

**AMENDMENTS TO THE *INCOME TAX ACT*  
AND RELATED REGULATIONS**

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**Part 1****A. Lifetime Capital Gains Exemption (LCGE)**

To increase the rewards of investing in small business, and to make it easier for owners to transfer their businesses to the next generation of Canadians, this measure will increase the LCGE by \$50,000 so that it will apply on up to \$800,000 of capital gains realized by an individual on qualifying property, effective for the 2014 taxation year. In addition, the LCGE will be indexed to inflation for taxation years after 2014.

The new LCGE limit will apply for all individuals, even those who have previously used the LCGE.

**B. Registered Pension Plans (RPPs): Correcting Contribution Errors**

This measure allows administrators of RPPs to make refunds of contributions in order to correct reasonable errors without first obtaining approval from the Canada Revenue Agency as long as the refund is made no later than December 31 of the year following the year in which the inadvertent contribution was made.

This measure applies in respect of RPP contributions made on or after the later of January 1, 2014 and the date of Royal Assent.

**C. Reassessment Period for Reportable Transactions and Tax Shelters**

To ensure that the Canada Revenue Agency has the information necessary for a proper audit of a tax shelter or reportable transaction, this measure extends the normal reassessment period where an information return that is required is not filed on time. Specifically, the normal reassessment period in respect of the tax shelter or reportable transaction will be extended to three years after the date that the relevant information return is filed.

This measure applies to taxation years that end after March 20, 2013.

**D. Labour-Sponsored Venture Capital Corporations (LSVCCs)**

In order to eliminate an inefficient and ineffective tax subsidy, this measure phases out the federal LSVCC tax credit.

The federal LSVCC tax credit will remain at 15% when it is claimed for a taxation year that ends before 2015 and will be reduced to 10% for the 2015 taxation year and 5% for the 2016 taxation year. The federal LSVCC tax credit will be eliminated for the 2017 and subsequent taxation years.

The measure also ends new federal LSVCC registrations as well as the prescription of new provincially registered LSVCCs for tax purposes.

An LSVCC will not be federally registered if the application for registration is received after March 20, 2013. A provincially registered LSVCC will not be prescribed for purposes of the federal LSVCC tax credit unless the application was submitted before March 21, 2013.

#### **E. Character Conversion Transactions**

Certain financial arrangements (character conversion transactions) seek to reduce tax by converting, through the use of derivative forward agreements, the returns on an investment that would have the character of fully taxable ordinary income to capital gains, only 50% of which are included in income.

To ensure the appropriate tax treatment of these derivative-based returns on a derivative forward agreement, this measure proposes to treat these returns as being distinct from the disposition of capital property that is purchased or sold under the agreement.

This measure generally applies to derivative forward agreements entered into after March 20, 2013.

#### **F. Synthetic Dispositions**

Certain financial arrangements (synthetic disposition transactions) seek to defer tax or obtain other tax benefits by allowing a taxpayer to economically dispose of a property while continuing to own it for income tax purposes.

To ensure that taxpayers cannot avoid paying their fair share by disposing of a property by entering into a synthetic disposition transaction, this measure treats certain transactions as dispositions at fair market value for income tax purposes. The property is then deemed to have been reacquired at a cost equal to its fair market value.

The measure also provides that if a taxpayer is deemed to have disposed of and reacquired a property, the taxpayer will be considered to not own the property for the purposes of determining whether the taxpayer meets certain holding-period tests in the *Income Tax Act*.

This measure generally applies to agreements and arrangements entered into after March 20, 2013.

### **G. Trust Tax Attributes**

To address trust-related transactions that purport to enable one taxpayer to access the unused losses of another taxpayer, this measure extends to trusts the loss-streaming and related rules that currently apply to the acquisition of control of a corporation.

The measure triggers the application of loss-streaming and related rules to a trust if the trust is subject to a “loss restriction event”. A trust will be subject to a loss restriction event when a person or partnership becomes a majority-interest beneficiary of the trust or a group becomes a majority-interest group of beneficiaries of the trust. Existing rules that deem certain transactions or events to involve (or not involve) an acquisition of control of a corporation will be extended to apply, with appropriate modifications, in determining whether a trust is subject to a loss restriction event.

This measure generally applies to transactions that occur after March 20, 2013.

### **H. Non-Resident Trusts**

To respond to the decision in *The Queen v. Sommerer*, 2012 FCA 207 and to protect the integrity of the tax rules that apply when a Canadian-resident taxpayer maintains effective ownership over property held by a non-resident trust, this measure amends the deemed residence rules in the *Income Tax Act* to apply if a trust holds property on conditions that grant effective ownership of the property to the taxpayer.

This measure also restricts the application of the trust income attribution rule in the *Income Tax Act* so that it applies only in respect of property held by a trust that is resident in Canada (determined without regard to the deemed residence rules).

This measure applies to taxation years that end after March 20, 2013.

