

Rules for the experiment with a controlled supply of cannabis to coffee shops

Contents

<i>Reader's guide</i>	5
<i>Disclaimer</i>	5
What is the experiment with controlled supply of cannabis to coffee shops?	6
What will the experiment mean for coffee shops?	7
Rules that will continue to apply	7
New rules for preventing use of cannabis	7
New rules on inventory	7
New rules for application of the residence criterion	7
New rules for record-keeping	8
What will the experiment mean for municipal authorities?	9
What local powers will mayors have?	9
All coffee shops in participating municipalities must take part	10
How should municipalities express their interest in participating?	10
What is the mayor's role when a grower wishes to establish operations in the municipality?	10
What requirements will apply to cannabis cultivation?	11
Who will qualify for a licence?	11
How will the application procedure work?	11
What requirements will apply to the location where cannabis is grown?	12
What requirements will apply to the cultivation of cannabis during the experiment?	13
Security requirements	13
Staff requirements	13
Requirements pertaining to record-keeping	13
Requirements concerning the quality of the cannabis	13
Packaging	13
Design of experiment: transition to and phasing out of experiment legislation	14
4	
Preparatory phase	14
Transitional phase	14
Experimental phase	15

Reader's guide

This booklet is for anyone who wants to know more about the experiment involving a controlled supply of cannabis to coffee shops in the Netherlands and is interested in the rules, procedures and requirements involved.

Following a general introduction, this booklet sets out the rules, procedures and requirements that will apply to the coffee shops involved in the experiment, the participating municipalities and the growers. The last section describes the design of the experiment and the different phases.

Disclaimer

Even though this booklet has been compiled with great care, no rights may be derived from its contents. The rules are based on the bill and the draft decree on the experiment with controlled supply of cannabis to coffee shops. Neither the bill nor the decree has been finalised. The rules set out in this document are therefore subject to change.

Go to www.rijksoverheid.nl/experiment-gesloten-coffeeshopketen for the latest text of the legislation.

What is the experiment with controlled supply of cannabis to coffee shops?

The 2017 coalition agreement included a pledge to conduct an experiment with the regulated cultivation and sale of cannabis or hashish¹ for recreational use. The cannabis used in this experiment should be cultivated and controlled in a licit regulated market instead of in an illicit market controlled/prohibited by criminal law. The aim of the experiment is to ascertain whether or not it is possible to regulate a quality-controlled supply of cannabis to coffee shops and to study the effects of a regulated supply chain on crime, safety, public nuisance and public health. The Minister for Medical Care and Sport and the Minister of Justice and Security are responsible for ensuring that the experiment is implemented and for drafting relevant new legislation.

The pledge in the coalition agreement came about after a long-running debate on the effects of the current toleration policy. Under the current policy the sale of cannabis in coffee shops is allowed under certain conditions, while the production and supply of cannabis remains forbidden. There is increasing concern in Dutch society about the public policy, safety and health problems associated with this policy.

During the experiment, legally produced cannabis will be sold in coffee shops in up to ten municipalities. The cannabis must be quality-controlled. It will be produced by no more than ten growers, who will be designated by the ministers. Coffee shops in the municipalities that participate in the experiment may only sell legally produced cannabis. This is what is meant by controlled supply.

The experiment will last for at least four years. An evaluation will be performed during the four-year period. Thereafter, the government will decide on the future of Dutch coffee shop policy.

¹ The document refers to the term cannabis only, which should be understood to include hashish as well.

What will the experiment mean for coffee shops?

All coffee shops in the ten municipalities that participate in the experiment will have to comply with the new rules. Some rules will remain the same, such as the requirements that no hard drugs may be sold and no minors may enter the premises. But some of the rules applicable to the sale of cannabis in coffee shops will be new. For instance, coffee shops will only be able to sell products supplied by government-designated growers. The rules will not change for coffee shops in municipalities that are not participating in the experiment. They will be subject to the rules that currently apply, and will not be able to buy from the legal growers.

