

# How Can Cannabis Equity Be Pursued in Canada?

## Recommendations from A Roadmap for Cannabis Equity in Canada to Inform the Legislated Review of the *Cannabis Act*

Canada has received praise and international attention for its introduction of a legal regulatory framework for adult cannabis use, which represents a significant departure from a century of cannabis prohibition. While the implementation of a regulated cannabis industry was driven primarily by its potential public health and public safety benefits, reducing the burden placed on the individuals criminalized for cannabis use also served as an impetus for change. In comparison to many jurisdictions in the United States, however, Canadian legalization efforts have done little to explicitly address the harms caused by drug prohibition and to foster equity in the legal cannabis industry. The legislated review of the *Cannabis Act* presents a critical opportunity to begin rectifying inequities resulting from contemporary cannabis policy in Canada.

The recommendations herein are drawn from an analysis of the impact of the *Cannabis Act* on equity seeking groups and best practices internationally to develop a roadmap for cannabis equity in Canada. It is hoped that this work can inform the federal legislated review of the *Cannabis Act*.

Our top line recommendation is that the “Purpose” of the *Cannabis Act* be expanded to include the following: “To promote social responsibility and social equity in connection with cannabis.” This builds upon an objective outlined in the *Ontario Cannabis Retail Corporation Act* and aligns with the *Cannabis Act*’s existing focus on promoting public safety and public health.

Importantly, such an expanded purpose could help drive actions taken to advance the Government of Canada’s commitment to truth and reconciliation. This is in line with the Truth and Reconciliation Commission’s call to action #92ii, which seeks to “[e]nsure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.” Organizing policy reforms under this directive would promote inclusion and diversity in the cannabis industry more broadly, an objective that has been included as part of the legislated review of the *Cannabis Act*.

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For more information, refer to the full report:

Maghsoudi, N., Owusu-Bempah, A., Werb, D.  
A Roadmap for Cannabis Equity in Canada to Inform the Legislated Review of the *Cannabis Act*.  
Toronto: Centre on Drug Policy Evaluation, 2023.

<https://cdpe.org/publication/roadmap-canada-cannabis-equity/>

## Defining Cannabis Equity

For the purposes of this report, we limited the definition of “cannabis equity” to:

- Inclusion of people from underrepresented racial groups and genders – with a focus on people adversely affected by cannabis prohibition – in the employment and economic opportunities emerging from the legal cannabis industry.
- Amnesty for people with previous cannabis convictions, and
- Reinvestment of cannabis taxes into equity programs.

## Industry Inclusion and Diversity

Diversity in the leadership of Canada’s legal cannabis industry is critical to ensure that historically overcriminalized groups are not excluded from the industry. Furthermore, leadership in the industry not only confers decision making power (i.e., over corporate strategy, human resources decisions, etc.), but also opportunities for significant financial rewards. While there have been some limited initiatives to facilitate greater industry diversity, there is a notable absence of government regulation and programs that would structurally address the underrepresentation of racialized groups that were disproportionately targeted and punished under prohibition.

Drawing from measures taken by some jurisdictions in the United States, Canada should adopt and adapt social equity programs that provide targeted avenues of entry into the legal cannabis industry, as well as provide financial and related business/technical support,

for members of underrepresented groups. However, considering the current climate of Canada’s legal cannabis industry with respect to market conditions and profitability, it may be most suitable in the short-term to create new opportunities for inclusion that have lower barriers to entry than existing federal licences for cultivators, processors, and sellers, and provincial/territorial licences for retailers. Establishing a non-profit model for producers and retailers could enable increased participation from diverse groups that are currently unable to participate in the legal cannabis industry by addressing these barriers to entry. Should market conditions change, the adoption of social equity programs to diversify the broader legal cannabis industry may be more viable. Importantly, efforts to promote diversity in the existing industry should be advanced as a priority.

### A Establish and incentivize a new non-profit pathway into the legal cannabis industry, including for both retailers at the provincial/territorial level as well as producers at the federal level.

