LIBRARY OF PARLIAMENT
BIBLIOTHÈQUE DU PARLEMENT

BUDGET IMPLEMENTATION BILL

UNEDITED

LEGISLATIVE SUMMARY

BILL C-47, AN ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN PARLIAMENT ON MARCH 28, 2023

44-1-C47-E

17 May 2023

Parliamentary Information, Education and Research Services

BUDGET IMPLEMENTATION BILL

UNEDITED

AUTHORSHIP

17 May 2023

Abu Taleb, Bashar
Ambrozas, Diana
Capwell, Brett
Fleury, Sylvain
Ghiaie, Hamed
Hermon, Brian
Kiarsi, Mehrab
Lafrenière, Alexandre
Lambert-Racine, Michaël
Lemelin-Bellerose, Sarah
León, Andrés
Malo, Joëlle
McGlashan, Lindsay
Obale, Offah
Pu, Shaowei
Samedy, Rosemonde
Simonds, Katherine
Theckedath, Dillan
van den Berg, Ryan
Yakobowski, Sarah
Yong, Adriane

Economics, Resources and International Affairs Division

Blackmore, Laura
Dodsworth, Sarah
Farrah, Kelly
Feldman, Stephanie
Fryer, Sara
Gagnon, Philippe
Garland, Andrea
Kachulis, Eleni
Keenan-Pelletier, Michaela
Norris, Sonya
Perez-Leclerc, Mayra
Preston, Vanessa

Legal and Social Affairs Division

ABOUT THIS PUBLICATION

Library of Parliament legislative summaries of budget implementation bills summarize budget implementation bills currently before Parliament and provide background information about them in an objective and impartial manner. They are prepared by Parliamentary Information, Education and Research Services, which carries out research for and provides information and analysis to parliamentarians, Senate and House of Commons committees and parliamentary associations. Legislative summaries of budget implementation bills summarize only the version of bills tabled at first reading and are not revised to reflect amendments made to bills as they move through the legislative process.

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 Senate and House of Commons, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent and come into force.

Legislative Summary of Bill C-47
(Budget implementation bill)

44-1-C47-E

Ce document est également publié en français.

CONTENTS

LEGISLATIVE SUMMARY OF BILL C-47, AN ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN PARLIAMENT ON MARCH 28, 2023*

1 BACKGROUND

Bill C-47, An Act to implement certain provisions of the budget tabled in Parliament on March 28, 2023 (short title: Budget Implementation Act, 2023, No. 1), was introduced in the House of Commons on 20 April 2023.[1] As suggested by the long and short titles, the purpose of the bill is to implement the government's overall budget policy, presented to the House of Commons on 28 March 2023.[2] Bill C-47 is the first budget implementation bill of 2023. According to established legislative practice, a second similar bill may follow in fall 2023.

The bill has four parts:

- Part 1 implements various income tax measures through amendments to the *Income Tax Act* and other related statutes and regulations, including increasing the maximum deduction for tradespeople's tools from $500 to $1,000 and implementing the Model Reporting Rules for Digital Platforms developed by the Organisation for Economic Co-operation and Development (clauses 2 to 113).
- Part 2 implements certain goods and services tax/harmonized sales tax measures through amendments to the *Excise Tax Act* and related regulations (clauses 114 to 123).
- Part 3 implements certain measures regarding excise duty in respect of beer, spirits and wine, among others, as well as the air travellers security charge (clauses 124 to 127).
- Part 4, which is further divided into 39 divisions, implements various measures. It amends numerous existing Acts that cover many areas of law. It also enacts the Canada Innovation Corporation Act and the Dental Care Measures Act (clauses 128 to 681).

This Legislative Summary 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

By amending several provisions of the *Income Tax Act*[3] (ITA), Bill C-47 aims to meet three objectives:

- authorizing e-signatures in certain situations;
- expanding the scope of the rules mandating electronic filing of tax and information returns; and
- mandating electronic payments in certain situations.

These measures were announced in Budget 2021 in order to "improve the Canada Revenue Agency's (CRA) ability to operate digitally, resulting in faster, more convenient and accurate service, while also enhancing security."[4]

2.1.1 Use of Electronic Certification of Tax and Information Returns and Requirement for Taxpayers to File Electronically in Certain Circumstances

2.1.1.1 E-signatures

Clauses 3(3), 48(2) and 85 amend the ITA and the *Tax Rebate Discounting Act*[5] (TRDA) to remove the requirement for some prescribed forms to be signed in order to facilitate the use of e-signatures.[6] These forms are:

- the form referred to in section 8(10) of the ITA allowing an employee to deduct certain expenses in computing employment income, which required their employer's signature;
- the information return referred to in section 150.1(4) of the ITA in cases where another person files an electronic tax return on behalf of a taxpayer, which required the taxpayer's signature; and
- the statement describing the discounting transaction referred to in sections 4(2)(a) and 4(2)(b) of the TRDA, which required the client's signature.

2.1.1.2 Electronic Filing

Pursuant to section 150.1(2.1) of the ITA, a prescribed corporation must file its return by way of electronic filing. Clause 98(2) amends section 205.1(2) of the *Income Tax Regulations*[7] (ITR) to remove the $1 million gross revenue threshold above which a corporation was considered a prescribed corporation, with the result being that in principle, all corporations are now prescribed corporations. However, existing exceptions continue to apply. Clause 98(4) specifies that this change applies to taxation years that begin after 2023.

Pursuant to section 278.1(2.1) of the *Excise Tax Act*[8] (ETA), a prescribed person must file its return by way of electronic filing. Clause 112(1) amends section 2(a) of the *Electronic Filing and Provision of Information (GST/HST) Regulations*[9] to remove the reference to a person's threshold amount, with the result being that in principle, all registrants are now prescribed persons. However, existing exceptions continue to apply. Clause 112(2) specifies that this change applies in respect of reporting periods that begin after 2023.

Clause 48(1) amends section 150.1(2.2) of the ITA to reduce the threshold above which a person is considered a "tax preparer" from 10 returns, excluding returns of income of estates or trusts, to five returns, including returns of income of estates or trusts.

Clause 48(1) also amends section 150.1(2.3) of the ITA to lower the maximum number of returns of income that may be filed other than by way of electronic filing from 20, excluding returns of income of estates or trusts, to 15, including returns of income of estates or trusts.

Clause 98(1) amends section 205.1(1) of the ITR to reduce from 50 to five the threshold above which information returns of the same type must be produced by way of electronic filing failing which a penalty may be imposed in accordance with section 162(7.02) of the ITA. Clause 54(1) amends section 162(7.02)(a) of the ITA in a consequential manner to adjust the penalty thresholds for failure to comply with mandatory electronic filing. Clauses 54(4) and 98(3) specify that these changes apply in respect of information returns filed after 2023.

Clause 48(3) adds section 150.1(4.1) to the ITA, which includes a presumption regarding the date a notice of assessment is sent and received if the notice is made available to the taxpayer using electronic means. This presumption applies when the taxpayer's return is produced by way of electronic filing, the taxpayer has authorized that notices or other communications be made available to them in that manner, and the taxpayer "is registered for CRA's My Account for Individuals."[10] In addition, it replaces the presumption under section 244(14.1) of the ITA, as amended by the bill. Clause 48(4) specifies that these changes come into force on 1 January 2024.

Clause 72 amends section 244(14.1) of the ITA to limit its scope to individuals and adds section 244(14.2) to the ITA, which applies exclusively to notices and other communications sent to a taxpayer in respect of a business or a partnership. The new section "changes the default method of correspondence for taxpayers that use the CRA's My Business Account service."[11] These two provisions contain a presumption regarding the date on which a notice or other communication is sent to and received by a taxpayer.

Similarly, clauses 80, 84, 88, 92 and 95 amend, with the necessary adjustments, sections 106.1(3.1) and 335(10.1) of the ETA, section 83(9.1) of the *Air Travellers Security Charge Act*[12] (ATSCA), section 301(9.1) of the *Excise Act, 2001*[13] and section 164(12) of the *Greenhouse Gas Pollution Pricing Act*[14] (GGPPA) and add sections 106.1(3.2) and 335(10.2) to the ETA, section 83(9.2) to the ATSCA, section 301(9.2) to the *Excise Act, 2001*, and section 164(12.1) to the GGPPA.

2.1.1.3 Electronic Payments

Clause 52(1) adds section 160.5 to the ITA to, on the one hand, define "electronic payment," that is, payment to the Receiver General that is made through electronic services offered in particular by a bank,[15] or by any electronic means specified by the Minister of National Revenue. On the other hand, this type of payment is now required if the remittance exceeds $10,000. Clause 52(2) specifies that this change applies in respect of payments and remittances made after 2023.

Clauses 81(1), 86(1), 89(1) and 93(1) add section 278(0.1) to the ETA, section 20(1) to the ATSCA, section 163(1) to the *Excise Act, 2001* and section 86(1) to the GGPPA respectively, to introduce similar definitions of "electronic payment."

As well, clauses 81(2), 86(1), 89(1) and 93(1) amend section 278(3) of the ETA and add section 20(2) to the ATSCA, section 163(2) to the *Excise Act, 2001*, and section 86(2) to the GGPPA, respectively, to provide a similar manner for mandatory payment by way of electronic filing for amounts of $10,000 or more.[16]

Clauses 81(3), 86(2), 89(2) and 93(2) specify that these changes apply in respect of payments and remittances made after 2023.

Clause 54(2) adds section 162(7.4) to the ITA, which provides a penalty of $100 for each failure to comply with the new requirement on electronic payment. Clause 54(3) makes a consequential amendment to section 162(8.1) of the ITA, which deals with partnerships, to add a reference to new section 162(7.4) of the ITA. Clause 54(5) specifies that these changes apply in respect of payments and remittances made after 2023.

Clauses 82(1), 87(1), 91(1) and 94(1) add section 280.12 to the ETA, section 54 to the ATSCA, section 251.11 to the *Excise Act, 2001* and section 123.1 to the GGPPA respectively to provide for the same penalty. Clauses 82(2), 87(2), 91(2) and 94(2) specify that these changes apply in respect to payments and remittances made after 2023.

2.1.2 Doubling of the Maximum Deduction for Tradespeople's Tools

Section 8(1)(s) of the ITA provides that a person who is employed in an eligible trade may deduct from their taxable income the cost of eligible tool expenditures in excess of $1,368[17] (in 2023), up to a maximum amount of $500.

Clause 3(2) of Bill C-47 amends section 8(1)(s) to increase this maximum amount from $500 to $1,000.

Clause 3(1) makes consequential amendments to section 8(1)(r)(ii) of the ITA in respect of the deduction for apprentice mechanics' tool expenditures.

These measures apply to the 2023 and subsequent taxation years.

2.1.3 Treatment of Gains on the Disposition of a Right to Acquire Canadian Housing Property Within a One-Year Period of its Acquisition

Clause 4(3) of Bill C-47 amends section 12(13) of the ITA to extend the definition of "flipped property" to include a right to acquire Canadian housing property. As a result, any gain on the disposition of a right to acquire such a right within less than a one-year period of its acquisition is also treated as business income. However, this rule does not apply if the disposition of a right to acquire Canadian housing property occurs due to or in anticipation of, certain life events, such as death, disability, the birth of a child, new employment, divorce, a threat to personal safety or destruction of the property. There is no change in these criteria. In addition, the periods of the right to hold the right to acquire Canadian housing and to own the housing as such are not cumulative for the purposes of calculating the ownership duration.

Clause 4(4) provides that this amendment applies in respect of dispositions that occur after 2022.

2.1.4 Exclusion from a Taxpayer's Income of Certain Benefits for Canadian Forces Members, Veterans and their Spouses or Common-Law Partners

Veterans Affairs Canada and the Department of National Defence provide various non-taxable benefits to injured or ill veterans and members of the Canadian Armed Forces (CAF) and their families.

Clauses 16(1), 16(2) and 16(3) of Bill C-47 amend section 81(1)(d.1) of the ITA to specifically exclude certain benefits from the computation of the recipients' taxable income.

Clause 16(1) amends section 81(1)(d.1) to specify that benefits received under sections 81(1)(d.1)(i) to 81(1)(d.1)(iv) and new sections 81(1)(d.1)(v), 81(1)(d.1)(vi) and 81(1)(d.1)(vii) of the ITA are excluded from the computation of the recipients' taxable income.

Clause 16(2) adds new sections 81(1)(d.1)(v), 81(1)(d.1)(vi) and 81(1)(d.1)(vii) to the ITA to specify that the following benefits are excluded from the computation of the recipients' taxable income:

- benefits provided under the *Veterans Health Care Regulations*;
- rehabilitation services and vocational assistance;
- the home modifications benefit;
- the home modifications move benefit;
- the vehicle modifications benefit;
- the home assistance benefit;
- the attendant care benefit;
- the caregiver benefit;
- the spousal education upgrade benefit;
- the funeral and burial expenses benefit;
- the next of kin travel benefit; and
- an education expense reimbursement for ill and injured members.[18]

Clause 16(3) adds new section 81(1)(d.1)(viii) to the ITA to exclude from the computation of the recipients' taxable income a benefit provided by the Department of National Defence as an education expense reimbursement for ill and injured CAF members. New sections 81(1)(d.1), 81(1)(d.1)(v), 81(1)(d.1)(vi) and 81(1)(d.1)(vii) are deemed to have come into force on 1 January 2018.

New section 81(1)(d.1)(viii) is deemed to have come into force on 1 January 2021.

2.1.5 Exemption from Taxation of any Income Earned by the Band Class Settlement Trust Relating to the Attendance of Day Scholars at Residential Schools

As part of the Gottfriedson Band Class Settlement Agreement that the federal government reached with 325 First Nations for the collective harm they suffered as a result of the Indian Residential School system including loss of language and culture, the federal government will provide $2.8 billion to a not-for-profit trust to support healing, wellness, education, heritage, language, and commemoration activities.[19]

Section 81(1)(g.3) of the ITA stipulates that the income earned by certain government funded trusts established under agreements specified in the section is exempted from income taxation for the year if prior to this year, the only contributions made to the trust are those provided for under the relevant agreement that established the trust.

Clause 16(4) of Bill C-47 adds the Gottfriedson Band Class Settlement Agreement to the list of agreements specified in section 81(1)(g.3) of the ITA so that the income earned by the trust established under this agreement is exempted from income taxation.

Clause 16(7) provides that this amendment applies to the 2023 and subsequent taxation years.

2.1.6 Additional Payment of the Goods and Services Tax/Harmonized Sales Tax Credit

Clause 29(1) adds new section 122.5(3.003) to the ITA to provide for a one-time additional payment of the goods and services tax/harmonized sales tax (GST/HST) Credit in January 2023 that is equal to twice the amount of GST/HST Credit an eligible individual receives in that month, meaning that eligible individuals are entitled to receive triple the amount they would otherwise receive. The new section also triples the phase-in and phase-out rates that normally apply, so that the additional payment is phased out at the same income level as for regular GST/HST Credit payments.

Clause 29(2) adds new section 122.5(3.04) so that the calculation of the one-time additional payment for a shared-custody parent is subject to the same rule as that applicable to the regular GST/HST Credit. Lastly, clause 29(3) adds new section 122.5(4.3) to provide that for the purposes of the one-time additional payment, the specified month is January 2023 and the reference taxation year is 2021.

Clauses 49(1), 49(2), 49(9) and 51(2) make a number of consequential amendments resulting from the addition of new section 122.5(3.003).

2.1.7 Quarterly Advance Payments of the Canada Workers Benefit

Clause 31 of Bill C-47 adds new section 122.72 to the ITA to change the delivery of Canada Workers Benefit (CWB) payments. This amendment changes the CWB from a refundable credit claimed annually on personal income tax returns to three automatic advance payments made through the benefit system plus a refundable credit for the remaining amount on personal income tax returns. As well, clause 31 adds the following new sections to clarify the new rules surrounding implementation of the CWB:

- 122.72(1) advance payment;
- 122.72(2) conditions of application of section 122.72(3);

- 122.72(3) single advance payment;
- 122.72(4) months specified;
- 122.72(5) no advance payment;
- 122.72(6) notification to Minister; and
- 122.72(7) advance payment – no eligible spouse.

Clauses 49 and 51 of the bill make consequential changes to sections 152(1)(b), 152(1.2)(d), 160.1(1)(b), 160.1(3) and 164(3) of the ITA to add a reference to advance CWB payments under new section 122.72.

Clause 56 of the bill adds new section 164(2.22) to the ITA to deliver the CWB through advance payments, and to provide advance CWB payments with treatment consistent with that of the goods and services tax/harmonized sales tax (GST/HST) under section 164(2.1) and the Climate Action Incentive under section 164(2.21). This section also provides that where an advance CWB payment otherwise payable in respect of a given month specified for that purpose is used in whole or in part to reduce a tax liability, when the applicable return is filed on time, the set-off occurs on the day the amount would have been paid to the individual if the set-off had not occurred. When the individual's return for the year is not filed on time, the set-off occurs on the day the amount is actually applied.

Clause 26 of the bill amends section 117(2.1) of the ITA to ensure that the lesser of an individual's entitlement to the CWB under sections 122.7(2) and 122.7(3), and the advance CWB payments received by the individual (and, under specific circumstances, their cohabiting spouse or common-law partner) in respect of a taxation year under section 122.72, is to be included in the individual's tax payable under Part I of the ITA for that taxation year.

As a result of the introduction of section 122.72 to the ITA, clause 30 amends section 122.7 of the ITA, which describes rules applicable to the CWB. More specifically, it amends the portion of section 122.7(1) of the ITA before the definitions to specify that the definitions apply for the purposes of the subdivision. It also repeals sections 122.7(4) and 122.7(6) to 122.7(9) of the ITA and consequentially, amends section 122.7(2) of the ITA to remove the reference to section 122.7(4).

These amendments apply to taxation years that begin after 2022 (clauses 26(2), 30(4) and 31(2) of the bill).

2.1.8 Joint Registered Educational Savings Plans and Increase of the Educational Assistance Amounts under those Plans

Clause 39(1) of Bill C-47 amends the definition of registered education savings plan (RESP) in section 146.1(1) of the ITA to allow divorced or separated parents to jointly enter into a new RESP contract for one or more of their children or to transfer an existing RESP for which they are joint subscribers to another promoter.

Clause 39(2) amends section 146.1(2)(g.1)(ii)(A)(II) of the ITA to increase the limit on withdrawals of educational assistance payments from $5,000 to $8,000 for the first 13 weeks of enrolment for a qualifying full-time student.

Clause 39(3) amends section 146.1(2)(g.1)(ii)(B) of the ITA to increase the limit on withdrawals of educational assistance payments from $2,500 to $5,000 per 13-week period of enrolment for a qualifying part-time student.

These amendments are deemed to have come into force on 28 March 2023.

2.1.9 Time Extension of the Ability for a Qualifying Family Member to be the Plan Holder of an individual's Registered Disability Savings Plan

A Registered Disability Savings Plan (RDSP) is a tax-assisted savings vehicle for individuals with a severe and prolonged impairment who qualify for the disability tax credit. The federal government supplements private contributions to the plan with Disability Savings Grant and the Canada Disability Savings Bond.

Prior to 2012, an individual aged 18 years or older who wished to be a beneficiary of the RDSP also had to be the plan holder (the individual who opened the plan), unless the beneficiary lacked the legal capacity to enter into a contract, in which case the beneficiary's guardian or other legal representative could open the plan on their behalf. As the standards for capacity and competence were not the same in all provinces, the only way that an RDSP could be opened in certain cases was for the individual to be declared legally incompetent by a court or tribunal and have someone named as their legal guardian, a process that could have significant repercussions for the individual in other aspects of their lives. For this reason, a temporary measure was introduced in 2012 to allow qualifying family members (spouses, common-law partners or parents) to become plan holders of the RDSP for an adult who might not be able to otherwise enter into a contract, without the need for a legal declaration of incompetence. This temporary measure is set to expire on 31 December 2023.

Clause 42(1) of Bill C-47 amends the definition of "disability savings plan" in section 146.4(1) of the ITA to extend the temporary measure – allowing qualifying family members to be RDSP holders – until 31 December 2026. In addition,

clause 42(2) amends the definition of "qualifying family member" in section 146.4(1) to expand the definition of a qualifying family member to also include the siblings of the beneficiary.

2.1.10 Correction of Contribution Errors in Defined Contribution Registered Pension Plans

The following describes the ways in which Part 1 of Bill C-47 amends the ITA and the ITR regarding corrections of past under-contributions and over-contributions by defined benefit contribution pension plans.

2.1.10.1 Correcting Past Under-Contributions

Clause 43(4) adds new section 147.1(20) to the ITA to allow an individual or an employer to make a permitted corrective contribution to a defined contribution registered pension plan (RPP) to compensate for an under-contribution in any of the preceding 10 years, subject to certain conditions. A permitted corrective contribution is allowed if it is made in respect of a designated money purchase provision.

Clause 43(3) amends section 147.1(1) by adding the definitions of "permitted corrective contribution," which, in general, is a contribution that would have been made to the plan in any of the preceding 10 years but for an error that caused the failure to enroll the individual as a member or the failure to make a required contribution, as well as interest on this contribution, subject to certain limits.

Clause 43(3) also adds the definition of "designated money purchase provision," which is a money purchase provision under a RPP (i.e., a defined contribution pension plan) for which accounts are maintained for 10 or more members throughout a year, or under which the total contributions made on behalf of persons and employees connected with the employer whose remuneration for the year exceeds 2.5 times the year's maximum pensionable earnings under the Canada Pension Plan do not exceed 50% of contributions made in a year.

Clauses 44(1) and 44(2) amend sections 147.2(1)(a) and 147.2(4)(a), which provide for the deductibility from income of employer and employee contributions made to RPPs, to allow permitted corrective contributions to be deducted from income. Clause 37(1) amends section 146(1) of the ITA to include a permitted corrective contribution made in the year preceding the taxation year in the calculation of "net past service pension adjustment," which reduces the Registered Retirement Savings Plan (RRSP) deduction limit for the taxation year following the year in which the contribution is made.

Clause 108(1) adds new section 8402(4) to the ITR to require the plan administrator to file with the CRA an information return within 120 days after a permitted corrective distribution is made.

Clause 105(1) amends section 8301(4)(a) of the ITR to exclude permitted corrective contributions from the determination of an individual's pension credit. Clause 107(1) adds new section 8308(5.4) to allow a plan member to make a written commitment to the plan administrator or employer to make a permitted corrective contribution in instalments and deems that the full amount of the contribution is made at the time of the written commitment.

Clauses 37(2), 43(7), 44(3), 105(2), 107(2) and 108(2) state that these changes are deemed to have come into force on 1 January 2021. However, clause 108(2) also stipulates that, in the application of clause 108(1) to a contribution made before the bill receives Royal Assent, the administrator of the RPP is required to file the prescribed information within a period of 60 days after the bill receives Royal Assent.

2.1.10.2 Correcting Past Over-Contributions

Clause 106(2) adds new section 8304.1(16) to the ITR to require a "pension adjustment correction" to be made when a return of contributions is made by a defined contribution plan administrator to a member to avoid the revocation of the plan or correct a reasonable error. A pension adjustment correction is generally the portion of the returned contributions made in the preceding 10 years that reduced the member's RRSP contribution room. As a result, a pension adjustment correction generally restores a member's RRSP contribution room in the year the return of contributions is made.

Clause 106(1) amends section 8304.1(1) of the ITR to include a pension adjustment correction in the calculation of "total pension adjustment reversal," which is determined in connection with an individual's termination from a defined contribution plan and is taken into account in determining the individual's RRSP deduction limit.

Clause 109(1) adds new section 8402.01(4.1) to require the plan administrator to file with the CRA an information return within a period of 60 days after the end of the quarter if the return of contributions is made during the first, second or third quarter of a calendar year, or before February of the following calendar year if the contribution return is made during the fourth quarter.

Clauses 106(2) and 109(2) state that these changes are deemed to have come into force on 1 January 2021. However, clause 109(2) also stipulates that, in the application of clause 109(1) to a contribution made before Bill C-47 receives Royal Assent, the administrator of the RPP is required to file the prescribed information within a period of 60 days after the bill receives Royal Assent.

2.1.11 Reporting Requirements in Respect of Reportable Transactions

Amendments brought by the bill with regard to the mandatory disclosure rules for certain transactions are intended to expand their application, as "current rules … currently result in only limited reporting by taxpayers."[20] To do so, the bill:

- amends current rules relating to "reportable transactions;" and
- adds two categories of operations with respect to the requirement to report, namely:
  - "Notifiable Transactions;" and
  - "Reportable Uncertain Tax Treatments."

2.1.11.1 Reportable Transactions

Section 237.3(1) of the ITA generally defines a "reportable transaction" as an "avoidance transaction" that is entered into by or for the benefit of a person and that includes certain generic hallmarks. The bill amends the latter definition and some of the characteristic features of those generic hallmarks, among others.

First, clause 68(2) amends the definition of "avoidance transaction" in section 237.3(1) of the ITA to remove the reference to the definition of the same term applying under the general anti-avoidance rule provided in section 245 of the ITA. Clause 68(12) makes a consequential change to section 237.3(13) of the ITA.

Next, clause 68(4) reduces the number of generic hallmarks required to qualify the transaction from two to one. In addition, certain changes are made to these generic hallmarks:

- Clause 68(4) adds an exception to the first generic hallmark, namely, entitlement to a fee, in order to exclude fees relating to a prescribed form to be completed for expenses related to research and development.
- Clause 68(5) amends the second generic hallmark to specify that it does not apply when confidential protection and prohibition on disclosure are not related to the tax treatment in relation to the avoidance transaction.[21]

- Clause 68(3) amends the definition "contractual protection" in section 237.3(1) of the ITA, which applies to the third generic hallmark, to exclude certain types of insurance or protection, including those obtained primarily for purposes other than to achieve a tax benefit.

