



Legislative Summary

BILL S-6: AN ACT RESPECTING REGULATORY MODERNIZATION

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

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Legislative Summary of Bill S-6
(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL S-6: AN ACT RESPECTING REGULATORY MODERNIZATION

1 BACKGROUND

Bill S-6, An Act respecting regulatory modernization,¹ was introduced in the Senate by the Honorable Marc Gold on behalf of the government on 31 March 2022 and read for the first time that same day.

The government describes this bill as the second Annual Regulatory Modernization Bill,² following the *Budget Implementation Act, 2019, No. 1*, whose purpose is to provide updates to existing regulations.³ The introduction of an Annual Regulatory Modernization Bill follows a commitment made in the 2018 Fall Economic Statement.⁴

The bill has 10 parts, each of which repeals or amends portions of at least one Act as part of the regulatory modernization initiative:

- Part 1 – the *Bankruptcy and Insolvency Act*, the *Electricity and Gas Inspection Act*, the *Weights and Measures Act*, the *Budget Implementation Act, 2018, No. 2*, the *Canada Business Corporations Act*, the *Canada Cooperatives Act* and the *Canada Not-for-profit Corporations Act* (clauses 1 to 15);
- Part 2 – the *Canada Oil and Gas Operations Act*, the *Canada Petroleum Resources Act*, the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the *Canada Lands Surveyors Act* (clauses 16 to 79);
- Part 3 – the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* and the *Species at Risk Act* (clauses 80 to 94);
- Part 4 – the *Agricultural Products Marketing Act* (clauses 95 to 101);
- Part 5 – the *Feeds Act*, the *Fertilizers Act*, the *Seeds Act*, the *Health of Animals Act*, the *Plant Protection Act*, the *Canadian Food Inspection Agency Act* and the *Safe Food for Canadians Act* (clauses 102 to 131);
- Part 6 – the *Pest Control Products Act* (clauses 132 to 152);
- Part 7 – the *Coastal Fisheries Protection Act* and the *Fisheries Act* (clauses 153 to 159);
- Part 8 – the *Department of Citizenship and Immigration Act* and the *Immigration and Refugee Protection Act* (clauses 159 and 160);
- Part 9 – the *Customs Act* (clauses 161 and 162); and
- Part 10 – the *Canada Transportation Act* (clause 163).

This Legislative Summary provides a brief description of the main measures proposed in the bill.

2 DESCRIPTION AND ANALYSIS

2.1 PART 1: INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

2.1.1 *Bankruptcy and Insolvency Act* (Clauses 1 to 3)

The *Bankruptcy and Insolvency Act*⁵ (BIA) requires licensed insolvency trustees to publish a notice in a local newspaper for certain bankruptcies. Clauses 1 and 2 of Bill S-6 amend sections 102(4) and 155(c) of the BIA, respectively, so that when a notice is required, it shall be published in the manner specified in the directives of the Superintendent of Bankruptcy rather than in a local newspaper. According to the Treasury Board of Canada Secretariat, this change “recognizes that creditors are rarely located in the area where the newspaper advertisements must appear.”⁶

Section 170.1 of the BIA provides that when a creditor or trustee is opposed to the automatic discharge of a bankrupt solely on the grounds specified in sections 173(1)(m) and 173(1)(n), the trustee is required to apply for mediation, which is to be held in the prescribed manner. If the mediation fails or the bankrupt fails to comply with the conditions that were established as a result of the mediation, the trustee is required to apply without delay to the court for a hearing on the matter.

Clause 3 of the bill adds section 170.2 to the BIA to allow a creditor or trustee who opposed the automatic discharge of a bankrupt solely on the grounds specified in sections 173(1)(m) and 173(1)(n) to withdraw their opposition at any time before the hearing, in which case the creditor or trustee is required to give notice of their withdrawal. Once opposition is withdrawn, the trustee may proceed with the automatic discharge of the bankrupt. According to the Treasury Board of Canada Secretariat, this change enables a request for mediation to be withdrawn when “the grounds for opposition to discharge no longer exist because an agreement has already been reached between a licensed insolvency trustee and a debtor.”⁷

2.1.2 *Electricity and Gas Inspection Act* (Clause 4)

Clause 4 rewords and broadens the regulation-making authority in section 28(1)(d) of the *Electricity and Gas Inspection Act*.⁸ The wording is reorganized and made easier to read. The means by which meters may be verified and reverified is enhanced to include “using any means, including sampling.” The current wording of this provision appears to limit verification and reverification methods to “statistical means on the basis of sampling.”