### **I. Accelerated Capital Cost Allowance (CCA) for Clean Energy Generation Equipment**

Under the CCA regime in the income tax system, Class 43.2 of Schedule II of the *Income Tax Regulations* provides for an accelerated CCA rate (50% per year on a declining balance basis) for certain clean energy generation equipment.

To further encourage businesses to invest in clean energy generation and energy efficiency equipment, this measure expands the biogas production equipment that is eligible for inclusion in Class 43.2 by providing that more types of eligible organic waste can be used in qualifying biogas production equipment. Specifically, eligible organic waste is expanded to include pulp and paper waste and wastewater, beverage industry waste and wastewater (for example, winery and distillery wastes), and separated organics from municipal waste.

This measure also expands eligibility under Class 43.2 by allowing all types of cleaning and upgrading equipment that can be used to treat eligible gases from waste to be included in Class 43.2.

This measure generally applies in respect of property acquired after March 20, 2013.

#### **J. Scientific Research and Experimental Development (SR&ED) Program**

In order to further enhance the integrity of the SR&ED program, this measure introduces a penalty of \$1,000 in respect of each SR&ED program claim for which the information about SR&ED program tax preparers and billing arrangements is missing, incomplete or inaccurate.

In the case where a third-party SR&ED program tax preparer has been engaged, the SR&ED program claimant and the tax preparer will be jointly and severally, or solidarily, liable for the penalty.

This measure comes into force on the later of January 1, 2014 and Royal Assent.

#### **K. Mining Expenses**

For mining expenses there are two changes, both of which support the objective of making the tax system more neutral across mining and other industries.

First, pre-production mine development expenses, which are currently treated as Canadian Exploration Expenses (CEE), are to be treated as Canadian Development Expenses (CDE) for tax purposes. Whereas CEE is fully deductible in the year incurred, CDE is deductible at a rate of 30% per year on a declining-balance basis. The transition from CEE to CDE treatment is phased in over the period 2015 to 2017.

Second, the accelerated capital cost allowance provided for certain assets acquired for use in new mines or eligible mine expansions is phased out over the period 2017 to 2020. This is in addition to the phase-out announced in Budget 2007 for certain assets used in bituminous sands and oil shale, which will be complete in 2015.

## **L. Additional Deduction for Credit Unions**

Economic Action Plan 2013 included a measure to improve the neutrality and fairness of the tax system by phasing out over five years the Additional Deduction for credit unions.

The Additional Deduction was implemented in the early 1970s to provide credit unions with access to the small business tax rate on a basis consistent with other corporations. Since that time, however, the application of the small business tax rate has changed significantly. As a result of those changes, the Additional Deduction now provides credit unions with access to a tax subsidy that is not available to other corporations.

Legislation giving effect to the phase-out of the Additional Deduction was enacted in the *Economic Action Plan 2013 Act, No. 1*. This measure remedies a purely technical issue with that earlier legislation.

This measure applies to taxation years that end after March 20, 2013, and therefore is consistent with the phase-out of the Additional Deduction.

## **M. Leveraged Life Insurance Arrangements**

In order to improve the integrity and fairness of the tax system, this measure will eliminate unintended tax benefits relating to two leveraged life insurance arrangements commonly referred to as “leveraged insured annuities” and “10/8 arrangements”.

A leveraged insured annuity involves the use of borrowed funds in connection with a lifetime annuity and a life insurance policy. A 10/8 arrangement involves investing in a life insurance policy with a view to borrowing against that investment for the purpose of creating an annual interest-expense tax deduction.

These amendments apply to taxation years that end after March 20, 2013.

## **N. Restricted Farm Losses**

To respond to the decision in *The Queen v. Craig*, 2012 SCC 43 and to restore the intended policy for the restricted farm loss rules, this measure amends those rules to codify the chief source of income test as interpreted in *Moldowan v. The Queen*, [1978] 1 SCR 480. This amendment clarifies that a taxpayer’s other sources of income must be subordinate to farming in order for farming losses to be fully deductible against income from those other sources.

The measure also increases the restricted farm loss limit to \$17,500 of deductible farm losses annually (\$2,500 plus ½ of the next \$30,000).

This measure applies to taxation years that end after March 20, 2013.

## **O. Corporate Loss Trading**

To support the existing loss restriction rules that apply on the acquisition of control of a corporation, this measure introduces an anti-avoidance rule that deems there to have been an acquisition of control of a corporation that has loss pools if a person (or group of persons) acquires shares of the corporation that have more than 75% of the fair market value of all the shares of the corporation without otherwise acquiring control of the corporation, and it is reasonable to conclude that one of the main reasons that control was not acquired is to avoid the restrictions that would have been imposed on the use of losses.

This measure generally applies to transactions and events that occur after March 20, 2013.

