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LEGISLATIVE SUMMARY

Bill C-59:

An Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures

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Economics, Resources and International Affairs Division
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Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

Legislative Summary of Bill C-59
(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL C-59: AN ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN PARLIAMENT ON APRIL 21, 2015 AND OTHER MEASURES*

1 BACKGROUND

Bill C-59, An Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures (short title: Economic Action Plan 2015 Act, No. 1), was introduced by the Minister of Finance and read for the first time in the House of Commons on 7 May 2015.

As its full and short titles indicate, the bill is intended to implement the government's overall budget policy, introduced in the House of Commons on 21 April 2015. Consistent with established legislative practice, it is the first budget implementation bill of 2015. A second such bill may follow in the fall.

Bill C-59 has three parts. Part 1 implements income tax measures and related measures that were proposed or referenced in the budget of 21 April 2015 (clauses 2 to 28). Part 2 implements various measures for families (clauses 29 to 40). For example, it amends the *Income Tax Act* (ITA) to increase the maximum annual amounts deductible for child care expenses, repeal the child tax credit and introduce the family tax cut credit. Finally, Part 3 implements various measures by enacting and amending several Acts, including the Federal Balanced Budget Act, the *Parliament of Canada Act*, the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, the *Ending the Long-gun Registry Act* and the *Public Service Labour Relations Act* (clauses 41 to 273).

This document provides a brief description of the main measures proposed in the bill by summarizing the substance of each Part. For ease of reference, the information is presented in the same order as it appears in the summary of the bill.

2 DESCRIPTION AND ANALYSIS

2.1 PART 1: AMENDMENTS TO THE *INCOME TAX ACT* AND TO RELATED LEGISLATION[1]

2.1.1 REDUCTION OF THE REQUIRED MINIMUM AMOUNT THAT MUST BE WITHDRAWN ANNUALLY FROM A REGISTERED RETIREMENT INCOME FUND, A VARIABLE BENEFIT MONEY PURCHASE REGISTERED PENSION PLAN OR A POOLED REGISTERED PENSION PLAN

Clauses 2, 15, 23 and 24 amend the ITA by adding section 60.022 and by amending sections 7308 and 8506 of the *Income Tax Regulations* (ITR) such that the minimum withdrawal amounts applicable to holders of registered retirement income funds aged 71 to 94 years are determined on the basis of a nominal rate of return of 5%

and a rate of indexation of 2% rather than 7% and 1% respectively. These assumptions are intended to better reflect more recent long-term historical real rates of return and expected inflation. The new provisions for registered retirement income funds apply from 2015.

Thus, the minimum amount that must be withdrawn will be reduced from 7.38% to 5.28% at 71 years of age and will reach the maximum of 20% at age 95 rather than 94.

The same rules apply to those receiving annual benefits under a variable benefit money purchase registered pension plan or a pooled registered pension plan.

2.1.2 Exemption from Income Tax of Amounts Received on Account of the New Critical Injury Benefit and the New Family Caregiver Relief Benefit

Clause 3 amends section 81(1)(*d.1*) of the ITA by adding two new benefits to the list of those excluded from the calculation of a taxpayer's income, applicable as of the 2015 taxation year. These two benefits are a "critical injury benefit" in the form of a single lump-sum payment of $70,000 and a "family caregiver relief benefit," consisting of an annual grant of $7,238. These benefits are established in clauses 214 and 217 respectively (Part 3, Division 17), which amend the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (also known as the "New Veterans Charter").

2.1.3 Decrease in the Small Business Income Tax Rate

Clause 11 amends section 125(1.1) of the ITA by gradually decreasing the small business tax rate from 11% to 9%, starting in January 2016. The small business tax rate will therefore be reduced by 0.5% per year for four years. Clauses 4 and 10 amend sections 82(1)(*b*)(i) and 121(*a*) of the ITA, respectively, to reduce the gross-up factor[2] and tax credit for non-eligible dividends proportionally over the same period.

2.1.4 Lifetime Capital Gains Exemption for Qualified Farm and Fishing Properties

Clauses 5 and 7 amend sections 104 and 110.6 of the ITA, respectively, to increase from $813,600 to $1,000,000 the lifetime tax exemption for capital gains on the sale of qualified farm and fishing properties. This amendment applies to the disposition of qualified farm or fishing properties that occur after 20 April 2015.

2.1.5 Introduction of a Home Accessibility Tax Credit

Clauses 6 and 8 amend sections 108(1.1) and 118.04 of the ITA, respectively, to introduce a new, non-refundable home accessibility tax credit as of the 2016 taxation year, to allow seniors and disabled persons to make their homes safer and more accessible. The tax credit applies to disabled persons who are eligible for the federal Disability Tax Credit and to persons who are 65 years of age or older in the particular taxation year.

The home accessibility tax credit would provide tax relief of 15% on up to $10,000 worth of eligible expenditures per calendar year, per qualifying individual and per eligible dwelling. The $10,000-limit applies to each eligible dwelling even if more than one person subject to the tax credit resides there. Eligible expenses include renovations, repairs and maintenance as well as the purchase or rental of equipment and certain devices.

2.1.6 Extension of the Mineral Exploration Tax Credit

Clause 12(1) amends the definition of the term “flow-through mining expenditure” in section 127(9) of the ITA to extend the eligibility period. With this change, the Mineral Exploration Tax Credit is available for eligible mineral exploration expenses incurred by a corporation after March 2015 and before 2017 under a flow-through share[3] agreement entered into after March 2015 and before April 2016.

The Mineral Exploration Tax Credit was first announced in the Economic Statement and Budget Update of 18 October 2000. It has since been extended several times, most recently in the 2014 federal budget.[4]

2.1.7 Tax Deferral on Patronage Dividends Paid in Shares to Members of an Eligible Agricultural Cooperative

Clause 13 amends section 135.1(1) of the ITA by extending, by five years, the measure to allow a tax deferral on patronage dividends paid in shares to members of an eligible agricultural cooperative. Under the current legislation, a share must have been issued after 2005 and before 2016 to be eligible for this tax deferral until the share is disposed of. The bill extends this measure by making it applicable to eligible shares issued before 2021.

2.1.8 Registration of Certain Foreign Charitable Foundations as Qualified Donees

Clause 18 amends the ITA to allow the Minister of National Revenue, in certain circumstances, to register foreign charitable organizations as qualified donees for a 24-month period. To be eligible, these foreign charitable organizations must receive a gift from the federal government and must either carry on relief activities in response to a disaster, provide urgent humanitarian aid, or carry on activities in the national interest of Canada. This measure applies to applications received on or after the date on which the bill received Royal Assent.

2.1.9 Registered Disability Savings Plans

Clause 16 amends the definition of “disability savings plan” in section 146.4(1) of the ITA to extend, to 2019, a temporary provision that allows a qualifying family member to become the plan holder of a registered disability savings plan (RDSP) for an adult who may not have the legal capacity to enter into a contract.

The temporary provision was enacted in 2012 to give the provinces and territories time to amend their legislative frameworks regarding legal capacity in the context of establishing a RDSP.

2.1.10 Increase of the Annual Tax-Free Savings Account Dollar Limit

Clause 19 increases the annual contribution limit for tax-free savings accounts (TFSAs) from $5,500 to $10,000 beginning in the 2015 calendar year. This amount will not be indexed and will remain at that level for subsequent years.