2.1.3 *Weights and Measures Act*
(Clauses 5 to 8)

Clause 6 amends the *Weights and Measures Act*⁹ by adding section 8.1 to the Act. New section 8.1(1) authorizes the Minister of Industry to permit traders to temporarily use any device (including non-approved or non-examined devices). Under new section 8.1(2), the minister may also revoke this permission for non-compliance provided the notice of the proposal to revoke it has been given to the trader, any interested person objecting to the proposal has been given reasonable opportunity to make representations with respect to their objection, and any representations have been taken into account in deciding whether to implement the proposal (new section 8.1(3)).

Clauses 7 and 8 repeal the sections of the *Weights and Measures Act* that pertain to the labelling requirements related to the sale of any liquid commodity by means of a coin-operated machine (section 10(1)(t)) and establish that any trader who imports any device other than a static measure without notifying the minister is guilty of an offence (section 26(2)).

2.1.4 *Budget Implementation Act, 2018, No. 2*
(Clauses 9 and 10)

Clauses 9 and 10 make technical amendments to the *Budget Implementation Act, 2018, No. 2*,¹⁰ to specify that certain provisions of the *Trademarks Act*¹¹ that were amended by the 2018 legislation apply to the applications for the registration of trademarks announced before 4 June 2015. According to the Treasury Board of Canada Secretariat, this amendment should facilitate the coming into force of provisions adopted in 2018.¹²

2.1.5 Corporations and Cooperatives
(Clauses 12 to 14)

Clauses 12 to 14 amend sections 263, 374 and 278 of the *Canada Business Corporations Act*,¹³ the *Canada Cooperatives Act*¹⁴ and the *Canada Not-for-profit Corporations Act*, respectively,¹⁵ to replace the term “annual return” with the term “annual update statement.” This simply changes the name of the document that business corporations, cooperatives and not-for-profit corporations must send every year to the Director of Corporations Canada, who is appointed by the Minister of Industry under these three Acts.

2.2 PART 2: NATURAL RESOURCES

2.2.1 Petroleum Resources
(Clauses 16 and 17)

Clause 16 of Bill S-6 repeals section 15 of the *Canada Oil and Gas Operations Act*,¹⁶ and clause 17 repeals sections 107(2) and 107(3) of the *Canada Petroleum Resources Act*.¹⁷ These sections require that draft regulations under these Acts be published in the *Canada Gazette* and that interested parties be given a reasonable opportunity for commentary. The clauses further state that a regulation need not be published more than once, whether it has been altered or amended after publication as a result of comments provided in the commentary period.

2.2.2 *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and
Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act
(Clauses 18 to 27)

Clauses 18 to 27 of the bill amend certain occupational health and safety provisions in the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*¹⁸ and the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.¹⁹ Clauses 18 to 22 amend the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clauses 23 to 26 amend the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* to update the definition of “hazardous substance” to include a “hazardous product” and align it with the *Hazardous Products Act*. This updated definition is carried into provisions of both Acts concerning the identification of and information about hazardous substances and hazardous products at the workplace. Clauses 20 and 25 replace the words “any information” with “safety data sheet” to further clarify the employer’s duty to provide information in an emergency. As well, new provisions are added to both Acts to state that where there is no safety data sheet for a hazardous product, the employer must provide any information about that product that is in their possession to the physician or other medical professional. Finally, clauses 22 and 27 amend regulation-making authorities in both Acts, adding new provisions to regulate with respect to the occupational health and safety records to be kept by an operator or employer, how they are to be kept and for what period of time.

2.2.3 *Canada Lands Surveyors Act*

2.2.3.1 Reduce Regulatory Burden on Natural Resources Canada
(Clauses 28 to 34, 36 and 68)

Sections 13 to 18 of the *Canada Lands Surveyors Act*²⁰ (CLSA) relate to the Council – the governing body of the Association of Canada Lands Surveyors. Clause 28(2) adds definitions of “Council member” and “member” to the interpretation section of the CLSA to distinguish between a member of the Council under section 13 and a member of the Association under section 38.

Clause 33 adds text after section 17 of the CLSA clarifying that the two Council members who are not Association members but appointed by the Minister of Natural Resources continue to hold office at the end of their terms until they are reappointed or their successor is appointed.

Clause 34(1) amends section 18(1) of the CLSA by allowing the Council to make by-laws related to:

- the code of conduct;
- Council committees;
- Association records and memberships;
- the commission application process;
- licences and permits;
- professional liability insurance and exemptions;
- professional liability claims;
- conflicts of interest;
- seals and signatures; and
- Association review procedures.

