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LEGISLATIVE SUMMARY

Bill C-60:
An Act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures

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

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

Legislative Summary of Bill C-60
(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL C-60: AN ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN PARLIAMENT ON MARCH 21, 2013 AND OTHER MEASURES*

1 BACKGROUND

Bill C-60, An Act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures (short title: Economic Action Plan 2013 Act, No. 1), was introduced in the House of Commons by the Minister of Finance and given first reading on 29 April 2013.

Part 1 of the bill implements certain income tax measures proposed in the March 2013 budget and other income tax measures and tax-related measures. Part 2 implements certain goods and services tax and harmonized sales tax (GST/HST) measures proposed in the March 21, 2013 budget. Part 2 also amends the *Excise Tax Act* and *Excise Act, 2001* to modify the rules regarding the judicial authorization process for imposing a requirement on a third party to provide information or documents related to an unnamed person or persons. In addition, Part 2 amends the *Excise Act, 2001* to ensure that the excise duty rate applicable to manufactured tobacco other than cigarettes and tobacco sticks is consistent with that applicable to other tobacco products. Part 3 implements various other measures, including by enacting and amending several Acts.

The following description highlights selected aspects of the bill; it does not review every clause. Material is presented in the order followed in the summary to the bill itself.

2 DESCRIPTION AND ANALYSIS

2.1 Part 1 – Implements Certain Income Tax Measures Proposed in the 2013 Budget

2.1.1 Allows Certain Adoption-Related Expenses Incurred Before a Child's Adoption File Is Opened to Be Eligible for the Adoption Expense Tax Credit (Clause 9)

Currently, the *Income Tax Act* provides that the "adoption period" related to the adoption of a child begins at the earlier of the following: when the adoption file is opened with the provincial body responsible for adoption or when an adoption application is made to a Canadian court.

Clause 9 of Bill C-60 amends the definition of "adoption period" in section 118.01(1) of the *Income Tax Act* so that, instead of beginning when the adoption file is opened, the adoption period may begin when an application to register an adoption of a child is submitted to the provincial body responsible for adoption. This change makes it possible to claim a non-refundable tax credit for adoption expenses from the time the application is submitted, before the adoption file is opened. Nevertheless, the tax credit can be claimed only for the taxation year in which the adoption period ends, that is, the year in which the adoption order is issued or the child begins to reside permanently with its adoptive parent or parents.

2.1.2 Introduces an Additional Credit for First-Time Claimants of the Charitable Donations Tax Credit (Clause 10)

The *Income Tax Act* allows a tax payer to claim a non-refundable tax credit for charitable donations to organizations registered with the Canada Revenue Agency. The Charitable Donations Tax Credit (CDTC) reduces a taxpayer's tax payable on income earned during the year:

- by 15% of the value of donations totalling up to $200; and
- by 25% of the value of donations totalling more than $200.

To encourage young Canadians to donate to charity, the 2013 federal budget has announced the introduction of a "new temporary First-Time Donor's Super Credit for first-time claimants of the Charitable Donations Tax Credit."[1] This was in response to a study by the House of Commons Standing Committee on Finance of tax incentives for charitable giving in Canada, during which a number of witnesses stressed the need to establish a culture of giving among Canadians.[2]

Clause 10 of Bill C-60 amends section 118.1 of the *Income Tax Act* by introducing a first-time donor's super credit through a definition of "first-time donor" and new sections 118.1(3.1) and 118.1(3.2). The new credit is available to taxpayers who have not claimed the CDTC since 2007 (new definition of "first-time donor"). First-time donors can claim a credit for 25% of the value of first-time donations up to $1,000 (new section 118.1(3.1)). The super credit supplements the CDTC, meaning that "a first-time donor will be entitled to a 40-per-cent federal credit for donations of $200 or less, and a 54-per-cent federal credit for the portion of donations over $200, but not exceeding $1,000."[3] Couples may share the tax credit, but in that case, the total credit claimed may not exceed the maximum either of them could have claimed (new section 118.1(3.2)).

The first-time donor's super credit is available up to and including the 2017 tax year. Thereafter, the definition of "first-time donor" and new sections 118.1(3.1) and 118.1(3.2) will be repealed automatically under clauses 10(2), 10(4) and 10(6) of the bill.

2.1.3 Makes Expenses for the Use of Safety Deposit Boxes Non-deductible (Clause 2)

The *Income Tax Act* generally allows the deduction of expenses related to earning business or property income. These expenses include "safekeeping charges" incurred in connection with an investment portfolio. Section 18(1) of the *Income Tax Act* lists deductions that are prohibited when calculating a taxpayer's income from a business or property.

Clause 2 of Bill C-60 amends section 18(1) of the *Income Tax Act* so that a cost applicable to the renting of a safety deposit box from a financial institution is no longer an eligible deduction. The measure is expected to lead to an increase in federal revenue of $5 million in 2013–2014, $30 million in 2014–2015 and $40 million in each subsequent year.[4]

2.1.4 Adjusts the Dividend Tax Credit and Gross-Up Factor Applicable in Respect of Dividends Other than Eligible Dividends (Clauses 5 and 11)

Section 82(1) of the *Income Tax Act* requires an individual who receives a taxable dividend from a Canadian-resident corporation to include in the calculation of his or her income an amount equal to the total of the dividend received and a "gross-up"[5] amount to account for the pre-tax revenue earned by the issuing corporation prior to the distribution of its dividend. Section 121 of the Act provides individuals who receive a taxable dividend with a non-refundable dividend tax credit (DTC) to account for the tax paid by the Canadian-resident corporation on its income prior to the distribution of such income as a dividend. The "gross-up" amount and the DTC ensure that income earned by a corporation and distributed to a shareholder through a dividend is taxed at the same level as other forms of income earned directly by the dividend recipient.[6]

Clauses 5 and 11 of Bill C-60 amend sections 82(1)(*b*)(i) and 121(*a*) of the *Income Tax Act* to change the tax treatment of dividends received by an individual from a business that is taxed at the small business tax rate. The gross-up amount is reduced from 25% to 18% of the dividend amount received for the purpose of calculating the taxable income of an individual, and the corresponding amount for the purpose of the DTC is increased from $^{2}/_{3}$ to $^{13}/_{18}$. The net effect is a reduction in the effective rate of the DTC from 13.3% to 11.0% on dividends received by an individual from a business that is taxed at the small business tax rate. The change is expected to result in federal revenue of $2.34 billion over 2013–2014 to 2017–2018. The amendment applies to dividends distributed by businesses after 2013.

2.1.5 Allows Collection Action for 50% of Taxes, Interest and Penalties in Dispute in Respect of a Tax Shelter that Involves a Charitable Donation (Clause 20)

Gifting tax shelters include schemes where taxpayers receive a charitable donation receipt with a higher value than the amount they donated.[7] This enables the taxpayer, when completing the tax return, to request a deduction for a charitable donation that is greater than the donation actually made. Such schemes are prohibited under the *Income Tax Act*. The Canada Revenue Agency estimates that gifting tax shelters represent an estimated $300 million in "donations" and $85 million in federal tax refunds annually.[8] In recent years, the Agency has had to reassess "over 167,000 taxpayers who participated in gifting tax shelter schemes."[9]

Currently, section 225.1 of the *Income Tax Act* prohibits the Minister of National Revenue from taking collection action against a taxpayer who has been reassessed when the deadline for an objection to the reassessment has not expired, and if a notice of objection is served, until judgment is rendered on the objection or the appeal from that objection.

Clause 20 of Bill C-60 amends section 225.1(7) of the *Income Tax Act* to allow the minister to take action to collect one half of an assessment related to a gifting tax shelter before the expiration of the time allowed for the taxpayer to serve a notice of objection to the reassessment by the Agency, and if a notice of objection is served, before judgment has been rendered on the objection or the appeal from that objection.[10]

2.1.6 Extends, for One Year, the Mineral Exploration Tax Credit for Flow-Through Share Investors (Clause 14)

Mineral resource corporations typically incur exploration expenses long before income is generated from commercial production, with the result that they may have to wait several years before being able to deduct exploration and development expenses from income in order to reduce their tax payable. Furthermore, the long period between exploration and commercial production in the mining sector may lead to problems in attracting capital on favourable terms. A flow-through share is a tax measure that seeks to address these issues.[11]

In addition to being able to apply “renounced” exploration and development expenses from the corporation against their income, investors in flow-through shares can claim the Mineral Exploration Tax Credit (METC), which is an investment tax credit equal to 15% of eligible exploration expenses. The METC was first announced in the Economic Statement and Budget Update of 18 October 2000, and has since been extended several times.[12] The 2012 federal budget extended the METC’s expiry date to 31 March 2013: the credit is available for eligible exploration expenses renounced under a flow-through share agreement made after March 2012 and before April 2013.

Clause 14 of Bill C-60 amends the definitions in section 127(9) of the *Income Tax Act* and extends this period so that the METC is available for eligible exploration expenses incurred by corporations after March 2013 and before 2015 under flow-through share agreements entered into after March 2013 and before April 2014.[13] The estimated federal fiscal cost of the extension is $100 million from 2013–2014 to 2017–2018.[14]

2.1.7 Extends, for Two Years, the Temporary Accelerated Capital Cost Allowance for Eligible Manufacturing and Processing Machinery and Equipment (Clause 35)

A temporary accelerated capital cost allowance (ACCA) rate for manufacturing and processing machinery and equipment was first proposed in the 2007 federal budget. It was extended in the 2008, 2009 and 2011 budgets, and another extension is proposed in the current budget.