The annual contribution limits for years prior to 2015 are still relevant in determining the cumulative total TFSA contribution room available to taxpayers.

2.1.11 Creation of a New Quarterly Remitter Category for Certain Small New Employers

Clauses 20, 27 and 28 of the bill give certain employers considered to be new employers the option of remitting to the Receiver General on a quarterly basis amounts that would otherwise be due monthly. The provision applies to amounts withheld at source, employee and employer contributions, and employee and employer premiums payable to the Receiver General under the Regulations and remittable after 2015.

Clause 20 of the bill amends section 108 of the ITR in respect of contributions to be remitted to the Receiver General.

Under new section 108(1.13) of the ITR, a new employer may remit contributions to the Receiver General on a quarterly basis, on the 15th day of April, July, October and January for payments made in the previous three months.

New section 108(1.21) of the ITR determines the amount to be withheld monthly by an employer for the purpose of section 108(1.4), which governs the application of employee and employer contribution remittance requirements for new or successor employers under both the *Canada Pension Plan* (CPP) and the *Employment Insurance Act* (EIA).

A new employer ceases to be eligible for the quarterly remittance plan if the monthly withholding amount in respect of the employer for the particular month is less than $1,000 or if the new employer fails to comply with the remittance and payment conditions stipulated in the ITA, the CPP, the EIA or Part IX of the *Excise Tax Act*, which deals with the Goods and Services Tax.

The bill provides for quarterly remittance after 2015. With regard to the ITR, the new provisions apply in respect of “amounts deducted or withheld” after 2015. With regard to other legislation, the new provisions apply in respect of “amounts and contributions required to be remitted” to the Receiver General after 2015.

Clauses 27 and 28 of the bill make consequential amendments to section 8(1) of the *Canada Pension Plan Regulations* and section 4(1) of *Insurable Earnings and Collection of Premiums Regulations* respectively.

2.1.12 Accelerated Capital Cost Allowance

Section 1100(1) of the ITR sets out the capital cost allowance (CCA) rates that can be claimed for prescribed classes of depreciable property. Schedule II to the ITR lists the properties that can be included in each CCA class.

Clause 21 amends section 1100(1)(*a*) to add section 1100(1)(*a*)(xxxix) to provide a 50% CCA rate for new Class 53, which is added to Schedule II by clause 26.

Class 53 pertains to machinery and processing equipment acquired after 2015 and before 2026 that is primarily intended for use in Canada for the manufacturing and processing of goods for sale or lease; this class is generally eligible for a 50% CCA rate, calculated on a declining balance basis.

Clauses 22 and 25 amend section 4600(2)(*k*) and paragraph (*a*) of Class 43 of Schedule II of the ITR to add a reference to Class 53. The amendment in clause 22 ensures that the capital cost to the taxpayer of equipment in new Class 53 that is acquired in a year is eligible for the investment tax credit provided in section 127(9) of the ITA, while the amendment in clause 25 ensures that this equipment is excluded from Class 43.[5]

2.2 Part 2: Support for Families

2.2.1 Division 1: Amendments to the *Income Tax Act*

2.2.1.1 Child Care Expense Deduction

Section 63 of the ITA allows an individual to deduct, from his or her taxable income for the taxation year, an amount paid to a third party for the care of his or her child. The maximum annual deduction is $10,000 for a disabled child, $7,000 for a child who is under the age of seven at the end of the year, and $4,000 for a child who is seven years of age or older but under 16 years of age during the year. The maximum total amount that may be deducted is two thirds of the individual's income for the taxation year. Where there are two parents, the lower-income spouse or common-law partner must claim the deduction; the deduction is capped at two thirds of that person's income.[6]

Clause 29 amends sections 63(3)(*a*) and (*b*) of the definition of the term "annual child care expense amount" to increase the amounts that may be deducted. The increased amounts are as follows: $11,000 for a disabled child; $8,000 for a child under the age of seven at the end of the year; and $5,000 for a child who is seven years of age or older but under 16 years of age during the year. The increases apply to the 2015 and subsequent taxation years.

2.2.1.2 Child Tax Credit

Section 118(1)(*b.1*) of the ITA provides a tax credit to a parent of a child who is ordinarily resident in the individual's household together with the other parent.[7]

Clause 30 amends section 118(1)(*b.1*) to repeal the child tax credit for the 2015 and subsequent taxation years for individuals with children under the age of 18 at the end of the taxation year, with certain exceptions. In particular, an individual with a child under the age of 18 at the end of the taxation year who depends on him or her for support because of mental or physical infirmity will still be able to claim a tax credit for that child.

2.2.1.3 Family Tax Cut Credit

Clause 32 creates section 119.1 of the ITA to provide a formula for calculating the new family tax cut credit, which has a maximum value of $2,000. The tax credit can be claimed by a parent with a child under the age of 18 at the end of the year who resides with him or her and/or his or her spouse or common-law partner. Only one parent can claim the credit for a taxation year and both parents must file an income tax return in respect of the taxation year.

Parents cannot claim the family tax cut credit for a taxation year in which a parent became bankrupt or made an election for pension income splitting under section 60.03 of the ITA.

Moreover, in the following cases, the child is deemed to reside with a parent throughout the taxation year: the child is adopted; the parent marries or becomes a common-law partner; the child dies; the parent becomes resident in Canada.

The amount of the family tax cut credit is calculated as the “combined base-tax payable” minus the “combined adjusted base-tax payable.”

The “combined base-tax payable” is the notional tax payable under Part 1 of the ITA by both parents, and is the sum of the tax payable by each parent minus any applicable non-refundable tax credits found in sections 118 to 118.9 of the ITA.

The “combined adjusted base-tax payable” is the notional tax payable under Part 1 of the ITA by both parents after transferring income from the higher-earning to the lower-earning spouse or partner, and after subtracting the “adjusted non-refundable tax credit amount” from the tax payable by each parent. The amount of income that is transferred is known as the “split adjustment,” and is the lesser of $50,000 and one half of the difference between the taxable income of the higher-earning and the lower-earning spouse or partner. The “adjusted non-refundable tax credit amount” is the total of the tax credits found in the following sections of the ITA:

- 118(2);
- 118(3);
- 118(10);
- 118.01 to 118.07;
- 118.1 to 118.3;
- 118.5 to 118.7;
- 118.9; and
- transferrable tax credits relating to tuition, textbooks and education under 118.8 and 118(1), as amended.

The change to section 118(1), which provides the married or common-law partnership credit, reduces the amount of the credit by one half and phases out the caregiver amount[8] for individuals with a disabled spouse or common-law partner in cases where the disabled spouse or common-law partner earns at least a certain amount in a taxation year; for the 2014 taxation year, that amount is $11,138.

Clause 31 amends section 118.92 of the ITA in two ways: to include new section 119.1 for the 2014 taxation year; and, for the 2015 taxation year, to remove the child fitness tax credit from the list of credits that must be applied in a specific order to the tax payable by an individual.

Clause 33 amends section 128(2)(*e*)(iii)(A) of the ITA to include new section 119.1 in the list of credits that may not be claimed by a bankrupt individual on his or her income tax return filed for the year of bankruptcy.

Clause 34 amends section 153(1.3) of the ITA to prohibit the Minister of National Revenue from using the family tax cut credit as a basis on which to reduce, in view of the taxpayer's undue hardship, the tax that is withheld from income earned by a taxpayer.