Many of these matters were addressed by section 62 of the CLSA, under which the regulations made by the Council were subject to the approval of the minister.

Clause 68(2) amends section 62 of the CLSA to leave only the following matters subject to the approval of the minister:

- the composition, rules, practice procedures of committees;
- the duties and powers of the Registrar;
- the investigation of complaints and hearing procedures; and
- the definitions of “professional misconduct” and “incompetence.”

Clause 34(2) creates new section 18(3) of the CLSA to clarify that the *Statutory Instruments Act* does not apply to Council by-laws, thus exempting these by-laws from being scrutinized by the Standing Joint Committee for the Scrutiny of Regulations and removing the need for them to be put through the *Canada Gazette* process. This reduces the regulatory burden placed on Natural Resources Canada. Furthermore, new section 18(4) requires that the Council by-laws be made available to the public in both official languages.

2.2.3.2 Improve Labour Mobility and Better Alignment with the *Canadian Free Trade Agreement* (Clause 35)

Each provincial land surveyor association and the Association of Canada Lands Surveyors are signatory to a Mutual Recognition Agreement²¹ on Labour Mobility for Land Surveyors in Canada, which aligns with the *Canadian Free Trade Agreement*,²² to allow a registered surveyor in good standing from any provincial jurisdiction to seek registration in another jurisdiction by passing an examination.

Clause 35(2) adds section 21(3) to the CLSA, which addresses labour mobility opportunities for land surveyors across Canada so that the Act better aligns with the *Canadian Free Trade Agreement*.

2.2.3.3 Modernize Complaints and Discipline Processes (Clauses 37 to 42)

Amendments introduced by clauses 37 to 42 give more powers to investigators and streamline complaints and discipline processes that govern Canada Lands Surveyors.

Clause 37 amends sections 24 and 25 of the CLSA concerning the Complaints Committee's investigation of and decision on complaints. New section 24.2(1) gives powers to committee investigators to enter a dwelling-house with a warrant issued by a justice of the peace under a three-part test provided for in new section 24.2(2) of the CLSA. New section 24.3 allows the investigator to use force if specifically authorized in the warrant. New section 24.4 clarifies that the investigator is shielded from civil liability when carrying out the investigation in good faith.

New section 24.5 of the CLSA requires a member or permit holder to respond to requests in a timely manner; if they fail to comply, they are deemed to have committed an act of professional misconduct, and a complaint may be referred to the Discipline Committee. If a member under investigation fails to comply, the Complaints Committee may suspend that member's licence. New sections 24.1(2) to 24.1(4) keep some of the statutory powers under the current regime, including the investigators' powers to enter business premises, to examine documents, to use copying equipment, to access data and to require assistance.

Clauses 37 and 39 amend sections 25 and 27 of the CLSA, respectively, to transfer some of the complaint-hearing process from the Complaints Committee to the Federal Court. Amended section 25 takes away the opportunity to be heard by the Complaints Committee (as outlined in current section 25(2)), and new section 27.1 adds a right of appeal to the Federal Court concerning the Complaints Committee's decisions to suspend a member's licence.

Clause 41 amends section 29 and adds sections 30.1 to 30.4 to the CLSA. Amended section 29 prescribes a 15-day limit for the Discipline Committee to begin the examination process for complaints referred to it by the Complaints Committee. New section 30.3 gives the Discipline Committee the power to summon and compel the production of evidence as a superior court of record. New section 30.4 requires that the Discipline Committee's hearings be public unless for a reason of public order, including to ensure respect for professional secrecy or the protection of a person's privacy, safety or reputation.

Clause 42(9) adds a new section 31(5.1) to require that the Registrar make public the decisions by the Discipline Committee to cancel memberships or to revoke or suspend commissions, licences or permits. However, the new section does not specify the timeline or the venue for this process.

2.2.3.4 Administrative Amendments and Inconsistencies
Between French and English Versions
(Clauses 43 to 74)

Clauses 43 to 74 amend administrative provisions under the CLSA. Certain clauses (35(1), 38, 42(2), 42(8), 50, 51(1), 51(2), 52, 56, 58(1), 60, 63, 65, 69 and 70) amend the French version of the CLSA for consistency and clarity, notably by ensuring uniformity in relation to the definitions of "licence" and "permit" and by addressing recommendations from the Standing Joint Committee for the Scrutiny of Regulations.

2.2.3.5 Transitional Provisions
(Clauses 75 to 78)

The transitional provisions of Bill S-6 confirm that when used immediately before the day the new definition amendments come into force, the current French terms of "licence" and "permis" remain valid unless revoked or suspended before that day.