Clause 68(6) adds the definition of "tax treatment" to section 237.3(1) of the ITA. This is generally the treatment in respect of a transaction, or a series of transactions, that the person uses, or plans to use, in a return of income or an information return. It includes the person's decision not to include a particular amount in such a return.

Clause 68(8) replaces section 237.3(4) of the ITA to specify that a person that provides clerical or secretarial services is not required to file an information return in respect of a reportable transaction. In addition, since the current language of section 237.3(4) of the ITA is replaced with this amendment, each participant and each person who has been involved in a reportable transaction is now required to individually file an information return. Clause 68(7), which amends section 237.3(2)(a) of the ITA, confirms this as well in relation to persons for whom a tax benefit results, or for whom a tax benefit is expected to result based on the person's tax treatment. As a result of this change, clause 68(11) repeals sections 237.3(9) and 237.3(10) of the ITA, which dealt with the joint and several responsibilities between different persons subject to the reporting requirement. It should be noted that clause 68(13) amends section 237.3(17) of the ITA to clarify that reporting requirements do not require the disclosure of information if it is reasonable to believe that the information is subject to solicitor-client privilege.[22]

Clause 68(5) also amends section 237.3(5) of the ITA, which deals with the time for filing an information return. This time will now generally be calculated based on the date on which the person described in the reporting requirement under section 237.3(2) of the ITA enters into the reportable transaction, and not in relation to a fixed date.

Clause 68(9) amends section 237.3(6) of the ITA to specify that the general anti-avoidance rule applies without reference to the misuse or abuse test, to any person who benefited from a tax benefit by virtue of a reportable transaction in the cases that are set out (which have not changed).

Clause 68(10) amends section 237.3(8) of the ITA providing for the applicable penalty in case of non-compliance, in order to provide for a penalty the amount of which varies based on factors such as the carrying value of the corporation's assets[23] in the case of a corporation that has obtained a tax benefit in respect of a tax treatment of the reportable transaction or a corporation that has entered such a transaction to the benefit of the latter. Furthermore, when a person is described in two paragraphs of section 237.3(2) of the ITA, new section 237.8(8.1) of the ITA provides that the greater amount of the penalty applies.

Clause 68(14) clarifies that these amendments apply to reportable transactions entered into after Bill C-47 receives Royal Assent, except in relation to repeal of sections 237.3(9) and 237.3(10) of the ITA, which continue to apply with respect to reportable transactions entered into before Royal Assent.

2.1.11.2 Notifiable Transactions

Clause 69(1) adds section 237.4 to the ITA, which introduces a reporting requirement in respect of "notifiable transactions." The new section contains several similar provisions or provisions that refer to those in section 237.3 of the ITA concerning reportable transactions. The main differences are summarized in the following paragraphs.

First, "notifiable transactions" form a category of specific hallmarks.[24] This category is generally defined as a transaction or series of transactions that is the same as, or substantially similar to, a transaction or a series of transactions, as the case may be, that is designated by the Minister of National Revenue, with the agreement of the Minister of Finance.[25] New section 237.4(2) of the ITA introduces an interpretive provision to define the expression "substantially similar." This includes a transaction in respect of which a person is expected to obtain the same or similar type of tax consequences[26] and that is either factually similar or based on the same or similar tax strategy. There is also a clarification that this expression is to be interpreted broadly in favour of disclosure.

Next, new section 237.4(6) of the ITA exempts a person who has benefited from a tax benefit resulting from a tax treatment of the notifiable transaction or a person who has entered such a transaction for the benefit of that person, from the obligation to file an information return. This provision, however, applies only in instances where, when determining whether the transaction is a notifiable transaction, the person has exercised the degree of care, diligence and skill to determine whether a transaction is a notifiable transaction that a reasonably prudent person would have exercised in comparable circumstances.[27]

Advisors or promoters and persons who do not deal at arm's length with them and who have an entitlement to a fee in relation to a notifiable transaction are relieved of the obligation to file an information return in instances where they did not know or could reasonably not be expected to know that the transaction was a notifiable transaction.

Lastly, clause 69(2) specifies that new section 237.4 of the ITA applies with respect to notifiable transactions entered into after Bill C-47 receives Royal Assent.

2.1.11.3 Reportable Uncertain Tax Treatments

Clause 70(1) adds section 237.5 to the ITA, which introduces a reporting requirement to "reporting corporations" that have one or more "reportable uncertain tax treatment." This new section contains several provisions similar to those in section 237.3 of the ITA with respect to reportable transactions. The main differences are summarized in the following paragraphs.

First, a "reportable uncertain tax treatment" is characterized by the fact that there is uncertainty over whether it "will be accepted as being in accordance with tax law,"[28] which is reflected in the audited financial statements of the "reporting corporation" for the year.

Next, a "reporting corporation" is generally a corporation that has prepared audited financial statements, has assets that have a total carrying value[29] of $50 million or more at the end of the year and is required to file a return of income.

A reporting corporation under the new provision is required to file an information return on or before the corporation's filing-due date.

Clause 70(2) specifies that new section 237.5 of the ITA applies to taxation years that begin after 2022, except that the penalty under section 237.5(5) of the ITR does not apply to taxation years that begin before Bill C-47 receives Royal Assent.

2.1.11.4 General

As a result of the changes to the mandatory disclosure rules, clause 49(4) amends section 152(4)(b.1) of the ITA to remove the reference to section 237.3(2) of the ITA. Clause 49(5) then adds sections 152(4)(b.5) to 152(4)(b.7) to the ITA to extend the limitation period applicable to an assessment, reassessment or additional assessment in respect of a taxpayer's taxes, interest or penalties in instances where the information return required under sections 237.3(2), 237.4(4) or 237.5(2) of the ITA is not filed in accordance with the conditions and within the time set out in these provisions. The limitation period is extended to three or four years after the day on which the information return is filed, based on the type of taxpayer.[30] As well, clauses 49(6), 49(7) and 49(8) amend sections 152(4.01), 152(4.01)(b) and 152(4.01)(b)(vii) of the ITA respectively to reflect these changes.

Clause 53 amends section 161(11)(b.1) of the ITA to include a reference to the penalties provided by new sections 237.4 and 237.5 of the ITA. This provision deals with calculating interest on penalties imposed under the ITA.

Clause 55 amends section 163(2.9)(b.1) of the ITA to include a reference to new section 237.4 of the ITA. This provision provides that a partnership is considered like a corporation for the purpose of imposing a penalty and, among other things, challenging any amount payable in relation to the partnership.

Clause 65 amends section 227(10)(b) of the ITA to include a reference to the penalties prescribed by new sections 237.4 and 237.5 of the ITA. This provision allows the Minister of National Revenue to assess at any time an amount payable referred to in these sections.[31]

2.1.12 Sharing of Taxpayer Information for the Purposes of the Canadian Dental Care Plan

Clauses 71, 83 and 90 of Bill C-47 add new section 241(4)(d)(xx.1) to the ITA, section 295(5)(d)(xi.1) to the *Excise Tax Act* and section 211(6)(e)(xii.1) to the *Excise Act, 2001* respectively, to specify the rules applicable to enable the CRA to exchange confidential taxpayer information for the application of the Canadian Dental Care Plan.

2.1.13 Expansion of the Definition of "Dividend Rental Arrangement" to Include "Specified Hedging Transactions" Carried Out by Registered Securities Dealers

Budget 2022 announced that certain financial institution groups were engaging in aggressive tax planning arrangements through the hedging and short selling of securities, which resulted in more than one deduction being taken by financial institutions and related registered securities dealers for the same dividend.[32] Bill C-47 introduces amendments to the dividend rental arrangement rules, which were created to prevent corporations from claiming the intercorporate dividend deduction for certain transactions involving dividend income, to discourage these types of arrangements.

Clause 73(2) amends the definition of "dividend rental agreement" found in section 248(1) of the ITA to add new paragraph (b.1), which adds "any specified hedging transaction, in respect of a [dividend rental arrangement] DRA share of the person" and amends paragraph (c) to exclude specified hedging transactions with respect to synthetic equity arrangements, which in general are arrangements that have been entered into to avoid the application of dividend rental arrangement rules.

Clause 73(5) adds a definition for "specified hedging transaction" to section 248(1) of the ITA. The definition applies to a DRA share of a person or partnership. The transaction or series of transactions must meet the following conditions:

- a registered securities dealer who owns a DRA share, or one who is not at arm's length with the owner of the DRA share, has entered into the transaction;

- for the owner of the share, the effect of the transaction is to eliminate all or substantially all of the owner's risk of loss and opportunity for gain with respect to the DRA share, referred to as economic exposure;
- the transaction permits certain amounts to be deducted by the registered securities dealer; and
- the registered securities dealer is aware that the transaction eliminates the economic exposure of the owner of the share.

Clause 73(6) states that clauses 73(2) and 73(5) apply with respect to dividends that are paid or become payable on or after 7 April 2022, but they do not apply with respect to dividends paid or payable before October 2022 if the specific hedging transaction was entered into before 7 April 2022.

Clause 76 makes various amendments to section 260(6) of the ITA, which governs the deductibility of certain dividend compensation payments by registered securities dealers made under securities lending arrangement rules. Clause 76(2) adds new section 260(6.2), to indicate that, with respect to a specified hedging transaction, a registered securities dealer can claim a deduction for the lesser of the amount of the dividend compensation payment or the amount of dividends received by the registered securities dealer provided the dividends received with respect to the DRA share are not deductible. In other words, a deduction by the registered securities dealer is only permitted if the intercorporate dividend deduction is not claimed. Clauses 76(1), 76(3) and 76(4) amend sections 260(6)(a), 260(7) and 260(11)(b) and 260(11)(c), respectively, to include references to new section 260(6.2).

Clause 76(5) states that clauses 76(1) to 76(4) apply with respect to amounts paid or credited on or after 7 April 2022.

2.1.14 Implementation of the Model Reporting Rules for Digital Platforms Developed by the Organisation for Economic Co-operation and Development

Clause 78(1) adds Part XX to the ITA, that is, sections 282 to 295, which implement reporting rules for digital platforms announced in Budget 2022.[33] To this effect, new section 282(1) of the ITA contains an interpretive provision that refers specifically to the *Model Rules for Reporting by Platform Operators with Respect to Sellers in the Sharing and Gig Economy* approved by the Council of the Organisation for Economic Co-operation and Development.[34]

In general terms, new sections 291 and 292 of the ITA require from "reporting platform operators" that they electronically report to the Minister of National Revenue certain information to identify them as well as to identify each of the "reportable sellers" who have provided a "relevant activity."[35] This information must generally also be provided to the "reportable sellers."[36] These terms, as well as other terms, are defined in new section 282(1) of the ITA.

A "relevant activity" generally refers to the sale of goods for consideration, and the provision of "relevant services," which include the rental of real or immovable property, a personal service, the rental of a means of transport or a prescribed service.

The jurisdiction of residence of a "reporting platform operator"[37] (RPO) determine conditions under which they are subject to the new reporting rules. In general, a platform operator is an RPO if it is resident in Canada. It is also an RPO if it is resident in another jurisdiction and facilitates the provision of relevant activities by sellers resident in Canada or with respect to rental of immovable property located in Canada.[38]

In general terms, a seller is a "reportable seller" when the RPO determines that it is resident in Canada, or that it provided relevant services with respect to rental of immovable property in Canada.[39] New section 286 of the ITA also provides that the RPO must consider a seller resident in the jurisdiction of the seller's primary residence as well as in each jurisdiction confirmed by a government verification service.[40]

Pursuant to new section 285 of the ITR, in some instances, the RPO may meet the obligation for due diligence imposed by the new rules by verifying the information in its own records. In other instances, it must verify such information using reliable, independent-source documents, data or information. Due diligence procedures must be completed by the RPO by 31 December of the calendar year following the new section 288 of the ITR, with some exceptions where transitional relief is provided to new RPOs or, under certain conditions, if it completed due diligence procedures the preceding year.

New section 294 of the ITA also requires the RPO to keep appropriate records at its place of business for the purpose of complying with its obligations, and to retain those records for a period of at least six years.

Lastly, a specific anti-avoidance rule is provided in new section 295 of the ITA.

One of the distinctive features about these new reporting rules is that

> [t]he CRA [will] automatically exchange with partner jurisdictions the information received from Canadian platform operators on sellers resident in the partner jurisdiction and rental property located in the partner jurisdiction. Likewise, the CRA [will] receive information on Canadian sellers and rental property located in Canada from partner jurisdictions. The exchanges [will] take place under the exchange of information provisions in tax treaties and similar international instruments, which provide important safeguards to protect taxpayer confidentiality and ensure that the exchanged information is not used inappropriately.[41]

A "partner jurisdiction" is defined in new section 282(1) of the ITA as a jurisdiction identified as such by the Minister of National Revenue on the CRA website or by any other means that the minister considers appropriate.

Clause 78(2) specifies that these changes come into force on 1 January 2024.

As a result of the introduction of these new rules, clause 97(1) amends section 205(3) of the ITR, which lists the types of information returns that result in a penalty under section 162(7.01) of the ITA in cases of failure to file, to add the reference to the information return in new Part XX of the ITA. Clause 97(2) specifies that this change comes into force on 1 January 2024.

2.1.15 Annual Reporting by Financial Institutions of the Fair Market Value of Registered Retirement Savings Plans and Registered Retirement Income Funds

Clauses 100 and 101 of Bill C-47 add new sections 214(1.1) and 215(2.1) to the ITR to require the issuer of a Registered Retirement Savings Plan (RRSP) or a Registered Retirement Income Fund (RRIF) to report the fair market value of all property held by the plan or the RRIF each year to the CRA at the end of the calendar year.

Clause 99(1) amends section 209(1) of the ITR to specify that the financial institution is not required to forward copies of the information return to the taxpayer who holds the RRSP or RIFF.

These amendments apply to the 2023 and subsequent taxation years (clauses 99(4), 100(2) and 101(2)).

2.1.16 Expansion of the Permissible Borrowing by Defined Benefit Pension Plans

Section 8502(i) of the ITR prohibits borrowing by a registered pension plan (RPP), except:

- when the borrowing is for a term not exceeding 90 days and none of the plan's property is used as security for the borrowed amount; and
- when the borrowing is used for the acquisition of income-producing real property, only the real property is used as security and the amount borrowed does not exceed the cost of the real property.

Clause 110(3) adds new section 8502(i.2) to allow defined benefit RPPs to borrow additional money up to 20% of the plan's assets net of outstanding borrowings. Additional borrowing is not permitted for defined benefit RPPs when their ratio of assets (net of outstanding borrowings) to actuarial liabilities exceeds 125%, as determined in the most recent actuarial report.

Clause 110(2) makes a consequential amendment to section 8502(i) resulting from the introduction of an additional borrowing capacity for defined benefit RPPs. As well, clause 104(2) adds new sections 4802(1.2) and 4802(1.3) to allow master trusts who hold investments for beneficiary RPPs to borrow amounts and provide for the apportioning of the amounts borrowed among beneficiary RPPs.

Clauses 104(4) and 110(5) provides that these changes are deemed to have come into force on 7 April 2022.

2.1.17 Implementation of a Number of Technical Amendments to Correct Mistakes or Inconsistencies and to Better Align the Law with its Intended Policy Objectives

To better align the translation of federal legislation addressed in Part 1 of the ITA, a number of clauses make linguistic changes to only one language of the provisions.[42] These amendments should not produce changes in the application of the existing law.

According to the government, a number of clauses of Part 1 of Bill C-47 also make "technical amendments to correct mistakes or inconsistencies and to better align the law with its intended policy objectives."[43] As these clauses are not explicitly identified in the bill, they are not listed in this Legislative Summary.

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

2.2.1 International Transportation of Money

Schedule VI of the *Excise Tax Act* (ETA) lists those goods and services that are considered zero-rated supply, i.e., the tax is charged at a rate of 0% for the purposes of the GST/HST. Part VII of Schedule VI indicates that international freight and passenger transportation services are zero-rated supply.

Clause 122(1) amends section 1(1) of Part VII of Schedule VI of the ETA to add a definition for "tangible personal property" to clarify that tangible personal property under Part VII of Schedule VI includes money. This is in contrast with the definition for "property" found in section 123(1) of the ETA, which states that "property" does not include money.

Clause 122(2) states that clause 122(1) is deemed to have come into force on 10 August 2022 and applies in respect of a supply made before that date unless the supplier charged or collected, before that date, any amount of GST/HST in respect of the supply.

2.2.2 Claim of the Pension Entity Rebate or an Input Tax Credit after the Two-Year Limitation Period

Bill C-47 amends certain rules pertaining to the existing tripartite relationship between suppliers, "participating employers" and "pension entities," as these terms are defined in section 123(1) of the ETA.

In general, in certain situations, the CRA considers that a pension entity that pays an expense related to a pension plan incurred by a participating employer pays the consideration for a supply made by a participating employer for its benefit. As a result, a registered participating employer must generally collect and remit the GST/HST on that supply and factor it in when computing its net tax. The pension entity can then generally claim an input tax credit (ITC) in respect of the GST/HST paid or payable or a refund, in compliance with the conditions set out in section 261.01 of the ETA.[44]

Along with this first supply, the ETA also provides that a supply is deemed to have been made by the participating employer to the pension entity in certain circumstances. In this case, the participating employer must provide the pension entity with certain information to allow it to claim an ITC or rebate. In addition, when the participating employer

> has also charged GST/HST on an actual supply of the same property or service to the pension entity, sections 232.01 or 232.02 [of the ETA] allow the employer to reduce its net tax when it issues a [tax adjustment note] to the pension entity.[45]

The purpose of a tax adjustment note issued pursuant to these sections is twofold:

- to ensure that an employer does not remit tax twice on a particular supply; and
- to prevent a pension entity from realizing the benefit of a rebate or input tax credit on the same property or service twice.[46]

Clause 115(1) adds section 172.1(8.01) to the ETA to impose an additional requirement for the disclosure of information to participating employers within a determined period. This obligation applies if, as a result of the issuance of an assessment by the Minister of National Revenue of the net tax of a participating employer, the tax in respect of certain supplies deemed to have been made to the

pension entity is greater than the amount originally accounted. According to the Department of Finance, when

> these information requirements are met, subsection 172.1(8.01) [of the ETA] may then effectively result in an extension of the limitation period [for the pension entity] to claim an input tax credit or a rebate.[47]

Clause 115(2) specifies that this change applies in respect of any notice of assessment, reassessment or additional assessment issued after 9 August 2022. However, with respect to the notice of assessment, reassessment or additional assessment issued by 9 August 2022 at the latest, alternative wording to section 172.1(8.01)(a) of the ETA is provided in clause 115(2), which substitutes the obligation with a simple option.

Clauses 119(1), 120(1) and 123(1) make consequential amendments to sections 232.01(5) and 232.02(4) of the ETA and clauses (iii)(C) and (iii)(D) of the description of G_3 of the formula in section 46(a) of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*[48] respectively, to introduce references to new section 172.1(8.01)(b) of the ETA. Amendments to the ETA concern the effect of a tax adjustment, and amendments to the Regulations concern the calculation of the net tax on certain pension agencies. Clauses 119(2) and 120(2) specify that changes to the ETA are deemed to have come into force on 10 August 2022. Clause 123(2) specifies that the change to the Regulations applies in respect of any reporting period of a person that ends after 9 August 2022.

Clause 116(1) adds section 172.11 to the ETA to introduce a deeming rule, which the Department of Finance notes "has the effect of changing the day on which tax is considered to have become payable by the pension entity in respect of the supply for certain specific purposes."[49] Subject to certain conditions, the new provision provides that the tax is deemed to have become payable on the day on which the pension entity effectively pays the tax. The rule applies for the purposes of the provisions on adjustments to net tax, tax adjustment notes, tax rebates for pension entities as well as for the purposes of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*. Clause 117(1) introduces a similar provision through new section 172.2(3.1) with respect to master pension entities. Clauses 116(2) and 117(2) specify that these changes apply in respect of tax that is paid by a pension entity or a master pension entity in one of the claim periods that end after 9 August 2022.

Clause 121(3) adds sections 261.01(3.2) and 261.01(3.3) to the ETA, which the Department of Finance notes will

> permit a pension entity of a pension plan to make a separate rebate claim – and, where such a claim is made, permit the pension entity and the qualifying employers of the pension plan to make a separate joint election – in respect of an amount of tax deemed to have been paid under new subparagraph 172.1(8.01)(b)(i) of the [ETA] or deemed to have become payable under new section 172.11 of the [ETA].[50]

Clauses 121(1) and 121(2) make consequential amendments to the sixth formula included in the definition "pension rebate amount" in section 261.01(1) of the ETA, and to section 261.01(3.1) of the ETA, respectively, in reference to this new option to make a separate rebate claim.

Clause 121(4) specifies that these changes are deemed to have come into force on 10 August 2022.

2.2.3 Cryptoasset Mining

Part 2 of Bill C-47 amends various sections of the ETA to clarify the rules with respect to cryptoasset mining, with the general objective of excluding mining groups from the scope of the GST/HST and therefore not requiring them to collect the tax or be able to claim input tax credits.

Clause 114(1) adds new paragraph (c) to the definition of "commercial service" in section 123(1) of the ETA to exclude a "service that is acquired for consumption, use or supply in the course of, or in connection with, the performance of a mining activity in Canada." Clause 114(1) also makes technical amendments to the definition of "commercial service" found in section 123(1) of the French version of the ETA. Clause 114(4) deems clause 114(1) to have come into effect on 5 February 2022.

Clause 118(1) adds new section 188.2 to the ETA to govern transactions involving cryptoassets. New section 188.2(1) introduces definitions for "cryptoasset," "mining activity," "mining group," "mining group operator," and "mining payment."

Key definitions include:

- "cryptoasset," which is defined as

  > property (other than prescribed property) that is a digital representation of value and that only exists at a digital address of a publicly distributed ledger;

- "mining activity," which is defined as

  an activity of

  - validating transactions in respect of a cryptoasset and adding them to a publicly distributed ledger on which the cryptoasset exists at a digital address;
  - maintaining and permitting access to a publicly distributed ledger on which a cryptoasset exists at a digital address; or
  - allowing computing resources to be used for the purpose of, or in connection with, performing activities described in paragraph (a) or (b) in respect of a cryptoasset.

New section 188.2(2) states that if a person acquires, imports or brings into a province property or a service in relation to mining activities, it is deemed not to have been acquired, imported or brought in the course of commercial activities.

Similarly, new section 188.2(3) indicates that if a person consumes, uses or supplies property or a service in the course of or in connection with mining activities, that consumption, use or supply is not considered to be in the course of commercial activities.

New section 188.2(4) states that if a person receives a mining payment with respect to a mining activity, the provision of the mining activity and the mining payment are deemed not to be supplies under the ETA and input tax credits are not available to the person that provides the mining payment.

However, new section 188.2(5) lists exceptions to new sections 188.2(2) to 188.2(4) of the ETA. In these cases, the general GST/HST rules would apply and the GST/HST would be charged on provision of mining activity:

- if the mining activity is performed by a particular person for another person whose identity is known;
- if the mining activity is done by a particular person that is part of a mining group, the recipient of the mining activities is not the mining group operator; and
- if the mining activity is performed for a non-resident person who is not at arm's length, then the chain of properties or services received as a result of the performance of the mining activity must meet the following criteria: the identify of all recipients are known, the recipients deal at arm's length with each other, and the recipient of the mining activity is not the mining group operator.

Clause 118(2) states that clause 118(1) comes into force on 5 February 2022 except that, in determining an input tax credit of a person, new section 188.2(4)(c) of the ETA does not apply in respect of property or a service acquired, imported or brought into a participating province before 6 February 2022.

2.2.4 Excluding Payment Card Clearing Services from the Definition "Financial Service"

Part VII of Schedule V of the ETA exempts financial services from the application of GST/HST. Part 2 of Bill C-47 amends the ETA to exclude payment card clearing services from the definition of "financial service," so that GST/HST continues to be applicable to those services.

Clause 114(2) adds new paragraph (r.6) to the definition of "financial service" in section 123(1) of the ETA to exclude a service that is supplied by a payment card network operator in respect of a payment card network, as defined in the *Payment Card Networks Act*, where the supply includes the provision of

- a service in respect of the authorization of a transaction in respect of money, an account, a credit card voucher, a charge card voucher or a financial instrument;
- a clearing or settlement service in respect of money, an account, a credit card voucher, a charge card voucher or a financial instrument; or
- a service rendered in conjunction with a service referred to above.

Clause 114(5) indicates that clause 114(2) applies to a service rendered under an agreement for a supply if

- any consideration for the supply becomes due after 28 March 2023 or is paid after that day without having become due; or
- all of the consideration for the supply became due or was paid on or before 28 March 2023, except for cases where:
  - on or before 28 March 2023, the supplier was not required to charge, collect or remit any amount of GST/HST with respect to the supply; and
  - on or before 28 March 2023, the supplier was not required to charge, collect or remit any amount of GST/HST in respect of any other supply that is made under the agreement and that includes the provision of a service referred to in new paragraph (r.6).

Clause 114(6) states that despite the general rules governing the period for the assessment of tax in section 298 of the ETA, the Minister of National Revenue may assess, reassess or make an additional assessment with respect to new paragraph (r.6) until the later of the day that is one year after the day on which Bill C-47 receives Royal Assent and the last day of the period allowed under the general rules for assessment of tax.

