

**Ministry of Finance  
SIGN-OFF SHEET**

**Item:** ☐ BN for Information ☒ BN for Decision ☐ Correspondence ☐ OIC  
☐ Other

**Issue:** BN for Decision – Property Tax Exemption for Independent Schools

**CLIFF #:** 342910

Date initiated: \_\_\_\_\_ Final Due on: \_\_\_\_\_

Approvals Required:	Reviewer	Reviewer Initial	Approval	Date Signed
Drafter	Steve Hawkshaw			
Director	Duncan Jillings		<input type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	
A/Executive Director	Richard Purnell	<i>R.P.</i>	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	<i>April 7</i>
ADM	Heather Wood	<i>HW</i>	<input type="checkbox"/> Approved <input checked="" type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	<i>April 7</i>
DM	Peter Milburn		<input type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	

**Notes:**  
 \* Pre-brief w/ Peter is April 8<sup>th</sup> @ 9:30 am.  
 \* Min mtg is April 13<sup>th</sup> @ 4 pm.

**Included are the following:** (check all that apply)

- ☐ Correspondence
- ☐ Incoming
- ☐ Memo
- ☐ OIC
- ☐ Briefing Note
- ☐ Certificate
- ☐ Other: Explain

**Ministry of Finance**  
**BRIEFING DOCUMENT**

**To:** Honourable Michael de Jong, Q.C. **Date Requested:**  
Minister of Finance **Date Required: Apr 13, 2015**

**Initiated by:** Duncan Jillings **Date Prepared: April 10, 2015**  
Director, Property Taxation

**Ministry Contact:** Stephen Hawkshaw **Phone Number:** 250-387-7364  
Tax Policy Analyst **Email:** steve.hawkshaw@gov.bc.ca  
Tax Policy Branch

**342910**

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**TITLE:** Expanded statutory (mandatory) property tax exemption for independent schools

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**PURPOSE:**

**(X) DECISION REQUIRED**

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**COMMENTS:** The proposed amendments expand the mandatory property tax exemption provided to independent schools in the *Community Charter* and the *Taxation (Rural Area) Act*. If the amendments are enacted, the mandatory exemption will be expanded to include the land and improvements surrounding an exempt building provided they are reasonably necessary for the independent school's purposes.

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Executive Director approval: \_\_\_\_\_

ADM approval: \_\_\_\_\_

DM approval: \_\_\_\_\_

**DATE PREPARED:** April 10, 2015

**TITLE:** Expanded mandatory property tax exemption for independent schools.

**ISSUE:** A portion of the property tax exemption for independent schools is granted at the discretion of taxing authorities and a portion of the exemption is mandatory. The proposed RFL would expand the mandatory portion of the property tax exemption.

### **BACKGROUND:**

The Federation of Independent School Associations (FISA) represents almost 300 independent schools, which include Catholic, Protestant, university preparatory, Montessori, Waldorf, special needs, distributed learning, philosophical and other faith-based schools. A November 2014 letter from FISA to the Minister of Finance requested removal of municipal discretion on whether or not to grant a property tax exemption for property that surrounds an exempt school building (the **exemption issue**). FISA also expressed a desire that the exemption be moved to the *Independent School Act* if possible, on the grounds that this would parallel the fact that public schools receive their exemption in the *School Act*.

In addition to the exemption issue, the letter also raised a number of other concerns but did not ask for a solution to those concerns. Those other concerns all centered on how land used by independent schools was held (the **ownership issues**):

- Some land is leased from churches and is permissively exempt only at the discretion of a municipality.
- Some land is leased from private entities and is not exempt.
- Some land is only partially owned by an independent school and may or may not be exempt.
- Some land owned by independent schools has been rezoned and is sitting vacant and as a result is not exempt.

s.13

### **DISCUSSION:**

There are three statutes that govern property tax exemptions for independent schools. In Vancouver, the *Vancouver Charter* applies. In other municipalities the

*Community Charter* applies. In rural areas the *Taxation (Rural Area) Act* applies. Each Act provides the exemption in a slightly different fashion. The exemption issue is not an issue for independent schools located in Vancouver.

In Vancouver, a qualifying school building and all land and improvements reasonably necessary for the purposes of that building are automatically exempt. Municipal discretion does not come into play. For this reason the *Vancouver Charter* is not discussed further or addressed in the attached RFL.

