

# PRELIMINARY VERSION

## UNEDITED

The preliminary version of this legislative summary is made available to parliamentarians, parliamentary staff and the public to ensure timely access to the information, research and analysis needed to study the bill in question. The official version of the legislative summary, which may differ from this unedited version, will replace this document on the Parliament of Canada website.



## Legislative Summary

# BILL C-56: AN ACT TO AMEND THE EXCISE TAX ACT AND THE COMPETITION ACT

44-1-C56-E

**10 October 2023**

Dana Fan and Joëlle Malo

Research and Education

# PRELIMINARY VERSION

## UNEDITED

### AUTHORSHIP

10 October 2023	Dana Fan	Economics, Resources and Environment
	Joëlle Malo	Economics, Resources and Environment

### ABOUT THIS PUBLICATION

Library of Parliament legislative summaries summarize bills currently before Parliament and provide background information about them in an objective and impartial manner. They are prepared by Research and Education, which carries out research for and provides information and analysis to parliamentarians, Senate and House of Commons committees and parliamentary associations. Legislative summaries are revised as needed 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.

Any substantive changes to this Library of Parliament legislative summary that have been made since the preceding issue are indicated in **bold print**.

© Library of Parliament, Ottawa, Canada, 2023

*Legislative Summary of Bill C-56*  
(Preliminary version)

44-1-C56-E

Ce document est également publié en français.

## CONTENTS

1	BACKGROUND .....	1
1.1	Rental Housing Affordability in Canada.....	1
1.2	State of Competition.....	2
2	DESCRIPTION AND ANALYSIS.....	3
2.1	Amendments to the <i>Excise Tax Act</i> .....	3
2.2	Amendments to the <i>Competition Act</i> .....	4
2.2.1	Inquiry by the Commissioner of Competition (Clauses 3 to 7 and 11).....	4
2.2.2	Orders Relating to Anti-competitive Agreements or Arrangements (Clause 8) .....	5
2.2.3	Efficiencies Exception for Mergers (Clauses 9 and 10).....	5
2.2.4	Transitional Provision (Clause 12) .....	5
2.2.5	Coming into Force (Clause 13) .....	6

## LEGISLATIVE SUMMARY OF BILL C-56: AN ACT TO AMEND THE EXCISE TAX ACT AND THE COMPETITION ACT

---

### 1 BACKGROUND

Bill C-56, An Act to amend the Excise Tax Act and the Competition Act (short title: Affordable Housing and Groceries Act),<sup>1</sup> was introduced in the House of Commons on 21 September 2023 by the Deputy Prime Minister and Minister of Finance and received first reading that same day.

Bill C-56 has two parts:

- Part 1 amends the *Excise Tax Act* (ETA)<sup>2</sup> to temporarily enhance the goods and services tax (GST) new residential rental property rebate in respect of new purpose-built rental housing.
- Part 2 amends the *Competition Act*<sup>3</sup> to promote competition, particularly in the grocery sector.

This legislative summary provides a brief description of the key amendments proposed in Bill C-56.

#### 1.1 RENTAL HOUSING AFFORDABILITY IN CANADA

In 2021, as part of a research project on housing, the Canada Mortgage and Housing Corporation (CMHC) sought to determine whether financial considerations could explain, at least in part, the modest growth of purpose-built rental housing in Canada. In the conclusions in its report, CMHC found that:

- Traditional financial performance indicators do not support the development of private-market, purpose-built rentals in the six Canadian markets studied.  
...
- [L]and costs remain a prohibitive cost to financial performance.  
...
- [M]arket rents are rarely sufficient to cover the development and construction costs of projects, regardless of the project size, location, and quality of the finishes.<sup>4</sup>

Two years later, in its *Rental Market Report*,<sup>5</sup> CMHC found that, while the supply of rental housing had grown sharply, demand had outpaced it across Canada. As a result, vacancy rates for “purpose-built rental apartments”<sup>6</sup> had dropped so low that CMHC called it a “near-historic low.”<sup>7</sup> The report noted that the tighter rental market drove rent growth to “a new high.”<sup>8</sup> CMHC also presented new data on the effects of tenant turnover on average rent for two-bedroom units, reporting that it makes existing rental units even more unaffordable in most regions. It further emphasized that tenants with the lowest incomes are especially affected by the lack of affordable housing.

