

Ontario announces move to open market for private cannabis retail

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On December 12, 2019, the Ontario government (the Government) announced a move to open the market for private cannabis retail stores in Ontario.^[1] Key amendments to the General Regulation under the *Cannabis Licence Act, 2018* (the Amendments) will bring changes including:

Removing the temporary cap on the number of private cannabis retail stores^[2]

In addition to removing the cap on the number of private cannabis retail stores in Ontario, the currently mandated regional distribution limiting the number of retail stores permitted in each region (East, GTA, North, Toronto and West) will be maintained only until March 2, 2020, and then eliminated entirely.^[3] In addition, the Government also announced the elimination of pre-qualification requirements for prospective retailers, which includes the requirement that the applicant demonstrate it has secured retail space, for example.^[4]

A “phased-in” approach to introducing new limits on the number of authorized stores per provincial retail operator^[5]

Until August 31, 2020, each retail operator (and its affiliates) may own a maximum of 10 cannabis stores, increasing to 30 cannabis stores in September 2020 and increasing again to 75 cannabis stores in September 2021.^[6] According to the Government, this approach is intended to ensure fair access for retailers while creating medium and long-term market certainty.^[7]

In accordance with direction set by the Government, the Alcohol and Gaming Commission of Ontario (AGCO) expects to issue up to 20 Retail Store Authorizations (RSAs) per month, beginning in April, 2020, as stores become ready.^[8] However, the Government’s announcement states that proposed cannabis stores selected through the second lottery held on August 20, 2019, and the First Nations first come, first served allocation will continue the licensing and authorization process,^[9] and will not be required to transition to the new proposed regime.

Increasing the ability of federally licensed producers to participate in the retail market

Federally licensed producers may now own or control, directly or indirectly, up to 25% of a corporation holding a cannabis Retail Operator Licence (ROL) in Ontario. This is an increase from the prior threshold set out in the General Regulation to the *Cannabis Licence Act, 2018*^[10], which stated that licensed producers could not own or control, directly or indirectly, more than 9.9% of a holder of a Retail Operator Licence.

Other various changes

Other changes introduced by the Amending Regulations or announced by the Government include:

- Enabling retailers to sell additional cannabis-related items such as cannabis-related magazines and cookbooks.^[11]
- Authorized cannabis stores can now offer click and collect services that allow customers to order and pay for products online for in-store pick-up.^[12]

In accordance with the changes above, the AGCO will modify the application process for cannabis retail licensing. These changes will be introduced in the stages set out below, in alignment with the timelines established by the Government:

1. The AGCO will begin accepting ROL applications from any interested applicant as of **January 6, 2020**. This includes applications from federally licensed producers. As was previously the case, a ROL is required prior to applying for a RSA.
2. Until March 2, 2020, only applicants who were already selected and notified to apply for a ROL by the Registrar **before January 6, 2020** may apply for a RSA.
3. **As of March 2, 2020**, the restrictions on the total number of store authorizations permitted in the province, and their regional distribution, will be revoked. As of that date, the AGCO will begin accepting applications for RSAs from all interested applicants. This includes from Licensed Producers who may apply for a retail store at one production facility, as permitted by the Act.^[13]

These changes represent just some of the exciting changes the cannabis industry has seen in 2019. For a look at other developments across Canada this year and what to watch for in 2020, please see our recent publication, "[Cannabis in Canada: No longer just getting started.](#)"

^[11] Ministry of the Attorney General, "*Ontario Opening Cannabis Retail Market*" (December 12, 2019), available: [Government of Ontario Newsroom](#). [MAG]

^[12] O Reg 426/19: General, amending O Reg 468/18 under the *Cannabis Licence Act, 2018*. [Amending Regulation]

^[3] *Amending Regulation*, *supra* note 2 at section 3.

^[4] *MAG*, *supra* note 1.

^[5] O Reg 426/19: General, amending O Reg 468/18 under the *Cannabis Licence Act, 2018*.

^[6] *Amending Regulation*, *supra* note 2 at section 12.

^[7] *MAG*, *supra* note 1.

^[8] Alcohol and Gaming Commission of Ontario, "AGCO updates application process for cannabis retail licensing" (December 12, 2019), available: [AGCO](#) [PDF].

^[9] *MAG*, *supra* note 1.

^[10] *Amending Regulation*, *supra* note 2 at section 1 and 2.

^[11] *Amending Regulation*, *supra* note 2 at section 7.

^[12] *MAG*, *supra* note 1.

^[13] *AGCO*, *supra* note 8.