2.3 PART 3: AMENDMENTS TO THE *EXCISE ACT*, THE *EXCISE ACT, 2001* AND THE *AIR TRAVELLERS SECURITY CHARGE ACT*

2.3.1 Division 1 – Amendments to the *Excise Act* and the *Excise Act, 2001*

Clauses 124(1), 125(1) and 126(1) of Bill C-47 add section 170.2(2.1) to the *Excise Act*[51] and sections 123.1(2.1) and 135.1(2.1) to the *Excise Act, 2001*, respectively. These changes temporarily cap at 2% the rate used under each of the relevant formulas to calculate the annual adjustment to the duty in respect of beer, malt liquor, ethyl alcohol, spirits and wine.

Clauses 124(2), 125(2) and 126(2) specify that these changes are deemed to have come into force on 1 April 2023.

2.3.2 Division 2 – Amendments to the *Air Travellers Security Charge Act*

Clauses 127(1) to 127(5) of Bill C-47 amend sections 12(1)(a) to 12(1)(e) of the *Air Travellers Security Charge Act* (ATSCA). Clauses 127(6) to 127(8) amend sections 12(2)(a) to 12(2)(c) of the ATSCA.

These provisions provide for the charge payable in respect of an air transportation service that includes a chargeable emplanement acquired from a designated air carrier. The changes increase the charge by approximately 30%, as part of the Government of Canada's commitment to "[balance] revenues [from the charge] with air travel security system expenses over time."[52]

Clause 127(9) specifies that these changes apply in respect of an air transportation service that includes a chargeable emplanement after April 2024, unless all of the consideration is paid, or a ticket is issued, before May 2024.

2.4 PART 4: IMPLEMENTATION OF VARIOUS MEASURES

2.4.1 Division 1 – Amendments to the *Bank Act* Creating an External Complaints Body to Handle Complaints Against Banks

Division 1 of Part 4 amends the *Bank Act*[53] to designate a not-for-profit body as the sole external complaints body for banks, federal credit unions and authorized foreign banks. Currently, banks can choose their external complaints body to be either the Ombudsman for Banking Services and Investments or the ADR Chambers Banking Ombuds Office. Consequential and related amendments are made to the *Financial Consumer Agency of Canada Act*[54] and the *Financial Consumer Protection Framework Regulations*.[55]

Clause 128 amends the definition of "external complaints body" in section 2 of the *Bank Act* to define it as "a body corporate designated under new section 627.48(1)."

Clause 129 adds new section 627.471 and amends section 627.48 of the *Bank Act*. New section 627.471 states that the purpose of new sections 627.48 to 627.54 is to enhance the process for dealing with complaints by establishing a sole external complaints body that "discharges its functions and performs its activities in a transparent, effective, timely and fair manner based on the principles of accessibility, accountability, impartiality and independence."

Section 627.48, which deals with the designation of a body corporate to be an external complaints body, is amended to state that:

- the Minister of Finance may designate a body incorporated under the *Canada Not-for-profit Corporations Act* as well as one incorporated under an equivalent provincial statute;
- the external complaints body will also deal with complaints that have not been dealt with within the prescribed period;
- before designating the external complaints body, the minister will also take into account whether the body has the policies and procedures and terms of reference in place to discharge its functions and performs its activities as set out in new sections 627.471 and 627.49(b) to 627.49(m);
- every financial institution regulated under the *Bank Act* is required to be a member of the external complaints body; and
- the external complaints body is not an agent of the Crown and the designation will be published in the *Canada Gazette*.

Clause 130 makes substantive and consequential amendments to the English and French versions of section 627.49 of the *Bank Act*, which sets out various requirements for the external complaints body. The substantive amendments are as follows:

- Clause 130(2) amends section 627.49(c), adds new sections 627.49(c.1) and 627.49(c.2), and amends section 627.49(d), to require the external complaints body to:
  - establish policies, procedures and terms of reference with respect to dealing with complaints that are satisfactory to the Commissioner of Financial Institutions (the Commissioner) and to consult at least once a year with its member institutions and consumers about any concerns they have about the external complaints body;
  - establish a manner of calculating, to the satisfaction of the Commissioner, the fees it charges to its member institutions for its services;
  - make information available to consumers about their rights and responsibilities in relation to the external complaints body regime, and respond to consumer's inquiries and requests for information and offer them assistance; and
  - inform the Commissioner in writing within 30 days if a complaint raises a potential systemic issue.
- Clause 130(6) adds new section 627.49(h.1) to require the external complaints body to inform the Commissioner in writing without delay of cases where an institution does not comply with a final recommendation.
- Clause 130(8) adds new sections 627.49(i.1) and 627.49(i.2) to require, within 60 days after the end of each quarter, the external complaints body submit to the Commissioner a copy of the record of the complaint for all investigations completed in the quarter and any other prescribed information, and to meet with the Commissioner to discuss these complaints and other related issues.
- Clause 130(13) adds new section 627.49(j)(v.1) to require the external complaints body to also include in its written report to the Commissioner information on the number of complaints for which an institution did not comply with a final recommendation.
- Clause 130(15) adds new section 627.49(j.1) to require the external complaints body to meet with the Commissioner annually.
- Clause 130(16) amends section 627.49(l) and 627.49(m) to require the external complaints body to submit every five years to an evaluation, at the discretion of the Commissioner, conducted by the Commissioner or a third party, and to meet any prescribed requirement.

Similar consequential amendments to account for a sole external complaints body are made to other provisions in the *Bank Act*. Substantive amendments include:

- Clause 134 amends sections 659(1.1) to 659(1.3), which govern special audits conducted by the Commissioner, to allow a special audit of the external complaints body.
- Clause 136 adds new section 661.1(1.1) and amends sections 661.1(2) to 661.1(4), which govern the Commissioner's directions with respect to a failure to comply with a compliance agreement, to add that the external complaints body can also be subject to a direction to comply with a compliance agreement.
- Clause 137 adds new section 661.2(1.1) and amends section 661.2(2), which describe using a court order against a financial institution to enforce a compliance agreement, to add that the Commissioner may also use a court order to ensure compliance by the external complaints body.

Transitional provisions for the changes introduced to the *Bank Act* are set out in clause 139, and generally state the dates and circumstances when the "new external complaints body" takes over the resolution of complaints from the "former external complaints bodies."

Clauses 140, 141, and 143 to 146 make consequential amendments to various sections of the *Financial Consumer Agency of Canada Act* to account for the sole external complaints body enacted under the *Bank Act*.

As well, clause 142 amends section 14(1) of the *Financial Consumer Agency of Canada Act*, to clarify the conflict of interest with respect to ownership of financial sector institutions.

Lastly, clause 147 makes related amendments to section 16 of the *Bank Act*'s *Financial Consumer Protection Framework Regulations*, which deal with the requirements for the external complaints body, to account for the changes made in the *Bank Act*.

2.4.2 Division 2 – Amendments to the *Pension Benefits Standards Act, 1985* Allowing Variable Life Benefits under a Defined Contribution Provision of a Pension Plan

Division 2 of Part 4 amends the *Pension Benefits Standards Act, 1985*[56] (PBSA) and the *Pooled Registered Pension Plans Act*[57] (PRPPA) to allow federally regulated defined contribution pension plans and pooled registered pension plans (PRPPs) to offer a variable payment life annuity to their members at retirement. Currently, these pension plans provide a lump sum at retirement. A variable payment life annuity allows individuals to transfer their lump sum to a variable payment life annuity fund,

which is part of the pension plan, and then "receive lifetime payments from the fund, [with] the payments [being] adjusted for investment returns and the life expectancies of the other participants."[58]

2.4.2.1 Amendments to the *Pension Benefits Standards Act, 1985*

Clause 148(4) amends section 2(1) of the PBSA by adding the definition of "variable life benefit," which means a pension benefit whose amount varies as a function of factors that include the rate of return of the assets of the fund from which the benefit is paid and the mortality rate of the individuals entitled to a benefit from that fund.

Clause 151 adds new sections 16.6, 16.7, 16.8, 16.9, 16.91 and 16.92 to establish the framework for variable life benefits.

New section 16.6 allows a pension plan, subject to regulations, to provide for the establishment of a variable life benefit fund from which variable life benefits are paid, and for the transfer to the variable life benefit fund by an eligible person of any amounts contained in their account maintained in respect of a defined contribution provision or their account maintained in respect of voluntary contributions. A person eligible for such transfers is a member or former member entitled to an immediate pension benefit, or a survivor eligible to pension benefits under the plan. New section 16.7 provides that these persons may elect to transfer amounts to a variable life benefit fund only if the prescribed conditions are met. New section 16.8 states a variable life benefit fund does not contain individual accounts for recipients of variable life benefits.

New sections 16.9, 16.91 and 16.92 are related to the termination of a variable life benefit fund.

New section 16.9 states that a variable life benefit fund is terminated only if the plan administrator notifies the Superintendent about the termination, which is not less than 60 days and not more than 180 days before the date of termination, and, in the prescribed circumstances, the Superintendent may declare the fund to be terminated at a date considered to be appropriate. On the termination of the fund, the plan administrator must file with the Superintendent a termination report, which must be approved by the Superintendent before any assets of the fund can be applied towards the provision of any benefits, except paying variable life benefits as they fall due.

New section 16.91 states that on the termination of a variable life benefit fund, a former member or survivor who was receiving benefits from the fund may transfer the value of their variable life benefits, which is to be calculated in the prescribed manner, to:

- an account maintained in respect of a defined contribution provision, if permitted by the plan;
- another pension plan, including a plan under provincial jurisdiction or a PRPP, if permitted by that plan;
- a retirement savings plan of the prescribed kind; or
- purchase an immediate or deferred life annuity of the prescribed kind.

For the purposes of a transfer to a defined contribution provision, new section 16.91 also allows a survivor to make an election for a variable benefit under section 16.2 as if they were a former member.

Clause 156(3) adds new section 29(12) to specify similar options for a former member or survivor when their variable life benefit fund is being terminated as part of the termination of the pension plan.

In case a variable life benefit fund has been terminated and the Superintendent thinks that insufficient action has been taken to wind up the fund, new section 16.92 allows the Superintendent to direct the plan administrator to distribute assets of the fund and any related expenses to be paid out of the fund, and states that the administrator must comply without delay.

Section 10.1(2) states that certain amendments to a pension plan are void, including if they have the effect of reducing pension benefits accrued before the date of the amendments. Clause 149 adds section 10.1(3) to provide that section 10.1(2) does not apply to an amendment to reduce, as permitted or required under the regulations, the amount of a variable life benefit.

Clause 150 adds section 10.2(3) to allow a plan administrator to transfer assets from a variable life benefit fund to another pension plan only with the Superintendent's permission, and except when the variable life benefit fund is being terminated.

Clause 154 adds new section 27(4), which prohibits discrimination based on sex in the determination of the amount of any contribution or benefit, to provide that its application to variable life benefits may be adapted, restricted or excluded under the regulations.

Section 28 of the PBSA sets out the requirements regarding the provision of information to each member, former member and their spouse or common-law partner that a pension plan must meet. Clause 155(3) adds new section 28(2.01) and 28(2.2) to set out similar requirements for recipients of variable life benefits.

Clause 158 amends section 39(1) to allow the Governor in Council to make regulations respecting variable life benefits and variable life benefit funds, and the manner in which the actuarial value of the variable life benefits is to be calculated.

Clause 179 contains coordinating provisions regarding clause 148(3) and sections 145(2) and 145(3) of the *Budget Implementation Act, 2019, No. 1*, which have not yet come into force and, like clause 148(3), amend the definition of "former member" under section 2(1) of the PBSA.

Clause 180 states that these amendments to the PBSA come into force on a day to be fixed by the Governor in Council, except clauses 148(2), 152(1), 153(1), 153(4), 156(1), 156(2), 157(2) and 157(4).

2.4.2.2 Amendments to the *Pooled Registered Pension Plans Act*

Clause 159(2) amends section 2(1) of the PRPPA by adding the definition of "variable life payment," which means a periodic amount that a member is entitled to receive under a PRPP and that varies as a function of factors that include the rate of return of the assets of the fund from which the benefit is paid and the mortality rate of the individuals entitled to a benefit from that fund. This clause also adds the definition of "variable life payment credit," which means the aggregate value at a given time of the variable life payments that a member is entitled to receive, calculated in the prescribed manner. Clause 159(1) also amends the definition of "member" so that it includes a person entitled to receive a variable life payment under a PRPP.

Clause 169 adds new sections 51.1, 51.2, 51.3, 51.4, 51.5, 51.6 and 51.7 to establish the framework for variable life payments.

New section 51.1 allows a PRPP, subject to regulations, to provide for the establishment of a variable life benefit fund from which variable life payments are paid, and for the transfer to the variable life benefit fund by a member who has reached the prescribed age of any funds in their account. New section 51.2 states that a member may elect to do such a transfer only if the prescribed conditions are met. New section 51.3 states a variable life payment fund does not contain individual accounts for members.

New section 51.4 allows the administrator to transfer assets from a variable life payment fund to any other pension plan only with the Superintendent's permission, and except when the variable life payment fund is being terminated.

New sections 51.5, 51.6 and 51.7 are related to the termination of a variable life payment fund. New section 51.5 states an administrator must notify the Superintendent, as well as each participating employer, member and their spouse or common-law partner, about the termination not less than 60 days and not more than 180 days before the date of termination, and, in the prescribed circumstances, the Superintendent may declare the fund to be terminated at a date considered to be appropriate. On the termination of the fund, the administrator must file with the Superintendent a termination report which must be approved by the Superintendent before any assets of the fund can be used or transferred for any purpose, except making variable life payments as they fall due.

New section 51.6 states that on the termination of a variable life payment fund, a member who was receiving benefits from the fund may transfer their variable life payment credit to:

- an account with the PRPP for the purpose of making an election to receive variable payments under section 48, if permitted by the plan;
- another PRPP or pension plan, if permitted by that plan;
- a retirement savings plan of the prescribed kind; or
- purchase an immediate or deferred life annuity of the prescribed kind.

Clause 174 adds new section 62(12) to specify similar options for a member when their variable life payment fund is being terminated as part of the termination of the PRPP.

In case a variable life payment fund has been terminated and the Superintendent is of the opinion that insufficient action has been taken to wind up the fund, new section 51.7 allows the Superintendent to direct the administrator to distribute assets of the fund and any related expenses to be paid out of the fund, and states that the administrator must comply without delay.

Clause 168(2) amends section 47(1), which contains provisions respecting the locking-in of funds, to provide that a member or an administrator cannot withdraw funds from a variable life payment fund, and that a member's variable life payments, as well as an interest or right in those payments cannot be surrendered or commuted, subject to situations where the fund is being terminated.

Clause 170(1) amends section 53, which deals with the distribution of funds in situations of divorce, annulment, separation or breakdown of common-law partnership, to provide that a member's variable life payments and variable life payment credit are subject to provincial law relating to the distribution of property in such situations, and not to the PRPPA provisions relating to their valuation and distribution. Clause 170(2) adds new section 53(4.1) to allow a member to assign all or part of their variable life payments to their spouse, former spouse, common-law partner or former common-law partner, effective as of divorce, annulment, separation or breakdown of the common-law partnership, as the case may be, but provides that a subsequent spouse or common-law partner of the assignee is not entitled to any variable life payments or variable life payment credit.

Clause 171 amends section 54(1), which specifies who is allowed to transfer or use funds from a PRPP account, to add a member who, while receiving variable life payments under the plan, retains an account with the plan and intends to transfer or use the funds in this account.

Section 57 of the PRPPA sets out the requirements regarding the provision of information to each member and their spouse or common-law partner that a PRPP must meet. Clause 172(2) amends section 57(1), and clause 173 adds new section 57.1 to set out the provision of information requirements in respect of each recipient of variable life payments.

Clause 177 amends section 76(1) to allow the Governor in Council to make regulations respecting the management and investment of funds in a variable life payment fund, variable life payments and variable life payment funds, as well as the determination of life payment credits and the timing of this determination.

Clause 180(2) states that these amendments to the PRPPA come into force on a day to be fixed by the Governor in Council.

2.4.3 Division 3 – Measures Related to Money Laundering and to Digital Assets

2.4.3.1 Subdivision A – Amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and Consequential Amendments to Other Acts

2.4.3.1.1 Financial Transactions and Reports Analysis Centre of Canada

Canada's principal anti-money laundering and anti-terrorist financing legislation is the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*[59] (PCMLTFA). The PCMLTFA sets out a mandatory reporting system for suspicious financial transactions, large cross-border currency transfers and certain prescribed transactions, and establishes the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) as the Canadian financial intelligence unit to oversee the financial intermediaries (reporting entities) that are subject to the Act.

Clause 196 amends section 58(1) of the PCMLTFA to add "financing of threats to the security of Canada" to the topics FINTRAC can conduct research into, and undertake measures to inform the public and reporting entities about.

Clause 198 adds new section 63.01 to the PCMLTFA to specify that accessing a location remotely by a means of telecommunication is considered to be entering a place for the purpose of ensuring compliance with the Act. Where that place is not accessible to the public, such access must be with the knowledge of the owner or person in charge of the place and will be remotely accessed for no longer than necessary.

Clause 181 amends section 7.1(1) of the PCMLTFA to ensure reporting entities report information to FINTRAC related to terrorist property, information concerning "listed persons" from the *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism*,[60] and information required by an order or regulation made under the *Special Economic Measures Act*,[61] or the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*[62]. This measure comes into force on a day to be fixed by order of the Governor in Council (clause 210(1)).

2.4.3.1.2 Money Service Businesses

The PCMLTFA currently prohibits money service businesses (MSBs) from registering under the PCMLTFA if it or any of its controlling parties or senior management have been convicted of certain types of offences in Canada or elsewhere. Clause 182 introduces new sections 9.9 to 9.93 to the PCMLTFA to expand these prohibitions to agents of MSBs. In addition, these measures require MSBs to perform due diligence on their agents to ensure – among other things – that no agents that are retained by them have committed certain designated offences, including:

- being subject to Canadian sanctions;
- being convicted of a money laundering or terrorist financing activity offence in Canada or elsewhere;
- being convicted in respect of certain drug trafficking-related offences; and
- having directors, officers or controlling shareholders (20%) that have been convicted of an offence under the PCMLTFA or a similar statute in another jurisdiction.

These measures also require MSBs to undertake a criminal record check of their agents issued by a competent authority in the jurisdiction in which the person resides. For an agent who is an individual, the MSB must obtain a criminal record check of that individual. For entities, the MSB must obtain the records of the chief executive

officer, the president, the directors and each person who owns or controls, directly or indirectly, 20% or more of the entity. This requirement arises before the MSB engages the agent, whenever a change of staff or relevant circumstance takes place, and every two years thereafter. Under these provisions, FINTRAC would revoke the registration of an MSB that does not comply with these requirements. This measure comes into force on a day to be fixed by order of the Governor in Council (clause 210(2).

Clause 203 adds section 77.4 to the PCMLTFA to make operating an unregistered MSB an offence punishable by fine of not more than $500,000 and/or to imprisonment for a term of not more than five years. This measure comes into force one year after Bill C-47 receives Royal Assent (clause 210(4)). Clause 204 adds new section 81(2) to the PCMLTFA to place a statute of limitations on this offence equal to eight years after the time when the subject-matter of the proceedings arose.

Clauses 185, 186 and 187 make coordinating amendments to sections 11.12, 11.13(2) and 11.17, respectively.

2.4.3.1.3 Powers of the Minister of Finance

The PCMLTFA currently allows the Minister of Finance to direct a reporting entity to take certain actions in order "to safeguard the integrity of Canada's financial system" when certain conditions are met. These conditions include when an international body or grouping of states calls on the minister to take action, or where the anti-money laundering or anti-terrorist financing measures a foreign state has implemented have failed in a manner that could adversely impact the integrity of the Canadian financial system or cause a reputational risk to that system.

Clause 189 expands this power in section 11.42(4) of the PCMLTFA to include situations where a foreign state, person or entity could adversely impact the integrity of the Canadian financial system or cause a reputational risk to that system.

2.4.3.1.4 Information Sharing

The manner and content of information sharing is expressly laid out in the PCMLTFA and varies depending on the type of information, the source of its request, and its content.

Section 53.1 of the PCMLTFA allows the Director of FINTRAC to disclose information in relation to the protection of the Canadian financial system collected by the Centre to the Minister of Finance – or an officer thereof – upon the minister's request, and section 53.2(1) limits this information to that which does not specifically identify – directly or indirectly – domestic persons or entities. Clause 190 amends

section 53.2 such that identifying information may also be provided as it relates to domestic reporting entities, as well as information the Minister of Finance requests for the purposes of issuing a ministerial permit for an otherwise prohibited transaction.

Clause 191 adds new section 53.31 to the PCMLTFA in order to allow the Minister of Finance, officers of the Department of Finance, and the Director of FINTRAC and the Office of the Superintendent of Financial Institutions (OSFI) to disclose to each other, and collect from each other, any information that relates to money laundering and/or terrorist financing activities. The Director of FINTRAC may disclose such information only if it relates to the activity of reporting entities or the protection of Canada's financial system (Parts 1 and 1.1 of the PCMLTFA, respectively).

Clause 192 adds new section 53.32 to the PCMLTFA in order to allow – at the request of the Minister of Finance – the Director of FINTRAC to disclose any information to the minister that relates to national security or to safeguarding the integrity of Canada's financial system. This information can only be used by the minister for the purpose of deciding whether to grant, revoke, suspend or amend a ministerial approval, as well as in relation to a national security review or order under the *Retail Payment Activities Act*.

FINTRAC may disclose "designated information" – defined in section 55(7) of the PCMLTFA – as it relates to investigating or prosecuting a money laundering offence or a terrorist activity financing offence, to external bodies listed in section 55(3) of the PCMLTFA. Similarly, section 55.1(3) of the PCMLTFA defines "designated information" with respect to disclosures relevant to threats to the security of Canada to entities listed in section 55.1(1), and section 56.1(5) defines "designated information" with respect to disclosures of information to foreign agencies. Clauses 193(2) to 193(5), 194(2) to 194(5), and 195 extend the respective definitions of designated information in sections 55(7), 55.1(3) and 56.1(5) of the PCMLTFA to include more detailed information that may be disclosed about the owners of a legal entity or persons acting on their behalf, as well as the transaction itself. Examples of these additional details include:

- the date of birth and telephone numbers of the owners or persons acting on their behalf;
- the nature of business being conducted;
- the monetary instruments or virtual currency involved;
- the rate of exchange being used;
- any transaction number, account number, institution number, branch number or similar identifying number involved;

- the type of device used to conduct the transaction; and
- the details of any persons or entities connected in any way to the transaction or attempted transaction, including any person or entity that initiates or may benefit from it.

Clause 194(1) amends section 55.1(1) of the PCMLTFA to add OSFI to the list of entities to whom FINTRAC can disclose information it believes would be relevant to threats to the security of Canada.

Clause 197 repeals section 58.1(2) of the PCMLTFA, which limited FINTRAC disclosures to the Minister of Finance in certain situations to those that would not directly or indirectly identify any Canadian person or entity.

Clause 199 repeals section 65(3) of the PCMLTFA, which limited information disclosed to law enforcement agencies by FINTRAC to only be used as evidence of a contravention of the Act or for purposes relating to compliance with the Act.

Clause 188 amends section 11.4(3) of the PCMLTFA to relax the limitations on information a Canadian court of appeal can publicly disclose so that the individual or corporate name of the appellant may be made public.

2.4.3.1.5 Whistleblowing Protection and Structured Transaction Offences

Clause 202 adds section 77.2 to the PCMLTFA to implement "whistleblower protections" such that an employer will be guilty of an offence if they take or threaten to take a disciplinary or retaliatory measures against an employee in an attempt to prevent the employee from complying with an obligation under the PCMLTFA or where the employee has succeeded in doing so. A violation of this provision carries a penalty of imprisonment of up to five years. Clause 204 amends section 81 of the PCMLTFA to place a statute of limitations on this offence of five years after the time when the subject-matter of the proceedings arose.

Clause 202 also adds new section 77.3 to the PCMLTFA to add "structured financial transactions" as an offence, where a person or entity directly or indirectly undertakes, or attempts to undertake, a transaction or series of financial transactions that:

- cause a regulated entity to be in receipt of cash or virtual currency or involve the initiation of an international electronic funds transfer;
- would, if they occurred as a single financial transaction, require a person or entity referred to report to FINTRAC ($10,000 or more); and
- are undertaken with the intent that a regulated entity will not have to report the transaction to FINTRAC.

A violation of this provision carries a penalty of imprisonment for a term of up to seven years. Clause 204 also adds new section 81(2) of the PCMLTFA to place a statute of limitations on this offence of eight years after the time when the subject-matter of the proceedings arose. This measure comes into force one year after Bill C-47 receives Royal Assent.

2.4.3.1.6 Coordinating, Consequential and Transitional Amendments

Clauses 183 and 184 make coordinating or consequential amendments to sections 11.1 and 11.12(2), of the PCMLTFA, respectively. Clauses 193(1) and 209 each make coordinating amendments to section 55(1) of the PCMLTFA, but take effect at different times.

Clause 206 contains transitional provisions under sections 83.1, 83.2 and 83.3 of the PCMLTFA, which come into effect on a day to be fixed by order of the Governor in Council (clause 210(2)). Clause 207 makes transitional amendments to the *Budget Implementation Act, 2021, No. 1*[63] by adding new section 175.1 and amending section 176(2) of the Act.

