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Legislative Summary

BILL C-30: AN ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN PARLIAMENT ON APRIL 19, 2021 AND OTHER MEASURES

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Legislative Summary of Bill C-30
(Preliminary version)

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LEGISLATIVE SUMMARY OF BILL C-30: AN ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN PARLIAMENT ON APRIL 19, 2021 AND OTHER MEASURES*

1 BACKGROUND

Bill C-30, An Act to implement certain provisions of the budget tabled in Parliament on April 19, 2021 and other measures (short title: Budget Implementation Act, 2021, No. 1), was introduced and read for the first time in the House of Commons on 30 April 2021.

As both the short and long titles suggest, the purpose of the bill is to implement the government's overall budget policy, introduced in the House of Commons on 19 April 2021.[1] This bill is the first budget implementation bill of 2021. Consistent with established legislative practice, a second such bill may follow in fall 2021.

The bill has four parts:

- Part 1 implements certain income tax measures, such as revising the eligibility criteria and subsidization levels under the Canada Emergency Wage Subsidy (CEWS) and the Canada Emergency Rent Subsidy (CERS) (clauses 2 to 99).
- Part 2 implements certain Goods and Services Tax/Harmonized Sales Tax (GST/HST) measures (clauses 100 to 116).
- Part 3 implements certain excise measures on tobacco products (clauses 117 to 125).
- Part 4 implements a range of measures and is subdivided into 37 divisions. It enacts the Retail Payment Activities Act (RPAA) (Division 8) and amends several Acts including the *Federal-Provincial Fiscal Arrangements Act* (FPFAA)[2] (Division 11: Fiscal Stabilization Payments, and Division 12: Additional Health Payments), the *Old Age Security Act* (OASA)[3] (Division 32: Increase to Old Age Security Pension and Payment) and the *Canada Recovery Benefits Act* (CRBA)[4] (Division 35: Benefits and Leave) (clauses 126 to 363).

This document provides a brief description of the main measures proposed in the bill. 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: IMPLEMENTATION OF CERTAIN INCOME TAX MEASURES

2.1.1 COVID-19 Relieving Measures: Use of an Employer-Provided Automobile

When an employer or a person related to the employer provides an employee or a person related to an employee – such as a spouse, common-law partner or other family member – with an automobile for work and personal use, under section 6(1)(e) of the *Income Tax Act* (ITA),[5] the employee may be required to include a "standby charge" in calculating taxable income.[6] In addition, section 6(1)(k) provides that the employee receives a taxable benefit – the automobile operating expense benefit – if the employer pays for that automobile's operating expenses, such as gas, insurance or maintenance.

Clause 2 of Bill C-30 adds sections 6(2.2) and 6(2.3) to the ITA to provide special rules that apply to the automobile operating expense benefit formula for the 2020 and 2021 taxation years. For these taxation years, the benefit is equal to the lesser of one-half of the "standby charge" or the per-kilometre prescribed rate. For the special rules to apply, the employer-provided automobile must have been used primarily in the performance of the employee's work. If this situation existed for the 2019 taxation year, it will be deemed to exist for the 2020 and 2021 taxation years, provided the employer is the same.

2.1.2 Limiting the Benefit of the Employee Stock Option Deduction

Employees who exercise stock options must pay tax on the difference between the market value of the stock and the exercise price paid under section 7(1) of the ITA. Provided certain conditions are met, the employee can claim an offsetting deduction equal to 50% of the taxable benefit under section 110(1)(d) of the ITA, which effectively reduces the tax payable by the employee by half. There is currently no dollar limit on this deduction.

2.1.2.1 Employees

Clause 15 of Bill C-30 amends section 110 of the ITA to restrict the 50% deduction to the first $200,000 worth of employee stock options that vest in the same calendar year, with the $200,000 determined by reference to fair market value of the shares underlying the options. Any options that exceed this cap are deemed to be "non-qualified securities" under new section 110(1.31) and will not qualify for the deduction. Where there is uncertainty as to the time the stock options vested, new section 110(0.1) provides clarification under the definition of "vesting year." If an individual is employed by more than one employer that deal with each other at arm's length, the employee will have a separate annual cap in respect of each employer.

Employers that are Canadian-controlled private corporations (CCPCs) are generally not subject to these new rules, nor are non-CCPC employers whose annual gross revenue does not exceed $500 million. The determination of the $500 million annual gross revenue limit is outlined in new section 110(0.1) under the definition of "specified person." Irrespective of annual gross revenue or CCPC status, the $200,000 annual limit will apply to all stock options from an employer to an individual that does not deal at arm's length.

Employees may exchange their security option rights to their employer for a cash payment or other in-kind benefit. Generally, where an employee opts for a cash-out of options that would have been eligible to claim an offsetting deduction equal to 50% of the taxable benefit, they may still claim the deduction on the cash payment provided their employer elects to forgo any deduction otherwise available to it in respect of the payment. New section 110(1.44) prohibits an employer from claiming a deduction on cash-out amounts paid to the employee, other than for certain "designated amounts" listed in section 110(1.2).

2.1.2.2 Employers

Clause 15(3) adds new section 110(1)(e) to provide a deduction to a qualifying employer equal to 100% of the stock option benefit realized by the employee in respect of a non-qualified security. Non-qualified securities include those securities that are in excess of the $200,000 annual vesting limit, as well as options that the employer opts to designate as such. In order to be eligible for the deduction, the following conditions must be met:

- the employer is a corporation (or a mutual fund trust);
- the employer was the employer of the individual at the time the stock option was granted;
- the amount being claimed as a deduction is not claimed as a deduction by another corporation (or mutual fund trust);
- the stock option deduction would have been available to the employee if the underlying securities were not non-qualified securities;
- in the case of an employee not resident in Canada throughout the year, the stock option benefit was included in the employee's taxable income earned in Canada for the year; and
- the employer provided:

    (a) a notice in writing to the employee within 30 days after the option agreement was entered into that the securities is a non-qualified security; and

(b) a notice to the Canada Revenue Agency (CRA) of any non-qualified securities by filing a prescribed form with its income tax return for the year in which the stock options were granted.

Clause 15(5) adds new section 110(1.4) to allow an eligible employer that enters into a stock option agreement with a taxpayer to designate one or more securities under that agreement to be non-qualified securities for the purposes of section 110, irrespective of the annual vesting limit. Such a designation would enable an employer to claim a section 110(1)(e) deduction from its taxable income and deny employees from claiming the 50% deduction on the first $200,000 worth of employee stock options.

These amendments apply to options granted on or after 1 July 2021; however, in certain circumstances, options issued after June 2021 in exchange for options issued before July 2021 will not be subject to the proposed changes. Existing options are not affected.

Clauses 3, 13, 16, 17, 25 and 29 makes consequential amendments to sections 7(7), 87(2), 111(8), 115(1)(d), 126 and 143.3(5) of the ITA, respectively.

2.1.3 Determining Capital Cost Allowance for Certain Zero-Emission Vehicles: Providing an Adjustment

A capital cost allowance (CCA) is a tax deduction that a taxpayer can claim for the cost of depreciable property used while carrying out a business. When calculating the CCA for zero-emission passenger vehicles, special rules apply to adjust the "proceeds of disposition" – generally the sale price – that are deducted from the undepreciated capital cost of these vehicles. Section 13(7)(i) of the ITA provides rules relating to the calculation of the capital cost of a zero-emission passenger vehicle when it is sold to a person or partnership at arm's length. With such a sale, the "proceeds of disposition" used to calculate the vehicle's CCA is equal to the sale price multiplied by a prescribed amount divided by the "total cost" of the vehicle to the taxpayer. This tax treatment is limited to zero-emission passenger vehicles with a cost exceeding $55,000 plus applicable sales taxes.

Clause 4 amends section 13(7)(i)(ii) of the ITA to alter, for purposes of determining the CCA, the calculation of the "total cost" of the vehicle to the taxpayer. In particular, that cost includes any payments or repayments of government assistance that the taxpayer has received or repaid in respect of the vehicle.

This amendment applies to zero-emission passenger vehicles sold after 29 July 2019.

2.1.4 Expanding the Scope of the Foreign Affiliate Dumping Rules

Section 212.3 of the ITA contains the rules with respect to “foreign affiliate dumping” that are intended to prevent foreign enterprises from using Canadian corporations as intermediaries to invest in entities outside of Canada. In particular, these rules counter the erosion of the tax base that results from transactions in which a corporation resident in Canada (CRIC) that is controlled by a non-resident buys or otherwise invests in a foreign affiliate using borrowed or surplus funds. Generally, a “foreign affiliate” is a non-resident corporation in which the CRIC owns 10% or more of the shares, measured by votes or value. One example of a foreign affiliate dumping transaction involves a CRIC using retained earnings to acquire shares of a foreign affiliate from its foreign parent corporation. Absent the foreign affiliate dumping rules, this transaction would provide a mechanism for the foreign parent corporation to extract surplus from the CRIC free of dividend withholding tax.

Subject to certain exceptions, the foreign affiliate dumping rules generally apply where a CRIC makes an “investment” (as defined in the rules) in a foreign affiliate of the CRIC and the CRIC is controlled by a non-resident corporation. The rules can also apply where a CRIC makes an investment in a foreign affiliate of a corporation that does not deal at arm’s length with the CRIC, if the CRIC or the non–arm’s length corporation is controlled by a non-resident corporation. When they apply, the foreign affiliate dumping rules generally result in:

- a suppression of paid-up capital otherwise created because of the investment or a reduction in the paid-up capital of one or more relevant classes of shares of the CRIC under section 212.3(2)(b); and
- a deemed dividend paid by the CRIC to the controlling non-resident under section 212.3(2)(a). The amount of the deemed dividend is equal to the amount by which the investment exceeds the amount of the PUC suppressed or reduced. This deemed dividend is subject to non-resident withholding tax, which may be reduced by an applicable tax treaty.

Foreign affiliate dumping rules apply only in respect of CRICs that are controlled by a non-resident corporation.

Clause 53 of Bill C-30 amends section 212.3(1)(b) of the ITA to extend the application of the foreign affiliate dumping rules to non-resident individuals – whether a natural person or a trust – or to a group of non-resident persons, each member of which does not deal at arm’s length with the other members. Consequential amendments are made to section 212.3(2)(a) to ensure that, where the CRIC is controlled by a group, each member of the group is deemed to receive a dividend from the CRIC. In particular, the amount that would have been the amount of the deemed dividend, had a single non-resident person controlled the CRIC, is allocated between the group members based on the relative fair market values of the shares of the CRIC that are held by them. Clause 53(2) amends section 212.3(2)(a) of the ITA to provide for the calculation of the dividend deemed to be paid by the CRIC.

Special rules are contained in new section 212.3(26)(a) of the ITA (clause 53(22)) to determine the ownership of, or interest in, a trust, where each trust is treated as a corporation having a single class of 100 voting shares. Ownership of those shares is allocated to the beneficiaries under the trust in accordance with their proportionate interests (based on fair market value) in the trust. Where a Canadian resident trust owns shares of a corporation, new section 212.3(26)(b) deems each beneficiary under the trust to own – as opposed to being owned by the trust itself – a number of shares of each class of the corporation in accordance with the beneficiary's proportionate interest (based on fair market value) in the trust. In the case of a discretionary trust – where the entitlements of the beneficiaries are not fixed, such as being at the discretion of the trustee – new section 212.3(26)(c) treats each beneficiary as though they held a 100% interest in the trust if it can reasonably be considered that one of the main reasons for the discretionary nature of the trust is to avoid or limit the application of the expanded foreign affiliate dumping rules.

These amendments apply to transactions and events that occur on or after 19 March 2019.

Clauses 5, 26 and 54 of the bill make consequential amendments to sections 212.3(1)(b), 219.1(2) and 212.3(1)(b) of the ITA, respectively.

2.1.5 Providing Change in Use Rules for Multi-Unit Residential Properties

Section 45 of the ITA contains rules that determine if there is a capital gain or allowable capital loss concerning a property that has been used for more than one purpose, such as a principal residence and income-producing rental unit.

Sections 45(2) and 45(3) provide that, where the use of an entire property changes from non–income-producing to income-producing or the reverse, the taxpayer may file an election with the CRA to deem that there has been no such change in use; as a consequence, the realization of any accrued capital gain on the property is deferred until it is realized on a future disposition. Without this election, under sections 45(1)(a)(i) and 13(7)(b), there is a deemed disposition and reacquisition of the property for tax purposes, which may give rise to a capital gain or loss. The election is not available where there is an increase in the proportion of the property's use for the purpose of gaining or producing income.

Clause 6 of Bill C-30 amends sections 45(2) and 45(3) of the ITA to allow a taxpayer to file an election – to deem there to be no change in the property's use – in the following circumstances:

- when there is a change in the proportion of the property's use for gaining or producing income;
- when there is a change in the entire use of a taxpayer's property from a non–income-producing purpose to an income-producing purpose, or vice versa; and
- when sections 45(1)(a)(i) and 13(7)(b) of the ITA would otherwise apply.

In addition, the amendments allow a taxpayer to rescind this election for a subsequent taxation year.

These amendments apply in respect of changes in the use of a taxpayer's property that occurred after 18 March 2019.

2.1.6 Establishing Rules for Advanced Life Deferred Annuities

An annuity is a financial product that provides an individual (the annuitant) with a guaranteed income over a defined period in exchange for an initial lump sum. A "life annuity" provides individuals with a guaranteed income over the course of their lifetime, and annuities purchased with funds from a registered account – such as a registered retirement savings plan (RRSP) – generally must commence making payments by the end of the year in which the annuitant attains 71 years of age.

Clause 34 of Bill C-30 adds new section 146.5 to the ITA in order to create the advanced life deferred annuity (ALDA) and provides the corresponding tax treatment for its use. Purchases of an ALDA may only be made through transfers from registered pension plans, RRSPs, registered retirement income funds (RRIFs), deferred profit-sharing plans and pooled registered pension plans (PRPPs) (qualifying plans).

Under new section 146.5, an ALDA must be issued by a licensed annuities provider and must commence payments to the taxpayer no later than the end of the calendar year in which the taxpayer attains 85 years of age. The ALDA may either be a "single-life annuity," payable only during the lifetime of the annuitant, or a "joint-lives annuity," where payments are made until both the annuitant and the annuitant's spouse or common-law partner are deceased. The periodic annuity payments must be in equal amounts unless they are adjusted to reflect increases in the Consumer Price Index (CPI) or at an annual rate not exceeding 2%, but the payments may be reduced on the death of either the annuitant or the annuitant's spouse or common-law partner. If the annuitant dies before a joint-lives annuity becomes payable, and if the surviving spouse chooses to commence the periodic annuity payments at an earlier date than the date that payments would have commenced to be paid, then the payment amount is adjusted in accordance with generally accepted actuarial principles.

ALDA purchases are subject to a specified lifetime limit up to the lesser of 25% of the value of all property in qualifying plans, or $150,000 for the 2020 tax year; this amount is indexed to the CPI for future years. The value of an ALDA would not be included for the purpose of determining the minimum required withdrawal from a taxpayer's RRIF, and the ALDA contract with the issuer cannot be assigned, charged, anticipated, given as security or surrendered.

Clause 49 of the bill establishes a 1% tax – calculated monthly – for excess contributions to the ALDA under new Part XI of the ITA (sections 205 and 206). This tax may be waived by the Minister of National Revenue where this excess is the result of a reasonable error and if reasonable steps are being taken to eliminate the excess amount.

Clauses 34(1) and 7(3) of the bill create new sections 146.5(2) to 146.5(7) and 56(1)(z.5) of the ITA to require payments from the ALDA to be included in the annuitant's income in the taxation year they are received, or in their spouse or common-law partner's income under a joint-lives contract upon the death of the annuitant. After the taxpayer's death, a lump-sum death benefit from the ALDA may be paid to one or more beneficiaries under new section 146.5(1)(f). The death benefit must be paid as soon as practicable and cannot exceed the total amounts transferred to purchase the annuity less the total annuity payments made from the ALDA. Under new section 146.5(3), the beneficiary of a lump-sum death benefit will include such sums in their taxable income if they are the spouse or common-law partner of the deceased, or their child or grandchild who was financially dependent on the deceased; and in all other cases, the death benefit is taxed in the hands of the deceased. Under new section 146.5(6), a death benefit paid to the deceased annuitant's estate can be rolled over into a qualifying plan on a tax-deferred basis, provided the beneficiary to that estate is a spouse or common-law partner.

Clause 8(1) of the bill amends section 60(l)(v) of the ITA to allow any amount transferred upon the death of an annuitant to an RRSP to take place on a tax-deferred basis to a beneficiary who is a financially dependent child or grandchild, where the beneficiary was dependent on the deceased annuitant by reason of physical or mental infirmity.

Clause 19(9) of the bill amends section 118(7) of the ITA in order to make ALDA payments to taxpayers 65 years of age or older eligible for the "pension credit" and for pension income splitting. The “pension credit” under section 118(7) of the ITA allows a taxpayer to claim a federal non-refundable tax credit on up to $2,000 of eligible pension income, and income-splitting rules allow taxpayers to split up to 50% of eligible pension income with a spouse or common-law partner.

In the event that any portion of the premium paid for the contract exceeds the annuitant’s ALDA limit, new section 146.5 of the ITA (clause 34(1)) permits a refund to the annuitant, if that refund would reduce the tax payable by the annuitant under new Part XI of the ITA. The refund must be paid to either the annuitant, the issuer of their RRSP, the carrier of their RRIF, the administrator of their PRPP, or a money purchase provision of their registered pension plan. Where an ALDA amount is refunded to the annuitant, it is considered taxable income under new section 146.5(4), but is not taxable if refunded to a qualifying plan.

These amendments (clauses 34, 7, 8 and 19) are deemed to have come into force on 1 January 2020.

Clauses 7, 19(9), 31, 32, 34 to 38, 41, 52, 61 and 63 of the bill make consequential amendments to other parts of the ITA with respect to these changes. Clauses 81 and 83 of the bill make consequential amendments to the *Income Tax Regulations* (ITR).[7]

2.1.7 Option to Deduct Repaid Emergency Benefit Amounts and Clarifying the Tax Treatment of Non-Resident Beneficiaries

Generally, if a taxable benefit paid to a taxpayer in error is repaid by the taxpayer, then the repayment of this amount will give rise to a corresponding deduction in the year the repayment takes place.

Clause 8(2) of Bill C-30 adds new section 60(v.3) to the ITA to allow taxpayers the option to claim a deduction in respect of the repayment of certain COVID-19 benefit amounts in computing their income for the year in which the benefit amount was received rather than the year in which the repayment was made. This option is available for benefit amounts that have been repaid before 2023. The applicable COVID-19 benefits include the following:

- the Canada Emergency Response Benefit/Employment Insurance-Emergency Response Benefit (EI-ERB);
- the Canada Emergency Student Benefit;
- the Canada Recovery Benefit (CRB);
- the Canada Recovery Sickness Benefit (CRSB); and
- the Canada Recovery Caregiving Benefit (CRCB).

Clause 17 of the bill amends section 115(1)(a) of the ITA to ensure that these benefit amounts, and similar provincial or territorial benefit amounts, are included in the taxable income of individuals who reside in Canada but are considered non-resident persons for income tax purposes. COVID-19 benefits received by these persons would be taxable in a manner generally similar to employment and business income earned in Canada by non-resident persons.

These amendments are deemed to have come into force on 1 January 2020.

2.1.8 Removing the Time Limitation for a Registered Disability Savings Plan and Modifying Grant and Bond Repayment Obligations

A registered disability savings plan (RDSP) is a tax-assisted savings vehicle established for a beneficiary who is eligible for the disability tax credit (DTC). The DTC is a non-refundable tax credit – equal to $1,299 in 2021 – that is intended to recognize the impact of non-itemizable disability-related costs on the ability to pay tax. The Canada Disability Savings Grant (CDSG) and Canada Disability Savings Bond (CDSB) are deposited directly into the RDSP. The CDSG matches contributions to the RDSP up to 300% or $3,500 per year, with a lifetime limit of $70,000. The CDSB maximum is $1,000 per year – depending on the beneficiary's family income – with a $20,000 lifetime limit. An RDSP must be closed when the beneficiary ceases to qualify for the DTC, or within five years thereof in certain circumstances.

Clause 33 of the bill amends section 146.4 of the ITA to ensure beneficiaries of RDSPs who cease to be eligible for the DTC can keep their RDSP open indefinitely. Transitional rules apply under new section 146.4(4.01) for RDSPs that would have been terminated due to DTC-ineligibility between 19 March 2019 and 31 December 2020, which prevents the need for their termination. These changes allow RDSP beneficiaries to keep their CDSG and CDSB amounts for the periods in which they qualified for the DTC which would otherwise be repaid to the government. Section 146.4(1) is also amended to permit a DTC-ineligible beneficiary to replace an existing RDSP with an RDSP issued by another financial institution. The RDSP of a DTC-ineligible individual will nevertheless no longer accept contributions, the CDSG or the CDSB.

Certain financially dependent DTC-eligible RDSP beneficiaries are permitted to receive a tax-free rollover of proceeds from a deceased parent or grandparent's RRSP and/or RRIF to their RDSP. Clause 9 of the bill amends section 60.02(1) of the ITA to permit a tax-deferred rollover of proceeds from such plans of a deceased individual to the RDSP of an eligible beneficiary before the end of the fifth taxation year following the beneficiary becoming DTC-ineligible.

Clauses 95 and 96 of the bill make consequential amendments to sections 5(3), 5(4) and 5.1 of the *Canada Disability Savings Regulations* (CDSR)[8] to remove the requirement for an RDSP issuer to repay to the government any grants and bonds held in the plan as a consequence of an individual becoming DTC-ineligible. Such funds will now only be repaid upon the closure of the plan, the death of the beneficiary, or when the plan ceases to be an RDSP.

A disability assistance payment is any payment from an RDSP to the beneficiary or to their estate after their death. It is a singular payment that can be requested at any time and may consist of contributions, grant, bond, proceeds from rollovers and income earned in the account. These payments may be comprised of a portion that is taxable in the hands of an RDSP beneficiary (grants, bonds and investment earnings) and a portion that is not (contributions). Under the *Canada Disability Savings Act*,[9] an "assistance holdback amount" is generally required to be repaid to the government if any disability assistance payment is paid from the RDSP. The assistance holdback amount is defined in the CDSR as the total amount of bond and grant paid into the RDSP within the last 10-year period, less any part of that amount that has been repaid to the government. Clause 99(1) of the bill amends section 5.4(1) of the CDSR to alter the repayment requirements of disability assistance payments where an RDSP beneficiary is no longer DTC-eligible. Clause 98 of the bill amends section 5.3 of the CDSR to ensure that no grants and bonds are repayable if the disability assistance payment is made after the end of the calendar year in which the beneficiary has attained age 59.

Clause 99(2) of the bill amends section 5.4(1)(c) of the CDSR to progressively decrease the amount of grants and bonds that an issuer may be obliged to repay after the calendar year in which a beneficiary attains age 50. Clause 99(3) amends section 5.4(2) to set out the order in which the repayment of grants and bonds occurs, based on the principle of first in, first out.

Clause 97 of the bill makes consequential amendments to section 5.2 of the CDSR.

The changes to the rollover rules (clause 9) and the transitional rule (clause 33) apply as of 19 March 2019. All other changes would apply as of 1 January 2021.

2.1.9 Increasing the Basic Personal Amount

The basic personal amount is a non-refundable tax credit that is indexed to inflation and can be claimed by all individuals. The purpose of the basic personal amount is to provide a full reduction from federal income tax to all individuals with taxable income below the basic personal amount as well as a partial reduction to taxpayers with taxable income above the basic personal amount.

Clause 19(8) of the bill introduces new section 118(1.1) to the ITA, which provides for the new calculation of an individual's basic personal amount. The calculation of the new basic personal amount is comprised of two elements: the existing basic personal amount and an additional amount that is determined by the formula $C – D \times E$, where C is the maximum additional amount, which is expressed as the formula $F – G$.

