

AGCO Application Considerations for Cannabis Retailers

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As many readers will know, the Alcohol and Gaming Commission of Ontario (the “AGCO”) is responsible for cannabis retail store licensing in Ontario. Applicants seeking to open a retail store will need a Retail Operator Licence, a Retail Store Authorization and a Cannabis Retail Store Manager Licence. The AGCO has announced that its online licensing portal (iAGCO) will begin accepting applications on December 17, 2018. In the meantime, the AGCO has begun incremental releases of information about the licensing process. The AGCO’s Registrar’s Standards (i.e., licensing and store operating standards) are also expected to be published shortly.

The following information relating to the licensing process - and store operations - was gathered from applicable cannabis legislation and from the public webinar presented by the AGCO on November 27, 2018. *Unfortunately, all relevant licensing and application requirements are not yet known and the following is not an exhaustive list of application requirements.*

1. PRE-APPLICATION PREPARATION

A. Retail Operator Licence

Some of the following information will *not* need to be submitted with the initial application, but may be required by AGCO in connection with processing the application:

- Details of Shareholders (e.g., at minimum including names, addresses, shareholdings)
- Personal Disclosure for directors, officers and shareholders
 - *This should look similar to Personal Disclosure Forms required by AGCO for Liquor (FORM 2075) and Gaming (FORM 6072) licences*
- Constituting Documents (e.g., Articles of Incorporation)
- Schematic Diagram (i.e., Corporate structure chart)
- Tax Return or Tax Assessment
- Financial Statements
 - *If a new entity, AGCO may require, for example, an opening balance sheet*
- A **Tax Compliance Verification (TCV) number** from the Ontario Ministry of Finance
 - *See the Ministry of Finance website on/after December 1 for more information*

B. Retail Store Authorization

Before applying for **Retail Store Authorization**, the Applicant should:

- Confirm with the municipality that the proposed retail store will be in a location zoned for commercial/retail use
- Confirm that the location will comply with basic store requirements (see Section 3 below)

- Consider whether there are any location features that may prevent the proposed store from being built and operated in compliance with the AGCO's Registrar's Standards
- Ensure the operating name of the proposed retail store complies with all applicable federal/provincial legislation related to advertising and promotion

Note: recall that municipalities have until January 22, 2019 to 'opt-out' / pass a resolution refusing to allow ANY cannabis retail stores in the municipality.

C. Cannabis Retail Store Manager Licence

The following documents, at least, will be required to apply for this licence:

1. Personal Disclosure (including work history)
2. Tax Return or Tax Assessment

2. ELIGIBILITY REQUIREMENTS

A. All Licence Types

For ALL classes of licence you must:

- Be at least 19 years of age;
- Be financially responsible;
- Conduct duties in compliance with law, with honesty, integrity and in the public interest;
- Have no convictions or charges under the *Cannabis Licence Act, 2018*;
- Not have or previously had roles or connections with a criminal organization; and
- Not make a false statement in the application.

B. Retail Operator Licence

To be eligible for a **Retail Operator Licence**, you must satisfy the AGCO that you will have sufficient control over the cannabis retail business.

You will be ineligible for a Retail Operator Licence if:

- You are in default of filing a tax return under a tax statute administered and enforced by the Ontario government, or have any outstanding amounts owing and past due of tax, penalty or interest under those laws, or any payment arrangements for tax liability; and
- You have a business number with the Canada Revenue Agency and have not filed a tax return under certain federal or provincial legislation.

C. Retail Store Authorization

To be eligible for **Retail Store Authorization**, the premises, equipment and facilities of the proposed store must be in compliance with the *Cannabis Licence Act, 2018*, its regulations and the Registrar's Standards.

You will be ineligible for Retail Store Authorization if:

- The issuance of the authorization is not in the public interest;
- You hold a licence under Canada's *Cannabis Act* to produce cannabis for commercial purposes and already hold a Retail Store Authorization for a retail store located on or within the production site; or
- The location of your proposed store is located in a municipality or reserve that does not permit cannabis retail stores.

3. STORE REQUIREMENTS

Basic location requirements include that the store:

- Must be at least 150 metres away from the property line of a school or private school as defined in the *Education Act*, or if the school or private school is not the primary/only occupant of a building, 150 metres away from any space the school occupies;
- Must be the only business that will operate at the proposed retail store; and
- Must only sell permitted items (i.e. federally-defined cannabis and cannabis accessories, and shopping bags).

4. PUBLIC NOTICE PROCESS

You must post a notice of your application for a cannabis Retail Store Authorization at the proposed retail location for a period of 15 calendar days. Your application will also be posted to and searchable on the AGCO website.

The municipality and local residents will have an opportunity to provide written submissions to the AGCO on matters of public interest before the proposed cannabis retail store location is authorized.

Any objection to the proposed store location will only be valid if it relates to a matter of public interest, which is defined by the regulations to matters relating to:

- Protecting public health and safety
- Protecting youth and restricting their access to cannabis
- Preventing illicit activities in relation to cannabis

5. APPLICATION FEES

Application Fee

Renewal Fee

Renewal Fee

2-year term

2-year term

4-year term

Retail Operator Licence

\$6,000

\$2,000

\$4,000

Retail Store Authorization

\$4,000

\$3,500

\$7,000

Cannabis Retail Manager Licence*

\$750

\$500

\$1,000

* The AGCO has announced that a sole proprietor who will be both the licensed operator and the retail store manager for his/her proposed store will NOT need to get a Cannabis Retail Manager Licence for the proposed store. Generally, we would not recommend operating a cannabis store as a sole proprietorship, but rather through a corporation.

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