- Build on strong domestic and international evidence for the **design of commercial non-profit cannabis sales and cooperative governance structures** in the cannabis industry in Canada.
- Potential models include **member-based sales** (i.e., regulated ‘cannabis compassion clubs’ in Belgium, Spain, and Uruguay) and **cooperative business models** familiar to Canadians (e.g., Mountain Equipment Co-op).
- Such models have achieved a high degree of sustainability for a range of membership sizes, which **reduces financial and logistical barriers to entry that may deter underrepresented groups from participating in legal cannabis markets.**
- Models may include integrated **verticals in which licensed producers, distributors, and sellers participate.**
- Models with **dedicated ‘in-house’ producers that are limited to producing cannabis for members of the cooperative can also reduce barriers to entry** for underrepresented groups seeking a pathway into licensed production.
- Non-profit models are also functionally able and **well-positioned to integrate purpose-driven, social, and equity goals into their governance structures.**

## B Adopt social equity programs to facilitate **increased access to existing federal licences for cultivation, processing, and selling among historically overcriminalized and currently underrepresented groups.**

- Define **qualifying criteria** for applicants to social equity programs, including eligibility based on:
  - i. **Previous cannabis convictions:** Individuals – as well as children and spouses of such individuals – who are eligible for sequestration of their conviction records related to drug possession, including cannabis.
  - ii. **Residency in a disproportionately impacted areas and low income:** Individuals living below the area median income who reside in geographic areas that are economically disadvantaged (i.e., high rates of poverty, unemployment) and have been disproportionately affected by law enforcement activities (i.e., high rates of arrest, conviction, incarceration) related to drug criminalization, including for cannabis.
  - iii. **Qualifying populations according to race/ethnicity, Indigenous ancestry, and gender:** Individuals who are part of qualifying populations currently underrepresented in leadership positions in the legal cannabis industry, namely Black and Indigenous people, as well as women.
- Prioritize granting federal licences to social equity applicants by **setting benchmarks of 15% for the percentage of federal licences to be issued to social equity applicants** and providing **targeted technical support** for social equity applicants throughout the application process as well as **priority processing of their licence applications** during Health Canada’s review process for granting federal licences.
- Provide financial assistance to social equity applicants by **waiving or reducing transactional fees** (i.e., application screening fee, security clearance fee, import/export permit fee) **annual regulatory fees, and corporate income tax.**
- Provide opportunities for financial support to social equity applicants in the form of **grants, microloans, and no- or low-interest loans.** The Black Entrepreneurship Program - which offers loans (through the Black Entrepreneurship Loan Fund) and microloans (through the microloan pilot program under the Loan Fund) - is an example of a possible model for providing financial support to reduce barriers to entry to the legal cannabis industry for social equity applicants.
- Accompany the provision of financial support to social equity applicants with **business support, including training and technical assistance** (e.g., regulatory compliance, securing capital), to equip them with the necessary knowledge and skills to successfully lead their business.
- Fund social equity programs using **5% of cannabis tax revenues, while ensuring that a minimum comparable level of funding is guaranteed** independent of tax revenues.
- Remove from the licensing process the requirement that applicants have their production facilities “built-out” prior to licensing approvals.

## C Encourage and incentivize **greater diversity among leadership of existing and future federal and provincial/territorial cannabis licence holders.**

- Emphasize the **value in diversifying the racial and gender makeup of executives and directors.**
- Require licence holders to **develop and submit positive impact and diversity plans as well as collect and report data on the racial/demographic makeup** of their leadership and broader workforce, to Health Canada.
- **Provide financial and other incentives** for the adoption and successful implementation of diversification strategies by private actors in the legal cannabis industry. The waiving of annual regulatory fees could act as a strong incentive for companies to make progress towards diversity targets.
- Routinely **collect data disaggregated by race/ethnicity, Indigenous ancestry, and gender identity by government bodies that grant licences for participation in the legal cannabis industry** to monitor progress in improving diversity. Ensure the timely publication of disaggregated data in a manner that protects the identity of individuals and is open to public scrutiny.

