



Australian Government
Department of Health
Office of Drug Control

Guideline: Fit and Proper Persons and Suitable Staff

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Introduction

The *Guideline: Fit and Proper Persons and Suitable Staff* (the Guideline) is intended to assist licence applicants and holders to assess whether they are fit and proper to hold a licence to cultivate, produce or manufacture under the *Narcotic Drugs Act 1967*. It also provides information related to fit and proper person requirements and will assist in designing and maintaining arrangements to employ suitable staff.

Cannabis is a narcotic drug with a high illicit value. Amendments to the *Narcotic Drugs Act 1967* (the Act) in 2016 provide a legal basis for cultivation of cannabis plants and production of cannabis and cannabis resins for medical and scientific purposes, through the introduction of medicinal cannabis licences, cannabis research licences and manufacture licences (cannabis licences).

The purpose of those legislative amendments was to make cannabis available for medicinal and related research purposes, while simultaneously ensuring that the risk of diversion of medicinal cannabis is minimised. The aim of this Guideline is to assist in minimising the risk of diversion.

The illicit value of cannabis makes the risk of diversion a significant one requiring sound and comprehensive security arrangements. Personnel security is an important component of those arrangements and should be designed to complement the physical security requirements outlined in the [Guideline: Security of Medicinal Cannabis](#).

The Office of Drug Control (ODC) is part of the Commonwealth Department of Health and is designated with the responsibility for regulating the cultivation and production of cannabis for medicinal purposes and the manufacture of medicinal cannabis products under the Act. ODC assesses all applications for cannabis licences and makes determinations to either refuse or grant a licence. ODC also performs inspections of cannabis cultivation, production and manufacturing sites to monitor compliance with the Act, the associated Regulations and with the specific conditions of each licence.

Scope of this document

This document organises the information set out in the Act and the Regulations to assist a licence applicant or holder in addressing the fit and proper person requirements both for themselves and for their relevant business associates. The Guideline then goes on to provide advice on meeting the employee suitability requirements expected in the Act.

The Guideline describes mandatory requirements that the licence holder **must** comply with and provides examples of how this can be achieved. ODC will assess information relating to “fit and proper persons” as part of the assessment of your licence application. ODC will also assess the adequacy of your arrangements to employ suitable staff. This Guideline addresses:

- the licence applicant’s or holder’s capacity to meet the fit and proper person test
- whether your business associates are also fit and proper persons, and thus would not inappropriately influence the conduct of the cannabis related business
- the importance of informing ODC of any changes to business associates, or to the ability to comply with the fit and proper person requirements
- how you can best satisfy the requirement to only employ or engage suitable staff.

Compliance with this Guideline

The Guideline uses the word **'must'** to indicate a mandatory requirement and the word 'should' to indicate a suggested method for achieving that expectation.

Where the word **'must'** is used, you have no discretion and will be required to demonstrate how you meet that expectation. Where the word 'should' is used, you will be required to demonstrate how you meet that expectation but there is some flexibility for you to show that your arrangements equate to, or are better than, those outlined in the Guideline.

Once accepted, your fit and proper persons and suitable staff arrangements will become part of your licence conditions and the Department of Health will expect that you can demonstrate these arrangements when facilities are inspected.

Truthfulness

The fit and proper person requirements are extensive and require the disclosure of a significant depth of information. While ODC accepts that mistakes can be made, it is important to undertake your best endeavours to be comprehensive in responding to the information requests.

Where a matter later comes to light that, if known at the time, would have affected your ability to meet the fit and proper requirements, this may be grounds for revocation.

Applicants are also advised that in applying for a cannabis licence, or conducting activities under that licence, a person may commit an offence if the person provides false or misleading information in relation to that application or in the provision of information when requested to provide information by the Office of Drug Control on behalf of the Commonwealth (see section 137.1 of the Criminal Code).

International and domestic law

The amendments to the *Narcotic Drugs Act 1967* were implemented in February 2016 to enable the cultivation of cannabis for medicinal and scientific purposes in a way that is compliant with Australia's international obligations with the *Single Convention of Narcotic Drugs 1961* (the Single Convention).