Rules that will continue to apply

The rules that apply to the sale of cannabis by coffee shops are largely based on the requirements in the current toleration policy. The rules that will continue to apply include the ban on selling to minors. In addition, coffee shops are not allowed to advertise and must ensure their customers do not cause any public nuisance. The condition that no more than five grams of cannabis may be sold to each individual and the ban on selling hard drugs or alcohol, or having such substances on the premises, will continue to apply.

New rules for preventing use of cannabis

The coffee shops also have to comply with a set of new rules concerning prevention. The government believes it is important that coffee shop customers are informed about the risks involved in using cannabis. Coffee shops must therefore have educational materials on cannabis use available on the premises. The government also believes it is important that customers are informed about the care and assistance that is available should they need it. Coffee shop sales staff must therefore take a special course to ensure they are able to inform customers sufficiently. This course is being and will be available in 2020.

New rules on inventory

During the experiment, participating coffee shops may only buy cannabis from the ten designated growers. Under the current toleration policy, coffee shops may have a maximum stock of 500 grammes on the premises. During the experiment, this 500 gramme limit will no longer apply. For the duration of the experiment, shops will be permitted to keep up to a week's supply in stock. Coffee shops may not store their stock off the premises, but they may have a pending order with a designated grower. Any order that has not yet been delivered will not be counted as stock.

New rules for application of the residence criterion

Coffee shops in border municipalities must comply with the residence criterion. This means that coffee shops in border municipalities may not sell cannabis to people who live outside the Netherlands. A border municipality is a municipality whose municipal boundary lies on the national border with Belgium or Germany.

New rules for record-keeping

The control of supply is important. That is why a system is being developed whereby coffee shops will keep records of their inventory. They will for example have to record both the cannabis supplied to them and all cannabis that they sell. This will make it possible to verify whether the inventory is correct and whether the coffee shop has only legal cannabis in stock.

Monitoring of coffee shop owners

The current plan is that the Inspectorate of Justice and Security will be responsible for monitoring the controlled supply of cannabis to coffee shops. The Inspectorate will also be involved in developing a new record-keeping system, and will play a coordinating role to ensure that all the parties involved in monitoring cooperate effectively.

Under the current policy, municipal authorities are responsible for monitoring coffee shops. During the experiment, the participating municipalities will continue to conduct oversight, which for the purposes of the experiment will include monitoring the legal supply of cannabis to coffee shops.

What will the experiment mean for municipal authorities?

A number of extra rules will apply to the municipalities participating in the experiment. The rules applying to the participating municipalities are set out below, along with the procedure for municipalities to express their interest in participating in the experiment.

Notably, participation in the experiment is not linked to permission for cultivation to take place in a municipality. The end of this section explains what a mayor must do when a grower wishes to establish operations in their municipality.

What local powers will mayors have?

Under the current toleration policy mayors and the municipal council decide whether to allow coffee shops in their municipality. This will not change in the experiment. During the experiment, mayors will also have powers to specify extra rules for the coffee shops in their municipality. Mayors will therefore still be able to adopt rules for coffee shops as appropriate for the situation in their respective municipalities. The rules must, however, be consistent with the rules of the experiment and mayors may not adopt different rules for different coffee shops.

The Decree on the experiment with controlled supply of cannabis to coffee shops contains an exhaustive list of matters on which mayors may set additional rules. These matters are:

- the location where coffee shops are permitted
- the maximum inventory a coffee shop may have on the premises
- the ban on advertising
- preventing or reducing nuisance
- opening hours of coffee shops
- staffing of coffee shops
- the physical layout of coffee shops, including security
- staff training
- the application of the residence criterion in municipalities that are not border municipalities (this requirement always applies in border municipalities).

Mayors may not adopt additional rules on any other matters.

As explained above, mayors may adopt additional rules on the maximum inventory that coffee shops may have on the premises. The basic principle is that coffee shops in participating municipalities may have a maximum of one week's supply in stock. The mayor may however decide that a lower maximum should apply. The mayor may indicate in the local rules how the weekly turnover is to be determined.

The list above includes the option of adopting additional rules regarding the residence criterion. The residence criterion is not optional for mayors of municipalities on the national border with Belgium or Germany, where it must always be applied. This means that coffee shops in those municipalities may not sell cannabis to people who live outside the Netherlands. The mayors of other municipalities may decide for themselves whether to apply the residence criterion.

