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LEGISLATIVE SUMMARY



Bill C-57: An Act to amend the Federal Sustainable Development Act

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

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(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL C-57: AN ACT TO AMEND THE FEDERAL SUSTAINABLE DEVELOPMENT ACT

1 BACKGROUND

Bill C-57, An Act to amend the Federal Sustainable Development Act,¹ was introduced in the House of Commons on 19 June 2017 by the Honourable Catherine McKenna, Minister of Environment and Climate Change. It amends the *Federal Sustainable Development Act* to broaden its scope, to make the process for developing the federal sustainable development strategy more transparent, and to increase accountability to Parliament.² The bill also removes the requirement for performance-based contracts with the Government of Canada to include provisions for meeting the applicable targets contained in the federal sustainable development strategy and departmental sustainable development strategies.³

Bill C-57 was considered and amended in committee in both the House of Commons⁴ and the Senate.⁵ Among other changes, the Senate added consequential amendments to the *Auditor General Act* to ensure that act's consistency with the bill's amendments to the *Federal Sustainable Development Act*.⁶ Bill C-57 received Royal Assent on 28 February 2019.

1.1 FEDERAL SUSTAINABLE DEVELOPMENT ACT

Under the *Federal Sustainable Development Act*,⁷ the Minister of the Environment⁸ must develop and implement a federal sustainable development strategy every three years.⁹ The Sustainable Development Advisory Council, the appropriate parliamentary committees and the public have 120 days in which to review and comment on the first draft of each strategy.¹⁰ The final version of the strategy is thereafter approved by the Governor in Council and tabled in each House of Parliament.¹¹ The strategy is then deemed to be referred to the standing committee of each House that normally considers matters relating to the environment.¹²

At least once every three years following the day on which the Act came into force, the Sustainable Development Office within Environment and Climate Change Canada provides the Minister with a report on the federal government's progress in implementing the strategy. This report is then tabled in each House of Parliament.¹³

The Act also requires federal departments and six federal agencies to prepare their own sustainable development strategies. Each strategy must include the organization's objectives and plans, comply with and contribute to the federal sustainable development strategy, and be appropriate to the department's or agency's mandate.¹⁴ The Commissioner of the Environment and Sustainable Development is responsible for monitoring and reporting on the progress of departments and agencies in implementing their strategies.¹⁵

Lastly, the Act requires the federal government to include provisions in all performance-based contracts for meeting the applicable targets contained in the federal sustainable development strategy and departmental sustainable development strategies.¹⁶

The Act has been in effect since 26 June 2008. The third and most recent federal strategy, covering 2016 to 2019,¹⁷ was released on 6 October 2016 and updated in spring 2017.¹⁸

1.2 **2016 STUDY OF THE *FEDERAL SUSTAINABLE DEVELOPMENT ACT*** BY THE HOUSE OF COMMONS STANDING COMMITTEE ON ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

In spring 2016, the House of Commons Standing Committee on Environment and Sustainable Development conducted an assessment of the *Federal Sustainable Development Act*. In its report, the committee highlighted various weaknesses in the current process for developing and implementing the federal sustainable development strategy, and it prepared 13 recommendations to correct these weaknesses.¹⁹ In her response to the committee's report, the Minister of Environment and Climate Change agreed, on behalf of the federal government, to propose changes to improve the Act's effectiveness.²⁰

2 DESCRIPTION AND ANALYSIS

2.1 SCOPE OF THE *FEDERAL SUSTAINABLE DEVELOPMENT ACT* (CLAUSES 1(3) AND 10, AND THE SCHEDULE TO THE BILL)

The bill makes more federal entities subject to the Act. From now on, the Act will apply to all "designated entities" (defined as the entities named in the schedule to the Act), specifically:

- any department;
- any agency or agent of Parliament²¹ named in Schedule I.1 to the *Financial Administration Act*;²² and
- any departmental corporation²³ named in Schedule II to the *Financial Administration Act*.²⁴

2.2 PURPOSE AND PRINCIPLES (CLAUSES 2 AND 3)

The bill amends the purpose of the Act. First, the legal framework for developing and implementing a federal sustainable development strategy must now increase the transparency of federal decision-making in relation to sustainable development rather than to the environment. Second, the sustainable development strategy must now promote "coordinated action across the Government of Canada to advance sustainable development" and respect "Canada's domestic and international obligations relating to sustainable development, with a view to improving the quality of life of Canadians" (clause 2).