The purpose of the Single Convention is to provide an international framework that recognises the medicinal value of narcotic drugs and ensures that narcotic drugs are available for use in therapy while preventing the diversion of narcotic drugs for illicit use. As a signatory to the Single Convention, Australia is committed to complying with the obligations within it, including designation of a single agency to licence and control cannabis cultivation and annual reporting to the International Narcotics Drug Control Board on volumes of production and manufacture.

ODC works in partnership with other Commonwealth agencies such as the Department of Agriculture and the Australian Border Force, and works closely with the Therapeutic Goods Administration in the Department of Health. ODC also has close relationships with state and territory jurisdictions looking at cultivation, production and cross-jurisdictional licencing requirements. Further (and most relevant to this Guideline), ODC works closely with law enforcement agencies both at the Commonwealth and state and territory levels, sharing information to maintain the integrity of the medicinal cannabis scheme.

Fit and Proper Person Requirements

Establishing the integrity of a person who is granted a licence, or who has the ability to substantially influence the conduct of activities under a licence, is fundamental to the medicinal cannabis scheme.

The fit and proper person requirements take into account convictions, imposition of civil penalties, revocations of drug regulation licences and the financial situation of individuals, among other things. The requirements are designed to enable the exclusion of criminal elements, including organised crime, who may otherwise be tempted to use a cannabis licence as cover for illicit activities.

Within the Act, the fit and proper person requirements are applied both to natural persons (i.e. individuals), and/or to bodies corporate depending on differences in business structures and the effect these structures have on the ability of ODC to determine whether the applicant is a fit and proper person to hold a cannabis licence.

Note that the fit and proper persons test also extends to looking at your non-business related connections and your relatives.

Connections, associations and family

Your connections, associations and your family will be considered by ODC in assessing whether you are a fit and proper person. This approach is designed to assess non-business relationships and identify persons who are able to inappropriately influence the conduct of activities under the cannabis licence.

Are you a fit and proper person?

The Guideline should be used to assess whether you and your business associates are likely to be considered fit and proper prior to making an application.

In making a determination if a person is fit and proper, ODC considers all information available. The overall requirement to be fit and proper does not necessarily require you to satisfy all elements of the requirement. It is possible that a person may fail to satisfy an element of the requirement and still be considered 'overall' to be a fit and proper person to hold a licence. For example, having certain previous criminal convictions does not of itself, preclude you from being a licence holder.

Business associates must also be fit and proper

There would be little value in a system where the licence holder is upstanding and of good repute, but their business partners are criminally inclined. Consequently, ODC must ensure that the applicant's relevant business associates are also fit and proper persons.

A business associate is defined in the *Narcotic Drugs Act 1967* and is any person who could exercise a significant influence over the conduct of activity covered by the cannabis licence. There is a level of ambiguity around such associations and applicants should be prepared to provide information on a reasonably broad set of associates that ODC will consider for relevance.

Under the Act, ODC **must** refuse to grant a licence if we are not satisfied on reasonable grounds that the applicant and the applicant's relevant business associates are fit and proper persons. When ODC determines that an associate is relevant and must decide whether the associate is a fit and proper person, the matters within Section 8A of the Act will be considered against that individual.

The fit and proper person test is rigorous. You and your business associates must be confident in your ability to meet that test to avoid the mandatory refusal requirement within the Act. It is also likely that ODC will ask for further and supporting information in relation to you and your associates meeting the fit and proper person requirements.

Information requirements necessary to satisfy the fit and proper person test are provided at [Annex A – Fit and Proper Person \(Natural Person\)](#), and [Annex B – Fit and Proper Person \(Body Corporate\)](#).

Exception in special circumstances

In addition to the fit and proper person test, the Act requires that ODC **must** refuse to grant a licence where we are satisfied that person has engaged in conduct that would be considered to be a 'serious offence' (defined in the Act), whether or not they have been convicted of that offence.

However, there are clauses within the Act that may allow an applicant to be granted a licence even where they may have committed a serious offence specifically relating to cannabis.