Under the current legislation, independent schools located outside of Vancouver are eligible for two types of property tax exemption:

- A mandatory exemption for buildings and the land a building sits on, that applies automatically if certain tests are met; and
- A follow on permissive exemption for land surrounding a statutorily exempt building that applies at the discretion of the taxing authority (municipalities or in rural areas, the Minister of Finance).

Under this scheme, a qualifying school building owned by an independent school is automatically exempt. The playing fields, parking lots and other surrounding land are only exempt if the taxing authority chooses to exempt them. Until very recently, all municipalities have provided the permissive tax exemption for independent schools. In rural areas the policy of the Surveyor of Taxes has been to provide a blanket exemption.

In 2012, two municipalities (Lantzville and Victoria) reviewed their permissive property tax exemptions and notified independent schools that their permissive property tax exemption will be either partially or fully removed. To date, only two municipalities have taken concrete action, affecting five independent schools. However, other municipalities have considered removing the partial exemption for some schools. FISA is concerned that these municipalities will cease to provide a permissive tax exemption to independent schools in the future.

### **The proposed amendments**

The attached RFL proposes amendments be made to the *Community Charter* and the *Taxation (Rural Area) Act*.

s.13

s.13,s.14



s.13

### **Cost of expanding the mandatory exemption**

s.13

Currently for independent school property in the province, 81 per cent is statutorily exempt, and of the 19 per cent that could be subject to a permissive exemption, 17 per cent is exempt and 2 per cent is not. Of the 2 per cent, most is land and buildings not associated with the school purpose.

The permissive exemption as currently applied by municipalities costs the province about \$2.25 million annually compared to a situation where those lands and improvements were fully taxable.

s.13

### **Consultation and Notice**

There is a statutory obligation to consult with the Union of British Columbia Municipalities (UBCM) on any amendments to the *Community Charter*.

s.13

s.13

s.13,s.16

s.13

**OPTIONS:**

1. Approve the attached RFL and forward to Cabinet for consideration.
2. Do not approve the attached RFL.

**RECOMMENDATION:**

s.13

**APPROVED / NOT APPROVED**

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Michael de Jong, Q.C.  
Minister

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Date

## REQUEST FOR LEGISLATION – 2015

**MINISTER:**

Minister of Finance

**DATE:**

April 13, 2015

**NAME OF ACT:**

*Community Charter, Taxation (Rural Area) Act*  
s.13

**PURPOSE:** s.13  
s.13

There are three taxing statutes, the *Community Charter*, the *Taxation (Rural Area) Act* and the *Vancouver Charter* that provide statutory exemptions for buildings and the land under them if the buildings are occupied by an independent school offering education equivalent to that offered in a public school and if other conditions are met. However, land surrounding the building, including land used for sports fields, playgrounds, green space or parking lots, may or may not be exempt. Municipalities, or in rural areas, the Province, can choose to exempt these facilities using a permissive tax exemption.

s.12,s.13,s.14

Page 008 to/à Page 011

Withheld pursuant to/removed as

s.12;s.14;s.13

s.12,s.13,s.14

**SIGNATURE(S):**

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Peter Milburn

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Honourable Michael de Jong, Q.C.

**Ministry's Instructing Officer:**  
Duncan Jillings

**Ministry Solicitor:**  
Meredith Parkes

**APPENDICES:**

- Appendix A: Legislative Counsel Advice and Opinions to Cabinet
- Appendix B: Treasury Board Staff Comments
- Appendix C: Three Column Document
- Appendix D: Drafting Instructions

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**Appendix A: Legislative Counsel Comments**

s.12,s.13,s.14

Page 014

Withheld pursuant to/removed as

s.12;s.14;s.13

## Appendix B: Treasury Board Staff Comments

Request for Legislation Treasury Board Staff (TBS) Comments	
<b>Section 1: General Information</b> (to be completed by the sponsoring ministry)	
<b>Honourable Mike De Jong, QC</b> <b>Ministry of Finance</b> <b>Name of Legislation:</b> <i>Community Charter, Taxation (Rural Area) Act,</i> <b>Draft/ID Number:</b> (Insert Number if Available) <b>Sent Date:</b> (Insert Date Ministry sent to TBS) <b>Originator:</b> Duncan Jillings <b>RFL Summary:</b> <div style="text-align: right;">s.13</div> <i>Community Charter 220(1)(l) and 224(2)(h)</i> <i>Taxation (Rural Area) Act 15(1)(o)</i>	
<b>Section 2: TBS Comments</b> (to be completed by TBS)	
<b>Financial Implications Reviewed by TBS:</b> Yes <b>Requires Treasury Board Approval:</b> No (tax statutes) <b>Costs/Savings Identified:</b> <div style="text-align: right;">s.12,s.13,s.14</div>	
<b>Funding Source(s):</b> <div style="text-align: right;">s.12,s.13,s.14</div>	
<b>Comments/Recommendation:</b> <div style="text-align: right;">s.12,s.13,s.14</div> <p>These comments were prepared based on draft RFL documents received March 31, 2015, and are not valid for any future date.</p>	
<b>Section 3: TBS Contact Information</b>	
<b>Analyst Name:</b> Randall Gerlach <b>Phone Number:</b> 250-356-9778 <b>Date:</b> April 1, 2015	