F is the maximum basic personal amount for any particular year and G is the minimum basic personal amount. D is the same as the amount determined for C, and E is the lesser of one and the proportion of the individual's income that is between the bottom of the fourth tax bracket and the bottom of the fifth tax bracket. The values for F are as follows:

- $13,229 for the 2020 taxation year;
- $13,808 for the 2021 taxation year;
- $14,398 for the 2022 taxation year;
- $15,000 for the 2023 taxation year; and
- for subsequent taxation years, an amount equal to $15,000 indexed for inflation.

Therefore, the amount of the additional basic personal amount is reduced for individuals with incomes in excess of the bottom of the fourth federal tax bracket ($150,473 in 2020) and eliminated for individuals with incomes equal to or in excess of the bottom of the top federal tax bracket ($214,368 in 2020).

Clause 19 of the bill also makes consequential amendments to sections 118(1)B(a) and 118(1)B(b) of the ITA to similarly increase the maximum spouse or common-law partner amount and the amount for an eligible dependant, respectively. These amounts are also gradually reduced for individuals with net income in excess of the bottom of the fourth tax bracket and continue to be reduced dollar-for-dollar based on the net income of the dependant.

Clauses 10, 14, 18, 31 and 62 of the bill make consequential amendments to sections 63(3), 108(1), 117.1, 146(1.1) and 250(1)(f) of the ITA, respectively. Clause 82 of the bill makes consequential amendments to section 103.1(2) of the ITR.

These amendments apply to 2020 and subsequent taxation years.

2.1.10 Special Reading of Certain Rules Relating to the Child Care Expense Deduction and the Disability Supports Deduction

The child care expense deduction (CCED) allows child care expenses to be deducted from a taxpayer's income when those expenses are incurred to earn employment or business income, pursue education or perform research. The disability supports deduction (DSD) allows certain medical expenses to be deducted from a taxpayer's income where those expenses enable them to perform employment duties, to carry on a business, or to attend a designated educational institution for study or research. Furthermore, Employment Insurance (EI) benefits are not included in the taxpayer's income against which eligible expenses can be deducted for the CCED or the DSD, whereas COVID-19 emergency income benefits are included.

Clauses 10(2) and 11 of the Bill C-30 add new sections 63(3.1) and 64.01 to the ITA, respectively, to deem that expenses incurred by taxpayers in receipt of the CCED, DSD and COVID-19 emergency income benefits do not have to enable the taxpayer to perform these activities in order to be eligible for the deductions in 2020 and 2021. They also add – for the 2020 and 2021 taxation years – regular EI benefits, EI special benefits and Quebec Parental Insurance Plan (QPIP) benefits to the definition of income for the purposes of these deductions.

This measure applies for the 2020 and 2021 taxation years.

2.1.11 Providing Flow-Through Share Issuers with Temporary Additional Time to Incur Eligible Expenses to Be Renounced to Investors

A flow-through share allows certain corporations to obtain financing for expenditures on mineral exploration and development in Canada. By issuing flow-through shares, a company can "flow through" certain expenses to the share investor/purchaser. These expenses are then deemed to have been incurred by the purchaser, not the corporation, which can reduce the purchaser's taxable income on account of allowable deductions for the Canadian Exploration Expenses and the Canadian Development Expenses that are transferred (renounced) to the investor by the corporation.

This tax treatment is conditional on the corporation actually incurring the eligible expense within certain time limits of the share's purchase. For these expenses, the "general rule" allows an issuing corporation 24 months starting from the month after the agreement is made to incur the eligible expenditures. Issuing corporations can also use a "look-back rule" to transfer eligible expenses to the purchaser effective as of 31 December of the year of the agreement as long as the expenses are incurred before the end of December of the following year. Where an issuing corporation enters a flow-through share agreement under the look-back rule and does not incur the expense during that period, it is subject to a 10% tax on the value of the unspent expense under Part XII.6 of the ITA.

Clause 12 of Bill C-30 amends section 66 of the ITA to extend the time limits in which the eligible expenses are incurred. For flow-through share agreements entered into under the look-back rule or general rule, the issuing company is granted an additional

12 months to incur the eligible expenses. The extension applies to flow-through share agreements entered into after February 2018 and before 2021.

Clause 51 of the bill amends Part XII.6 (section 211.91) of the ITA in a number of ways. New section 211.91(2.1)(a) extends the filing and payment deadline in respect of Part XII.6 tax by one year. New section 211.91(2.1)(b) deems certain expenditures to be incurred earlier than they are actually incurred, in order to provide a reduction of the Part XII.6 tax that would otherwise be payable. New section 211.91(2.1)(b)(iii) provides that – in applying Part XII.6 – expenses incurred in the calendar year following the normal look-back year are deemed to be incurred 12 months earlier than they are actually incurred. These changes apply to share agreements entered into between 2019 and 2020.

2.1.12 Accelerated Investment Incentive for Resource Expenditures

A “short year” is a tax year that is less than 12 months in length, which can occur in such circumstances as when a business commences operations midyear or changes its accounting period. In general, the “short taxation year rule” in section 66(13.1) of the ITA limits – on a proportional basis – the amount of certain resource expenses that a taxpayer may deduct in a year where the taxation year is less than 51 weeks. In such cases, the amount that may be deducted by the taxpayer will be prorated relative to the remaining days in the taxation year.

Clause 12(3) of Bill C-30 amends section 66(13.1) of the ITA to ensure that this short taxation year rule applies in determining the amount of a taxpayer’s accelerated Canadian development expense and accelerated Canadian oil and gas property expense.

This amendment applies to taxation years that end after 30 July 2019 (clause 12(4)).

2.1.13 Canada Recovery Hiring Program

Clauses 24(22) and 24(23) of Bill C-30 introduce the Canada Recovery Hiring Program (CRHP) through new section 125.7(2.2) of the ITA. The CRHP is intended to facilitate the hiring back of employees that had been laid off, as well as the hiring of new employees, for employers that have experienced qualifying declines in revenues relative to their operations prior to the COVID-19 pandemic. The CRHP is an alternative to the Canada Emergency Wage Subsidy (CEWS) and is available for qualifying periods between 6 June 2021 and 20 November 2021. The qualifying periods for the CRHP are the same as those for the CEWS. An eligible employer is permitted to claim the higher of the CRHP or the CEWS for a particular qualifying period, but not both.

To qualify for the CRHP, the employer must be a “qualifying recovery entity,” which includes Canadian-controlled private corporations, cooperative corporations eligible for the small business deduction, individuals, non-profit organizations, registered charities, and certain partnerships. Publicly listed companies are not eligible for the CRHP, nor are corporations and trusts that are ineligible for the CEWS because they are public institutions. In addition, employers – or their payroll service provider – must have had a payroll account open with the CRA by 15 March 2020 to be eligible for the CRHP.

The decline in revenue test is the same for the CRHP as it is for the CEWS; either the year-over-year test that compares revenues on a monthly basis to revenues from 12 months prior, or that which compares current revenues to the average revenue earned in the months of January and February of 2020. In either case, the employer must continue to follow the same method for the CRHP that they had been using for the CEWS. To qualify for a hiring subsidy in a qualifying period, an eligible employer would have to have experienced a decline in revenues sufficient to qualify for the CEWS in that same qualifying period. For qualifying periods where the CEWS is no longer in effect, an eligible employer would have to have experienced a decline in revenues of more than 10%.

The subsidy rate under the CRHP will decline over time in order to incentivize hiring in the short term. The subsidy for the initial three periods – from 6 June 2021 to 28 August 2021 – is equal to 50% of the employer’s “incremental remuneration” paid to the employee. The rate then declines by 10% for each period thereafter until it reaches a rate of 20% for the final period from 24 October 2021 to 20 November 2021. Incremental remuneration is calculated as the difference between the employer’s aggregate eligible remuneration for the qualifying period and aggregate eligible remuneration for the baseline period, where both sums are capped at $1,129 per week. Employee eligibility for the CRHP is the same as that for the CEWS. The CRHP is not available for furloughed employees, but it is available for employees on leave with pay for the purposes of vacation leave, sick leave, or a sabbatical.

As with the CEWS, CRHP payments are considered “government assistance” and is included in the taxpayers’ taxable income under section 12(1)(x) of the ITA.

Clauses 13(1), 40, 43 and 44(2) of the bill make consequential amendments to sections 87(2)(g.6), 152(3.4), 125.7(2.2), 163 and 164(1.6) of the ITA.

2.1.14 Conversion of Health and Welfare Trusts

A health and welfare trust is a trust established by an employer for the purpose of providing health and welfare benefits to its employees. The tax treatment of such a trust is not set out in the ITA. Employee life and health trusts (ELHTs) were added to the ITA in 2010, which also provide health benefits for employees; in particular: group sickness or accident insurance plans, private health services plans, and group-term life insurance policies. The legislative provisions governing ELHT rules are very similar to the CRA's administrative positions for health and welfare trusts.

Clause 30(10) of Bill C-30 adds new sections 144.1(14) to 144.1(18) to the ITA to provide transitional rules to allow for the tax-free conversion of health and welfare trusts to an ELHT such that there is only one set of rules for these types of trusts starting in 2022.

Clause 30 of the bill also amends the following provisions of section 144.1 of the ITA:

- Section 144.1(1) is amended to allow the following additional benefits to be provided by an ELHT: a $10,000 death benefit, certain types of paid leave such as bereavement and jury duty leave, and additional counselling benefits provided for mental health purposes.
- Section 144.1(2)(a) is amended to allow an ELHT to provide for benefits that are not explicitly listed in the ITA (designated employee benefits), so long as substantially all of the total cost of the benefits provided are designated employee benefits.
- Section 144.1(2)(c) is amended to allow the provision of benefits outside of Canada.
- Section 144.1(2)(d) is amended to ensure retirees and former employees of the employer can still receive designated employee benefits.
- Section 144.1(2)(d) is amended to modify the requirements for the percentage of employees represented by the ELHT.
- Section 144.1(2)(e) is amended to – among other things – allow family members access to a beneficiary's unused portion of the ELHT.
- Section 144.1(2)(e) is also amended to ensure that trustees who do not deal at arm's length with one or more participating employers must not constitute a majority of the trustees of the ELHT.
- Section 144.1(3)(a) is amended to ease tax restrictions on an ELHT for breaches of its terms where the trustees could not have reasonably known about such breaches.
- Section 144.1(6) is amended to ensure the deductibility of employer contributions to an ELHT is linked to the terms of a collective bargaining agreement, if applicable, as well as to ensure such sums are deductible where there is a minimum of 50 eligible employee-beneficiaries and each employee deals at arm's length with each participating employer.

Clause 16(1) of the bill amends section 111(7.4) of the ITA to extent the three-year carry-forward and the three-year carry-back period for non-capital losses of an ELHT to seven years.

Clauses 30 and 16(1) are deemed to have come into force on 27 February 2018.

Clause 50 of the bill introduces new Part XI.5 (section 207.9) of the ITA to introduce a special tax in respect of the acquisition of prohibited investments and related income and capital gains for an ELHT. The tax is equal to 50% of the fair market value of the property at the time it is acquired, as well as 50% of any income from prohibited investments or any taxable capital gains from the disposition of prohibited investments. The ELHT may be refunded such amounts if it disposes of the property before the end of the calendar year following the calendar year in which the tax arose so long as trustees could not reasonably have known at the time that the property was, or would become, a prohibited investment.

The amendments in clause 50 apply to the 2014 and subsequent taxation years.

2.1.15 Canada Workers Benefit

The Canada Workers Benefit (CWB) is a refundable tax credit under section 122.7 of the ITA, it is intended to supplement the earnings of low and modest income workers. The CWB has two components: a base amount and a supplement for certain individuals with disabilities. Each of these components also has a phase-in threshold and rate and a phase-out threshold and rate. With respect to the base amount, in 2021, the CWB increases by 26 cents for every dollar of "working income" (generally employment and business income) in excess of $3,000, up to a maximum entitlement of $1,395 for single individuals without dependants, or $2,403 for families (couples and single parents). The benefit is then reduced by 12% of adjusted net income in excess of $13,194 for single individuals without dependants, or $17,522 for families.

Clause 22 of Bill C-30 amends section 122.7 of the ITA to expand the thresholds and rates for the base amount and disability supplement in the following ways:

- for the base amount (section 122.7(2)):
  - the phase-in rate is increased from 26% to 27% for single individuals without dependants as well as families,
  - the phase-out rate is being increased from 12% to 15%, for both single individuals and families, and
  - the phase-out thresholds from $13,194 to $22,944 for single individuals without dependants and from $17,522 to $26,177 for families; and
- for the disability supplement (section 122.7(3)):
  - the phase-in rate is being increased from 26% to 27% for both single individuals and families,

- the phase-out rate is being increased from 12% to 15%, for both single individuals and most families,
- the phase-out rate is being increased from 6% to 7.5%, for couples that are both disabled, and
- the phase-out income threshold is being increased from $24,815 to $32,244 for single individuals and from $37,548 to $42,197 for families.

Clause 22(1) also adds new section 122.7(1.3) to introduce a secondary earner exemption to the CWB, which would allow the lower-earning spouse or common-law partner in a couple to exclude up to $14,000 of their working income from their adjusted net income for the purpose of the CWB income test. This would allow secondary earners in a couple to earn up to that amount before their family's CWB entitlement starts being reduced as a result.

These amendments apply for the 2021 and subsequent taxation years.

Clause 18(2) adds new section 117.1(2) to the ITA to index for inflation the new thresholds for the base amount, the disability supplement and the secondary earner exemption amount beginning in 2022.

2.1.16 Support for Canadian Journalism

Budget 2019 introduced three measures to support Canadian journalism: a personal tax credit for eligible digital news subscriptions; a tax credit for certain labour expenditures of qualifying journalism organizations; and, permission for registered non-profit news organizations to issue tax receipts for donations. To access these measures, journalism organizations are vetted by a panel of experts in order to be designated as a "qualified Canadian journalism organization" (QCJO).

Section 118.02 of the ITA provides a 15% non-refundable tax credit to individuals who have eligible digital news subscriptions. Clause 20(1) of Bill C-30 amends the definition of "digital news subscription" in section 118.02(1) to require that the content provided under the subscription is primarily written news and that the organization offering the subscription is not a licence holder under the *Broadcasting Act*.[10] Clause 20(2) adds sections 118.02(4) and 118.02(5) to address the circumstances where subscription expenses no longer qualify for the tax credit.

Clause 58 amends section 241(3.4) of the ITA to provide that, in addition to permitting the Minister of National Revenue to publish the names of QCJO for which the digital news subscription tax credit is available, the minister can also publish information regarding the eligibility of subscriptions.

Section 125.6 of the ITA provides qualifying journalism organizations with a 25% refundable tax credit for certain labour expenditures. Clauses 23(1) to 23(4) amend the following definitions in section 125.6(1):

- "assistance" is amended to provide that amounts from the Aid to Publishers component of the Canada Periodical Fund are not considered assistance for the purposes of the tax credit;
- "eligible newsroom employee" is amended to clarify that the employee must be engaged in the production of original written news content;
- "qualifying journalism organization" is amended to add that a qualifying journalism organization cannot hold a licence under the *Broadcasting Act*, and to remove:
  - the requirement that that the organization be primarily engaged in the production of original written news content, and
  - the restriction that the organization cannot receive an amount from the Aid to Publishers component of the Canada Periodical Fund; and
- "qualifying labour expenditure" is amended to include reference to a taxpayer that became a qualifying journalism organization during the year.

Clause 23(5) of the bill amends section 125.6(2) of the ITA to reduce the amount of the tax credit available to a qualifying journalism organization in a taxation year by the amount of any funding received from the Aid to Publishers component of the Canada Periodical Fund. It also adds sections 125.6(2.1) and 125.6(2.2), and amends section 125.6(3) to introduce a new tax credit for those qualifying journalism organizations that are partnerships. Clauses 40(1), 42, 43(1) and 44(1) make consequential amendments to sections 152(1)(b), 157(3) and 157(3.1), 163(2)(h)(i) and 164(1)(a)(ii), respectively, to include reference to new section 125.6(2.1).

Clause 39(2) amends the definition of "qualifying journalism organization" in section 149.1(1) of the ITA, which sets out the rules for non-profit journalism organizations that are issuing tax receipts, to add a requirement that the organization be primarily engaged in the production of original news content.

Clause 46 adds section 168.1 to the ITA to clarify the procedure involved in the designation of an organization as a QCJO and the power of the Minister of National Revenue to revoke this designation. Clauses 61(2) and 61(3) amend the definition of QCJO found in section 248(1) to remove the requirements that the organization must be "primarily" engaged in the production of original news content and that the organization not be significantly engaged in the production of content to promote goods or services.

Clauses 23, 39(2), 40(1), 42, 43(1), 44(1), 46, 61(2) and 61(3) are deemed to have come into force on 1 January 2019.

Clauses 20(1) and 58 are deemed to have come into force on 1 January 2020.

2.1.17 Canada Child Benefit: Definition of Shared-Custody Parent

Clause 21 of Bill C-30 amends the definition of "shared-custody parent" in section 122.6 of the ITA, to replace the requirement that the parent reside with the child on an "equal or near equal basis," and to instead require the parent to reside with the child either at least 40% of the time or on an approximately equal basis.

Clause 21 is deemed to have come into force on 1 July 2011.

2.1.18 Canada Emergency Wage Subsidy and Canada Emergency Rent Subsidy

The framework for the CEWS, the Canada Emergency Rent Subsidy (CERS) and the Lockdown Support (LS), which are structured as refundable tax credits for businesses with respect to the COVID-19 pandemic, is provided in section 125.7 of the ITA and is set to expire in June 2021.

Clauses 24(1) to 24(21) of Bill C-30 amend several definitions in section 125.7(1) of the ITA in order to extend these provisions:

- Claims under the CEWS and the CERS are made in respect of a "qualifying period." This definition is amended to add new qualifying periods which extend the CEWS, the CERS and the LS to 25 September 2021, with a possibility of further extension to 20 November 2021.
- Consequential amendments add references to the new qualifying periods in the definitions for "eligible employee," "baseline remuneration," "base percentage," "current reference period," "prior reference period," "qualifying entity," "specified percentage" and "top-up revenue reduction percentage."
- The CEWS offers a base subsidy and a top-up subsidy. The top-up subsidy is intended for employers with revenue declines of over 50%. The definitions for "base percentage" and "top-up percentage" are amended to gradually reduce the base percentage and top-up percentage beginning in July 2021. After 25 September 2021, the base percentage will be reduced to zero if there is no percentage determined by regulation and the top-up subsidy will no longer be offered.
- Similarly, the CERS offers a rent subsidy and a LS, the latter of which is a rent top-up subsidy for businesses shut down by a public health order. The definition of "rent subsidy percentage" is amended to gradually reduce the CERS beginning

4 July 2021, with the rent subsidy percentage reduced to zero if there is no percentage determined by regulation after 25 September 2021. The definition of "rent top-up percentage" is amended to confirm that the LS is a 25% subsidy until 25 September 2021 and is no longer offered after that date. Lastly, the definition "public health restriction" is amended in clause 24(12) to allow landlords who rent their property to non–arm's length tenants, directly or indirectly, to be able to claim the LS. Clause 24(12) is deemed to have come into force on 27 September 2020.

Clauses 24(22) and 24(32) add definitions for "executive compensation repayment amount" and "executive remuneration" to section 125.7(1) of the ITA, and new sections 125.7(14) and 125.7(15), respectively, to introduce a CEWS repayment scheme for certain publicly listed companies. Businesses have to repay the CEWS amounts received for the 17th and subsequent qualifying periods, which would begin 5 June 2021, based on the formula set out in the definition for "executive compensation repayment amount." This definition provides that amount to be repaid is the amount by which the aggregate 2021 compensation for specified executives exceeds the aggregate 2019 compensation for specified executives, up to the amount of the CEWS received in those qualifying periods. The definition for "executive remuneration" indicates that the compensation for these specified executives is generally already disclosed under securities law.

2.1.19 Use by Mutual Fund Trusts of a Method of Allocating Capital Gains or Income to Their Redeeming Unitholders

In order to relieve the double taxation of capital gains allocated by a mutual fund trust to its unitholders, section 132 of the ITA allows a mutual fund trust to claim a corresponding deduction for that capital gains allocation using what is referred to as the "allocation to redeemers methodology." However, some mutual fund trusts are using this methodology to allocate excess capital gains to their redeeming unitholders, which has resulted in the mutual fund trust inappropriately taking a larger corresponding deduction, the redeeming unitholders having their redemption proceeds reduced and a tax deferral benefit being provided for the remaining unitholders.

Clause 27(1) of Bill C-30 introduces section 132(5.3) to the ITA to prevent a mutual fund trust from claiming a deduction for an excess allocation of capital gains to a redeeming unitholder if the allocated amount is a capital gain and if the unitholder's redemption proceeds are reduced by the allocation.

Clause 27(1) applies to taxation years that begin after 18 March 2019. However, the rule does not apply to the taxation year of a mutual fund trust that begins before

16 December 2021, if, in that taxation year, units of the trust are listed on a designated stock exchange in Canada and publicly traded.

2.1.20 Patronage Dividends Paid in Shares by an Agricultural Cooperative Corporation

Section 135.1 of the ITA provides a tax deferral for patronage payments received by eligible members of eligible agricultural cooperatives that are in the form of shares in the cooperative. Clause 28 of Bill C-30 amends the definition for "tax deferred cooperative share" in section 135.1(1) to extend the tax deferral from shares issued between 2005 and 2021, to shares issued between 2005 and 2026.

2.1.21 Transfers of Pensionable Service into Individual Pension Plans

In general, section 147.3(3) of the ITA permits a tax-deferred transfer of:

- the full value of assets from a defined benefit provision of a registered pension plan to a defined benefit provision of another registered pension plan; or
- a more limited transfer of approximately 50% of the value of the assets to an RRSP.

In order to be able to transfer the full value of their assets, some individuals have become members of an "individual pension plan," which is a defined benefit registered pension plan that has fewer than four members, by inappropriately establishing a private corporation.

Clauses 36(3) and 89 of Bill C-30 amend section 147.3(3)(c) of the ITA and section 8503(3)(a) of the *Income Tax Regulations* ITR), respectively, to prohibit tax-deferred transfers of assets from a defined benefit provision of a registered pension plan to an individual pension plan when the assets are related to pensionable service under the individual's previous employer.

Clauses 36(3) and 89 are deemed to have come into force on 19 March 2019.

2.1.22 Variable Payment Life Annuities

Clause 38(2) of Bill C-30 amends section 147.5(5)(a) of the ITA, which governs PRPPs, to allow a member of a PRPP to purchase a variable payment life annuity (VPLA). In contrast to a traditional annuity, a VPLA does not provide guaranteed income payments. However, as it is pooled, the investment risks of the annuity are spread out over a larger group of individuals.

Clause 88 amends section 8502(e)(i) of the ITR and clause 90 amends sections 8506(1)(e.1) and 8506(2)(g) and introduces new sections 8506(1)(e.2) and

8506(13) to the ITR to provide rules governing when a money purchase provision of a pension plan, also known as a defined contribution pension plan, can provide benefits through a VPLA. These rules include the establishment of a VPLA fund from which benefits are to be paid, the age at which benefits should be paid and the amount of benefits that are to be paid.

Clauses 38(2), 88 and 90 are deemed to have come into force on 1 January 2020.

2.1.23 Preventing Terrorist Entities from Qualifying as Registered Charities

Under section 149.1 of the ITA, registered charities may have their income tax status revoked or have their authority to issue official donation receipts suspended if an "ineligible individual" controls or manages the charity, directly or indirectly. An ineligible individual is someone who has been convicted of certain offences or who has engaged in misconduct.