This is the background to Bill C-56, which the government states will “incentivize the construction of more apartment buildings, student housing, and senior residences.”<sup>9</sup>

## 1.2 STATE OF COMPETITION

From 17 November 2022 to 31 March 2023, the Government of Canada undertook public consultations with stakeholders and citizens on the future of Canada’s competition policy.<sup>10</sup> On 20 September 2023, Innovation, Science and Economic Development Canada released a summary of the consultation. The document summarizes concerns over the “undue amount of power within and control over markets” held by select corporations and includes feedback received on reform proposals, including for merger provisions.<sup>11</sup> To that end, Part 2 of Bill C-56 aims to enhance competition. While not limited to the grocery sector, these provisions speak to concerns of stakeholders and the general public more broadly about market dominance in this area. The objective is to foster more competition which could lead to lower prices and encourage innovation. According to the Government of Canada, the proposed amendments to the *Competition Act* will:

- provide more authority to the Competition Bureau to investigate unfair industry behaviours and take enforcement action, for example in relation to price fixing or gouging;
- enable the Competition Bureau to prevent big grocery stores from impeding smaller competitor stores from opening nearby; and
- remove the efficiencies defence under section 96 of the *Competition Act* to end anti-competitive mergers that raise prices and limit consumers’ choices.<sup>12</sup>

## 2 DESCRIPTION AND ANALYSIS

### 2.1 AMENDMENTS TO THE *EXCISE TAX ACT*

The ETA provides for several rebates on the GST payable in certain transactions involving real or immovable property, including a rebate for new rental residential property<sup>13</sup> (existing measure).

Announced in Budget 2000,<sup>14</sup> the existing measure generally applies to the GST payable or deemed paid by a person who:

- is not the builder and purchases residential property<sup>15</sup> from another person; or
- is the builder of the residential property or an addition to the residential property containing at least two residential units<sup>16</sup> and transfers ownership of a residential unit in the property to another person under a residential lease.

Such a person is generally entitled to a maximum rebate equal to 36% of the GST payable or deemed paid, provided that the fair market value of the residential property or each residential unit, as the case may be, is less than \$450,000.

Clause 2(2) of the bill amends section 256.2 of the ETA<sup>17</sup> to enhance the amount of the rebate under the existing measure in certain situations (enhanced amount).

First, according to the new section 256.2(3.1) of the ETA, the sale must be of “purpose-built rental housing,” as defined in the regulations.<sup>18</sup> Second, the construction or last substantial renovation of the residential property or addition, or alteration necessary to effect the conversion, as the case may be, must begin after 13 September 2023, but before 2031, and be substantially completed before 2036. Finally, the requirements set out in the regulations must also be met.<sup>19</sup> Of note, these new conditions apply in addition to the conditions under the existing measure. In other words, a person must be entitled to the rebate under the existing measure to benefit from the enhanced amount.

In this case, under new section 256.2(3.2) of the ETA, the amount of the rebate to which a person is entitled is generally equal to the total GST payable or deemed paid,<sup>20</sup> regardless of the fair market value of the property or units in question. As a result, this amendment “remov[es] the GST on new rental housing construction across the country.”<sup>21</sup> As an example, “for a two-bedroom rental unit valued at \$500,000, the enhanced GST Rental Rebate would deliver \$25,000 in tax relief.”<sup>22</sup>

Clause 2(1) of the bill consequentially amends the portion of section 256.2(3) of the ETA before the first formula to add a reference to new section 256.2(3.1) of the ETA.

In addition, clause 2(3) of the bill provides special consideration for “public service bodies.”<sup>23</sup> Generally, a person is not entitled to one of the rebates provided for in section 256.2 of the ETA if they are entitled to a rebate under certain other sections of the ETA.

Section 256.2(9.1) is added to the ETA so public service bodies can be entitled to the enhanced amount. This section amends the restriction in section 256.2(9) of the ETA, allowing public service bodies to claim a rebate under the existing measure rather than the rebate provided for in section 259 of the ETA.

As per clause 2(4) of the bill, all of these amendments are deemed to have come into force on 14 September 2023.

## 2.2 AMENDMENTS TO THE *COMPETITION ACT*

### 2.2.1 Inquiry by the Commissioner of Competition (Clauses 3 to 7 and 11)

Clause 3 of Bill C-56 introduces new section 10.1 to the *Competition Act*, which, subject to consultation with the Commissioner of Competition (section 10.1(2)), allows the Minister of Industry to direct the Commissioner to conduct an inquiry into the state of competition in a market or industry if it is in the public interest (section 10.1(1)).

Should the Minister direct the Commissioner to conduct the inquiry under new section 10.1 of the *Competition Act*, the Commissioner must:

- prepare and publish proposed terms of reference, with a minimum 15-day public consultation period (section 10.1(3));
- submit its final terms of reference, after taking public comments into account, to the Minister for approval, and publish them once approved (section 10.1(4));
- complete the inquiry and publish a report on its findings within 18 months of the date of publication of the final terms of reference (section 10.1(5)), subject to extension by the Minister for periods of up to three months (section 10.1(6)); and
- prior to the publication of the report, send to any person having been subject to an order made under section 11(1) of the *Competition Act* a complete or partial draft of the report and provide them three business days to bring forward any factual inaccuracies or confidential information that should not be disclosed in the final report (section 10.1(7)).

Clauses 4, 5, 6, 7 and 11 of the bill respectively amend sections 11(1), 21, 29.1(2)(b), 29.2(2)(b) and 124.2(1) of the *Competition Act* to include the application of new section 10.1, and in doing so, extend the Commissioner’s investigative and enforcement powers.