Section 1102(16.1) of the *Income Tax Regulations* specifies that a taxpayer who acquires manufacturing or processing machinery and equipment – known as "properties" – that would otherwise be included in Class 43.1 or Class 43.2 in Schedule II of the regulations may be able to include these properties in Class 29, where the allowable ACCA is greater, if they were acquired after 18 March 2007 and before 2012. Under Class 29, manufacturing or processing machinery and equipment is eligible for an ACCA rate of 50% on a straight-line basis.

Clause 35 of Bill C-60 amends section 1102(16.1) of the regulations to extend the applicability of this reclassification to manufacturing or processing machinery and equipment acquired before 2016.[15] The estimated federal fiscal cost of the extension is $1.395 billion from 2014–2015 to 2017–2018.[16]

According to Canadian Manufacturers and Exporters, this measure enables companies to better manage their cash flow. The organization says that it takes 14 years to depreciate 99% of an investment in properties included in Class 43.1 or Class 43.2, whereas investments can be depreciated completely over a three-year period for properties in Class 29.[17]

2.1.8 Clarifies that the Income Tax Reserve for Future Services Is Not Available for Reclamation Obligations (Clause 3)

In cases where a business receives income in a taxation year for goods and services delivered or rendered in a subsequent taxation year, section 20(1)(*m*) of the *Income Tax Act* allows the business to defer the reporting of a portion of that income for tax purposes through a deduction from the taxable income in a taxation year; this concept is known as a "reserve." Certain services and businesses are prohibited or restricted from deferred recognition of income for tax purposes through a reserve; these prohibitions and restrictions are listed in section 20(7) of the Act.

Clause 3 of Bill C-60 creates section 20(7)(*d*) in the *Income Tax Act* so that the reserve available under section 20(1)(*m*) cannot be used by taxpayers for amounts received to fund future reclamation obligations, such as fees charged to customers of a waste disposal facility to finance reclamation when the facility is eventually closed. The amendment applies to amounts received after 20 March 2013 unless, before 21 March 2013, an agreement for reclamation was entered into by the taxpayer and the amounts were authorized by a government or regulatory authority.

2.1.9 Phases Out the Additional Deduction Available to Credit Unions Over Five Years (Clause 15)

As provided by section 137 of the *Income Tax Act*, credit unions are subject to unique tax treatment. Under section 137(7), a credit union that would otherwise be a private corporation under the Act is deemed not to be a private corporation, except for limited purposes; those purposes include those in section 125, which provides for the small business tax rate. Accordingly, credit unions have access to the small business deduction under section 125(1) on the same basis as Canadian-controlled private corporations.

Section 137(3) of the Act provides credit unions with a deduction in addition to the deduction provided under section 125(1). Section 137(3) generally permits the lowest corporate rate to be applied on income equal to 5% of the aggregate of all deposits and the amount of any membership shares in the credit union.[18]

Clause 15 of Bill C-60 phases out the additional deduction provided under section 137(3); the deduction will be phased out over five calendar years, beginning in 2013. Clause 12 amends subparagraph (*a*)(iv) of the definition of "full rate taxable income" in section 123.4 as a consequence of clause 15.

The 2013 federal budget estimates that the phase-out of the deduction provided under section 137(3) for credit unions will increase federal revenues by $205 million over 2013–2014 to 2017–2018.

2.1.10 Amends Rules Regarding the Judicial Authorization Process for Imposing a Requirement on a Third Party to Provide Information or Documents Related to an Unnamed Person or Persons (Clause 21)

To make it easier for the Minister of National Revenue to obtain documents and information regarding the administration and enforcement of the *Income Tax Act*, a tax information exchange agreement or a tax treaty, section 231.2 of the Act gives the minister the authority, upon notice, to obtain the documents and information from any person; this person is known as a "third party." If the minister wishes to request documents and information from a third party in relation to an unnamed person, the minister must first file an *ex parte* application with a Superior Court or the Federal Court to obtain judicial authorization pursuant to the conditions and procedure in sections 231.2(2) to 231.2(6).

Clause 21 of Bill C-60 removes the *ex parte* element from the judicial authorization process and clarifies that it is a Federal Court judge who may grant a judicial authorization. Under the *Federal Courts Rules*, the minister must provide notice to the third party when seeking a judicial authorization. Sections 231.2(4) to 231.2(6) of the *Income Tax Act*, which describe the notification of authorization and the appeal process for third parties from whom documents and/or information are requested, are repealed. The Minister of National Revenue and third parties can seek an appeal of a judicial authorization as provided for in the *Federal Courts Rules*. These amendments apply to applications made by the Minister of National Revenue after the day on which Bill C-60 receives Royal Assent.

2.1.11 Repeals the Rules Relating to International Banking Centres (Clause 4)

The concept of "international banking centres" was introduced into the *Income Tax Act* in 1987 in order to encourage and attract certain international banking activities. Citing Vancouver and Montréal, section 33.1 of the Act exempts prescribed international financial institutions from paying tax on income arising from "international banking centre business," and from paying tax on income from loans to, and from accepting deposits from, non-residents of Canada who deal at arm's length with the taxpayer, provided those loans and deposits originate in designated branches or offices. To be eligible for the exemption, the financial institution must designate the branch or office as an international business centre; ensure that loans are not extended for the purpose of earning income in Canada; and ensure that loans are made only to non-residents of Canada.

With changes over time to the structures of many international financial institutions and the nature of their activities, the provisions in section 33.1 are largely outdated. In addition, the Organisation for Economic Co-operation and Development (OECD) in 2006 identified international banking centres as a potentially harmful tax practice.[19]

Clause 4 of Bill C-60 repeals section 33.1 of the *Income Tax Act* for taxation years that begin after 20 March 2013.

2.2 Part 1 – Implements Other Income Tax Measures and Tax-Related Measures

2.2.1 Amends Rules Relating to Caseload Management of the Tax Court of Canada (Clauses 18 and 19 and 22 to 31)

Appeals to the Tax Court of Canada, which is a superior court before which individuals and companies can litigate matters with the federal government in certain areas, relate mostly to income tax, the goods and services tax, and employment insurance. The Court also hears references from the Canada Revenue Agency to provide interpretations of the legislation within its areas of jurisdiction.

Following stakeholder consultations, legislative proposals to improve the caseload management of the Tax Court were released on 8 June 2012. According to a backgrounder about the proposals, "[i]n recent years, the Tax Court has seen an increase in the number of appeals where issues and facts that are common to two or more taxpayers are repeatedly litigated."[20]

Clauses 18 and 19 and 22 to 31 of Bill C-60 amend a number of rules that will affect caseload management at the Tax Court. In particular, changes will be made regarding the following:

- Partial disposition of appeal: If an appeal of an assessment raises more than one issue, the Tax Court may dispose of a particular issue by dismissing the appeal of that issue, by allowing some issues to be dealt with separately or by referring the assessment back to the Minister of National Revenue for reconsideration and reassessment. The change removes a requirement for the Tax Court to deal with all issues raised in an appeal at the same time (*Income Tax Act*, section 171).
- Common questions: For substantially similar transactions or occurrences, or a series thereof, the Tax Court may consider the question as it pertains to a group of two or more taxpayers, and may provide a resulting judicial determination that is binding on each taxpayer in the group (*Income Tax Act*, sections 174(1)–174(4.1)).

- Monetary limits: Where the total amount at issue in an income tax appeal does not exceed the new amount of $25,000, or where a loss does not exceed the new amount of $50,000, a taxpayer can elect to proceed by way of the Tax Court of Canada Rules (Informal Procedures). Also, under the new monetary limit of $50,000 for goods and services tax/harmonized sales tax (GST/HST) appeals, an appeal involving an amount in dispute that exceeds $50,000 must proceed by way of the Tax Court of Canada Rules (General Procedure) (*Tax Court of Canada Act*, sections 17.3, 18(1), 18.1, 18.11, 18.12, 18.13 and 18.27).

Certain procedural rule changes, which complement the introduction of the $50,000 limit for GST/HST appeals and align the rules for GST/HST appeals more closely with the rules that govern income tax appeals, are made. Finally, some procedural rule changes are made to harmonize the rules for excise duty appeals with the rules in relation to GST/HST appeals[21] (*Tax Court of Canada Act*, sections 18.3001 and 18.3002).

2.2.2 Streamlines the Process for Approving Tax Relief for Canadian Forces Members and Police Officers (Clause 7)

Under the *Income Tax Act*, Canadian Forces members and police officers are eligible for tax relief if they serve on certain international missions. Currently, qualifying missions include those "assessed for a risk allowance at level 3 or higher," the highest levels, as determined by the Department of National Defence. Some moderate-risk missions "assessed for risk allowance at level 2" can also qualify if they have obtained a "prescribed mission" designation through Cabinet. Moreover, "any other mission that is prescribed" can also qualify, which presumably includes operational missions assessed for a risk allowance at level 1.[22] The list of "prescribed missions" appears in the *Income Tax Regulations*, and updates are published in the *Canada Gazette*.[23] According to the latest *Canada Gazette* update, "The maximum amount that an individual may deduct in a taxation year in respect of income earned while deployed on such missions cannot exceed the highest level of pay earned by a non-commissioned member of the Canadian Forces (i.e. approximately $8,400 per month in 2012)."[24]

Clause 7 of Bill C-60 amends section 110 of the *Income Tax Act* to streamline the approval process for tax deductions for Canadian Forces personnel and members of police forces deployed on medium and high-risk international operational missions. Clause 7(1) deletes the references to "prescribed missions" and replaces them with references to level 2 missions "assessed at a risk score greater than 1.99 and less than 2.50 (as determined by the Department of National Defence) and designated by the Minister of Finance." New section 110(1.3) is added through clause 7(2), giving the Minister of Finance the authority, "on the recommendation of the Minister of National Defence (in respect of members of the Canadian Forces) or the Minister of Public Safety (in respect of police officers)" to "designate a deployed operational mission," which has been "assessed a risk score greater than 1.99 and less than 2.50 (as determined by the Department of National Defence)." In other words, under the amended section 110, the Minister of Finance has the power to designate which level 2 operational missions qualify for tax deductions. The amendments thus move the decision process from Cabinet to the Minister of Finance. The amendments also preclude the possibility of giving a tax deduction to Canadian Forces members and police officers deployed on a level 1 operational mission, which, up until now, could presumably have been prescribed.