2.4.3.2 Subdivision B – Amendments to the *Criminal Code* and Related Amendments to Other Acts

2.4.3.2.1 Digital Assets

The *Criminal Code*[64] (the Code) allows for police to seek authorization for the seizure of property for a variety of reasons, such as to provide evidence of a crime, to remove dangerous contraband from the public domain and/or to compensate victims for harms suffered. Section 462.32 of the Code contains the provisions surrounding the search, seizure and detention of the proceeds of crime.

Clause 212 adds new section 462.321 to the Code to expressly allow for the search of "digital assets" by the use of a computer program, as well as the seizure, detention and return of those assets. These powers are limited in scope to the proceeds of crime and mirror the existing provisions concerning general powers of search, seizure and detention.

Clauses 213, 214(1), 214(3), 215, 216, 217, 218 and 220 make consequential amendments to sections 462.331(1), 462.34(1), 462.34(6)(a), 462.341, 462.35(1), 462.36, 462.43(1) and 487.1(1) of the Code, respectively. In addition, clauses 221 and 222 make consequential amendments to sections 19.7(3)(b) and 52.7(3)(b) of the *Parliament of Canada Act*,[65] respectively. Clauses 223 and 224 make consequential amendments to sections 9.1(3) and 9.3(4)(a) of the *Mutual Legal Assistance in Criminal Matters Act*,[66] respectively. Clauses 225, 226 and 227 make consequential amendments to sections 4(1)(a), 13(3)(b) and 16(b) of the *Seized Property Management Act*,[67] respectively.

2.4.3.2.2 Disclosure of Tax Information to the Attorney General

In certain circumstances enumerated under section 462.48(1.1) of the Code, the Attorney General of Canada may make an application in writing to a judge for access to specified tax information for the purposes of a criminal investigation from the CRA.

Clause 219 amends section 462.48(1.1) of the Code to expand the number of offences for which the Attorney General may obtain, with judicial authorization, disclosure of income tax information for the purposes of a criminal investigation. These include corruption and human trafficking offences, extortion, fraud over $5,000 and fraud involving a public market offence in the Code, foreign bribery as outlined in the *Corruption of Foreign Public Officials Act*, as well as money laundering in relation to any of the listed offences to the existing provisions in the Code. This expansion applies not only to the commission of the offences listed, but also to the conspiracy or an attempt to commit them, or being an accessory after the fact.

2.4.3.2.3 Coming into Force

Clause 228 states that this subdivision comes into force 90 days after Bill C-47 receives Royal Assent.

2.4.4 Division 4 – Amendments to the *Customs Tariff* Regarding the General Preferential Tariff and the Least Developed Country Tariff

Canada's General Preferential Tariff[68] (GPT) and its Least Developed Country Tariff[69] (LDCT) programs provide non-reciprocal tariff preferences for imports from certain developing countries. These programs, which are renewed every 10 years, are implemented under the *Customs Tariff*.[70] These programs will expire on 31 December 2024 unless they are extended through amendments.

Division 4 of Part 4 of Bill C-47 amends the *Customs Tariff* to achieve the following:

- renew the GPT and LDCT programs from 1 January 2025 to 31 December 2034;
- establish a new General Preferential Tariff Plus (GPTP) program for the period from 1 January 2025 to 31 December 2034; and
- allow the administrative requirements concerning the shipment of goods under the GPT, LDCT and GPTP programs to be set by regulation.

In particular, under the GPTP program established by clause 232, Canada will provide countries currently covered under the GPT program with additional tariff preferences provided they adhere to international standards relating to sustainable development, labour and human rights. The clause also permits the Governor in

Council to withdraw those additional tariff preferences from a country if it no longer meets the international standards in those areas.

2.4.5 Division 5 – Amendments to the *Customs Tariff* Removing Belarus and Russia from the List of Countries Entitled to Most-Favoured-Nation Tariff Treatment

Division 5 of Part 4 amends the *Customs Tariff* to remove Belarus and Russia from Canada's list of countries entitled to receive the World Trade Organization's most-favoured-nation (MFN)[71] tariff treatment; the removal applies indefinitely. With the withdrawal of this tariff treatment, the higher of those two countries' MFN rates or the general tariff rate of 35% is applied on goods imported into Canada from them.

On 2 March 2022, the Governor in Council issued the *Most-Favoured-Nation Tariff Withdrawal Order (2022-1)*,[72] which withdrew entitlement to MFN tariff treatment in relation to goods imported into Canada from Belarus or Russia. On 8 October 2022, the Governor in Council issued the *Most-Favoured-Nation Tariff Withdrawal Order (2022-2)*,[73] which will expire on 5 May 2023. This order:

- repealed the *Most-Favoured-Nation Tariff Withdrawal Order (2022-1)*;
- withdrew entitlement to MFN tariff treatment in relation to goods imported into Canada from Belarus or Russia; and
- provided an exemption from the *Most-Favoured-Nation Tariff Withdrawal Order (2022-2)* for goods of tariff item No. 2844.43.00 of the schedule to the *Customs Tariff*.[74]

Clause 235 amends the "List of Countries and Applicable Tariff Treatments" in the schedule to the *Customs Tariff* to indefinitely exclude Belarus and Russia from the countries entitled to MFN tariff treatment.

Clause 236 stipulates that the exclusion of Belarus and Russia from the countries entitled to MFN tariff treatment comes into force on the day following the day on which the *Most-Favoured-Nation Tariff Withdrawal Order (2022-2)* expires.

2.4.6 Division 6 – Allowing the Bank of Canada to Apply its Surplus to its Retained Earnings

In Budget 2023, the government indicated that it would introduce legislative amendments to allow the Bank of Canada to temporarily withhold remittances until the negative equity associated with the Government of Canada Bond Purchase Program, Canada's first quantitative easing program,[75] has been restored.[76] Division 6 of Part 4 introduces these amendments.

Section 27 of the *Bank of Canada Act*[77] refers to the establishment of a reserve fund by the Bank of Canada, which is used to cover bad debts, asset depreciation, pension funds, and other expenses that banks typically need to cover. After these expenses are accounted for, the ascertained surplus from the Bank of Canada's operations during the year is to be applied by its board as follows:

- If the reserve fund is less than the paid-up capital, one-third of the surplus is allocated to the reserve fund, and the rest is paid to the Receiver General to form part of the Consolidated Revenue Fund.
- If the reserve fund is not less than the paid-up capital, one-fifth of the surplus is allocated to the reserve fund until the reserve fund reaches an amount five times the paid-up capital. The rest is paid to the Receiver General to form part of the Consolidated Revenue Fund.
- If the reserve fund is not less than five times the paid-up capital, the whole surplus is paid to the Receiver General to form part of the Consolidated Revenue Fund.

Section 27.1 also allows the Bank of Canada to establish a special reserve fund to offset unrealized valuation losses due to changes in the fair value of its investment portfolio. The amount that can be held in this fund cannot exceed $400 million at any time.

Clause 237 states that, despite sections 27 and 27.1 of the *Bank of Canada Act*, any ascertained surplus of the Bank of Canada during a financial year must be applied to the Bank of Canada's retained earnings until the earlier of the following events occur:

- the Bank of Canada's retained earnings are equal to zero; and
- the ascertained surplus applied to the Bank of Canada's retained earnings is equal to its losses arising from the purchase of Government of Canada securities as part of the Government of Canada Bond Purchase Program from 1 April 2020 to 25 April 2022.

2.4.7 Division 7 – Enactment of the Canada Innovation Corporation Act

2.4.7.1 Introduction

In Budget 2023, the government announced the creation of the Canada Innovation Corporation (CIC), a new Crown corporation with a mandate to drive Canadian business investment in research and development across Canada.[78] In a news release, the Government of Canada states that the National Research Council of Canada's (NRC) Industrial Research Assistance Program (IRAP) will join the CIC.[79] Division 7 of Part 4 enacts the Canada Innovation Corporation Act (CICA) to

implement the new Crown corporation. The CICA contains 35 sections and is enacted by clause 238 of Bill C-47.

2.4.7.2 Administration and Enforcement

Sections 1 to 4 of the CICA establish the alternative title, definitions and appropriate minister, i.e., the Minister of Industry. Sections 5 to 8 establish how the CIC is organized.

Sections 9 and 10 of the CICA establish the purpose of the CIC and the functions it may perform in carrying its purpose, including to act as a centre of expertise on national and international industrial technology and trends; promote the ownership and retention of intangible assets in Canada; and provide financial support.

Sections 11 to 17 of the CICA present the composition of the CIC Board and the process of appointing members.

2.4.7.3 Financial Framework

Section 18 of the CICA stipulates that a directive must not be given under the *Financial Administration Act* requiring the CIC to provide financial support or provide advice to a specific entity, and section 19 establishes how the CIC can disclose information to a federal institution.

Sections 20 to 22 of the CICA establish the funding structure of the CIC and its budget. The minister must pay the following amounts or any greater amounts specified in an appropriation Act:

- for the financial year ending 31 March 2024, $198,000,000;
- for the financial year ending 31 March 2025, $775,000,000;
- for the financial year ending 31 March 2026, $800,000,000;
- for the financial year ending 31 March 2027, $800,000,000; and
- for each subsequent financial year, $525,000,000.

Sections 20(2), 20(3) and 20(4) specify the form and manner of modifying payments provided under the CICA. Sections 23 and 24 stipulate the information that CIC must include in quarterly financial reports and annual reports.

2.4.7.4 Coordinating Amendments and Coming into Force

Sections 25 to 35 of the CICA establish definitions and transitional provisions concerning the activities of NRC IRAP and the CIC incorporated under the *Canada Business Corporations Act* and the new CIC.

2.4.7.5 Consequential and Related Amendments

Clause 239 amends the *Financial Administration Act* by adding the CIC, and clause 240 amends the *Public Service Superannuation Act* by adding the chief executive officer and employees of the CIC.

Clause 241 stipulates that the CICA comes into force on a date fixed by order of the Governor in Council.

2.4.8 Division 8 – Amendments to the *Federal-Provincial Fiscal Arrangements Act* Authorizing Additional Payments to the Provinces and Territories

In Budget 2023, the federal government announced that it would provide provinces and territories with a $2 billion top-up to the Canada Health Transfer to address urgent pressures in emergency rooms, operating rooms, and pediatric hospitals.

Clause 242 adds section 24.74 to the *Federal-Provincial Fiscal Arrangements Act* (FPFA),[80] which authorizes the Minister of Finance to make additional cash payments totalling $2 billion to provinces and territories in the following amounts:

- $776,262,000 for Ontario;
- $447,067,000 for Quebec;
- $52,306,000 for Nova Scotia;
- $41,674,000 for New Brunswick;
- $72,450,000 for Manitoba;
- $273,238,000 for British Columbia;
- $8,759,000 for Prince Edward Island;
- $61,385,000 for Saskatchewan;
- $233,120,000 for Alberta;
- $27,051,000 for Newfoundland and Labrador;
- $2,252,000 for Yukon;
- $2,348,000 for the Northwest Territories; and
- $2,088,000 for Nunavut.

Bill C-46, An Act to amend the Federal-Provincial Fiscal Arrangements Act and the Income Tax Act,[81] tabled in the House of Commons on 29 March 2023, contains the same amendment.

2.4.9 Division 9 – Amendments to the *Federal-Provincial Fiscal Arrangements Act* Renewing the Authority to Make Equalization and Territorial Formula Financing Payments

Sections 3 and 4.1(1) of the FPFA provide authority for the making of equalization and territorial formula financing payments, respectively, until 31 March 2024. Clauses 243 and 246 amend these sections to extend these authorities for another five-year period until 31 March 2029.

Furthermore, the definition of "revenue source" under section 3.5(1) lists the sources from which provincial revenues may be derived. They are the following:

- revenues relating to personal income;
- revenues relating to business income;
- revenues relating to consumption;
- revenues derived from property taxes and miscellaneous revenues; and
- revenues derived from natural resources.

Clause 244(2) amends the fourth revenue source to remove miscellaneous revenues. That part of the definition now reads "revenues derived from property taxes."

Clause 244(1) amends the definition of "revenue to be equalized" in section 3.5(1) to include miscellaneous revenues in the revenues to be equalized for all revenue sources except revenues derived from natural resources. Clause 244(3) makes a consequential amendment to section 3.5(3) resulting from these changes. Clause 245 makes similar changes to the definitions of "revenue source" and "revenue to be equalized" in section 4(1) in respect of the territorial formula financing.

Section 6(2) of the FPFA provides for the adjustment of provincial revenues used to determine fiscal stabilization payments in case changes in a province's revenues in a given year result from changes made by that province to the rates or structures of its taxes or other means of raising revenue. Clause 247 amends section 6(2) to allow adjustments to also take into account the absence of indexation in a provincial personal income tax system.

Clause 248 amends section 40 to allow the Governor in Council to make regulations regarding provincial and territorial revenues that constitute miscellaneous revenues for the purpose of the "revenue to be equalized" definition and what constitutes absence of indexation in a provincial personal income tax system for the purpose of section 6(2).

Clause 249 provides that the changes regarding equalization and territorial formula financing come into force on 1 April 2024. Clause 250 provides that the change to fiscal stabilization payments comes into force on 1 April 2021. Clause 251 provides that Parts I and I.1 of the FPFA, as they read immediately before the coming into force of Bill C-47, continue to apply to fiscal years that end before 1 April 2024.

2.4.10 Division 10 – Amendments to the *Special Economic Measures Act*, the *Proceeds of Crime (Money Laundering)* and *Terrorist Financing Act* and the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*

Division 10 of Part 4 amends the *Special Economic Measures Act* (SEMA), the *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)* (Sergei Magnitsky Law), and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. The overall purpose of the amendments is to improve the effectiveness of Canada's sanctions architecture, including by counteracting sanctions evasion and increasing information sharing among federal departments and agencies.

Clauses 253 and 261 amend, respectively, SEMA and the Sergei Magnitsky Law by setting out criteria for when property owned by an entity is deemed to be owned by a person subject to an order or regulation under those Acts. Among other criteria, clauses 253 and 261 stipulate that a designated person is deemed to own property held or controlled by an entity when they possess 50% or more of the shares, ownership interests or voting rights in that entity (new section 2.1 of SEMA and new section 2.01 of the Sergei Magnitsky Law).

Clause 254 amends section 4(2) of SEMA by adding "persons outside of Canada who are not Canadian" to the list of people and entities in relation to whom certain activities may be prohibited or restricted. This amendment allows for the listing of persons in third countries who are complicit in the conduct of a country sanctioned under SEMA within the regulations related to that country, rather than making separate SEMA regulations for the third country.

Clauses 257 and 263 amend, respectively, section 6.1 of SEMA and section 7.1 of the Sergei Magnitsky Law to improve the information-sharing framework related to the making of orders or regulations under the Acts. Specifically, these clauses expand the list of ministers who may assist in the administration and enforcement of an order or

regulation made under those Acts to include the Minister of Transport, the Minister of National Revenue, the Minister of Justice and Attorney General of Canada, and the Minister of Immigration, Refugees and Citizenship.

Clauses 258 and 264 amend, respectively, the SEMA and the Sergei Magnitsky Law by adding language allowing the Minister of Foreign Affairs to disclose to the FINTRAC any information relevant to the administration and enforcement of an order or regulation made under those Acts (new section 6.21 of SEMA and new section 7.21 of the Sergei Magnitsky Law).

Clause 259 amends section 55(3) on "disclosure of designated information" of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. Specifically, the clause allows FINTRAC to disclose information to the Minister of Foreign Affairs or another minister with responsibility under SEMA and the Sergei Magnitsky Law if FINTRAC determines that the information is relevant to the administration and enforcement of an order or regulation made under those Acts.

2.4.11 Division 11 – Amendments to the *Privileges and Immunities (North Atlantic Treaty Organisation) Act*

Division 11 of Part 4 of Bill C-47 amends the *Privileges and Immunities (North Atlantic Treaty Organisation) Act*[82] in order to allow the Government of Canada to ratify the *Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty* (the Paris Protocol). Ratification of the Paris Protocol is a North Atlantic Treaty Organization (NATO) requirement for establishing Allied Headquarters on Member States' territories.[83]

There are currently 28 NATO-accredited Centres of Excellence located in 21 NATO member states that address specific defence and security issues.[84] In June 2022, the Government of Canada announced that the NATO Climate Change and Security Centre of Excellence (CCASCOE) will be headquartered in Montreal, Quebec. Led by the Department of National Defence and Global Affairs Canada, the CCASCOE will serve as a forum for civilian and military co-operation on issues concerning climate change and its impacts on defence and security.[85]

The *Privileges and Immunities (North Atlantic Treaty Organisation) Act* implements Canada's obligations relating to *The Agreement on the status of the North Atlantic Treaty Organisation, National Representatives and International Staff, done at Ottawa on September 20, 1951* (the Ottawa Agreement). The Ottawa Agreement sets out the legal protections granted to NATO diplomatic personnel, international staff and their families while performing their official duties in NATO member states.[86]

The Paris Protocol is an agreement between NATO and member states that outlines the rights and obligations relating to the establishment, construction, maintenance and operation of Allied Headquarters.[87] Although Canada signed the Protocol on 28 August 1952, it is currently the only NATO member state that has not yet ratified it. Ratification of the Protocol enables Canada to grant legal status to the CCASCOE as an international military organization and to extend related rights and protections to its personnel.

Clause 265 amends the long title of the *Privileges and Immunities (North Atlantic Treaty Organisation) Act* to add a reference to the privileges and immunities provided to international military Headquarters or other organizations established by *The North Atlantic Treaty*.[88]

Clause 266 establishes the Ottawa Agreement as Schedule 1 of the *Privileges and Immunities (North Atlantic Treaty Organisation) Act*, which provides for privileges and immunities, and the Paris Protocol as Schedule 2 of the Act. The Paris Protocol includes provisions that address the following:

- the privileges and immunities, such as tax exemptions, that the host country grants to NATO civilian and military personnel who are not nationals of that country;
- the establishment, construction, maintenance and operation of international military organizations in the host country; and
- the legal status of international military organizations and their involvement in legal proceedings in the host country.

Clause 266 also adds new sections 4 and 5 to the *Privileges and Immunities (North Atlantic Treaty Organisation) Act*, authorizing the Governor in Council to make orders deemed necessary for the purposes of carrying out the obligations and exercising the rights of Canada under the Ottawa Agreement and the Paris Protocol.

New section 6 of the *Privileges and Immunities (North Atlantic Treaty Organisation) Act* concerns the certificate issued by or under the authority of the Minister of Foreign Affairs to grant special immunities or privileges to any NATO subsidiary bodies or international military headquarters or to NATO diplomatic personnel, international staff and their families. These special immunities or privileges include those provided under sections 4 or 5 of the Act. New section 6 allows for the facts stated in such a certificate to be admissible as evidence in any action or proceeding without requiring additional proof of the signature by or under the authority of the Minister of Foreign Affairs.

2.4.12 Division 12 – Amendments to the *Service Fees Act* and the *Canadian Food Inspection Agency Act*

Division 12 of Part 4 amends the *Service Fees Act*[89] (SFA) to, among other things, exempt certain fees from the application of that Act, make certain exceptions in that Act applicable only with the approval of the President of the Treasury Board, make certain changes to the annual adjustment provisions, and provide authority for the President of the Treasury Board to amend regulations. It also makes a consequential amendment to the *Canadian Food Inspection Agency Act*.[90]

Clause 270(1) amends section 2(1) of the SFA to clarify that a "fee" can be defined as an amount payable for "the provision of a regulatory process." Clause 270(2) adds new section 2(3), exempting from the SFA all fees fixed under the *Access to Information Act* and the *Privacy Act* and fees "paid only by or on behalf of a minister or federal entity." Accordingly, clause 275 repeals section 19, which is now rendered redundant.

2.4.12.1 Performance Standards

Clause 271 relates to section 3 of the SFA with respect to the non-application of performance standards requirements for certain types of fees as set out in the amended SFA. Clause 271(1) contains coordinating amendments as the fees under the *Access to Information Act* and the *Privacy Act* and fees "paid only by or on behalf of a minister or federal entity" are exempt from the SFA. In addition, clause 271(2) requires the President of the Treasury Board to approve the non-application of performance standards in certain circumstances. While clause 271(1) comes into force when Bill C-47 receives Royal Assent, clause 271(2) comes into force on 1 April 2024.

2.4.12.2 Consultation and Parliamentary Review

Clause 272 relates to section 9 of the SFA with respect to the non-application of consultation and parliamentary review requirements for certain types of fees as set out in the amended SFA. Clause 272(1) contains coordinating amendments as the fees under the *Access to Information Act* and the *Privacy Act* and fees "paid only by or on behalf of a minister or federal entity" are exempt from the SFA. Clause 272(2) also requires the President of the Treasury Board to approve the non-application of consultation and parliamentary review requirements in certain circumstances. While clause 272(1) comes into force when Bill C-47 receives Royal Assent, clause 272(2) comes into force on 1 April 2024.

2.4.12.3 Annual Adjustment

Clause 273 related to section 16 of the SFA with respect to the non-application of annual adjustments for certain types of fees as set out in the amended SFA. Clause 273(2) contains coordinating amendments as the fees under the *Access to Information Act* and the *Privacy Act* and fees "paid only by or on behalf of a minister or federal entity" are exempt from the SFA. Clause 273(3) also adds a new section 16(1), which requires the President of the Treasury Board to approve the non-application of annual adjustments in certain circumstances. While clauses 273(1) and 273(2) come into force when Bill C-47 receives Royal Assent, clause 273(3) comes into force on 1 April 2024.

Clause 274 amends section 17(2) and adds new sections 17(3) through 17(5) to the SFA, establishing additional exemptions to annual adjustments based upon the consumer price index. New section 17(2)(b) provides that a fee will not be adjusted if it would increase by less than 1% from year to year. In such cases, the percentage increase is carried forward into future fiscal years until the combined percentage increase is 1% or greater. It also allows federal authorities more flexibility to round down a fee and change the date of the adjustment calculation.

2.4.12.4 Reports

Clause 276 amends section 21 related to reporting requirements for the President of Treasury Board. The amended provisions require the President of the Treasury Board to list in their report all amendments to low-materiality regulations and all approvals to exempt fees from the SFA. While clause 276(1) comes into force when Bill C-47 receives Royal Assent, clause 276(2) comes into force on 1 April 2024.

2.4.12.5 Low-Materiality Fees

Clause 277 amends section 22 of the SFA to allow the President of the Treasury Board to make regulations setting out criteria to determine which fees are low-materiality fees and when they cease to be low-materiality fees. It also allows the President of the Treasury Board to make regulations setting out the criteria that must be considered before the President of the Treasury Board can amend low-materiality fee regulations.

Clause 278 makes a consequential amendment to the *Canadian Food Inspection Agency Act*, which applies annual fee adjustments to certain Canadian Food Inspection Agency fees.

2.4.13 Division 13 – Amendments to the *Canada Pension Plan*

Division 13 of Part 4 of Bill C-47 amends section 92 of the *Canada Pension Plan*[91] (CPP) to clarify that any information collected under the authority of the Minister of National Revenue may be shared with the Department of Employment and Social Development for the purposes of policy analysis, research or evaluation related to the administration of the Canada Pension Plan.

According to section 92 of the CPP, the duties of the Minister of National Revenue include reporting to the Department of Employment and Social Development on information obtained under the CPP. Clause 280 adds new section 92(3) to clarify that any information for which the Minister of National Revenue is responsible, and not only information collected under Part I of the CPP, can be shared with the Department of Employment and Social Development for administering the Canada Pension Plan. Given section 241(4)(e)(iii) of the ITA allows the CRA to provide taxpayer information or allow for the inspection of or access to taxpayer information for the purposes of the administration of section 92 of the CPP, this amendment aligns the two.

2.4.14 Division 14 – Amendments to the *Department of Employment and Social Development Act* Regarding the Collection and Use of Social Insurance Numbers

Division 14 of Part 4 adds new section 8.1 to the *Department of Employment and Social Development Act*[92] to allow the collection and use of Social Insurance Numbers (SINs) by a minister of the Department of Employment and Social Development to verify a person's identity for the administration or enforcement of any Act, program or activity under the minister's responsibility. This amendment allows access to information contained in the SIN Register.[93]

This amendment aims to improve the efficiency of administration of Employment and Social Development Canada (ESDC) programming.[94] When an individual dies in a Canadian province, the provincial vital statistics agency notifies the SIN program, updating this information.[95] Improved access to death information could reduce the likelihood of benefit overpayment and reduce the burden of reporting a death to multiple programs. The change could also reduce the potential for fraud by allowing ESDC programs to better identify recipients through access to detailed information.

Many ESDC programs currently have access to the SIN Register, including Employment Insurance, the Canada Pension Plan, Old Age Security and Canada Education Savings Program. This amendment covers those that do not, for example, the Federal Workers' Compensation Service, and other future programming.

2.4.15 Division 15 – Amendments to the *Canada Labour Code* in Respect of Leave Related to the Death or Disappearance of a Child

Division 15 of Part 4 makes amendments to the *Canada Labour Code*[96] (CLC) in relation to leave related to the death or disappearance of a child.

Under section 206.5 of the CLC, eligible employees in the federally regulated private sector[97] are entitled to an unpaid leave of absence if they are parents of a child who has either died or disappeared and it is "probable, considering the circumstances" that this occurred as the result of an offence under the *Criminal Code*.

This leave corresponds with a federal benefit, the Canadian Benefit for Parents of Young Victims of Crime, which is available to eligible parents who have missed work and lost income to cope with the death or disappearance of their child or children that occurred as a result of a *Criminal Code* offence. On 2 April 2023, changes came into effect that increased the weekly benefit amount, lowered the minimum earnings threshold for eligibility, extended the period during which recipients can receive the benefit, and removed a requirement that a child aged 14 years or older must not have been "a willing party to the crime."[98] The amendments in Division 15 help to align the job-protected leave under the CLC with the benefit.