These exceptions are unlikely to be activated except in the most unusual of circumstances. They are designed to allow for consideration of applications where the applicant may have been involved in prior "compassionate" cultivation or supply of cannabis or for personal use for medicinal purposes. However the existence of such exemptions does not guarantee that in such cases your licence application would be successful.

You will be explicitly invited in your application to make disclosures under these clauses. Where you respond in the positive to that invitation, such disclosures attract a privilege against self-incrimination. In other words, ODC cannot pass information that you have disclosed to us relating to activities that would be considered serious offences to law enforcement agencies for investigation with a view to prosecuting you. Note however that this protection does not extend to evidence or information separately collected by law enforcement entities on these activities in the course of their activities.

Should you not disclose such activity and it later comes to light, that may be grounds for licence revocation.

Changes in status

Once licensed, it is a condition of the licence that you inform ODC immediately upon becoming aware of any matter that would call into question your status, or your business associates' status as a fit and proper person. ODC will then attempt to work with you to facilitate the resolution of such issues.

Failure to comply with this condition would be considered a significant breach.

Third parties, such as Commonwealth law enforcement agencies or state and territory governments, may also provide information to ODC that may be considered in determining whether you are a fit and proper person.

Changes to bodies corporate

Where the licence holder is a body corporate, the licence holder has additional conditions to comply with regarding the composition of the body corporate, specifically if there are changes to the number of shares in the body corporate that are held by a person or a change in any of the directors or officers of the body corporate.

The effect of such changes may change the view that ODC has about the body corporate as a fit and proper person. Ongoing compliance to the conditions of the cannabis licence will be assessed through the inspection and monitoring program undertaken by ODC.

Suitable Staff

Regardless of the quality of other security controls, all such arrangements are open to misuse or can be circumvented by insiders. This concept underpins the requirements for the licence holder to employ or engage suitable staff. Licence holders must take all reasonable steps to ensure that staff members employed or engaged do not present a risk of diversion of cannabis.

Unlike the fit and proper person test where ODC will assess suitability, it is the licence holder's responsibility to assess whether an employee is suitable.

The Act and Regulations are quite specific around persons who are unsuitable for employment or engaged in a cannabis operation. A person is considered **unsuitable** if they:

- are aged under 18 years
- have been convicted of a serious offence during the period of 5 years before the employment or engagement
- have a drug addiction, or are undertaking, or have undertaken, treatment for drug addiction
- are undischarged bankrupts under the *Bankruptcy Act 1966*
- for a period of 5 years prior to the application, have been convicted of a serious offence (as defined within the Act)
- for a period of 5 years prior to the application, have a history of illicit drug use or had a conviction for an illicit drug related offence
- for a period of 5 years prior to the application, have been convicted of an offence against the Commonwealth, a state or territory involving theft and is punishable by the maximum penalty of imprisonment for not less than 3 months.

These exclusions reflect the level of risk that such employees present to the business operations under a cannabis licence.

The arrangements that a licence holder takes to ensure that employees do not fall into any of the descriptors above are the responsibility of the licence holder. Such arrangements may include police checks on staff, proof of identification, regular drug testing and statements on behalf of employees about specific matters. Where a licence is granted, ongoing compliance with these arrangements will be prescribed in the conditions of the licence.

Further advice is provided at [Annex C – Suitable Persons](#).

Annex A – Fit and Proper Person – individuals (Natural Persons)

1. Natural Person (Convictions)

Mandatory requirement: The licence applicant **must** provide details of any conviction, at any time, of the applicant for an offence against a law of the Commonwealth, a State or Territory, or another country.

Impact	Rationale	Validity
If the person does have a conviction, ODC will consider a range of factors including, but not limited to, the nature of the conviction and when the conviction occurred when determining if the person is a fit and proper person.	A conviction indicates previous non-compliance with a law and may demonstrate that the person is not fit and proper to hold a cannabis licence.	The applicant must make a statement in the application regarding any convictions ;however' ODC will liaise with relevant law enforcement agencies to verify if the applicant has had any conviction/s.

2. Natural Person (Civil Penalties)

Mandatory requirement: The licence applicant **must** provide details of any civil penalties imposed, at any time, on the applicant under a law of the Commonwealth, a State or a Territory.