According to the explanatory notes of the Department of Finance, "[a] mission may be designated retroactively," and "[t]hese amendments apply generally in respect of missions initiated after September, 2012."[25]

2.2.3 Addresses the Temporary Measure that Allows Certain Family Members to Open a Registered Disability Savings Plan for an Adult Individual Who Might Not Be Able to Enter into a Contract (Clause 16)

In 2007, the federal government introduced registered disability savings plans (RDSPs), which may be set up by the plan beneficiary, provided she or he is at least 18 years of age and contractually competent. The parent or legal guardian of the beneficiary generally enters into the arrangement for minors and beneficiaries who are not contractually competent.

Some individuals who are deemed to lack "contractual capacity" and who do not have a legal representative acting on their behalf have experienced difficulty in setting up an RDSP. In most provinces and territories, these individuals can open an RDSP only if they are declared legally incompetent and have someone named as their guardian, an approach that may be costly and have unintended consequences for the individual.

The 2012 *Jobs, Growth and Long-term Prosperity Act* enacted changes that amended, until 2016, the definition of a "plan holder" to include a spouse, common-law partner or parent, with the hope that the provinces and territories would develop – by 2017 – standardized and streamlined procedures in order to facilitate the process of opening an RDSP for individuals lacking contractual competency. To establish and be the holder of the RDSP under the temporary measure, the spouse, common-law partner or parent must be deemed to be either a "qualifying person" (as defined in section 146.4 of the *Income Tax Act*) or the holder of another RDSP established for the benefit of the beneficiary. However, subparagraph (*c*)(i) of the definition of "qualifying person" in section 146(1) of the *Income Tax Act* specifies that the beneficiary could not, at the time of consideration, be a beneficiary under another RDSP. As an unintended consequence of this temporary measure, under the definition, the family member in question will no longer be a "qualifying person" immediately after an RDSP is established for the beneficiary, and must cease to be a holder of the RDSP.

Clause 16 of Bill C-60 amends section 146.4(4) of the *Income Tax Act* so that the terms of an RDSP require that an entity other than a qualifying family member of the beneficiary cease to be a holder of the RDSP if the entity ceases to be a qualifying person in relation to the beneficiary. As a result, a qualifying family member who establishes an RDSP for a beneficiary may remain as the holder under the plan, subject to being replaced by the beneficiary or a legally appointed representative. It also amends section 146.4 to clarify that these provisions apply at all times in respect of a qualifying family member who is the holder of an RDSP, including a time after the qualifying family member ceases to be a qualifying person in relation to the beneficiary. These amendments are deemed to come into force on 29 June 2012.

2.2.4 Simplifies the Determination of the Canadian-Source Income of Non-resident Pilots Employed by Canadian Airlines (Clause 8)

Clause 8 is the government's response to recent court decisions[26] concerning the calculation of the taxable income of non-resident pilots employed in Canada. These decisions drew attention to the complexity of determining the taxable income of non-resident pilots, and the need for an amendment to the *Income Tax Act*, in order to correct gaps that had enabled some pilots to escape Canadian taxation to some extent.

In *Price v. Her Majesty the Queen*, Justice McArthur ruled as follows:

> Many [pilots] have quite legally taken advantage of the *Income Tax Act*, particularly section 115, to substantially reduce their Canadian tax liability by becoming non-residents of Canada. This is entirely within the ambit of the legislation. A problem arises with the overly aggressive manoeuvring to arrive at the lowest possible percentage for duties performed in Canada and for other amounts such as disability payments.
>
> To compensate, the Minister overreacts. Perhaps it is time for the legislature to say enough is enough and set a firm percentage for non-resident A/C pilots. …
>
> There is a serious need for a simpler method.[27]

Clause 8 of Bill C-60 adds section 115(3) to the *Income Tax Act* in order to simplify and clarify the determination of the taxable income of a non-resident pilot employed by a Canadian airline. Under the new section, the following income will become taxable if earned by a non-resident pilot employed by a Canadian airline:

- all of the income attributable to a flight between two points in Canada;
- half the income attributable to a flight from a location in Canada to a location outside Canada;
- half the income attributable to a flight from a location outside Canada to a location in Canada; and
- none of the income attributable to a flight between two points outside Canada.

The amendment applies to taxation year 2013, and thereafter.

2.3 Part 2 – Implements Certain Goods and Services Tax and Harmonized Sales Tax Measures Proposed in the 2013 Budget

2.3.1 Reduces the Compliance Burden for Employers Under the GST/HST Pension Plan Rules (Clauses 43 and 44)

Under the *Excise Tax Act*, in relation to taxable supply and in the context of pensions, GST/HST rebates are available to pension entities for the tax paid on pension-related expenses; these expenses are incurred by employers and should be paid for by the pension entity. Difficulties may arise in identifying a taxable supply when the pension entity pays for expenses through a third-party supplier rather than by making a direct payment to the employer, or when the employer uses its own resources in the course of pension activities and does not charge the pension entity for the use of these resources.

To address these difficulties, the *Excise Tax Act* has "deemed taxable supply" rules that consider all expenses incurred by an employer in relation to a pension plan to be a taxable supply and thus subject to the GST/HST, regardless of whether the pension entity has paid the employer for the taxable supply. An employer thus remits the GST/HST on taxable supply that has been paid for by the pension entity and on all expenses that fall within the deemed taxable supply rules; as a consequence, tax may be remitted twice for the same taxable supply. Currently, employers must issue a tax adjustment to the pension entity and make adjustments to their own taxes in order to account for the double remittance of tax.

Part 2 of Bill C-60 sets out two options to address this situation in clauses 43 and 44.

Clause 43 of Bill C-60 introduces a provision (new section 157) that allows the employer and the pension entity to file a joint election with the Canada Revenue Agency in which they agree to not remit the GST/HST on taxable supply if tax is already being paid through the deemed taxable supply rules. This election remains in effect until a joint revocation is filed by the employer and the pension entity or until the election is revoked by the Minister of National Revenue for failure to remit the tax on deemed taxable supply. This clause comes into effect for taxable supplies made after 21 March 2013.

Clause 44 amends section 172.1 of the *Excise Tax Act* to exempt an employer, in whole or in part, from the deemed taxable supply rules if the amount of the GST/HST payable in the preceding year was less than certain thresholds. If a joint election is not filed pursuant to section 157, employers are exempted from the deemed taxable supply rules if a threshold is met: the amount of the GST and the federal portion of the HST remitted under the deemed taxable supply rules in the preceding year must have totalled less than $5,000 and must have been less than 10% of the total GST and federal portion of the HST paid by the plan's pension entities. For employers that do not meet the threshold, an exemption from the deemed taxable supply rules is provided only for those expenses that are considered "internal pension activities," such as the time spent by payroll staff to process pension contributions. This clause comes into effect for fiscal years that begin after 21 March 2013.

2.3.2 Provides the Minister of National Revenue the Authority to Withhold GST/HST Refunds Claimed by a Business (Clause 45)

A business that applies to collect the GST/HST must register with the Canada Revenue Agency and provide it with such information as the legal and operating names, the legal structure, the name(s) of the owner(s) and the location of the business. A fine of $100 is levied for not providing the required information.

Clause 45 of Bill C-60 introduces a provision (new section 229(2.1)) into the *Excise Tax Act* that states that the Minister of National Revenue is not required to pay a GST/HST tax refund to a business if the business either did not provide the required information or provided inaccurate information in its application to be a GST/HST registrant.

2.3.3 Expands the GST/HST Exemption for Publicly Funded Homemaker Services (Clauses 47 to 49)

Schedule V to the *Excise Tax Act* lists household services, such as cleaning, laundering, meal preparation and child care, that are exempt from GST/HST. Clauses 47 to 49 of Bill C-60 add certain items to the list:

- "home care services," which include bathing, feeding and assistance with dressing or medication, rendered to an individual who, due to age, infirmity or disability, requires assistance; and
- "qualifying health care supply," which includes goods and services that are meant to maintain health and treat injuries, illnesses, disorders and disabilities.

The services in question must be publicly funded. The changes apply to services rendered after 21 March 2013.

2.3.4 Clarifies that Reports, Examinations and Other Services that Are Supplied for a Non-health-care-related Purpose Do Not Qualify for the GST/HST Exemption for Basic Health Care Services (Clauses 48 and 50)

As mentioned above, Schedule V of the *Excise Tax Act* lists health care services on which the GST/HST is not applied.