All coffee shops in participating municipalities must take part

As outlined in the previous section, all coffee shops located in the participating municipalities must participate in the experiment. This is important because having two types of enforcement within one municipality would be undesirable. Multiple enforcement regimes would make supervision more difficult and make it harder to measure the effects of the experiment. Additionally, to avoid any kind of confusion, it is also important that customers know whether they are buying quality-controlled products. This is easier if all coffee shops in a municipality participate in the experiment.

Any mayor faced with a coffee shop that violates the rules of the experiment may take measures. The mayor may for example close the coffee shop for a while. This is only possible if a coffee shop has actually broken the rules. In other words, before the experiment has started a coffee shop that declines to cooperate cannot be closed simply for not wanting to participate.

How should municipalities express their interest in participating?

If a municipality is interested in participating in the experiment, the mayor of the municipality may inform the Minister of Justice and Security by letter. The mayors of all municipalities in the Netherlands will be informed of the period in which they will be able to express their interest. This information will also be posted on the central government website.

No more than ten municipalities will be selected from those that express their interest during this period. The selection process will begin immediately after the deadline. The Advisory Committee on the controlled cannabis supply chain experiment will advise the ministers on the municipalities that have expressed interest. The ministers will then decide which ten municipalities should be chosen. The Advisory Committee may begin discussions with interested municipalities even before the application period has closed.

What is the mayor's role if a grower wishes to establish operations in the municipality?

Mayors may be approached by growers wishing to establish operations in their municipality, whether or not the municipality is participating in the experiment. In other words, a grower that is admitted to the experiment need not necessarily establish their business in a municipality that is participating in the experiment. Likewise, a municipality with a designated grower will not count as a participating municipality.

Anyone wishing to grow cannabis for the experiment must be officially designated by the ministers. The grower must submit an application to the ministers, in accordance with the procedure set out below. The procedure includes recommendations from the mayor. The ministers will request the advice of the mayor of the municipality where the grower wishes to set up operations. The mayor will advise the ministers of potential implications for public policy and safety in the municipality. The ministers may reject a grower's application if the mayor's advice gives them good reason to do so. The mayor's advice will weigh heavily in the assessment of the grower's application.

What requirements will apply to cannabis cultivation?

No more than ten growers will be allowed to grow and sell cannabis during the experiment. To obtain a licence for this purpose from the ministers, interested growers must submit an application.

The application procedure is explained first below, followed by the rules applying to growers with a licence.

Who will qualify for a licence?

Both natural and legal persons (individuals, companies and other organisations) may submit an application. A natural person must be registered as a resident of the Netherlands in the Personal Records Database and their company must be located in the Netherlands. A legal person must also be established in the Netherlands and the intended cultivation sites must be located in the Netherlands. As explained above, these sites do not necessarily have to be in a participating municipality. A legal person may also consist of a consortium of legal persons or natural persons. The application will be rejected if these requirements are not met.

How will the application procedure work?

The licence application must be submitted using a form that the ministers will make available online. The ministers will announce the period when applications may be submitted in the *Staatscourant* (Government Gazette). The dates are currently not known.

A number of documents must be attached to the application: i) a certificate of conduct (VOG), ii) a completed probity screening (BIBOB) questionnaire, and iii) a business plan. The VOG application form and the BIBOB questionnaire will be made available online.

Applicants must submit a business plan describing and substantiating how the production of cannabis will take place and how the cannabis will be delivered to coffee shop owners. Applicants must also indicate in their business plan how much cannabis and how many varieties of cannabis they expect to be able to produce at the start of the experiment.

Article 16 of the Decree specifies in detail what information the business plan must include:

1. the layout of the cultivation site (including ground plan);
2. how the cannabis will be transported or delivered;
3. the applicant's experience of growing crops;
4. the possible risks associated with the business operations and the precautionary measures that will be taken;
5. the measures that the grower will take to comply with quality requirements;
6. how the cannabis will be tested;
7. how the grower will cater for the demand from coffee shops;
8. how the company records will be kept;
9. the financial plan.