Clause 77 provides that for a period of two years, a non-member of the Association who holds a commission granted under the CLSA as it read before 18 March 1999, is deemed to be a Canada Lands Surveyor and is exempt from new section 49.1 (exclusive use of title). Clause 78 provides that the Council may make regulations and by-laws concerning transitional matters, with the approval of the minister.

2.2.3.6 Coming into Force
(Clause 79)

The amendments in clauses 16 to 74 come into force on a day or days to be fixed by order of the Governor in Council.

2.3 PART 3: ENVIRONMENT AND CLIMATE CHANGE

2.3.1 *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*
(Clauses 80 to 84 and 94(1))

Clauses 80 to 84 of Bill S-6 amend the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* (WAPPRIITA).²³ Some amendments (clauses 80(2), 82, 83 and 84(1)) ensure terminology in the French version of WAPPRIITA is more closely aligned with the corresponding provisions in the English version currently in force. Other amendments (clauses 80(1) and 81) clarify that sections 6(1), 7(1) and 7(2) of WAPPRIITA apply subject to the *Wild Animal and Plant Trade Regulations*.²⁴ Clause 84(2) of the bill repeals section 21(2) of WAPPRIITA, which required the Governor in Council to make regulations, and continually update those regulations, to recreate the list of fauna and flora in an appendix of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora*.²⁵ Clause 94(1) provides that these amendments come into force on a day to be fixed by order of the Governor in Council.

2.3.2 *Species at Risk Act*
(Clauses 85 to 93 and 94(2))

Clauses 85 to 93 amend the *Species at Risk Act* (SARA).²⁶ Some clauses (85(1) and 85(3), 86(1) and 86(3), 87(1), 88(1), 88(3), 88(5) and 88(7), 90(1), 92 and 93(1)) come into force upon Royal Assent, while others (85(2) and 85(4), 86(2) and 86(4), 87(2), 88(2), 88(4) and 88(6), 89, 90(2) and 93(2)) come into force on a day to be fixed by order of the Governor in Council as set out in clause 94(2).

The clauses that come into force upon Royal Assent repeal outdated sections of SARA and address wildlife species of special concern that are set out in Schedule 3 and are subject to an assessment under section 130 of SARA by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC). Clauses 88(1), 88(3) and 88(5) of the bill repeal provisions of section 130 of SARA that are specific to Schedule 2, which lists endangered and threatened species that are subject to inspections under that section. The Government of Canada reports that this schedule is no longer needed as all species on Schedule 2 have been assessed by COSEWIC.²⁷ Clause 88(7) repeals section 130(7), which gave the ability, during a section 130 assessment, for COSEWIC to take into account any report prepared in the two years prior to SARA receiving Royal Assent (in 2002).

In relation to those wildlife species remaining on Schedule 3 that require assessments, clauses 85(1) and 85(3) amend section 42(1) and add section 42(3), respectively, to SARA to require the competent minister (the Minister of Environment and Climate Change or the Minister of Fisheries and Oceans, depending on the species) to include a proposed recovery strategy in the public registry after a wildlife species is added to the List of Wildlife Species at Risk following an assessment under section 130 (within three years after a species is listed as endangered and within four years after the species is listed as threatened or extirpated). Clauses 86(1) and 86(3) amend section 68(1) and add section 68(2.1), respectively, to SARA to require the competent minister to include a proposed management plan in the public registry within five years after a wildlife species is listed as a species of special concern following an assessment under section 130. Clause 90(1) provides authority for the Governor in Council to remove species from Schedule 3 after their assessment by COSEWIC under section 130.

The Government of Canada has indicated that, once section 130 assessments are complete for all species on Schedule 3, the schedule will be repealed.²⁸ The clauses that come into force on a day to be fixed by order of the Governor in Council will repeal Schedule 3 and references to it (clauses 85(2) and 85(4), 86(2) and 86(4), 87(2), 88(2), 88(4) and 88(6), 89, 90(2) and 93(2)).

2.4 **PART 4: AGRICULTURAL PRODUCTS MARKETING ACT**
(CLAUSES 95 TO 101)

While the federal government shares jurisdiction over many aspects of agriculture with the provinces, it has exclusive regulatory power over the interprovincial and international trade of goods, including agricultural commodities.

The *Agricultural Products Marketing Act* (APMA),²⁹ first enacted in 1949, allows the Governor in Council to issue orders in council granting provincial marketing boards the authority to oversee the interprovincial and international trade of commodities they regulate at the provincial level. Marketing boards are provincially regulated groups of farmers and other agricultural producers who regulate and promote the sale of their products within a province. The APMA currently consists of 164 orders in council covering producers of more than 40 different commodities in every province except for Newfoundland and Labrador. The interprovincial and international trade of commodities produced under supply management (dairy, poultry and eggs) are regulated by national boards created under separate legislation.