Impact	Rationale	Validity
If the person has had a civil penalty, ODC will consider a range of factors including, but not limited to, the basis for the civil penalty, when the penalty was imposed and the value of the penalty.	The imposition of a civil penalty indicates previous non-compliance with a law. This may demonstrate that a person is not fit and proper to hold a cannabis licence.	The applicant must make a statement in the application regarding any civil penalties imposed; however, ODC will liaise with jurisdictions to verify if the applicant has had any civil penalties imposed.

3. Natural Person (Drug related regulatory breaches)

Mandatory requirement: The licence applicant **must** provide details of any revocation or suspension of a licence or permit held by the applicant under a law of the Commonwealth, a State or Territory, or another country relating to prohibition or regulation of a drug.

Impact	Rationale	Validity
If the person has had regulatory action taken in relation to drugs, ODC will consider a range of factors including but not limited to, the basis for the regulatory activity, whether a penalty was imposed and the value of the penalty.	Revocation or suspension of a licence or permit indicates previous non-compliance with a law. This may demonstrate that a person is not fit and proper to hold a cannabis licence, particularly where the breach is related to drugs.	The applicant must make a statement in the application regarding the revocation and suspension of any licence or permit; however, ODC will liaise with relevant law enforcement agencies, federal, state or territory agencies and agencies in other countries to verify if the applicant has had a licence or permit revoked.

4. Natural Person (Connections and associations)

Mandatory requirement: The licence applicant **must** provide details of the connections and associations that the applicant has with other persons (including but not limited to the applicant's close relatives) that may affect the applicant's reputation, character, honesty or professional or personal integrity.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the connection or association is a relevant associate to the operation of cannabis licence.	This information is required to identify other persons who may have an effect on the applicant and determine if the person can influence the operations of a cannabis licence.	The applicant must make a statement in the application regarding connections and associations and people with relevant financial interest or powers. ODC may liaise with other agencies to validate the information provided.

5. Natural Person (Relevant business associates – Cannabis operations)

Mandatory requirement: The licence applicant **must** provide details of the name and date of birth of each person who holds a relevant financial interest or who is entitled to exercise relevant power in relation to the applicant's business that will undertake the activities.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the association is a relevant associate to the operation of cannabis licence.	This requirement is directed towards those people that have the ability to make decisions that will directly influence the operations and/or undertake activities under a cannabis licence.	The applicant must make a statement in the application regarding connections and associations and people with relevant financial interest or powers. ODC may liaise with other agencies to validate the information provided.

6. Natural Person (Relevant business associates – Other businesses)

Mandatory requirement: The licence applicant **must** provide details of the name and date of birth of each person who holds a relevant financial interest or who is entitled to exercise relevant power in relation to any other business of the applicant that provides a substantial proportion of the applicant's current income.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the association is a relevant associate to the operation of cannabis licence.	This requirement is directed to those people that may not have any direct role in the operations under a cannabis licence but can impact the financial viability of the business.	The applicant must make a statement in the application regarding connections and associations and people with relevant financial interest or powers. ODC may liaise with other agencies to validate the information provided.

7. Natural Person (Relevant business associates – Senior staff)

Mandatory requirement: The licence applicant **must** provide details of the name, date of birth and the position held in the business by each person who holds a relevant position in the applicant's business that will undertake the activities.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the association is a relevant associate to the operation of a cannabis licence.	This information is required to identify those people who work in the management levels of a business operation.	The applicant must make a statement in the application regarding connections and associations and people with relevant financial interest or powers. ODC may liaise with other agencies to validate the information provided.

8. Natural Person (Previous business experience)

Mandatory requirement: The licence applicant **must** provide details of previous business experience.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the detail is relevant to the operation of a cannabis licence.	<p>This information will assist in providing a holistic view of the applicant and their ability to manage an effective business.</p> <p>This is designed to minimise the risk of business failure leading to cannabis being inappropriately disposed of or diverted.</p>	The applicant must make a statement in the application regarding people with relevant financial interest or powers. ODC may undertake research to validate the claims.