Specifically, clause 282(1) amends sections 206.5(2) and 206.5(3) of the CLC to extend the maximum leave of absence related to the death or disappearance of a child from 104 weeks to 156 weeks. Clause 282(1) also amends section 206.5(4) of the CLC (which outlines the circumstances that disentitle an employee to the leave for the death or disappearance of a child) to remove the child's probable participation in the crime as a factor that renders parents ineligible to receive the benefit.

Clauses 282(2), 282(3), 282(4), and 283 amend sections 206.5(5)(b), 206.5(6)(a), 206.5(6)(b), 206.5(8), and 209.4(h) of the CLC to reflect these changes.

2.4.16 Division 16 – Amendments to the *Immigration and Refugee Protection Act* Regarding Claims for Refugee Protection

Division 16 of Part 4 amends the *Immigration and Refugee Protection Act*[99] (IRPA) to indicate that refugee protection claims made within Canada must be made in person to an officer.[100] This amendment reinforces the existing interpretation of section 99(3) of IRPA by trying to remove any potential ambiguity as to when a claim is considered officially made under the Act. The goal is to ensure integrity of the processes and programs that are triggered when a claim is officially made, such as issuance of the Refugee Protection Claimant Document, and access to the Interim Federal Health Program.

As such, clause 284(1) adds the words “in person” and an additional “must” to section 99(3) of IRPA so that it reads: “A claim for refugee protection made by a person inside Canada must be made in person to an officer, must not be made by a person who is subject to a removal order, and is governed by this Part.”

Division 16 also grants the Minister of Immigration, Refugees and Citizenship discretionary power to require certain documents and information from persons making a refugee protection claim to an officer other than at a port of entry, as well as the form and manner the documents and information are provided. This discretionary power will only apply to documents and information required for inland claims made in support of processes that are not within the Immigration and Refugee Board’s purview, such as claim eligibility and security screening via the online asylum application portal. The goal is to generate administrative efficiencies and to address integrity concerns, such as fraud and non-compliance, which electronic submission of claims hinders.

As such, clause 284(2) amends section 99(3.1) of IRPA to require a person submitting a refugee protection claim inside Canada, and not at a port of entry, to submit any information or documents that the Minister of Immigration, Refugees and Citizenship requires during the submission of claim process and prior to the Immigration and Refugee Board’s authority under the Act.

Clause 285 provides that clause 284(2) comes into force on a day fixed by order of the Governor in Council.

2.4.17 Division 17 – Amendments to the *Immigration and Refugee Protection Act* Regarding the Applications to Sponsor a Person Who Applies for a Visa as a Convention Refugee

Division 17 of Part 4 amends IRPA to allow the Minister of Immigration, Refugees and Citizenship to set a maximum number of applications to be received for sponsorships of persons who apply for a visa as a Convention refugee outside of Canada.

The overall number of privately sponsored refugees that can arrive in Canada each year is established in the Immigration Levels Plan. Since 2012, the number of privately sponsored refugee applications has only been restricted for Sponsorship Agreement Holders.[101] The intake of privately sponsored refugee applications was not restricted for other sponsors who did not hold an agreement with Immigration, Refugees and Citizenship Canada (IRCC), and who applied in other privately sponsored refugee streams such as Groups of Five and Community Sponsors.

Bill C-47 thus caps the number of refugees that each private entity may apply to sponsor yearly within the Groups of Five and Community Sponsors streams. The goal is to better manage program application intake and to resolve the backlog that IRCC has faced within these streams in previous years by aligning sponsorship application intake with level spaces available, as highlighted in IRCC's Action Plan.[102]

To effect this change, clause 286 adds new section 87.3(1) to IRPA to clarify that applications by way of undertaking (section 13(1)) to sponsor a person who applies for a visa as a Convention refugee outside of Canada (section 99(2)) may be subject to ministerial instructions. These instructions may include "setting the number of applications or requests, by category or otherwise, to be processed in any years"[103] to attain immigration goals established by the Government of Canada.[104]

2.4.18 Division 18 – Amendments to the *College of Immigration and Citizenship Consultants Act*

Division 18 of Part 4 amends the *College of Immigration and Citizenship Consultants Act*[105] (CICCA) by expanding the capacity of the College of Immigration and Citizenship Consultants (the College) to self regulate, elaborating on the powers that were devolved to the federal regulator in 2021. Several provisions are modified to build on the initial statutory framework by addressing legislative gaps that were not foreseen when this law was introduced in 2019. The goal is to hold licensees more accountable for the work they conduct on behalf of immigration applicants in Canada.

Clause 287 amends section 4 of the CICCA to allow the College to self-regulate with respect to "training and development programs for licensees."

Clause 288 is administrative in nature, and amends section 15(1) to extend from 90 to 120 days the deadline by which the College must submit a report of its activities to the Minister of Immigration, Refugees and Citizenship at the end of the fiscal year.

Clause 289 adds section 39.1 to allow the College to file a certified copy of a decision made by the Registrar of the College (responsible for verifying compliance or preventing non-compliance with the CICCA) before the Federal Court. Once the certified copy is filed, the order provided in the decision is considered as having emanated from the Federal Court and can be enforced as such, for example with injunctions. In a similar vein, clause 293 adds new section 70.1, which provides for the same enhancements for decisions rendered by the Discipline Committee of the College.

Clause 290 amends section 56 to extend immunity against proceedings for damages that could be filed against directors, employees and agents and mandataries of the College, among others who are acting in good faith.

Clause 291 amends section 57(2)(c) to remove the ability of a complainant to veto their case being referred to an alternative dispute resolution process by the College's Complaints Committee, when the licensee consents.

Clause 292 amends section 29(3) to add flexibility to the College's Discipline Committee's ability to mix and match different types of sanctions for licensees at fault.

Clause 294 amends section 71 to clarify the standing of the College when it applies for judicial review of one of its own committees' decisions, by stating that the College becomes the respondent in such federal court cases.

Clause 295 adds provisions after section 73 of the CICCA to stipulate that the College may seek an order from a court, including the Federal Court, authorizing it to administer the property of any licensee of the College who is not able to perform their activities as an immigration and citizenship consultant. When a court concludes that such order is required for continuation of services to a client or to permit the College to "carry out its purpose," it may grant the College (or a select appointed individual) extensive powers to trespass on a present or former licensee's private property in order to seize, detain and transfer documents and items related to a client's file.

This new provision also authorizes the College to enter into information-sharing agreements or arrangements with any entity, including federal or provincial government institutions "for the purpose of assisting in the administration and enforcement of the Act."

Clause 296 amends section 79 so that licensees subject to a court order established under section 73 (seizure of documents and material) may be guilty of a criminal offence punishable by fine or imprisonment, if they "obstruct or hinder, or make a false or misleading statement" during the execution of that order.

Clause 297 amends section 81(2) to expand the areas in respect of which the Governor in Council may authorize the College to make by-laws, as a self-regulated profession.

Division 18 also makes related amendments to the *Citizenship Act*[106] (clause 298) and IRPA (clause 299) to clarify that any person who is the subject of a notice of violation issued under either of those Acts has the right to request a review of the notice or the administrative monetary penalty set out in the notice from a person appointed by the Governor in Council. The purpose of this additional layer of procedural fairness is to ensure that unauthorized practitioners are captured within the government's penalties and sanctions regime.[107]

2.4.19 Division 19 – Amendments to the *Citizenship Act*

Division 19 of Part 4 amends the *Citizenship Act* to grant authority to the Minister of Immigration, Refugees and Citizenship to administer the Act through electronic means, to make regulations requiring persons applying through the Act to use online platforms to submit their information, documents and evidence, and to collect biometric information for the purposes of administering and enforcing the Act.

Unlike IRPA, the *Citizenship Act* does not contain express authorities for online or electronic processes. During the COVID-19 pandemic, citizenship ceremonies were made virtual through authorities, among others, from the *Personal Information and Electronic Documents Act*, under "Electronic Documents."

The purpose of granting electronic means is to facilitate more rapid processing of citizenship applications, which have a very high approval rate.[108] The goal with respect to biometric information collection is to strengthen the system's integrity for granting Canadian citizenship.[109] These changes align with processes in the United States and the United Kingdom, in which the authorities require fingerprints for all citizenship applications.

Clause 300 adds section 2.1 to the *Citizenship Act* to allow biometric information to be collected and used for purposes determined by the minister and grants the minister authority to determine whether certain or all types of biometrics are required for a class of persons under exceptional circumstances. As the Royal Canadian Mounted Police is planning on decommissioning its name-based search system by 2025, this will allow IRCC to continue to screen for criminality when processing citizenship applications.

Clause 301 amends section 12 to remove "including by way of an electronic system" from the "Application for evidence of citizenship" so that it reads: "The Minister shall, on application by a person, determine whether they are a citizen." This change alludes to the fact that all citizenship applications will fall under the same regime even when administered electronically by the minister.

Clause 302 amends section 27(1) to allow the Governor in Council to make regulations regarding biometric information and the circumstances under which a person is not required to provide biometrics (see clause 300). The Governor in Council may also make regulations to ensure that information is verified during surrenders and cancellations of citizenship, if it is determined that the holder contravened the *Citizenship Act*. The Governor in Council may also regulate how the minister may exercise the authority to require any person who makes a request under the *Citizenship Act* to submit the files and information by the means specified by the minister.

Clause 303 amends section 27.2 to authorize the minister to issue regulations regarding the collection, verification and processing of biometric information, as well as the creation of biometric templates.

Clause 305 adds new sections 28.2 to 28.4 to grant additional powers to the minister, citizenship judges and registrars to administer and enforce the *Citizenship Act* through electronic means. Delegates of the minister use electronic means to conduct their powers, as specified by the minister. In addition, these provisions provide further clarity to allow automated systems and machine learning technology to process and render decisions on applications made under the *Citizenship Act*, and to recognize electronic signatures as official.

Clause 304 adds new section 27.21 to grant the minister the authority to make regulations in respect to application of new sections 28.2 to 28.4, specifically regarding online procedures to be followed and how they would be deemed as such, and requiring submission of applications and payments electronically under the *Citizenship Act*.

Clause 306 specifies that clauses 300, 302(1), 302(2) and 303 come into force on a day fixed by order of the Governor in Council.

2.4.20 Division 20 – Amendments to the *Yukon Act*

Division 20 Part 307 of Bill C-47 amends the *Yukon Act*[110] by adding two new sections to add Type II sites to the portion of the *Yukon Act* concerning the exercise of federal powers. Effectively, the amendments grant the Minister of Northern Affairs the same powers with respect to a Type II contaminated site on federal land as those held by the responsible minister in the Government of Yukon under the *Waters Act* (Yukon).[111]

In 2003, the *Yukon Act* was amended when the *Yukon Northern Affairs Program Devolution Transfer Agreement* (the Agreement) came in effect. The amendments transferred land, water and resource management responsibilities from Canada to the Government of Yukon.[112] Under the Agreement, Type II mine sites are defined as large mine sites that have potential for unfunded environmental liability at the time of closure. According to the Government of Canada, such sites "were deemed to potentially pose substantial damage to the environment and thereby a financial liability to government."[113] In accordance with the Agreement, the federal government remained financially liable for Type II sites so long as the activity that caused the contamination began prior to April 2003.[114] There are seven Type II sites listed in the Agreement.

Clause 307 of Bill C-47 adds new section 55.1 to the *Yukon Act*. Section 55.1(1) provides the Minister of Northern Affairs with the power to administer public real property considered a "Type II Site" within the meaning of the Agreement. However, these powers will not affect a Type II site unless the federal and territorial governments agree to go ahead with the transfer of the management of a contaminated site under an additional transition agreement.[115] Additionally, the minister can take any measures on the public real property that the minister considers necessary to "prevent, counteract, mitigate or remedy any adverse effect on persons, property or the environment." Section 55.1(2), entitled "Entry," confers power on the minister to "enter any place on the public real property, except a place that is designed to be used and is being used as a permanent or temporary private dwelling-place."

2.4.21 Division 21 – Amendments to the *Marine Liability Act*, to the *Canada Shipping Act, 2001*, to the *Oil Tanker Moratorium Act* and to the *Wrecked, Abandoned or Hazardous Vessels Act*

Division 21 of Part 4 of Bill C-47 makes amendments to four statutes related to the Oceans Protection Plan, which was launched in 2016.[116]

2.4.21.1 Subdivision A – *Marine Liability Act*

Subdivision A of Division 21 amends the *Marine Liability Act*[117] (MLA) to, among other things, increase the maximum liability for certain claims, expand public notification requirements about the limitation fund established by the Admiralty Court, introduce limited liability for air cushion vehicles, remove references to the Hamburg Rules of the *United Nations Convention on the Carriage of Goods by Sea*,[118] include non-seagoing vessels in the application of the *International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001* (Bunkers Convention),[119] clarify that ship owners are liable for economic loss suffered by Indigenous communities, and allow for compensation for future losses under the Ship-source Oil Pollution Fund.[120]

Clause 312 amends section 29 of the MLA to increase the maximum liability for claims involving a ship of less than 300 gross tonnage to $1.5 million for loss of life and injury and $750,000 for other claims. Clause 313 adds new section 33(1)(a.1) to add a new power of the Admiralty Court, allowing a person to reduce the amount paid into the limitation fund established under Articles 11 to 13 of the *Convention on Limitation of Liability for Maritime Claims, 1976* (the Convention).[121] Clause 314 adds new section 33.1 requiring publication of a limitation fund's constitution in the *Canada Gazette* and ensure that it is publicly accessible for 30 days.

Clause 317 introduces air cushion vehicles to the MLA in new Division 2 within Part 3 entitled "Limitation of Liability – Air Cushion Vehicles." Among other things, the new division adapts the language of the Convention to include air-cushioned vehicles, establishes maximum liability for claims and defines the role of the Admiralty Court in this regard.

Clauses 319 to 322 amend Part 5 of the MLA (Liability for Carriage of Goods by Water) to remove all references to the Hamburg Rules, which embody the United Nations *Convention on the Carriage of Goods by Sea*, as they no longer have the force of law in Canada following the 2020 *Statutes Repeal Act*. Clause 341 also repeals Schedule 4 of the MLA, which sets out the Hamburg Rules.

Clauses 323 to 325 amend Part 6 (Liability and Compensation for Pollution) of the MLA to clarify that ship owners are liable for economic loss related to fishing, hunting, trapping or harvesting suffered by an Indigenous group, community or people or suffered by a member of such a group, community or people; to allow the Admiralty Court to reduce the amount a person pays to the fund under the *International Convention on Civil Liability for Oil Pollution Damage, 1992*; and to expand the public notice provision regarding constitution of that fund to increase public accessibility.

Clause 327 adds new section 68.1 to the MLA to clarify that the definition of "ship" in Article I of the Bunkers Convention includes non-seagoing vessels and non-seaborne craft. Clause 328 adds new section 71(3), stating that under the Bunkers Convention, ship owners are liable for economic loss related to fishing, hunting, trapping or harvesting suffered by an Indigenous group, community or people or suffered by a member of such a group, community or people. Similarly, clause 331 adds language to subsection 77(1)(a) specifying that liability for oil pollution damage includes economic loss related to fishing, hunting, trapping or harvesting suffered by an Indigenous group, community or people or suffered by a member of such a group, community or people.

Clause 332 amends section 92 to modify the amounts that may be credited to the Ship-source Oil Pollution Fund It also removes the requirement that the remuneration and expenses of assessors be charged to the Ship-source Oil Pollution Fund. Clause 333 creates new sections 103(1.2) and 103(1.3) for claims for future losses, including protections for Indigenous groups, communities and people. Clause 334 amends section 105(1) to specify that the Administrator of the Ship-source Oil Pollution Fund may also disallow a claim and creates new section 105(1.1) to require that, following an investigation and assessment for future loss claims, the Administrator either make an offer of compensation, offer an interim payment schedule or disallow the claim. Under new section 105(1.3), the Administrator may impose conditions on the claimant.

Clause 336 adds new sections 106.01 to 106.05. These new provisions address the Administrator's authority to stop payments to, and provide notice to, a claimant, who has the right to appeal; require the claimant to keep records and provide them upon request; conduct reassessments of a claim post-payment with the powers of a commissioner under the *Inquiries Act*; and communicate the result of the reassessment to the claimant, who has the right of appeal.

2.4.21.2 Subdivision B – *Canada Shipping Act, 2001*

Subdivision B of Division 21 of Part 4 amends the *Canada Shipping Act, 2001*[122] (CSA) to establish that the CSA also applies to pleasure craft, port authorities, noxious and hazardous substances and the facilities handling them, and to clarify that the CSA applies within the exclusive economic zone of Canada. The CSA is also amended to, among other things, expand the powers of the Minister of Transport and the Minister of Fisheries and Oceans; permit the Governor in Council to establish emergency services regulations and broaden its power in respect of fees, charges, costs and expenses; increase the maximum amount for fines of $10,000 up to $25,000; allow the Chief Registrar to refuse to issue certificates of registry and the Minister of Transport to refuse pleasure craft licensure in some instances; provide additional powers to the Minister of Transport or the Deputy Minister with respect to mitigating risks; and permit the contravention of additional provisions to be designated as violations.

2.4.21.2.1 Marine Safety and Emergency Management

Clause 353 adds new section 10.1(1.1) allowing the Minister of Transport to authorize the Deputy Minister to issue interim orders. It also introduces additional language to authorize the minister to specify and extend the period during which the interim order has effect. Clauses 373 and 374 amend sections 111 and 114, respectively, to replace "marine safety inspector" with "Minister" and to authorize the Minister of Transport to direct a master, or crew member, to cease an unsafe operation. These clauses also add provisions related to directing the Master or crew member to take measures to resolve the risk. Amendments also include the expansion of pollution prevention plans and emergency plans to include those related to hazardous and noxious substances.

2.4.21.2.2 Hazardous and Noxious Substances

Clauses 383 to 406 amend Parts 8 and 9 of the CSA to introduce language to include hazardous and noxious substances, hazardous and noxious substances handling facilities, hazardous and noxious prevention and emergency plans alongside existing provisions related to oil, oil facilities and pollutants.

2.4.21.2.3 Permits and Licences

Clause 366 amends section 56 of the CSA, adding new section 56.1 to allow the Chief Registrar to refuse to issue, replace or renew a certificate of registry if the applicant is in default of payment of a fee, charge, cost or expense. Similarly, clause 368 adds new section 75.031 to allow the Chief Registrar to refuse to issue, replace or renew a certificate of registry of a fleet if the applicant is in default of payment of a fee, charge, cost or expense.

Clause 408 adds new section 203.1 to the CSA authorizing the Minister of Transport to refuse to issue, transfer or replace a pleasure craft licence if the holder or applicant is in default of a fee, charge, cost or expense.

2.4.21.2.4 Compliance and Enforcement

Clause 355 amends section 14 to expand the scope of who is an "authorized representative" of a vessel who is responsible for compliance with the CSA, to include a qualified person appointed by the owner. Clause 412(2) adds new section 211(3.1), authorizing a marine safety inspector to a port authority or person in charge of the port authority or place to authorize a vessel to be moved to a place directed by the inspector. Clauses 413 and 414 amend sections 222(11) and 224(c), respectively, to add that liability for expenses related to ordered detention or movement of vessels includes the owner of the vessel in addition to the authorized individual. Similarly, clause 415 amends section 226 to include "owner" in respect of the minister's authority to seize or sell vessels due to unpaid fine or penalty.

Clause 411 expands the definition of "relevant provision" within Part 11 (Enforcement-Department of Transport) of the CSA to include any provision of the CSA administered by the Minister of Transport and removes the exceptions under 'Navigation Services' and 'Pleasure Craft.'

2.4.21.2.5 Penalties

Clauses 365, 369, 371, 382 and 410 amend sections 40(2), 79(2) 103(2), 152(2) and 209(2) to increase all maximum fines to $25,000.

2.4.21.2.6 Regulatory Provisions

Clause 359 adds new section 32(4.01) to allow the incorporation by reference of materials produced by the Minister of Transport for regulations made under sections 35.1(1)(k), 120(1)(f) or 120(1)(k), 136(1)(a), 136(1)(f) or 136(1)(g) or 190(1)(a).

Clause 375 adds a new regulation-making authority under section 120(1) respecting arrangements for emergency services. Clause 380 amends section 135 to extend delegation authority to the Minister of Transport for those provisions and regulations for which that minister is responsible. Clause 381 amends section 136 to add a new authority allowing the Minister of Transport to, by order published in the *Canada Gazette*, suspend or modify certain regulations for a specified time period.

2.4.21.2.7 Additional Amendments

Clause 350 adds a definition for "port authority" to section 2 of the CSA. Clause 351 amends section 8 to expand application of the general provisions of the CSA (Part 1) to certain pleasure craft.

Clauses 424 to 426 relate to transitional provisions, including designating the contravention of certain provisions as violations. Clause 427 makes a consequential amendment to the *Oil Tanker Moratorium Act*.[123]

Clause 428 states that some Subdivision B amendments come into force when Bill C-47 receives Royal Assent, while others come into force on dates to be fixed by order of the Governor in Council.

2.4.21.3 Subdivision C – *Wrecked, Abandoned or Hazardous Vessels Act*

Subdivision C of Division 21 amends the *Wrecked, Abandoned or Hazardous Vessels Act*[124] (WAHVA). Clause 429 updates the language of section 6(1) of the English text of the legislation to replace "Aboriginal" with "Indigenous." Clause 430 amends the WAHVA to include new section 14.1, which establishes the "Vessel Remediation Fund" (the Fund). The Fund will be credited through the Consolidated Revenue Fund for amounts collected under section 41(1), debts referred to in sections 99 and 129, amounts paid under section 130(1)(o.1) and any fines or penalties paid in respect of contravening the WAHVA. The Ministers of Transport and Fisheries and Oceans can charge to the Fund for a variety of purposes, including costs incurred for measures taken in respect of wrecked, abandoned or hazardous vessels; to promote public awareness; to fund research and development activities; to increase capacity to perform vessel risk assessments; and to recycle, dismantle or dispose of vessels and fund voluntary vessel disposal activities. Any use of the Fund must be according to a plan agreed to by the ministers and payments out of the Fund cannot exceed the credit balance.

Clause 431 amends section 41 of the WAHVA to allow any unused proceeds owing to a vessel owner to be forfeited to the Crown if the vessel owner cannot be located. Clauses 432 and 433 make several amendments to sections 82 and 84, respectively,

to extend authority under those provisions, currently granted only to the Minister of Transport, to the Minister of Fisheries and Oceans. Clause 434(5) adds new section 130(6), authorizing the Minister of Transport to exempt any person, vessel, or class of persons or vessels from paying a fee, charge, cost or expense if it is determined to be in the public interest. New section 130(7) indicates that any such exemption would be exempt from application of sections 3 (Examination of Proposed Regulations), 5 (Transmission and Registration (of regulations)) and 11 (Regulations to be published in Canada Gazette) of the *Statutory Instruments Act*.

Some of these provisions come into force when Bill C-47 receives Royal Assent, and others on dates to be fixed by order of the Governor in Council.

2.4.22 Division 22 – Amendments to the *Canada Transportation Act*

Division 22 of Part 4 of Bill C-47 amends the *Canada Transportation Act*[125] (CTA) to authorize the Minister of Transport to order data sharing between users of the national transportation system, as well as to increase the powers of the Canadian Transportation Agency for the purpose of ordering extended interswitching in the Prairie provinces.

2.4.22.1 Data Sharing

Clause 437 adds new section 47.1 to the CTA to authorize the Governor in Council to make regulations to require air carriers to publish their performance data.

Clause 438 replaces the previously repealed section 48 to permit the Minister of Transport to delegate, in writing, any of their powers or duties under the CTA to a person designated by them. It also adds new section 48.1, which authorizes the minister to make regulations relating to fees and charges for the administration and enforcement of the CTA.

Clause 439 amends section 50 of the CTA to authorize the Governor in Council to make regulations that could require data sharing "for the purposes of ensuring the proper functioning of the national transportation system or increasing its efficiency." These regulations could apply to a broad range of transportation carriers, owners or operators, service providers, or users of the national transportation system, with the explicit exception of passengers. The regulations could require sharing information between any of these persons, or with the minister. Confidential contracts would also be exempt. Clause 436 also authorizes, through new section 6.11, the Governor in Council to designate, by regulation, persons to whom regulations made under section 50 would apply.

Clause 440 amends section 51 of the CTA to apply existing confidentiality requirements to information provided in accordance with regulations made under the new powers. Clause 441, however, amends section 51.1 to allow the minister to publish certain information relating to service and performance metrics.

Clause 442 adds new section 51.5 which authorizes the minister, in the event of "an unusual and significant disruption to the effective continued operation of the national transportation system," to make an order requiring that information be provided to them. This would apply to the same persons as the amended section 50, and to any information that the minister "considers relevant to the assessment of the cause of the disruption or the mitigation or resolution of the disruption." The order could be in place for no more than 90 days, and the minister would be authorized to share the information obtained with anyone for the purpose of mitigating or resolving the disruption.

2.4.22.2 Interswitching

Clauses 443 and 444 make additions to section 127 of the CTA for the purpose of extending the Canadian Transportation Agency's (the Agency) powers to order interswitching in the prairie provinces. As defined under section 111 of the CTA, interswitching refers to "transfer[ring] traffic from the lines of one railway company to the lines of another railway company." Under section 127, the Agency may make an order to require interswitching if the point of origin or destination of traffic is within 30 km of an interchange. New subsections expand this radius to 160 km, provided that the interchange, as well as either the point of origin or destination, are in whole or in part in Manitoba, Saskatchewan, or Alberta.