Clauses 95 to 97 of Bill S-6 make substantial changes to the APMA, amending and renumbering sections 1.1 to 4 and adding sections 5 to 9 and the schedule set out in Schedule 2 of Bill S-6. Notably, new section 8 empowers the Minister of Agriculture and Agri-Food, rather than the Governor in Council, to designate provincial marketing boards under the APMA and to make amendments to the list of provincial marketing boards by ministerial order. The bill also makes more explicit the range of powers

given to boards, with amended section 3 explaining that they may exercise “all or any” powers available to them at the provincial level. Amended section 4(1) addresses commodities produced under supply management, explaining that provincial marketing boards for these commodities may not exercise powers granted to national boards under the *Canadian Dairy Commission Act* or the *Farm Products Agencies Act*. The bill also introduces new section 6(1), which obliges boards to make public, either by the Internet or other means, the requirements or measures they intend to carry out in association with their duties under the APMA, and new section 6(2) of the APMA prohibits them from executing these actions until this information has been made publicly available.

2.5 PART 5: CANADIAN FOOD INSPECTION AGENCY (CLAUSES 102 TO 131)

Part 5 of Bill S-6 amends the enabling Act of the Canadian Food Inspection Agency (CFIA), along with many of the Acts under the agency’s jurisdiction. The main objectives of these amendments are to create flexible, fast-acting, and transparent regulatory options; to allow for greater use of electronic equivalents and digital tools; and to allow for greater stakeholder empowerment.³⁰

Clause 104 amends the *Feeds Act*³¹ and clause 110 amends the *Fertilizers Act*³² to allow for the approval or registration of either feeds or fertilizers, respectively, subject to prescribed conditions. Implementing prescribed conditions allows for greater transparency for regulated entities. Clauses 104 and 110 also include amendments that allow for approval or registration to be granted, subject to additional conditions identified by the Minister of Agriculture and Agri-Food. This gives the CFIA more flexibility in approving feed or fertilizer products.

Part 5 includes amendments to the *Health of Animals Act*³³ (clause 123) and the *Plant Protection Act*³⁴ (clause 126), which clarify the Minister of Agriculture and Agri-Food’s power to renew, amend or revoke documentation such as licences and permits issued by the minister under both Acts (new section 64(12) of the *Health of Animals Act* and new section 47(21) of the *Plant Protection Act*, respectively).

Clause 122 amends the *Health of Animals Act* to allow for the creation of interim orders by the Minister of Agriculture and Agri-Food to protect animal health or the environment if immediate action is required to deal with a significant risk (new section 64.11(1)). Clause 122 also outlines the duration of these interim orders, the mechanism by which they can be extended, and the duration of an extension (new sections 64.11(2) and 64.11(3)). Clause 130 amends section 56(2) of the *Safe Food for Canadians Act*³⁵ to allow interim orders under that Act to be extended beyond the current one-year limit. These interim orders are temporary tools that allow the CFIA to act rapidly, particularly with regard to disease control.

Under clause 127, substantial changes are made to the *Canadian Food Inspection Agency Act*,³⁶ which allow the CFIA to carry out its mandate using electronic means (new sections 11.1 to 11.3 of the Act). These new provisions, for example, allow the agency to utilize video calls to perform inspections in remote locations. They also allow the CFIA to use electronic equivalents of signatures, documents, notices and payments throughout their operations.

Part 5 contains amendments to notice clauses under the *Feeds Act* (clause 105), *Fertilizers Act* (clause 111), *Seeds Act*³⁷ (clause 115), *Health of Animals Act* (clause 118), *Plant Protection Act* (clause 124), and *Safe Food for Canadians Act* (clause 129). Notice can now be delivered by any method that provides proof of delivery, or by any prescribed method. In both cases, this could include delivery of notice by electronic means.

Part 5 includes various amendments that allow for greater stakeholder empowerment and collaboration within the CFIA's areas of operation and that enable standards, either foreign or domestic, to be recognized by the CFIA and utilized in a collaborative manner. Clause 102 amends section 5(1) of the *Feeds Act* to allow the Governor in Council to recognize a foreign state's system relating to the safety of feeds. Clause 114 amends section 4(1)(a.1) of the *Seeds Act* to allow for the varietal purity of seeds to be determined by the Canadian Seed Growers Association, a non-profit organization that represents the interest of Canadian seed growers. Clause 114 also allows the Governor in Council to recognize a foreign state's system relating to the safety of seeds (new section 4(1)(j.4)). Clause 119 amends the *Health of Animals Act* to enable the Minister of Agriculture and Agri-Food to approve programs developed by an entity other than the CFIA for the purposes of preventing or controlling diseases, or for the purposes of quarantining animals or things (new section 21.1).