The family tax cut credit applies to the 2014 and subsequent taxation years.

2.2.2 Division 2: Amendments to the *Universal Child Care Benefit Act* and the *Children's Special Allowances Act*

2.2.2.1 *Universal Child Care Benefit Act*

Clause 35 amends the definition of "qualified dependent" in section 2 of the *Universal Child Care Benefit Act*[9] to increase the age of a qualified dependent from six years of age and under to 18 years of age and under.

Clause 36 amends section 3 in two ways: to increase the maximum yearly benefit payable to an eligible parent for each child under the age of six from $1,200 to $1,920; and to create a new maximum yearly benefit of $720 for an eligible parent for each child who is six years of age or older but under 18 years of age.[10]

Clause 37 amends section 4 in two ways: to increase the monthly benefit paid to a parent for each child in shared custody that is under the age of six from $50 to $80; and, in all other cases, to increase the monthly benefit paid to a parent for each child under the age of six from $100 to $160. The increased benefits commence on 1 January 2015.

As well, clause 37 amends section 4 to create two benefits: a monthly benefit of $30 payable to a parent for each child in shared-custody who is six years of age or older but under 18 years of age; and, in all other cases, a new monthly benefit of $60 payable to a parent for each child who is six years of age or older but under 18 years of age. The new benefits commence on 1 January 2015.

2.2.2.2 Children's Special Allowances Act

Clause 38 amends section 3.1 of the *Children's Special Allowances Act*[11] to increase, from $100 to $160, the monthly special allowance supplement paid to a person, department, agency or institution responsible for the care and maintenance of a child who, at the beginning of the month for which the allowance is payable, is under the age of six. The increased benefits commence on 1 January 2015.

As well, clause 38 amends section 3.1 to create a monthly special allowance supplement of $60 payable to a person, department, agency or institution responsible for the care and maintenance of a child who, at the beginning of the month for which the allowance is payable, is six years of age or older but under 18 years of age. The new benefit commences on 1 January 2015.

2.2.2.3 Coming into Force

Division 2 is deemed to come into force on 1 July 2015.

2.3 Part 3: Various Measures

2.3.1 Division 1: Enactment of the Federal Balanced Budget Act

Clause 41 enacts the Federal Balanced Budget Act. Starting in 2015–2016, the Act imposes a number of obligations on the Minister of Finance in relation to a deficit that is projected in a federal budget, or a deficit that was not projected in a budget but is recorded in the *Public Accounts of Canada*.

Section 5 of the Act requires any surplus recorded in the *Public Accounts of Canada* in respect of a fiscal year to be applied to reduce the "federal debt," which is defined in section 2 as the accumulated deficit as stated in the *Public Accounts of Canada*.

2.3.1.1 Provisions Related to a Projected Deficit (Sections 6 to 8)

Section 6(1) of the Federal Balanced Budget Act requires the Minister of Finance to appear before the appropriate House of Commons committee within 30 sitting days after he or she tables a budget in the House of Commons that projects an "initial deficit" in an "open fiscal year" or in the following fiscal year. An "initial deficit" is a deficit projected in the fiscal year following a fiscal year in which a balanced budget was projected or recorded. An "open fiscal year" is the first fiscal year covered by budget projections for which no financial statements have been reported in the *Public Accounts of Canada*. The Minister must explain the reasons for the projected deficit and present a plan for returning to balanced budgets. The plan must indicate the period within which a balanced budget is to be achieved and include the measures described below.

If the projected deficit is due to a recession or extraordinary situation that, at the time that the budget is tabled, either has occurred, is occurring or is forecast to occur, section 7(1) requires the plan to prohibit an increase in the operating budget of any

government entity to fund annual wage increases and to impose a “pay freeze” for the prime minister, ministers, ministers of State and deputy ministers. Under section 7(2), the operating budget and pay freezes take effect on the first day of the fiscal year following the end of the recession or extraordinary situation, and remain in effect until a balanced budget is recorded in the *Public Accounts of Canada*. As discussed below, the terms “recession” and “extraordinary situation” are defined in the Federal Balanced Budget Act.

If a deficit is projected for other reasons, section 8 requires the plan to include an operating budget freeze and a 5% pay reduction for the prime minister, ministers, ministers of State and deputy ministers. These measures take effect on 1 April of the year that the budget is tabled, and remain in effect until a balanced budget is recorded in the *Public Accounts of Canada*.

As well, until a balanced budget is recorded in the *Public Accounts of Canada* in a year covered by the Minister’s plan for returning to balanced budgets, section 6(2) requires the Minister to make annual appearances before the committee to present an updated plan.

2.3.1.2 Provisions Related to a Recorded Deficit that Was Not Projected (Sections 9 to 11)

Like section 6(1), section 9 requires the Minister of Finance to appear before the appropriate House of Commons committee within 30 sitting days after the tabling of the *Public Accounts of Canada* if a deficit that was not projected in a budget is recorded in those Public Accounts in respect of a fiscal year. The Minister must explain the reasons for the deficit and present a plan for returning to balanced budgets. The plan must indicate the period within which a balanced budget will be achieved and include an operating budget freeze and either a pay freeze or a pay reduction, depending on the reasons for the deficit.

If the recorded deficit is due to a recession or an extraordinary situation that, at the time that the *Public Accounts of Canada* are tabled, either has occurred or is occurring, section 10(1) requires operating budget and pay freezes to take effect on the first day of the fiscal year after the end of the recession or extraordinary situation, and to remain in effect until a balanced budget is recorded in the Public Accounts.

If the recorded deficit has occurred for other reasons, section 11 requires an operating budget freeze and a pay reduction to take effect on 1 April of the following year, and to remain in effect until a balanced budget is recorded in the Public Accounts.

2.3.1.3 Key Definitions and Other Provisions (Sections 2, 7(3), 10(2), 12 and 13)

Under the Federal Balanced Budget Act, a “balanced budget” is defined as a budget in which total expenses for a fiscal year do not exceed total revenues for that year. Revenues are calculated before any amounts to be set aside for contingencies are subtracted. A “recession” is defined as a period of at least two consecutive quarters of negative growth in Canadian real gross domestic product (GDP), as reported by

Statistics Canada. Finally, an "extraordinary situation" is defined as a situation that results in an aggregate direct federal cost exceeding $3 billion that is caused by:

- a natural disaster or other unanticipated emergency of national significance; or
- an act of force or violence, war or threat of war, or other armed conflict.

Under sections 7(3) and 10(2), for the purposes of the Act, a recession ends in the fiscal year in which Statistics Canada reports a second consecutive quarter of positive Canadian real GDP growth. In the case of a recorded deficit, section 10(2) specifies that an extraordinary situation ends in the fiscal year in which the *Public Accounts of Canada* recording a deficit due to that situation are tabled; the Act does not specify when an extraordinary situation ends in the case of a projected deficit.

Under section 12, if a budget projects a deficit due to a recession that, at the time that the budget is tabled, either has occurred, is occurring or is forecast, any measures required by the Act that are already in effect cease to be in effect, and those that were to take effect because of another projected or recorded deficit do not take effect; they are replaced by the measures required by the Act in relation to the most recent budget that projects a deficit due to a recession.

Finally, the Schedule to the Federal Balanced Budget Act lists the persons who are considered to be deputy ministers for the purposes of the Act. Under section 13, the Schedule may be amended by order of the Governor in Council.