Clause 39(1) of Bill C-30 amends section 149.1(1) of the ITA to add the following individuals to the definition of "ineligible individual":

- a listed terrorist entity;
- a member of a listed terrorist entity; or
- a director, trustee, officer or official of a listed terrorist entity – or an individual who controlled or managed, directly or indirectly, in any manner whatever, a listed terrorist entity – during a period in which that entity supported or engaged in terrorist activities, including a period prior to becoming a listed terrorist entity.

Clause 39(3) defines "listed terrorist entity" in section 149.1(1) of the ITA as a person or organization that is a listed entity as defined in section 83.01(1) of the *Criminal Code*.[11] Clause 39(4) adds section 149.1(1.02) to the ITA to provide rules for when an entity ceases to be a listed terrorist entity.

Clause 45 adds section 168(3.1) to the ITA to provide for the automatic revocation of the registration of a registered charity upon it becoming a listed terrorist entity.

Lastly, clause 47 makes a consequential amendment to section 188(1) of the ITA to provide that a charity becoming a listed terrorist entity can be a reason for revoking charitable status.

2.1.24 Interaction of Transfer Pricing Rules and Other Rules in the *Income Tax Act*

Part XVI.1 of the ITA sets out the rules governing transfer pricing, which are the pricing methods used when exchanging goods and services between related parties, such as within a multinational enterprise. Bill C-30 makes minor adjustments to these rules.

Clause 40(4) of the bill amends section 152(4) of the ITA to clarify that the Minister of National Revenue uses the definition of "transaction" found in Part XVI.1 when examining a transaction between a taxpayer and a non-resident person, who are not dealing at arm's length, for tax payable under Part 1 of the ITA.

Clause 40(4) applies to the taxation years of a taxpayer in respect of which the normal reassessment period for the taxpayer ends after 18 March 2019.

Clauses 60(1) and 60(2) amend section 247(2) and add section 247(2.1) to the ITA, respectively, to clarify that the transfer pricing rules apply in priority to the rest of the ITA. Clause 60(3) repeals section 247(8), as section 247(2.1) replaces that section.

Clause 60 applies to taxation years that begin after 18 March 2019.

2.1.25 Preventing Non-Resident Taxpayers from Avoiding Canadian Dividend Withholding Tax on Compensation Payments

Securities lending is the practice of loaning securities to other investors or firms. With respect to a securities lending arrangement between a Canadian resident borrower and non-resident lender, payments made from the Canadian to the non-resident can be characterized under the ITA as interest or dividends. For example, the securities lending arrangement rules found in section 260 of the ITA deem a payment made under a "fully collateralized" securities lending arrangement to be a dividend. "Fully collateralized" refers to the type and value of collateral provided by the Canadian resident under the securities lending arrangement.

However, the withholding tax rules found in section 212 of the ITA provide that certain payments from Canadians to non-residents are subject to a 25% tax. One exemption to the tax is an interest payment made from a Canadian to a non-resident as part of a securities lending arrangement.

As a consequence of the difference in how withholding tax is applied between interest and dividend payments, parties engaged in securities lending arrangements are structuring or executing their arrangements to ensure that any payments received by the non-resident are characterized as interest and not dividends. For example, some parties are not fully collateralizing their arrangements so that the payments will be characterized as interest and thus not subject to withholding tax.

Clause 61(7) of Bill C-30 adds a definition for “specified securities lending arrangement” to section 248(1) of the ITA to expand the securities lending arrangements rules so that they apply to arrangements that are substantially similar to those that fall within the definition for securities lending arrangements. It also adds a definition for “fully collateralized arrangement” to provide criteria indicating when a securities lending arrangement or a specified securities lending arrangement is considered to be fully collateralized. Clause 61(7) is deemed to have come into force on 19 March 2019.

Clauses 52(2) and 52(3) of the bill amend sections 212(2.1) and 212(3)(d) of the ITA, respectively, and clauses 64(3) and 64(5) amend sections 260(8.1) and 260(9.1), respectively, to include reference to “specified securities lending arrangements.” Clauses 52(2) and 52(3) apply in respect of amounts paid or credited after 18 March 2019.

Clauses 64(1) and 64(2) add section 260(1.2) and amend section 260(8) of the ITA, respectively, to clarify when certain payments made between the parties to a securities lending agreement will be deemed to be interest.

Lastly, clause 64(4) amends section 260(8.2) and adds section 260(8.3) to state the effect of these changes on the characterization of interest and dividends for the purposes of a tax treaty.

Clause 64 of the bill applies in respect of amounts paid or credited as securities lending arrangement compensation payments after 18 March 2019. However, clause 64 does not apply in respect of amounts paid or credited after 18 March 2019 and before October 2019, if they are pursuant to a written arrangement entered into before 19 March 2019.

2.1.26 Electronic Delivery of Requirements for Information to Banks and Credit Unions

Clause 55 of Bill C-30 amends section 231.2(1) and adds section 231.2(1.1) to the ITA to allow the Minister of National Revenue to send a notice or other documents electronically to a bank or credit union that has provided written consent to receive such documents electronically.

Similar amendments are made by clause 56 to various provisions in section 231.6 with respect to a notice from the Minister of National Revenue for a request for foreign-based information or documents.

Clause 57 amends section 231.8(a) of the ITA, which governs the computation of periods of time, to confirm that notice can be served or mailed.

Clause 59 of the bill adds section 244(6.1) to the ITA to provide that the affidavit of an officer of the CRA is considered proof that documents have been sent electronically.

The related amendments that are made to the *Excise Tax Act* (ETA),[12] the *Air Travellers Security Charge Act* (ATSCA),[13] the *Excise Act, 2001*[14] and the *Greenhouse Gas Pollution Pricing Act*[15] are discussed in Part 2.1.31 of this Legislative Summary.

2.1.27 Preventing the Use of Derivative Transactions to Convert Ordinary Income into Capital Gains

In 2013, rules were introduced to the ITA to prevent taxpayers that were using derivative forward agreements – which are a combination of a derivative financial instrument with the purchase or sale of a capital property – to convert income, which is fully taxed, to capital gains, which are taxed at 50%. An exception to the derivative forward agreement rules was provided for certain commercial transactions, such as merger and acquisition transactions. Since 2013, some parties to derivative forward agreements have misused the commercial transaction exception in order to be able to convert income into capital gains.

Clauses 61(1) and 61(4) of Bill C-30 amend the definitions of “derivative forward agreement” and “tax-indifferent investor,” respectively, found in section 248(1) of the ITA, to narrow the scope of the exception by excluding certain types of property and purchasers.

Clauses 61(1) and 61(4) are deemed to have come into force on 19 March 2019, with some exceptions.

2.1.28 Capital Cost Allowance Write-Off for Business Investments in Certain Zero-Emission Vehicles

The 2019 federal budget introduced a temporary enhanced first-year capital cost allowance (CCA) deduction of 100% for eligible zero-emission vehicles purchased after 18 March 2019 and before 2028. To implement this measure, two new classes of CCA property, Class 54 and Class 55, were created for zero-emission passenger vehicles, taxis and other types of vehicles.[16]

Clause 61(5) of Bill C-30 expands this measure by amending the definition of “zero-emission vehicle” in section 248(1) of the ITA so that eligible zero-emission vehicles purchased after 1 March 2020 can include used vehicles as well as those for which a CCA deduction has been previously claimed, subject to similar restrictions for property that are set out in the accelerated investment incentive program.

Clause 84(1) of the bill amends section 1100(1)(a) of the ITR to add a new Class 56 for zero-emission automotive equipment and vehicles acquired after 1 March 2020 and before 2028. Clauses 84(2), 84(5), 84(6) and 84(7) amend various provisions in section 1100(2) of the ITR in order to add references to new Class 56. These amendments provide a CCA deduction of 100% for Class 56 property that becomes available for use after 1 March 2020 and before 2024, a 75% CCA deduction for Class 56 property that becomes available for use in 2024 or 2025 and a 55% CCA deduction for Class 56 property that becomes available for use in 2026 or 2027.

Clauses 85(1), 86(1) and 87(1) amend sections 1102(14.13), 1103(2j) and 1104(4) of the ITR in order to exclude Class 56 property from the accelerated investment incentive property program and to make other consequential amendments. Lastly, clause 93 amends Schedule II of the ITR to add the description of Class 56 property.

Clauses 61(5), 84(1), 84(2) and 84(5) to 84(7) of the bill are deemed to have come into force on 2 March 2020.

2.1.29 Accelerated Investment Incentive for Depreciable Property

The accelerated investment incentive program was introduced in the 2019 federal budget to allow a 50% increase in the available CCA deduction for certain property acquired after 20 November 2018 that becomes available for use before 2024. It also suspended the CCA half-year rule, which only allows 50% of the cost of eligible property to be deducted in the first year it was purchased, for the same property.[17]

Clauses 84(3) and 84(4) of Bill C-30 amend sections 1100(2)(c) and 1100(2)(d) of the ITR to clarify the formulas used with respect to the suspension of the half-year rule for Class 43 (eligible machinery and equipment used to manufacture or process goods), Class 43.2 (electrical vehicle charging stations) and Class 53 (eligible machinery and equipment that is acquired after 2015 and before 2026) properties.

Clause 84(8) of the bill amends section 1100(2.02) of the ITR to broaden the scope of the provision so that it applies to certain expenditures incurred after 20 November 2018.

Clause 85(2) amends section 1102(20.1) of the ITR to prevent taxpayers from arranging arm’s length relationships in order to obtain the more favourable treatment that is available for certain accelerated investment incentive property.

Clauses 87(2) and 87(3) amend the definition for “accelerated investment incentive property” in section 1104(4) and add section 1104(4.1) to the ITR to clarify that the property cannot be a property in which the business has already deducted certain amounts and to clarify how to account for deductions made for costs incurred at different times.

Clauses 84(3), 84(4), 84(8), 87(2) and 87(3) of the bill apply in respect of property acquired after 20 November 2018. Clause 85(2) applies in respect of property acquired after 30 July 2019.

2.1.30 Contributions to a Specified Multi-employer Plan for Older Members

Unlike other defined-benefit registered pension plans, the rules governing specified multi-employer plans (SMEPs) do not prohibit an employer from making contributions to the plan with respect to a member that can no longer accrue further pension benefits.

Clause 91 of Bill C-30 amends section 8510(7) of the ITR to prohibit contributions to a SMEP in respect of a member after the end of the year the member reaches 71 years of age and to a defined benefit provision of a SMEP if the member is receiving a pension from the plan.

Clause 91 applies to contributions made pursuant to a collective bargaining agreement entered into after 2019; however, it does not apply to contributions made on or before the date the agreement is entered into.

2.1.31 Related and Consequential Amendments to Other Acts

In the same manner by which clause 55 of Bill C-30 amends the ITA to allow the Minister of National Revenue to deliver documents electronically, clause 65 amends section 99(1) of the ETA to provide that notice from the minister can be served personally, sent by registered or certified mail or sent electronically to a bank or credit union that has provided consent to receive notices electronically. Clauses 66 to 71 of the bill amend sections 102.1, 105, 289, 289.2(a), 292 and 335 of the ETA, respectively, to confirm that notice can be served personally or sent by mail or electronically, and that an affidavit of an officer of the CRA can serve as proof of electronic delivery.

Similar amendments with respect to acceptable methods by which CRA can deliver notices or other types of documents are made by:

- clauses 72 and 73, which amend sections 38 and 83 of the ATSCA;
- clauses 74 to 77, which amend sections 208, 209.1(a), 210 and 301 of the *Excise Act, 2001*; and

- clauses 78 to 80, which amend sections 106, 144 and 164 of the *Greenhouse Gas Pollution Pricing Act*.

Clause 92 amends section 8901.2 of the ITR to take into account the amendment to the definition of "qualifying period" that was made as part of the changes introduced with respect to CEWS and CERS, which are discussed in detail in Part 2.1.18 of this Legislative Summary.

Clause 94 of the bill amends the definition "montant de retenue" in section 1 of the French version of the *Canada Disability Savings Regulations* (CDSR) to make it more consistent with the English version.

2.2 PART 2: IMPLEMENTATION OF CERTAIN GOODS AND SERVICES TAX/ HARMONIZED SALES TAX MEASURES

2.2.1 Face Masks and Face Shields

Clause 114(1) of Bill C-30 adds new sections 2 to 5 to Part II.1 of Schedule VI to the ETA so that the following suppliers of face masks and face shields designed for medical purposes are zero-rated for GST/HST:

- face masks and respirators designed for human use and authorized for medical use in Canada (section 2);
- face masks and respirators that meet N95, KN95 or equivalent certification requirements (section 3);
- face masks and respirators designed for human use that are used to prevent the transmission of infectious agents, provided they meet certain conditions set out in this section (section 4); and
- face shields with a transparent and impermeable window that cover the entire face and are designed to prevent the transmission of infectious agents (section 5).

These amendments apply to supplies made after 6 December 2020.

2.2.2 Non-Resident Vendors of Digital Products or Services and Short-Term Accommodation in Canada Facilitated Through a Digital Platform

Under the ETA, non-resident vendors who do not operate a business in Canada through a permanent establishment and who supply digital products or services to consumers in Canada are not required to register for, collect or pay GST/HST on their sales to Canadian consumers.

Clause 107 of Bill C-30 adds a new Subdivision E (sections 211.1 and 211.11 to 211.25) to Division II of Part IX of the ETA to set out rules for a simplified

GST/HST registration framework and requires certain non-resident suppliers (except those registered for GST/HST under the general rule or a person who operates a business in Canada) to register for this new GST/HST system under certain circumstances.

Clause 107(1) of the bill adds new section 211.1, which specifies that non-residents who are sellers of digital products or services, distribution platform operators or short-term accommodation platform operators are required to register for the new GST/HST system under new Subdivision E of Division II of Part IX of the ETA if their total sales to Canadian consumers exceed, or can reasonably be expected to exceed, $30,000 over a 12-month period.

New sections 211.1(4) to 211.1(6) set out the rules used to determine whether the usual place of residence of a recipient of a supply is in Canada. New section 211.1(1) lists a certain number of indicators, such as the recipient's home address, billing address, banking or payment information, the Internet Protocol address of the device used by the recipient. In general, a recipient's usual place of residence would be in Canada if two or more indicators identify Canada as their usual place of residence.

New section 211.12(5) specifies that the Minister of National Revenue has the authority to register a person who, in their opinion, should be registered in the GST system under Subdivision E of Division II of Part IX of the ETA.

New section 211.17(1) specifies that persons registered in the simplified GST/HST cannot apply for input tax credits in order to recover the GST/HST paid on their business expenses.

The amendments apply to supplies made on 1 July 2021, or after, and to a supply made before that date if the entire consideration for the supply is payable on 1 July 2021, or after.

2.2.3 Goods Shipped from a Fulfillment Warehouse or Another Place in Canada by Distribution Platform Operators and Non-Resident Vendors

Clause 107(1) of Bill C-30 adds sections 211.12 and 211.13 to the ETA to require that specified non-resident suppliers[18] register for the general GST/HST system if they sell products directly to consumers in Canada on their own behalf and for digital platforms[19] that facilitate the sale of products to consumers in Canada when the transactions involve the sale of products that are in distribution warehouses in Canada and sold to buyers in Canada if total sales to consumers in Canada exceed, or can reasonably be expected to exceed, $30,000 for 12 months.

Clause 107(1) adds sections 211.13(5), 211.23(2) and 211.23(3) to the ETA in order to specify that platform operators that facilitate the transaction of sales for third-party suppliers are held wholly responsible for the collection and payment of GST/HST in certain circumstances. However, if the supplier has provided false information to the platform operator and the platform operator cannot reasonably be expected to know that the person made a false statement in the information provided by a third-party supplier, the platform operator would be absolved of all responsibility.

The new rules apply to supplies made on 1 July 2021, or after, and to a supply made before that date if the entire consideration for the supply is payable on 1 July 2021, or after.

2.2.4 Goods and Services Tax Rebate for New Housing

Section 262(3) of the ETA sets out rules for applying the GST new housing rebate provisions under sections 254 to 256 of the ETA. Under the current rules, the GST new housing rebate is granted only if the housing is the primary place of residence for all the purchasers or a relation of them.

Clause 109 of Bill C-30 amends section 262(3) of the ETA to extend eligibility for the GST/HST new housing rebate to cases where only one of the purchasers or one of their relations uses the housing as a primary residence. More specifically, this applies to cases where multiple individuals

- jointly purchase a new residential complex (section 254);
- jointly purchase a share of the capital stock of a cooperative housing corporation (section 255);
- construct or engage another person to construct a new residential complex (section 256); or
- substantially renovate or engage another person to substantially renovate a new residential complex (sections 254 to 256).

Clause 116 of the bill makes an equivalent amendment to section 40 of the *New Harmonized Value-added Tax System Regulations, No. 2*,[20] to provide that the rebate also applies to the provincial component of the HST in Ontario.

These changes are deemed to have come into force after 19 April 2021.

2.2.5 Definition of Freight Transportation Service

Part VII of Schedule VI to the ETA lists the supplies of freight transportation services that are zero-rated and other rules that apply to them.

Clause 115 of Bill C-30 amends the definition of "freight transportation service" in section 1(1) of Part VII of Schedule VI to the ETA to include a service of driving an automotive vehicle that is designed or adapted to be used on highways and streets for the purpose of delivering the vehicle to a destination.

This provision is deemed to have come into force on 18 May 2019, but also applies in respect of any supply made before that day if the supplier did not, before that day, charge, collect or remit any amount.

2.2.6 Drop-Shipment Rules

Section 179 of the ETA allows a non-resident person who is not registered for the GST/HST to acquire goods or services in respect of goods in Canada without paying the GST/HST. These rules apply where the goods remain in the physical possession of a GST/HST registrant who accepts liability for the GST/HST if the goods are transferred to a person for non-commercial use in Canada. These rules are known as "drop shipment rules."

Clause 105(1) of Bill C-30 adds section 179(3.1) to the ETA, which provides that, in certain circumstances, a "distribution platform operator certificate" may be issued that relieves a person of the obligation to remit GST/HST on a supply. For section 179(3.1) of the ETA to apply, the supplier must provide a certificate to a GST/HST registered business acknowledging that the consignee acquired physical possession of the goods as the recipient of a taxable supply and that the distribution platform operator is required to collect tax in respect of that taxable supply. The certificate must state the distribution platform operator's name and registration number assigned under section 241 of the ETA.

Clause 105(1) comes into force, or is deemed to have come into force, on 1 July 2021.

Clause 105(2) of Bill C-30 adds section 179(7.1) to the ETA, extending the rules under section 179 to fungible property. For example, the rules apply in the following cases:

- a registrant acquires physical possession of the original tangible personal property for the purpose of making a supply of a service of manufacturing or producing tangible personal property;
- a substitute tangible personal property is directly consumed or expended in the manufacture or production of the manufactured property.
- The original tangible personal property and the substitute tangible personal property must be:
- of the same class or kind of property;
- in the same measure and state; and

- interchangeable for commercial purposes.

Section 105(2) is deemed to apply in respect of any supply made after 17 May 2019 and in respect of any supply made on or before that day if the supplier did not, on or before that day, charge, collect or remit any amount as or on account of tax under Part IX of the ETA in respect of the supply.

2.2.7 Virtual Currency

Clause 100(3) of Bill C-30 amends the definition of financial instrument in section 123 of the ETA to include "a virtual payment instrument" (new section 123(1)(f.1)).

Clause 100(4) of the bill adds the definition of virtual payment instrument to section 123(1) of the ETA. Virtual payment instrument means property that is a digital representation of value, that functions as a medium of exchange and that only exists at a digital address of a publicly distributed ledger, other than property that:

- confers a right, whether immediate or future and whether absolute or contingent, to be exchanged or redeemed for money or specific property or services or to be converted into money or specific property or services;
- is primarily for use within, or as part of, a gaming platform, an affinity or rewards program or a similar platform or program; or
- is prescribed property.

Therefore, a supply of digital currency is GST/HST exempt. A person making a supply of digital currency is therefore not required to collect GST/HST and not entitled to claim input tax credits in respect of that supply.

These amendments are deemed to have come into force on 18 May 2019 (clause 100(6)).

2.2.8 Holding Corporation Rules

The rules set out in section 186 of the ETA enable a parent corporation resident in Canada to claim input tax credits in respect of the shares or debt of related corporations (e.g., a subsidiary) in certain circumstances. These rules are known as "GST/HST holding corporation rules."

Clause 106 of Bill C-30 amends section 186(1) of the ETA to broaden the "commercial operating corporation property test" that the related corporation must meet in order for the parent corporation to benefit from the holding corporation rules to include property that was last manufactured, produced, acquired or imported by the other related corporation for consumption, use or supply by the other related corporation exclusively in the course of its commercial activities.

This amendment generally applies to expenses incurred after 27 July 2018.

Clause 106 of the bill also amends section 186(1) of the ETA to broaden the holding corporation rules to apply to a parent corporation that is a partnership or trust.

This amendment generally applies to expenses incurred after 17 May 2019.

Clause 106 of the bill adds sections 186(0.1) and 186(0.2) to the ETA. These technical amendments clarify holding corporation rules as well as a similar rule that applies when a corporation claims input tax credits on certain expenses in relation to the takeover of a corporation.

Clause 108 of the bill makes consequential amendments to the voluntary GST/HST registration rules in section 240(3)(d) of the ETA.

2.3 PART 3: IMPLEMENTATION OF CERTAIN EXCISE MEASURES ON TOBACCO PRODUCTS

The *Excise Act, 2001* sets the excise duty rates on tobacco products and provides for an annual increase to reflect inflation.

Clause 117(1) in Part 3 of the bill amends the definition of "adjustment day" for the cigarette inventory tax in section 58.1 of the *Excise Act, 2001* by adding a new section 58.1(a.2) after section 58.1(a.1), which adds the adjustment day of 20 April 2021.

Clause 118(1) of the bill amends section 58.2 of the *Excise Act, 2001* by adding new section 58.2(1.2) after section 58.2(1.1) to provide that every person shall pay to the Crown a tax on all taxed cigarettes held at the beginning of 20 April 2021 at the rate of $0.02 per cigarette.

Clause 119(1) adds new section 58.5(1)(a.2) to provide that every person liable to pay tax shall file a return with the Minister of National Revenue in the prescribed form and manner on or before, in the case of the tax imposed under section 58.2(1.2), 30 June 2021.

Clause 120(1) adds new section 58.6(1)(a.2) to provide that every person shall pay to the Receiver General the total tax payable by the person on or before, in the case of the tax imposed under section 58.2(1.2), 30 June 2021.

Clauses 121(1) to 125(1) of the bill amend schedules 1 and 2 of the *Excise Act, 2001* to increase the rates of excise duty on tobacco products. The rates for various tobacco products are increased as follows:

- $0.62725 to $0.72725 for five cigarettes;
- $0.12545 to $0.14545 per tobacco stick;
- $7.84062 to $9.09062 per 50 grams of manufactured tobacco; and
- $27.30379 to $31.65673 per 1,000 cigars.

The amendments to Schedule 2 increase the additional duty on cigars from $0.09814 to $0.11379 per cigar or 88% of the sale price of cigars manufactured in Canada or the duty-paid value of imported cigars, whichever is greater.[21]

Clauses 117(2) to 125(2) bring these changes into force on 20 April 2021.

2.4 PART 4: IMPLEMENTATION OF VARIOUS MEASURES

2.4.1 Division 1: Amendments to the *Canada Deposit Insurance Corporation Act* and the *Payment Clearing and Settlement Act*

Division 1 of Part 4 of Bill C-30 amends portions of the *Canada Deposit Insurance Corporation Act* (CDICA)[22] to clarify how investors, creditors and other participants may be compensated as a result of actions taken by financial authorities to sell, wind down or restore a failing bank in both the CDICA and the *Payment Clearing and Settlement Act*[23] (PCSA). Clause 126 amends section 39.15 of the CDICA. Clauses 126(1) and 126(2) add section 39.15(1.1) and update references to it to prevent a person from taking certain actions in relation to agreements between the person and a federal member institution by reason only of a monetary default by that institution in the performance of obligations under those agreements, if the default occurs in the period between the making of an order directing the conversion of that institution's shares or liabilities when that conversion occurs. Clause 126(4) adds sections 39.15(7.4) to 39.15(7.6) to require certain federal member institutions to ensure that provisions of that CDICA apply to certain eligible financial contracts. Clause 126(5) amends the definition of "clearing house" to include that it provides payment message exchange services.