2.6 PART 6: PEST CONTROL PRODUCTS ACT (CLAUSES 132 TO 152)

In Canada, the registration, labelling and commercialization of pest control products, i.e., pesticides, fall within the federal government's jurisdiction under the *Pest Control Products Act* (PCPA).³⁸ Section 6 of the PCPA prohibits – among other actions – the use, manufacturing and commercialization of unregistered pest control products and authorizes the Minister of Health, through the Pest Management Regulatory Agency (PMRA), to define the rules governing the registration of pest control products. Under the PCPA, applicants must demonstrate that the use of their product does not present an unacceptable health or environmental risk in order for it to be registered.

Section 41 of the PCPA enables the minister to authorize a person to use an unregistered pest control product for a specified purpose if the minister considers that the use of the product does not pose an unacceptable health or environmental risk. The *Pest Control Products Regulations*³⁹ specify two situations that warrant an authorization from the minister: the use of a foreign product, if deemed equivalent to a registered product, and the issuance of a research authorization certificate.

Part 6 of Bill S-6 primarily serves to clarify the scope of the minister's powers for issuing and setting conditions for authorizations by adding extensively to section 41 of the PCPA. The amendments to section 41 contained in clauses 139 to 142 of the bill provide that the minister can issue, modify or renew the conditions of authorization, request information on the sale, health and environmental risks and value of the product or class of product, and issue the authorization for either a finite or indefinite period. When an authorized pest control product contains a registered active ingredient, the product can be included in a re-evaluation of that active ingredient at the minister's behest. In addition, clause 138 amends the PCPA to enable the minister to convert the registration to an authorization upon consent provided by the registrant (new section 8.1 of the PCPA).

Bill S-6 establishes a new distinction between authorizations issued to persons and authorizations issued for products:

- **AUTHORIZATIONS TO PERSONS** – Clauses 139 to 141 of the bill set out that applications must be made for authorizations and that the minister can require additional information from applicants and potentially refuse applications. In the case of authorizations to persons, products must not pose an unacceptable health or environmental risk “for the specified purpose” of the product (amended section 41(2)). An evaluation of the value of a product, in other words, its effectiveness, is optional.
- **AUTHORIZATIONS FOR PRODUCTS** – Clause 142 provides that the minister may issue an authorization for a product to be authorized for any person if the minister determines that the product meets the prescribed criteria and that its health or environmental risks, in addition to its value, are acceptable. In this case, new sections 41.02(9) to 41.02(11) of the PCPA require the minister to consult with the public, in addition to federal and provincial governments, to gather their perspectives in an effort to inform the minister's decision.

Clauses 132 to 133 update the PCPA's definitions and provisions to specify that they apply to products authorized by the minister, in addition to registered products, and that the minister may attach conditions to authorizations.

Clause 145 creates new sections 44.1 to 44.7 of the PCPA to provide for orders for recall and for taking of measures. Registrants holding an authorization, in addition to any person who manufactures, uses, imports, exports or distributes pest control products, can be ordered to recall those products (new section 44.1). New section 44.2 enables the minister to take other measures to stop activities related to pest control products, including stopping testing and transportation. In addition, new section 44.6(3) sets out punishments for persons who do not comply with the minister's decision in that regard. These punishments are the same as those set out in section 6 of the PCPA for persons who contravene the prohibition of using an unregistered or unauthorized product.

Clause 148 primarily serves to amend section 67(1) of the PCPA, which relates to the regulations, to take into account the new provisions on authorizations. In addition, clause 148 clarifies that the regulations on the registration of pest control products can also govern the issuance, amendment, cancellation or suspension of the registration, as well as the addition or deletion of conditions of registration.

2.7 PART 7: FISHERIES

2.7.1 *Coastal Fisheries Protection Act* (Clauses 153 to 155)

Clause 153 of Bill S-6 adds text to the *Coastal Fisheries Protection Act*⁴⁰ to specify that licences and permits that have been issued pursuant to regulations enacted by the Governor in Council under section 6(a) of that Act (i.e., those regarding foreign fishing vessels) are no longer recognized as statutory instruments pursuant to the *Statutory Instruments Act* (new section 6.1). This addition means that these licences and permits do not need to be scrutinized by the Standing Joint Committee for the Scrutiny of Regulations or published in the *Canada Gazette*.