Clauses 48 and 50 of Bill C-60 amend the Act to clarify that the provision of a report, examination or other service that does not qualify as a health care supply is not exempt from the application of the GST/HST.

The provision of homemaker services, training services, food in health care facilities, and reports, examinations or other services covered by a provincial health insurance continue to be exempt from the application of the GST/HST.

The change is expected to result in federal revenue of $1 million in each of 2014–2015 and 2015–2016, and $2 million in each of 2016–2017 and 2017–2018. This measure is in effect after 21 March 2013.

2.3.5 Ends the Current GST/HST Point-of-Sale Relief for the Governor General (Clause 52)

Under section 1 of Part VIII of Schedule VI to the *Excise Tax Act*, the supply of goods and services for the Governor General's use is not subject to tax under the Act.

Clause 52 of Bill C-60 repeals this section, making the supply of goods and services for the Governor General's use subject to tax under the *Excise Tax Act*.

The Office of the Secretary to the Governor General[28] will be able to recover tax paid on the supply of goods and services for the official use of the Governor General under the *GST Federal Government Departments Remission Order*.

This amendment applies to the supply of goods and services after June 2013.

2.3.6 Amends the *Excise Tax Act* and *Excise Act, 2001* to Modify the Rules Regarding the Judicial Authorization Process (Clauses 42, 46 and 53)

The *Excise Tax Act* and the *Excise Act, 2001* make it easier for the Minister of National Revenue to obtain documents and information regarding the administration and enforcement of excise taxes and the GST/HST collected pursuant to these two laws by giving the minister the authority to obtain such documents and information from any person upon notice; this person is known as a "third party." If the minister wishes to request documents and information from a third party in relation to an unnamed person, the minister must first file an *ex parte* application with a Superior Court or a Federal Court to obtain judicial authorization pursuant to the conditions and procedure in sections 102.1 and 289 of the *Excise Tax Act*, and section 208 of the *Excise Act, 2001*.

Clauses 42, 46 and 53 of Bill C-60 remove the *ex parte* element from the judicial authorization process and clarify that it is a Federal Court judge who may grant a judicial authorization. Under the *Federal Courts Rules*, the minister must provide notice to the third party when seeking a judicial authorization. Sections 102.1(3) to 102.1(6) and 289(4) to 289(6) of the *Excise Tax Act*, and sections 208(4) to 208(6) of the *Excise Act, 2001* describe the notification of authorization and the appeal process for third parties from whom documents and/or information is requested; these sections are repealed. The Minister of National Revenue and third parties can seek an appeal of a judicial authorization as provided for in the *Federal Courts Rules*. Furthermore, although the reference to *ex parte* applications by the Minister of National Revenue is removed, section 208(3) of the Act still includes the provision "subject to any conditions that a judge considers appropriate," which allows the possibility for the Minister to make an *ex parte* application. These amendments apply to applications made by the Minister of National Revenue after the day on which Bill C-60 receives Royal Assent.

2.3.7 Amends the *Excise Act, 2001* to Ensure that the Excise Duty Rate Applicable to Manufactured Tobacco Other than Cigarettes and Tobacco Sticks Is Consistent with That Applicable to Other Tobacco Products (Clauses 54 to 60)

Canada's current excise duty structure for tobacco and tobacco products makes manufactured tobacco, which is used to make hand-rolled cigarettes and chewing tobacco, much less expensive to purchase than manufactured cigarettes.

Clauses 56 and 57 of Bill C-60 modify Schedule 1 of the *Excise Act, 2001* to bring the duty for manufactured tobacco in line with that for manufactured cigarettes; clauses 58 to 60 modify Schedule 3 of the Act for the same purpose. The change is expected to increase federal tax revenue by about $75 million in 2013–2014 and $65 million in 2014–2015.[29] These changes are deemed to have come into force on 22 March 2013.[30]

Additionally, clause 54 modifies section 216 of the Act to increase the fines for the unlawful possession or sale of unstamped manufactured tobacco, other than cigarettes or tobacco sticks. In particular, the rate for calculating the minimum fine will increase from $0.116 to $0.213 multiplied by the number of grams of unstamped manufactured tobacco; the rate for calculating the maximum fine will increase from $0.174 to $0.319 multiplied by the number of grams of unstamped manufactured tobacco.

Also, clause 55 modifies section 240 of the Act to increase the fine for exceeding the maximum quantity that is permitted to be exported from an excise warehouse. In particular, the rate for calculating the penalty increases from $207.7 per kilogram of manufactured tobacco to $451.81 per kilogram.

2.4 Part 3 – Implements Various Measures

2.4.1 Division 1: Amends the *Customs Tariff* (Clauses 62 to 101)

Canada's General Preferential Tariff (GPT) regime provides reduced tariff rates for imports originating from developing countries; one result is thought to be increased choice and lower prices for Canadian consumers. Clauses 62 and 63 of Bill C-60 amend sections 36 and 40 of the *Customs Tariff* to extend the GPT for another 10 years, until 31 December 2024, or until an earlier date fixed by the Governor in Council.

Section 34 of the *Customs Tariff* authorizes the Governor in Council to amend the list of countries to which the GPT regime applies. The 2013 federal budget announces that the government will "graduate" 72 countries from the GPT regime, based on the strong performance of their economies. Removing these countries from the GPT regime will result in their imports facing higher tariff rates. Federal revenue is expected to increase by $1.1 billion over the next five years as a consequence of the "graduation" of these countries.[31]

Clauses 64 to 101 of Bill C-60 reduce the most-favoured-nation duty rates to "free" for 37 tariff codes listed in the *Customs Tariff* Schedule. As a result, tariffs on baby clothing and selected sports and athletic equipment, excluding bicycles, imported into Canada on or after 1 April 2013 are removed for countries designated as "most favoured nations," resulting in consequential reductions to other rates of duty under certain preferential tariff treatments. These changes are expected to save Canadian consumers $152 million between 2013 and 2015.[32]

2.4.2 Division 2: Amends the *Trust and Loan Companies Act*, the *Bank Act*, the *Insurance Companies Act* and the *Cooperative Credit Associations Act* (Clauses 104 to 109)

The *Trust and Loan Companies Act*, the *Bank Act*, the *Insurance Companies Act* and the *Cooperative Credit Associations Act* specify that the directors of a financial institution cannot transact business at a meeting of the full board of directors, or at a meeting of a committee of members of the board, unless at least 50% of the directors at the meeting are Canadian residents in the case of a foreign subsidiary, or the majority of the directors at the meeting are Canadian residents in the case of other financial institutions.

Clauses 104 to 109 of Bill C-60 remove from the aforementioned Acts the residency requirements for meetings of a committee of members of the board. The residency requirements will continue to exist in relation to a meeting of the full board of directors.[33]

This change gives financial institutions greater flexibility regarding the residency of members when business is being transacted by a committee of members of the board.

2.4.3 Division 3: Amends the *Federal–Provincial Fiscal Arrangements Act* (Clauses 110 and 111 and 112 to 125)

Clauses 110 and 112 to 121 of Bill C-60 amend the *Federal–Provincial Fiscal Arrangements Act*, renewing until 31 March 2019 the equalization program that was to expire on 31 March 2014.

Clause 111 gives effect to the following total transfer protection payments for the 2013–2014 fiscal year:

- the sum of $48,891,000 paid to New Brunswick; and
- the sum of $6,915,000 paid to Manitoba.

Clauses 122 to 124 modify the *Federal–Provincial Fiscal Arrangements Act* to renew until 31 March 2019 the funding formula for the territories that was to expire on 31 March 2014.

Lastly, clause 125 clarifies the timing of the calculation of the growth rate of the Canada Health Transfer for each year beginning after 31 March 2017, specifying that the growth rate represents the average of the annual rates of growth in Canada's nominal gross domestic product (GDP) for the calendar year ending in the fiscal year in question and the two previous calendar years, as determined by the Minister of Finance no later than three months before the beginning of the fiscal year.

2.4.4 Division 4: Authorizes Payments to Be Made Out of the Consolidated Revenue Fund to Certain Entities or for Certain Purposes (Clauses 126 to 132)

Division 4 authorizes the responsible ministers to make the following seven payments from the Treasury to certain entities or for certain purposes:

- a maximum payment of $18 million to the Canadian Youth Business Foundation (clause 126);
- a maximum payment of $165 million to Genome Canada (clause 127);
- a maximum payment of $20 million to the Nature Conservancy of Canada (clause 128);
- a maximum payment of $30 million to the Canada Mortgage and Housing Corporation to provide funding for housing in Nunavut (clause 129);
- a maximum payment of $5 million to “Indspire” to fund postsecondary bursaries for students registered under the *Indian Act* and for Inuit students (clause 130);
- a maximum payment of $3 million to the Pallium Foundation of Canada to support palliative care training for frontline care providers (clause 131); and
- a maximum payment of $3 million to the Canadian National Institute for the Blind for the national digital network initiative to improve library services for those who have difficulty reading printed material (clause 132).

