



**Response to Canada's December 12, 2020 Notice of Intent:  
Consultation on Cannabis Regulations**

**January 2021**

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## **INTRODUCTION**

The BC Craft Farmers Co-Op (BCCFC) was established in 2020 under the *BC Cooperatives Act*.

With the BCCFC, micro-cannabis farmers, processors, retailers and supporters now have a democratic, public organization to help protect their independence, access the legal market, maintain BC's top position as an international sector leader and provide consumers with the high quality cannabis.

In response to discussions with federal and provincial officials in early 2020 and the economic crisis created by COVID-19, BCCFC submitted a pilot-project proposal focused on regulatory innovation, job creation and achieving the original public interest goals of the *Cannabis Act*. A full copy is available at [www.bccraftfarmerscoop.com](http://www.bccraftfarmerscoop.com).

Since incorporation, BCCFC Members elected a volunteer Board in August. Five of the eight elected Directors are women. Since then BCCFC has:

- established inclusive communication hubs across digital platforms
- sponsored regular online networking events for members and supporters
- secured banking services for members and created an Insurance Task Force
- published a Discussion Paper on Quality and BC Certification Standards
- established four working Board committees to develop strategic 2021 work plan
- hosted a BC election forum with candidates from all elected provincial parties

Guided by dedicated volunteers, a Code of Conduct and comprehensive set of Co-Op Rules, BCCFC has received close to 200 applications in this start-up phase. In addition to recommendations from the June 2020 proposal, BCCFC's response to the Notice feedback from members and supporters through a recent series surveys and committee discussions.

## **NOTICE of INTENT**

On December 12, 2020, via the Canada Gazette, Health Canada issued a Notice of Intent regarding various *Cannabis Act* Regulations. The consultation's scope includes micro-class and nursery license classifications. Specifically, the Notice asks:

- Are the regulatory requirements for the micro-cultivation, micro-processing and nursery licenses appropriate given their scale?
- Are there any elements of the regulatory framework that put micro-cultivation, micro-processing and nursery licence holders at a competitive disadvantage compared to larger companies? If so, how and what adjustments would you propose?

The Notice invites feedback on other elements of the *Cannabis Act* relevant to BCCFC members, particularly related to labelling and research. Responses to questions regarding these elements have been integrated into the answers below with an understanding consultation with the sector must be continuous and structured to be successful.



#### **HEALTH CANADA QUESTION 14**

Are the regulatory requirements for the micro-cultivation, micro—processing and nursery licenses appropriate given their scale?

#### **BCCFC ANSWER**

No.

More than two years into cannabis legalization, Canada’s regulatory requirements for micro-class licenses have failed to meet consumer demand for fresh, locally-grown cannabis from craft farmers – particularly BC farmers.

The *Cannabis Act*’s regulatory framework was supposed to reduce and gradually eliminate the illicit market. It was also supposed to facilitate the participation of small farmers in the legal market. Neither is happening.

According to a February 2020 analysis, of the 1 million+ square metres of legal indoor and outdoor cannabis cultivation space approved by Health Canada across the country, craft cannabis farmers account for less than 1%. Nothing has happened over the past 10 months to significantly change this reality.

According to recent media reports (January 2021) Statistics Canada says BC has both the highest proportion of cannabis consumers buying illegal product and the lowest percentage (16%) of consumers sticking only to the legal market. As a result, the BC government was forced to reduce their projected revenue forecast for this year’s share of federal cannabis excise tax from \$50 million to \$25 million. We are confident that transitioning thousands of BC’s medical farmers to the legal market will reverse this trend.

The current micro-production and processing regulations are so inappropriate that thousands of BC cannabis farmers have concluded they cannot afford to transition. Many are women and/or Indigenous farmers. Most need \$200,000 to \$1 million just to be eligible. Most expert farmers are opting out, not even bothering to apply.

In reality, the macro-scale of the Act’s micro-regulations are not proportionate to the true public health risks associated with adult cannabis use, particularly when compared to other regulated sectors. Alcohol, tobacco and gambling come to mind.

We know that cannabis and its so-called risks has been investigated by more commissions and equivalent inquiries than almost any plant or drug. The risks to one’s health, or to that of others, from the consumption of alcohol and tobacco in comparison to cannabis, that has no lethal dose, is well-documented. Yet the regulatory burden and legal penalties for cannabis remain far more punitive.