The bill lists a number of principles that must be considered in the development of sustainable development strategies. In addition to the principle that decisions are to integrate environmental, economic and social factors, the bill adds the following principles:

- **evolution of the concept of sustainable development;**
- intergenerational equity;
- openness and transparency;
- the involvement of Aboriginal peoples;
- collaboration; and
- a results-based approach.

2.3 MINISTER'S REPORT (CLAUSE 4)

The bill changes the process for preparing and reviewing the three-year report by the Minister of the Environment on the Government of Canada's progress in implementing the federal sustainable development strategy. According to the new provisions:

- designated federal entities are to contribute to the development of the report (new section 7(3));
- the report is to be produced at least once every three years as of 10 November 2017, and no longer as of the day on which the Act came into force (amended section 7(2)); and
- the report is deemed to be referred to the standing committee of each House of Parliament that normally considers matters relating to **sustainable development** (new section 7(5)).

2.4 SUSTAINABLE DEVELOPMENT ADVISORY COUNCIL (CLAUSE 5)

The bill sets out the role of the Sustainable Development Advisory Council, which is "to advise the Minister on any matter related to sustainable development, **including matters** referred to it by the Minister"²⁵ (new section 8(2.1)).

The bill also changes the Council's membership by increasing the number of Aboriginal representatives from three to six (amended section 8(1)), and adds a provision calling on the Minister to ensure that, to the extent possible, the Council's membership reflects the diversity of Canadian society (new section 8(1.1)).

Lastly, a new provision now allows Council members to be paid **the expenses incurred by them in connection with the business of the Council, subject to applicable Treasury Board directives** (amended section 8(3)).

2.5 DEVELOPING THE FEDERAL SUSTAINABLE DEVELOPMENT STRATEGY (CLAUSES 6 AND 7)

According to the bill, designated federal entities must now contribute to the development of the federal sustainable development strategy (new section 9(1.1)). The strategy must also contain goals and measurable targets, **as well as** a time frame, **which will be reviewed by the Commissioner of the Environment and Sustainable Development** (amended sections 9(2) and 9(4)).

2.6 SUSTAINABLE DEVELOPMENT STRATEGIES OF DESIGNATED FEDERAL ENTITIES (CLAUSE 8)

The bill amends the way in which designated federal entities develop their own sustainable development strategies and report on their progress. Under the new provisions, the Treasury Board may establish policies and directives regarding the impact **on sustainable development** of the operations of designated entities (new section 10.1). **When developing their own sustainable development strategies, these** entities must take into account **the Treasury Board's directives, and comments on the draft federal strategy by the Sustainable Development Advisory Council, by the committee of each House of Parliament that normally considers matters relating to sustainable development, and by the Commissioner of the Environment and Sustainable Development** (new sections 11(1)(a)(iv), **11(1)(a)(v)**, 12(1)(a)(iv) and **12(1)(a)(v)**).

At least once in each of the two years following the tabling of their sustainable development strategy in Parliament, the designated entities must produce a report on their progress in implementing the strategy, which will then be tabled in each House of Parliament (**amended** section 11(3) and **new section 12(2)**).

A sustainable development strategy or report of a designated entity that is tabled in a House of Parliament will now be deemed to be referred to the committee of that House that normally considers matters relating to **sustainable development** (new section 12.1).

Lastly, the bill authorizes the Governor in Council to make regulations prescribing the form and content of the sustainable development strategies of designated entities. The Governor in Council may also, by order, add or remove entities from the list of designated entities subject to the Act (new sections 12.2 and 12.3).

2.7 PROVISION REGARDING PERFORMANCE-BASED CONTRACTS (CLAUSE 8)

The bill repeals the provision of the Act requiring performance-based contracts with the Government of Canada to include provisions for meeting applicable targets contained in the federal sustainable development strategy and departmental sustainable development strategies.²⁶

2.8 ONGOING REVIEW OF THE ACT (CLAUSE 9)

The bill adds a new provision requiring a review of the Act by a parliamentary committee – **the committee of the House of Commons that normally considers matters relating to sustainable development, the corresponding committee of the Senate** or a joint committee – every five years following the coming into force of the bill. The committee will have one year to report back to Parliament (new section 13.1).