2.4.5 Division 5: Amends the *Canadian Securities Regulation Regime Transition Office Act* (Clauses 133 to 135)

The *Canadian Securities Regulation Regime Transition Office Act* established the Transition Office in 2009 to assist in the creation of a Canadian securities regulation regime and a Canadian regulation authority.[34]

In 2010, the government asked the Supreme Court of Canada to determine whether the “Proposed Canadian Securities Act”[35] was within the jurisdiction of the Parliament of Canada. In December 2011, in the matter of the *Reference re Securities Act*,[36] the Court found that the proposed securities legislation submitted to it by the government was unconstitutional.[37] It stated that the proposed legislation was not within the general power to regulate trade and commerce conferred on the Parliament of Canada by section 91(2) of the Constitution and that the proposed regime lay rather within the constitutional authority of the provinces as a matter of property and civil rights (section 92(13)). The Court indicated that the federal government nevertheless had a role to play in matters of genuine national importance and scope, such as the control of systemic risk and the maintenance of fairness and efficiency in capital markets throughout Canada.

In its 2013 budget, the government emphasizes this latter portion of the Supreme Court's opinion, and states:

> The Government's preferred approach is to improve the regulation of Canada's capital markets through a cooperatively established common securities regulator. If a timely agreement cannot be reached, the Government will propose legislation to ensure that it can carry out its regulatory responsibilities for capital markets consistent with the decision of the Supreme Court of Canada.[38]

In its 2013 budget, the government proposes to extend the mandate of the Transition Office "to ensure that its resources remain available as work continues to strengthen the regulation of Canada's capital markets."[39]

Section 17(1) of the *Canadian Securities Regulation Regime Transition Office Act* states that the Transition Office is dissolved three years after the day on which section 3 comes into force, that is to say, 13 July 2012. However, section 17(2) empowers the Governor in Council, by order and on the recommendation of the minister, to set a different date of dissolution from that referred to in section 17(1), but that date is to be no later than four years after the day on which section 3 comes into force. An order in council made under this provision fixes 12 July 2013 as the date of dissolution of the Transition Office.[40]

Clause 133 of Bill C-60 replaces sections 17(1) to 17(3) of the *Canadian Securities Regulation Regime Transition Office Act*, stating that the Governor in Council may, by order, on the recommendation of the minister, dissolve the Transition Office, and must publish the order in the *Canada Gazette* before the dissolution date.

Clause 134 repeals the order in council fixing 12 July 2013 as the date of dissolution of the Transition Office and specifies that the repeal of the Order does not affect its operation during the period before its repeal.

Clause 135 states that Division 5 of Bill C-60 comes into force, or is deemed to have come into force, on the earlier of two dates: the day on which Bill C-60 receives Royal Assent and 11 July 2013.

These amendments to the legislation have the effect of not dissolving the Transition Office, and enabling it to continue operations indefinitely.

2.4.6 Division 6: Amends the *Investment Canada Act* (Clauses 136 to 145)

The stock of foreign direct investment in Canada has grown steadily from $340 billion in 2001 to $607 billion in 2011. Foreign direct investment in Canada represented 34.3% of Canada's GDP in 2011.[41]

Given the importance of foreign investment to the Canadian economy and the fact that the acquisition of Canadian enterprises by foreign state-owned enterprises has captured public attention over the last year, Bill C-60 seeks to amend the *Investment Canada Act* in order to clarify such things as how the investments foreign state-owned enterprises propose to make in Canada are to be assessed, and to extend the time frames for national security reviews.

The bill changes some definitions in the *Investment Canada Act*, and it adds new ones. In particular, clause 136(1) of Bill C-60 amends the definition of "Canadian" in section 3 of the Act, and clause 136(2) adds a definition of "state-owned enterprise."

Clause 137(1) raises the reviewability threshold in section 14.1 of the *Investment Canada Act* for private-sector investors from member countries of the World Trade Organization (WTO), in some instances to $1 billion, based on the enterprise value rather than the asset value. However, the reviewability threshold for foreign state-owned enterprises remains at its current level of $344 million in asset value, as at 12 January 2013.[42]

Clauses 138 to 145 of the bill propose changes to the applicable time frames and the powers of the minister and the Governor in Council with respect to the process preceding the decision to review an investment, and the process followed once a review is under way. More specifically, clauses 140 to 142 of the bill amend the applicable deadlines and ministerial powers for investment reviews undertaken for national security reasons.

Related amendments are also proposed to the *Budget Implementation Act, 2009*.

2.4.7 Division 7: Amends the *Canada Pension Plan* (Clause 155)

Clause 155 of Bill C-60 amends section 8(2) of the *Canada Pension Plan* and adds sections 8(3) to 8(7). These changes bring greater clarity to the determination of what constitutes an overpayment to the Canada Pension Plan (CPP) or the Quebec Pension Plan (QPP). Such overpayments can occur when, for example, an employee changes jobs, and pays more than the maximum annual contribution; or when an employee contributes both to the CPP and to the QPP because during the year, he or she worked both in Quebec and in another province; or when he or she was both employed and self-employed. The amendments clarify the calculations required of the Canada Revenue Agency in determining the amount of the overpayment to be reimbursed to the employee in such cases.

2.4.8 Division 8: Amends the *Pension Act* and the *War Veterans Allowance Act* (Clauses 156 to 160)

The amendments introduced by Division 8 flow from the 1 May 2012 Federal Court decision in the *Manuge* case.[43] This class action on behalf of approximately 4,500 former members of the Canadian Forces challenged the federal government's policy of reducing long-term disability benefits payable to disabled Canadian Forces members by the monthly disability pension amounts paid under the *Pension Act*. According to the decision, the pension is to be regarded as compensation for pain and suffering related to a disability, rather than as a form of income replacement.

Given the different purposes of the two types of benefit, the Court ruled that the government could not use one to reduce the amount of the other.

Most of the changes required by this decision were effected by regulatory action. However, there remained an interaction between section 32(2) of the *Pension Act* and the *War Veterans Allowance Act* (WVAA) that was at odds with the decision. This was the situation that existed when a veteran applied for a disability pension, and received a positive decision later. In this circumstance, the veteran would be paid in one of two ways:

- a lump sum payment could be made, retroactive to the date of the application; or
- if the veteran was receiving a low income, he or she could receive a monthly allowance under the WVAA from the date of the pension application until the positive decision was received.

When a monthly allowance was provided, the government reserved the right to withhold from the retroactive pension payment the amount of the allowances that would not have been paid had the pension payments begun as soon as the application was made. According to the decision in the *Manuge* case, the allowance paid under the WVAA is not to be reduced by the amount of the disability pension, because the allowance should not be interpreted as being akin to a form of income replacement.

Clause 156 of Bill C-60 removes the allowance paid under the WVAA from the list of payments that may be withheld when a retroactive pension is paid (section 32(2) of the *Pension Act*). Clause 157 removes the monthly benefits payable under the *Pension Act* from the list of monthly benefits that may be offset by the government from the allowance paid under the WVAA (section 4(3)(*c*)(ii) of the WVAA). Clause 158 removes from section 13 of the WVAA the reference to the retroactive pension payable under the *Pension Act*. Under clause 159 of the bill, if the date to which the pension is retroactive is earlier than the date of the coming into force of Division 8 of the bill, the provisions in effect before the coming into force of the bill will apply. Under clause 160, Division 8 of the bill will come into force on a date to be determined by the Governor in Council.

2.4.9 Division 9: Amends the *Immigration and Refugee Protection Act* (Clauses 161 to 168)

Division 9 amends the *Immigration and Refugee Protection Act* (IRPA) in these separate areas: it modifies two elements of the Temporary Foreign Worker program,[44] and it changes provisions regarding refugee protection decisions made by the Immigration and Refugee Board of Canada.

The first change to the Temporary Foreign Worker program (clause 161) concerns new instructions that both the Minister of Citizenship and Immigration and the Minister of Human Resources and Skills Development may give to propose public policy considerations that guide immigration officers and the Department of Human Resources and Skills Development in their decision-making. These instructions are intended to give an immigration officer the authority to revoke a work permit in particular circumstances identified by the Minister of Citizenship and Immigration (new section 30(1.41)). They are distinct from the instructions previously introduced to protect vulnerable workers or for other reasons already in effect under the IRPA. The new instructions for the Department of Human Resources and Skills Development enable the department to revoke, suspend or refuse to process a labour market opinion in circumstances specified by the Minister of Human Resources and Skills Development (new section 30(1.43)). Instructions must be published in the *Canada Gazette*, are not statutory instruments for the purposes of the *Statutory Instruments Act* (clause 165, modifying section 93) and must be described in the annual report on the operations of the IRPA that the Minister of Citizenship and Immigration Canada tables in Parliament (clause 166 modifying section 94(2)(*e*.1)).

The second change to the Temporary Foreign Worker program relates to fees. Current section 89 provides a general authority in regulations for the establishment of fees for services rendered under the IRPA. Clause 162 introduces new sections 89(1.1) and 89(1.2), which indicate that the new fees for a labour market opinion or for the processing of the application of the temporary resident visa (visitor, work permit, study permit or extension) will be exempted from the *User Fees Act*. Clause 163 introduces new section 89.1, which specifically targets work permits, indicating that regulations may govern fees, not subject to the *User Fees Act*, to be paid "for rights and privileges conferred by means of a work permit" and allows that certain work permits or classes of work permits can have their fees waived. The current fee for work permits, as stated in the regulations in section 299, is $150. There has been no increase since 2002. The framework for the establishment of fees by Citizenship and Immigration Canada (CIC) includes the *User Fees Act*, which imposes the requirement to report to Parliament, and the *Financial Administration Act*, which ensures that services cannot generate revenues that are greater than the cost related to the delivery of the services. According to CIC, the rationale behind the exemption from the *User Fees Act* is "to have the flexibility necessary to establish something fairly simple, fairly quickly"[45] that can "adjust in response to growing demand."[46]

The modifications to provisions regarding refugee protection decisions relate to the significant reforms to the refugee determination system that came into force in 2012 under the new *Protecting Canada's Immigration System Act*. Clause 167 of Bill C-60 clarifies that a failed refugee claimant whose application was heard by the Refugee Protection Division after 14 August 2012 and before 15 December 2012 does not have access to the Refugee Appeal Division created as part of the IRPA.[47] Clause 168 further clarifies that if a Federal Court judge sets aside a determination of the Refugee Protection Division made during the period referred to in clause 167 after a judicial review, the claim for refugee protection must be referred to a member of the Refugee Protection Division appointed under the *Public Service Employment Act*. This second Refugee Protection Division decision is not subject to appeal to the Refugee Appeal Division.

