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LEGISLATIVE SUMMARY



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

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

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(Legislative Summary)

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

1 BACKGROUND

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

1.1 *FEDERAL SUSTAINABLE DEVELOPMENT ACT*

Under the *Federal Sustainable Development Act*,⁴ the Minister of the Environment⁵ must develop and implement a federal sustainable development strategy every three years.⁶ The Sustainable Development Advisory Council, the appropriate parliamentary committees and the public have 120 days in which to review and comment on the first draft of each strategy.⁷ The final version of the strategy is thereafter approved by the Governor in Council and tabled in each House of Parliament.⁸ The strategy is then deemed to be referred to the standing committee of each House that normally considers matters relating to the environment.⁹

At least once every three years following the day on which the Act came into force, the Sustainable Development Office within Environment and Climate Change Canada provides the Minister with a report on the federal government's progress in implementing the strategy. This report is then tabled in each House of Parliament.¹⁰

The Act also requires federal departments and six federal agencies to prepare their own sustainable development strategies. Each strategy must include the organization's objectives and plans, comply with and contribute to the federal sustainable development strategy, and be appropriate to the department's or agency's mandate.¹¹ The Commissioner of the Environment and Sustainable Development is responsible for monitoring and reporting on the progress of departments and agencies in implementing their strategies.¹²

Lastly, the Act requires the federal government to include provisions in all performance-based contracts for meeting the applicable targets contained in the federal sustainable development strategy and departmental sustainable development strategies.¹³

The Act has been in effect since 26 June 2008. The third and most recent federal strategy, covering 2016 to 2019,¹⁴ was released on 6 October 2016 and updated in spring 2017.¹⁵

1.2 STUDY BY THE HOUSE OF COMMONS STANDING COMMITTEE ON ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

In spring 2016, the House of Commons Standing Committee on Environment and Sustainable Development conducted an assessment of the *Federal Sustainable Development Act*. In its report, the committee highlighted various weaknesses in the current process for developing and implementing the federal sustainable development strategy, and it prepared 13 recommendations to correct these weaknesses.¹⁶ In her response to the committee's report, the Minister of Environment and Climate Change agreed, on behalf of the federal government, to propose changes to improve the Act's effectiveness.¹⁷

2 DESCRIPTION AND ANALYSIS

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

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

- any department;
- any agency or agent of Parliament¹⁸ named in Schedule I.1 to the *Financial Administration Act*;¹⁹ and
- any departmental corporation²⁰ named in Schedule II to the *Financial Administration Act*.²¹

2.2 PURPOSE AND PRINCIPLES (CLAUSES 2 AND 3)

The bill amends the purpose of the Act. First, the legal framework for developing and implementing a federal sustainable development strategy must now increase the transparency of federal decision making in relation to sustainable development rather than to the environment. Second, the sustainable development strategy must now promote "coordinated action across the Government of Canada to advance sustainable development" and respect "Canada's domestic and international obligations relating to sustainable development, with a view to improving the quality of life of Canadians."²²

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

- intergenerational equity;
- the precautionary principle;
- the "polluter pays" principle;

- the internalization of costs;
- openness and transparency;
- the involvement of Aboriginal peoples;
- collaboration; and
- a results-based approach.

2.3 MINISTER'S REPORT (CLAUSE 4)

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

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

2.4 SUSTAINABLE DEVELOPMENT ADVISORY COUNCIL (CLAUSE 5)

The bill sets out the role of the Sustainable Development Advisory Council, which is "to advise the Minister on any matter related to sustainable development that is referred to it by the Minister"²³ (new section 8(2.1)).

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

Lastly, a new provision now allows Council members to be paid remuneration and expenses in amounts set by the Minister of the Environment (amended section 8(3)).

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

According to the bill, designated federal entities must now contribute to the development of the federal sustainable development strategy (new section 9(1.1)). The strategy must also contain goals and measurable targets, which must include a time frame (amended section 9(2)).

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

The bill amends the way in which designated federal entities develop their own sustainable development strategies and report on their progress. Under the new provisions, the Treasury Board may establish policies and directives regarding the environmental impact of the operations of designated entities (new section 10.1), and designated entities must take these policies and directives into account when preparing their sustainable development strategies (new sections 11(1)(a)(iv) and 12(1)(a)(iv)).

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

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

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

2.7 PROVISION REGARDING PERFORMANCE-BASED CONTRACTS (CLAUSE 8)

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

2.8 ONGOING REVIEW OF THE ACT (CLAUSE 9)

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

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

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

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

NOTES

1. [Bill C-57, An Act to amend the Federal Sustainable Development Act](#) [Bill C-57], 1st Session, 42nd Parliament.
2. Ibid., “Summary.”
3. Ibid., cl. 8.
4. [Federal Sustainable Development Act](#), S.C. 2008, c. 33.
5. Like the *Federal Sustainable Development Act*, Bill C-57 refers to the “Minister of the Environment” rather than the “Minister of Environment and Climate Change.”
6. *Federal Sustainable Development Act*, s. 9(1).
7. Ibid., s. 9(3).
8. Ibid., s. 10.
9. Ibid.
10. Ibid., s. 7(2).
11. Ibid., s. 11.
12. [Auditor General Act](#), R.S.C. 1985, c. A-17, s. 21.1.
13. *Federal Sustainable Development Act*, s. 12.
14. Government of Canada, [Achieving a Sustainable Future: A Federal Sustainable Development Strategy for Canada](#).
15. Government of Canada, [Achieving a Sustainable Future: A Federal Sustainable Development Strategy for Canada 2016–2019 – Spring 2017 Update](#).
16. House of Commons, Standing Committee on Environment and Sustainable Development, [Federal Sustainability for Future Generations – A Report Following an Assessment of the Federal Sustainable Development Act](#), Second Report, 1st Session, 42nd Parliament, June 2016.
17. Catherine McKenna, Minister of Environment and Climate Change, [Government response to the second report of the House of Commons Standing Committee on Environment and Sustainable Development entitled Federal Sustainability for Future Generations – A Report Following an Assessment of the Federal Sustainable Development Act](#), tabled 17 June 2016, 6 October 2016.
18. Government of Canada, [Overview of federal organizations and corporate interests](#).
19. [Financial Administration Act](#), R.S.C. 1985, c. F-11, Schedule I.1.
20. Government of Canada, *Overview of federal organizations and corporate interests*.
21. *Financial Administration Act*, Schedule II.
22. Bill C-57, cl. 2.
23. Ibid., cl. 5(3).