9. Natural Person (Professional qualification breaches)

Mandatory requirement: The licence applicant **must** provide details (if holding any professional qualifications issued under a law of the Commonwealth, a state or a territory) of any disciplinary or other action that is being, or has been, taken against the applicant by a person or body that is empowered to take such disciplinary action.

Impact	Rationale	Validity
If the person has been subject to such processes, ODC will consider a range of factors including but not limited to, the nature of the action and when the action was undertaken when determining if the person is a fit and proper person.	This information may not be relevant to all applicants. For those that do hold a professional qualification, any disciplinary action taken against the person indicates non-compliance with laws or codes of practice and may demonstrate that the person is not fit and proper to hold a cannabis licence.	The applicant must make a statement in the application regarding professional qualifications and any disciplinary actions. ODC may undertake research to validate the claims.

10. Natural Person (Bankruptcy)

Mandatory requirement: The licence applicant **must** provide details as to whether they are currently affected by bankruptcy.

Impact	Rationale	Validity
If a person is subject to bankruptcy, the Secretary will consider the effect that this status has on the applicant to determine if the person is a fit and proper person.	This information is important to determine if the applicant has the financial capacity to manage operations under a cannabis licence.	The applicant make a statement in the application regarding bankruptcy. ODC may undertake research to validate the claims.

11. Natural Person (Financial circumstances)

Mandatory requirement: The licence applicant **must** provide details of the applicant's current financial circumstances including, but not limited to, financial circumstances that may limit the applicant's capacity to comply with the obligations under the licence.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the detail is relevant to the operation of a cannabis licence.	This information is to demonstrate that the applicant has financial capacity and the ability to develop and sustain a business and comply with licence conditions.	The applicant must make a statement about any financial circumstance that may prevent the applicant from complying with the conditions of a cannabis Licence. ODC may undertake further investigations to validate the claims.

12. Natural Person (Good repute)

Mandatory requirement: The licence applicant **must** provide details of any matters that may affect whether the applicant is of good repute, being matters that go to the applicant's character, honesty and professional integrity.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the detail is relevant to the operation of a cannabis licence.	This requirement is to generally determine the character of an applicant and consider the public perception of the applicant.	The applicant must make a statement about any circumstances or situations that may impact on the perception of their good repute. ODC may undertake further investigations to validate the claims.

13 Natural Person (Compliance with the Act)

Mandatory requirement: The licence applicant **must** provide details of any licence that the applicant holds, or has previously held, under the Act; and of the applicant's history of compliance with the Act.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the detail is relevant to the operation of a cannabis licence.	This requirement allows ODC to take into account the history and previous dealings between a licence holder and ODC.	<p>The applicant must make a statement about any previous licence held under the Act.</p> <p>ODC may undertake further investigations to validate the claims.</p>

Annex B - Fit and Proper Person (Body Corporate)

1. Body Corporate (Convictions)

Mandatory requirement: The licence applicant **must** provide details of any conviction, at any time, of the body corporate or any of its directors or officers, for an offence against a law of the Commonwealth, a State or a Territory, or another country.

Impact	Rationale	Validity
If the body corporate, its director/s or officer/s have had a conviction, ODC will consider a range of factors including but not limited to, the nature of the conviction and when the conviction occurred when determining if the person is a fit and proper person.	A conviction indicates previous non-compliance with a law and may demonstrate that the body corporate itself, or one or more of its directors or officers, are not fit and proper to hold a cannabis licence.	The applicant must make a statement in the application regarding any convictions; however, ODC will liaise with relevant law enforcement agencies to verify if the applicant has had any conviction/s.

2. Body Corporate (Civil penalties)

Mandatory requirement: The licence applicant **must** provide details of any civil penalties imposed upon the body corporate or any of its directors or officers at any time, under a law of the Commonwealth, a State or a Territory.

Impact	Rationale	Validity
If the body corporate, its director/s or officer/s have had a civil penalty, ODC will consider a range of factors including, but not limited to, the basis for the civil penalty, when the penalty was imposed and the value of the penalty.	The imposition of a civil penalty indicates previous non-compliance with a law and been served a financial penalty as a result. This may demonstrate that a body corporate itself, or one or more of its directors or officers, are not fit and proper to hold a cannabis licence.	The body corporate must make a statement in the application regarding any civil penalties imposed; however, ODC will liaise with jurisdictions to verify if the applicant has had any civil penalties imposed.