## **P. Reassessment Period – Reporting Specified Foreign Property**

To assist the Canada Revenue Agency in combating international tax evasion and aggressive tax avoidance, this measure will extend the normal reassessment period for a taxation year of a taxpayer by three years if:

- the taxpayer has failed to report income from a specified foreign property on their annual income tax return; and
- the Form T1135 was not filed on time by the taxpayer, or a specified foreign property was not identified, or was improperly identified, on the Form T1135.

This will allow CRA to obtain the necessary information to properly examine the foreign income reported on the taxpayer's income tax return.

This measure applies to the 2013 and subsequent taxation years.

## **Q. Thin Capitalization Rules**

To further improve the integrity and fairness of the thin capitalization rules, the scope of their application is extended to Canadian-resident trusts, and non-resident corporations and trusts that operate in Canada.

The trust portion of this measure modifies the thin capitalization rules for corporations to reflect the legal nature of trusts. In particular, trust beneficiaries will be used in place of shareholders for the purpose of determining whether a person is a specified non-resident in respect of the trust and, therefore, whether a debt owing to that person is included in the trust's outstanding debts to specified non-residents. A trust's "equity" for the purposes of the thin capitalization rules generally consists of contributions to the trust from specified non-residents plus the tax-paid earnings of the trust, less any capital distributions from the trust to specified non-residents. The permitted 1.5-to-1 debt-to-equity ratio will remain unchanged.

As well, this measure extends the application of the thin capitalization rules to non-resident corporations and trusts that carry on business in Canada. A loan that is used in a Canadian branch of a non-resident corporation or trust will be an outstanding debt to a specified non-resident for thin capitalization purposes if it is a loan from a non-resident who does not deal at arm's length with the non-resident corporation or trust. A debt-to-asset ratio of 3-to-5 will be used, which parallels the 1.5-to-1 debt-to-equity ratio used for Canadian-resident corporations.

This measure applies to taxation years that begin after 2013.

## **R. Electronic Suppression of Sales (ESS) Software**

To combat tax evasion by persons that use ESS software (commonly referred to as "zapper" software), which are designed to falsify records for the purpose of tax evasion, new administrative monetary penalties and criminal offences are being introduced under the *Income Tax Act* (similar penalties and offences under the *Excise Tax Act* are implemented in Part 2).

Specifically, the following administrative monetary penalties and criminal offences apply:

### *Administrative Monetary Penalties*

- For the use of ESS software, an administrative monetary penalty of \$5,000 on the first infraction and \$50,000 on any subsequent infraction.
- For the possession or acquisition of ESS software, an administrative monetary penalty of \$5,000 on the first infraction and \$50,000 on any subsequent infraction, except where a person exercised due diligence.
- For the manufacture, development, sale, possession for sale, offer for sale or otherwise making available of ESS software, an administrative monetary penalty of \$10,000 on the first infraction and \$100,000 on any subsequent infraction, except where a person exercised due diligence.

## *Criminal Offences*

- For the use, possession, acquisition, manufacture, development, sale, possession for sale, offer for sale or otherwise making available of ESS software:
  - on summary conviction, a fine of not less than \$10,000 and not more than \$500,000 or imprisonment for a term of not more than 2 years, or both; or
  - on conviction by indictment, a fine of not less than \$50,000 and not more than \$1,000,000 or imprisonment for a term of not more than 5 years, or both.

This measure comes into force on the later of January 1, 2014 and Royal Assent.

## **Part 1 (Other)**

### **A. Legislative Proposals Released July 25, 2012**

The *Income Tax Act* is amended to implement draft legislative changes that were released for consultation on July 25, 2012. Most notably, these changes relate to:

- the taxation of specified investment flow-through entities (SIFTs), real estate investment trusts (REITs) and publicly-traded corporations; and
- proposals responding to the decision in *Richard Lewin Re: The J.J. Herbert Family Trust #1 v. The Queen*, 2011 TCC 476, which relates to withholding tax on payments from Canadian-resident trusts to non-resident beneficiaries.

### **B. Legislative Proposals Released December 21, 2012**

The *Income Tax Act* is amended to implement a package of technical changes that were released for consultation on December 21, 2012. Most notably, these changes relate to:

- the computation of adjusted taxable income for the purposes of the alternative minimum tax;
- the prohibited investment and advantage rules for registered plans; and
- a number of amendments to sections 55 and 88 related to comfort letters issued to taxpayers by the Department of Finance, along with a change to section 88 to ensure that a parent corporation cannot benefit from an inappropriate step-up in cost base on the winding-up of a subsidiary corporation.

### **C. Temporary Foreign Worker Program**

In order to better administer and enforce the Temporary Foreign Worker Program, this measure clarifies that the Canada Revenue Agency is authorized to disclose taxpayer information to Employment and Social Development Canada.

**EXCISE TAX ACT**

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**A. Electronic Suppression of Sales (ESS) Software**

To combat tax evasion by persons that use ESS software (commonly referred to as “zapper” software), which are designed to falsify records for the purpose of tax evasion, new administrative monetary penalties and criminal offences are being introduced under the *Excise Tax Act* (similar penalties and offences under the *Income Tax Act* are implemented in Part 1).

