hearing, if the charge is not referred to Six Nations Justice in accordance with subsection (4), the Commission shall, after providing the inspector presenting the charge and the charged party with meaningful opportunities to be heard, either find the charged party liable or not liable for the offence.

Penalty

- (6) If the Commission finds a charged party liable for the offence, it shall impose a monetary penalty on the charged person in accordance with section 80, and it may issue an order or orders in accordance with section 81(1).

Parties

77. (1) Every person is a party to an offence who:

- (a) actually commits it;
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

Organizations, directors and officers

- 78. (1) A director or officer of a corporation, or the directing mind of another type of organization, who causes, authorizes or permits an offence to be committed under this Act or its regulations by the organization is guilty of an offence.
- (2) In addition to the provisions of section 77, a director or officer of a corporation, or the directing mind of another type of organization, or an organization, is also party to an offence if:
 - (a) knowing that a representative of the organization is or is about to be a party to the offence, the director or officer does not take all reasonable measures to stop the representative from being a party to the offence; or

- (b) the director or officer is a senior officer responsible for the aspect of the organization's activities that is relevant to the offence and he or she departs markedly from the standard of care that, in the circumstances, could reasonably be expected of him or her to prevent a representative of the organization from being a party to the offence.

Obstruction

- 79. (1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act or its regulations.

Facilitation of inspection

- (2) Every person shall furnish all necessary means in the person's power to facilitate any entry, search, inspection, investigation, examination, testing or inquiry by an inspector in the exercise of his or her powers or the performance of his or her duties under this Act or its regulations.

False or misleading statements

- (3) No person shall knowingly furnish an inspector with false information or neglect or refuse to furnish information required by an inspector in the exercise of his or her powers or the performance of his or her duties under this Act or its regulations.

Obstruction of Commission

- (4) No person shall knowingly obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with the Commission in the exercise of a power or performance of a duty under this Act or its regulations.

False or misleading statements in documentation

- (5) No person shall knowingly make, participate in, assent to or acquiesce in the making of, a false or misleading statement in any record, report, electronic data or document that is required to be prepared, retained or provided by any person under this Act or its regulations.

Penalties

- 80. (1) A person who is party to any contravention of any provision of this Act, or any order made under this Act, is guilty of an offence, and on liability being found by the Commission is liable to a fine in an amount, without limit, to be determined in the discretion of the Commission.

Probation

- 81. (1) Notwithstanding any fine that the Commission may impose in accordance with section 76(6), the Commission may also, on liability being found, issue an order:
 - (a) requiring the liable person, within the period or periods specified in the order, to do or refrain from doing anything specified in the order;

- (b) imposing requirements that the Commission considers appropriate to prevent similar unlawful conduct or to contribute to the liable person's rehabilitation; and
- (c) prohibiting the continuation or repetition of the offence by the liable person.

Limitation

- (2) No order issued under subsection (1) shall purport to bind the liable person for more than two years following the date on which it takes effect.

Variance of order

- (3) While an order issued under subsection (1) remains in effect, the Commission retains jurisdiction to vary same, on application of a liable person, where it finds, in its sole and absolute discretion, both that the case for doing so has been made out and that the sought variance is in the public interest.

Limitation on proceeding

82. (1) No proceeding under this Act shall be instituted more than two years after the later of:
- (a) the occurrence of the last act or default upon which the proceeding is based; or
 - (b) the day upon which an inspector becomes aware of the alleged offence.

Appeal

83. (1) Determinations made by the Commission under section 76 are final, and no appeal lies therefrom.

Reconsideration – procedural justice

84. (1) The inspector who presented the charge, or persons whom the Commission finds liable for contravening the Act and/or its regulations, may apply to the Commission for a reconsideration of its finding if the Commission exceeded its jurisdiction by making a finding that was not reasonably available to it on the facts, or if the Commission did not afford the inspector who presented the charge or the charged person a meaningful opportunity to be heard.

Reconsideration – new facts

- (2) Persons whom the Commission finds liable for contravening the Act and/or its regulations may apply to the Commission for a reconsideration of its finding where:
 - (a) new facts become available that were not capable of discovery with the exercise of due diligence at the time of the SNCC hearing; and
 - (b) such new facts are material and have the potential to change the Commission's prior finding of liability.

Limitation

- (3) Neither the inspector who presented the charge nor a person whom the Commission finds liable for contravening the Act and/or its regulations may bring an application for reconsideration under subsections (1) or (2) after 90 days after the date on which the Commission made a finding under section 76 of this Act.

Part 12 Fees

Fees

85. (1) The regulations may fix the following fees in relation to cannabis:
- (a) fees to be paid for a service, or the use of a facility, provided under this Act or its regulations;
 - (b) fees to be paid in respect of approvals, authorizations, exemptions or regulatory processes provided under this Act or its regulations; and
 - (c) fees to be paid in respect of products, rights and privileges that are provided under this Act or its regulations, including those provided in relation to the cannabis tracking system established under section 62.

Amount not to exceed cost

- (2) A fee fixed under paragraph (1)(a) must not exceed the cost to the Commission of providing the service or the use of the facility.

Aggregate amount not to exceed cost

- (3) Fees fixed under paragraph (1)(b) must not in the aggregate exceed the cost to the Commission in respect of providing the regulatory processes, approvals, authorizations or exemptions.

Non-payment of fees

86. (1) The Commission may, by notice in writing and for a period that it specifies, withdraw or withhold a service, the use of a facility, a regulatory process, approval, authorization, exemption, product, right or privilege under this Act or its regulations from any person who fails to pay the fee for it fixed under subsection 85(1).