Additional subsections added by these clauses require interswitching rates for related orders to be determined and published within 90 days of the subsection coming into force and establish specific data-sharing requirements relating to interswitching in the Prairie provinces.

Clauses 445 and 451 set out that the new subsections relating to interswitching come into force 90 days after Bill C-47 receives Royal Assent, and will be repealed 18 months after coming into force.

2.4.22.3 Administrative Monetary Penalties

Clause 446 creates new section 177(2.001) of the CTA to set a maximum fine of $100,000 for violations relating to the new sections on data sharing or their respective regulations. Clause 447 amends section 178.1(1) to expand the authority of enforcement officers to cover any regulation, order, or direction made under the CTA, while clause 449 adds new section 179(4) to clarify that each day of a continuing violation constitutes a separate violation.

2.4.23 Division 23 – Amendments to the *Canada Transportation Act* Regarding the Canadian Transportation Agency

Division 23 of Part 4 amends the CTA to significantly modify the current air travel complaints process.

Clause 452 amends section 34 of the CTA to authorize the Canadian Transportation Agency (the Agency), after consulting with the Minister of Transport, to establish fees and charges relating to the administration or enforcement of the CTA or any regulations that fall under the Agency's responsibility.

Clause 453 amends section 67(1)(c) to require air carriers to publish their tariffs on their website.

Clause 455 amends section 67.2(1) to authorize the Agency to suspend, disallow or substitute unreasonable or unduly discriminatory terms or conditions in an air carrier's tariffs without first having received a written complaint.

Clause 458 amends section 68 to extend existing exemptions to rate and fare regulations to new sections for services provided through confidential contracts.

Clause 459 replaces section 85.1 to introduce a new process by which to address complaints against air carriers. This process includes both interim changes as well as permanent amendments that refer to new regulations that will be made by the Agency. Clauses 454, 456 and 457 repeal sections of the CTA that are made redundant by clause 459.

The Agency must designate complaint resolution officers who are responsible for the new process (section 85.02). Carriers are required to provide a claimant with a decision within 30 days of receiving a written claim (section 85.01). Under the new section 85.05(1), a complaint resolution officer must commence mediation within 30 days of receipt of a written complaint that is deemed to fulfill criteria set out in the new section 85.04, which include that the complaint was not resolved by the carrier within the 30 days required. A mediation agreement is enforceable as if it were an order of the Agency (section 85.05(2)).

If mediation is unsuccessful, the complaint resolution officer is required to make a decision on the complaint no more than 60 days after mediation began (section 85.06). Following this decision, if the complaint is not dismissed, the complaint resolution officer must make an order, which is enforceable as an order of the Agency, requiring the air carrier to make appropriate changes to their tariff and compensate the complainant (section 85.07(1)).

New section 85.07(2) reverses the burden of proof for complaints; issues raised by the complainant are now presumed to be within the carrier's control and not required for safety purposes, unless the carrier proves otherwise.

If a complaint relates to a flight on which prior decisions have been made, the complaint resolution officer must take these into account in reaching their own decision (section 85.08).

New sections 85.09 to 85.12 address administrative issues relating to confidentiality, procedure, and guidelines. Section 85.13 provides an alternative mechanism for complex complaints, by which a complaint may, following failed mediation, be referred from the complaint resolution officer to a two-member panel for them to provide a decision.

The new section 85.14 requires the Agency to publish data regarding orders made, including flight information, decisions regarding the nature of the delay, cancellation or denial of boarding, and any compensation or refund ordered. Other information may be kept confidential at the request of the complainant or air carrier.

The Agency's annual report to Parliament must include information on the number and nature of complaints, as well as any systemic trends that have been identified (section 85.15). Air carriers are also required to pay fees and charges relating to complaints made against them, to allow the Agency to recoup all or part of the costs of the complaint resolution process (section 85.16).

Current section 86.11(1)(b) requires the Agency to make regulations that set out an air carrier's minimum standards of treatment based on whether a delay, cancellation, or denial of boarding was "within the carrier's control," "within the carrier's control but required for safety purposes," or "outside of the carrier's control." These categories are reflected in the current *Air Passenger Protection Regulations*.[126] Clauses 465(1) and 465(2) amend section 86.11(1)(b) to remove references to a carrier's control. Instead, the new sections establish a presumption that the carrier is required to pay compensation to the passenger "for inconvenience." The Agency is also required to make regulations that establish exceptions to this presumption. These two clauses come into force on a day fixed by order of the Governor in Council (clause 474(2)), as do clauses 460 to 464, which amend some new sections added, to refer to new regulations required under new section 86.11(1)(b.1), rather than the previous control-based categories. The language of new section 85.08 is also amended to refer to section 86.11(1)(b.1).

Clause 465(3) adds the word "delayed" to section 86.11(1)(c) to expand the Agency's powers to make regulations for mishandled baggage, thereby addressing a legislative gap identified by the Federal Court of Appeal in *International Air Transport Association v. Canadian Transportation Agency*, 2022 FCA 211.[127]

Clause 465(4) adds a paragraph to section 86.11(1), requiring the Agency to make regulations to establish a carrier's refund obligations in cases where a passenger cancels a flight in response to a Government of Canada travel advisory.

Clauses 466 and 467 make amendments related to fines and notices of violation. The maximum amount payable by a corporation for violations of regulations made under section 86.11(1) is set at $250,000. For other violations, the previously set $25,000 continues to be the maximum amount that may be set. Carriers that are served a notice of violation may either pay, file a request for review, or propose a compliance agreement, failing which they will be deemed to have committed the alleged violation (clause 470(1)). Clauses 468, 469 and 470(2) make amendments relating to the Agency's process for entering into, or refusing, compliance agreements.

Clause 471 amends section 181 of the CTA to increase the time limit for proceedings relating to the new section 86.11(1) to 24 months. The previous 12-month time limit continues to apply for other proceedings.

Clauses 472 and 473 provide transitional provisions. Clause 474 establishes the coming into force, in stages, of the clauses in this Division. Clauses 454 to 456, 458 and 459, which include the majority of the substantive changes to the complaint resolution process as well as related repeals, may not come into force earlier than 30 September 2023.

Clauses 457, 460 to 464, as well as 465(1), 465(2), and 265(4), which largely pertain to changes to the categories of delay, cancellation, or denial of boarding, come into force on a date to be fixed by the Governor in Council. All other clauses will come into force when Bill C-47 receives Royal Assent.

2.4.24 Division 24 – Amendments to the *Customs Act* and the *Quarantine Act*

2.4.24.1 Amendments to the *Customs Act*

Division 24 of Bill C-47 amends the *Customs Act*[128] to modernize how the Canada Border Services Agency (CBSA) interacts with and processes travellers arriving in Canada. These amendments lay the legal foundation for some of CBSA's modernization initiatives that are intended to improve efficiency, including through touchless and automated self-service processing options.

Clause 476 amends section 11 of the *Customs Act* to allow a traveller arriving in Canada to present themselves to the CBSA by means of telecommunication if that method is available at that customs office. The bill does not define "means of telecommunication," but this could include mobile applications, kiosks, and telephone, amongst others. Travellers will also continue to be able to present themselves in person to a CBSA officer. If only one of those options is available (i.e., at an unstaffed border crossing), travellers will be required to use that option. A CBSA officer may require a traveller to present themselves in person regardless of the traveller's preference or intention to use a means of telecommunication. This includes travellers who would normally be exempt by regulation from in person presentation requirements, such as NEXUS card holders.[129]

Travellers using a means of telecommunication may need to have their photograph taken when presenting themselves, and in certain circumstances may be required to provide certain information before arriving in Canada.

Section 11(8) is added to ensure that CBSA Trusted Travellers programs, such as NEXUS, continue to be administered under *Customs Act* regulations.

Clause 478 adds new section 12.2 to require commercial air carriers to transport all passenger and crew member baggage on board to a designated international baggage area, unless otherwise exempt under the regulations. This mirrors existing CBSA policies regarding baggage delivery, designed to reduce smuggling. Codifying the requirement gives CBSA the authority to enforce it and deliver penalties for non-compliance.

2.4.24.2 Amendment to the *Quarantine Act*

Clause 479 amends the *Quarantine Act*[130] to allow for coordination between the presentation requirements under that Act and the *Customs Act*.

2.4.24.3 Coming into Force

Amendments contained in Division 24 come into force on a day or days fixed by the Governor in Council.

2.4.25 Division 25 – Amendments to the *National Research Council Act* Regarding Procurement

Division 25 of Part 4 makes several substantive amendments to the *National Research Council Act*[131] to allow the National Research Council (the Council) to procure goods and services independently with a new Procurement Oversight Board. Giving

the Council more independence in these matters allows it to collaborate more effectively with its partners in the private and academic sectors.[132]

2.4.25.1 Procurement of Goods and Services

Clause 481 adds to section 3 of the *National Research Council Act* to allow the Council to enter into contracts or other arrangements in its own name or in the name of Canada, while exempting it from Treasury Board requirements that a) place limits on procurement based on financial criteria, and b) relate to limits on liability or indemnification in contracts. In addition, the new provisions allow the Council to procure goods and services independently of the Department of Public Works and Government Services, and to procure external legal services provided it has the approval of the Attorney General.

2.4.25.2 Expanded Duties of Council

Clause 482 adds new section 4(2) to make the "design, development, testing and operation of research-related digital and information technology" central to the Council's mandate.

2.4.25.3 Establishment of Procurement Oversight Board

Clause 483, which comes into force on Royal Assent, adds new sections 18 to 21 that describe the functioning of a new Procurement Oversight Board for the Council. The Board consists of three to five part-time, paid voting members appointed by the Minister of Innovation, Science and Industry for a term of up to four years (with one possible renewal), along with two non-voting federal representatives. The Board must meet at least twice a year to review and approve the Council's procurement policy framework.

Clauses 484 and 485 add additional requirements for the Board: to review and approve complex or large-scale procurement proposals, and to provide an annual report to the minister.

Clause 486 provides coming into force dates; for most clauses this is one year after Royal Assent – unless the Governor in Council fixes an earlier date.

2.4.26 Division 26 – Amendments to the *Patent Act* Regarding the Duration of a Patent

Division 26 of Part 4 makes amendments to the *Patent Act*[133] to introduce a new requirement to grant a patent term adjustment, to compensate a patent applicant for an unreasonable delay in the issuance of their patent. It also makes related amendments to the *Patent Act* and provides for regulations to be made regarding the patent term adjustment application and calculation. These changes

are required to address Canada's patent term adjustment obligations under the Canada–United States–Mexico Agreement; a commitment that must be implemented by 1 January 2025.[134]

Pursuant to the *Patent Act*, the term of a patent is generally 20 years from the filing date, subject to maintenance fees. The time between the filing date and granting the patent reduces the effective term of the patent. The examination process can involve lengthy exchanges between the Canadian Intellectual Property Office (CIPO) and the applicant, that require applicant responses within a specified time frame.[135] According to CIPO, the examination process can take more than two years.[136] The delays in issuing a patent could be attributed to the volume of applications and requests for examination received by CIPO, the varying complexity of patent applications, the volume of subsequent actions required to respond to applicants' amendments, court decisions and staffing shortages, among other factors.[137]

Clause 493 adds new section 46.1 to the *Patent Act*, which requires the Commissioner of Patents to grant an additional term for a patent (a patent term adjustment) that was issued five years after the filing date (or in certain cases the "prescribed date") of the patent application or three years after a request for examination of a patent application, whichever is later. These periods are considered to be "unreasonable delays" in accordance with the definition set out in article 20.44 of the Canada–United States–Mexico Agreement. The patentee needs to apply for the additional term and pay a prescribed fee within three months after the patent is issued. The additional term applies only to patent filing dates on or after 1 December 2020.

Clause 493 also adds new sections 46.2 to 46.4 to the *Patent Act*, regarding maintenance and late fees for an additional term; notice to the patentee and term expiry; provisions for shortening the duration of an additional term; and reconsideration of the duration of an additional term by the Commissioner of Patents, either on the Commissioner's own initiative or on application by any person, and for appeals to the Federal Court.

Clause 487 amends section 12(1) to authorize regulations to be made related to these amendments.

Clauses 488 to 492 and 494 to 498 make related amendments to the sections of the *Patent Act* that refer to the term of the patent, in order to include the notion of an additional term, as well as other administrative changes. Clause 499 states that the changes come into force on 1 January 2025, or earlier if fixed by an order of the Governor in Council.

2.4.27 Division 27 – Amendments to the *Food and Drugs Act* Regarding Natural Health Products

Division 27 of Part 4 amends the *Food and Drugs Act*[138] (FDA) to include "natural health products" in the definition of "therapeutic products," with some exceptions.

Clause 500 amends the definition of "therapeutic product" contained in section 2 of the FDA to mean "a drug or device or any combination of drugs and devices." The previous definition of "therapeutic product" explicitly excluded natural health products.

Clauses 501(1) and 502(1) introduce a definition of "therapeutic products" that apply to particular sections of the FDA, notwithstanding the definition in section 2. In both cases, "therapeutic products" are defined to "not include a natural health product." Specifically, clause 501(1) introduces section 21.321, excluding "natural health products" from the Minister of Health's power to require assessment of the therapeutic product (section 21.31) and the minister's power to order additional tests or studies on therapeutic products (section 21.31). Clause 502(1) introduces section 21.8(2), which excludes "natural health products" from a health care institution's requirement to report serious adverse drug reactions that involve a therapeutic product. Clauses 501(2) and 502(2) come into force on a day to be fixed by order of the Governor in Council, effectively repealing the definitions established by 501(1) and 502(1) (clause 504).

Clause 503 is a transitional provision expanding the definition of "therapeutic product authorization" to include authorizations provided to natural health products before the coming into force of these amendments.

2.4.28 Division 28 – Amendments to the *Food and Drugs Act* Regarding the Sale of a Cosmetic

Division 28 of Part 4 amends the FDA to prohibit the sale of animal-tested cosmetics and animal testing for cosmetics in Canada. Clause 505 introduces the parameters related to the prohibition on both conducting cosmetics testing on animals and using data from animal testing. Clause 506 extends regulatory authority related to this new prohibition, and clause 507 defines the coming into force.

Clause 505 adds new section 16.1(1) to introduce a prohibition on selling any cosmetics in Canada whose safety was established through testing on animals that could cause "pain, suffering or injury, whether physical or mental, to the animal." New section 16.1(2) provides a list of exceptions under which the prohibition does not apply. Generally, the exceptions address the use of existing and new data collected for non-cosmetics purposes.

Clause 505 also introduces new section 16.2, prohibiting testing on animals for the sale of cosmetics to meet requirements under the FDA and its regulations or requirements in foreign states. Finally, clause 505 introduces section 16.3, prohibiting false claims related to animal testing, and empowering the Minister of Health to ask for evidence if false information is suspected.

Clause 506(1) extends section 30(1) of the FDA to allow the Governor in Council to make regulations related to the Minister of Health's ability to request evidence with respect to new section 16.3(2). Clause 506(2) extends regulatory authority to the Governor in Council to prevent cosmetics-related testing on animals, and to prevent consumers from being misled about cosmetics testing on animals (new section 30(1.5)).

Clause 507 states that this Division comes into force six months after Bill C-47 receives Royal Assent.

2.4.29 Division 29 – Enactment of the Dental Care Measures Act

Clause 508 enacts the Dental Care Measures Act.

Section 2 of the Dental Care Measures Act defines the Canada Dental Care Plan as the plan established in respect of dental services for individuals.

Section 4 introduces a reporting obligation for every person who is required to make an information return under the *Income Tax Act*, referred to as the payee for this section. Section 4(1) states that the payee is required to indicate on their information return whether the payee or any of their family members, as of 31 December of the taxation year, were eligible for dental care insurance or coverage. In this section, family member includes a spouse or common-law partner, a child under 18 years of age, or a child over 18 years of age who is dependent on the payee by reason of mental or physical infirmity (section 4(3)).

Section 5 permits the Minister of National Revenue to collect the information outlined in section 4.

Section 7 permits the Minister of National Revenue or a person acting on their behalf to share the collected information with the Minister of Health and the Department of Employment and Social Development for the administration and enforcement of the Canada Dental Care Plan.

Sections 8 to 11 pertain to violations of the Dental Care Measures Act. Section 8(1) states that a person commits a violation if they fail to submit the information outlined in section 4(1) or knowingly make a false or misleading representation when providing the information. The penalty is set at $100 for each violation (section 8(2)).

Section 9 does not permit a penalty to be imposed if more than three years have passed since the violation. Sections 10 and 11 grant the Minister of Health the power to rescind or reduce the penalty, and to recover penalties.

Section 12 permits the Minister of Health to collect and use the Social Insurance Number of a person who makes an application under the Canadian Dental Care Plan.

2.4.30 Division 30 – Amendment to the *Canada Post Corporation Act*, Regarding the Authority to Open Mail

Division 30 of Part 4 amends the *Canada Post Corporation Act*[139] in response to the decision in *R. v. Gorman*[140] to limit the Canada Post Corporation's authority to open mail other than letters.

In *R. v. Gorman*, the Supreme Court of Newfoundland and Labrador held that section 41(1) of the *Canada Post Corporation Act* violates the guarantee against unreasonable search or seizure contained in section 8 of the *Canadian Charter of Rights and Freedoms* because it allows for the search of any nonletter mail without any justifying objective standard. The Court gave the Government of Canada one year to amend the Act.

Clause 509 of Bill C-47 amends section 41(1) the *Canada Post Corporation Act* to authorize the Corporation to open any mail, other than a letter, only if it has reasonable grounds to suspect that

- the conditions under which mailable matter may be transmitted have not been complied with (section 19(1)(c)); and
- the provisions for the reduction of rates of postage on mailable matter prepared in the manner prescribed by the regulations have not been adhered to (section 19(1)(e)).

It can also open any mail that is non-mailable matter, which Canada Post defines as any mail that:

  - Is prohibited by law (for example, illegal items, obscene material, or items that may not be imported or sent by mail)
  - Fails to meet certain physical characteristics or marking requirements
  - Contains products or substances that could cause
    - Injury to those handling the mail
    - Damage to postal equipment or other items
    - Entrapment of other items.[141]

Canada Post states that non-mailable matter also includes modified postage stamps, words or marks that contravene section 52 or 58 of the *Canada Post Corporation Act* and its regulations, and sexually explicit material that is not marked "Adult Material."[142]

2.4.31 Division 31 – Assent of the Parliament of Canada to His Majesty Royal Style and Titles in Canada

Clause 510 of Bill C-47 enacts the Royal Style and Titles Act, 2023, which sets out the royal style and title for King Charles III. Similar legislation was enacted in 1953 following the accession of Queen Elizabeth II.

According to section 2 of the Royal Style and Titles Act, 2023, the royal style and title for King Charles III will be "Charles the Third, by the Grace of God King of Canada and His other Realms and Territories, Head of the Commonwealth."

During Queen Elizabeth II's reign, the royal style and title was:

> Elizabeth the Second, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.[143]

As such, the main difference in the new royal style and title is the omission of "Defender of the Faith" and the reference to the United Kingdom.

2.4.32 Division 32 – Amendments to the *Public Sector Pension Investment Board Act*

First announced in Budget 2022, according to the *Fall Economic Statement 2022*:

> The Canada Growth Fund will be a new public investment vehicle that will operate at arms-length from the federal government. It will invest using a broad suite of financial instruments including all forms of debt, equity, guarantees, and specialized contracts. The fund will be initially capitalized at $15 billion over the next five years. It will invest on a concessionary basis, with the goal that for every dollar invested by the fund, it will aim to attract at least three dollars of private capital.[144]

Budget 2023 announces that:

> the government intends to introduce legislative amendments to enable the Public Sector Pension Investment Board (PSP Investments) to manage the assets of the Canada Growth Fund to deliver on the Growth Fund's mandate of attracting private capital to invest in Canada's clean economy.[145]

Clause 511 of Bill C-47 adds a new section 5.1 to the *Public Sector Pension Investment Board Act*[146] (PSPIBA) to expand the powers of PSP Investments. Specifically, section 5.1(1) enables the Board of PSP Investments to incorporate a subsidiary to provide investment management services to the Canada Growth Fund Inc. Section 5.1(2) stipulates that the costs associated with the establishment and operation of the subsidiary and with the provision of investment management services are to be paid by the Canada Growth Fund Inc.

Clause 512 adds a new section 32.1 to the PSPIBA to specify that the subsidiary referred to in clause 511 is not subject to the investment policies, standards and procedures that the board of directors established for PSP Investments and its subsidiaries under section 32.

Similarly, clause 513 adds a new section 50.1 to the PSPIBA to specify that the subsidiary referred to in clause 511 is not subject to the regulations made under section 50 by the Governor in Council regarding PSP Investments and its subsidiaries.

Section 118(2) of the *Fall Economic Statement Implementation Act, 2022*,[147] which received Royal Assent on 15 December 2022, authorizes the Minister of Finance to requisition up to $2 billion from the Consolidated Revenue Fund in order to capitalize the Canada Growth Fund.

Clause 514 amends section 118(2) of the *Fall Economic Statement Implementation Act, 2022* to increase the maximum amount the Minister of Finance is permitted to requisition to no more than $15 billion.

Clause 515 amends section 119 of the *Fall Economic Statement Implementation Act, 2022* to specify that the subsidiary referred to in section 118 is not an agent of the Crown. This amendment is deemed to have come into force on 15 December 2022 (clause 516).

2.4.33 Division 33 – Amendments to the *Office of the Superintendent of Financial Institutions Act*, the *Trust and Loan Companies Act*, the *Bank Act* and the *Insurance Companies Act*

Division 33 of Part 4 amends the *Office of the Superintendent of Financial Institutions Act*[148] (OSFIA), the *Trust and Loan Companies Act*[149] (TLCA), the *Bank Act*, the *Insurance Companies Act*[150] (ICA) and the *Winding-up and Restructuring Act*[151] to expand the role of the Office of the Superintendent of Financial Institutions (OSFI) in supervising financial institutions' policies and procedures with respect threats to their integrity or security, including foreign interference.

2.4.33.1 Amendments to the *Office of the Superintendent of Financial Institutions Act*

Clause 517(1) adds new section 4(2)(a.1) to the OSFIA to include as part of OSFI's mandate the requirement to supervise financial institutions in order to determine whether they have adequate policies and procedures to protect themselves against threats to their integrity or security, including foreign interference. Clause 517(2) amends section 4(2)(b) and adds new section 4(2)(b.1) to require OSFI to advise a financial institution if it is not in sound financial condition, if it is not complying with its governing statute, or if it does not have adequate policies and procedures to protect itself against threats to its integrity or security, and require it to take the necessary corrective measures to deal with the situation without delay.

2.4.33.2 Amendments to the *Trust and Loan Companies Act*, *Bank Act*, and *Insurance Companies Act*

Division 33 makes similar or identical amendments to various provisions of the TLCA, *Bank Act* and ICA to require financial institutions and holding companies to have adequate policies and procedures to protect themselves against threats to their integrity or security. Key amendments are described below.

2.4.33.2.1 Establishment of Policies and Procedures

Clause 518 adds new section 14.1 to the TLCA, clauses 539, 543 and 568 add new sections 15.1, 524.3 and 664.1 to the *Bank Act*, and clauses 578, 582, 583 and 598 add new sections 15.1, 574.1, 657.1 and 701.1 to the ICA to require a financial institution or holding company to establish and adhere to policies and procedures to protect itself against threats to its integrity or security, including foreign interference for domestic financial institutions or holding companies. These clauses come into force on 1 January 2024.

Clause 519 amends sections 164(e) and 164(f) of the TLCA, clause 540 amends sections 160(e) and 160(f) of the *Bank Act*, and clause 579 amends sections 168(1)(e) and 168(1)(f) of the ICA to add to the list of persons who are disqualified from being directors of a financial institution those persons whose voting rights with respect to shares have been suspended under new sections 401.1 or 527.5(4) of the TLCA, new sections 402.2 or 973.03(4) of the *Bank Act*, and new sections 432.1 or section 1016.3(4) of the ICA.

2.4.33.2.2 Direction to Dispose of Shares

Clause 520 adds new section 401.1 to the TLCA, clause 541 adds new section 402.2 to the *Bank Act*, and clause 580 adds new section 432.1 to the ICA to describe when

the Minister of Finance can direct the disposition of shares due to threats to integrity or security of a financial institution. Key provisions include:

- If the minister believes that a person holding shares of a financial institution, membership shares of a federal credit union, or having beneficial ownership of such shares, poses a threat to the integrity or security of the financial institution, to the financial system in Canada or to national security, the minister may direct that person and any person controlled by that person to dispose of any number of shares.
- If the time required to make representations might be prejudicial to public interest, then the minister can make a temporary direction to suspend any rights attached to the shares.
- Within 30 days after the direction was made, a person may appeal the matter as set out in the relevant statute.
- If the direction or temporary direction was made for national security reasons, the minister will notify the National Security and Intelligence Committee of Parliamentarians and the National Security and Intelligence Review Agency within 30 days after the direction was made.

Clause 521 amends section 402(1) of the TLCA, clause 542 amends section 403(1) of the *Bank Act*, and clause 581 amends section 433(1) of the ICA to allow the minister to apply for a court order to enforce a direction issued to require the disposition of shares.

2.4.33.2.3 Production of Documents and Examination of Financial Institutions

Clause 522 adds new section 502(1)(b) to the TLCA, clauses 555 and 569 add new sections 635(1)(b) and 954(1)(c) to the *Bank Act*, clause 584 adds new section 671(1)(b) and clause 599 adds new section 997(1)(c) to the ICA to allow the Superintendent of Financial Institutions (the Superintendent) to direct a financial institution or holding company to produce information or documents to determine if the financial institution or holding company has adequate policies and procedures to protect itself against threats to its integrity or security.