#### **HEALTH CANADA QUESTION 14 (cont.)**

While a restrictive approach may have been prudent at the start of the cannabis legalization project, this over-regulation is fuelling the illicit market, keeping BC's craft cannabis sector from achieving its full potential and perpetuating unhealthy stigma for this class of entrepreneurs.

For examples of success, Canada need look no further than Health Canada's medical cannabis production policy. Since 2001, and thanks to a series of favourable Court rulings, tens-of thousands of small-scale farmers have been licensed to produce medical cannabis for themselves or another patient.

To the best of our knowledge, no patient has suffered an illness from the medicinal cannabis these farmers have produced for themselves or their designated patients over these 20 years. Health Canada has a record of all of these citizens on file. They renew their license annually and want to be included in the post-prohibition marketplace. Approximately 6,000 are in BC today.

By contrast, in the first 26 months of legalization, only 30 BC farmers have received licences under the *Cannabis Act's* micro-class regulations for the recreation market. The few that have emerged through this process are to be celebrated for their perseverance and personal sacrifice.

With a globally recognized brand and the most craft cannabis farmers in the country, BC's economy has the most to lose if thousands of medical farmers/innovators are not provided with a chance to fully apply their skill and experience in the new global market.

To be successful, the *Cannabis Act's* micro-class regulations should be adjusted on a temporary basis to align more with existing medical production requirements for small farmers until a more effective regime can be established.

An economic analysis prepared for BCCPA confirmed transitioning just 30% of BC's medical farmers can create over 4,000 direct and domestic BC jobs over the next 12-18 months. All levels of government will divide approximately \$400 million in new revenue.



### HEALTH CANADA QUESTION 15

Are there any elements of the regulatory framework that put micro-cultivation, micro-processing and nursery licence holders at a competitive disadvantage compared to larger companies? What adjustments would you propose?

#### BCCFC ANSWER:

Yes.

BCCFC is pleased to present a series of adjustments focused on:

- accelerating the participation of licenced medical cannabis farmers in the legal market and
- promoting regulatory innovation
- ongoing, organized and inclusive sector engagement

#### Accelerate the Participation of Licenced Medical Cannabis Farmers (February – May 2021)

In the public interest, the Minister of Health should rapidly exercise her authority to establish a temporary (one-year) “craft class” of persons that includes Part 14 *Cannabis Act* ACMPR patients, citizens transitioned from the MMAR and the previous ACMPR who can produce cannabis in any of its forms for medical purposes.

The 12-month Order will enable this designated “craft class” to increase their current capacity in line with current micro-production caps (2,100 sq. ft.) and deliver excess product from their existing licence to registered medical patients or provincial retail markets subject to:

- Local government support and by-law compliance
- Maintaining compliance with existing security requirements for medical production
- Compliance with all requirements related to CRA registration, product tracking, packaging, labelling and safety testing
- Section 10 of the *Cannabis Act* related to bringing seeds/genetics into the new market

This temporary craft class should be exempt from:

- Having to destroy excess product as in current regulations
- Being able to donate, sell, and process that excess as a special class of micro producer/processors under current regulations to the medical or recreation marketplace
- Security clearance requirements in the current regulations because applicants have already gone through criminal record/intelligence checks and have a track record of good standing
- Exempting applicants from the costly vault requirement and similar existing barriers that present minimal public risk and align with other regulated sectors



Regulatory Innovation: Proposed Adjustments (February – December 2021)

While BCCFC’s submission focuses primarily on the micro-cultivation and processing barriers in the regulations, we have integrated other topics and questions from the Notice of Intent with our proposed adjustments, particularly related to research, labelling and testing.

In general, BCCFC’s has concluded the current micro-class licensing application process is costly, lengthy, confusing and intimidating. Too often, applicants are exposed to exploitation at the hands of unscrupulous and expensive actors. A micro-class policy re-set was required before the pandemic. Today’s economic crisis makes a re-set even more urgent.

Furthermore, the application process creates a cumulative financial barrier for prospective micro-class applicants, primarily related to buildout and regulatory requirements. Many potential applicants simply don’t have the financial resources to carry the costs of a buildout completed before the application process, nor to secure and possibly hire the consultants required to start of the application process.

This reality is more challenging because banking and insurance sectors continue to unfairly stigmatize these farmers. These options, readily available to other sectors, are largely unavailable for businesses looking to startup in the cannabis industry. Furthermore, many potential applicants do not have the credit history or credit scores to qualify for financing, even were it available.