2.3.2 Division 2: Enactment of the Prevention of Terrorist Travel Act (Clauses 42 and 43)

Bill C-59 enacts the new Prevention of Terrorist Travel Act. Currently, the *Canadian Passport Order*[12] stipulates that the Minister of Citizenship and Immigration can revoke or refuse to issue a passport if he or she believes such action is necessary for the national security of Canada or another country.[13] The Minister may also authorize the Minister of Employment and Social Development to collect and cancel any valid or expired passports.[14] The Minister's decision – which can be based on confidential information deemed to be "sensitive"[15] – is considered final.[16] However, an application for judicial review of the decision can be made to the Federal Court of Canada.[17]

The new legislation enacted under clause 42 of Bill C-59 creates a right of appeal concerning the cancellation of a passport on the grounds that cancellation is necessary to prevent the commission of a terrorism offence or for the national security of Canada or a foreign state.

In addition, should a decision to cancel, revoke or not issue a passport be made on these grounds, clauses 42 and 43 establish a safety mechanism – applicable to both the judicial review and the appeal of a ministerial decision – to protect against the disclosure of information that could be injurious to national security or endanger the safety of any person. Consequently, in certain instances, the Chief Justice of the Federal Court (or any judge designated by the Chief Justice to rule on an appeal or conduct a judicial review) is to take the following action:

- hear evidence or other information in the absence of the public and of the individual concerned (the appellant) and his or her counsel);

- ensure the individual is provided with a summary of the evidence (excluding any sensitive information); and
- base his or her decision on all the information provided (even if a summary of this information has not been provided to the individual) and ignore any information withdrawn by the minister.

2.3.3 Division 3: Intellectual Property

Division 3 of Part 3 amends the *Industrial Design Act*, the *Patent Act* and the *Trade-marks Act*. The amendments provide greater flexibility in administering these Acts by extending the time limits applicable in unforeseen circumstances and providing the government with the authority to make regulations with respect to the correction of obvious errors.

Division 3, in clauses 54 and 66, amends the *Patent Act* and the *Trade-marks Act* to ensure that communications between patent or trade-mark agents and their clients are privileged in the same way as a communication that is subject to solicitor–client privilege or, in civil law, to professional secrecy of advocates and notaries.

Division 3 also contains coordinating amendments and coming-into-force provisions related to the coming into force of certain provisions of previous budget implementation bills. The *Economic Action Plan 2014 Act, No. 1* amended the *Trade-marks Act*, while the *Economic Action Plan 2014 Act, No. 2* amended the *Industrial Design Act* and the *Patent Act*, although not all of their provisions have come into force yet. The coordinating amendments and coming-into-force provisions of Division 3 provide that they will be the provisions applicable to the coming into force of the provisions of these various bills.

2.3.4 Division 4: Compassionate Care Leave and Benefits

Clause 73 amends section 206.3 of the *Canada Labour Code* to extend the duration of compassionate care leave from 8 weeks to 28 weeks. If two or more employees are caring for the same family member, they share the 28 weeks. Compassionate care leave allows an employee a leave of absence from employment to support a family member with a significant risk of death within 26 weeks.

Clauses 74 and 78 extend the period for which benefits for compassionate care leave are available under the EIA from 6 to 26 weeks. These amendments target self-employed persons as well as claimants who are not self-employed. The maximum of 26 weeks applies even if more than one claim is made for the same reason in respect of the same family member. The maximum benefit period that can be shared between claimants for the same family member is increased from 6 to 26 weeks.

Division 4 extends both the period during which employees are entitled to the leave of absence and the period during which benefits are payable from 26 to 52 weeks after either 1) the issuance of the medical certificate; or 2) the week when leave was taken if it was before the issuance of the certificate. This allows for the possibility of taking leave and receiving benefits after the 26-week period of significant risk of

death mentioned in the medical certificate. Division 4 clarifies that an additional medical certificate is not necessary in such cases (clauses 73(3), 75(2) and 77(2)).

Clause 76 adds section 50(8.1) to the EIA, which allows the Canada Employment Insurance Commission to require an additional medical certificate to prove that conditions for compassionate care leave benefits are met.

Clause 79 contains transitional provisions. A claimant or a self-employed person will be entitled to the new compassionate care benefits if the relevant period has begun before, but not ended on, 3 January 2016 – the date Division 4 comes into force.

2.3.5 Division 5: Amendments to the *Copyright Act*

Division 5 of Part 3 amends section 23 of the *Copyright Act* to extend the term of copyright protection for a published sound recording or a performer's performance fixed in a published sound recording from 50 years to 70 years after publication. Additionally, clause 81 of the bill limits this protection to 100 years after the first fixation of the sound recording or the first fixation of the performer's performance in a sound recording, if that date comes earlier.

Clause 82 states that this extension of the term of copyright protection in a published sound recording or performer's performance fixed in a published sound recording does not have the effect of reviving a copyright that had expired on the coming into force of clause 81.

2.3.6 Division 6: Amendments to the *Export Development Act*

Clauses 83 and 84 amend the *Export Development Act* to expand the mandate of Export Development Canada (EDC) to enable it to provide international development support. In particular, pursuant to clause 84(2)(*c*), EDC can directly or indirectly provide development financing and other forms of development support that are consistent with Canada's international development priorities.

Clause 85 adds section 26 to the same Act to require the Minister for International Trade to consult the Minister for International Development on matters relating to EDC's role in directly or indirectly providing development financing and other forms of development support.

According to clause 86, these changes will come into force on a day to be fixed by order of the Governor in Council.

2.3.7 Division 7: Amendments to the *Canada Labour Code* Related to Interns

Division 7 of Part 3 includes a series of amendments to the *Canada Labour Code* that extend certain work-related protections under that Code to interns in most federal workplaces. (Although Bill C-59 does not use the term "intern" or "internship," the terms were used in the 2015 Budget Speech and are used for convenience here.)

Clause 87 extends protections under Part II of the *Canada Labour Code* (Occupational Health and Safety) to any person who is "not an employee but who performs for an employer … activities whose primary purpose is to enable the person to acquire knowledge or experience."

Clause 89 extends protections under Part III of the *Canada Labour Code* (Standard Hours, Wages, Vacations and Holidays) to individuals who meet the clause 87 description, unless their internship fulfils the requirements of a prescribed educational program, or if their internship meets a set of six criteria. Internships are excluded from the operation of Part III of the Code if 1) the activities involved are not performed for more than four consecutive months or the equivalent in a one-year period; 2) the benefits of the activities accrue mostly to the individual; 3) the employer supervises the activities; 4) the activities are neither a prerequisite for, nor a promise of, future employment; 5) the individual does not replace any employee; and 6) the individual is advised in writing that they will not be remunerated. Employers must keep records on the work performed in these unpaid internships. The existing offence under the *Canada Labour Code* of failing to keep required records is extended to records kept with respect to interns.

Clause 92 enables the Governor in Council to make regulations dealing with the specific requirements for internships, including defining terms, setting out information to be provided and specifying circumstances under which the internships may be performed. For example, the Governor in Council may, by regulation, prohibit individuals from engaging in consecutive unpaid internships with a single employer within a defined period.

2.3.8 DIVISION 8: AMENDMENTS TO THE *MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT*

The *Members of Parliament Retiring Allowances Act* (MPRAA)[18] governs pension arrangements for parliamentarians, specifically members of the Senate and the House of Commons, and the prime minister. The plan established under the MPRAA provides an employment earnings–related lifetime retirement pension to eligible plan members. Its current service costs are borne jointly by parliamentarians and the government of Canada, such that parliamentarians contribute in accordance with rates set by legislation and the government covers the balance.