Specifically, the following administrative monetary penalties and criminal offences apply:

*Administrative Monetary Penalties*

- For the use of ESS software, an administrative monetary penalty of \$5,000 on the first infraction and \$50,000 on any subsequent infraction.
- For the possession or acquisition of ESS software, an administrative monetary penalty of \$5,000 on the first infraction and \$50,000 on any subsequent infraction, except where a person exercised due diligence.
- For the manufacture, development, sale, possession for sale, offer for sale or otherwise making available of ESS software, an administrative monetary penalty of \$10,000 on the first infraction and \$100,000 on any subsequent infraction, except where a person exercised due diligence.

*Criminal Offences*

- For the use, possession, acquisition, manufacture, development, sale, possession for sale, offer for sale or otherwise making available of ESS software:
  - on summary conviction, a fine of not less than \$10,000 and not more than \$500,000 or imprisonment for a term of not more than 2 years, or both; or
  - on conviction by indictment, a fine of not less than \$50,000 and not more than \$1,000,000 or imprisonment for a term of not more than 5 years, or both.

This measure comes into force on the later of January 1, 2014 and Royal Assent.

## **B. Supplies of Paid Parking by Public Sector Bodies**

A special provision exempts from GST/HST all of a public sector body's (PSB's) supplies of a property or a service if all or substantially all – generally 90 per cent or more – of the supplies of the property or service are made for free.

This measure clarifies that this special exempting provision does not apply to supplies of paid parking that are made by way of lease, licence or similar arrangement in the course of a business carried on by a PSB.

Taxable parking would include paid parking provided on a regular basis by a PSB, such as parking spaces or parking facilities operated by a municipality. Occasional supplies of paid parking by a PSB, such as those made as part of a special fund-raising event, would continue to qualify for the exemption.

This measure is effective December 17, 1990, the date the GST legislation was enacted.

## EMPLOYMENT INSURANCE

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### Premium Rate Setting

On September 9, 2013, the Government announced it will freeze the Employment Insurance (EI) premium rate at the 2013 level of \$1.88 per \$100 of insurable earnings for 2014, and additionally that the rate will be set no higher than \$1.88 for 2015 and 2016.

By doing this, the Government is promoting stability and predictability for employers and employees. It will also leave \$660 million in the pockets of employers and workers in 2014.

To ensure further predictability and stability around EI premium rates, this measure will amend the *Employment Insurance (EI) Act* to set the EI premium rate for 2015 and 2016 at \$1.88 per \$100 of insurable earnings.

In addition, this measure will also establish that the premium rate for 2017 and onwards will be set according to the seven-year break-even rate setting mechanism. This will ensure that EI premiums are no higher than they need to be to pay for the EI program over that seven-year period.

Finally, this division repeals the *Canada Employment Insurance Financing Board (CEIFB) Act* and related provisions of other Acts to make permanent the dissolution of the CEIFB, the suspension of which was announced in Economic Action Plan 2012. Beginning with the 2017 premium rate, EI premium rates will be set by the Canada Employment Insurance Commission.

### Hiring Credit for Small Business 2013

Small businesses are the engine of job creation in Canada. In recognition of the challenges faced by small businesses across the country, Budget 2011 announced a temporary Hiring Credit for Small Business of up to \$1,000 per employer.

This credit provided needed relief to small businesses by helping defray the costs of hiring new workers and allowing them to take advantage of emerging economic opportunities. Indeed, the Hiring Credit was so successful that it was extended to 2012.

While the Canadian economy is improving, the global economy remains fragile. In order to support job creation, clause 135 will amend Part IV of the *Employment Insurance Act* to extend and expand the Hiring Credit for Small Business to 2013.

By doing this, an employer whose premiums were \$15,000 (increased from \$10,000 used in 2011 and 2012 Hiring Credit for Small Business) or less in 2012 will be refunded the increase in their 2013 premiums over those paid in 2012, to a maximum of \$1,000.

It is estimated that 560,000 small businesses will benefit from this measure, saving them \$225 million in 2013.

### **Employment Insurance (Fishing) Regulations**

Effective since April 7, 2013, most EI claimants (excludes self-employed fishers and self-employed persons) have their weekly EI benefit rate calculated based on the highest weeks of insurable earnings during the qualifying period, generally 52 weeks. The number of weeks used for calculating the EI weekly benefit rate ranges from 14 to 22, depending on the monthly unemployment rate in a claimant's EI economic region when the claim is established.

In order to align the EI (Fishing) Regulations with the new legislation, a series of regulatory changes were made in spring 2013. An error in the wording of these technical regulatory changes resulted in some unintended benefit reductions for regular EI claimants with fishing income.