Section 17(1) of the *Coastal Fisheries Protection Act* lists offences under the Act. Clause 154 of the bill adds the contravention of “any term or condition of a licence or permit issued under this Act” as a new offence under new section 17(1)(e). Clause 155(1) amends section 18(3) of the Act to add that those that have committed this new type of offence are deemed liable.

2.7.2 *Fisheries Act*
(Clauses 156 to 158)

Alternative measures agreements (AMAs) are agreements between a federal or provincial attorney general and an alleged offender (charged with offences under the *Fisheries Act*). Section 86.1 of the *Fisheries Act* defines “alternative measures” as

measures in respect of the protection of fisheries, fish or fish habitat or the prevention of pollution, other than judicial proceedings, that are used to deal with a person who is alleged to have committed an offence under this Act.

Similar legislative language can also be found in the *Species at Risk Act* (section 2) and the *Criminal Code* (section 716). Under the current provisions of the *Fisheries Act*, an AMA must be entered into within 180 days of the Attorney General providing the initial disclosure of the Crown’s evidence, among other conditions.⁴¹ Clause 156 of Bill S-6 amends section 86.2(1)(g) and removes this 180-day limit. Clause 158 of the bill is a transitional provision, which explains that when new section 86.2(1)(g) comes into force, it applies to every alleged offender, including those who have been provided with initial disclosure when the amendment comes into force.

Clause 157 confirms that nothing in the AMA portion of the *Fisheries Act* limits the discretionary powers under the Act of fisheries officers, fishery guardians and peace officers before a charge is laid. This includes their ability to refer a matter to a process based on restorative justice principles, which are rooted in a community-based process that seeks to put right wrongs committed in a way that shows respect to all parties.⁴² The *Fisheries Act* does not define the term “restorative justice principles.”

2.8 PART 8: IMMIGRATION, REFUGEES AND CITIZENSHIP

Part 8 of Bill S-6 introduces two clauses to facilitate information-sharing in the contexts of immigration, refugees and citizenship.

2.8.1 *Department of Citizenship and Immigration Act*
(Clause 159)

Clause 159 of the bill amends the *Department of Citizenship and Immigration Act*⁴³ to provide for personal information under the control of Immigration, Refugees and Citizenship Canada to be shared within the department and with any federal or provincial department or agency or Crown corporation, within the limits of the regulations that will be put in place (new sections 5.3 to 5.7). “Personal information” has a broad definition, as set out in the *Privacy Act*.⁴⁴ With these amendments, when administering or enforcing legislation or exercising powers or duties under a lawful authority, Immigration, Refugees and Citizenship Canada can share information

regarding a person's identity, status, and the content or status of a document issued with these partners.

2.8.2 *Immigration and Refugee Protection Act*
(Clause 160)

Clause 160 adds a paragraph to section 150.1(1) of the *Immigration and Refugee Protection Act*,⁴⁵ which authorizes making regulations for information-sharing purposes. New section 150.1(1)(f) provides for sharing information throughout the federal government and its agencies for the purpose of cooperation.

2.9 PART 9: *CUSTOMS ACT*
(CLAUSES 161 AND 162)

Clause 161 of Bill S-6 amends section 164(1.1) of the *Customs Act* to allow the Governor in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, to make regulations regarding the implementation of a trade agreement that is mentioned in column 1 of Part 5 of the *Customs Act's* schedule.⁴⁶ This amendment is designed to clarify authorities to make customs-related regulations, promote the international alignment of such regulations, and enhance and facilitate compliance with Canada's customs rules.⁴⁷

Clause 162 states that clause 161 will come into force on a day to be stipulated by order of the Governor in Council.

2.10 PART 10: *CANADA TRANSPORTATION ACT*
(CLAUSE 163)

Clause 163 of Bill S-6 introduces a new section 49.1 to the *Canada Transportation Act*,⁴⁸ allowing the Minister of Transport to make an interim order for the purpose of modifying or removing requirements or conditions set out in an existing regulation. Such a change could only be made if it is considered in the public interest and if it either implements an international standard or ensures compliance with Canada's international obligations. The new section also contains administrative provisions regarding the making of these interim orders, including an exclusion from the *Statutory Instruments Act*.

NOTES

1. [Bill S-6, An Act respecting regulatory modernization](#), 44th Parliament, 1st Session.
2. Treasury Board of Canada Secretariat, [New legislation to reduce regulatory burden on Canadians](#), News release, 31 March 2022.
3. Treasury Board of Canada Secretariat, [Introduction of Bill S-6, An Act respecting regulatory modernization](#), Background.