Clause 523(1) amends section 505(1) of the TLCA, clauses 544(1), 556(1) and 570 amend sections 613(1), 643(1) and 957(1) of the *Bank Act*, and clauses 585(1) and 600 amend sections 674(1) and 1000(1) of the ICA to add that during an examination of a financial institution that occurs at least once each calendar year, the Superintendent can assess whether a financial institution has adequate policies and procedures with respect to threats to its integrity or security and report on it to the minister. Clauses 523(1), 544(1), 556(1) and 585(1) come into force on 1 January 2024.

Similarly, clause 523(2) adds new section 505(1.1) to the TLCA, clauses 544(2) and 556(2) add new sections 613(1.1) and 643(1.1) to the *Bank Act*, and clause 585(2) adds new section 674(1.1) to the ICA to allow the Superintendent to conduct an examination of a company specifically with respect to threats to its integrity or security.

Of note, clause 523(3) repeals new section 505(1.1) of the TLCA, clauses 544(3) and 556(3) repeal new sections 613(1.1) and 643(1.1) of the *Bank Act*, and clause 585(3) repeals new section 674(1.1) of the ICA, with a coming into force date of 1 January 2024.

Clause 524 amends section 506.1 of the TLCA, clauses 545, 557 and 571 amend sections 614.1, 644.1 and 959 of the *Bank Act*, and clauses 586 and 601 amend sections 675.1 and 1002 of the ICA to allow the Superintendent to enter into a prudential agreement with a financial institution to implement measures designed to establish adequate policies and procedures regarding threats to its integrity or security.

Clause 525 adds new section 507(1.1) to the TLCA, clauses 546, 558 and 572 add new sections 615(1.1), 645(1.1) and 960(1.1) to the *Bank Act*, and clauses 587 and 602 add new sections 676(1.1) and 1003(1.1) to the ICA to allow the Superintendent to direct a financial institution to take any measures necessary to remedy the situation, if it believes that it does not have adequate policies and procedures to protect itself against threats to its integrity or security.

Clause 526 amends section 509(1)(a) of the TLCA, clauses 547 and 559 amend sections 616(1)(a) and 646(1)(a) of the *Bank Act*, clause 573 amends section 961(1) of the French version of the BA, and clauses 588 and 603 amends sections 678(1)(a) and 1004(1) of the ICA to allow the Superintendent to apply for a court order to enforce a direction requiring a financial institution to have adequate policies and procedures to protect against threats to integrity or security.

2.4.33.2.4 Taking Control Over the Assets or Management of a Financial Institution

Clause 527(1) adds new section 510(1.1)(g.1) to the TLCA, clause 560(1) adds new section 648(1.1)(g.1) to the *Bank Act*, and clause 591(2) adds new section 679(1.1)(f.1) to the ICA to indicate when the Superintendent may take control of the assets of a company or the company itself. If, in the opinion of the Superintendent, the financial institution's depositors and creditors, or an insurer's policyholders or creditors, may be detrimentally affected because all common or membership shares of the financial institution must be disposed of under a minister's direction or because there is a prohibition on exercising the right to vote attached to all common or membership shares, the Superintendent may take over control.

Furthermore, clause 527(2) adds new sections 510(1.1)(i) and 510(1.1)(j) to the TLCA, clauses 548(1) and 560(2) add new sections 619(2)(h), 619(2)(i), 648(1.1)(i) and 648(1.1)(j) to the *Bank Act*, and clauses 591(3) and 591(4) add new sections 679(1.1)(h), 679(1.1)(i), 679(1.2)(g) and 679(1.2)(h) to the ICA to allow the Superintendent to also take control of the assets of a company or the company itself where, in the opinion of the Superintendent:

- the continued operation of the financial institution would be materially prejudicial to its integrity or security; and
- the continued operation of the financial institution would pose a risk to national security.

Clause 527(3) adds new section 510(1.11) to the TLCA, clauses 548(2) and 560(3) add new sections 619(2.1) and 648(1.11) to the *Bank Act*, and clause 591(5) adds new section 679(1.21) to the ICA to allow the minister, for reasons of national security, to direct the Superintendent to take control, for a period not exceeding 16 days or for longer periods, the assets of the financial institution and the assets held in trust by or under the administration of the financial institution, assets held in Canada under control of a chief agent, or to take control of the financial institution itself. Regarding foreign insurers and authorized foreign banks, the Superintendent can take over assets but cannot take over management of the company.

Clause 527(4) adds new sections 510(1.3) to 510(1.5) to the TLCA, clauses 548(3) and 560(4) add new sections 619(3.1), 619(3.2), 619(3.3), 648(1.3), 648(1.4), and 648(1.5) to the *Bank Act* and clause 591(6) adds new sections 679(1.4), 679(1.5) and 679(1.6) to the ICA to require, in the event that the Superintendent takes over control due to national security reasons, notice be given by the Superintendent to the financial institution. As well, the financial institution can make representations and notice must be given by the minister to the National Security and Intelligence Committee of Parliamentarians and the National Security and Intelligence Review Agency. Consequential amendments are made by clauses 527(4), 548(3), 548(4), 560(4), 560(5), 591(6) and 591(7) to provisions that govern the objectives and powers of the Superintendent when control is taken.

Clauses 528(1) to 528(3) amend sections 514(1) to 514(3) of the English version of the TLCA, clauses 548(5) amends section 619(6) of the *Bank Act*, clauses 561(1) to 561(3) amend sections 649(1) to 649(3) of the English version of the *Bank Act*, and clauses 592(1) to 592(3) amend sections 683(1) to 683(3) of the ICA, which deal with suspending the powers of the directors and officers and appointing persons to assist in the management of the company, to add references to taking over control for national security reasons.

Regarding the expiration of control, clause 529 adds new section 515(2) to the TLCA, clauses 549 and 562 add new sections 620(2) and 650(2) to the *Bank Act* and clause 593 adds new section 684(2) to the ICA to indicate that when control was taken for reasons of national security, that control expires on the day on which a notice is sent by the Superintendent to the directors and officers, principal officer or chief agent of the financial institution. The notice must state that the minister is of the opinion, on the recommendation of the Superintendent, that corrective measures have been taken in response to the reasons related to national security and that the company can resume control of its business and affairs.

Clauses 530 amends sections 515.1(a) and 515.1(b) of the TLCA, clauses 550 and 563 amend sections 621, 651(a) and 651(b) of the *Bank Act*, and clause 594 amends sections 684.1(a) to 684.1(c) of the ICA to provide that the Superintendent may request that the Attorney General of Canada wind-up a financial institution when it has taken control for national security reasons for a period exceeding 16 days.

References regarding taking control for national security reasons are also made by clauses 531 to 534 in amendments to sections 516, 517, 518(1) and 519 of the English version of the TLCA, clauses 551 to 554 and 564 to 567 in amendments to section 622 of the English version, sections 623, 624(1), 625, 652, 653, 654(1) and 655 of the English version of the *Bank Act*, and clauses 595 to 597 in amendments to section 685 of the English version, section 686(1)(a)(ii), and sections 691(1) and 691(2) of the English version of the ICA. These sections address the relinquishment of control, an advisory committee for the Superintendent regarding taking control, the Superintendent's expenses for taking control, and expense claims during the liquidation of a financial institution.

Clause 535 amends section 527.4(1) of the TLCA, clause 574 amends section 973.02(1) of the *Bank Act*, and clause 604 amends section 1016.2(1) of the ICA to provide that the minister, upon granting an approval, can impose any terms or conditions or undertakings on a financial institution to ensure that it has adequate policies and procedures to protect itself against threats to its integrity or security.

Clause 536 adds new sections 527.5(4) and 527.5(5) to the TLCA, clause 575 adds new section 973.03(4) and 973.03(5) to the *Bank Act*, and clause 605 adds new sections 1016.3(4) and 1016.3(5) to the ICA to state that, with respect to the revocation, suspension or amendment of approvals, if the length of time required for representations to be made might be prejudicial to the public interest, the minister

can temporarily suspend or amend any approval previously granted by the minister, The temporary suspension or amendment ceases to have effect on the earlier of

- 30 days after the day on which it takes effect or a shorter period that is specified by the minister; and
- the day on which a non-temporary revocation, suspension or amendment by the minister takes effect.

Clause 537 adds new section 527.51 to the TLCA, clause 576 adds new section 973.031 to the *Bank Act*, and clause 606 adds new section 1016.31 to the ICA to indicate that if the disclosure of information about an undertaking could pose a threat to the integrity or security of the financial institution or could be injurious to national security, the minister can specify that the information is confidential and treat it accordingly. These provisions also state that disclosure of confidential information is prohibited except in accordance with any terms or conditions specified by the minister. If the information is confidential for reasons of national security, the minister, within 30 days, must provide notice to the National Security and Intelligence Committee of Parliamentarians and the National Security and Intelligence Review Agency.

Clause 538 amends section 530(1) of the TLCA, clause 577 amends section 977(1) of the *Bank Act*, and clause 607 amends section 1020(1) of the ICA, which deal with appeals to the Federal Court, to include reference to a direction for the disposition of shares.

2.4.33.3 Amendments to the *Insurance Companies Act*

Clauses 589 and 590 amend sections 678.5(1) and 678.6(1) of the ICA, which govern minister's directions to fraternal benefit societies that offer insurance. Clauses 589 and 590 state that the Superintendent may also direct a fraternal benefit society or a foreign fraternal benefit society to transfer all or any portion of their policies or cause itself to be reinsured against all or any portion of the risks of its policies, if in the opinion of the Superintendent:

- the insurer's policyholders or creditors may be detrimentally affected because the minister directs its common shares be sold or directs the voting rights with respect to common shares be prohibited;
- the state of affairs of the insurer may be prejudicial to the interests of the insurer's policyholders or creditors or the owner of any assets under the insurer's administration; or
- the continued operation of the insurer would be materially prejudicial to its integrity or security or pose a risk to national security.

Clause 591(1) amends section 679(1)(b) of the French version of the ICA to clarify the types of the assets that are taken over with respect to a foreign insurer.

2.4.33.4 Consequential Amendments to the *Winding-up and Restructuring Act*

Clause 608(1) amends section 10.1 of the *Winding-up and Restructuring Act*, which sets out the circumstances when a court can make a winding-up order, to include reference to all the provisions added to the *Bank Act*, the ICA and the TLCA that relate to the Superintendent taking control over a financial institution or the assets of a financial institution for a period exceeding 16 days and for reasons related to national security.

2.4.34 Division 34 – Amendments to the *Criminal Code* Regarding the Criminal Rate of Interest

To address predatory lending and the high cost of borrowing, Division 34 of Part 4 amends section 347 of the *Criminal Code* to lower the criminal rate of interest and limit the cost of borrowing.

Clause 610(1) amends the definition for "criminal rate" found in section 347(2) of the Code to lower the criminal rate from a rate that exceeds an "effective annual rate" of 60% to a rate that exceeds an "annual percentage rate" of 35% of the credit advanced.

Clause 610(2) amends section 347(4), which sets out how to prove the rate of interest for the purposes of a proceeding, to update the language to "annual percentage rate."

Clause 611 adds new section 347.01 to the Code, which states that section 347 does not apply with respect to agreements or arrangements provided for by regulation. New section 347.01(2) indicates that the Governor in Council, upon recommendation by the Minister of Justice and after that minister's consultation with the Minister of Finance, may provide by regulation the types of agreements or arrangements to which section 347 would not apply.

Section 347.1 of the Code sets out the rules for payday loans. Clause 612(1) adds new section 347.1(2)(a.1), which indicates that section 347 and section 2 of the *Interest Act* do not apply to a payday loan agreement provided that, in addition to the current requirements, the total cost of borrowing under the agreement does not exceed the limit fixed by regulation. Clause 612(2) adds new section 347.1(2.1), which states that the Governor in Council, on the recommendation of the Minister of Justice and after that minister's consultation with the Minister of Finance, may fix the limit on the cost of borrowing by regulation. Clause 612(2) also adds new section 347.1(2.2), which clarifies that if section 347 does not apply to a lender before a regulation made under new section 347.1(2.1) comes into force, then

section 347 would continue to not apply to the lender after the regulation comes into force if the total cost of borrowing under the agreement did not exceed the limit that applied before the regulation came into force.

Clauses 613 to 615 are transitional provisions. Clause 613 states that the words and expressions used in clauses 614 and 615 have the same meaning as in sections 347 and 347.1 of the Code.

Clause 614 states that after the change in the definition for "criminal rate" in section 347(2) comes into force, it does not apply in respect of the receipt, on or after that day, of a payment or partial payment of interest that is at a criminal rate, if the payment arises from an agreement to receive interest that was entered into before the change came into force and was not at a criminal rate.

Clause 615 states that section 347.1(2)(a.1) of the Code, as it reads on the day on which clause 612(1) comes into force, does not apply to a person who

- entered into a payday loan agreement to receive interest before that day; or
- on or after that day, receives any payment or partial payment of interest, if the payment arises from a payday loan agreement to receive interest that was entered into before that day.

Clause 616 states that clauses 610 to 612 come into force on days to be fixed by order of the Governor in Council.

2.4.35 Division 35 – Amendment to the *Employment Insurance Act* Regarding Benefits That May Be Paid to Certain Seasonal Workers

Division 35 of Part 4 amends the *Employment Insurance Act*[152] (EIA) to extend temporary provisions allowing certain seasonal workers in regions with very seasonal economies to claim up to five additional weeks of Employment Insurance (EI) regular benefits.[153] These temporary provisions replicate the parameters of a pilot project that was in place from 2018 to 2021, and was developed to help address the challenge many seasonal workers face with seasonal income gaps during their off-season.[154]

Section 12(2.3)(a)(i) of the EIA prescribes the time period during which a seasonal claimant's benefit period must fall in order for that claimant to be eligible for additional weeks of benefits. Clause 617 amends section 12(2.3)(a)(i) to extend the end of the prescribed time period from 28 October 2023 to 26 October 2024, thereby extending the measure allowing certain seasonal workers to access additional weeks of benefits by approximately one year.

2.4.36 Division 36 – Amendments to the *Canadian Environmental Protection Act, 1999* Establishing the Environmental Economic Instruments Fund

The *Canadian Environmental Protection Act, 1999*[155] (CEPA) is one of the principal federal laws for environmental protection in Canada and lays out the framework for managing risks posed by toxic substances to the environment and/or human health. CEPA is divided into 12 parts – Division 36 of Bill C-47 amends sections of Parts 10 (Enforcement) and 11 (Miscellaneous Matters). Clause 622 creates new section 327.1 of CEPA, which establishes the Environmental Economic Instruments Fund and lays out how the Fund will be administered. The Environmental Economic Instruments Fund consists of sub-accounts for funding programs provided for in regulations and under the responsibility of the Minister of Environment. The Government of Canada has indicated that one of these sub-accounts will be designated as a compliance fund for collecting contributions from parties regulated under the *Clean Fuel Regulations*.[156] The *Clean Fuel Regulations* allow regulated parties to discharge up to 10% of their annual compliance requirement by contributing to a funding program that invests in and obtains emissions reductions.

Clauses 618 to 621 amend CEPA to replace the term "tradeable unit" with "compliance unit," which better aligns with the text of the *Clean Fuel Regulations*. Moreover, the Regulatory Impact Analysis Statement included with the *Clean Fuel Regulations* notes that some credits established by the Regulations cannot be traded while others can. The term "compliance unit" therefore is a broader one that encompasses both tradeable and non-tradeable units. Clauses 623 to 624 amend the *Canada Emission Reduction Incentives Agency Act*,[157] repealing the definition of a "compliance unit" in section 2, updating the definition of an "eligible domestic credit" to refer to a compliance unit under section 322 of CEPA, and clarifying the difference between a compliance unit under CEPA and a compliance unit "within the meaning of the Kyoto Protocol."

2.4.37 Division 37 – Amendments to the *Canada Deposit Insurance Corporation Act*

The Canada Deposit Insurance Corporation (CDIC) is a Crown corporation whose mandate is to provide deposit insurance against the loss of eligible deposits at member institutions when a member institution fails. Member institutions include banks, federally regulated credit unions, as well as loan and trust companies.

Section 12 of the *Canada Deposit Insurance Corporation Act*[158] states that CDIC must insure each deposit with a member institution, except for the portion of any deposit exceeding $100,000, among other exclusions.

Clause 626(1) amends section 12(c) so that the deposit insurance limit is the amount set out in section 12.01(1).

Clause 627 adds new section 12.01 to allow the Minister of Finance, with the Governor in Council's authorization, to increase the deposit insurance limit to an amount determined by the minister. The minister may only increase the deposit insurance limit if it is necessary to promote the stability or maintain the efficiency of the Canadian financial system. Before increasing the deposit insurance limit, the minister must consult with the Governor of the Bank of Canada, the Superintendent, the President and Chief Executive Officer of CDIC and the Commissioner of the Financial Consumer Agency of Canada. As soon as feasible after increasing the deposit insurance limit, the minister must publish the new limit in the *Canada Gazette*, and every month during which the new limit is in force, the minister must publish a report and cause it to be tabled in each House of Parliament.

The amendments to section 12(c) and new section 12.01 come into force when Bill C-47 receives Royal Assent. Clauses 626(2), 628 and 630 provide that these provisions are repealed on 30 April 2024 to bring the deposit insurance limit back to $100,000. Clause 629 requires the minister, after that date, to undertake a review of new section 12.01 as it reads on 30 April 2024 and publish a report on the review.

Lastly, clause 625 adds new section 10.001 to clarify that CDIC may administer any contract related to deposit insurance that the minister enters into with any entity under section 60.2 of the *Financial Administration Act*.

2.4.38 Division 38 – Amendments to the *Department of Employment and Social Development Act* Establishing the Employment Insurance Board of Appeal

Division 38 of Part 4 amends Part 5 of the *Department of Employment and Social Development Act* (DESDA) to, among other aspects, establish the Employment Insurance Board of Appeal and make consequential adjustments to the Social Security Tribunal. The Board of Appeal will provide a new first-level process for hearing employment insurance-related appeals, thereby replacing the EI Section of the General Division of the Tribunal.

Currently, under the *Employment Insurance Act*, the first requirement for individuals contesting an EI claim decision is to pursue a reconsideration process with the Canada Employment Insurance Commission (CEIC) (section 112 of the EIA). If a claimant or other person is dissatisfied with a decision made by the CEIC, they can appeal that reconsideration decision to the Tribunal (section 113).

DESDA sets out two levels of appeal to the Tribunal, each of which has its own division: the General Division (first level of appeal) and the Appeal Division (second level of appeal) (section 44(1) of DESDA). The General Division is formed by the EI Section (which handles appeals related to EI matters) and by the Income Security Section (which handles appeals related to Canada Pension Plan and Old Age

Security matters) (section 44(2)). Decisions made by one of the sections of the General Division may be appealed to the Appeal Division (section 55 of the DESDA). Leave to appeal is required in order to make an appeal to the Appeal Division (section 56(1)).

Previous amendments to DESDA to establish a new Board of Appeal were introduced through the *Budget Implementation Act, 2022, No. 1*.[159] However, the relevant provisions were deleted by the House of Commons Standing Committee on Finance in its 1 June 2022 report.[160] Following consultations during the summer of 2022, Bill C-37, An Act to amend the Department of Employment and Social Development Act and to make consequential amendments to other Acts (Employment Insurance Board of Appeal), was introduced in the House of Commons on 14 December 2022.[161] The text of Division 38 of Part 4 of Bill C-47 mirrors the text of Bill C-37.

2.4.38.1 Establishment and Administration of the Employment Insurance Board of Appeal

Clause 633 of Bill C-47 amends Part 5 of DESDA to provide for the establishment of the Board of Appeal under new section 43.01, and to set out its administration under new sections 43.02 to 43.1 of the Act. Notably, the Board of Appeal is to consist of:

- the Executive Head appointed by the Governor in Council on a full-time basis (new section 43.02(1));
- a maximum of six regional coordinators appointed by the Governor in Council on a full-time or part-time basis (new section 43.02(2)); and
- to the extent possible and to reflect the tripartite nature of the Board of Appeal, an equal number of part-time members appointed by the CEIC from employer and worker communities and part-time members appointed by the Governor in Council (new sections 43.03(1) and 43.03(3)).

All of these persons may hold office during pleasure for up to five years with the possibility of reappointment (new sections 43.02(1), 43.02(2) and 43.03(1)). The terms of no more than half of the regional coordinators or of the members of the Board of Appeal may end in any one year (new sections 43.02(2) and 43.03(2)).

The Executive Head has supervision over and direction of the work of the Board of Appeal and is responsible for providing the regional coordinators and the members of the Board of Appeal with training and guidance regarding their duties and functions (new section 43.04(1)). The Executive Head must report regularly to the CEIC on the overall performance of the Board of Appeal (new section 43.04(2)).

Regional coordinators assist the Executive Head and perform any duties and functions assigned by this person (new section 43.04(3)). In particular, regional coordinators are responsible for determining if an extension of time to bring an appeal to the Board of Appeal should be granted, for determining if an appeal before the Board of Appeal has been abandoned, or for hearing an application to reopen an appeal that has been determined to be abandoned (new sections 43.05(2)).

Members of the Board of Appeal are assigned by the Executive Head to a particular region to hear appeals in that region (new section 43.04(5)). An appeal to the Board of Appeal is to be heard before a three-member panel presided by the Governor in Council appointee, with the other two members being the members from employer and worker communities (new section 43.05(1)).

The Executive Head, the regional coordinators and the members of the Board of Appeal are to be paid a salary fixed by the Governor in Council (new section 43.06(1)). They are entitled to be reimbursed for reasonable travel and living expenses incurred while performing their duties, in accordance with Treasury Board directives (new sections 43.06(2) to 43.06(4)).

The Executive Head, the regional coordinators and the members of the Board of Appeal have immunity in civil proceedings for anything done or said in good faith when exercising their actual or purported powers, duties or functions (new section 43.09). In addition, they are not competent or compellable to appear as a witness in any civil proceedings with respect to matters coming to their knowledge while exercising their powers, duties or functions (new section 43.1).

Clauses 665 to 667 are transitional provisions regarding the Vice-Chairperson of the EI Section, as well as the full-time and part-time members of the EI Section. These positions become the full-time regional coordinator, members assigned to the General Division, and part-time members of the Board of Appeal, respectively, when the relevant provisions come into force.

2.4.38.2 Appeal to the Employment Insurance Board of Appeal

Clause 634 of Bill C-47 amends DESDA to establish the process for making appeals to the Board of Appeal through new sections 43.11 to 43.19. Notably, an appeal of a decision made by the CEIC regarding a reconsideration of an EI claim must be brought to the Board of Appeal within 30 days after the appellant receives the decision, or, at the latest, within one year if the Board of Appeal allows it (new sections 43.11(1) and 43.11(2)).

The Board of Appeal may decide any question of law or fact, provided it is not a constitutional law question (new sections 43.12 and 43.18(1)). The Board of Appeal may dismiss the appeal or confirm, rescind or vary a decision of the CEIC or give the decision that the CEIC should have given (new section 43.13(1)).
The Board of Appeal may also determine that an appeal has been abandoned in certain circumstances (new section 43.19(1)). Board of Appeal decisions must be made in writing, and some must include reasons (new sections 43.13(2)) and 43.19(3)).

Other stipulations regarding appeals to the Board of Appeal include the fact that an appeal is to be heard in the appellant's region and in the format selected by the appellant, unless provided otherwise in the regulations (new sections 43.16(1) and 43.16(2)). All or part of a hearing may be held in private (new section 43.16(3)).
A party may choose a representative at their own expense (new section 43.17).
In addition, the Executive Head may authorize any party required to attend a hearing to receive reimbursement of travel or living expenses (new section 43.15).

Clauses 635 to 643 contain a number of other amendments to DESDA to make provisions consistent with the creation of the new Board of Appeal. Notably, clause 635 repeals section 44(2) of DESDA, which provides that the General Division of the Tribunal consists of the Income Security Section and the EI Section.
Transitional provisions regarding ongoing appeals before the EI Section are made through clause 672.

2.4.38.3 Appeal to the Appeal Division of the Social Security Tribunal of a Decision Made by the Employment Insurance Board of Appeal

Clause 644 of Bill C-47 amends DESDA to set out the process for appeals to the Appeal Division of a decision made by the Board of Appeal, under new sections 54.1 to 54.5. Under the new provisions, any decision of the Board of Appeal may be appealed to the Appeal Division within 30 days, or at the latest within one year if the Appeal Division allows it, from the day the decision and reasons were communicated in writing to the appellant (new sections 54.1, 54.2(1) and 54.2(2)).

The grounds of an appeal to the Appeal Division are provided in new section 54.3 of DESDA as follows: the Board failed to observe a principle of natural justice or to properly exercise its jurisdiction; the Board erred in law in making its decision; the Board based its decision on an erroneous finding of fact that it made in a "perverse or capricious manner" or without regard for the material before it; or a question of constitutional law remains to be determined (new section 54.3).

The Appeal Division may dismiss the appeal, give the decision that the Board of Appeal should have given, refer the matter back to the Board of Appeal for reconsideration, or confirm, rescind or vary the decision of the Board of Appeal.

It may also determine a question of constitutional law (new section 54.5(1)). The decision by the Appeal Division must be provided in writing and include reasons (new section 54.5(2)). Related transitional provisions are made in clauses 668 to 671 and 675.