To correct this error, the EI Fishing Regulations will be amended to allow all regular claimants with fishing income to have their gross fishing earnings over the qualifying period added to their regular employment income in their best weeks. This will correct the anomaly created by the wording of the earlier technical amendments. This will be applied retroactively to April 7, 2013.

The number of best weeks used to calculate the weekly benefit rate is still determined according to the regional unemployment rates as per the current national VBW legislation.

**FINANCIAL INSTITUTIONS (CONFLICTS OF INTEREST)**

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To ensure the continued strong governance and oversight of federally regulated financial institutions the Government committed to examine whether the conflict of interest provisions contained in the financial sector statutes remain consistent with the overall Government policy as outlined in the *Conflict of Interest Act* (COI Act).

This measure will amend the *Bank Act*, the *Insurance Companies Act* and the *Trust and Loan Companies Act* to allow agents of the Crown and federal and provincial government employees to sit as directors on the boards of federally regulated financial institutions. These agents will be subject to the requirements of the federal *Conflict of Interest Act* and the provincial conflict of interest legislation, as relevant.

These provisions also remove the obligations of members of the Financial Institutions Supervisory Committee (FISC), along with the Deputy Superintendent of Financial Institutions and the Deputy Commissioner of the Financial Consumer Agency of Canada (FCAC) to notify the Minister of Finance of his/her intent to borrow money from any financial institution under the *Office of the Superintendent of Financial Institutions Act* (OSFI Act) and the *Financial Consumer Agency of Canada Act* (FCAC Act).

Repeal of the borrowing notification provisions under the OSFI Act and the FCAC Act will streamline and modernize Government policy on conflict of interest.

**FINANCIAL INSTITUTIONS (INVESTMENTS)**

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Division 3 makes purely technical amendments to the *Bank Act*, the *Trust and Loan Companies Act*, the *Insurance Companies Act* and the *Cooperative Credit Associations Act*.

In 2012, the requirement for Ministerial approval of large acquisitions of foreign financial institutions made by federally regulated financial institutions with equity of two billion dollars or more was introduced.

This measure simply ensures that this requirement applies when the acquisition occurs through a regulated holding company.

**PASSPORTS**

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In July 2013 the accountability for the Passport Program was transferred from the Minister of Foreign Affairs to the Minister of Citizenship and Immigration.

Under this transfer, the Minister of Employment and Social Development will support the Minister of Citizenship and Immigration as Service Canada (SC) will serve as the delivery agent for passport services on behalf of Citizenship and Immigration Canada (CIC). The Department of Foreign Affairs, Trade and Development (DFATD) will continue to provide passport services abroad, working in partnership with CIC and SC.

As a result of this transfer, technical amendments to various Acts are required to firmly establish the Minister of CIC's legal authority with respect to the delivery of the Passport Program.

The first is a proposed amendment to s.11 of the DFATD Act to replace the Minister of Foreign Affairs with the Minister of CIC, thereby establishing the legal authority to charge a consular fee for the issuance of a travel document.

The second is a proposed amendment to s. 57(5) of the Criminal Code to amend the definition of a passport to one issued by the Minister of CIC as opposed to the Minister of Foreign Affairs. This would ensure that the government's ability to bring forward charges under the Criminal Code in relation to forged passports, false statements to obtain a passport and, possession of forged passports or passports obtained by false representation, is not affected. The amendment will also ensure that the offence can be prosecuted for passports previously issued by the Minister of Foreign Affairs and that the offences will apply to all passports and travel documents irrespective of their form or supporting system.

CANADA LABOUR CODE

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Division 5 amends Part II of the *Canada Labour Code*, to ensure that employees and employers remain at the forefront of resolving occupational health and safety issues.

Over 80% of refusals to work in the last 10 years – from 2003 to 2013 – have been determined to be situations of no danger, even after appeals. By clarifying the definition of “danger” employees and employers will be better able to deal with health and safety issues through the Internal Responsibility System.

Employees would retain their fundamental right to refuse dangerous work, while at the same time ensuring that the work refusal process is balanced and clear. The new process would enhance the internal responsibility system and ensure that work place parties assess and address occupational health and safety issues effectively, efficiently and in a collaborative manner.

By strengthening the internal responsibility system, the Government will be able to improve its focus on critical issues that affect the health and safety of Canadians in the work place.

This measure also makes amendments to provide the Minister with greater enforcement oversight of the *Canada Labour Code*. This would provide health and safety officers with the additional support they need in making decisions and issuing directions, which would enhance the quality and consistency of these decisions, as well as improve the overall safety of Canadian workplaces.

**CHANGES TO THE CANADIAN MINISTRY**

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***Department of Human Resources and Skills Development Act***

On July 15, 2013, a new Minister for the Department of Human Resources and Skills Development was sworn in as the Minister of Employment and Social Development.

The *Department of Human Resources and Skills Development Act* is being amended to change the name of the Department to the Department of Employment and Social Development, and to reflect the change in the title of the Minister and of the Act.