1.a/2.a Body Corporate (Ongoing officers and shareholders)

Mandatory requirement: If a conviction or civil penalty has been imposed, the licence applicant **must** provide details of any director or officer of the body corporate, or stakeholder, who is presently in a position to influence the management of the body corporate.

Impact	Rationale	Validity
If the body corporate or any other people mentioned in this requirement have been convicted or received a civil penalty, ODC will consider a range of factors when determining if the person is a fit and proper person.	This information is required to determine if the actions or behaviours that contributed to the conviction or civil penalty can be attributed to the current people serving on or capable of influencing the body corporate.	The body corporate must make a statement about this matter and ODC will liaise with relevant parties to validate the information.

3. Body Corporate (Drug related regulatory breaches)

Mandatory requirement: The licence applicant **must** provide details of any revocation or suspension of a licence or permit held by the body corporate under a law of the Commonwealth, a State or Territory, or another country, being a law relating to prohibition or regulation of a drug.

Impact	Rationale	Validity
If the body corporate has had regulatory action taken in relation to drugs, ODC will consider a range of factors including, but not limited to, the basis for the regulatory activity, whether a penalty was imposed and the value of the penalty.	Revocation or suspension of a licence or permit indicates previous non-compliance with a law. This may demonstrate that a person is not fit and proper to hold a cannabis licence, particularly where the breach is related to drugs.	The body corporate must make a statement in the application regarding the revocation and suspension of any licence or permit; however, ODC will liaise with relevant law enforcement agencies, federal, state or territory agencies and other countries to verify if the applicant has had a licence or permit revoked.

4. Body Corporate (Directors and officers)

Mandatory requirement: The licence applicant **must** provide details of the names and dates of birth of the directors and officers of the body corporate.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the detail is relevant to the operation of a cannabis licence.	This information is required to establish the structure of the body corporate to ensure the relevant information is provided for all directors and officer.	The body corporate must provide this information in the application; however, ODC may undertake research to validate this.

5. Body Corporate (Connections and associations)

Mandatory requirement: The licence applicant **must** provide details of the persons that the body corporate and its directors and officers have connections and associations with (including but not limited to relatives) that may affect the reputation, character, honesty or professional or personal integrity of the applicant.

Impact	Rationale	Validity
ODC will review the information provided by the body corporate and determine if the connection or association is a relevant associate to the operation of cannabis licence.	<p>This information is required to identify other persons who may affect the body corporate and determine if the person can influence or impact the operations of a cannabis licence.</p> <p>Note that all directors and officers with a direct role in the management of activity under a cannabis licence will require a separate fit and proper person assessment.</p>	The body corporate must make a statement in the application regarding connections and associations and people with relevant financial interest or powers. ODC may liaise with other agencies to validate the information provided.

6 Body Corporate (Previous business experience)

Mandatory requirement: The licence applicant **must** provide details of the previous business experience of the directors, officers and shareholders of the body corporate.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the detail is relevant to the operation of a cannabis licence.	<p>This information will assist in providing a more complete view of the body corporate and their ability to manage an effective business.</p> <p>This is designed to minimise the risk of business failure leading to cannabis being inappropriately disposed of or diverted.</p>	The body corporate must make a statement in the application regarding people with relevant financial interest or powers. ODC may undertake research to validate the claims.

7. Body Corporate (Professional qualification breaches)

Mandatory requirement: The licence applicant **must** provide details (if holding any professional qualifications issued under a law of the Commonwealth, a state or a territory) of any disciplinary or other action that is being ,or has ever been, taken against the director or officer by a person or body that is empowered to take such disciplinary action.

Impact	Rationale	Validity
If the director or officer has been subject to such processes, ODC will consider a range of factors including, but not limited to, the nature of the action and when the action was undertaken when determining if the person is a fit and proper person.	This information may not be relevant to all applicants. For those that do hold a professional qualification, any disciplinary action taken against the person indicates non-compliance with laws of codes of practice and may demonstrate that the person is not fit and proper to hold a cannabis licence.	The body corporate must make a statement in the application regarding professional qualifications and any disciplinary actions. ODC may undertake research to validate the claims.