2.2.2 Orders Relating to Anti-competitive Agreements or Arrangements  
(Clause 8)

Clause 8(1) of the bill adds new section 90.1(1.1) to the *Competition Act* to broaden the scope of Competition Tribunal orders made under the existing section 90.1(1). This amendment creates an exception – by which the Tribunal may prohibit a person from doing anything under the agreement or arrangement, or require a person to take any other action, if it finds that a significant purpose of any part of the agreement or arrangement would prevent or lessen competition in any market – even in the absence of competitors.

Consequently, clause 8(2) amends section 90.1(11) of the *Competition Act* to ascribe the definition of “competitor” to the new exception.

2.2.3 Efficiencies Exception for Mergers  
(Clauses 9 and 10)

According to the Government of Canada, section 96 of the *Competition Act* has been a long-standing issue of contention.<sup>24</sup> It prevents the Competition Tribunal from making an order under section 92 of the *Competition Act* against anti-competitive mergers if they have generated or are likely to generate efficiencies great enough to offset the effects of harm to competition and if such an order would impede the likelihood of these efficiencies. Many stakeholders who were consulted on the future of Canada’s competition policy “felt that an Act allowing anti-competitive transactions undermines the central purpose of competition policy – in which competition itself promotes efficiency over the longer term.”<sup>25</sup>

Clause 10 of the bill repeals section 96 of the *Competition Act* and, to that effect, revokes the exception. Sequentially, clause 9 amends section 92(1) of the *Competition Act* to account for the removal of section 96.

2.2.4 Transitional Provision  
(Clause 12)

Under clause 12 of the bill, the efficiencies exception does not cease to apply to proposed transactions that were notified under section 114 of the *Competition Act* and to mergers that have been substantially completed on the day before section 96 of the *Competition Act* is repealed.



2.2.5 Coming into Force  
(Clause 13)

By virtue of clause 13, clause 8 of the bill (orders relating to anti-competitive agreements or arrangements) comes into force a year after it receives Royal Assent. All other amendments to the *Competition Act* come into force at Royal Assent.

---

NOTES

1. [Bill C-56, An Act to amend the Excise Tax Act and the Competition Act](#), 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, cl. 1.
2. [Excise Tax Act](#) (ETA), R.S.C. 1985, c. E-15.
3. [Competition Act](#), R.S.C. 1985, c. C-34.
4. Canada Mortgage and Housing Corporation, [Purpose-Built Rentals Facing Financial Feasibility Challenges: Archetypical developments yield insufficient returns in selected metropolitan areas](#), December 2021, p. 8.
5. Canada Mortgage and Housing Corporation, [Rental Market Report](#), January 2023.
6. Of note, new section 256.2(3.1) of the ETA uses similar language: “purpose-built rental housing.”
7. Canada Mortgage and Housing Corporation, [Rental Market Report](#), January 2023, p. 6.
8. *Ibid.*, p. 8.
9. Department of Finance Canada, [Government introduces legislation to build more rental homes and stabilize grocery prices](#), News release, 21 September 2023.
10. Government of Canada, [Future of Canada's Competition Policy Consultation – What We Heard Report](#).
11. Government of Canada, “[2. The Role and Functioning of the Competition Bureau](#),” *Future of Canada's Competition Policy Consultation – What We Heard Report*.
12. Department of Finance Canada, [Government introduces legislation to build more rental homes and stabilize grocery prices](#), News release, 21 September 2023.
13. Section 256.2(3) of the ETA.
14. Department of Finance Canada, [Better finances, better lives](#), Budget of 2000, p. 270.
15. Many conditions need to be fulfilled, see definitions for “residential complex” and “residential unit” in section 123(1) of the ETA, and “qualifying residential unit” and “self-contained residence” in section 256.2(1) of the ETA. The residential units in the property must either be rooms in a residence for students, seniors, individuals with a disability or other individuals or contain private kitchen facilities, a private bath and a private living area, among other conditions.
16. *Ibid.*
17. [Excise Tax Act](#), R.S.C. 1985, c. E-15.
18. Of note, Bill C-56 contains no regulatory provisions to this effect.
19. Of note, Bill C-56 contains no regulatory provisions to this effect.
20. The amount of the rebate depends on the type of unit (element B of the formula in new section 256.2(3.2) of the ETA). A “residential condominium unit,” as defined in section 123(1) of the ETA, qualifies for a rebate equal to the full amount of the GST payable or deemed paid. In all other cases, the amount of the rebate is proportional to the “percentage of total floor space,” as defined in section 256.2(1) of the LTA.
21. Department of Finance Canada, [Government introduces legislation to build more rental homes and stabilize grocery prices](#), News release, 21 September 2023.
22. *Ibid.*

# PRELIMINARY VERSION

UNEDITED

23. According to section 123(1) of the ETA, a “public service body” means a non-profit organization, a charity, a municipality, a school authority, a hospital authority, a public college or a university.
24. Government of Canada, [“Efficiencies Exception,”](#) *Future of Canada’s Competition Policy Consultation – What We Heard Report*.
25. Ibid.