**Canada Student Loan Program**

The *Jobs, Growth and Long-term Prosperity Act* (assented June 2012) amended the *Department of Human Resources and Skills Development Act* (DHRSDA) by replacing Part 6 with provisions dealing with the electronic administration or enforcement of the *Canada Pension Plan*, the *Old Age Security Act* and the *Employment Insurance Act*, in addition to any program which is supported by grants and contributions under section 7 of the DHRSDA. Further amending the DHRSDA to expand the Minister's authority to electronically administer or enforce the Canada Student Loans Program is consistent with Economic Action Plan 2013's commitment to examine new ways to transform the way the Government of Canada does business to improve service and achieve efficiencies.

This amendment will modernize the delivery of the Canada Student Loans Program (CSLP) through electronic enhancements in order to improve the process for students and their families, and at the same time realize savings from increased efficiency. The enhancements include electronic signatures (E-signature), electronic verification of identity (cyber authentication) and allowing the transfer of electronic documents (e-documents), all of which are central to the CSLP's electronic service delivery renewal.

- **Electronic Signatures:** students would not be required to mail in their loan agreements with a wet (physical) signature.
- **Cyber Authentication:** Students would not be required to present themselves at a Canada Post outlet for identity verification. Instead, authentication would be done electronically using a cyber authentication solution.
- **Electronic Documents:** implementing a secure solution to send, receive, manage and store electronic documents.

### **Temporary Foreign Worker Program**

The amendments will facilitate the ability to electronically administer and enforce the Temporary Foreign Worker Program (TFWP), rather than relying on a cumbersome paper-based process.

The *Jobs, Growth and Long-term Prosperity Act* (assented June 2012) amended the *Department of Human Resources and Skills Development Act* (DHRSDA) by replacing Part 6 with provisions dealing with the electronic administration and enforcement of the *Canada Pension Plan*, the *Old Age Security Act* and the *Employment Insurance Act*, in addition to any program which is supported by grants and contributions under section 7 of the DHRSDA. Further amending the DHRSDA to expand the Minister's authority to electronically administer and enforce the TFWP is consistent with Economic Action Plan 2013's commitment to examine new ways to transform the way the Government of Canada does business to improve service and achieve efficiencies.

Furthermore, the amendments will ensure the TFWP can continue to provide effective and efficient services to employers while ensuring the integrity of the labour market opinion (LMO) process. The proposed amendments will allow the department, subject to regulations, to improve online delivery and could support other integrity measures being pursued by the Department by:

- Eliminating the legal requirement to obtain physical signatures on LMO applications and instead obtain electronic signatures;
- Eliminating the need to retain and store paper-based copies of LMO applications;
- Enabling secure online payment for the LMO processing; and
- Improving the efficiency of the assessment process by preventing employers from submitting incomplete applications and by allowing employers to upload supporting documentation throughout the assessment process.

### ***Salaries Act***

These amendments reflect changes to the Ministry announced on July 15, 2013.

The first amendment updates the *Salaries Act* to reflect the new legal title of the Minister of Employment and Social Development, to be implemented through the amendments to the *Department of Human Resources and Skills Development Act* in Part 3-Division 6.

The second amendment adds a new Ministerial position (Minister of Infrastructure, Communities and Intergovernmental Affairs) to the *Salaries Act*.

**DOMINION COAL BLOCKS**

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On August 30, 2013 the Government of Canada announced that it is considering an open competitive sale of portions of the Dominion Coal Blocks (DCB), two parcels of federal Crown land located in the Kootenay region of British Columbia.

The potential sale stems from a general review of federal corporate assets launched in 2009 to assess whether continued public ownership remains relevant, to examine opportunities for transferring assets to the private sector with the objective of stimulating additional economic activity, and to ensure that tax dollars are spent wisely.

The divestiture legislation provides the following:

- Authority for the Crown to dispose of all or any part of the DCB.
- Authority for the Minister of Natural Resources to dispose of the DCB, with the approval of the Governor-in-Council.
- Authority for the Minister of Natural Resources to grant easements over the DCB without the approval of the Governor-in-Council.
- Authority for the Minister of Natural Resources to prepare the DCB for disposal.
- Authority to pay costs related to the disposition out of the proceeds of sale.

**REORGANIZATION OF CERTAIN CROWN CORPORATIONS (BRIDGES)**

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In March 2010, a review of the Federal Bridge Corporation Limited (FBCL) was launched.

The measures in Division 8 will allow for the implementation of the following governance improvements:

- FBCL and its subsidiary, the Jacques Cartier and Champlain Bridges Inc., are to be two separate parent Crown corporations; and
- FBCL is to amalgamate with its two remaining subsidiaries, the Seaway International Bridge Corporation, Ltd. and the Saint Mary's River Bridge Company and another parent Crown corporation, Blue Water Bridge Authority (BWBA).

The establishment of a single parent Crown corporation through the amalgamation of FBCL with its remaining subsidiaries and the BWBA would provide a portfolio approach to certain international bridge operations and improved oversight of the amalgamated corporations.