An amendment to the MPRAA made in November 2012 provided that, starting on 1 January 2016, the contribution rates will be set by the Chief Actuary, who must ensure that by, 1 January 2017, the contributions made by parliamentarians to their pension plan will equal 50% of its current service cost.[19]

Clause 94 of Bill C-59 amends the MPRAA to provide that when the Chief Actuary establishes contribution rates for the purpose of any provision in the MPRAA, these must be the same for senators and members of the House of Commons.

2.3.9 Division 9: Amendments to the *National Energy Board Act*

Clause 97 amends section 119.01 of the *National Energy Board Act*[20] to extend the maximum duration of natural gas export licences that may be issued by the National Energy Board to up to 40 years. Previously, all oil and gas import and export licences were limited to a maximum term of 25 years.

2.3.10 Division 10: Creation of the Parliamentary Protective Service

Clause 98 of Bill C-59 amends the *Parliament of Canada Act*[21] to establish the Parliamentary Protective Service (the Service) (new section 79.52), which will be responsible for "all matters with respect to physical security throughout the parliamentary precinct and Parliament Hill" (new section 79.53(1)). The parliamentary precinct is defined to mean the premises, designated in writing by either the Speaker of the Senate or the Speaker of the House of Commons, that are used by the Senate, the House of Commons, the Library of Parliament, parliamentary committees, members of the Senate or the House of Commons who are carrying out their parliamentary functions, the Senate Ethics Officer or the Conflict of Interest and Ethics Commissioner and the Service. The definition specifically excludes constituency offices of members of parliament (new section 79.51).

Security services are to be provided by the Royal Canadian Mounted Police (RCMP) pursuant to an arrangement between the speakers of the Senate and the House of Commons, as well as the Minister of Public Safety and Emergency Preparedness (new section 79.55).

The Speaker of the Senate and the Speaker of the House of Commons, as the custodians of the powers, privileges, rights and immunities of their respective Houses and of the members of those Houses, are responsible for the Service (new section 79.52(2)).

The Director of the Service has the control and management of the Service and is to lead the integrated security operations throughout the parliamentary precinct and Parliament Hill under the joint general policy direction of the speakers of the Senate and the House of Commons (new section 79.54).

The arrangement for the RCMP to provide security services is to include a process for selecting the Director as well as an interim Director of the Service (when the Director is absent or incapacitated, or if the office of Director is vacant), both of whom must be members of the RCMP (new section 79.56).

New section 79.53(2) sets out the legal capacity of the Service and new section 79.53(3) provides the Service's power to act on all of its administrative and financial matters.

The speakers of the Senate and the House of Commons must provide an estimate of the sums required to pay the expenditures of the Service before each fiscal year to the President of the Treasury Board, who must in turn lay it before the House of Commons with the estimates of the government for the fiscal year (new section 79.57).

Division 10 creates many transitional provisions that provide for continuity of employment for employees of the Senate Protective Service and the House of Commons Protective Service as the Parliamentary Protective Service is established. For example, the provisions continue the employment status, collective agreements, arbitral awards and collective bargaining rights of these employees under the Service. They also impose obligations on the Public Service Labour Relations and Employment Board with respect to these employees.

Division 10 also makes consequential amendments to 12 federal statutes of broad application, such as the *Federal Courts Act*,[22] the *Official Languages Act*[23] and several Acts dealing with the compensation and benefits of federal employees, to include references to the Service.

2.3.11 Division 11: Amendments to the *Employment Insurance Act*

Clause 153 of Bill C-59 amends the definition of "insured participant" in section 58 of the EIA by extending the eligibility criteria for employment benefits assistance. In particular, section 58(*a*) increases, from 36 to 60 months, the period during which a claimant can request assistance after his or her benefit period has ended. Section 58(*b*) replaces specific eligibility criteria linked to the payment of special benefits and parental leave with a set of criteria that is based on number of hours of insurable employment accumulated during the qualifying period.

Further, clause 154 of Bill C-59 amends section 63 of the EIA to allow for the continued application of the definition of "insured participant" – as it reads before the section comes into force – in relation to agreements entered into with a government under section 63. Clause 155 amends section 63 of the EIA to allow for the continued payment of contributions in relation to such agreements entered into before the coming into force of section 58.

Clause 158 of Bill C-59 provides a transitional measure, which establishes that the criteria outlined under section 58(*b*) of the EIA apply only in relation to claims made on or after the day on which this section comes into force.

Finally, clause 159 makes consequential amendments to section 107(3) of the *Modernization of Benefits and Obligations Act* to include situations in which a claimant cares for one or more children and meets a specific set of criteria. Clause 160 repeals section 10 of the *Budget Implementation Act, 2000* regarding conditional amendments.

2.3.12 Division 12: Amendments to the *Canada Small Business Financing Act*

The *Canada Small Business Financing Act* increases the availability of financing for the establishment, expansion, modernization and improvement of small businesses carried on in Canada.

Clause 161 modifies the definition of a small business in sections 2(*a*) and (*b*) of the *Canada Small Business Financing Act* in order to increase the maximum amount of estimated gross annual revenue of a small business from $5 million to $10 million.

Clause 162 amends the eligibility criteria for borrowers in section 4(2)(*c*) of the *Canada Small Business Financing Act* and adds new section 4(2)(*d*) to the same Act to increase from $500,000 to $1,000,000 the maximum outstanding loan amount that a borrower may have in order to be eligible for a new loan, as of the date on which the bill comes into force.

Clause 163 amends section 7(1)(*b*) and adds new section 7(1)(*c*) to increase from $500,000 to $1,000,000 the maximum loan amount for which the Minister of Industry is liable to make any payment to a lender with regard to an outstanding loan to a borrower, as of the date on which the bill comes into force.

2.3.13 Division 13: Amendments to the *Personal Information Protection and Electronic Documents Act*

Division 13 of Part 3 of Bill C-59, consisting of clauses 164 to 166, amends the *Personal Information Protection and Electronic Documents Act*[24] (PIPEDA), the federal private-sector privacy law. PIPEDA applies primarily to the collection, use or disclosure of personal information by federal works, undertakings and businesses. It also applies to the commercial activities of private-sector organizations, regulating all such activity at both the federal and provincial levels, unless a province has passed its own legislation requiring the private sector to provide comparable protection (referred to as “substantially similar legislation”). To date, Quebec, British Columbia, Alberta and, in matters relating to health care, Ontario, New Brunswick and Newfoundland and Labrador have passed legislation deemed substantially similar to PIPEDA.[25]

Clause 164 of Bill C-59 expands the application of PIPEDA by amending section 4 of the Act (the application section) to create a new Schedule 4 of the Act. Organizations added to the Schedule will then be subject to PIPEDA in respect of the personal information specified therein. Additions to Schedule 4 can be made by order of the Governor in Council (clause 165 amending section 26(2) of PIPEDA). Finally, Bill C-59 adds one organization to Schedule 4 (clause 166 and Schedule 2 to Bill C-59): the World Anti-Doping Agency (WADA), with respect to “personal information that the organization collects, uses or discloses in the course of its interprovincial or international activities.” Thus, the amendments to PIPEDA expand the potential application of the law beyond federal works, undertakings and businesses and the commercial activities of private-sector organizations to any organization that is added to Schedule 4 with respect to the personal information set out in that Schedule.