2.4.10 Division 10: Amends the *Citizenship Act* (Clauses 170 and 171)

In 2012, a departmental official from Citizenship and Immigration Canada appearing before the House of Commons Standing Committee on Citizenship and Immigration stated that exempting fees under the *Citizenship Act* from the *User Fees Act* would allow for a more flexible approach to establishing fees. He stated that Citizenship and Immigration Canada was still under the constraints of the *Financial Administration Act*, which ensures that services charged by a government department cannot exceed the cost of the services rendered.[48]

The cost payable to Citizenship and Immigration Canada to obtain Canadian citizenship is currently $200, which includes a processing fee and a Right of Citizenship fee. The processing fee is $100 (section 31 and Schedule of the *Citizenship Regulations*). The Right of Citizenship fee is $100 (section 32 of the *Citizenship Regulations*) and has not changed since 1995.

Bill C-60 brings two amendments to the *Citizenship Act* in relation to fees. Clause 170 modifies section 27(*b*) of the *Citizenship Act*, which establishes in general that fees for services rendered under the Act will be established in regulations instead of itemizing each service in the Act. Clause 171 adds a new section 27.2, which exempts all fees from the *User Fees Act*.

2.4.11 Division 11: Amends the *Nuclear Safety and Control Act* (Clause 173)

Division 11 makes one amendment to the *Nuclear Safety and Control Act*. Clause 173 adds a new section to the provision that determines the powers of the Canadian Nuclear Safety Commission (CNSC) (new section 21(3)), giving it the authority to use for its own purposes the funds it receives from licences it issues. Information provided for Budget Plan 2013 states that the amendment seeks to facilitate the recovery of costs with respect to nuclear licences issued by the commission.[49]

According to the commission's *Departmental Performance Report 2011–12*,

> [t]he CNSC is mainly funded from a revenue-spending authority allowing the cost recovery of activities through fees collected from industry. This authority provides a sustainable and timely funding regime to address the rapid changes in regulatory oversight workload associated with the Canadian nuclear industry.
>
> The CNSC is also funded through an annual appropriation from Parliament. The regulations state that some licensees, such as hospitals and universities, are exempt from paying fees as these entities exist for the public good. In addition, fees are not charged for activities that result from CNSC obligations that do not provide a direct benefit to identifiable licensees. These include activities with respect to Canada's international obligations (including the non-proliferation activities), public responsibilities such as emergency management and public information programs, and updating of the NSCA [*Nuclear Safety and Control Act*] and associated regulations as appropriate.[50]

The total cost of operations of the Commission in 2011–2012 was $148.8 million. A total of $104.7 million in fees were recovered from fee-paying licensees to offset the total cost of operations. This left the Commission with a net cost of operations of $44.1 million.[51]

2.4.12 Division 12: Enacts the *Department of Foreign Affairs, Trade and Development Act* (Clauses 174 to 199)

Division 12 implements the announcement in the federal budget that the Department of Foreign Affairs and International Trade (DFAIT) and the Canadian International

Development Agency (CIDA) would be amalgamated. Clause 199 repeals the *Department of Foreign Affairs and International Trade Act* (DFAIT Act), and clause 174 introduces the Department of Foreign Affairs, Trade and Development Act.

The new Act continues DFAIT under the new Department of Foreign Affairs, Trade and Development. The Minister of Foreign Affairs is responsible for the management and direction of the department in Canada and abroad. Two additional ministers are to be appointed to assist the minister: a Minister for International Trade and a Minister for International Development.

The powers, duties and functions of the Minister of Foreign Affairs in the conduct and management of Canada's international relations are largely the same as provided for in the repealed DFAIT Act, with the exception of section 10(2)(*f*) of the new Act. Under that section, the minister is responsible for fostering "sustainable international development and poverty reduction in developing countries and provid[ing] humanitarian assistance during crises." (Under the repealed DFAIT Act, the minister had the "control and supervision of" CIDA.)

While the powers, duties and functions of the Minister of International Trade are unchanged, the new Act introduces a mandate for the new Minister for International Development. That minister's overall role is to foster sustainable international development and poverty reduction in developing countries and to provide humanitarian assistance during crises.

The new Act allows for the appointment of a Deputy Minister of Foreign Affairs who is the deputy head of the department. In addition, the Governor in Council may appoint three Associate Deputy Ministers of Foreign Affairs, each of whom has the rank and status of a deputy head of a department. Under the Deputy Minister of Foreign Affairs, they exercise any powers, duties and functions specified by the Minister of Foreign Affairs. The Governor in Council may designate one of these as the Deputy Minister for International Trade and one as the Deputy Minister for International Development.

Transitional provisions provide that any person who holds the office of Minister for International Cooperation or of CIDA President on the day in which section 16 of the new Act comes into force, is deemed to hold the office of Minister for International Development or Deputy Minister for International Development, respectively. Similarly, on the coming into force of section 17, CIDA employees occupy their positions in the new department.

Division 12 also includes consequential amendments. For the most part, these replace any references in various statutes to DFAIT or CIDA with the new Department of Foreign Affairs, Trade and Development.

2.4.13 DIVISION 13: AUTHORIZES THE TAKING OF MEASURES WITH RESPECT TO THE REORGANIZATION AND DIVESTITURE OF ALL OR ANY PART OF RIDLEY TERMINALS INC. (CLAUSES 200 TO 212)

Ridley Terminals Inc. (RTI) is a bulk commodity terminal at the Port of Prince Rupert in British Columbia and a federal Crown corporation. RTI opened in 1984 and was built as a joint venture between a private sector firm and the federal government at a cost of $250 million.[52] Bulk coal exports from British Columbia, Alberta and the United States make up over 90% of RTI's annual throughput; petroleum coke and wood pellet exports make up the difference. The annual capacity of RTI is 12 million tonnes.

After considerable growth in volumes handled in recent years, RTI is nearly at capacity and generated a 45% operating margin in 2011. RTI is currently undergoing an expansion, and by the end of 2014 terminal capacity will have more than doubled to 25 million tonnes.

In December 2012, the federal government announced its intention to sell RTI to a buyer willing to operate the terminal "with open access on a long-term, sustainable basis."[53] Division 13 contains a dozen provisions that enable the divestiture of RTI and allow the federal government to control certain activities of the new owner. Clause 201 is a purpose statement that reaffirms the federal government's intentions with regards to the future of the bulk terminal and its customers. Among the other provisions in the bill related to RTI, there are those that:

- allow the Minister of Transport with the approval of the Governor in Council to reorganize and sell all or any part of RTI's business (clauses 202–204);
- grant RTI, or another corporation or entity created to manage and operate the bulk terminal, authority to take measures (e.g., acquire and sell assets, issue securities, acquire securities, amend its articles or constituting documents, amalgamate or dissolve itself or wholly owned subsidiaries) with approval from, and on the terms of, the Governor in Council (clause 205);
- allow the Governor in Council, on the recommendation of the Minister of Transport, to direct RTI or another corporation or entity created to manage and operate the bulk terminal that is wholly owned by the federal government, to take measures (e.g., acquire and sell assets, issue securities, acquire securities, amend its articles or constitute documents, and amalgamate or dissolve itself or wholly owned subsidiaries) (clause 205); and
- eliminate federal liability for actions or damages with respect to any previous or current agreement in relation to RTI when the section comes into force (clause 208).

Clause 211 repeals section 143 of the *Canada Marine Act*, which indicates that the Minister of Transport is responsible for Ridley Terminals Inc. for the purposes of the *Financial Administration Act*.

2.4.14 Division 14: Amends the *National Capital Act*, the *Department of Canadian Heritage Act* and the *National Holocaust Monument Act* (Clauses 213 to 224)

Division 14 amends the *National Capital Act* and the *Department of Canadian Heritage Act* to transfer the responsibility for promoting activities and events in the National Capital Region, such as the annual Canada Day celebrations on Parliament Hill and Winterlude, from the National Capital Commission (NCC) to the Minister of Canadian Heritage. In its 2013 budget, the government explains the reason for this change by saying that in preparation for the celebration of Canada's 150th anniversary of Confederation in 2017, it "wishes to ensure that a broad, national perspective is brought to these celebrations."[54]

In keeping with this stated direction, clauses 213(1) and 214 of Bill C-60 transfer the mandate for organizing, sponsoring and promoting public activities and events in the National Capital Region by deleting it from the objects and purposes of the NCC provided for by section 10(1)(*b*) of the *National Capital Act* and adding it to the jurisdiction of the Minister of Canadian Heritage provided for by section 4(2) of the *Department of Canadian Heritage Act*. Likewise, clauses 213(2) and 215 transfer the power to coordinate the policies and programs of government departments respecting the organization, sponsorship or promotion of public activities and events in the National Capital Region by deleting it from the powers of the NCC provided for in section 10(2)(*h*.1) of the *National Capital Act* and adding it to the general duties of the Minister of Canadian Heritage provided for in section 5 of the *Department of Canadian Heritage Act*.