2.9 CONSEQUENTIAL AMENDMENTS TO THE *AUDITOR GENERAL ACT* (CLAUSES 10.1 TO 10.4)

The *Auditor General Act* contains provisions that enable

- the Commissioner of the Environment and Sustainable Development to make the examinations and inquiries necessary in order to monitor the extent to which federal departments have contributed to meeting the targets set out in the Federal Sustainable Development Strategy; and
- the Auditor General to receive a petition from a resident of Canada about an environmental matter in the context of sustainable development that is the responsibility of a department.

The bill amends the *Auditor General Act* to reflect the amendments to the *Federal Sustainable Development Act*, including the one making more federal entities subject to it (amended sections 2, 21.1, 22(1) and 23 of the *Auditor General Act*).

2.10 TRANSITIONAL PROVISIONS AND COMING INTO FORCE (CLAUSES 11 TO 13)

Federal entities newly designated under the bill will not be required to contribute to developing the first federal sustainable development strategy produced after the bill comes into force. In addition, they will not be required to develop their own sustainable development strategy or table a progress report on its implementation until after the publication of the first federal sustainable development strategy adopted after the bill comes into force (clauses 11 and 12).

The bill will come into force on a day to be fixed by order of the Governor in Council (clause 13).

NOTES

1. [Bill C-57, An Act to amend the Federal Sustainable Development Act](#), 1st Session, 42nd Parliament (S.C. 2019, c. 2).
2. Ibid., “Summary.”
3. Ibid., cl. 8.

4. For a list of the amendments made by the House of Commons, see House of Commons, Standing Committee on Environment and Sustainable Development [ENVI], [*Bill C-57, An Act to amend the Federal Sustainable Development Act*](#), Eleventh Report, 1st Session, 42nd Parliament, 12 December 2017.
5. For a list of the amendments made by the Senate, see Senate, Standing Committee on Energy, the Environment and Natural Resources [ENEV], [*Seventeenth Report*](#), 1st Session, 42nd Parliament, 26 November 2018. Only amendments 1 and 3 were accepted by the House of Commons, and the Senate did not insist on amendment 2.
6. [*Auditor General Act*](#), R.S.C., 1985, c. A-17.
7. [*Federal Sustainable Development Act*](#), S.C. 2008, c. 33.
8. Like the *Federal Sustainable Development Act*, Bill C-57 refers to the “Minister of the Environment” rather than the “Minister of Environment and Climate Change.”
9. *Federal Sustainable Development Act*, s. 9(1).
10. *Ibid.*, s. 9(3).
11. *Ibid.*, s. 10.
12. *Ibid.*
13. *Ibid.*, s. 7(2).
14. *Ibid.*, s. 11.
15. [*Auditor General Act*](#), s. 21.1.
16. *Federal Sustainable Development Act*, s. 12.
17. Government of Canada, [*Achieving a Sustainable Future: A Federal Sustainable Development Strategy for Canada*](#).
18. Government of Canada, [*Achieving a Sustainable Future: A Federal Sustainable Development Strategy for Canada 2016–2019 – Spring 2017 Update*](#).
19. ENVI, [*Federal Sustainability for Future Generations – A Report Following an Assessment of the Federal Sustainable Development Act*](#), Second Report, 1st Session, 42nd Parliament, June 2016.
20. Catherine McKenna, Minister of Environment and Climate Change, [*Government response to the second report of the House of Commons Standing Committee on Environment and Sustainable Development entitled Federal Sustainability for Future Generations – A Report Following an Assessment of the Federal Sustainable Development Act*](#), tabled 17 June 2016, 6 October 2016.
21. Government of Canada, [*Overview of federal organizations and interests*](#).
22. [*Financial Administration Act*](#), R.S.C. 1985, c. F-11, Schedule I.1.
23. Government of Canada, *Overview of federal organizations and interests*.
24. *Financial Administration Act*, Schedule II.
25. *Ibid.*, cl. 5(3).
26. The Senate proposed an amendment to the bill that would have restored the provision on performance-based contracts. See ENEV, *Seventeenth Report*. This amendment was rejected by the House of Commons, and the Senate did not insist on it.