WADA was established in 1999 as an international independent agency funded equally by world governments and the sport movement to facilitate and monitor government and sport anti-doping efforts in compliance with the *World Anti-Doping Code*.[26] Its work has attracted the attention of the European Commission’s Article 29 Working Party, which was established under the 1995 European Union (EU) Data Protection Directive (the Directive).[27] The Working Party issues advisory opinions on the

application of the Directive and the level of privacy protection provided by EU members as well as third countries (Article 25 of the Directive extends its reach beyond the EU by prohibiting member countries and the businesses within them from transferring personal information to any non-member country whose laws do not sufficiently guarantee the protection of that information).

In April 2009, the Working Party issued an opinion on the compatibility of WADA's *International Standard for the Protection of Privacy and Personal Information*[28] with the Directive.[29] In its opinion it raised the question about the application of PIPEDA (or the Quebec privacy legislation, since WADA is located in Montréal) to WADA and to its main database, given WADA's non-commercial nature.[30] In June 2014, the Working Party adopted *Opinion 7/2014 on the protection of personal data in Quebec*, to determine whether Quebec's privacy legislation (the *Civil Code of Quebec* and the *Act Respecting the Protection of Personal Information in the Private Sector*) should be considered "adequate" under the Directive.[31] It recommended that the European Commission not adopt a decision on the adequacy of the Quebec legislation until various improvements are made to Quebec's laws, including clarifying the territorial application of Quebec's private-sector privacy law. The addition of a new Schedule to PIPEDA that specifies that WADA is now subject to the Act may be a response to the questions raised by the Article 29 Working Party.

2.3.14 Division 14: Amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*

Clause 167 amends section 55(3) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* to allow the Financial Transactions and Reports Analysis Centre of Canada to disclose designated information to provincial and territorial securities regulators if it has reasonable grounds to suspect that the information would be relevant to investigating or prosecuting money laundering or terrorist financing activities, as well as offences set out in securities legislation.

2.3.15 Division 15: Amendments to the *Immigration and Refugee Protection Act*

Division 15 amends the *Immigration and Refugee Protection Act* (IRPA), by broadening the scope of the current authority to collect biometric information from people applying to come or stay in Canada temporarily and by adding a new section that authorizes the ministers of Citizenship and Immigration and of Public Safety and Emergency Preparedness to administer the Act using electronic means.

Through clauses 168, 170 and 171(2) of Bill C-59, the government is authorized to collect biometric information from any individual who makes a "claim, application or request" under IRPA. Further, these amendments specify that a person must follow procedures set out in the regulations, "including procedures for the collection of further biometric information for verification purposes after a person's claim, application or request is allowed or accepted."

Clause 175 authorizes the use of electronic means for the administration of IRPA and consolidates previous sections of IRPA dealing with the use of electronic means.

As a result, through Bill C-59 those sections of IRPA referring to electronic means are clarified (clauses 169, 172 and 173) or repealed (clauses 171(1) and (3)).

2.3.16 DIVISION 16: AMENDMENTS TO THE *FIRST NATIONS FISCAL MANAGEMENT ACT*

Division 16 of Part 3 makes a series of technical amendments to the *First Nations Fiscal Management Act* that clarify the responsibilities of First Nations and the procedures governing the financial institutions established under the Act. These amendments reflect the recommendations made under the 2012 *Legislative Review of the First Nations Fiscal and Statistical Management Act*.[32]

Clause 177 expands the definition of "local revenues" to include payments in lieu of tax, such as fees, licenses, permits and grants. It also enables the Minister of Aboriginal Affairs and Northern Development, rather than the Governor in Council, to amend the schedule of the Act and add or delete participating First Nations.

Clauses 179 to 188 amend the powers and law-making authorities of participating First Nations. These amendments include the reduction of minimum notice requirements regarding taxation laws, as well as the clarification of standards and processes regarding the compliance of financial administration laws, the repeal of financial administration laws, and the financial reporting requirements for local revenues. These amendments also enable participating First Nations to expend local revenues, in certain circumstances, before their revenue expenditure laws are in force.

Clauses 189 and 190 enable the First Nations Tax Commission to establish standards and procedures relating to notice requirements and time frames for property taxation laws. These amendments also enable the Chief Commissioner to delegate certain powers to a panel and designate members to that panel.

Clauses 191 and 192 clarify the review processes undertaken by the First Nations Financial Management Board with respect to the financial certification, and the circumstances under which certification may be revoked. In addition, the amendments clarify the Board's authority regarding the management of local revenues where First Nations are placed under third-party management.

Clauses 193 to 201 amend the *First Nations Fiscal Management Act* to clarify the First Nations Finance Authority's procedures relating to membership and insolvency of First Nations members, as well as the restrictions placed on the provision of loans. In addition, these amendments also provide technical changes to the debt reserve fund and credit enhancement fund, which are used to repay holders of securities issued by the Authority in the event of a default.

Clauses 203 and 204 amend the transitional provisions relating to the continuation of existing by-laws made under section 83 of the *Indian Act*. In particular, the financial administration by-laws of new First Nations scheduled to the *First Nations Fiscal Management Act* will remain in force until they are repealed or a new law is made that is consistent the Board's financial administration laws.

2.3.17 DIVISION 17: AMENDMENTS TO THE *CANADIAN FORCES MEMBERS AND VETERANS RE-ESTABLISHMENT AND COMPENSATION ACT*

Division 17 makes five key changes to the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, better known as the New Veterans Charter (NVC).[33]

Clause 207 describes the purpose of this Act, which is to "recognize and fulfil the obligation of the people and Government of Canada" to members and veterans.

Clause 218 adds sections 75.1 and 75.2 to the NVC and allows the Minister of Veterans Affairs to deal with members who are still serving in order to facilitate their transition to civilian life. The Minister will now be able to provide information and guidance to military members regarding the services and compensation for which they may be eligible; consider applications for services, assistance or compensation; and make decisions and conduct the required assessments, even before the members are released.

Clause 210 creates new sections 40.1 to 40.6 in the NVC and establishes the retirement income security benefit. This will ensure that a significant portion of the financial support provided to disabled veterans or surviving spouses continues once the veteran attains the age of 65 or would have if he or she had not died. Currently, the earnings loss benefit and Service Income Security Insurance Plan long-term disability benefits are stopped once veterans attain the age of 65.

Clause 214 adds sections 44.1 to 44.3 in the NVC to create the critical injury benefit, which will be provided to members or veterans who sustained one or more severe and traumatic injuries, or developed an acute disease, and that the injury or disease was service-related, resulted from a sudden and single incident that occurred after 31 March 2006, and immediately caused severe impairment and severe interference in their quality of life. Clause 225(1) provides that the critical injury benefit is a single lump-sum payment of $70,000, which will appear in Schedule 2 of the NVC and will be exempt from income tax under clause 3.

Clause 217 creates new sections 65.1 and 65.4 in the NVC, establishing the new family caregiver relief benefit to allow informal caregivers caring for disabled veterans to take time off and have someone else provide the care they usually provide. The benefit, an annual grant of $7,238, is set out in clause 225(2) and will appear in Schedule 2 of the NVC. It will also be exempt from income tax under clause 3.