Clauses 216 to 220 are transitional provisions. Clause 216 provides definitions for the transitional provisions. Clauses 217 to 219 transfer from the NCC to the Department of Canadian Heritage those employees whose functions relate to activities and events; any unspent money related to activities and events for the fiscal year in which the section comes into force; and assets, obligations and authorizations related to activities and events. Clause 220 provides for the continuation of legal proceedings relating to activities and events to which the NCC is a party.

Division 14 also amends the *National Holocaust Monument Act* to transfer responsibility for constructing the monument from the Minister of Foreign Affairs[55] to the Minister of Canadian Heritage. Once the monument has been installed, section 11(1) of the *National Holocaust Monument Act* provides that it becomes the property of the NCC. Consequently, while Division 14 transfers the responsibility for constructing the monument to the Minister of Canadian Heritage, it does not transfer the responsibility for maintaining the monument.

Three clauses put all of this into effect:

- Clause 221 amends section 2 of the *National Holocaust Monument Act* to change the definition of "Minister" from "Minister responsible for the *National Capital Act*" to "Minister of Canadian Heritage."
- Clause 222 amends the Act by deleting the words "and maintenance" from section 7(1), which reads: "The Minister shall be responsible for the construction and maintenance of the Monument."
- Clause 223 amends the Act by deleting the words "and maintaining" from section 8(2), which reads: "Nothing shall prevent the Minister from contributing funds for the cost of planning, designing, constructing, installing and maintaining the Monument."

Finally, clause 224 of Bill C-60 provides that Division 14 shall come into force three months after the bill receives Royal Assent.

2.4.15 Division 15: Amends the *Salaries Act* and the *Parliament of Canada Act* (Clauses 225 and 226)

The *Salaries Act* is the principal statute that establishes salary levels for ministers of the Crown. The *Parliament of Canada Act* establishes salary levels for members of the House of Commons. Bill C-60 will allow the government to increase the number of ministers and to designate additional members of Parliament as parliamentary secretaries.

Clause 225 of the bill amends section 46(2) of the *Parliament of Canada Act* to provide that the number of parliamentary secretaries cannot exceed the number of ministers for whom salaries are paid under section 4.1 of the *Salaries Act*. Clause 226 of the bill amends section 4.1(3) of the *Salaries Act* by adding the following three ministers to the list of ministerial offices listed in the provision and for which a salary is paid:

- Minister of the Federal Economic Development Initiative for Northern Ontario;
- Minister of the Federal Economic Development Agency for Southern Ontario; and
- Minister of the Canadian Northern Economic Development Agency.

2.4.16 Division 16: Amends the *Department of Public Works and Government Services Act* (Clause 227)

Public Works and Government Services Canada acts as a common service agency for the government, providing services mainly to departments, boards and agencies of the Government of Canada. Among the services the department is authorized to provide under the *Department of Public Works and Government Services Act* are these:

- the acquisition of supplies, machinery, equipment and other materials;
- the planning and coordination of telecommunication services;
- the management of leased accommodation; and
- oversight of the procurement and contracting process.

Other services the Department is authorized to provide under the Act include accounting, auditing, financial and engineering services.[56]

Section 16(*a*) of the Act authorizes the Minister of Public Works to do anything for, or on behalf of, any department, board or agency of the Government of Canada or Crown corporation, where he or she is authorized to do so by federal legislation.

In addition to granting authority to provide services for entities of the Government of Canada, the minister may, with the approval of the Governor in Council, do anything for or on behalf of any government, body or person in Canada or elsewhere that requests that the minister to do that thing (section 16(*b*)). This provision enables the minister to exercise his or her mandate for governmental entities that are not part of the Government of Canada.

Clause 227(1) of Bill C-60 amends the English version of section 16 of the Act to simplify the language of the provision under which the minister is authorized to exercise his or her mandate to act for, or on behalf of, any department, board or agency of the Government of Canada, and ensuring concordance with the French version of the provision.

More significantly, clause 227(2) amends both the English and French versions of section 16(*b*) of the *Department of Public Works and Government Services Act* to remove the requirement that the Minister of Public Works and Government Services obtain a request for services on behalf of entities outside the Government of Canada. The amendment also allows the Governor in Council to provide an approval on a general or specific basis.

2.4.17 Division 17: Amends the *Financial Administration Act* (Clauses 228 and 229)

The amendments to the *Financial Administration Act* contained in Division 17 of Part 3 of Bill C-60 will have the effect of involving the Treasury Board in the collective agreement negotiation process of Crown corporations in Canada. The amendments will also require a Crown corporation to obtain the Treasury Board's approval in setting the terms and conditions of employment of its non-unionized employees who are not appointed by Order in Council.

Labour relations, and employment conditions generally, in Crown corporations are governed by the *Canada Labour Code*. Among the notable Crown corporations subject to the Code are Canada Post, VIA Rail and the various airport and port authorities. The Code sets out a detailed process for collective bargaining and establishes certain rights and obligations of bargaining agents (unions and other employee organizations) and Crown corporations.[57] The Code imposes certain conditions on the parties in the process of negotiating a collective agreement, among them:

- the duty of good faith bargaining;
- the duty of reasonable effort to enter into a collective agreement;
- continuation of essential services; and
- participation in a conciliation process.

The Code gives the government a limited role in this process. The Minister of Labour may, among other things, refer a matter relating to the provision of essential services to the Canada Industrial Relations Board if the parties cannot agree on what services are essential, and thus not subject to strike action (sections 87.4 and 87.5). The minister may also refer any question to the Board in the interests of promoting industrial peace or direct the Board to do what the minister deems necessary to resolve a labour dispute (section 107).[58] The government may also introduce ad hoc legislation outside the framework of the Code to end a work stoppage, including ordering the parties to enter into binding arbitration.

For non-unionized employees, there are separate provisions in the Code setting out minimum standards for terms and conditions of employment. Provided these standards are met, the Crown corporation is free to negotiate individual terms and conditions of employment directly with employees.

Bill C-60 adds several provisions to Part X of the *Financial Administration Act*, parts of which currently enable the Governor in Council to issue directives to a parent Crown corporation if in its opinion it would be in the public interest to do so. The new provisions will set out more specific powers for the Governor in Council in respect of collective bargaining and setting terms and conditions of employment.

Clause 229 grants the Governor in Council the following new specific powers where collective agreements are negotiated by a Crown corporation:

- to direct the Crown corporation to obtain Treasury Board approval of its negotiating mandate for collective bargaining (new section 89.8(1));
- to enable the Treasury Board to impose requirements with respect to negotiation mandates (new section 89.8(2));
- to enable Treasury Board to appoint an employee to attend and observe the collective bargaining process between a Crown corporation and its bargaining agents (new section 89.8(3)); and
- to require a Crown corporation to obtain Treasury Board approval of any collective agreement that has been negotiated by the Crown corporation (new section 89.8(4)).

In respect of terms and conditions of employment of non-unionized employees, clause 229 grants the Governor in Council the following powers:

- to direct the Crown corporation to obtain Treasury Board approval before a Crown corporation fixes terms and conditions of employment of non-unionized employees who are not appointed by order in council (new section 89.9(1)); and
- to enable the Treasury Board to impose any requirements on terms and conditions of employment negotiated in respect of non-unionized employees not appointed by order in council (new section 89.9(2)).

Clause 229 also imposes a duty on the directors of a Crown corporation to comply with the new obligations with respect to collective bargaining and terms and conditions of employment. Currently, the various duties of a director of a Crown corporation are set out in Part X, Division II, of the *Financial Administration Act*. These duties are owed to the corporation. Among the more important duties are these: to act honestly and in good faith in the best interests of the corporation; and to exercise the care, diligence and skill of a reasonably prudent person in a similar situation (section 115(1)). Section 115(2) of the *Financial Administration Act* imposes a duty to comply with "any directives given to the corporation."

Finally, as laid out in clause 229, new section 89.92 clarifies that the Treasury Board is neither an employer of the employees of the Crown corporation nor is it an employer representative (the party normally negotiating on behalf of an employer in collective bargaining) of the Crown corporation nor a person acting on its behalf. It would appear that this provision is being enacted to foreclose the possibility that the Treasury Board might be considered the employer pursuant to the *Canada Labour Code*, given its role in the collective bargaining process, and be subject to any orders of the Canada Industrial Relations Board and any arbitration decisions in respect of a collective agreement.

The new obligations and requirements regarding collective bargaining and terms and conditions of employment laid out in clause 229 apply to all Crown corporations, including those currently excluded from Part X of the *Financial Administration Act*. Thus, the Bank of Canada, the Canada Pension Plan Investment Board, the Canada Council for the Arts, the Canadian Broadcasting Corporation, the International Development Research Centre and the National Arts Centre Corporation are all subject to the new provisions in clause 229 of the bill (see clause 228, amending sections 85(1), 85(1.01), 85(1.1) and 85(1.2)).

2.4.18 Division 18: Amends the *Keeping Canada's Economy and Jobs Growing Act* (Clause 233)

The Gas Tax Fund is a federal program that helps finance municipal infrastructure. Federal amounts paid through this program come directly from the Consolidated Revenue Fund, rather than from a special fund financed through federal taxes on gasoline.