Division 1 also amends portions of the CDICA that deal with cross-border enforceability of the stay provisions applicable to eligible financial contracts. Clause 126(3) replaces section 39.15(7.12) to add Her Majesty in right of Canada, foreign governments and central banks to the list of entities that are exempt from the existing stay provisions of the CDICA.

Clauses 127 to 132 make technical amendments to the CDICA to provide the Canada Deposit Insurance Corporation (CDIC) with a targeted expansion of its authorities with respect to timeliness and efficiency of the deposit insurance payout process.

Clause 133 amends the definitions of "clearing and settlement system" and "clearing house" in section 2 of the PCSA to add exchanges of payment messages for the purpose of clearing or settlement of such obligations. Clauses 134 and 135 specify the steps that an assessor must follow when reviewing a determination of the Bank of Canada (the Bank) with respect to payment compensation. Clauses 136 and 137 clarify that systems or arrangements for the exchange of payment messages for the purpose of clearing or settlement of payment obligations may be overseen by the Bank as clearing and settlement systems.

Clause 138 amends not-in-force provisions of the CDICA, enacted by the *Budget Implementation Act, 2018, No. 1* (BIA 2018, No. 1),[24] so that, under certain circumstances, an error or omission that results in a failure to meet a requirement of the schedule to the CDICA will not prevent a deposit from being considered a separate deposit.

Clause 139(1) states that sections 129 to 131 come into force on a day to be fixed by order of the Governor in Council. Clause 139(2) specifies that section 132 come into force on the second anniversary of the day on which section 212 of the BIA 2018, No. 1 comes into force.

2.4.2 Division 2: Amendments to the *Bank of Canada Act*, the *Pension Benefits Standards Act, 1985* and the *Trust and Loan Companies Act*

When a Canadian-dollar account, deposit or negotiable instrument held or issued by a federally regulated bank or trust company has been inactive for 10 years and the owner cannot be contacted, it is considered an "unclaimed balance." Once a year on 31 December, unclaimed balances are transferred to the Bank, which acts as custodian on behalf of the owners.[25]

Division 2 of Part 4 deals with unclaimed assets and amends the *Bank of Canada Act* ,[26] the *Bank Act*,[27] the *Pension Benefits Standards Act, 1985* (PBSA, 1985)[28] and the *Trust and Loan Companies Act* (TLCA).[29]

Clause 140 replaces section 22(1.4) of the *Bank of Canada Act* to allow for the publication on the Bank of Canada's website of information about debt, instrument, claim or returned payment of assets.

Clauses 141 and 142 replace sections 10.3(1) to 10(6) and 39(1)(c.1) to 39(1)(c.4) of the PBSA, 1985 that deal with the transfer of pension plan assets relating to the pension benefit credit of a person who cannot be located to specify the conditions under which assets may be transferred and the effects of a transfer on any claims that may be made in respect of those assets.

Clauses 143 and 144 amend sections 424 and 425(1) of the TLCA to impose additional requirements on financial institutions in connection with their transfers of unclaimed amounts to the Bank and communications with the owners of those accounts, and to include unclaimed amounts that are not in Canadian currency. Clauses 145 to 148 make similar amendments to the *Bank Act*. Clause 149 makes coordinating amendments.

Clause 150(1) specifies that clauses 140 and 143 to 148 come into force on a day to be fixed by order of the Governor in Council. Clause 150(2) specifies that clauses 141 and 142 come into force on a day to be fixed by order of the Governor in Council.

2.4.3 Division 3: Amendments to the *Budget Implementation Act, 2018, No. 2*

Section 329 of the *Budget Implementation Act, 2018, No. 2* (BIA 2018, No. 2)[30] amends the *Bank Act* by adding Part XII.2, "Dealings with Customers and the Public," which contains five sections (ss. 627.01 to 627.998). Section 329, which is not yet in force, will come into force on a day to be fixed by order of the Governor in Council.

Section 627.1(1) of the *Bank Act*, which allows for the cancellation of an agreement that an institution enters into with a person in respect of a product or service in Canada, other than a retail deposit account, a deposit-type instrument or a credit card account:

- if it was entered into by mail or orally by telephone, within the prescribed period or, if there is no prescribed period, until the end of the 14th business day after the day on which the agreement is entered into; or
- if it was entered into in any other manner, within the prescribed period or, if there is no prescribed period, until the end of the third business day after the day on which the agreement is entered into.

Clause 151(1) amends section 329 of the BIA 2018, No. 2 by replacing the portion of section 627.1(1) of the *Bank Act* that it enacts so that it applies subject to section 627.1(1.1).

Clause 151(2) amends section 329 of the BIA 2018, No. 2 by adding, after section 627.1(1) of the *Bank Act* that it enacts, section 627.1(1.1), which provides that section 627.1(1) does not apply to a body corporate, trust or partnership if it is not a business with authorized credit of less than $1,000,000, fewer than 500 employees and annual revenues of less than $50,000,000.[31]

Clauses 152(1) and 152(2) provide that if section 329 of the BIA 2018, No. 2 comes into force before clause 151:

- clause 151 is deemed never to have come into force and is repealed; and
- sections 627.1(1) and 627.1(1.1) of the *Bank Act* are amended to make the same changes that would have been made by clause 151.

Clause 152(3) specifies that if clause 151 comes into force on the same day as section 329 of the BIA 2018, No. 2, clause 151 is deemed to have come into force before section 329.

2.4.4 Division 4: Amendments to the *Trust and Loan Companies Act*, the *Bank Act* and the *Insurance Companies Act*

In Division 4 of Part 4, clause 153 replaces sections 20(1) and 20(4) of the TLCA to extend the period during which companies, defined as the bodies corporate to which the TLCA applies, may continue to carry on business from the fifth anniversary of the day on which the BIA 2018, No. 1 received Royal Assent (21 June 2023) to 30 June 2025.

Clauses 154 and 155 of the bill replace sections 21(1), 21(4), 670(1) and 670(4) of the *Bank Act* to provide the same extension to banks, authorized foreign banks and bank holding companies.

Clauses 156 and 157 of the bill replace sections 21(1), 21(4), 707(1) and 707(4) of the *Insurance Companies Act*[32] to provide the same extension to companies, defined as the bodies corporate referred to in section 13(1) of this Act, and to insurance holding companies.

2.4.5 Division 5: Amendments to the *Canadian Securities Regulation Regime Transition Office Act*

In Division 5 of Part 4, clause 158 replaces section 14(1) of the *Canadian Securities Regulation Regime Transition Office Act*[33] to increase the maximum amount from $96,100,000 to $119,500,000 for direct payments made by the Minister of Finance to the Canadian Securities Regulation Regime Transition Office.

2.4.6 Division 6: Amendments to the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*

Division 6 of Part 4 amends the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)* (Sergei Magnitsky Law) to reduce the disclosure obligations imposed on entities under that Act.[34] The Sergei Magnitsky Law enables the Government of Canada to implement targeted sanctions, including the freezing of assets, against foreign nationals responsible for gross violations of human rights or public officials responsible for acts of significant corruption.

The entities in question, including banks, credit unions and insurance companies, must determine on a continuing basis whether they are in possession or control of property belonging to a foreign national who has been subject to sanctions made under the Sergei Magnitsky Law. Clause 159 amends section 7(1) of the Sergei Magnitsky Law to remove the requirement for entities to make monthly disclosures to their respective supervisory or regulatory agencies in situations where they have no property of a foreign national who has been subject to sanctions under the Act.

When entities learn they are in possession or control of such property, they must, without delay, notify their supervisory or regulatory agency and provide the number of persons or dealings involved as well as the total value of the property. Clause 159 amends the frequency with which entities are thereafter required to disclose information on the property in question to their supervisory or regulatory agency from once a month to once every three months.

2.4.7 Division 7: Amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*

Division 7 of Part 4 introduces amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) to update the legislative framework to combat these financial crimes.[35]

Section 5 of the PCMLTFA specifies the persons and entities that are subject to the Act.

Clause 160 of Bill C-30 amends sections 5(h) and 5(h.1) to extend the application of the PCMLTFA to persons and entities based in or outside Canada that transport currency or money orders, traveller's cheques or other similar negotiable instruments subject to the PCMLTFA.

Section 9.3 of the PCMLTFA requires a prescribed person or entity to determine whether it is dealing with politically exposed persons.

Clauses 161(1) to 161(4) of the bill amend section 9.3(3) to extend the types of positions considered to be held by politically exposed persons by:

- amending the definition of "head of an international organization" to include persons who are the head of an international sports organization; and
- amending the definition of "politically exposed domestic person" to clarify that it includes a list of prescribed offices and positions and the members of the legislature of a province, as well as clarify that the term "mayor" includes other equivalent positions of a chief officer of a municipal or local government.

Section 11.11 lists the persons or entities not eligible for registration with the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) as a money services business, as defined in section 1(2) of the PCMLTFA regulations.[36]

Clause 163(1) of the bill amends section 11.11(1) of the PCMLTFA by expanding the list of persons or entities to include a foreign national, as defined in section 2 of the Sergei Magnitsky Law, and a politically exposed foreign person, as defined in section 2(1) of the *Freezing Assets of Corrupt Foreign Officials Act*.[37]

Clause 163(2) of the bill amends section 11.11(1)(c)(iv) of the PCMLTFA by expanding the list of persons or entities to include persons convicted of an offence under the *Criminal Code* of weapons trafficking, human trafficking, extortion or materially benefitting from human trafficking, sexual services or the distribution of child pornography. It also expands the list to include persons who have been convicted under the *Immigration and Refugee Protection Act*[38] of human smuggling or trafficking, or counselling to commit such an offence.

Clause 163(3) of the bill amends section 11.11(1)(d) of the PCMLTFA by expanding the list of persons or entities to include persons who are convicted on indictment under the *Customs Act*[39] of smuggling or convicted on indictment under the *Income Tax Act* (ITA) of tax evasion.

Section 11.42 of the PCMLTFA concerns written ministerial directives requiring any person or entity referred to in section 5 of the PCMLTFA to safeguard the integrity of Canada's financial system.

Clause 164 of the bill amends section 11.42(2)(b) by adding that the measures specified in a directive may include ascertaining the source of virtual currency in any financial transaction.

Clause 165 of the bill adds after section 50 three new sections to the PCMLTFA regarding FINTRAC's appropriation of funds:

- Section 50.1(1) allows the Minister of Finance to advance amounts out of the Consolidated Revenue Fund to FINTRAC on terms and conditions specified by the minister to permit it to defray its costs of operation in any fiscal year.
- Section 50.1(2) allows FINTRAC spend assessments and other revenues received through the conduct of its operations.
- Section 50.1(3) specifies that the Minister of Finance may make a payment out of the Consolidated Revenue Fund to FINTRAC, subject to approval by the Treasury Board, for the purposes of carrying out activities on the recommendation of the minister.

Clause 166 of the bill amends the PCMLTFA by adding new sections after section 51 regarding the assessment of expenses incurred by FINTRAC or the assessment of expenses for services provided by FINTRAC to a reporting entity:

- FINTRAC shall ascertain, in each year before 31 December, the total amount of expenses incurred during the preceding fiscal year in connection with the administration of the PCMLTFA, excluding the expenses incurred for the disclosure of designated information (new section 51.1(1)).
- The amount ascertained in new section 51.1(1) is final and conclusive (new section 51.1(2)).
- After ascertaining the amount under new section 51.1(1), FINTRAC shall assess a portion of the total amount of expenses against reporting entities to the prescribed extent and in the prescribed manner (new section 51.1(3)).
- FINTRAC may make an interim assessment against reporting entities (new section 51.1(4)).
- FINTRAC may assess against a reporting entity any charges or disbursements for services provided by FINTRAC (new section 51.2(1)).
- FINTRAC may make an interim assessment against reporting entities towards the amount to be assessed against them under new section 51.2(1) (new section 51.2(2)).
- For the purposes of making an assessment or interim assessment, FINTRAC may collect prescribed information that is publicly available, provided under an agreement, or provided upon request as specified in new section 51.3(2) (new section 51.3(1)).
- FINTRAC may request reporting entities to provide FINTRAC with the prescribed information. The reporting entities and the information shall be prescribed in the PCMLTFA regulations (new section 51.3(2)).
- Every assessment and interim assessment are final and conclusive and binding on the person or entity against which it is made (new section 51.4(1)).

- Every assessment and interim assessment constitute a debt due to the Crown, is immediately payable and may be recovered as a debt in any court of competent jurisdiction (new section 51.4(2)).
- Interest may be charged on the unpaid amount of an assessment or interim assessment at a rate equal to the rate prescribed under the ITA (new section 51.4(3)).

Clause 167 of the bill amends the PCMLTFA to add new section 54(1.1) specifying that for the purpose of analyzing and assessing the report from a reporting person or entity, FINTRAC may request that the reporting person or entity provide any additional information required in the report.

Section 55 of the PCMLTFA concerns the disclosure and use of information submitted by reporting persons or entities to FINTRAC.

Clause 168(1) of the bill amends section 55(1) by specifying that subject to sections 53.1 and 58.1, FINTRAC shall not disclose certain information.

Clause 168(3) of the bill amends sections 55(7)(b) to 55(7)(d) by clarifying the list of designated information that FINTRAC may disclose to the relevant police authorities, federal departments and agencies identified in section 55(3) responsible for Canada's anti-money laundering regime. Information regarding attempted financial transactions deemed relevant to investigating or prosecuting a money laundering offence or a terrorist activity financing offence may be disclosed. This clause also adds the following to the list of designated information that FINTRAC may disclose:

- in the case of transactions involving virtual currency, the transaction identifiers, including sending and receiving addresses; and
- in the case of a transaction or attempted transaction, the source of funds, the source of virtual currency, and other information regarding the person or entity that is the source of funds or virtual currency, including name, account number, or other identifying number.

Clause 168(7) of the bill amends section 55(7)(r) and 55(7)(s) by clarifying that if an entity is a trust, the designated information that FINTRAC may disclose includes information regarding every trustee and every known beneficiary and settlor of the trust. This clause also clarifies that the beneficial ownership information of a trust that is widely held or publicly traded is included among the designated information that FINTRAC may disclose.

Section 55.1 of the PCMLTFA concerns the disclosure of information by FINTRAC pertaining to relevant threats to the security of Canada.

Clause 169(1) of the bill amends section 55.1(1)(e) by clarifying that FINTRAC may disclose information to the Department of National Defence and the Canadian Forces, if it has reasonable grounds to suspect that the information is relevant to the conduct of the department's or the Canadian Forces' investigative activities related to such a threat.

Clause 169(3) of the bill amends sections 55.1(3)(b) to 55.1(3)(d) by clarifying that the list of designated information that FINTRAC may disclose to police and certain federal partners related to threats to the security of Canada includes information regarding an attempted financial transaction. This clause also adds the following to the list of designated information that FINTRAC may disclose:

- in the case of transactions involving virtual currency, the transaction identifiers, including sending and receiving addresses; and
- in the case of a transaction or attempted transaction, the source of funds, the source of virtual currency, and other information regarding the person or entity that is the source of funds or virtual currency, including name, account number, or other identifying number.

Clause 169(7) of the bill amends sections 55.1(3)(r) and 55.1(3)(s) by clarifying that if an entity is a trust, the designated information that FINTRAC may disclose includes information regarding every trustee and every known beneficiary and settlor of the trust. This clause also clarifies that the beneficial ownership information of a trust that is widely held or publicly traded is included among the designated information that FINTRAC may disclose.

Section 56.1 of the PCMLTFA concerns the disclosure of designated information to foreign agencies.

Clause 170(2) amends sections 56.1(5)(b) to 56.1(5)(d) by clarifying that the list of designated information that FINTRAC may disclose to foreign agencies regarding a suspected money laundering or terrorist financing offence includes information regarding an attempted financial transaction. This clause also adds the following to the list of designated information that FINTRAC may disclose:

- in the case of transactions involving virtual currency, the transaction identifiers: including sending and receiving addresses; and
- in the case of a transaction or attempted transaction, the source of funds, the source of virtual currency, and other information regarding the person or entity that is the source of funds or virtual currency, including name, account number, or other identifying number.

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Clause 170(6) of the bill amends section 56.1(5)(q) and 56.1(5)(r) by clarifying that if an entity is a trust, the designated information that FINTRAC may disclose includes information regarding every trustee and every known beneficiary and settlor of the trust. This clause also clarifies that the beneficial ownership information of a trust that is widely held or publicly traded is included among the designated information that FINTRAC may disclose.

Section 73(1) of the PCMLTFA concerns how the Governor in Council, on the recommendation of the Minister of Finance, may make any regulations that the Governor in Council considers necessary for carrying out the purposes and provisions of the Act.

Clause 171 of the bill amends section 73(1) by providing regulation-making authority respecting the assessments referred to in new sections 51.1 and 51.2 of the PCMLTFA.

Clause 172 of the bill amends section 74(1)(a) and 74(2)(a) of the PCMLTFA by increasing the penalty on summary conviction when a person or entity is found guilty of an offence under these two sections to a fine of not more than $250,000 or imprisonment for a term of not more than two years less a day, from $50,000 or imprisonment of six months.

Section 75(1) specifies the fine and term of imprisonment for contraventions of the PCMLTFA under sections 7 and 7.1, which deal with reporting requirements to FINTRAC, and section 11.49(1), which deals with regulations that impose a limitation or prohibition on any reporting person or entity to entering into, undertaking or facilitating, directly or indirectly, any financial transaction originating from or bound for any foreign state or foreign entity.

Clause 173 of the bill amends section 75(1) by removing the requirement for the person or entity to have “knowingly” contravened section 7 or 7.1 or any regulation made under section 11.49(1) to be deemed guilty of an offence under this provision. This clause also amends the penalty on summary conviction when found guilty of an offence under section 75(1) by eliminating the lesser penalty for a first-time offence of $500,000, making the sole penalty on summary conviction a fine of not more than $1,000,000 or imprisonment for a term of not more than two years less a day.

Section 77(1) specifies the fine for a person or entity found guilty of the offence of failing to disclose financial transactions to FINTRAC in contravention of sections 9(1) and 9(3). Section 77(2) specifies the fine for a person or entity in contravention of section 11.43 and found guilty of the offence of failing to comply with reporting measures under section 11.42(2)(e) specified in a ministerial directive issued under section 11.42(1).

Clause 174 of the bill amends sections 77(1) and 77(2) of the PCMLTFA by eliminating the lesser penalty for a first-time offence of $500,000, making the sole penalty a fine of not more than $1,000,000.

Section 77.1 of the PCMLTFA specifies the fine and term of imprisonment for a person or entity who provides false or misleading information when registering with FINTRAC.

Clause 175 of the bill amends section 77.1(a) by increasing the penalty on summary conviction when found guilty of an offence under section 77.1 to a fine of not more than $250,000 or imprisonment for a term of not more than two years less a day, from $50,000 or imprisonment of six months.

Section 79 of the PCMLTFA concerns the prosecution of offences by an employee, agent or mandatary of a reporting person or entity.

Clause 176 of the bill amends section 79 by removing the "due diligence defence" for persons or entities accused of committing an offence under section 77.1 of the PCMLTFA. It also clarifies that the "due diligence defence" is applicable to both persons and entities accused of committing an offence under section 75 or 77.

Various clauses of the bill amend a number of sections of the French version of the PCMLTFA to better match the English version or to correct grammatical errors.[40]

Clause 177 of the bill specifies that sections 160, 165, 166 and 171 of the PCMLTFA come into force on day(s) to be fixed by order of the Governor in Council.

2.4.8 Division 8: Enactment of the Retail Payment Activities Act and Related Amendments to Other Acts

Division 8 of Bill C-30 consists of 11 clauses. Key provisions are discussed below.

Clause 178 of the bill enacts the Retail Payment Activities Act (RPAA), which establishes an oversight framework for retail payment activities. Under the RPAA, the Bank of Canada (the Bank) will oversee the retail payment activities of payment service providers (PSPs). The RPAA consists of eight parts and 108 sections.

2.4.8.1 Preamble, Definitions and Application

As set out in the preamble to the statute, the purpose of the RPAA is to:

- address risks related to national security that could be posed by PSPs;

- supervise and regulate retail payment activities to mitigate operational risks and safeguard end user funds; and
- foster competition and innovation in payment services by building confidence in the retail payment sector.

Key definitions listed in section 2 include:

- “end user,” which is an individual or entity that uses a payment service as a payer or payee;
- “payment function,” which means:
  - the provision or maintenance of an account that, in relation to an electronic funds transfer, is held on behalf of one or more end users,
  - the holding of funds on behalf of an end user until they are withdrawn by the end user or transferred to another individual or entity,
  - the initiation of an electronic funds transfer at the request of an end user,
  - the authorization of an electronic funds transfer or the transmission, reception or facilitation of an instruction in relation to an electronic funds transfer, or
  - the provision of clearing or settlement services;
- “payment service provider,” which is an individual or entity that performs payment functions as a service or business activity that is not incidental to another service or business activity; and
- “retail payment activity,” which is a payment function that is performed in relation to an electronic funds transfer that is made in the currency of Canada or another country using a unit that meets prescribed criteria.

Sections 4 and 5 indicate that the RPAA applies to:

- any retail payment activity that is performed by a PSP that has a place of business in Canada; and
- any retail payment activity that is performed for an end user in Canada by a PSP that does not have a place of business in Canada, but directs retail payment activities at individuals or entities in Canada.

However, sections 6 to 10 provide that the RPAA does not apply to:

- selected payment functions including certain types of merchant gift cards, transfers related to eligible financial contracts or securities, cash withdrawals at automatic teller machines and other prescribed retail payment activity;

- a payment function performed by a system that is designated under section 4 of the *Payment Clearing and Settlement Act*;
- retail payment activity performed internally between affiliated entities; and
- retail payment activities provided by a PSP that is a federally or provincially regulated financial institution, the Canadian Payments Association or the Bank.

2.4.8.2 Part 1 – Bank of Canada and Minister of Finance

Section 12 states that the objects of the Bank are: 1) to supervise PSPs that perform retail payment activities to ensure compliance with the RPAA; 2) promote the adoption of relevant policies and procedures by PSPs; and 3) monitor and evaluate trends and issues related to retail payment activities. The Bank must consider the efficacy of payment services and the interests of end users when pursing its objects.

Section 14 states that both the Bank and the Minister of Finance may issue guidelines with respect to certain provisions of the RPAA, with the minister's guidelines being related to national security.

2.4.8.3 Part 2 – Operational and Financial Measures

"Operational risk" is defined in section 2 as a risk that any of the following will result in the reduction, deterioration or breakdown of retail payment activities that are performed by a PSP:

- a deficiency in the PSP's information system or internal process;
- a human error;
- a management failure; or
- a disruption caused by an external event.

With respect to operational risks faced by PSPs, section 17 requires PSPs to establish and maintain a risk management and incident response framework. Under section 18, a PSP is required to notify the Bank and any affected end users, PSPs, or clearing houses, of any "incident" that has a material impact on those affected. An incident is defined as "an event or series of related events that is unplanned by a PSP and that results in or could reasonably be expected to result in the reduction, deterioration or breakdown of any retail payment activity that is performed by the PSP."

Regarding financial risks, section 20 requires a PSP whose accounts are not covered by provincial deposit insurance to hold end user funds:

- in a trust account that is not used for any other purpose;

- in a prescribed account or in a prescribed manner; or
- in an account that is not used for any other purpose, but has insurance or a guarantee for amounts held in the account.