The other clauses in Division 17 pertain to the mechanics and internal consistency of the bill, as well as to the regulatory authorities provided to the Minister of Veterans Affairs with respect to the above clauses. The bill also contains consequential amendments to the *Veterans Review and Appeal Board Act* so it can include the new critical injury benefit. Lastly, clause 229 provides that Division 17 will come into force or will be deemed to have come into force on 1 July 2015.

2.3.18 DIVISION 18: AMENDMENTS TO THE *ENDING THE LONG-GUN REGISTRY ACT*

Clauses 230 and 231 of Bill C-59 amend the *Ending the Long-gun Registry Act* (ELRA).[34] This Act, which was assented to and came into force in April 2012, amended the *Criminal Code*[35] and the *Firearms Act*[36] to remove the requirement to register firearms that are neither prohibited nor restricted. The ELRA also mandated the destruction of existing records relating to the registration of such firearms. In March 2015, the Supreme Court of Canada ruled in a 5–4 decision[37] that section 29 of the ELRA, which requires the destruction of all records contained in the registries related to the registration of long guns, is a lawful exercise of Parliament's criminal law legislative power under the Constitution, and that Quebec (which has signalled its intent to create its own registry[38]) had no legal right to the data.

Clause 230 of Bill C-59 replaces transitional section 29(3) of the ELRA with new sections 29(3) to (7). Originally, section 29(3) had specified that sections 12 and 13 of the *Library and Archives of Canada Act*[39] (requiring the Archivist's consent before destroying government records), and sections 6(1) and (3) of the *Privacy Act*[40] (requiring government institutions to retain records for at least two years after they have been used), do not apply with respect to the destruction of long-gun registry records.

New section 29(3) reiterates the exception for sections 12 and 13 of the *Library and Archives of Canada Act*.

New section 29(4) specifies that the *Access to Information Act*[41] does not apply to the destruction of all records contained in the registries related to the registration of long guns. The application of this section is retroactive to 25 October 2011, when the ELRA was introduced as Bill C-19 and received first reading.

New section 29(5) specifies that the *Privacy Act* does not apply to the destruction of these records, specifying a number of sections in addition to sections 6(1) and (3) of the original section 29(3) of the ELRA.[42] The application of this section is retroactive to 25 October 2011, when the ELRA was introduced as Bill C-19 and received first reading.

New section 29(6) specifies that any request, complaint, investigation, application, judicial review, appeal or other proceeding under the *Access to Information Act* or the *Privacy Act* with respect to anything that would fall under new sections 29(4) and (5) that came into existence on or after 25 October 2011 is to be dealt with according to the new provisions.

New section 29(7) specifies that the requirements for destruction of the registry records and copies referred to in sections 29(1) and (2) take precedence over any other federal Acts, and that the destruction is to take place notwithstanding any document retention requirements found in any other federal Act.

Clause 231 of Bill C-59 replaces section 30 of the ELRA with a new section 30 specifying that no administrative, civil or criminal liability is to lie against the Crown for the destruction of the registry records and any copies thereof (section 30(1)).

New section 30(2) specifies that no administrative, civil or criminal liability is to lie against the Crown for any act or omission with respect to compliance with the *Access to Information Act* or the *Privacy Act* that might occur between the time Bill C-19 was introduced on 25 October 2011 and the day on which this section comes into force.

New section 30(3) specifies that the terms "government institution" and "head" are defined the same way as in the *Access to Information Act* and the *Privacy Act*.

Clauses 230 and 231 of Bill C-59 have the effect, among others, of blocking access to information regarding how the long-gun registry was destroyed. A spokesperson in the office of the Public Safety Minister was reported to have confirmed that the clauses are designed to prevent further release of a redacted copy of the registry itself through an access to information request.[43]

2.3.19 Division 19: Privilege for Supervisory Information Related to Federally Regulated Financial Institutions

Clauses 232 to 238 add section 504 to the *Trust and Loan Companies Act*, sections 608, 638 and 956.1 to the *Bank Act*, sections 672.2 and 999.1 to the *Insurance Companies Act*, and section 435.2 to the *Cooperative Credit Associations Act* to provide that prescribed supervisory information is considered privileged for the purposes of a civil proceeding. During a civil proceeding, this information is not to be used as evidence and no person is allowed to give oral testimony or produce documents in relation to it.

However, the Minister of Finance, the Superintendent of Financial Institutions, the Attorney General of Canada and federally regulated financial institutions have exemptions from this privilege for certain civil proceedings; as a consequence, they can use that information as evidence in these proceedings. These proceedings are those commenced by the Minister, the Superintendent, the Attorney General or the federally regulated financial institution in relation to the administration or enforcement of the particular Act in question or the *Winding-Up and Restructuring Act*.

Furthermore, a court, tribunal or other body can order the Minister, the Superintendent or a federally regulated financial institution to provide oral testimony or documents relating to prescribed supervisory information for civil proceedings that address the administration or enforcement of a federally regulated financial institution's governing legislation in situations where those proceedings were commenced by the Minister, the Superintendent or the Attorney General or the federally regulated financial institution.

According to clauses 239 to 245, clauses 232 to 238 are effective retroactively, and apply in any civil proceedings in which a final decision has not been made before the day on which these clauses come into force. Clauses 246 to 252 indicate that certain regulations of the *Trust and Loan Companies Act*, the *Bank Act*, the *Insurance Companies Act*, and the *Cooperative Credit Associations Act* apply to clauses 232 to 238 until new regulations for those clauses are in force.

2.3.20 Division 20: Sick Leave and Disability Programs

Division 20 of Part 3 would authorize the Treasury Board of Canada to establish or modify the sick leave and disability programs for employees of the core public administration notwithstanding the provisions of the *Public Service Labour Relations Act* (PSLRA).

2.3.20.1 Sick Leave

Clause 254 authorizes the Treasury Board to establish terms and conditions of employment related to sick leave, despite the PSLRA. Such terms and conditions may include:

- the number of hours of sick leave in a year;
- the number of hours an employee can carry over from one year to the next; and
- the disposition of hours that are unused immediately before the effective date fixed by order of the Treasury Board.

Terms of employment established or modified under clause 254 are deemed to be incorporated into any collective agreement or arbitral award that is in force, despite any provision to the contrary in the agreement or award. They also replace any inconsistent terms and conditions that are continued in force after a notice to bargain collectively is given (clauses 256 and 257). Any provisions in an arbitral award that are made in the application period (the four-year period after the date on which the short-term disability program becomes effective) or are retroactive to this period and that are inconsistent with the sick leave terms and conditions of clause 254 are of no force and effect (clauses 258 and 259).

2.3.20.2 Short-Term and Long-Term Disability Programs

Clause 260 authorizes the Treasury Board to establish and modify, despite the PSLRA, a short-term disability program for employees in bargaining units and for any other persons as designated by the Treasury Board. The Treasury Board may also specify the date on which the program becomes effective (clause 266). In addition, clause 265 requires the Treasury Board to establish a committee, consisting of employer and employee representatives, to make joint recommendations regarding modifications to the program. Every provision of a collective agreement entered into on or after the program's launch that is inconsistent with the program is deemed to be of no effect during the application period (clause 262(2)).

Clause 267 authorizes the Treasury Board to modify, despite the PSLRA, the existing public service long-term disability programs in relation to the period during which employees are not entitled to receive benefits. Provisions in collective agreements that are inconsistent with any modifications to the long-term disability program are deemed to be of no force (clause 268(2)).