With the systemic barriers holding back the significant potential of BC craft farmers, BCCFC is proposing a process for ongoing sector engagement to ensure adjustments are effectively implemented and these challenges are better understood by the Government of Canada. This process of continuous quality improvement can be a new era of engagement between craft farmers, Health Canada and other federal agencies that will finally achieve the public interest goals of the *Cannabis Act*.

Regulatory Barrier	Description	Proposed Adjustment
Production and Processing Caps	Current capacity limits for micro-production (2,100 sq. ft.) and micro-processing (620kg) licences are arbitrary and unable to support a viable small business - particularly with the high financial cost of regulatory compliance.	<ul style="list-style-type: none"> <li>• Immediately double micro-class production and processing caps</li> <li>• Consider additional increases (up to 10,000 sq. ft.) over the coming year in consultation with farmers, processors and local governments</li> </ul>
Security Checks	Current rules are unfair, lack transparency and disadvantage the legacy farmers the <i>Cannabis</i>	<ul style="list-style-type: none"> <li>• Adopt pre-clearance for security screening – at the start of the application, not the end</li> </ul>



	<p>Act needs to attract. Additional barriers require most applicants to invest \$200k-\$1 million without any guarantee that they will pass the current screening process.</p>	<ul style="list-style-type: none"> <li>• Align security clearance requirements with sectors that are producing more harmful products and regulate by conditions instead of prohibition</li> <li>• Establish a transparent and effective appeal process</li> <li>• Modify micro-class security requirements to make them more at-scale for their actual size</li> </ul>
<p>Build Out Requirements</p>	<p>Introduced in May 2019, these measures disadvantaged micro class applicants. The capital and carrying costs of a build out prior to licensing deter medically licensed farmers that may wish to transition. Developed and introduced with virtually no consultation, they ignore financial realities of applicants, requiring most to spend \$200k-\$1 million without any realistic prospect of success. In the end, they have only served to protect the large producer monopoly and limit consumer choice. If the overarching goal is to promote transition, of as many applicants as possible, from the illicit sector to the legal one. Why hobble them before they start? This financial barrier is unnecessary.</p>	<ul style="list-style-type: none"> <li>• Immediately scrap the build-out requirement introduced in May 2019</li> <li>• As an alternative, invite applicants to present incorporation certificates in which they are named as principals</li> </ul>
<p>Product Testing and Organic Farming</p>	<p>Current testing regulations requiring cannabis flower to be irradiated exclude craft farmers from market participation. In addition to having a negative impact on product quality, irradiation involves an added cost</p>	<ul style="list-style-type: none"> <li>• Adopt effective product testing standards that do not require mass-irradiation of cannabis</li> <li>• Examine California model of micro-class and regenerative testing as a model for Canada</li> </ul>



	<p>which makes competing with large, corporate cultivators impossible, given the economies of scale employed in industrial cannabis production. This reality places Canadian producers at a competitive disadvantage on the global market. These regulations also contribute to the reality that consumers, despite their preference, cannot access certified organic cannabis in Canada.</p> <p>NOTE: Health Canada is requesting feedback on the sale of testing kits and laboratory classifications.</p>	<ul style="list-style-type: none"> <li>• Develop a unique, certified organic, living-soil licensing stream for craft farmers</li> <li>• Collaborate with BCCFC, Agriculture Canada and Environment Canada to implement BC regenerative and other farming innovations</li> <li>• Promote a global brand for Canadian cannabis excellence and quality genetics for consumer eager to purchase BC cannabis products</li> <li>• Expand production and distribution of cannabis test kits.</li> <li>• Replace prescribed credential standard for the “head of laboratory” position with a requirement to submit manuals and validation plans consistent with established standards</li> <li>• Allow micro-processors to share qualified quality assurance professionals without having to provide justifications on work schedules</li> </ul>
<p>Labelling and Packaging</p>	<p>Due to unfair advertising and marketing restrictions in the <i>Cannabis Act</i>, consumers are unable to fully distinguish between products from different cultivators or processors. As a result, total THC content and price have become the main factors associated with cannabis sales. This has led to products with an exclusive focus on THC content. Without the ability to market craft products, the only producers gaining brand</p>	<ul style="list-style-type: none"> <li>• Remove opaque packaging requirement and allow more space to permit other brand elements equivalent to VQA labeling on wine and/or another metric specific to quality, such as terpenes</li> <li>• Establish a Micro-Cannabis brand to inform consumers of local and Indigenous grown craft cannabis products</li> <li>• Allow for "mixed-class" products (e.g. shatter joints, moon rocks)</li> </ul>