Lastly, section 21 provides that a PSP must submit an annual report to the Bank that includes prescribed information about the PSP's risk management and incident response framework and how it safeguards end user funds. Section 22 also requires a PSP to notify the Bank if it makes a "significant change" in the way it performs a retail payment activity. Significant change is defined as a change that "could reasonably be expected to have a material impact on operational risks or the manner in which end user funds are safeguarded."

2.4.8.4 Part 3 – Registration

Section 23 requires PSPs to register with the Bank before performing retail payment activities.

Sections 25 and 26 state that, subject to some exceptions, the Bank must register any individual or entity that applies for registration and it must maintain a public registry of registered PSPs. Furthermore, under section 27, the Bank must also maintain and publish a list of the individuals and entities that it has refused to register and the PSPs that have had their registration revoked, including reasons for refusal or revocation.

As set out in section 29, applications for registration must include the prescribed registration fee and include information such as the applicant's name and address, how the applicant's business is structured, a detailed description of the retail payment activities the applicant intends to perform, as well as declarations that state if the applicant has a place of business in Canada and whether the applicant is registered with FINTRAC.

Of note, sections 31 and 33 provide that the Bank, once an application is complete, must provide specified information about the applicant to FINTRAC and a copy of the application to the minister.

Sections 32 to 47 set out the process by which the minister can review an application or revoke registration of a PSP for reasons related to national security. Under sections 40 and 45, the minister can issue a directive to the Bank to refuse to register an applicant or revoke registration of a PSP for reasons related to national security. Sections 42 and 43 allow the minister to require an applicant or PSP to provide an undertaking or agree to conditions if the minister is of the opinion that it is necessary for national security reasons. Lastly, under sections 41 and 46, an applicant or PSP can make a request to the minister for a review of a directive or a notice of intent to revoke registration.

Similarly, sections 48 to 57 describe the process by which the Bank can refuse to register an applicant or revoke registration of a PSP for reasons related to providing false or misleading information, for violations of the PCMLTFA or the RPAA, for no longer performing retail payment activities, or, for PSPs not based in Canada, for unpaid penalties for violations of the RPAA. Sections 50 and 53 allow the applicant or PSP to make a request to the Governor of the Bank to review the refusal to register or notice of intent to revoke registration. If an applicant or PSP's request for review by the Governor is unsuccessful, section 58 allows an applicant or PSP to make an appeal to the Federal Court.

2.4.8.5 Part 4 – Confidentiality of Information

Sections 62 and 63 provide that any information that the Bank or the minister obtains under the RPAA is treated as confidential. However, the Bank may disclose certain information if it is required to make it public and the Bank and the minister can provide information to any government or regulatory body if it also agrees to treat the information as confidential.

2.4.8.6 Part 5 – Administration and Enforcement

Regarding the administration and enforcement of the RPAA, sections 65 to 71 provide that the Bank can:

- request information from a PSP to verify compliance with the RPAA;
- request information from an individual or entity to determine whether the individual or entity is a PSP;
- direct a special audit of a PSP for the purposes of verifying compliance, at the cost of the PSP;
- enter into a compliance agreement with a PSP for the purpose of implementing any measure designed to further compliance with the RPAA; and
- designate "authorized persons" that, for the purpose of verifying compliance, can enter into a place of business and use any computer system in order to examine records and inquire into the business and affairs of PSPs, subject to a requirement to obtain a warrant to enter a place of business that is located in a residence.

Similarly, sections 72 to 75 provide that the minister can designate "authorized persons" to examine records and inquire into the business and affairs of PSPs for purposes related to verifying compliance with an undertaking or condition of registration.

With respect to penalties, section 76 states that contraventions of the RPAA are considered violations that are liable to prescribed administrative monetary penalties, and that the purpose of the penalty is to promote compliance with the RPAA and not to punish.

Of note, sections 76(2) and 76(3) provide that the Bank can issue and serve a notice of violation if the Bank believes a PSP or other individual or entity has committed a violation. However, with a PSP, the Bank can also issue and serve a notice of violation with an offer to reduce the penalty by half if the PSP enters into a compliance agreement with the Bank. Sections 77 to 83 set out the procedures for paying the reduced penalty and the terms of the compliance agreement.

Section 94 provides that if the Governor of the Bank is of the opinion that a PSP is committing or about to commit an act that could have a "significant adverse impact" on an individual or entity, the Governor can issue a compliance order that directs the PSP to refrain from committing the act and to perform any acts necessary to remedy the situation, subject to a requirement to allow the PSP to make representations prior to issuing the order. If the Governor thinks that the length of time required for making representations might be prejudicial to the public interest, a 30-day temporary compliance order can be issued.

Section 96 provides similar powers to the minister to issue a compliance order for national security concerns.

2.4.8.7 Part 6 – Assessment Fees

With respect to assessment fees, section 99 indicates that the Bank must ascertain, by 30 September of every year, its total expenses incurred in the previous calendar year for administration of the RPAA and deduct from that amount any registration fees paid to it in that preceding calendar year. A portion of any remaining amount is to be assessed against each registered PSP, in the prescribed manner. The Bank can also prepare an interim assessment fee against any registered PSP.

Section 100 indicates that the Bank may ask a registered PSP to provide information that the Bank considers necessary to calculate assessment or interim assessment fees.

2.4.8.8 Part 7 – Regulations

According to section 101, the Governor in Council can make regulations on a range of matters, including:

- regulations with respect to risk management and incident response frameworks and the safeguarding of end user funds;
- regulations that classify violations as minor, serious or very serious;
- regulations that establish penalties with respect to a violation, up to a maximum of $10,000,000; and
- regulations to determine the amount of the registration fee.

2.4.8.9 Part 8 – Transitional Provisions

Sections 103 to 108 describe the various procedural issues that may occur during the transition period. Section 103 defines the "transition period" as the period that:

- begins on the day that section 29, which is the provision describing how PSPs should apply for registration, comes into force; and
- ends on the day before the day on which section 25(1), which sets out the Bank's duty to register any individual or entity that applies for registration, comes into force.

2.4.8.10 Related and Coordinating Amendments

Clauses 179 and 180 of Bill C-30 amend sections 45.2 and 45.3(3)(f) of the CDICA to allow the CDIC to disclose confidential information to the Bank for the purposes of the RPAA. Similarly, clause 184 of the bill amends section 17(4) of the *Financial Consumer Agency of Canada Act*[41] and clause 185 of the bill amends section 5(7) of the *Payment Card Networks Act*[42] to allow the disclosure of confidential information by the Financial Consumer Agency of Canada to the Bank for the purposes of the RPAA.

Clause 181 of the bill adds section 53.6 to the PCMLTFA to provide that FINTRAC will notify the Bank if:

- an applicant or PSP has been found guilty of contravening certain provisions or has been imposed a penalty for certain violations of the PCMLTFA; or
- if an applicant is not registered or if a PSP's registration has been revoked under the PCMLTFA.

As well, clauses 182 and 183 of the bill permit FINTRAC to disclose information to the Bank that is relevant for the RPAA.

Clauses 186 and 187 of the bill provide coordinating amendments for certain provisions of the RPAA, the PCMLTFA, the BIA 2018, No. 1 and the CDICA.

2.4.8.11 Coming into Force

Clause 188 of the bill states that sections 1 to 10, 12 to 16, 61, 62(1) to 62(4) and 63 of the RPAA come into force on Royal Assent, while the remaining sections, as well as clauses 181 and 182 of the bill, come into force on a day(s) to be fixed by an order of the Governor in Council.

2.4.9 Division 9: Amendments to the *Pension Benefits Standards Act, 1985*

In Budget 2021, the federal government announced its intention to "establish a revised framework for multi-employer negotiated contribution pension plans that strengthens plan governance, transparency, and sustainability of benefits."[43] The PBSA, 1985 defines a negotiated contribution plan as a multi-employer pension plan:

- that includes at least one defined benefit provision;
- under which a participating employer's contributions are limited to an amount determined in accordance with an agreement entered into by the participating employers or a collective agreement, statute or regulation; and
- under which the amount of the employer's contributions does not vary as a function of the solvency of the plan.

Section 10 of the PBSA, 1985 sets out the obligations of a pension plan administrator with respect to the registration of a pension plan, including the filing of the plan with the Superintendent of Financial Institutions.

In Division 9 of Part 4 of Bill C-30, clause 189 amends section 10 by adding new sections 10(7) to 10(10) to the PBSA, 1985 in order to require an administrator of a new negotiated contribution plan to establish a funding policy and a governance policy that contain the information prescribed in regulations before the plan is filed for registration. Or, in the case of a plan that was already registered or filed for registration, to establish these policies within one year after the coming into force of this requirement. The administrator is not required to file these policies with the Superintendent of Financial Institutions, but must ensure that they comply with the PBSA, 1985 and its regulations while the plan remains in force.

Clause 190 amends section 10.1(2)(a) to clarify that this paragraph applies to all pension plans and replaces sections 10.1(2)(b) to 10.1(2)(d) with two new sections. New section 10.1(2)(b) provides that an amendment to a pension plan other than negotiated contribution plans is void if:

- the solvency ratio of the pension plan would fall below the prescribed solvency ratio level;
- the amendment would reduce the solvency ratio of the pension plan and the solvency ratio would be below the prescribed solvency ratio level once the amendment is made; or
- the solvency ratio of the pension plan is below the prescribed solvency ratio level and the amendment would increase pension benefits or pension benefit credits.

New section 10.1(2)(c) provides that an amendment to a negotiated contribution plan is void if the amendment does not meet the requirements of the regulations.

Clause 191 adds new section 39(1)(h.3) to the PBSA, 1985 to allow the Governor in Council to make regulations respecting amendments to negotiated contribution plans referred to in section 10.1(2)(c).

These changes come into force on a day to be fixed by order of the Governor in Council.

2.4.10 Division 10: Amendments to the *First Nations Fiscal Management Act*

Division 10 of Part 4 of Bill C-30 amends the *First Nations Fiscal Management Act*.[44] Clause 193 adds section 88.1 to the *First Nations Fiscal Management Act* to enable a First Nation who is a borrowing member of the First Nations Finance Authority to assign their rights to various revenues payable by Her Majesty in right of Canada for the purpose of securing financing.[45] New section 88.1(2) provides that the assignment of these rights is not binding on the Crown and does not create any liability to the assignee on the part of the Crown; a minister or other person acting on behalf of the Crown is not required to pay the assigned revenues; and the rights of the assignee are subject to set-off or compensation rights in favour of the Crown.

2.4.11 Division 11: Amendments to the *Federal-Provincial Fiscal Arrangements Act* (Fiscal Stabilization Payments)

The Fiscal Stabilization Program was created in 1967 to provide financial assistance to provinces that are facing significant declines in their revenues resulting from extraordinary economic downturns. Currently, a province is eligible for a payment under the program if it experiences a year-over-year reduction of more than 5% of its non-natural resource revenues or 50% of its natural resource revenues. Fiscal stabilization payments have been subject to a limit of $60 per capita since 1987.[46]

Division 11 of Part 4 of Bill C-30 amends the *Federal-Provincial Fiscal Arrangements Act* (FPFAA) to increase the payment limit per capita, make a number of changes to the formula for calculating fiscal stabilization payments and set a new deadline for making a claim under the program. The increase in the payment limit per capita begins to apply in the 2019–2020 fiscal year. The other changes only come into force in 2021–2022 fiscal year, as provided for under clause 196.

2.4.11.1 Increase in the Payment Limit per Capita

Clause 194(5) of the bill amends section 6(8) of the FPFAA to increase the payment limit per capita to $166 for the 2018–2019 fiscal year and index this limit for subsequent fiscal years based on the growth of the Canadian nominal gross domestic product (GDP) per capita. Specifically, amended section 6(8) provides that, for each fiscal year after 2018–2019, the $166 limit per capita is indexed by the ratio of the highest per capita nominal GDP of Canada of any calendar year from 2018 to the calendar year that ends during the fiscal year, inclusive, to the per capita nominal GDP of Canada for the calendar year 2018. Since the minimum value of this ratio is 1, the payment limit per capita can only increase or remain constant.

As well, clause 194(5) of the bill adds new section 6(8.1) to the FPFAA, which states that the population of a province for a fiscal year is its population as of 1 July of that year, and that the Canadian nominal GDP per capita for a calendar year is to be determined by the Minister of Finance using the population of Canada as of 1 July of that year, based on the most recent information for the population prepared by Statistics Canada. Clause 195(1) amends section 40(a.1) to allow the Governor in Council to make regulations respecting the information that must be prepared by Statistics Canada under new section 6(8.1).

2.4.11.2 Changes to the Formula

Currently, a fiscal stabilization payment triggered by a decline in non-natural resource revenues in a fiscal year is reduced if there is an increase in natural resource revenues in that fiscal year. Similarly, a fiscal stabilization payment triggered by a decline in natural resource revenues in a fiscal year is reduced if non-natural resource revenues decrease by less than 5% or increase in that fiscal year. Clauses 194(1) and 194(2) amend the formula for calculating fiscal stabilization payments under section 6(1) so that a payment triggered by a decline in non-natural resource revenues in a fiscal year is reduced if natural resource revenues decrease by less than 5% or increase in that fiscal year.

Section 6(4)(b) of the FPFAA excludes equalized tax point transfers[47] to a province from the definition of non-natural resource revenue. Clause 194(3) of the bill amends this section to include equalized tax point transfers in the definition of non-natural resource revenue.

Sections 6(5)(b) and 6(5)(c) of the FPFAA provide that the amounts of personal and corporate income tax revenue used in the calculation of non-natural resource revenue for a fiscal year are based on the amounts of taxes assessed or reassessed, not later than 24 months after the end of the fiscal year, in respect of the taxation year ending in the fiscal year, minus the amounts of tax credits and rebates deducted from these taxes. Clause 194(4) amends these sections so that the amounts of personal and corporate income tax revenue used in the calculation of non-natural resource revenue are based on the amounts of taxes that are payable as a result of assessments or reassessments made in the calendar year that begins in the fiscal year for which a claim is made. Clause 195(2) creates new section 40(a.4) to allow the Governor in Council to make regulations respecting the determination of personal and corporate income tax revenue amounts under sections 6(5)(b) and 6(5)(c) of the FPFAA.

2.4.11.3 New Application Deadline

Clause 194(5) of the bill amends section 6(7) of the FPFAA to change the application deadline for a province under the program from 18 months after the end of the fiscal year for which a claim is made to the end of the fiscal year following the fiscal year for which a claim is made.

2.4.12 Division 12: Amendments to the *Federal-Provincial Fiscal Arrangements Act* (Additional Payments to the Provinces and Territories)

Division 12 of Part 4 of Bill C-30 adds new section 24.72 to the FPFAA, which authorizes the Minister of Finance to make additional payments totalling $4 billion to the provinces and territories through the Canada Health Transfer:

- $1,550,847,000 for Ontario;
- $902,412,000 for Quebec;
- $103,022,000 for Nova Scotia;
- $82,196,000 for New Brunswick;
- $145,208,000 for Manitoba;
- $541,788,000 for British Columbia;
- $16,792,000 for Prince Edward Island;
- $124,089,000 for Saskatchewan;
- $465,330,000 for Alberta;

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- $55,009,000 for Newfoundland and Labrador;
- $4,427,000 for Yukon;
- $4,756,000 for the Northwest Territories; and
- $4,124,000 for Nunavut.

2.4.13 Division 13: Payments in Relation to Canada's COVID-19 Immunization Plan

In Division 13, clause 198 authorizes the Minister of Finance to make payments totalling $1 billion to the provinces and territories in respect of Canada's COVID-19 immunization plan:[48]

- $387,712,000 for Ontario;
- $225,603,000 for Quebec;
- $25,755,000 for Nova Scotia;
- $20,549,000 for New Brunswick;
- $36,302,000 for Manitoba;
- $135,447,000 for British Columbia;
- $4,198,000 for Prince Edward Island;
- $31,022,000 for Saskatchewan;
- $116,333,000 for Alberta;
- $13,752,000 for Newfoundland and Labrador;
- $1,107,000 for Yukon;
- $1,189,000 for Northwest Territories; and
- $1,031,000 for Nunavut.

2.4.14 Division 14: Payments in Relation to Infrastructure and Amendments to the *Keeping Canada's Economy and Jobs Growing Act*

Clause 199 of Bill C-30 authorizes up to $2.2 billion in additional payments for infrastructure projects through the Canada Community-Building Fund (formerly known as the Gas Tax Fund) at the request of the Minister of Infrastructure and Communities or the Minister of Indigenous Services, in accordance with terms and conditions approved by the Treasury Board. These payments are in addition to the existing amount specified in section 161 of the *Keeping Canada's Economy and Jobs Growing Act* (KCEJGA)[49] which was amended by section 233 of the *Economic Action Plan 2013 Act, No. 1*[50] and section 375(1)(i) of the *Budget Implementation Act, 2019, No. 1*.[51]

Clause 200 of the bill amends the heading of Part 9 of the KCEJGA in order to rename the Gas Tax Fund the Canada Community Building Fund.

2.4.15 Division 15: Hibernia Dividend Backed Annuity Agreement: Annual Payments to Newfoundland and Labrador

The Hibernia oil field was discovered in 1979 off the coast of St. John's, Newfoundland and Labrador. Construction of the Hibernia oil project began in 1990 with financial support from the federal government.

The Canada Hibernia Holding Corporation, a wholly owned subsidiary of the Canada Development Investment Corporation (CDEV), was established in 1993 to hold, manage, administer and operate the Government of Canada's 8.5% working interest in the Hibernia project, and subsequently the Government of Canada's 5.7% working interest in the Hibernia South Extension project.

The *Hibernia Dividend Backed Annuity Agreement* of 1 April 2019 maintains and strengthens Newfoundland and Labrador's right under the Atlantic Accord to be the primary beneficiary of oil and gas resources off its shores. It provides for the following:

- The Government of Canada will provide $3.3 billion to Newfoundland and Labrador through secure, long-term, predictable annual payments made by CDEV, starting in 2019–2020 and concluding in 2056–2057.
- Newfoundland and Labrador will provide $800 million to the Government of Canada through annual payments made to CDEV starting in 2045–2046.
- The Government of Canada and the Government of Newfoundland and Labrador will work together to resolve several other matters to deepen their partnership, including jointly finalizing improvements to the Atlantic Accord Acts in areas of land tenure and worker safety.[52]

In Division 15, clause 201(1) authorizes, on the requisition of the Minister of Finance and in accordance with the terms and conditions provided for in the agreement, annual payments out of the Consolidated Revenue Fund to Newfoundland and Labrador to a maximum amount of $3,056,491,000.

Clause 201(2) stipulates that a payment out of the Consolidated Revenue Fund must not be made after 31 March 2057.

2.4.16 Division 16: Amendments to the *Nova Scotia and Newfoundland and Labrador Additional Fiscal Equalization Offset Payments Act*

Division 16 of Part 4[53] of Bill C-30 requires the Minister of Finance to make additional fiscal equalization offset payments to Nova Scotia from 2020–2021 to 2022–2023. These payments will offset the equalization payment reductions over that period that result from an arbitration settlement the province received in 2018, concerning past royalties from an offshore natural gas project.

Each year, the federal government makes equalization payments to less prosperous provincial governments to enable them "to provide their residents with public services that are reasonably comparable to those in other provinces, at reasonably comparable levels of taxation."[54]

Equalization payments are calculated using a formula that determines the per capita fiscal capacity of each province; provinces with a per capita fiscal capacity lower than the average of the 10 provinces receive a payment to make up for that difference. Fiscal capacity is based on all provincial government revenues, divided into five categories: personal income taxes, business income taxes, consumption taxes, property taxes and natural resource revenues. For all revenue categories, except natural resource revenues, fiscal capacity is the amount of revenue that would be generated if all provinces had identical average tax rates.

For natural resource revenues, actual revenue figures rather than an average tax rate are used to calculate fiscal capacity for that category. This is necessary because of the wide range of natural resources and royalty systems used across the provinces. Equalization entitlements are calculated in two ways: by including 50% of natural resource revenues, and by excluding these revenues. The option that yields the largest payment is the one selected.[55]

In 2005, the federal government reached an arrangement with the Government of Nova Scotia under which the province received payments that fully offset the equalization payment reductions that result from including offshore natural resource revenues in the determination of fiscal capacity. This arrangement was made in recognition of "the unique economic and fiscal challenges faced by Nova Scotia and the strong commitment of the province to improve its fiscal situation."[56] It was implemented with the adoption of the *Nova Scotia and Newfoundland and Labrador Additional Fiscal Equalization Offset Payments Act*.[57] Table 1 shows the payments Nova Scotia received through this arrangement from 2012–2013 to 2019–2020.

Table 1 – Payments Received by Nova Scotia under the 2005 Arrangement Between the Government of Canada and the Government of Nova Scotia on Offshore Revenues and Equalization Payments Received by that Province ($ million)

	2012–2013	2013–2014	2014–2015	2015–2016	2016–2017	2017–2018	2018–2019	2019–2020
Offshore Offset Payments	146	89	64	37	33	20	18	8
Equalization Payments	1,268	1,458	1,619	1,690	1,722	1,779	1,933	2,015

Source: Figure prepared by the Library of Parliament using data obtained from Government of Canada, "Federal Support to Nova Scotia," *Major federal transfers*.

In 2018, Nova Scotia received a one-time settlement of $232 million following an arbitration ruling that recalculated royalties previously received from the Sable Offshore Energy Project.[58] Since equalization payments in a given year are based on a three-year moving average with a two-year lag, this settlement will reduce Nova Scotia's equalization payments for 2020–2021 to 2022–2023. However, the province will not receive offset payments for these reductions, because the 2005 arrangement expired on 31 March 2020. Division 16 of Bill C-30 essentially extends the 2005 arrangement for three years to ensure that Nova Scotia is not penalized because of the timing of the settlement.

Division 16 contains one clause that amends the *Nova Scotia and Newfoundland and Labrador Additional Fiscal Equalization Offset Payments Act* to require the Minister of Finance to make an additional fiscal equalization offset payment of $85.6 million to Nova Scotia for the 2020–2021 fiscal year. For each of the 2021–2022 and 2022–2023 fiscal years, the minister is also required to make an additional fiscal equalization offset payment to Nova Scotia in the amount determined under the terms of the 2005 arrangement, provided that the province receives an equalization payment for the same fiscal year.

The Department of Finance has indicated that the amount for 2021–2022 will be $44 million and that the estimate for 2022–2023 will be calculated in December 2021.[59]

2.4.17 Division 17: Amendments to the *Telecommunications Act*

The *Telecommunications Act*[60] outlines the federal government's role and powers as regards telecommunications. Notably, its section 46.5 authorizes the Canadian Radio-television and Telecommunications Commission (CRTC) to set up and regulate a fund "to support continuing access by Canadians to basic telecommunications services," better known as the Broadband Fund.[61]

In general, all CRTC decisions are subject to review by the Governor in Council or the CRTC pursuant to sections 12 or 62 of the *Telecommunications Act*, respectively. Such a review may lead a decision to be amended or rescinded, or the CRTC to reconsider the matter. The Governor in Council or the CRTC may review a decision either on application or on their own motion.

Clause 203 of Bill C-30 adds new sections 46.6 and 46.7 to the *Telecommunications Act* to limit the review of certain CRTC decisions. As a result, the Governor in Council will no longer be able to review a CRTC decision on whether or not to allocate funding from the Broadband Fund if that decision is made:

- on or after the day new section 46.6 comes into force; and
- with a view to expanding access to telecommunications services in underserved areas.

The CRTC will no longer be able to review such a decision either if it is on application. However, it may, on its own motion, review decisions on whether or not to allocate funding from the aforementioned fund to expand access to telecommunications services in underserved areas, no matter when the decision was made.[62]

Clause 203 of Bill C-30 also adds new sections 46.8, 46.9 and 46.91 to the *Telecommunications Act* to ensure that the CRTC can provide information to federal or provincial ministers or agencies to coordinate financial support to expand access to telecommunications services in underserved areas.