Although it is subject to other provisions under this Division, the right to bargain collectively under the PSLRA is continued. In addition, the right to strike under that Act is not affected, and bargaining agents for employees are not precluded from amending their collective agreements as long as these are not contrary to Division 20 (clauses 270 to 272).

NOTES

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1. Department of Finance Canada, *Explanatory Notes Relating to the Income Tax Act and Related Legislation*, May 2015.
2. A dividend gross-up factor is a percentage established in the *Income Tax Act* (ITA) to increase the amount that individuals must include as taxable income from dividends received from taxable Canadian corporations. Regarding ineligible dividends, this percentage is 17% for 2016 and is reflected in Article 82(1)(*b*)(i) of the ITA.
3. Through a flow-through share, an investor enters into an agreement with a corporation to purchase shares; the corporation then uses the proceeds from the share offering to incur eligible exploration expenses. These expenses are then “renounced” or transferred to the investor. “Renouncing” in this context means that the corporation transfers to the investor the right to apply eligible exploration expenses against income, which reduces his or her tax payable in a given year.

4. Department of Finance Canada, *The Road to Balance: Creating Jobs and Opportunities*, 11 February 2014, p. 137.
5. Class 43 generally applies to property acquired to be used in Canada primarily for the manufacturing or processing of goods for sale or lease, subject to such property being included in Class 29.
6. In certain cases, the parent with the higher income may claim the deduction; for example, if the parent with the lower income is undertaking post-secondary education at a designated educational institution, then the parent with the higher income may claim the deduction.
7. For the 2014 taxation year, the tax credit reduces the amount of tax payable by the parent by $338 for each eligible child. When the child resides with both parents, the credit can be claimed by either parent.
8. The family caregiver amount is an additional amount that may be claimed by a taxpayer for a spouse or common-law partner, eligible dependent or child with a physical or mental impairment. For the 2014 taxation year, the amount is $2,058.
9. Currently, the Universal Child Care Benefit provides a maximum benefit of $1,200 per year to a parent for each child who is under the age of 6. Section 56(6) of the *Income Tax Act* [ITA] requires the parent to include the amount in his or her taxable income.
10. An eligible parent is described in the definition of “eligible individual” in section 122.6 of the ITA. The term includes an individual who resides in the same household as the eligible dependent and is the parent who is primarily responsible for the care and upbringing of the dependent.
11. The special allowance under the *Children’s Special Allowances Act* is based on the Canada Child Tax Benefit. It is a tax-free monthly payment to agencies and foster parents who are licensed by a provincial or federal government to provide for the care and education of children under the age of 18 who reside in Canada and are not in the care of their parents.
12. *Canadian Passport Order*, SI/81-86.
13. Ibid., section 10.1.
14. Ibid., section 12(1)(*g*).
15. This term encompasses the expressions “potentially injurious information” and “sensitive information,” as defined in section 38 of the *Canada Evidence Act*, R.S.C. 1985, c. C-5.
16. Passport Canada, *Investigation and decision making process in passport refusal and revocation files – Category three*.
17. *Federal Courts Act*, R.S.C. 1985, c. F-7, s. 18.1.
18. *Members of Parliament Retiring Allowances Act*, R.S.C. 1985, c. M-5.
19. The current service cost is based on a pension plan’s *going concern valuation* and must be paid into the pension fund each year.
20. *National Energy Board Act*, R.S.C. 1985, c. N-7.
21. *Parliament of Canada Act*, R.S.C. 1985, c. P-1.
22. *Federal Courts Act*, R.S.C. 1985, c. F-7.
23. *Official Languages Act*, R.S.C. 1985, c. 31 (4th Supp.).
24. *Personal Information Protection and Electronic Documents Act* [PIPEDA], S.C. 2000, c. 5.
25. Office of the Privacy Commissioner of Canada, “Privacy Legislation in Canada,” *Fact Sheets*, updated in May 2014.

26. World Anti-Doping Agency, *What We Do*. The *World Anti-Doping Code* was created in 2004. It consolidates anti-doping policies, rules and regulations worldwide.

27. European Parliament, Council of the European Union, *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data* (online: EUR-Lex, Access to European Union Law).

28. World Anti-Doping Agency, *International Standard for the Protection of Privacy and Personal Information (ISPPPI)*. The 2009 standard was approved by WADA's Executive Committee in 2008 and was updated in 2014.

29. European Commission, Article 29 Data Protection Working Party, *Second opinion 4/2009 on the World Anti-Doping Agency (WADA) International Standard for the Protection of Privacy and Personal Information, on related provisions of the WADA Code and on other privacy issues in the context of the fight against doping in sport by WADA and (national) anti-doping organizations*, adopted on 6 April 2009. On 15 April 2009 WADA issued the following response: *WADA Statement about the Opinion of European Working Party on Data Protection*.

30. The European Commission declared PIPEDA to be "adequate" according to the Directive in 2001.

31. European Commission, Article 29 Data Protection Working Party, *Opinion 7/2014 on the protection of personal data in Quebec*, adopted on 4 June 2014.

32. Aboriginal Affairs and Northern Development Canada, *A Report to Parliament on the Legislative Review of the* First Nations Fiscal and Statistical Management Act, March 2012.

33. Division 17 is identical to the provisions of Bill C-58: An Act to amend the Canadian Forces Members and Veterans Re-establishment and Compensation Act and to make consequential amendments to another Act. For a more detailed analysis of Division 17, see Isabelle Lafontaine-Émond and Jean-Rodrigue Paré, *Legislative Summary of Bill C-58: An Act to amend the Canadian Forces Members and Veterans Re-establishment and Compensation Act and to make consequential amendments to another Act*, Publication no. 41-2-C58-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 29 April 2015.

34. *An Act to amend the Criminal Code and the Firearms Act*, S.C. 2012, c. 6.

35. *Criminal Code*, R.S.C. 1985, c. C-46.

36. *Firearms Act*, S.C. 1995, c. 39.

37. *Quebec (Attorney General) v. Canada (Attorney General)*, 2015 SCC 14.

38. See Louise Elliott and Tracey Lindeman, "Quebec vows to create its own long-gun registry despite Supreme Court ruling," *CBC News*, 27 March 2015.

39. *Library and Archives of Canada Act*, S.C. 2004, c. 11.

40. *Privacy Act*, R.S.C. 1985, c. P-21.

41. *Access to Information Act*, R.S.C. 1985, c. A-1. In particular, new section 29(4) specifies that the following sections of the *Access to Information Act* do not apply: sections 4 (right of access); 30 (complaints); 36 (powers of the Information Commissioner in carrying out investigations); 37 (findings and recommendations of the Information Commissioner); 41, 42 and 46 (review by the Federal Court); 67 (offence of obstruction); and 67.1 (obstructing a right of access under the Act).

42. In particular, new section 29(5) specifies that the following sections of the *Privacy Act*, in addition to sections 6(1) and (3), do not apply: sections 12 (right of access to information about oneself); 29 (receipt and investigation of complaints); 34 (powers of the Privacy Commissioner in carrying out investigations); 35 (findings and recommendations of the Privacy Commissioner); 41, 42 and 45 (review by the Federal Court when access is refused); and 68 (offence of obstruction).

43. Patrick Cain, "Bill casts veil of secrecy over long gun registry's destruction," *Global News*, 12 May 2015.