Business plans will be assessed on content and quality. The application will be rejected if, for example, growers fail to argue convincingly in their business plan that they are capable of growing cannabis in controlled circumstances, or if they do not present convincing evidence that they are able to provide a sufficient variety of cannabis and a consistent supply to coffee shop owners.

Once the participating municipalities have been designated, an estimate can be made of the quantity of cannabis needed for controlled supply. This estimate will be used to set a quantitative production criterion that will apply in the procedure for selecting growers. The quantity required will be announced in a ministerial order. Growers must present evidence that they can produce this quantity at the start of the experiment. Applications of growers that fail to provide convincing

evidence that they can supply at least ten varieties and the quantity of cannabis determined by the ministers will be rejected.

After the content and quality of the business plans have been assessed, the ministers may draw lots to select growers. This may be necessary if, after assessment of the business plans, more than ten applications meet the requirements specified.

Once the applications have been assessed and, if necessary, a lottery has been held, the applicants selected will be subjected to a probity screening. The screening will assess whether there is any serious risk that the grower will use their participation in the experiment to engage in criminal activity or derive unfair financial advantage. Both the applicant and the individuals who will directly or indirectly manage the enterprise, who will directly or indirectly exercise authority in the enterprise, or who will directly or indirectly provide capital will be assessed.² A probity screening goes beyond simply investigating the applicant. For example, a financial backer of a company for which designation has been requested may be screened. An application can be rejected under the Public Administration (Probity Screening) Act (*Wet BIBOB*).

What requirements will apply to the location where cannabis is grown?

Growers are not required to already have a location for the cultivation of cannabis when they submit their application. They must however indicate where they intend to grow cannabis. Growers must also investigate all matters associated with setting up a growing operation at that location, bearing in mind that local rules also apply or other permits may be required, such as an integrated environmental permit or a notification under the Environmental Management (General Rules for Establishments) Decree. It is in growers' own interests to look into such matters well in advance. It is also in their interests to contact the municipal council (or other bodies concerned) in the municipality where the envisaged location is situated in good time. In any case, growers must do so before submitting an application. This is important because the mayor will be asked for advice during the ministers' assessment of the application. They may reject an application if the mayor's advice gives good reason to do so. The advice of the mayor weighs heavily in the assessment of the application.

What requirements will apply to the cultivation of cannabis during the experiment?

Growers must ensure that cannabis is produced and that the cannabis produced is subjected to quality control testing. Growers must also ensure that the coffee shops in the participating municipalities are supplied with quality-controlled cannabis. This will all happen in a strict procedure. This is a serious responsibility, as such activities will remain criminal acts outside the context of the experiment.

Security requirements

Growers will be obliged to take all measures reasonably necessary to secure the location where the cannabis is grown and the cannabis itself. This applies to security during the entire production process – including while the cannabis is being grown, and when the products are stored, packed and transported.

Growers will also be responsible for the secure transport of cannabis to the coffee shops. Transport must be carried out by a licensed private secure transport company.

² This applies to individuals who will directly or indirectly manage the enterprise, who will directly or indirectly exercise authority in the enterprise, or who will directly or indirectly provide capital, as described in the Public Administration (Probity Screening) Act.

Staff requirements

A person may only start working for a grower if he or she has a certificate of conduct (VOG). The grower must keep this certificate of conduct in his or her records.

Requirements pertaining to record-keeping

Growers must keep comprehensive records as good records are necessary for verifying whether the supply of cannabis is controlled. The ministers are developing a system which designated growers will be required to use to record their total cannabis production and supply to coffee shops. This comprehensive system of administration will make it possible to check whether the inventory is correct and ensure that only legal cannabis is supplied to the coffee shops concerned.

Requirements concerning the quality of the cannabis

In the experiment, only cannabis that has been quality-controlled may be supplied to coffee shops. The growers will be responsible for ensuring quality. In the interests of protecting public health the designated growers will have to make sure that the cannabis they produce as part of the experiment is free of heavy metals, pesticides and aflatoxins. The maximum residual levels will be specified by ministerial order. No maximum or minimum will be set for the level of active ingredients (THC and CBD). Growers must ensure that the cannabis is tested by a laboratory, which must have an exemption issued under the Opium Act.