This approach will allow the amalgamated corporation to apply consistent policies and procedures across all its operations, streamline reporting, ensure consistency in service levels and security protocols, and conduct more rigorous financial planning.

**FINANCIAL ADMINISTRATION ACT**

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Economic Action Plan 2012 brought forward measures to support the central clearing of over-the-counter derivative transactions, a key G20 commitment, and to reinforce Canada’s financial stability framework. Economic Action Plan 2013 builds on this action by introducing further changes to support the G20 reform agenda.

This measure would modernize the *Financial Administration Act* (FAA) to permit agent Crown corporations designated by the Minister of Finance to pledge cash and securities as collateral to support their hedging activities when using over-the-counter derivatives.

This would enable these Crown corporations to reduce risks and costs associated with their over-the-counter derivatives activities and respond to evolving international regulatory standards and market practices.

NATIONAL RESEARCH COUNCIL ACT

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The National Research Council (NRC) is currently undergoing a fundamental transformation in how it operates.

Work is well underway to position NRC to provide businesses with technical services, support for applied research and development projects, access to sector-specialized laboratories and testing facilities, and connections to leading applied research organizations around the world. This new approach will allow innovative firms to benefit from the NRC’s world-class capabilities, consistent with the recommendations of the Expert Panel on Federal Support to R&D.

This measure amends the *National Research Council Act* to clarify aspects of its governance structure and establish a smaller and more efficient Council.

This will be achieved by separating the role of the Chairperson of the Council, who will preside at Council meetings, from that of the President and reducing the size of the Council to 12 from 19. Other changes modernize the language with respect to the maximum period of time a person may act as the Chairperson or President before Governor in Council approval is required.

**VETERANS REVIEW AND APPEAL BOARD ACT**

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Division 11 amends the *Veterans Review and Appeal Board Act* to limit the number of permanent members of the Veterans Review and Appeal Board to no more than 25. The current limit in the Act is no more than 29.

Currently the Board is functioning effectively with 24 permanent members. Indeed, it has consistently operated with less than the maximum number of members for several years

As such, reducing the maximum number of permanent members on the Board to 25 will not affect service standards for Veterans.

**CANADA PENSION PLAN INVESTMENT BOARD ACT**

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The Government is committed to ensuring the proper management and on-going sustainability of the Canada Pension Plan.

The Canada Pension Plan Investment Board (CPPIB) has become one of the largest pension funds in the world, with total net assets of \$172.6 billion as at December 31, 2012.

With a significant portion of the CPPIB's assets invested outside of Canada, the CPPIB's board of directors would benefit by expanding the talent pool to include directors who are not residents of Canada.

The amendment would allow for the appointment of up to three qualified persons who are not residents of Canada to serve on the board of directors of the CPPIB.

**PROCEEDS OF CRIME (MONEY LAUNDERING)  
AND TERRORIST FINANCING ACT**

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The amendments will clarify the application of existing provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)* pertaining to the compliance powers of the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).

In particular, the amendments clarify that nothing in the Act requires legal counsel to disclose any information protected by solicitor-client privilege. They also clarify that information disclosed by FINTRAC to law enforcement that FINTRAC suspects is evidence of a contravention of Part 1 of the Act may be used by law enforcement only for purposes relating to such a contravention.

These amendments will align the provisions of the *PCMLTFA* with the Government's stated policy intent and provide certainty regarding FINTRAC's access to and use of information as part of its regulatory authority.

**MACKENZIE GAS PROJECT IMPACTS FUND ACT**

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Division 14 will repeal the *Mackenzie Gas Project Impacts Act* and replace it with the *Mackenzie Gas Project Impacts Fund Act*.

These provisions will preserve the structure and criteria of the fund should it become operational. It will also preserve the commitment to allocate up to \$500M to the fund.

The provisions will result in the dissolution of the Corporation for the Mitigation of Mackenzie Gas Project Impacts, the Crown corporation established to administer the fund. As the Mackenzie Gas Project is not yet operational, neither the Crown Corporation nor the fund are active.

The Minister responsible for the *Mackenzie Gas Projects Impacts Fund Act* will be designated by the Governor in Council. The Minister of Finance will have responsibilities with regard to the requisition of resources to the fund.

**CONFLICT OF INTEREST ACT**

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These amendments to the *Conflict of Interest Act* will provide the Governor in Council with the authority to designate an individual or class of individuals as public officer holders or reporting public office holders for the purposes of the Act.

For example, it will allow the Governor in Council to designate Members of Parliament who are not currently covered by the Act but who regularly attend Cabinet committee meetings.

The Government realizes the importance of ensuring that these individuals should be subject to the Act and its conflict of interest, disclosure, recusal and post-employment rules.