Under new section 46.91, the Minister of Industry may request that the CRTC provide information on the status of an application for funding from the Broadband Fund to expand access to telecommunications services in underserved areas.

Under new sections 46.8 and 46.9, the other federal or provincial ministers or agencies that provide financial support for access to telecommunications services in underserved areas can request that the CRTC provide them with any information submitted to it in the course of a proceeding before it and relating to the allocation of funding from the aforementioned fund to expand access to telecommunications services in underserved areas.

All ministers and agencies that receive information from the CRTC under these new sections must use this information only for the purpose of coordinating financial support for access to telecommunications services in underserved areas. In addition, they must treat the information as confidential, but may disclose it to the minister or any federal minister or agency entitled to request this information from the CRTC.

They can also share it with provincial ministers and agencies entitled to request this information from the CRTC, with the CRTC's approval.

New sections 46.8(5) and 46.9(5) outline that the minister or the agency to whom information is disclosed under new sections 46.8(4) and 46.9(4), respectively, may use the information only to coordinate financial support to expand access to telecommunications services in underserved areas. New section 46.91(5) specifies that disclosing information under new section 46.91(1) or 46.91(4) does not by itself constitute a waiver of a privilege that may exist with respect to the information.

Lastly, clause 204 of Bill C-30 amends the French version of section 62 of the *Telecommunications Act* to clarify that the CRTC may decide to re-hear a matter before rendering its decision.

2.4.18 Division 18: Amendments to the *Canada Small Business Financing Act*

Under the Canada Small Business Financing Program (CSBFP), the federal government encourages participating lenders to make loans to small businesses by sharing the financial risk.[63] The *Canada Small Business Financing Act* (CSBFA)[64] sets out the general framework for the CSBFP, including the conditions under which businesses can obtain loans and the federal government's responsibilities to lenders who sustain losses as a result of loans made under the CSBFP. The CSBFP was created in 1999 to replace the Small Business Loans Program, which had been established under the former *Small Business Loans Act*.

Division 18 of Part 4 of Bill C-30 amends the definitions in section 2 of the CSBFA. Clause 205(1) specifies that a "loan" includes a line of credit. Therefore, a borrower may now obtain a line of credit under the CSBFP. As well, clause 205(2) removes the religious and charitable organizations exclusion from the definition of "small business." As a result, these organizations may now apply for a loan under the CSBFP. Clause 205(3) maintains the exclusion of farming businesses.[65]

To be eligible for a loan under the CSBFP, the borrower's outstanding loan amount must not exceed the maximum amounts specified in section 4(2) of the CSBFA. Under its section 4(3), the amount of the "outstanding loan" is the aggregate of the amount of the proposed loan and the principal amount outstanding, in respect of the borrower (and all borrowers that are related to that borrower), of all loans under the CSBFA and the *Small Business Loans Act*.

Clause 206 amends section 4(2)(d), adds a new section 4(2)(e) and replaces section 4(3) of the CSBFA. These amendments increase the maximum amount of the outstanding loan from $1,000,000 to $1,150,000 for loans made on or after the day on which the new section 4(2)(e) comes into force. Section 4(2)(e) also clarifies that the federal government may prescribe lower maximum amounts for outstanding loans for certain products or classes of loans.

Section 5(1) requires the federal government to pay lenders any eligible loss sustained as a result of a loan made under the CSBFA and its regulations. However, sections 6 and 7 set the limits beyond which the federal government will not be required to compensate lenders.

Clause 207(1) amends section 6(1) of the CSBFA to specify the circumstances in which the program liability ceiling applies. The program liability ceiling is $1.5 billion or any lesser amount that is provided by another Act of Parliament. It is triggered once the federal government's aggregate contingent liability in respect of the aggregate amount of loans it has registered during each consecutive five-year period exceeds that value.

Section 6(1) of the CSBFA suggested that reaching the program liability ceiling would relieve the federal government of any liability to pay lenders in respect of losses sustained as a result of loans made under the CSBFA. With the amendment made by clause 207(1), this section now clarifies that the federal government is only relieved of the duty to pay lenders for losses on loans made and registered after the program liability ceiling has been reached.

Clause 207(2) amends section 6(2) of the CSBFA to clarify that the federal government's limitations of liability in respect of each lender listed under that provision do not apply to lines of credit. It also amends the French version of section 6(2) of the CSBFA to make it consistent with the English version.

Clause 207(2) also adds section 6(3) to the CSBFA to establish a limitation of liability in respect of each lender for lines of credit issued and registered under the CSBFA and its regulations. Specifically, the federal government is required to pay a lender in respect of losses sustained as a result of such lines of credit during each consecutive five-year period beginning 1 April 2019, up to an amount not exceeding 15% of the aggregate amount of such lines of credit. Section 6(3) also specifies that the federal government may prescribe a percentage less than 15%.

Under section 7(1) of the CSBFA, the federal government is not liable to pay a lender in respect of any loss sustained as the result of a loan made to a borrower if the borrower's outstanding loan exceeds a certain amount. Clause 208 amends section 7(1)(c) and adds new section 7(1)(d) of the CSBFA to increase this amount from $1,000,000 to $1,150,000 for loans made on or after the day on which that section comes into force. Section 7(1)(d) also specifies that the federal government may prescribe lower maximum amounts for certain products or classes of loans.

Clause 209 specifies that Division 18 of Part 4 comes into force on a day to be fixed by order of the Governor in Council, except clauses 205(2), 205(3) and 207(1), which come into force upon Royal Assent.

2.4.19 Division 19: Amendments to the *Customs Act*

Division 19 of Part 4 of Bill C-30 amends the *Customs Act*, which – among other things – provides legislative authority to administer and enforce the collection of various duties and taxes.

Seven clauses amend a number of sections to permit dates to be established by regulation; specifically the date:

- by which an importer can correct an error in a declaration without it being treated as a re-determination under section 59(1)(a) (clause 210, which amends section 32.2(3));
- after which interest begins to be payable on duties assessed on imported goods that are released prior to the fulfillment of certain accounting requirements, and in relation to the interest-free period (clause 211, which amends section 33.4);
- by which – in some circumstances – the appropriate person must pay amounts owed, and applicable interest, relating to a penalty, an ascertained forfeiture,[66] or a review or reassessment of a seizure, a penalty or an ascertained forfeiture (clause 214, which amends sections 97.22(2) and 97.22(3));
- on which, 91 days later, certain collection actions can begin regarding amounts owed relating to a penalty, an ascertained forfeiture, or a review or reassessment of a seizure, a penalty or an ascertained forfeiture (clause 215, which amends section 97.34(1));
- after which interest begins to be payable on penalties (clause 216, which amends section 109.5);
- after which interest begins to be payable on an amount demanded in a notice of ascertained forfeiture (clause 217, which amends section 124(6)); and
- after which interest begins to be payable on amounts owing as a result of a review or reassessment of a seizure, a penalty or an ascertained forfeiture (clause 218, which amends section 133(7)).

Clause 212 adds a new section 35(2) to the *Customs Act* to clarify that a person who gives a deposit, bond or security that allows imported goods to be released prior to the fulfillment of certain accounting requirements, or the payment of import duties on the goods, must satisfy certain accompanying terms and conditions.

Clause 213 amends section 45(1) to provide that the term "sold for export to Canada" will be defined in regulations. With this change, goods imported into Canada should be valued in a "consistent and fair," with that value reflecting the last transaction with a purchaser in Canada prior to the good being exported to the country.[67]

Clause 219 provides that Division 19 enters into force on a day(s) to be fixed by order of the Governor in Council.

2.4.20 Division 20: Amendments to the *Canada–United States–Mexico Agreement Implementation Act*

The *Canada–United States–Mexico Agreement* (CUSMA)[68] includes a mechanism for reviews of anti-dumping and countervailing duty measures imposed by a signatory. This mechanism is outlined in Chapter 10 of CUSMA.

Division 20 of Part 4 of Bill C-30 amends section 16 of the *Canada–United States–Mexico Agreement Implementation Act*[69] to require the Minister of Finance's concurrence before, under Chapter 10 of CUSMA, the Minister of Small Business, Export Promotion and International Trade takes the following actions:

(a) appoints a panellist to a binational review panel in accordance with paragraphs 2 and 3 of Annex 10-B.1;

(b) appoints a member to the extraordinary challenge committee in accordance with paragraph 1 of Annex 10-B.3; and

(c) proposes the names of individuals for the roster referred to in Annex 10-B.1 or 10-B.3.

These amendments ensure that the Minister of Finance's agreement exists concerning individuals to serve as panellists and committee members, and their appointment.

2.4.21 Division 21: Amendments to the *Department of Employment and Social Development Act* (Social Security Tribunal)

Among other things, the *Department of Employment and Social Development Act* (DESDA)[70] sets out the powers of the Minister of Employment and Social Development and the Canada Employment Insurance Commission.

Part 5 of the DESDA relates to the Social Security Tribunal ("the Tribunal"). The Tribunal consists of a General Division and an Appeal Division (section 44). The General Division has two parts: the Income Security Section and the Employment Insurance Section. Section 45 of the DESDA sets out the composition, mandate and tenure of Tribunal members. Division 21 of Part 4 of Bill C-31 amends certain provisions relating to the Tribunal.

Annex 5 of Budget 2021 states that these Tribunal reforms

> will have a direct positive impact on a gender-balanced population of individuals above the age of 50, and, in particular, for those with disabilities. Canada Pension Plan disability applicants represented 79 per cent of all appeals in the Income Security stream in 2018–19. The average age of Canada Pension Plan disability beneficiaries is around 55 years.[71]

Clause 222 of Bill C-30 adds new section 45.1 to list duties of the chairperson, including that the chairperson must take action to ensure the Tribunal members' efficiency (new section 45.1(1)(a)). Also, with the minister's approval, the chairperson can make rules relating to the procedure for applications and appeals (new section 45.1(2)).

Clause 225 repeals section 53 of the DESDA. That section allowed the General Division to summarily dismiss an appeal that it deemed to have no reasonable chance of success.

Clauses 229 and 230 relate to appeals to the Appeal Division. Section 56(1) provides that leave to appeal must be granted in order to appeal a decision of the General Division. Current section 58(1) lists the grounds for appeal from a decision of the General Division for either the Income Security Section or the Employment Insurance Section. Amended section 58(1) lists the grounds for appeal from an Employment Insurance Section decision only. New section 58.1 lists the reasons for which leave to appeal can be granted from an Income Security Section decision.

Currently, written reasons must be provided whether leave to appeal is granted or refused (section 58(4)). Clause 230 adds new section 58.2, which requires written reasons whenever leave is refused. When leave is granted, written reasons will only be provided if the appellant or another party requests them.

Clause 230 also adds new section 58.3, which provides that an appeal from the Income Security Section is heard as a new proceeding. Clause 231(1) amends section 59(1) to specify that only appeals from decisions of the Employment Insurance Section, and not decisions from the Income Security Section, can be referred back for reconsideration.

Clause 233 adds new section 63.1 to allow a party to have representation of their choice at a hearing (at their own expense).

For certain appeals relating to the *Canada Pension Plan*, the minister must notify the Tribunal of persons who might be affected by a decision (section 65). In those cases, the Tribunal is required to add that person as a party to the appeal. Clause 235 expands the list of appeals in respect of which this notice is required.

Currently, a person can apply to the Tribunal to have a decision given by it amended or rescinded (section 66). Clause 236 repeals section 66 to remove the ability of the Tribunal to amend or rescind its decisions.

Clause 237(1) adds to the regulation-making authority of the Governor in Council the ability to make regulations relating to when a hearing can be held in private (new section 69(a.1)).

Clause 236 adds new section 68.1 to require the filing of an annual report on the Tribunal's performance.

Clauses 239 to 244 set out a number of transitional provisions. In particular, the provisions address circumstances relating to appeals that have been summarily dismissed under repealed section 53, and applications relating to amending or rescinding a decision under repealed section 66.

Clause 245 indicates that the amended provisions come into force on a day to be fixed by order of the Governor in Council.

2.4.22 Division 22: Amendments to the *Canada Labour Code* (Equal Remuneration Protection)

The *Canada Labour Code* (CLC)[72] requires that an employer who replaces a "previous contractor" in providing services in certain federal industries honour unionized employees' compensation under the original contractor's collective agreement, if one exists. This applies to contractors who provide pre-board screening services to another employer in the air transportation industry, amongst others.

Division 22 of Bill C-30 amends section 47.3 of the CLC to expand the definition of a "previous contractor." The amended definition now includes a contractor that provided any services at an airport to another employer in the air transportation industry (section 47.3(1)(a)). This replaces the narrower category of contractors who provide pre-board screening services, and extends equal compensation protections to a larger group of employees.

The definition of a previous contractor is expanded further to include contractors who provided services to another employer in other industries and locations (sections 47.3(1)(b) and 47.3(1)(c)). The services, industries, and locations may be identified in regulations (new section 47.3(3)).

2.4.23 Division 23: Amendments to the *Canada Labour Code* (Federal Minimum Wage)

The CLC does not currently provide for a set national federal minimum wage. Beginning in 1971, the CLC specified a set federal minimum wage with the ability to adjust the wage through regulation. However, by 1996, the federal minimum wage had not been updated in almost 10 years and had fallen significantly below provincial and territorial minimum wage rates. At that time, the CLC was amended to tie federal minimum wages to provincial/territorial minimum wages, with federal sector employees entitled to the minimum wage of their respective province or territory. In 2019, the Report of the Expert Panel on Modern Federal Labour Standards recommended that the Government of Canada set a "freestanding federal minimum wage to be established and adjusted annually."[73] The Expert Panel proposed setting either a common minimum wage set initially at "60% of the median hourly wage of full-time workers in Canada" or, a minimum wage that varies by province, set initially at "60% of the median wage in each province."[74]

Clause 247 of Bill C-30 amends section 178 and clause 248 adds new section 178.1 to the CLC to re-establish a set, freestanding federal minimum wage. The new federal minimum wage is $15.00 per hour and will be automatically adjusted annually to reflect inflation. Minimum wage increases will be based on the comparative change to the Consumer Price Indexes, not seasonally adjusted, between the two preceding calendar years; the minimum wage will not change where the CPI has not increased year over year. Where the provincial or territorial minimum wage is greater than the federal minimum wage (currently Nunavut and British Columbia in June 2021), federal sector employees are entitled to receive the relevant provincial/territorial minimum wage, or its equivalent where an employee is paid on a non-hourly basis.

Division 23 comes into force six months after Bill C-30 receives Royal Assent (clause 249).

2.4.24 Division 24: Amendments to the *Canada Labour Code* (Leave Related to the Death or Disappearance of a Child)

Section 206.5 of the CLC currently provides for parental leave of up to 104 weeks for the death of a child and up to 52 weeks for the disappearance of a child, where it is likely that the child died or disappeared as a result of a crime. These leave provisions do not apply where the parent is charged with the crime, or where it is likely that the child was a party to the crime. A child is defined as a person under 18 years of age. The definition of a parent includes a person who is a legal parent, is an adoptive parent, has custody, has parental authority, has guardianship, has tutorship over a child, or with whom the child has been placed for the purposes of adoption.

Clause 250(1) of Bill C-30 amends the definitions of a child and of a parent in section 206.5(1) of the CLC. The definition of a child is now a person under the age of 25 years. The definition of a parent is expanded to include a person defined as a parent by regulations made under section 209.4(f) for the purposes of this type of leave, as well as a curator (a court-appointed legal representative to act in the child's interests) in Quebec. The bill also adds to the definition of a parent, a person with decision-making responsibility for a child under the *Divorce Act*.[75] The change is being made because recent amendments to the *Divorce Act* introduce the concept of "decision-making responsibility" to replace the previous concept of "custody."[76]

Clause 250(2) also amends section 206.5 of the CLC to increase the maximum length of parental leave for the disappearance of a child to up to 104 weeks, identical to the leave provisions for the death of a child. Where the child was likely a party to the crime, parental leave provisions may now apply if the child was younger than 14 years old.

Clause 251 amends section 206.7(1) to specify that for the purposes of leave for victims of domestic violence under that section, a child is defined as younger than 18 years. The definition of a parent is the same as in the amended section 206.5 but does not include a curator.

2.4.25 Division 25: Payment to Quebec for the Purpose of Offsetting Some of the Costs of Aligning the Quebec Parental Insurance Plan

Clause 252(1) of Bill C-30 enables the Minister of Employment and Social Development to make a single payment of $130,300,000 to Quebec by 31 March 2022 to offset some of the costs of aligning the Quebec Parental Insurance Plan (QPIP) with temporary measures set out in Part VIII.5 of the *Employment Insurance Act* (EIA).[77]

These temporary measures are intended to improve access to Employment Insurance (EI) benefits,[78] including maternity and parental benefits, in response to the COVID-19 pandemic. Until 25 September 2021, the minimum number of insured hours is reduced and a minimum rate for maternity and parental benefits is in place. In addition, the waiting period may be waived, and for recipients of the Canada Emergency Response Benefit, the period for accumulating insured hours may be extended.[79] In Quebec, the QPIP replaces EI maternity and parental benefits.

Clause 252(2) states that the minister may enter into an agreement with Quebec respecting the time and manner of the payment.

2.4.26 Division 26: Amendments to the *Judges Act*

In response to a request from the Minister of Justice pursuant to section 26(4) of the *Judges Act*[80] the Judicial Compensation and Benefits Commission conducted an inquiry into "the effects on the adequacy of federal judicial compensation and benefits, if any, of an amendment to the *Judges Act* that would stop the accrual of pensionable service for any judge whose removal from office has been recommended by the Canadian Judicial Council (CJC)."[81] The Commission's report concluded that

> [s]uspending the accrual of pensionable years upon the issuance of a report by the CJC recommending a judge's removal is in our view a reasonable measure to contribute to continued public confidence in the judicial system, especially as it will also provide for resumption of that accrual as of the same date as its suspension if such a recommendation for removal is overturned or rejected.[82]

Accordingly, Division 26 of Part 4 of Bill C-30 adds section 65.1 to the *Judges Act*.

As a result of this amendment, the time between the date that the CJC submits a report recommending that a judge be removed from office to the Minister of Justice and the judge leaving office does not count for the purpose of calculating a judge's annuity upon leaving judicial office (section 65.1(1)).

The salary on the day the report is submitted is now the salary to be used for the purposes of calculating the annuity. The judge is no longer required to make contributions (pursuant to section 50) towards the annuity as of the day that the report is filed (section 65.1(2)).

If the recommendation that the judge be removed from office is rejected by the Minister of Justice, the Senate or the House of Commons, or if it is rejected by the courts on judicial review, the time elapsed between the submission of the report and the rejection decision will count towards the annuity (section 65.1(3)). In this situation, the judge is required to contribute the amounts that they would have been required to contribute and must resume contributing as of the day that the recommendation was rejected (section 65.1(3)).

2.4.27 Division 27: Amendments to the *Federal Courts Act*, the *Tax Court of Canada Act* and the *Judges Act*

The federal government has the responsibility for appointing judges to a variety of courts, including the federal courts, all provincial superior courts and courts of appeal and the Tax Court of Canada, pursuant to legislation including, respectively, the *Federal Courts Act*,[83] the *Judges Act* and the *Tax Court of Canada*

Act.[84] Division 27 of Part 4 of Bill C-30 amends these three Acts to increase the number of positions for judges in a variety of courts across the country.

Clause 255 modifies section 5(1) of the *Federal Courts Act* to increase the number of judges on the Federal Court of Appeal, in addition to the Chief Justice, from 12 to 13.

Clauses 256 to 258 modify various provisions of the *Judges Act* to increase the number of judges, not including any Chief Justices and Associate Chief Justices, on a variety of provincial superior courts.

The increases in the number of judges for these courts are as follows:

- Superior Court of Justice (Ontario): from 198 to 203 (section 12(d));
- Supreme Court of British Columbia: from 81 to 83 (section 17(d)); and
- Court of Queen's Bench for Saskatchewan: from 29 to 31 (section 19(d)).

Additionally, clause 259 adds the position of "Associate Chief Justice" of the Trial Division of the Supreme Court of Newfoundland and Labrador (section 21(c)).

Clause 260 modifies section 4 of the *Tax Court of Canada Act* to increase the maximum number of judges, not including the Chief Justice or Associate Chief Justice, from 20 to 22.

2.4.28 Division 28: Amendments to the *National Research Council Act*

The *National Research Council Act* (NRCA) sets out the duties and powers of the National Research Council of Canada (NRC),[85] the primary federal research and development agency. Sections 3(1) and 3(2) of the NRCA establish the NRC as a corporation. Accordingly, it has the power to acquire, hold, dispose of and loan or lease real, personal, movable and immovable property for the purposes of the NRCA.

Clause 261 of Bill C-30 adds section 3(3) to the NRCA. This provision enables the NRC to establish a corporation held, at least in part, by the federal government. It also enables the NRC to acquire shares of a corporation that, on acquisition, would be held by the federal government. The NRC may take these actions only with the approval of the Governor in Council and in accordance with any conditions the it imposes.

Clause 261 also adds section 3(4) to the NRCA. This provision enables a corporation to take the above two actions if any of its shares are held by the NRC and if the federal government:

- nominates or appoints a majority of the corporation's directors or members;

- nominates or appoints the directors or members who, in turn, nominate or appoint a majority of the corporation's directors or members; or
- controls the corporation.

Under section 4 of the NRCA, the NRC "has charge of such matters affecting scientific and industrial research in Canada as may be assigned to it by the Governor in Council." Section 5 sets out the powers the NRC may exercise in carrying out its duties. For example, section 5(1)(k) authorizes the NRC to "carry on work and manufacturing of an experimental and developmental nature [respecting various matters] so as to render the processes, methods or products relating to those matters more available and effective" for various purposes.

Clause 262 of Bill C-30 adds section 5.1 to the NRCA. It authorizes the NRC to direct, supervise or engage in the production, on any scale, of drugs or devices to protect or improve public health in Canada or elsewhere.[86] The NRC will generally carry out these activities with the approval or under the direction of the Minister of Innovation. Before giving this approval or direction, the Minister of Innovation must consult with the Minister of Health. However, the NRC may carry out these activities without the approval or direction of the Minister of Innovation if they fall within section 5(1)(k) of the NRCA.

2.4.29 Division 29: Amendments to the *Department of Employment and Social Development Act* (Social Insurance Numbers)

Division 29 of Part 4 of Bill C-30 adds new section 19.02 to the DESDA to allow the Minister of Labour to collect and use individuals' Social Insurance Numbers in order to verify their identity for the administration or enforcement of an Act, program or activity that is under the minister's purview, including the administration and enforcement of, and activities under, the CLC, the *Employment Equity Act*, the *Pay Equity Act*, the *Government Employees Compensation Act*, the *Merchant Seamen Compensation Act*, the *Wage Earner Protection Program Act*, the *Status of the Artist Act* and the *Non-smokers' Health Act*.[87] The minister's portfolio also includes the Canada Industrial Relations Board and the Canadian Centre for Occupational Health and Safety.[88]

2.4.30 Division 30: Amendments to the *Canada Student Loans Act*, the *Canada Student Financial Assistance Act* and the *Apprentice Loans Act*

Clause 264 of Bill C-30 adds section 11.3 to the *Canada Student Loans Act*,[89] which governs the provision of loans issued to students up to 1 August 1995.[90] This new provision stipulates that, during the period from 1 April 2021 to 31 March 2023, guaranteed student loans are not subject to interest.

Clause 265 of the bill adds section 9.4 to the *Canada Student Financial Assistance Act*,[91] which governs the provision of financial assistance issued to students as of 1 August 1995.[92] This new provision stipulates that, during the period from 1 April 2021 to 31 March 2023, student loans are not subject to interest.