8. Body Corporate (Financial circumstances)

Mandatory requirement: The licence applicant **must** provide details of the body corporate's current financial circumstances, but not limited to financial circumstances that may limit the capacity of the body corporate to comply with its obligations under the licence.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the detail is relevant to the operation of a cannabis licence.	This information is to demonstrate that the body corporate has financial capacity and the ability to develop and sustain a business and comply with licence conditions.	The body corporate must make a statement about any financial circumstance that may prevent the applicant from complying with the conditions of a cannabis Licence. ODC may undertake research to validate the claims.

9. Body Corporate (Good repute)

Mandatory requirement: The licence applicant **must** provide details of any matters that may affect whether the directors and officers of the body corporate are of good repute, being matters going to their character, honesty and professional integrity.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the detail is relevant to the operation of a cannabis licence.	This requirement is to generally determine the character of the body corporate and consider the public perception of the body corporate.	The applicant body corporate makes a statement about any circumstances or situations that may effect on the perception of their good repute. ODC may undertake research to validate the claims.

10. Body Corporate (Compliance with the Act)

Mandatory requirement: The licence applicant **must** provide details of body corporate's history of compliance with the Act.

Impact	Rationale	Validity
ODC will review the information provided by the applicant and determine if the detail is relevant to the operation of a cannabis licence.	This requirement allows ODC to take into account the history and previous dealings between a licence holder and the ODC.	The body corporate must make a statement about any previous licence held under the Act. ODC may undertake research to validate the claims.

Annex C – Suitable staff

1. Suitable staff

Mandatory requirement: The licence applicant **must** take all reasonable steps not to employ or engage a person who is not suitable.

Expectations	Rationale	Examples
The applicant should have in place arrangements that support effective recruitment on suitability grounds.	ODC expects that licence holders will take steps to ensure that staff engaged (e.g. contractors) or employed are not unsuitable persons under the criteria discussed earlier.	<p>Ensure that employees do not have a criminal record through the application of national police checks.</p> <p>Undertake extensive employment referee checks.</p> <p>Seek undertakings from the potential recruit on their history of drug use and or addiction (including treatment).</p>
The applicant should have in place controls to maintain staff suitability.	ODC expects that licence holders will take steps to ensure that staff engaged or employed understand the importance of maintaining suitability.	<p>Provide training around employee obligations and risks around diversion.</p> <p>Provide training in relation to care and handling of cannabis, including policies on security, bag searches, or other mechanisms in place to limit employee temptation.</p>

Definitions

The following words are defined specifically for use within this document. Where a word is not defined below, the definition should be taken to be the same as the Act or Regulations; and where not defined in legislation, as defined in the Macquarie Dictionary.

Definitions

Cannabis	For ease of interpretation, where the term cannabis is used in this document it is taken to mean cannabis plant (including seeds), cannabis, or cannabis resin as defined in the Act.
Reasonable Grounds	A set of facts or circumstances which would satisfy that there is reason to believe and which goes beyond mere suspicion.
Relative	This includes a spouse, parent, step-parent, child, step-child, adopted child, sibling or step-sibling of that person.
Relevant Power	<p>In relation to the business means any power whether exercisable by voting or otherwise and whether exercisable alone or in association with others:</p> <p>a. To participate in any directorial, managerial or executive decision of the business: or</p> <p>b. To elect or appoint any person to any relevant position in relation to the business.</p>
Spouse	<p>Of a person includes:</p> <p>(a) another person (whether of the same sex or a different sex) with whom the person is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 2E of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; and</p> <p>(b) another person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple.</p>
Shareholder	Relating solely to the body corporate, a shareholder is a person or entity in a position to influence the management of that body corporate.

References

- *Crimes Act 1914*
- *Criminal Code Act 1995*
- *Bankruptcy Act 1966*
- *Statutory Declarations Act 1959*
- *Regulatory Powers Act 2014*
- *Migration Act 1958*