Clauses 645 to 646 amend sections 56 to 57 of DESDA to remove the requirement for leave to appeal decisions relating to the EIA to the Appeal Division. However, leave to appeal will continue to be required for appeals of decisions regarding income security matters, such as Old Age Security and Canada Pension Plan matters. Clause 668 is a transitional provision under which ongoing applications for leave to appeal decisions from the current EI Section of the General Division will automatically become notices of appeal before the Appeal Division when the relevant provisions come into force.

Clause 653 of the bill adds new section 68.01 to require that, upon request, the Board of Appeal provide the Appeal Division with any documents and information necessary to decide an application or appeal. Clauses 673 to 674 are transitional provisions regarding access to documents and information.

2.4.38.4 Additional Matters

Clause 654 adds new section 68.2 to allow the CEIC to make regulations related to the operation of the Board of Appeal, with the approval of the Governor in Council. Clauses 656 to 663 are consequential amendments to other statutes to support the creation of the Board of Appeal. These statutes are the *Federal Courts Act*,[162] the *Labour Adjustment Benefits Act*,[163] the *Income Tax Act* and the EIA. Related transitional provisions are made through clauses 677 to 678.

Clause 679(1) provides for the coming into force of various clauses on a day to be fixed by order of the Governor in Council. These include provisions establishing the processes for making appeals to the Board of Appeal and for bringing appeals of Board of Appeal decisions to the Appeal Division (clauses 634 and 644). Clause 679(2) provides for the coming into force of other clauses, such as the clause repealing the current structure of the General Division (clause 635), on a day to be fixed by order of the Governor in Council. This day, however, must be after the day fixed under clause 679(1). Other clauses not included in the coming into force provisions, such as the clauses setting out the establishment and administration of the Board of Appeal and providing the CEIC with regulation-making powers with respect to the operation of the Board of Appeal (clauses 633 and 654), come into force when Bill C-47 receives Royal Assent.

2.4.39 Division 39 – Amendment to the *Canada Elections Act* Regarding the Collection, Use, Disclosure, Retention and Disposal of Personal Information

Clause 680 adds section 385.2 to the *Canada Elections Act*[164] to create a new regime for the collection, use, disclosure, retention and disposal of personal information by federal registered or eligible political parties as defined in the Act. It requires each party to have and act in accordance with a privacy policy governing how personal information will be protected.

Clause 681 specifies that section 385.2 applies to federal elections where the writ is issued within six months after the day on which Bill C-47 receives Royal Assent.

NOTES

* This Legislative Summary was prepared by the following authors:

- Abu Taleb, Bashar, section 2.4.5;
- Ambrozas, Diana, section 2.4.25;
- Blackmore, Laura, section 2.4.28;
- Capwell, Brett, sections 2.1.9, 2.1.17 and 2.4.3;
- Dodsworth, Sarah, section 2.4.28;
- Farrah, Kelly, sections 2.4.27 and 2.2.29;
- Feldman, Stephanie, sections 2.4.31 and 2.4.39;
- Fleury, Sylvain, sections 2.1.2, 2.1.4 and 2.1.8;
- Fryer, Sara, section 2.4.20;
- Gagnon, Philippe, section 2.4.18;
- Garland, Andrea, sections 2.4.16, 2.4.17 and 2.4.19;
- Ghiaie, Hamed, section 2.4.8;
- Hermon, Brian, section 2.4.10;
- Kachulis, Eleni, sections 2.4.15 and 2.4.35;
- Keenan-Pelletier, Michaela, section 2.4.24;
- Kiarsi, Mehrab, section 2.4.6;
- Lafrenière, Alexandre, sections 2.4.22 and 2.4.23;
- Lambert-Racine, Michaël, sections 2.1.6, 2.1.10, 2.1.16, 2.4.2, 2.4.9 and 2.4.37;
- Lemelin-Bellerose, Sarah, section 2.4.7;
- Malo, Joëlle, sections "Background," 2.1, 2.1.1, 2.1.11, 2.1.14, 2.2.2 and 2.3;
- McGlashan, Lindsay, section 2.4.26;
- Norris, Sonya, section 2.4.21;
- Obale, Offah, section 2.4.4;
- Perez-Leclerc, Mayra, section 2.4.38;
- Preston, Vanessa, sections 2.4.13 and 2.4.14;
- Pu, Shaowei, sections 2.1.5 and 2.4.32;
- Samedy, Rosemonde, sections 2.1.3, 2.1.7, 2.1.12 and 2.1.15;
- Simonds, Katherine and León, Andrés, section 2.4.11;
- Theckedath, Dillan, section 2.4.30;
- van den Berg, Ryan, section 2.4.12;
- Yakabowski, Sarah, section 2.4.36; and
- Yong, Adriane, sections 2.1.13, 2.2.1, 2.2.3, 2.2.4, 2.4.1, 2.4.33 and 2.4.34.

1. Bill C-47, An Act to implement certain provisions of the budget tabled in Parliament on March 28, 2023, 44th Parliament, 1st Session.
2. Department of Finance Canada, *A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future*, Budget 2023.
3. *Income Tax Act* (ITA), R.S.C., 1985, c. 1 (5th Supp.).
4. Government of Canada, "Electronic Filing and Certification of Tax and Information Return," *Budget 2021 – Tax Measures: Supplementary Information, Annex 6: Tax Measures – Supplementary Information*.
5. *Tax Rebate Discounting Act*, R.S.C., 1985, c. T-3.
6. Department of Finance Canada, *Explanatory Notes Relating to the Income Tax Act and Other Legislation*, April 2023, pp. 7, 52 and 127.
7. *Income Tax Regulations*, C.R.C., c. 945.
8. *Excise Tax Act*, R.S.C., 1985, c. E-15.
9. *Electronic Filing and Provision of Information (GST/HST) Regulations*, SOR/2010-150.
10. Department of Finance Canada, *Explanatory Notes Relating to the Income Tax Act and Other Legislation*, April 2023, p. 52.
11. Ibid., p. 96.
12. *Air Travellers Security Charge Act*, S.C. 2002, c. 9, s. 5.
13. *Excise Act, 2001*, S.C. 2002, c. 22.
14. *Greenhouse Gas Pollution Pricing Act*, S.C. 2018, c. 12, s. 186.
15. The term used is "designated financial institution." Its definition in new section 160.5(1) of the ITA refers to the definition provided under section 153(6) of the ITA.
16. It should be noted that all these acts already imposed the requirement to pay all amounts of $50,000 or more to one of the institutions identified.
17. This amount is $1,000, indexed since 2007 under section 117.1 of the ITA.
18. Department of Finance Canada, Bill C-47, Overviews Binder, p. 5.
19. Crown-Indigenous Relations and Northern Affairs Canada, *Settlement Agreement reached in Band Class Litigation*.
20. Government of Canada, "Mandatory Disclosure Rules," *Budget 2021 – Tax Measures: Supplementary Information*, Annex 6: Tax Measures – Supplementary Information. These changes stem from recommendations made by the Organisation for Economic Co-operation and Development and the Group of 20 with respect to Action 12 of the Base Erosion and Profit Shifting Project. Budget 2021 had announced changes to the rules provided by the ITA around the mandatory disclosure of certain transactions and a consultation on this matter. The Government of Canada later launched another consultation following legislative proposals published on 4 February 2022.
21. For example, this would therefore exclude trade secrets that do not relate to tax: Department of Finance Canada, *Explanatory Notes Relating to the Income Tax Act and Other Legislation*, April 2023, p. 70.
22. Note that clause 68(1) repeals the definition of "solicitor-client privilege," which is provided under current section 237.3(1) of the ITA.
23. To determine the carrying value of assets, new section 237.3(8.2) refers to sections 181(3)(a) and 181(3)(b) of the ITA, which applied for the computation of tax for large corporations provided in Part I.3 of the ITA. This tax was eliminated for the years after 2006.
24. Government of Canada, "Mandatory Disclosure Rules," *Budget 2021 – Tax Measures: Supplementary Information*, Annex 6: Tax Measures – Supplementary Information.
25. Note that these designations, provided by new section 237.4(3) of the ITA, are made in the manner as the Minister for National Revenue "considers appropriate." As a result, this may be done on the "Canada Revenue Agency webpages," for example: Department of Finance Canada, *Explanatory Notes Relating to the Income Tax Act and Other Legislation*, April 2023, p. 84.

26. As defined in section 245(1) of the ITA for the purposes of the application of the general anti-avoidance rule.

27. This is commonly known as due diligence. Section 237.3(11) of the ITA on reportable transactions and new section 237.5(6) of the ITA on reportable tax treatments, for their part, provide that a person is not liable to a penalty prescribed when the person has exercised due diligence.

28. Government of Canada, "Mandatory Disclosure Rules," *Budget 2021 – Tax Measures: Supplementary Information*, Annex 6: Tax Measures – Supplementary Information.

29. To determine the carrying value of assets, new section 237.5(9) refers to sections 181(3)(a) and 181(3)(b) of the ITA, which applied for the computation of tax for large corporations provided in Part I.3 of the ITA. This tax was eliminated for the years after 2006.

30. Section 152(3.1)(a) of the ITA, to which new sections 152(4)(b.5) to 152(4)(b.7) of the ITA refer, provides that the time limit is four years for mutual funds trusts and corporations other than Canadian-controlled private corporations and three years in all other instances.

31. Section 237.3(7) and new sections 237.4(11) and 237.5(4) of the ITA also provide for this.

32. Government of Canada, "Tax Fairness and Effective Government," *Budget 2022*.

33. Government of Canada, "Exchange of Tax Information on Digital Economy Platform Sellers," *Budget 2022 – Tax Measures: Supplementary Information*.

34. Organisation for Economic Co-operation and Development, *Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy*, 2021.

35. With respect to reportable sellers that have provided relevant services, information required to be collected is listed in new section 284 of the ITA.

36. Unless the exception provided in new section 291(3) of the ITA applies.

37. Note that the definitions of "platform operator" and "platform" are provided in new section 282(1) of the ITA. Exceptions are also indicated under the definition of "excluded platform operator" under the same section.

38. Note, however, that a reporting platform operator resident in a "partner jurisdiction," as defined in new section 282(1) of the ITA, must elect to be subject to the new rules.

39. Note that the seller must be an "active seller" and must not be an "excluded seller" as these terms are defined in section 282(1) of the ITA.

40. New section 282(1) of the ITA provides a definition of the term "government verification service."

41. Government of Canada, "Exchange of Tax Information on Digital Economy Platform Sellers," *Budget 2022 – Tax Measures – Supplementary Information*.

42. Clauses 5(2), 6(2), 9, 13, 20(1), 24, 32, 49(3), 67 and 74 amend sections 13(42)(a), 15(5), 44(1)(c) and 44(1)(d), 63(2.3)(c), 95(2)(b), 110.6(1), 125(7), 152(4)(b)(ii), 237(1)(b) and 249.1(1) of the ITA, respectively.

43. Bill C-47, An Act to implement certain provisions of the budget tabled in Parliament on March 28, 2023, 44th Parliament, 1st Session, Summary Part 1 q).

44. Canada Revenue Agency, *GST/HST Technical Information Bulletin B-032 – Expenses Related to Pension Plans*, 2015.

45. Canada Revenue Agency, *GST/HST Notices – Notice 261: Information Required for Tax Adjustment Notes Issued by an Employer to a Pension Entity and the Consequential Notices Issued by the Pension Entity*, 2010.

46. Ibid., 2010.

47. Department of Finance Canada, *Explanatory Notes Relating to the Goods and Services Tax/Harmonized Sales Tax, Excise Duties and the Air Travellers Security Charge*, April 2023, pp. 8–9.

48. *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations*, SOR/2001-171.

49. Department of Finance Canada, *Explanatory Notes Relating to the Goods and Services Tax/Harmonized Sales Tax, Excise Duties and the Air Travellers Security Charge*, April 2023, p. 12.

50. Ibid., p. 21.

51. *Excise Act*, R.S.C., 1985, c. E-14.

52. Government of Canada, "Air Travellers Security Charge," *Budget 2023 – Tax Measures: Supplementary Information*.

53. *Bank Act*, S.C. 1991, c. 46.

54. *Financial Consumer Agency of Canada Act*, S.C. 2001, c. 9.

55. *Financial Consumer Protection Framework Regulations*, SOR/2021-181.

56. *Pension Benefits Standards Act, 1985*, R.S.C. 1985, c. 32 (2nd Supp.).

57. *Pooled Registered Pension Plans Act*, S.C. 2012, c. 16.

58. House of Commons, Standing Committee on Finance, *Evidence*, 1st Session, 44th Parliament, Meeting 86, 27 April 2023, 1255 (Ms. Kathleen Wrye, Director, Pensions Policy, Financial Sector Policy Branch, Department of Finance).

59. *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17.

60. *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism*, SOR/2001-360.

61. *Special Economic Measures Act*, S.C. 1992, c. 17.

62. *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*, S.C. 2017, c. 21.

63. *Budget Implementation Act, 2021, No. 1*, S.C. 2021, c. 23.

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

65. *Parliament of Canada Act*, R.S.C., 1985, c. P-1.

66. *Mutual Legal Assistance in Criminal Matters Act*, R.S.C., 1985, c. 30 (4th Supp.).

67. *Seized Property Management Act*, S.C. 1993, c. 37.

68. The Government of Canada established the General Preferential Tariff program in 1974. It currently gives tariff preferences to 106 developing countries. The preferences, which take the form of reduced tariff rates, cover all goods except apparel and textile products, footwear, certain agricultural products and certain steel products. See: Government of Canada, *Consultation on the Renewal of Canada's Tariff Preference Programs for Developing Countries*.

69. The Government of Canada established the Least Developed Country Tariff program in 1983. The program currently applies to 49 least developed countries and provides duty-free treatment for all imports from these countries except for certain agricultural products.

70. *Customs Tariff*, S.C. 1997, c. 36.

71. World Trade Organization (WTO) agreements state that a WTO member must treat all other WTO members equally as "most-favoured" trading partners. Article 1 of *The General Agreement on Tariffs and Trade* stipulates that, if a WTO member applies a lower tariff rate on or provides more advantageous regulatory treatment to any product of another WTO member, then it must apply this same tariff rate on or provide this regulatory treatment to "like products originating in or destined for" the territories of all other WTO members.

72. *Most Favoured Nation Withdrawal Order (2022-1)*, SOR/2022-35.

73. *Most Favoured Nation Withdrawal Order (2022-2)*, SOR/2022-229.

74. Goods of tariff item No. 2844.43.00 of the Schedule to the *Customs Tariff* are: 28.44 "Radioactive chemical elements and radioactive isotopes (including the fissile or fertile chemical elements and isotopes) and their compounds," as well as "mixtures and residues containing" radioactive chemical elements and radioactive isotopes; and 2844.43.00 "Other radioactive elements and isotopes and compounds, as well as other alloys, dispersions (including cermets), ceramic products and mixtures containing these elements, isotopes or compounds."

75. Bank of Canada, *Understanding quantitative easing*, 6 June 2022.

76. Department of Finance Canada, *A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future*, Budget 2023, p. 254.

77. *Bank of Canada Act*, R.S.C. 1985, c. B-2.

78. Department of Finance Canada, *Budget 2023 – A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future*, Ottawa, 2023.

79. Department of Finance Canada, *Government releases blueprint for Canada Innovation Corporation*, News release, 16 February 2022.

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

81. Bill C-46, An Act to amend the Federal-Provincial Fiscal Arrangements Act and the Income Tax Act, 44th Parliament, 1st Session.

82. *Privileges and Immunities (North Atlantic Treaty Organisation Act*, R.S.C., 1985, c. P-24.

83. Upon ratifying the *Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty* (the Paris Protocol), the ratifying country deposits its instruments of accession with the protocol's depository: the United States. The protocol enters into force for the ratifying country 30 days after the date on which its instruments of accession are deposited. See United States, Department of State, *05. Protocol on the Status of International Military Headquarters set Up Pursuant to the North Atlantic Treaty, done at Paris August 28, 1952*.

84. North Atlantic Treaty Organization (NATO), *NATO-Accredited Centres of Excellence: 2023 Catalogue*, 2023.

85. See Government of Canada, *NATO Climate Change and Security Centre of Excellence*; and NATO, *Centres of Excellence*.

86. NATO, *Agreement on the status of the North Atlantic Treaty Organization, National Representatives and International Staff signed in Ottawa*, signed on 20 September 1951.

87. NATO, *Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty*.

88. The *North Atlantic Treaty* is the legal basis of NATO. See NATO, *Founding treaty*; and NATO, *The North Atlantic Treaty*, signed on 4 April 1949.

89. *Service Fees Act*, S.C. 2017, c. 20, s. 451.

90. *Canadian Food Inspection Agency Act*, S.C. 1997, c. 6.

91. *Canada Pension Plan*, R.S.C., 1985, c. C-8.

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

93. Government of Canada, "Social Insurance Number Register (PIB)," *Detailed content, institution-specific classes of records (CoR) and personal information banks (PIB)*.

94. Government of Canada, "Annex 3: Legislative Measures," *A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future*, Budget 2023.

95. Employment and Social Development Canada, *Social Insurance Number: Reporting a death*.

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

97. Part III of the *Canada Labour Code,* which establishes, among other things, various types of leave, applies to workers in the federally regulated private sector. This includes industries such as air transportation, banks, telecommunications, and port services. It also includes First Nations Band Councils and most federal Crown corporations. It does not, however, include the federal public service or parliament. For more information, see Employment and Social Development Canada (ESDC), *Overview of the parts of the Canada Labour Code and how they apply to your workplace*.

98. These changes followed the approval of the Minister of Employment, Workforce Development and Disability Inclusion under the Treasury Board Policy on Transfer Payments. Government of Canada, *Policy on Transfer Payments*, s. 5.3.4; and ESDC, *Canadian Benefit for Parents of Young Victims of Crime: What these benefits offer*.

99. *Immigration and Refugee Protection Act* (IRPA), S.C. 2001, c. 27.

100. An officer is a person who is designated by the Minister of Immigration, Refugees and Citizenship to carry out any purpose of any provision of IRPA (see section 4(6)(1)). In this context, officer is likely referring to immigration officers, or border services officers working for the Canada Border Services Agency.

101. Immigration, Refugees and Citizenship Canada, *Global cap for sponsorship agreement holders*.

102. Department of Finance Canada, Bill C-47 Overviews Binder, p. 49; Department of Finance Canada, *A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future*, Budget 2023, p. 250; and ESDC, *Members of the Task Force on Services to Canadians, Ministers Ien, Miller, Gould, Alghabra and Fraser, provide an update on recent work to improve government services for Canadians*, News release, 29 August 2022.

103. *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 87.3(3)(c).

104. *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 87.3(2).

105. *College of Immigration and Citizenship Consultants Act*, S.C. 2019, c. 29, s. 292.

106. *Citizenship Act*, R.S.C. 1985, c. C-29.

107. Department of Finance Canada, Bill C-47 Overviews Binder, p. 54.

108. An evaluation of the citizenship program published in July 2020 reported that 94.6% of processed applications for a grant of citizenship were successful on their first application. This data was collected from permanent residents who landed in Canada between 2005 and 2015 and with a final decision on their citizenship application by 31 December 2018. Immigration, Refugees and Citizenship Canada, *Evaluation of the Citizenship Program*, July 2020, p. 25.

109. Department of Finance Canada, *A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future*, Budget 2023, pp. 149 and 250.

110. *Yukon Act*, S.C. 2002, c. 7.

111. Government of Yukon, *Waters Act*, SY 2003, c. 19, s. 37.

112. Government of Canada, *Yukon devolution*; and Government of Canada and Government of Yukon, *Yukon Northern Affairs Program Devolution Transfer Agreement*, 2001.

113. Government of Canada, *What's the Big Picture: Yukon's Large Contaminated Sites*, 2008.

114. Government of Canada, *What's the Big Picture: Yukon's Large Contaminated Sites*, 2008; and Government of Canada and Government of Yukon, *Yukon Northern Affairs Program Devolution Transfer Agreement*, 2001, s. 6.56.1.

115. Government of Canada, Bill C-47 Overviews Binder and Questions and Answers Binder, 2023.

116. Government of Canada, *Oceans Protection Plan*.

117. *Marine Liability Act*, S.C. 2001, c. 6.

118. United Nations, *United Nations Convention of the Carriage of Goods by Sea, 1978 (Hamburg Rules)*.

119. International Maritime Organization, *International Convention on Civil Liability for Bunker Oil Pollution Damage (BUNKER)*. Also see Government of Canada, *Civil liability for bunker oil pollution damage: Bunkers Convention*.

120. *Ship-source Oil Pollution Fund*.

121. International Maritime Organization, *Convention on Limitation of Liability for Maritime Claims (LLMC)*. Also see Transport Canada, *Marine liability and compensation: Limitation of liability for maritime claims*.

122. *Canada Shipping Act, 2001*, S.C. 2001, c. 26.

123. *Oil Tanker Moratorium Act*, S.C. 2019, c. 26.

124. *Wrecked, Abandoned or Hazardous Vessels Act*, S.C. 2019, c. 1.

125. *Canada Transportation Act*, S.C. 1996, c. 10.

126. *Air Passenger Protection Regulations*, SOR/2019-150.

127. In its decision *International Air Transport Association v. Canadian Transportation Agency*, 2022 FCA 211, the Federal Court of Appeal invalidated section 23(2) of the *Air Passenger Protection Regulations*, which established compensation requirements for the temporary loss of baggage. The Court ruled that this section went beyond the scope of the Canadian Transportation Agency's authority for creating regulations, as established by the *Canada Transportation Act*.

128. *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.).

129. Canada Border Services Agency, *NEXUS program*.

130. *Quarantine Act*, S.C. 2005, c. 20.

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

132. Department of Finance Canada, *Fall Economic Statement 2022*, 3 November 2022, p. 34.

133. *Patent Act*, R.S.C. 1985, c. P-4.

134. Department of Finance Canada, *A Made-in-Canada Plan: Strong Middle Class Affordable Economy Healthy Future*, Budget 2023, p. 261.

135. According to a regulatory impact analysis on certain related changes to the *Patent Rules* published in the *Canada Gazette* in July 2021, *Part 1, Volume 155, Number 27: Rules Amending the Patent Rules*, the efficient processing of a patent is a shared responsibility between the Canadian Intellectual Property Office (CIPO) and a patent applicant. As such, changes to the *Patent Rules* introduced fees aimed at "encouraging applicants to file applications that are compliant with the Canadian patent system, to address known defects as soon as possible and to ensure the timely and efficient processing of patent applications, by applicants."

136. CIPO, *File a Canadian patent application: Request examination*.

137. CIPO, *Performance targets 2022–2023*.

138. *Food and Drugs Act*, R.S.C. 1985, c. F-27.

139. *Canada Post Corporation Act*, R.S.C. 1985, c. C-10.

140. *R. v. Gorman*, 2022 NLSC 3.

141. Canada Post, *Non-mailable matter*.

142. Ibid.

143. *Royal Style and Titles Act*, R.S.C. 1985, c. R-12, s. 2.

144. Government of Canada, "2.1 Leading Economic Growth and Innovation," *Budget 2022 – Chapter 2: A Strong, Growing, and Resilient Economy*.

145. Department of Finance Canada, "3.2 A Growing, Clean Economy," *A Made-In-Canada Plan: Affordable Energy, Good Jobs, and a Growing Clean Economy*, Budget 2023.

146. *Public Sector Pension Investment Board Act*, S.C. 1999, c. 34.

147. *Fall Economic Statement Implementation Act, 2022*, S.C. 2022, c. 19.

148. *Office of the Superintendent of Financial Institutions Act*, R.S.C. 1985, c. 18 (3rd Supp.), Part I.

149. *Trust and Loan Companies Act*, S.C. 1991, c. 45.

150. *Insurance Companies Act*, S.C. 1991, c. 47.

151. *Winding-up and Restructuring Act*, R.S.C. 1985, c. W-11.

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

153. Under the Employment Insurance (EI) program, EI regular benefits are available to eligible persons who lose their jobs through no fault of their own and are able and available to work. ESDC, *EI regular benefits*.

154. ESDC, *Evaluation of the Employment Insurance Seasonal Claimant Pilot Project (Pilot Project No. 21)*, p. 12. Under the pilot, eligible regions were selected based on their share of seasonal EI claims among all labour force participants and their average regional unemployment rate.

155. *Canadian Environmental Protection Act, 1999*, S.C. 1999, c. 33.

156. *Clean Fuel Regulations*, SOR/2022-140. See Department of Finance Canada, *A Made-in-Canada Plan: Strong Middle Class Affordable Economy Healthy Future*, Budget 2023, p. 248.

157. *Canada Emissions Reduction Incentives Agency Act*, S.C. 205, c. 30, s. 81.

158. *Canada Deposit Insurance Corporation Act*, R.S.C. 1985, c. C-3.

159. Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures, 44th Parliament, 1st Session (first reading version).

160. House of Commons, Standing Committee on Finance, *Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures*, Fourth report, 1 June 2022.

161. Bill C-37, An Act to amend the Department of Employment and Social Development Act and to make consequential amendments to other Acts (Employment Insurance Board of Appeal), 44th Parliament, 1st Session (first reading version). See also ESDC, *Government of Canada introduces bill to create Employment Insurance Board of Appeal*, News release, 14 December 2022.

    For additional information about Bill C-37, see Eleni Kachulis and Mayra Perez-Leclerc, *Legislative Summary of Bill C-37: An Act to amend the Department of Employment and Social Development Act and to make consequential amendments to other Acts (Employment Insurance Board of Appeal)*, Preliminary (unedited) version, Library of Parliament, 1 February 2023.

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

163. *Labour Adjustment Benefits Act*, R.S.C. 1985, c. L-1.

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