Clause 266 of the bill adds section 8.2 to the *Apprentice Loans Act.*[93] This new provision stipulates that, during the period from 1 April 2021 to 31 March 2023, apprentice loans are not subject to interest.

Clause 267 of the bill makes coordinating amendments regarding the coming into force of provisions from the *Economic Statement Implementation Act, 2020*.[94] These amendments ensure that the temporary suspension of interest with respect to guaranteed student loans, student loans and apprentice loans, applies during the period from 1 April 2021 to 31 March 2023, regardless of which provisions comes into force first. The coordinating amendments also remove provisions from the *Economic Statement Implementation Act, 2020* regarding the temporary suspension of interest payments during this period, meaning borrowers must pay arrears interest if applicable.

2.4.31 Division 31: Cancellation or Postponement of Certain First Nations Elections

Some First Nations select their leaders under the *Indian Act* and the *Indian Band Election Regulations*[95] or under the optional legislation known as the *First Nations Elections Act* (FNEA).[96] However, the *Indian Act* and FNEA both have fixed term limits for chief and council and no provisions for an extension of elections or votes in the event of a crisis.[97]

In April 2020, to avoid a "governance gap" and to address the public health risks posed by holding elections during the COVID-19 pandemic, the federal government developed regulations known as the *First Nations Election Cancellation and Postponement Regulations (Prevention of Diseases)* (FNECPR). [98] These regulations provide a mechanism for First Nations to postpone or cancel their elections to prevent, mitigate or control the spread of disease on reserve.

The *Regulations Amending the First Nations Election Cancellation and Postponement Regulations (Prevention of Diseases)* (Regulations Amending the FNECPR)[99] were made on 8 April 2021. Among other matters, the Regulations Amending the FNECPR added to the FNECPR that a tenure or term of office for a First Nation chief and councillors may be extended once on or after 9 April 2021 if it was already extended twice before that day. However, the tenure or term must not be extended by longer than six months or beyond 31 December 2021.

In an April 2021 decision in *Bertrand v. Acho Dene Koe First Nation*, the Federal Court concluded that section 4 of the FNECPR was invalid.[100] The applicant in the case is a member of the Acho Dene Koe First Nation who challenged the validity of the FNECPR and the Acho Dene Koe First Nation's decision to postpone the election under the FNECPR. Section 4 of the FNECPR relates to the postponement of extension of terms of office for the chiefs and councillors chosen according to a First Nations custom election code. The federal government has indicated that it will appeal this Federal Court ruling.[101]

Division 31 of Part 4 affirms the validity of the FNECPR and the Regulations Amending the FNECPR. Clause 268 of Bill C-30 affirms that, since 8 April 2020, everything done under these regulations and all the consequences flowing from the regulations are effective.

2.4.32 Division 32: Amendments to the *Old Age Security Act*

Clause 272 of Bill C-30 amends the *Old Age Security Act* (OASA) to increase the amount of the full monthly pension to individuals aged 75 and over by 10% as of 1 July 2022 (new section 7(5)).

Clause 273 provides that the voluntary deferral provisions (full and partial) for Old Age Security recipients will apply before the 10% increase (sections 7.1(1) and 7.1(2)). However, the 10% increase will apply to any additional amount paid as a result of voluntary deferral for individuals 75 and over who apply for their pension after they become eligible, beginning in the payment quarter commencing on 1 July 2022.

Clause 274 provides that the 10% increase will not be taken into account in calculating the monthly base income in section 12(6)(b) of the OASA used to calculate the amount of the monthly Guaranteed Income Supplement, specifically for applicants whose spouse or common-law partner does not receive a pension under the OASA. The calculation of the monthly Guaranteed Income Supplement benefits will therefore not be affected by the 10% increase in the pension for individuals 75 and over.

Finally, clause 275 provides that the 10% increase will also not be taken into account in the value of the pension as defined in section 22(1) of the OASA, so as not to affect the calculation of the amount of spouse or common-law partner and survivor allowances that may be paid under Part III of the OASA.[102]

The enhancement of Old Age Security benefits starting in July 2022 for seniors 75 and over was announced in Budget 2021 to increase the financial security of seniors, who are living longer than ever before and may lack the resources to deal with increased care expenses at this time of their lives.[103]

Clause 276 of the bill provides that any amount payable by the Minister of Employment and Social Development in relation to a program to provide a one-time payment of $500 to Old Age Security recipients who will be 75 years of age or older on 30 June 2022 may be paid out of the Consolidated Revenue Fund. Clause 269 of the bill amends the definition of income in paragraph (c), section 2 of the OASA to deduct this one-time payment from an individual's income for the year, computed in accordance with the *Income Tax Act* (ITA). This ensures that the one-time payment is exempt from the calculation of income for purposes of the Guaranteed Income Supplement under Part II of the OASA and the allowances under Part III. This one-time payment of $500 was announced in Budget 2021 to address the immediate needs of this group of seniors who faced additional costs during the COVID-19 pandemic.[104]

2.4.33 Division 33: Amendments to the *Public Service Employment Act*

Division 33 of Part 4 of Bill C-30 amends the *Public Service Employment Act*[105] with the goal, according to Budget 2021, of "affirm[ing] the importance of a diverse and inclusive workforce and avoid[ing] biases and barriers in hiring."[106]

Clause 277 amends the preamble of the *Public Service Employment Act* to state that the Government of Canada is committed to a public service that is "inclusive" and "reflects the diversity of Canada's population."

Clause 278(1) amends section 2(1) to add a definition for "equity-seeking group," that being "a group of persons who are disadvantaged on the basis of one or more prohibited grounds of discrimination within the meaning of the *Canadian Human Rights Act*."

Clause 278(2) adds new section 2(5) to indicate that an error, an omission or improper conduct – which could result in a revocation of an appointment if it was deemed to have affected a selection process – will be construed as including "a bias or barrier that disadvantages persons who belong to any equity-seeking group."

Clause 279 adds new section 17(2) to include that the Public Service Commission (PSC),[107] in its regular oversight activities, may conduct audits into possible biases and barriers that disadvantage persons belonging to any equity-seeking group.

Clause 280 adds new section 31(3) to ensure when the employer[108] establishes or reviews qualification standards for hiring, it will "conduct an evaluation to identify" any biases or barriers created by these standards that disadvantage persons belonging to equity-seeking groups. If a bias or barrier is identified, the employer will "make reasonable efforts to remove it or to mitigate its impact on those persons."

Clause 281 amends section 36 to indicate that the PSC must evaluate whether assessment methods used to make appointments include or create biases or barriers that disadvantage persons belonging to equity-seeking groups. If a barrier is identified, the PSC will "make reasonable efforts to remove it or to mitigate its impact on those persons."

Clause 282 amends section 39(1)(c) – which states that preference will be given to Canadian citizens in an advertised external appointment process – to include that permanent residents, as well as Canadian citizens, will be appointed ahead of another candidate who is not a permanent resident or a Canadian citizen.

Clauses 283 to 286 are transitional provisions, which state that the amendments to investigations (clause 278(2)), qualification standards (clause 280), assessment methods (clause 281) and preference (clause 282) apply only on or after the day on which those clauses come into force. Clause 287 states that section 278(2) and section 281 come into force on a day to be fixed by order of the Governor in Council.

2.4.34 Division 34: Payments to the Provinces for Early Learning and Child Care

Clause 288(1) of Bill C-30 authorizes paying the provinces the amounts provided in bilateral agreements on early learning and child care for the fiscal year beginning on 1 April 2021 and ending on 31 March 2022, at the times and in the manner that the Minister of Families, Children and Social Development considers appropriate. Clauses 288(2) and 288(3) state that these payments may be subject to terms and conditions established by the minister under the bilateral agreements and may not exceed $2.95 billion for the fiscal year in question.

Budget 2021 announced that the federal government will work with the provinces and territories to reach five-year bilateral agreements that would achieve a 50% reduction in average fees for regulated early learning and child care outside Quebec by the end of 2022.[109] The provisions of clause 288 address only the funding for the first year of these agreements and do not include specific funding for early learning and child care for Indigenous children.

2.4.35 Division 35: Amendments to the *Canada Recovery Benefits Act*, the *Canada Labour Code* and the Repeal of Certain Regulations

2.4.35.1 Amendments to the *Canada Recovery Benefits Act*

The *Canada Recovery Benefits Act* (CRBA) authorizes the payment of three temporary benefits to workers impacted by COVID-19 who are not eligible for EI: the Canada Recovery Benefit (CRB), the Canada Recovery Sickness Benefit (CRSB) and the Canada Recovery Caregiving Benefit (CRCB). The CRB offers income support to workers who are unemployed or experienced a 50% reduction in income due to COVID-19, while the CRSB targets those who are unable to work because they have contracted COVID-19, are more vulnerable to COVID-19 (e.g., due to an underlying condition), or have been advised to self-isolate. The CRCB offers income support to those who cannot work because they must care for a child or family member for reasons related to COVID-19.[110]

The EI program provides temporary income support in the event of a job loss (through regular benefits) or other life events, including the birth of a child, illness, a family member's risk of death, or a child or adult family member's critical illness (through special benefits).[111]

Clauses 289(1) and 289(2) of Bill C-30 amend section 3(1) of the CRBA to extend eligibility for the CRB to individuals who have exhausted their EI regular benefits (or combined regular and special benefits), under certain conditions. CRB and EI benefits may not be combined during any two-week CRB period (clause 289(3), adding new section 3(1)(h)(ii.1)). However, a person who exhausts their EI regular benefits (or combined regular and special benefits) during a two-week CRB period may receive a payment of $300 for that period in order to avoid a week without income (clause 293, adding new section 9.1 to the CRBA). This $300 payment will be treated in the same way as other CRB benefit payments for the purpose of the clawback mechanism, which requires recipients to repay $0.50 of every CRB benefit dollar received if they earn above $38,000 in 2020 or in 2021, up to the total amount of benefits received (clause 291, amending section 8(2) of the CRBA).

Clauses 289(4) and 289(5) amend the CRBA to provide that CRB recipients must have filed an income tax return for the 2019 or 2020 tax year if they have received 42 weeks or more of the CRB, or if they apply for the CRB for the first time after 18 July 2021 (new sections 3(1)(n) and 3(3.1)). CRB recipients must attest that they meet the eligibility conditions for the benefit, including, if applicable, the condition requiring that they file an income tax return (clause 290, amending section 5(1) of the CRBA).

Clause 291 of the bill amends section 8(1) of the CRBA to differentiate the benefit amount for individuals who apply or have applied for the CRB for a two-week period that falls before 18 July 2021, from the benefit amount for those who apply for the CRB for the first time in respect of a two-week period that falls on or after that date. For the former group, the weekly benefit is $500 for up to 42 weeks, and then $300 for subsequent weeks. For the latter group, the weekly benefit is $300.

Clause 292 of the bill amends section 9(1) of the CRBA to increase the maximum number of two-week periods for which a person may receive the CRB to 25. Similarly, clause 294 amends sections 23(1) and 23(2) of the CRBA to increase the maximum duration of CRCB payments for individuals and persons in the same household to 42 weeks. The clause also states that another maximum number of weeks may be fixed by regulation.

To reflect the change in maximum duration for the CRB and the CRCB, clauses 298 and 299 of the bill repeal sections 2 and 4 of the *Canada Recovery Benefits Regulations*.[112]

Clause 295 adds new section 24.1 to the CRBA, which provides a new authority to amend by regulation the eligibility period for the CRB, the CRCB and the CRSB during the period from 25 September 2021 to 20 November 2021.

2.4.35.2 Amendments to the *Canada Labour Code*

Under section 239.01(1) of the CLC, employees in a federally regulated workplace are entitled to an unpaid leave of absence from employment if they are unable to work for reasons related to COVID-19 (for example, if they have contracted COVID-19, have been advised to self-isolate, or must care for a child or family member for reasons related to COVID-19).

Clause 296(1) of the bill amends section 239.01(1)(b) of the CLC to increase the maximum duration of unpaid leave for COVID-19–related caregiving duties from 38 to 42 weeks. This is also the maximum aggregate number of weeks that can be taken for this type of leave, both for individuals and for members of the same household (clause 296(2), amending section 239.01(3) of the CLC, and clause 296(3), amending section 239.01(5) of the CLC). Accordingly, clause 300 of the bill repeals section 33.1(b) of the *Canada Labour Standards Regulations*,[113] which stipulates that the maximum number of weeks an employee may take of COVID-19–related caregiving leave is 38.

In addition, clause 296(3) of the bill provides that if a person is on COVID-19–related caregiving leave when the section extending the maximum duration to 42 weeks comes into force, the person may extend their leave to 42 weeks (new section 239.01(4.1)(a)). It also provides that periods of COVID-19–related caregiving leave taken before 19 June 2021 count towards the maximum 42 weeks (new section 239.01(4.1)(b)).

These changes bring the maximum duration of COVID-19–related caregiving leave available to employees in the federally regulated private sector into line with the new, extended CRCB benefit period (both now 42 weeks).

2.4.35.3 Other Amendments

Clause 297 amends sections 9(6) and 9(7) of the *COVID-19 Response Measures Act*[114] to postpone the repeal of Division XIII.01 – Leave Related to COVID-19 (section 239.01) of the CLC until 20 November 2021. The clause also removes references to this COVID-19–related leave in several other sections of the CLC and postpones the coming into force of post-repeal provisions. However, the 20 November date could change if regulations are made under section 24.1 of the CRBA (clause 301).

Clause 301 makes coordinating amendments specifying how regulations changing the eligibility period for the CRSB and CRCB will impact the COVID-19–related leave under the CLC. This ensures that employees covered by the CLC have access to job-protected COVID-19–related leave as long as one or both of these benefits are available.

2.4.35.4 Coming into Force

Clause 302 provides that Division 35, apart from the coordinating amendments in clause 301, comes into force or is deemed to have come into force on 19 June 2021.

2.4.36 Division 36: Amendments to the *Employment Insurance Act*, the *Canada Labour Code* and Certain Regulations

Division 36 of Part 4 of Bill C-30 introduces changes to the *Employment Insurance Act* (EIA), CLC, *Employment Insurance Regulations* (EIR)[115] and the *Employment Insurance (Fishing) Regulations* (EIFR).[116] These changes, summarized below, include temporary and permanent measures to support workers through the COVID-19 pandemic and into the economic recovery.

2.4.36.1 Permanent Amendments to the *Employment Insurance Act* to Increase the Maximum Number of Weeks of Employment Insurance Sickness Benefits

Clauses 308(2) and 324 amend sections 12(3)(c) and 152.14(1)(c), respectively, of the EIA to increase the maximum number of weeks of EI sickness benefits that may be paid because of illness, injury or quarantine from 15 weeks to 26 weeks.

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Clause 337 is a transitional provision that ensures the 26-week maximum duration for EI sickness benefits will apply to benefit periods commencing on or after the day on which the extension comes into force, set by order in council (clause 340(3)).[117]

2.4.36.2 Temporary Amendments to the *Employment Insurance Act*, *Employment Insurance Regulations* and *Employment Insurance (Fishing) Regulations*

2.4.36.2.1 Entrance Requirements

To allow for greater access to the entire range of benefits provided by the EI program, clauses 303, 304, 308(3), 308(4), 309 to 315, 322, 350, 353, 354 and 356 temporarily amend the sections of the EIA, EIR and EIFR that pertain to entrance requirements; that is to say, the requirements that workers must meet before they are eligible to receive EI benefits.[118] These amendments establish a common entrance requirement of 420 hours of insurable employment for employees (as opposed to a variable threshold of between 420 and 700 hours based on regional unemployment rates). The amendments also introduce low and simplified earnings thresholds for fishers and self-employed workers. The common entrance requirement applies to both regular benefits for unemployed workers and all special benefits which include maternity, parental, sickness, compassionate care (end of life) and family caregiver for critically ill children and adults. These provisions will be in place for a one-year period starting on 26 September 2021 and will apply to claims commencing on or after this date.

2.4.36.2.2 Claimants with Employment Insurance Violations

The EIA and EIFR subject workers to higher entry requirements if they have accumulated one or more EI violations in the past five years. Clauses 305 and 355 temporarily amend the relevant sections (section 7.1(1) of the EIA and section 11(1) of the EIFR) to set uniform entry requirements based only on the classification of the violation (minor, serious, very serious or subsequent) for a 13.1% unemployment rate. Previously, the entry requirements varied based on the regional unemployment rate as well as the classification of the violation. These amendments ensure that claimants with violations are no worse off as a result of the temporary changes in entrance requirements. The changes will be in place for a one-year period starting 26 September 2021.

2.4.36.2.3 Severance, Vacation Pay and Other Payments

Clauses 306, 307 and 323 temporarily amend sections 8(3) to 8(7), 46.01 and 152.11(11)(b) of the EIA. Clauses 348 and 349 temporarily amend related sections 35(6) and 35(7) and 36(9) to 36(10.2) of the EIR. These amendments enable claimants with money paid on separation (e.g., severance and vacation pay) to receive EI benefits at the same time. These amendments will remain in place for a one-year period starting 26 September 2021.

Clause 318 temporarily amends section 46.01 of the EIA, which deals with labour arbitration awards, court judgments and other payments of earnings, damages for wrongful dismissal or proceeds realized from the property of a bankruptcy. Under the temporary provision, workers will not have to pay back EI benefits that are retroactively classed as an overpayment due to the receipt of such moneys, if more than three years have gone by since the lay-off or separation. Repayments of benefits is normally required unless the administrative costs of recovering the payment equal or exceed the amount of the repayment. Clause 318 is valid for a period of one year, ending 25 September 2022.

2.4.36.2.4 Seasonal Workers

Clauses 308(1), 331 and 351 of the bill amend subsection 12(2.3) and Part VIII.6 of the EIA and paragraph 77.992(2)(a) of the EIR to temporarily extend benefits for seasonal workers participating in the *Pilot Project Relating to Increased Weeks of Benefits for Seasonal Workers*[119] from 26 September 2021 until 29 October 2022 (clauses 340(1) and 352(1)). The amendment provides up to an extra five weeks of benefits to workers in certain specified regions that are considered to have highly seasonal economies.

2.4.36.2.5 Disqualification and Disentitlement

Clauses 316, 317 and 319 of the bill address disqualification and disentitlement to benefits by temporarily amending sections 29(a), 30(1), 30(4) to 30(7) and 51 of the EIA. New amendments require that only the most recent job separation be considered to establish a claim, making it easier for claimants who have worked part time, held multiple jobs, or worked a series of short-term jobs to qualify for benefits. These amendments will remain in place for a one-year period starting 26 September 2021.

2.4.36.2.6 Amendments to Emergency Response Benefits Measures

Part VIII.4, Employment Insurance-Emergency Response Benefit (EI-ERB), of the EIA was introduced on 15 March 2020 to mitigate the economic impact of the COVID-19 pandemic.

Clause 320 of the bill amends section 58 of the EIA. The clause redefines “insured participant under Part II of the EIA to include claimants who were in receipt of the EI-ERB within the previous 60 months, and in turn, allows EI-ERB claimants to continue to access training programs during that period.

Clause 326 of the bill amends section 153.14 of the EIA so that one of the two possible cessation dates for certain interim orders[120] establishing the EI-ERB is postponed from 25 September 2021 until 2 June 2027. The other possible cessation date – the day on which an interim order is repealed – is still in place.

Extending interim orders allows:

1. EI-ERB recipients to continue to qualify for EI employment and skills supports;
2. current program integrity measures to remain in place;
3. the Canada Employment Insurance Commission to write off overpayments in specific situations; and
4. the federal government to continue to use general revenue to credit costs related to the EI-ERB to the EI Operating Account.

Clause 327 of the bill amends section 153.16 of the EIA to extend the 13.1% national unemployment rate by two weeks from 11 September 2021 until 25 September 2021. Section 153.16 establishes the rate of unemployment from 27 September 2020 to 11 September 2021 that applies to EI claimants is 13.1%. Extending this rate for two weeks until the new suite of temporary measures (common 420 insurable hours, common earnings thresholds for self-employed and fishers, measures related to claimants with violations, and seasonal workers) begin on 26 September 2021, creates a smoother transition. Extending the present 13.1% unemployment rate avoids variable entrance requirements based on regional unemployment rates for a two-week period. This clause comes into force on 12 September 2021.[121]

Clause 328 temporarily amends section 153.196 of the EIA to ensure that temporary measures for winter fishers extend to 18 December 2021, which represents the end of the winter 2021 fishing benefit period.

Clause 329 of the bill establishes new Part VIII.6 of the EIA (section 153.197) which comes into force on a day to be fixed by order of the Governor in Council (clause 340(5)). The clause establishes temporary measures related to the calculation of benefit amounts. It creates a temporary $300 minimum benefit rate for all EI claimants who begin their benefit period between 26 September 2021 and 20 November 2021. The $300 minimum benefit rate is achieved by setting claimants' weekly insurable earnings as the greater of $545 of insurable earnings or the amount of what would normally be determined under sections 14(2) and 152.16(1) of the EIA (or section 8.1(a) of the EIFR, as the case may be). The minimum benefit applies to all EI claimants. This minimum weekly benefit aligns with the new EI-ERB benefit, which decreases from $500 to $300 per week effective 19 June 2021 (clause 291).

Clause 330(1) replaces the schedule table for Weeks of Benefits[122] and temporarily creates an entitlement to a minimum of 14 weeks of regular EI benefits once a person has accrued 420 hours of insurable earnings. The specific number of weeks of benefits to which a claimant is entitled will vary based on the regional unemployment

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rate. The change comes into effect on 26 September 2021, the day after the national employment rate of 13.1% ends, and will be in effect for a period of one year.

2.4.36.2.7 Transitional and Coordinating Amendments

Clauses 332 to 337 set out transitional provisions that are aimed primarily at ensuring that individual claims are dealt with under a consistent legal and regulatory framework based on the claim's start date, despite the multiple changes and temporary alterations made to the EI system in response to the COVID-19 pandemic.

2.4.36.2.8 Coming into Force of Temporary Measures

Clauses 340(1), 340(2), 352 and 361 of the bill provide that certain temporary measures related the EIA,[123] EIR[124] and EIFR[125] come into force, or are deemed to have come into force, on 26 September 2021 and return to their previous language on 25 September 2022.

According to clause 340(4) of the bill, clause 327 of the bill, which extends the 13.1% national unemployment rate, comes into force, or is deemed to have come into force, on 12 September 2021.

Clause 340(5) sets out that clause 329 of the bill comes into force on a day to be fixed by order of the Governor in Council.

2.4.36.3 Amendments to the *Canada Labour Code*

Clauses 341 to 345 of the bill amend Part III (Labour Standards) of the CLC to extend the maximum length of medically related leave from 17 to 27 weeks. The change will mean that employees in the federally regulated private sector will be able to take job-protected leave for the entirety of the newly extended EI sickness benefit period (26 weeks), as well as the one-week waiting period before EI special benefits may be accessed. The amendments also:

- clarify that quarantine is included among the reasons for which an employee can take medical leave; and
- ensure that employees are able to postpone vacation, parental and compassionate care leaves, as well as leaves related to the critical illness, death or disappearance of a child for a number of reasons, including medical leave.

Clause 347 specifies that clauses 341 to 345 come into force on the same day as the changes being made in this bill to EI sickness benefits (clause 308(2)), which comes into force on a day to be fixed by order of the Governor in Council.

2.4.37 Division 37: Amendments to the *Canada Elections Act*

Division 37 of Part 4 of Bill C-30 introduces amendments to the *Canada Elections Act* (CEA).[126]

Current section 91(1) of the CEA prohibits making or publishing specific types of false statements about candidates, prospective candidates, the leader of a political party or any public figure associated with a political party during a federal election in order to affect the results. Meanwhile, sections 486(3)(c) and 486(4)(a) of the CEA create the offence of contravening section 91(1), for persons and entities respectively.