Section 161 of the 2011 *Keeping Canada's Economy and Jobs Growing Act* specifies the amount that can be distributed annually under the Gas Tax Fund program. In particular, on the requisition of the minister responsible for the Office of Infrastructure of Canada, an annual amount of not more than $2 billion can be paid out from the Consolidated Revenue Fund for each fiscal year beginning on or after 1 April 2014. This amount is to be paid to provinces/territories, municipalities, municipal associations, provincial/territorial/municipal entities and First Nations.

Clause 233 of Bill C-60 amends section 161 of the *Keeping Canada's Economy and Jobs Growing Act* in two ways:

- a requisition can also be made by the Minister of Indian Affairs and Northern Development; and
- the maximum amount of $2 billion to be paid out annually may be adjusted upward.

While the maximum amount for the fiscal year beginning on 1 April 2014 is $2 billion, this amount can be increased by up to $100 million annually in subsequent years, based on a formula.

NOTES

* This Legislative Summary was prepared by the following authors:

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1. Government of Canada, *Jobs, Growth and Long-Term Prosperity: Economic Action Plan 2013*, March 2013, p. 212.
2. House of Commons, Standing Committee on Finance, *Tax Incentives for Charitable Giving in Canada*, Fifteenth Report, 1st Session, 41st Parliament, February 2013, p. 22.
3. Government of Canada (March 2013), p. 334.
4. Ibid., Table A2.1, "Cost of Proposed Tax and Tariff Measures," p. 331.
5. For additional information, see Canada Revenue Agency, "Taxable dividends from corporations resident in Canada," *Income Tax Interpretation Bulletin*, IT-67R3, 15 May 1992. There are two types of gross-up and dividend tax credits (DTCs): a smaller gross-up and DTC for dividends received by individuals from businesses that pay the small business tax rate of 11%, and an enhanced gross-up and DTC for dividends received by individuals from businesses that pay income tax at the higher general income tax rate of 15%.
6. This concept is known as integration. For further information, see Canada, *Report of the Royal Commission on Taxation*, Vol. 1, 1966.
7. Canada Revenue Agency, *Gifting Tax Shelter Schemes*, Backgrounder, 30 October 2012.
8. Ibid.
9. Canada Revenue Agency, "The Canada Revenue Agency: protecting Canadians from gifting tax shelter schemes," News release, 30 October 2012.
10. Department of Finance Canada, *Explanatory Notes Relating to the Income Tax Act, the Tax Court of Canada Act, the Excise Tax Act, the Excise Act, 2001 and the Income Tax Regulations*, 2013.
11. With a flow-through share, an investor enters into an agreement with a corporation to purchase shares; the corporation then uses the proceeds from the share offering to incur eligible exploration and development expenses. These expenses are then "renounced" in favour of the investor. "Renouncing" in this context means that the corporation transfers, to the investor, the right to apply eligible exploration and development expenses against income, which reduces his or her tax payable in any given year.
12. Natural Resources Canada, *Mineral Exploration Tax Credit (METC)*.
13. Department of Finance Canada (2013).
14. Government of Canada (March 2013), Table A2.1.
15. Department of Finance Canada (2013).

16. Government of Canada (March 2013), Table A2.1.

17. Canadian Manufacturers and Exporters, "Backgrounder: Accelerated Capital Cost Allowance."

18. The low corporate tax rate may be provided to credit unions to facilitate their ability to build up a reserve as a consequence of various statutory prudential reserve requirements.

19. Organisation for Economic Co-operation and Development, *The OECD's Project on Harmful Tax Practices: 2006 Update on Progress in Member Countries*, 2006.

20. Department of Finance Canada, "Backgrounder: Proposals to Improve the Caseload Management of the Tax Court of Canada."

21. Department of Finance Canada, "Government Releases for Consultation Draft Legislative Proposals to Improve the Caseload Management of the Tax Court of Canada," News release, 8 June 2012.

22. *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), s. 110(1)(*f*)(v)(A).

23. *Income Tax Regulations*, C.R.C., c. 945, s. 7500; and *Regulations Amending the Income Tax Regulations (Prescribed Missions, 2013)*, P.C. 2013-144, SOR/2013-22, 14 February 2013.

24. *Regulations Amending the Income Tax Regulations (Prescribed Missions, 2013)*.

25. Department of Finance Canada (2013).

26. *Price v. Her Majesty the Queen*, 2011 TCC 449. Some 40 other Air Canada pilots filed similar appeals. *Price* was designated a test case.

27. Ibid., paras. 53–55.

28. The Office of the Secretary to the Governor General provides the necessary support to the Governor General in the exercise of his mandate and the discharge of his responsibilities.

29. Government of Canada (March 2013), p. 222.

30. Additional information about these changes can be found in the Canada Revenue Agency's *EDN33 – Changes to Excise Duty Rates on Manufactured Tobacco*, March 2013.

31. Government of Canada (March 2013), p. 271.

32. Ibid., p. 254.

33. Clause 104 of Bill C-60 amends section 187 of the *Trust and Loan Companies Act*. Clause 105 amends section 183 of the *Bank Act*. Clause 106 amends section 772 of the *Bank Act*. Clause 107 amends section 192 of the *Insurance Companies Act*. Clause 108 amends section 819 of the *Insurance Companies Act*. Clause 109 amends section 188 of the *Cooperative Credit Associations Act*.

34. *Canadian Securities Regulation Regime Transition Office Act*, S.C. 2009, c. 2, s. 297, s. 10.

35. Department of Finance Canada, *Proposed Canadian Securities Act*.

36. *Reference re Securities Act*, [2011] 3 S.C.R. 837.

37. For more information, see Maxime-Olivier Thibodeau, *Proposed Federal Securities Regulator – 1. Economic Aspects*, Publication no. 2012-28-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 30 April 2012; Maxime-Olivier Thibodeau, *Proposed Federal Securities Regulator – 2. Constitutional Aspects*, Publication no. 2012-29-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 17 May 2012; and Maxime-Olivier Thibodeau, "Creating a Federal Securities Regulator – Has the Debate Been Settled?," *HillNote*, Publication no. 2012-35-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 20 June 2012.

38. Government of Canada (March 2013), p. 143.

39. Ibid.

40. "Department of Finance – Canadian Securities Regulation Regime Transition Office Act," *Orders in Council*, P.C. 2012-341, 27 March 2012.

41. Alexandre Gauthier and Katie Meredith, *Direct Investment Between Canada and the World: 2011*, Publication no. 2012-43-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 30 July 2012.

42. Under the *Investment Canada Act*, new thresholds are to be calculated annually for World Trade Organization (WTO) investors or, as appropriate, for any Canadian enterprise ultimately controlled by a WTO member country other than Canada.

43. *Manuge v. Canada*, 2012 FC 499.

44. Government of Canada, "Harper Government announces reforms to the Temporary Foreign Worker Program – Ensuring Canadians have first chance at available jobs," News release, 29 April 2013.

45. House of Commons, Standing Committee on Citizenship and Immigration, *Evidence*, 1st Session, 41st Parliament, 19 November 2012, 1050 (Les Linklater, Assistant Deputy Minister, Strategic and Program Policy, Department of Citizenship and Immigration).

46. Ibid., 1110.

47. This provision corrects a legislative drafting error that gave access, between 15 August and 15 December 2012, to the Refugee Appeal Division according to the previous determination system.

48. House of Commons, Standing Committee on Citizenship and Immigration (2012).

49. Government of Canada (March 2013), "Chapter 3.5: Supporting Families and Communities."

50. Canadian Nuclear Safety Commission, *Departmental Performance Report 2011–12*.

51. Ibid.

52. Department of Finance Canada, "Backgrounder: Ridley Terminals Inc."

53. Department of Finance Canada, "Harper Government Announces Intention to Sell Ridley Terminals Inc.," News release, 13 December 2012.

54. Government of Canada (March 2013), "Chapter 3.5: Supporting Families and Communities."

55. The Minister of Foreign Affairs is the minister responsible for the *National Capital Act* (*Order Designating the Minister of Foreign Affairs for the Purposes of the National Capital Act*, SI/2011-48).

56. See the *Department of Public Works and Government Services Act*, S.C. 1996, c. 16. Section 5 of the Act establishes the mandate of the Department of Public Works and Government Services as a common service provider. Section 6 sets out the powers, duties and functions of the minister. Section 15 of the Act lists the various administrative services the department is authorized to provide.

57. For an overview of the collective bargaining process under the *Canada Labour Code*, see Sebastian Spano, *Collective Bargaining Under the* Canada Labour Code *– Remedies when Parties Fail to Resolve Labour Disputes*, Publication no. 08-46-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 26 January 2009.

58. This power has been exercised by the Minister of Labour in several recent labour disputes involving Crown corporations. On 11 October 2011, the federal Minister of Labour referred a labour dispute involving Air Canada and its flight attendants to the Canada Industrial Relations Board with the order that any work stoppage cease and that the dispute be resolved by the board or referred to binding arbitration. See Brent Jang, "Air Canada strike called off after Ottawa intervenes," *The Globe and Mail* [Toronto], 12 October 2011. The Minister of Labour exercised this power again in a dispute between Air Canada and its pilots to avoid a work stoppage in March 2012. See "Air Canada Strike: Lisa Raitt Prevents Work Stoppage, Sends Dispute To Industrial Relations Board," *The Huffington Post*, 8 March 2012.