**IMMIGRATION AND REFUGEE PROTECTION ACT**

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Economic Action Plan 2013 confirmed the Government's intention to create a new and innovative Expression of Interest immigration management system that will allow employers, provinces and territories to select skilled immigrants from a pool of applicants that best meet Canada's economic needs.

The 'Expression of Interest' model is a new electronic, fully automated, application management system for economic immigration to Canada that would establish a two-step immigrant application process – introducing the concept of a stand-alone "expression of interest" pre-application stage followed by an application 'by invitation only' to the best candidates. Candidates complete an online form to "express interest" in coming to Canada and provide information about their skills and experience, which determines their eligibility for entry into the EOI pool. Pool submissions can be ranked, sorted and searched and top candidates can be invited to submit an application for permanent residence, which can be processed in an expedited manner.

A new Expression of Interest Division will be added to the *Immigration and Refugee Protection Act* (IRPA) that will allow for a standalone pre-application stage as the first step in immigrating to Canada under certain economic programs. In addition, this Division will include broad provisions outlining the process of EOI, the required information-sharing measures, as well as measures enabling a role for third parties (provinces and territories as well as employers) under this new system.

With this foundational legislation in place, technical and operational requirements for the Expression of Interest system can be pursued.

**PUBLIC SERVICE LABOUR RELATIONS**

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**Collective Bargaining, Essential Services and Recourse**

To ensure that the public service remains affordable, modern, high-performing, and in line with the expectation of taxpayers, the *Public Service Labour Relations Act* will be amended to better align public service labour relations with other jurisdictions, achieve savings, and streamline practices.

To modernize the dispute resolution process, and to bring it more in line with those at the provincial level and in the private sector, conciliation will be used as the primary mechanism to resolve disputes in the collective bargaining process. In order to ensure the effective protection of the safety and security of the public, the employer will have the exclusive right to determine whether a service is essential or not and to designate the positions it considers necessary to perform the essential service. Where 80% or more of the employees are responsible for providing essential services to Canadians, arbitration will be used to resolve disputes. To improve the predictability of the collective bargaining process, the notice period to begin collective bargaining will be increased to 12 months.

To better ensure the prudent management of taxpayer dollars, as well as to provide fair and adequate compensation, these amendments will require that all elements of compensation be taken into account by an arbitration board or public interest commission when making awards or recommendations. When determining appropriate levels of compensation for public servants, arbitration boards and public interest commissions must give greater consideration to the necessity of attracting and retaining competent persons as well as Canada's fiscal circumstances. This will ensure awards are fair and equitable for all parties, including taxpayers. To enhance the collective bargaining process in the future, these amendments will require that written reasons be provided for these decisions. To ensure that arbitration boards and public interest commissions are guided by these criteria, the Chairperson of the Public Service Labour Relations and Employment Board can direct that they review their decisions.

Finally, these amendments will address an overly complex, legalistic, cumbersome, lengthy and costly employee recourse system by consolidating the recourse system within a new Public Service Labour Relations and Employment Board. These amendments will improve the process and reduce overlap for employees, who will continue to have the right to have their employment-related grievances or complaints, including discrimination cases, decided by a neutral third-party.

**REORGANIZATION OF FEDERAL PUBLIC SERVICE LABOUR RELATIONS  
AND EMPLOYMENT BOARDS**

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***Enactment of the Public Service Labour Relations and Employment Board Act***

The legislation will amalgamate the Public Service Labour Relations Board and the Public Service Staffing Tribunal under a new Board called the Public Service Labour Relations and Employment Board (the “Board”).

The Board will be the main tribunal responsible for hearing labour relations matters, as well as complaints and grievances filed by federal public servants under the *Public Service Labour Relations Act (PSLRA)* and the *Public Service Employment Act (PSEA)*

The Board will deal with matters that were previously heard by the Public Service Labour Relations Board and the Public Service Staffing Tribunal. The Board will also adjudicate human rights complaints for public servants subject to the grievance provisions in Part 2 of the PSLRA. The amalgamation will permit such matters filed under different pieces of legislation to be addressed by a single Board, which will reduce overlap, streamline operations and increase government efficiency.

Employees will continue to have the right to have their employment-related grievances or complaints, including discrimination cases, decided by a neutral third-party.

**SUPREME COURT ACT**

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Division 19 adds two declaratory provisions to the *Supreme Court Act*, respecting certain criteria for appointing judges to the Supreme Court of Canada. These provisions clarify, without making changes to, the existing law relating to the experience that a person is required to have as a member of a bar of a province in order to be appointed to that Court.

The first declaratory provision, section 5.1 of the *Supreme Court Act*, clarifies that a person may be appointed as a judge of the Supreme Court of Canada if they have at least 10 years of experience as a member of a bar of a province, even if they are no longer a member of a bar.

The second declaratory provision, section 6.1 of the *Supreme Court Act*, clarifies that a person with at least 10 years of experience as a member of the Barreau du Québec may be appointed to the Supreme Court of Canada as a judge from Quebec, even if they are no longer a member of the bar.