4. Department of Finance Canada, [Investing in Middle Class Jobs](#), Fall Economic Statement 2018, p. 73.
5. [Bankruptcy and Insolvency Act](#), R.S.C. 1985, c. B-3.
6. Treasury Board of Canada Secretariat, [Overview of proposed amendments in the second Annual Regulatory Modernization Bill](#).
7. Ibid.
8. [Electricity and Gas Inspection Act](#), R.S.C. 1985, c. E-4.
9. [Weights and Measures Act](#), R.S.C. 1985, c. W-6.
10. [Budget Implementation Act, 2018, No. 2](#), S.C. 2018, c. 27.
11. [Trademarks Act](#), R.S.C. 1985, c. T-13.
12. Treasury Board of Canada Secretariat, [Overview of proposed amendments in the second Annual Regulatory Modernization Bill](#).
13. [Canada Business Corporations Act](#), R.S.C. 1985, c. C-44.
14. [Canada Cooperatives Act](#), S.C. 1998, c. 1.
15. [Canada Not-for-profit Corporations Act](#), S.C. 2009, c. 23.
16. [Canada Oil and Gas Operations Act](#), R.S.C. 1985, c. O-7.
17. [Canada Petroleum Resources Act](#), R.S.C. 1985, c. 36 (2nd Supp.).
18. [Canada–Newfoundland and Labrador Atlantic Accord Implementation Act](#), S.C. 1987, c. 3.
19. [Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act](#), S.C. 1988, c. 28.
20. [Canada Lands Surveyors Act](#), S.C. 1998, c. 14.
21. Government of Canada, [Mutual Recognition Agreements](#).
22. Internal Trade Secretariat, [Canadian Free Trade Agreement \(CFTA\)](#).
23. [Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act](#), S.C. 1992, c. 52.
24. [Wild Animal and Plant Trade Regulations](#) (SOR/96-263) enabled under the [Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act](#), S.C. 1992, c. 52.
25. CITES, [Convention on International Trade in Endangered Species of Wild Fauna and Flora](#).
26. [Species at Risk Act](#), S.C. 2002, c. 29.
27. Government of Canada, [Bill S-6, An Act respecting regulatory modernization](#).
28. Ibid.
29. [Agricultural Products Marketing Act](#), R.S.C. 1985, c. A-6.
30. Canadian Food Inspection Agency, [Departmental Plan 2022–23](#).
31. [Feeds Act](#), R.S.C. 1985, c. F-9.
32. [Fertilizers Act](#), R.S.C. 1985, c. F-10.
33. [Health of Animals Act](#), S.C. 1990, c. 21.
34. [Plant Protection Act](#), S.C. 1990, c. 22.
35. [Safe Food for Canadians Act](#), S.C. 2012, c. 24.
36. [Canadian Food Inspection Agency Act](#), S.C. 1997, c. 6.
37. [Seeds Act](#), R.S.C. 1985, c. S-8.
38. [Pest Control Products Act](#), S.C. 2002, c. 28.
39. [Pest Control Products Regulations](#), SOR/2006-124.
40. [Coastal Fisheries Protection Act](#), R.S.C. 1985, c. C-33.

41. For more information, see Daniele Lafrance and Thai Nguyen, "[2.9 Enforcement: Alternative Measures Agreements \(Clause 47\)](#)," *Legislative Summary of Bill C-68: An Act to amend the Fisheries Act and other Acts in consequence*, Publication no. 42-1-C68-E, Library of Parliament, 19 June 2018.
42. Government of Canada, [Principles of Restorative Justice](#).
43. [Department of Citizenship and Immigration Act](#), S.C. 1994, c. 31.
44. [Privacy Act](#), R.S.C. 1985, c. P-21, s. 3.
45. [Immigration and Refugee Protection Act](#), S.C. 2001, c. 27, s. 150.1(1).
46. [Customs Act](#), R.S.C. 1985, c. 1 (2nd Supp.), schedule. The *Customs Act* references the "Minister of Public Safety and Emergency Preparedness." However, on 26 October 2021, a Minister of Public Safety and a Minister of Emergency Preparedness were sworn into Cabinet. See Prime Minister of Canada, Justin Trudeau, [Prime Minister welcomes new Cabinet](#), News release, 26 October 2021.
47. Treasury Board of Canada Secretariat, [Overview of proposed amendments in the second Annual Regulatory Modernization Bill](#).
48. [Canada Transportation Act](#), S.C. 1996, c. 10.