## Amnesty

The adoption of Bill C-5, *An Act to amend the Criminal Code and the Controlled Drugs and Substances Act*, in November 2022 is a significant step forward for cannabis amnesty in Canada. Unlike the current process for record suspensions, Bill C-5 provides for the free and automatic sequestration of drug possession charges within two years. Another advantage of sequestrations granted under Bill C-5 is their permanency, as there is no legislative authority to revoke them. Despite these benefits, there are limitations to the approach taken in Bill C-5. Individuals with charges other than simple cannabis possession who were ineligible under the present regime of record suspensions continue to be ineligible for sequestrations under Bill C-5. Given that a simple possession charge by itself is rare, many of those with criminal records from prior cannabis convictions do not qualify. For conviction records that occur after Bill C-5 came into effect, the person convicted of the offence is deemed never to have been convicted of that offence in the first place. While suspensions only provide for the setting apart of records, deeming a conviction never to have taken place provides a remedy closer to an expungement and is especially significant for those who wish to cross the border to the United States. Given that this deeming provision is not retroactive, no records for the simple possession of cannabis would benefit from the enhanced protections it offers. Importantly, sequestration still falls short of expungements as records are not destroyed and continue to be available to some law enforcement in Canada and the United States, thus perpetuating the stigma and other harms related to criminal records.

In recognition of how an individual's life can be derailed by a cannabis conviction, it is critical to include those impacted by previous cannabis convictions in social equity programs that aim to enhance inclusion and diversity in the legal cannabis industry. Providing them with access to financial and professional support - both inside and outside the legal cannabis industry - contributes to restorative justice through the economic empowerment of individuals most impacted by cannabis prohibition.

- Expand eligible conviction records for sequestration to extend beyond simple possession of cannabis and **include other minor cannabis offences and related administrative charges.**
- Apply the **deeming provision in Bill C-5 to conviction records that occurred before Bill C-5 came into effect**, and thus include records for simple possession of cannabis.
- Adopt regulations to **remove and destroy records after sequestration** so they are no longer accessible to law enforcement and other authorities.
- In accordance with the recommendation above, include those impacted by previous cannabis convictions as **eligible applicants to social equity programs** which aim to enhance inclusion and diversity in the legal cannabis industry.
- Beyond the legal cannabis industry, ensure access to **financial and business support** (e.g., grants and loans for education, professional training) for those impacted by previous cannabis convictions.

## Reinvestment of Cannabis Taxes into Equity Programs

Tax revenue generated from legal cannabis sales at the federal and provincial/territorial levels should be used to support the creation of social equity programs to improve diversity in the legal cannabis industry. A portion of cannabis tax revenues should also be used to (re)invest in communities most negatively impacted under prohibition. Considering that laws criminalizing cannabis possession for personal use have had a disproportionate negative impact on Black, Indigenous, and other marginalized people in Canada, a major restorative initiative involves the redistribution of a portion of tax revenue generated from legal cannabis sales into the communities most harmed by prohibition. In doing so, jurisdictions acknowledge the devastation caused by prohibition and the burden shouldered by the individuals and communities most targeted. Moreover, they recognize that the billions of dollars spent on the police, court systems, and correctional institutions deployed as part of punitive drug policies took money from the schools, hospitals, and community centres which form the backbones of healthy communities. In sum, this approach serves to reverse the impact of the wealth transfer that occurred as money was divested from disadvantaged communities and

transferred to the police and other criminal justice agencies in support of drug prohibition efforts.

- Develop a **regime for revenue sharing with Indigenous communities.**
- Adopt measures to direct a portion of **cannabis tax revenues into social equity programs that improve inclusion and diversity in the legal cannabis industry** (see recommendations in the previous section).
- Adopt measures to divert a portion of **cannabis tax revenues directly to social institutions that serve the communities most harmed by prohibition** (e.g., to schools, hospitals, community health centres).
- Use a portion of cannabis tax revenues to develop a **granting scheme for programs that serve populations most harmed by prohibition** (e.g., educational and mentoring programs, job skills and training programs, crime prevention programs, prisoner re-entry programs).