Clause 362 of Bill C-30 amends sections 486(3)(c) and 486(4)(a) to add the word "knowingly" to the language of the offences. In practical terms, this means that persons or entities are guilty of an offence only if they knowingly contravene section 91(1) by publishing false statements about the above-mentioned persons in order to influence the election results. Clause 363 sets out that the clause 362 amendments would apply in an election for which the writ is issued within six months of Bill C-30 receiving Royal Assent.

These changes respond to a recent decision of the Ontario Superior Court of Justice. In *Canadian Constitution Foundation v. Canada (Attorney General)*,[127] current section 91(1) of the CEA was struck down, as it violates freedom of expression protected under section 2(b) of the *Canadian Charter of Rights and Freedoms* and does not constitute a justifiable limit on that right. The finding of unconstitutionally was based on the fact that the mental element (i.e., the *mens rea*) of the offence of contravening section 91(1) does not currently require knowledge that the statement made or published was false, and therefore prohibited too large a scope of political speech. Section 91(1) of the CEA was last amended in 2018;[128] prior to this amendment, section 91(1) included the word "knowingly."

NOTES

∗ This Preliminary Legislative Summary was prepared by the following authors:

- Andrew Barton, Sections 2.4.7 and 2.4.12–2.4.14
- Isabelle Brideau, "Background" section
- Laurence Brosseau, Section 2.4.37
- Elizabeth Cahill, Section 2.4.36
- Brett Capwell, Sections 2.1.1–2.1.15
- Brittany Collier, Sections 2.4.10 and 2.4.31
- Sylvain Fleury, Sections 2.2.1–2.2.8
- Eleni Kachulis, Sections 2.4.29 and 2.4.35
- Michaela Keenan-Pelletier, Sections 2.4.22–2.4.24
- Isabelle Lafontaine-Émond, Sections 2.4.25, 2.4.32 and 2.4.34
- Michaël Lambert-Racine, Sections 2.4.9, 2.4.11 and 2.4.16
- Francis Lord, Sections 2.4.17–2.4.18 and 2.4.28
- Graeme McConnell, Sections 2.4.26 and 2.4.27
- Laura Munn-Rivard, Section 2.4.33
- Brendan Naef, Section 2.4.6
- Offah Obale, Section 2.4.20
- Mayra Perez-Leclerc, Section 2.4.30
- Simon Richards, Section 2.4.19
- Edison Roy-César, Sections 2.3, 2.4.3–2.4.5 and 2.4.15
- Brett Stuckey, Sections 2.4.1 and 2.4.2
- Marlisa Tiedemann, Section 2.4.21
- Adriane Yong, Sections 2.1.16–2.1.31 and 2.4.8

1 Department of Finance Canada, *A Recovery Plan for Jobs, Growth, and Resilience*, Budget 2021.

2. *Federal-Provincial Fiscal Arrangements Act*, R.S.C. 1985, c. F-8.

3. *Old Age Security Act*, R.S.C. 1985, c. O-9.

4. *Canada Recovery Benefits Act*, S.C. 2020, c. 12, s. 2.

5 *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.).

6. The "standby charge" under section 6(1)(e) of the *Income Tax Act* is designed to estimate the depreciation (wear-and-tear) on the automobile attributable to the fact that the employer provided automobile was used for personal driving. The calculation is based on the following: the purchase cost or the lease cost of the automobile, the number of days that the automobile is made available to the employee, and the actual extent of personal use (under certain conditions).

7 *Income Tax Regulations*, C.R.C, c. 945.

8. *Canada Disability Savings Regulations*, SOR/2008-186.

9. *Canada Disability Savings Act*, S.C. 2007, c. 35, s. 136.

10 *Broadcasting Act*, S.C. 1991, c. 11.

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

12. *Excise Tax Act*, R.S.C. 1985, c. E-15.
13. *Air Travellers Security Charge Act*, S.C. 2002, c. 9, s.5.
14. *Excise Act, 2001*, S.C. 2002, c. 22.
15. *Greenhouse Gas Pollution Pricing Act*, S.C. 2018, c. 12, s.186.
16 *Budget Implementation Act, 2019, No. 1*, S.C. 2019, c. 29, ss. 52(1) and 52(6).
17. *Budget Implementation Act, 2019, No. 1*, S.C. 2019, c. 29, ss. 52(2), 52(6) and 55(1).
18. A "specified non-resident supplier" is a non-resident person who does not make supplies in the course of a business carried on in Canada and who is not registered under Subdivision D of Division V of the *Excise Tax Act*.
19. A "digital platform" includes a website, electronic portal, gateway, store or distribution platform or any other similar electronic interface but does not include an electronic interface that solely processes payments.
20. *New Harmonized Value-added Tax System Regulations, No. 2*, SOR/2010-151.
21. Department of Finance Canada, *A Recovery Plan for Jobs, Growth, and Resilience*, Budget 2021, p. 655.
22. *Canada Deposit Insurance Corporation Act*, R.S.C. 1985, c. C-3.
23. *Payment Clearing and Settlement Act*, S.C. 1996, c. 6, Sh.
24. *Budget Implementation Act, 2018, No. 1*, S.C. 2018, c. 12.
25. Bank of Canada, *Unclaimed Balances*.
26. *Bank of Canada Act*, R.S.C. 1985, c. B-2.
27. *Bank Act*, S.C. 1991, c. 46.
28. *Pension Benefits Standards Act, 1985*, R.S.C. 1985, c. 32 (2nd Supp.).
29. *Trust and Loan Companies Act*, S.C. 1991, c. 45.
30. *Budget Implementation Act, 2018, No. 2*, S.C. 2018, c.27.
31. Ibid (definition of "eligible enterprise").
32. *Insurance Companies Act*, S.C. 1991, c. 47.
33. *Canadian Securities Regulation Regime Transition Office Act*, S.C. 2009, c. 2.
34. *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*, S.C. 2017, c. 21, s. 7(1).
35. *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17.
36. *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*, SOR/2002-184.
37. *Freezing Assets of Corrupt Foreign Officials Act*, S.C. 2011, c. 10.
38. *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.
39. *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.).
40. Clauses 162, 168(2) to 168(6), 169(2), 169(4) to 169(6), 170(1) and 170(3) to 170(5) of the bill amend sections 9.6(3), 55(7)(a), 55(7)(j), 55(7)(k), 55(7)(n), 55(7)(p), 55.1(3)(a), 55.1(3)(j), 55.1(3)(k), 55.1(3)(n), 55.1(3)(p), 56.1(5)(a), 56.1(5)(j) and 56.1(5)(k), 56.1(5)(n) and 56.1(5)(p) of the PCMLTFA.
41. *Financial Consumer Agency of Canada Act*, S.C. 2001, c. 9.
42. *Payment Card Networks Act*, S.C. 2010, c. 12.
43. Department of Finance Canada, *A Recovery Plan for Jobs, Growth, and Resilience*, Budget 2021, p. 369.
44. *First Nations Fiscal Management Act*, S.C. 2005, c. 9.
45. The complete list of other revenues can be found in *Financing Secured by Other Revenues Regulations*, SOR/2011-201, s. 3.

46. Government of Canada, "4.5 Bridging Canadians through the Crisis," *Supporting Canadians and Fighting COVID-19*, Fall Economic Statement 2020.

47. Established Programs Financing (EPF) was introduced in 1977 to replace cost-sharing programs for health and post-secondary education.

    > Federal funding provided through the EPF initially took the form of equal portions of a tax transfer and a cash transfer. Provinces received 13.5 percentage points of personal income tax (PIT) and 1 percentage point of corporate income tax (CIT), including some points carried over from the previous post-secondary education program. Provinces and territories received equal per capita total EPF support through a mix of cash and equalized tax points.

    Government of Canada, *History of Health and Social Transfers*.

48. Government of Canada, *Canada's COVID-19 Immunization Plan: Saving Lives and Livelihoods*.

49. *Keeping Canada's Economy and Jobs Growing Act*, S.C. 2011, c. 24 (KCEJGA). The amount specified in this Act is $2 billion.

50. *Economic Action Plan 2013 Act, No. 1* (EAP 2013 Act, No. 1), S.C. 2013, c. 33. The amended amount in this Act is $2 billion for 2014–2015, and beginning in 2015–2016, $2 billion plus $100 million annually, if the results of the formula A × 1.02B (where A is $2 billion, and B equals the year in which the fiscal year begins, minus 2013) increases by at least $100 million over the previous fiscal year.

51. *Budget Implementation Act, 2019, No. 1*, S.C. 2019, c. 29. Section 375(1)i of that Act replaced every reference to the "Minister of Indian Affairs and Northern Development" by a reference to the "Minister of Indigenous Services" in section 161(1) of the KCEJGA, as amended by section 233 of the EAP 2013 Act, No. 1.

52. Intergovernmental Affairs, *Hibernia dividend backed annuity agreement*.

53. The provisions in Division 16 of Part 4 of Bill C-30 are the same as those contained in Bill C-20, An Act to amend the Nova Scotia and Newfoundland and Labrador Additional Fiscal Equalization Offset Payments Act, 43rd Parliament, 2nd Session.

54. Government of Canada, *Equalization Program*.

55. For more information on fiscal equalization, see Édison Roy-César, *Canada's Equalization Formula*, Publication no. 2008-20-E, Library of Parliament, 4 September 2013.

56. Government of Canada, *Arrangement between the Government of Canada and the Government of Nova Scotia on Offshore Revenues*, 14 February 2005.

57. *Nova Scotia and Newfoundland and Labrador Additional Fiscal Equalization Offset Payments Act*, S.C. 2005, c. 30.

58. Department of Finance Canada, *One-time extension of the Arrangement on Offshore Revenues with Nova Scotia*, Backgrounder, 3 February 2021.

59. Department of Finance Canada, *Government introduces legislation for one-time extension of the Arrangement on Offshore Revenues with Nova Scotia*, News release, 3 February 2021.

60. *Telecommunications Act*, S.C. 1993, c. 38.

61. Canadian Radio-television and Telecommunications Commission, *Broadband Fund*. A number of other federal agencies administer funding programs for deploying broadband Internet. Innovation, Science and Economic Development Canada administers the Universal Broadband Fund and the Connect to Innovate program. The Canada Infrastructure Bank provides funding through its Growth Plan and Sectors. Other federal programs include the Investing in Canada funding stream and the First Nation Infrastructure Fund.

62. All CRTC decisions are still subject to an appeal at the Federal Court of Appeal, with the leave of that Court, on any question of law or jurisdiction under section 64 of the *Telecommunications Act*.

63. Government of Canada, *Helping small businesses get loans*.

64. *Canada Small Business Financing Act*, S.C. 1998, c. 36.

65. Farming businesses are eligible for loans under the *Canadian Agricultural Loans Act* Program.

66. "Ascertained forfeiture" is a type of collection mechanism. Where it would be difficult or impossible for a customs officer to seize goods regarding which there are reasonable grounds to believe that an offence has been committed, the officer may – through this mechanism – demand payment of an amount determined according to the value of the goods.

67. Finance Canada, *Bill C-30 "Budget Implementation Act 2021, No. 1,"* Brief submitted to the Standing Senate Committee on National Finance, 2021.

68. Government of Canada, *Canada–United States–Mexico Agreement*.

69. The *Canada–United States–Mexico Agreement Implementation Act*, which received Royal Assent on 13 March 2020, implements the *Canada–United States–Mexico Agreement*.

70. *Department of Employment and Social Development Act*, S.C. 2005, c. 34.

71. Government of Canada, "Annex 5: Budget 2021 Impacts Report," *A Recovery Plan for Jobs, Growth, and Resilience*, Budget 2021.

72. *Canada Labour Code*, R.S.C. 1985, c. L-2.

73. Employment and Social Development Canada, *Report of the Expert Panel on Modern Federal Labour Standards*, June 2019, Recommendation 1.

74. Ibid., Recommendation 2.

75. *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.), s. 2.

76. *An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act*, S.C. 2019, c. 16, s. 7 (not yet in force).

77 *Employment Insurance Act*, S.C.1996, c. 23.

78. Employment and Social Development Canada, *Employment Insurance – COVID-19*.

79. Employment and Social Development Canada, *EI maternity and parental benefits: What these benefits offer*.

80. *Judges Act*, R.S.C. 1985, c. J-1.

81. Judicial Compensation and Benefits Commission, *Reports and Recommendations*, 28 October 2019, para. 3, citing letter from the Minister of Justice dated 31 May 2019.

82. Judicial Compensation and Benefits Commission, *Reports and Recommendations*, 28 October 2019, para. 24.

83. *Federal Courts Act*, R.S.C. 1985, c. F-7.

84. *Tax Court of Canada Act*, R.S.C. 1985, c. T-2.

85. *National Research Council Act*, R.S.C. 1985, c. N-15.

86. The provision uses the terms "drug" and "device" as they are defined in section 2 of the *Food and Drugs Act*, R.S.C. 1985, c. F-27.

87. *Employment Equity Act*, S.C. 1995, c. 44; *Pay Equity Act*, S.C. 2018, c. 27, s. 416; *Government Employees Compensation Act*, R.S.C. 1985, c. G-5; *Merchant Seamen Compensation Act*, R.S.C. 1985, c. M-6; *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1; *Status of the Artist Act*, S.C. 1992, c. 33; and *Non-smokers' Health Act*, R.S.C. 1985, c. 15 (4th Supp.).

88. Government of Canada, "A: Mandate of the Minister of Labour," *Minister of Labour: Labour Program overview briefing binder*.

89. *Canada Student Loans Act*, R.S.C. 1985, c. S-23.

90. Government of Canada, *Acts and Regulations: Student Financial Assistance*.

91. *Canada Student Financial Assistance Act*, S.C. 1994, c. 28.

92. Government of Canada, *Acts and Regulations: Student Financial Assistance*.

93. *Apprentice Loans Act*, S.C. 2014, c. 20.

94. *Economic Statement Implementation Act, 2020*, S.C. 2021, c. 7.

95. *Indian Act*, R.S.C. 1985, c. I-5; and *Indian Band Election Regulations*, C.R.C., c. 952.

96. *First Nations Elections Act*, S.C. 2014, c. 5. For more information about how First Nations select their leaders, please see Government of Canada, *Leadership selection in First Nations*.

97. Chelsea Gabel and Nicole Goodman, *Indigenous communities should be able to choose online voting, especially during COVID-19: Report*, McMaster University, 4 May 2021.

98. *First Nations Election Cancellation and Postponement Regulations (Prevention of Diseases)*, SOR/2020-84.

99. *Regulations Amending the First Nations Election Cancellation and Postponement Regulations (Prevention of Diseases)*, SOR/2021-78.

100. *Bertrand v. Acho Dene Koe First Nation*, 2021 FC 287.

101. Indigenous Services Canada, *Government of Canada to appeal recent ruling on the First Nations Election Cancellation and Postponement Regulations (Prevention of Diseases)*, Statement, 8 April 2021.

102. Government of Canada, *Allowance for people aged 60 to 64 – Overview* and *Allowance for the Survivor*.

103. Government of Canada, *Budget 2021: A Recovery Plan for Jobs, Growth, and Resilience*, Part 3, "Chapter 7: A More Equal Canada."

104. Ibid.

105. *Public Service Employment Act* (PSEA), S.C. 2003, c. 22.

106. Department of Finance Canada, *A Recovery Plan for Jobs, Growth, and Resilience*, Budget 2021, p. 231.

107. The Public Service Commission is "an independent agency responsible for safeguarding the values of a professional Public Service: competence, non-partisanship and representativeness." See Government of Canada, *Public Service Commission*.

108. According to the PSEA, employer means: a) the Treasury Board, in relation to an organization named in Schedule I or IV to the *Financial Administration Act*; or b) in relation to a separate agency to which the Commission has exclusive authority to make appointments, that separate agency.

109. Government of Canada, A Recovery Plan for Jobs, Growth, and Resilience, Budget 2021, *Part 2, Chapter 3: New Opportunities for Canadians*.

110. Government of Canada, *Canada Recovery Benefit (CRB)*; "Who can apply," *Canada Recovery Benefit (CRB); Canada Recovery Sickness Benefit (CRSB)*; and *Canada Recovery Caregiving Benefit (CRCB)*.

111. Employment and Social Development Canada, *Employment Insurance (EI)*.

112. *Canada Recovery Benefits Regulations*, SOR/2021-35.

113. *Canada Labour Standards Regulations*, C.R.C., c. 986.

114. *COVID-19 Response Measures Act*, S.C. 2020, c. 12.

115. *Employment Insurance Regulations*, SOR/96-332 (EIR).

116. *Employment Insurance (Fishing) Regulations*, SOR/96-445 (EIFR).

117. The government has signalled that the extension of EI sickness benefits will come into force after the pressing changes related to the expiration of temporary measures in Fall of this year. Binder Bill C-30 Budget Implementation Act, No. 1" An Act to implement certain provisions of the budget tabled in Parliament on April 19, 2021 and other measures.

118. Sections related to entrance requirements are *Employment Insurance Regulations*, ss. 6(1), 7(2), 12(8), 21(1), 22(1), 22(2), 23(1), 23(4), 23(5), 23(6), 23.1, 23.2, 23.3, 28(7), 29(a), 30(4) to 30(7) in the *Employment Insurance Act* (EIA), ss. 55(5) and 55(6) and *Employment Insurance (Fishing) Regulations*, s. 1(1).

119. *Employment Insurance Regulations*, s. 77.992(1); and *Pilot Project Relating to Increased Weeks of Benefits for Seasonal Workers*.

120. *Interim Order Amending the Employment Insurance Act (Employment Insurance Emergency Response Benefit)*, SOR/2020-61; *Interim Order No. 2 Amending the Employment Insurance Act (Employment Insurance Emergency Response Benefit)*, SOR/2020-88; *Interim Order No. 3 Amending the Employment Insurance Act (Employment Insurance Emergency Response Benefit)*, SOR/2020-89; *Interim Order No. 4 Amending the Employment Insurance Act (Employment Insurance Emergency Response Benefit)*, SOR/2020-95; *Interim Order No. 5 Amending the Employment Insurance Act (Employment Insurance Emergency Response Benefit)*, SOR/2020-141; *Interim Order No. 6 Amending the Employment Insurance Act (Employment Insurance Emergency Response Benefit)*, SOR/2020-169; *Interim Order No. 7 Amending the Employment Insurance Act (Employment Insurance Emergency Response Benefit)*, SOR/2020-173; *Interim Order No. 9 Amending the Employment Insurance Act (Employment Insurance Emergency Response Benefit)*, SOR/2020-188; and *Interim Order No. 10 Amending the Employment Insurance Act (Employment Insurance Emergency Response Benefit)*, SOR/2020-208.

121. *Interim Order No. 8 Amending the Employment Insurance Act (Facilitated Access to Benefits)*, SOR/2020-187, established a 13.1% national unemployment rate to facilitate a reduced entrance requirement across Canada during the COVID-19 pandemic. Under previous legislation that included an 11 September 2021 end date, and with the temporary 420-hour common entrance requirement coming into effect on 26 September 2021, this would have resulted in a two-week gap where claimants may have been required to have as many as 700 hours of insurable employment to be eligible for regular benefits.

122. Bill C-30, clause 330(1) or 330(2), Schedule 1 or Schedule 2, replacing Schedule I, Table of Weeks of Benefits (established under EIA, s. 12(2)), (First Reading).

123. The relevant clauses of Bill C-30 are clauses 303(1), 304(1) and 304(3), 305(1), 306, 307(1), 308(1) and 308(3), 309(1), 310(1), 310(3) and 310(5), 311(1), 311(3), 311(5), 311(7), 311(9), 311(11) and 311(13), 312(1), 313(1), 314(1), 315(1), 316(1), 317(1) and 317(3), 318(1) and 319(1), 320–322, 323(1), 325, 326, 328, 330(1) and 331.

124. The relevant clauses of Bill C-30 are clauses 348(1) and 348(3), 349(1), 350(1) and 350(3) and 351.

125. The relevant clauses of Bill C-30 are clauses 353(1), 354(1) and 354(3), 355(1), 356(1) and 356(3), 357 and 358.

126. *Canada Elections Act*, S.C. 2000, c. 9.

127. *Canadian Constitution Foundation v. Canada (Attorney General)*, 2021 ONSC 1224.

128. Bill C-76, An Act to amend the Canada Elections Act and other Acts and to make certain consequential amendments, 42nd Parliament, 1st Session.

PRELIMINARY VERSION
UNEDITED

APPENDIX – ACRONYMS, INITIALISMS AND SHORT FORMS

Title or Term	Acronym, Initialism or Short Form
advanced life deferred annuity	ALDA
Air Travellers Security Charge Act	ATSCA
Bank of Canada	The Bank
Budget Implementation Act, 2018, No. 1	BIA 2018, No. 1
Budget Implementation Act, 2018, No. 2	BIA 2018, No. 2
Canada Deposit Insurance Corporation	CDIC
Canada Deposit Insurance Corporation Act	CDICA
Canada Development Investment Corporation	CDEV
Canada Disability Savings Bond	CDSB
Canada Disability Savings Grant	CDSG
Canada Disability Savings Regulations	CDSR
Canada Elections Act	CEA
Canada Emergency Rent Subsidy	CERS
Canada Emergency Wage Subsidy	CEWS
Canada Labour Code	CLC
Canada Recovery Benefit	CRB
Canada Recovery Benefits Act	CRBA
Canada Recovery Caregiving Benefit	CRCB
Canada Recovery Hiring Program	CRHP
Canada Recovery Sickness Benefit	CRSB
Canada Revenue Agency	CRA
Canada Small Business Financing Act	CSBFA
Canada Small Business Financing Program	CSBFP
Canada Workers Benefit	CWB
Canada–United States–Mexico Agreement	CUSMA
Canadian Judicial Council	CJC
Canadian Radio-television and Telecommunications Commission	CRTC
Canadian-controlled private corporation	CCPC
capital cost allowance	CCA
child care expense deduction	CCED
Consumer Price Index	CPI
corporation resident in Canada	CRIC
Department of Employment and Social Development Act	DESDA
disability supports deduction	DSD

Title or Term	Acronym, Initialism or Short Form
disability tax credit	DTC
employee life and health trust	ELHT
Employment Insurance	EI
Employment Insurance (Fishing) Regulations	EIFR
Employment Insurance Act	EIA
Employment Insurance Regulations	EIR
Employment Insurance-Emergency Response Benefit	EI-ERB
Excise Tax Act	ETA
Federal-Provincial Fiscal Arrangements Act	FPFAA
Financial Transactions and Reports Analysis Centre of Canada	FINTRAC
First Nations Election Cancellation and Postponement Regulations (Prevention of Diseases)	FNECPR
First Nations Elections Act	FNEA
Goods and Services Tax/Harmonized Sales Tax	GST/HST
Greenhouse Gas Pollution Pricing Act	GGPPA
Income Tax Act	ITA
Income Tax Regulations	ITR
Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)	Sergei Magnitsky Law
Keeping Canada's Economy and Jobs Growing Act	KCEJGA
Lockdown Support	LS
National Research Council Act	NRCA
National Research Council of Canada	NRC
Old Age Security Act	OASA
Payment Clearing and Settlement Act	PCSA
payment service provider	PSP
Pension Benefits Standards Act, 1985	PBSA, 1985
pooled registered pension plan	PRPP
Proceeds of Crime (Money Laundering) and Terrorist Financing Act	PCMLTFA
Public Service Commission	PSC
qualified Canadian journalism organization	QCJO
Quebec Parental Insurance Plan	QPIP
registered disability savings plan	RDSP
registered retirement income fund	RRIF
registered retirement savings plan	RRSP
Regulations Amending the First Nations Election Cancellation and Postponement Regulations (Prevention of Diseases)	Regulations Amending the FNECPR
Retail Payment Activities Act	RPAA
Social Security Tribunal	the Tribunal

PRELIMINARY VERSION
UNEDITED

Title or Term	Acronym, Initialism or Short Form
specified multi-employer plan	SMEP
Trust and Loan Companies Act	TLCA
variable payment life annuity	VPLA