	<p>recognition are public companies earning media coverage through the stock market and well-financed networks. Like marketing rules, labelling regulations are more restrictive than many harmful products and do nothing to inform consumers about who is producing their cannabis, how and where it was produced. In addition, packaging requirements are creating significant plastic waste and unattractive to consumers.</p>	<ul style="list-style-type: none"> <li>• Collaborate with craft farmers, retailers and vendors to incentivize environmentally-friendly packaging options</li> <li>• In partnership with provinces, enable direct sale models to consumers or retailers in the same manner that is permitted for alcohol distillers or wineries</li> <li>• Allow micro-cultivators to package and label their own products</li> </ul>
<p>Research and Medical Access</p>	<p>The history of BC's craft cannabis sector is rooted in compassion and medical access. Urgently, with the national overdose crisis, cannabis has the potential to help people with opioid addictions to provide relief as a substitute treatment. Pursuing research collaborations in an organized way with Canada's globally recognized research universities provides an opportunity to expand medical cannabis access where appropriate and help address public questions about the health impacts of cannabis use — positive and negative. Note: Health Canada is seeking feedback on non-therapeutic cannabis research.</p>	<ul style="list-style-type: none"> <li>• Accelerate access to cannabis as a substitution treatment for people with opioid and other addictions</li> <li>• Expand medical access where science and evidence is available</li> <li>• Maintain medical access and production regulations JOHN?</li> <li>• Incentivize medical cannabis farmers to also participate in recreation market</li> <li>• Increase edible dosage limits and establish a unique category for suppositories</li> <li>• Allow cannabis research and testing activities under all licensing categories</li> <li>• Limit restrictions that discourage citizen participation in non-therapeutic research</li> <li>• Limit restrictions on the types of cannabis used, the dosage, frequency and duration of non-therapeutic cannabis research</li> <li>• Allow for ongoing research licenses that are not project</li> </ul>



		<p>restricted and in-house smoke tests without a research license</p> <ul style="list-style-type: none"> <li>• Establish International Cannabis Health Research Centre in BC focused on: genomic analysis of cannabis strains and their unique effects; population health impact on different groups; Impact of delivery vectors; Impact of terroir on terpene and cannabinoid development; Harm reduction; Inebriation detection</li> </ul>
<p>Dosage Caps</p>	<p>Unreasonable low dosage limits for edible cannabis products exclude medical consumers, create opportunities for the illicit market and packaging waste. As a result, customers are often confused about what they can and cannot purchase during a single transaction, and are often disappointed when they try to complete a purchase and are told that they cannot buy X number of items at once.</p> <p>Generally, the 30g possession cap is arbitrary and limits consumer choice. They unnecessarily force consumers to make repeat trips, counter to COVID-19 and environmental goals. No similar micro-caps exist for more harmful products like alcohol, tobacco and gambling.</p>	<ul style="list-style-type: none"> <li>• Increase mg limit on edible products (est. up to 100mg/package)</li> <li>• Increase mg limit on extract products</li> <li>• Allow for multipacks of discrete units</li> <li>• At minimum, double the current 30g possession limit</li> </ul>



### Ongoing Consultation

To guide implementation of regulatory improvements the Government of Canada should establish an inclusive Craft Cannabis Task Force that includes sector representatives, Health Canada and other federal agencies.

In addition to guiding regulatory innovation, the Task Force can establish annual targets for micro-class licence approvals, respond to sector challenges and support the Government of Canada's response to the economic crisis created by COVID-19. Among other things this work can focus on:

- Developing local government incentives
- increasing participation of women and Indigenous farmers/processors
- correcting uneven access to capital, insurance and financial services
- protecting micro-class applicants from predatory consulting practices
- creating a community of practice that establishes detailed templates and easy-to-use applications for craft farmers, processors and nurseries
- expanding regional and local decision-making capacity
- updating inclusion criteria for federal agriculture, environment, small-business and regional economic development programs to include craft cannabis farmers and processors
- maintaining reliable service standards and response times
- improving sector governance and transparency

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