Packaging

Growers will be responsible for packaging the cannabis they produce. The packaging must meet certain requirements, some of which are set out in the Decree. A number of other requirements will be specified at a later stage by ministerial order, including health warnings on the packaging. As stated above, no requirements will be set concerning the level of active ingredients (THC and CBD) in the cannabis. These levels should, however, be clearly stated on the packaging.

Monitoring cultivation

The current plan is for the Inspectorate of Justice and Security to take responsibility for monitoring the controlled supply of cannabis to coffee shops. The Inspectorate will play a coordinating role to ensure that all the parties involved in monitoring cooperate effectively. The Netherlands Food and Consumer Product Safety Authority (NVWA), the agency responsible for monitoring crop protection and food safety, will initially monitor the quality of the cultivated cannabis. This will include performing quality control procedures to check for the incorrect use of pesticides and the presence of other undesirable substances. The NVWA will also monitor whether the information the grower provides on the packaging – such as the strength of the cannabis – actually matches the end product.

The design and phases of the experiment: from preparation to completion

The experiment will consist of four phases: i) a preparatory phase, ii) a transitional phase, iii) the experimental phase (including evaluation) and iv) a completion phase.

Preparatory phase: at least a year

The preparatory phase will start as soon as the legislation enters into force. At that point the Opium Act and current toleration policy will apply to coffee shops in the participating municipalities. These coffee shops may consult with the designated growers during this preparatory phase, informing them of their needs, negotiating prices and checking whether the quantity and quality of cannabis meets their requirements.

In the preparatory phase of the experiment municipalities will have the opportunity to amend municipal ordinances and policy rules to be consistent with the rules of the experiment. They will also be able to implement the measures necessary to monitor the coffee shops.

During this preparatory phase, the application procedure for growers will be launched and the growers selected. As soon as the growers have been officially designated, they will be able to start producing cannabis – subject to the rules of the experiment.

Transitional phase

After the preparatory phase, there will be a transitional phase because it is not desirable for coffee shops to have to make a sudden shift from the current toleration policy to the experimental phase in which the rules and procedures of the experiment will apply instead of the current policy. The government believes it is not realistic to expect coffee shops to replace their stocks overnight. A transitional phase will also allow customers to get used to the new range of products.

During the transitional phase, several requirements will apply in full to both coffee shop owners and designated growers. Coffee shop owners will be bound by the ban on causing nuisance and the ban on alcohol, and record-keeping and inventory requirements will apply to designated growers in this phase.

The transitional phase will begin as soon as the ministers determine that the quality and diversity of the cannabis supplied is adequate and all conditions for controlled supply of cannabis to coffee shops are in place. The transitional phase will last several weeks.

Experimental phase – minimum four years, maximum five-and-a-half years

During the experimental phase, all the rules of the experiment will apply to all participants. The experimental phase will last at least four years. The evaluation will take place during this period. If it is decided on the basis of the outcomes that the rules of the experiment should be applied throughout the country, and the legislation must be amended accordingly, the experiment may be extended by eighteen months.

Completion: six-month phase-out

After the experimental phase, there will be a six-month completion period during which the experiment will be phased out. During this period the rules and conditions of the experiment will be phased out. At the end of the experiment, they will cease to apply and the current rules and legislation (Opium Act, toleration policy) will be reinstated. Like the transitional phase, the completion phase gives the participating municipalities, the coffee shops and all the other parties concerned the opportunity to return to the old system. Growers must sell all their cannabis during this phase and any remaining cannabis must be destroyed. Coffee shops may sell both legal cannabis and ‘tolerated’ cannabis during this phase.

During the completion period, several requirements will apply in full to both coffee shop owners and designated growers. Coffee shop owners will be bound by the ban on causing nuisance and the ban on alcohol, and the record-keeping and inventory requirements will apply to designated growers in this phase. These ongoing requirements are similar to the requirements in the transitional phase.

This is a joint publication of
Ministry of Justice and Security
Ministry of Health, Welfare and Sport

www.government.nl April 2019