**Appendix C: Three Column Document**

<b>Current</b>	<b>Proposed</b>	<b>Reasons</b>
<p><b><i>Community Charter</i></b></p> <p>Section 220 of the <i>Community Charter</i> statutorily exempts from municipal property tax buildings of independent schools wholly used for providing instruction, together with the land on which the building stands provided ownership and occupancy tests are met. The concept of “used for instruction” is relatively broad and includes some dormitories, cafeterias, and lunch rooms.</p> <p>The <i>Community Charter</i> also provides for a permissive property tax exemption at the sole discretion of the municipalities through bylaw for any area of land surrounding the property that has the statutory exemption. This has been used to exempt from taxation property such as sports fields, playgrounds, green space or parking lots, vacant land or land for future school or commercial development and practice has been to permissively exempt improvements as well as land.</p>	s.12,s.13,s.14	
<p><b><i>Taxation (Rural Area) Act</i></b></p> <p>The <i>Taxation (Rural Area) Act</i> statutorily exempts from taxation buildings of independent schools wholly used for providing instruction, together with the land on which the building stands provided ownership and</p>		

occupancy tests are met.

s.12,s.13,s.14

The Act also provides for a permissive tax exemption for the surrounding land that meets a school-purpose test as determined by the Minister of Finance. The Minister may also exercise discretion to exempt a portion of land, if that land is primarily, but not wholly, in use for instruction.

**APPENDIX D – Drafting Instructions****Item**

Amend the *Community Charter* and the *Taxation (Rural Area) Act* to expand the statutory tax exemption for independent schools.

**Problem and Background**

s.12,s.13,s.14

Page 019 to/à Page 020

Withheld pursuant to/removed as

s.12;s.14;s.13

Side-by-side View of Current Exemptions		
Community Charter	Vancouver Charter	Taxation Rural Area Act
<p>220 (1) Unless otherwise provided in this Act or the <i>Local Government Act</i>, the following property is exempt from taxation to the extent indicated:</p> <p>(l) a building owned by an incorporated institution of learning that is regularly giving children instruction accepted as equivalent to that given in a public school, in actual occupation by the institution and wholly in use for the purpose of giving the instruction, together with <u>the land on which the building stands</u>;</p>	<p>Property tax exemptions</p> <p>396. (1) All real property in the city is liable to taxation subject to the following exemptions: —</p> <p>...</p> <p>(c) Real property</p> <p>...</p> <p><b>And certain institutions of learning</b></p> <p>(ii) of which an incorporated institution of learning regularly giving to children instruction accepted as equivalent to that furnished in a public school is the registered owner, or owner under agreement, and which is in actual occupation by such institution and is wholly in use for the purpose of furnishing such instruction;</p>	<p>15 (1) The following property is exempt from taxation:</p> <p>(o) a building, including the land on which it actually stands, of which an incorporated institution of learning regularly giving to children instruction accepted as equivalent to that provided in a public school is the registered owner or the owner under agreement, and which is actually occupied by the institution and wholly in use for the purpose of the instruction</p> <p>...(permissive section below)</p>
<p>224 (1) A council may, by bylaw in accordance with this section, exempt land or improvements, or both, referred to in subsection (2) from taxation under section 197</p> <p>(1) (a) [municipal property taxes], to the extent, for the period and subject to the conditions provided in the bylaw.</p> <p>(2) Tax exemptions may be provided under this section for the following:</p> <p>(h) in relation to property that is exempt under section 220 (1) (i) [seniors' homes], (j) [hospitals] or (l) [private schools], any area of land surrounding the exempt building;</p>	<p><b>Extent of property tax exemptions</b></p> <p>397. (1) The exemptions provided for under clause (c) of section 396 (1) shall extend to so much real property as is reasonably necessary for the purposes of the institution, hospital, or religious organization, and no further; provided that if a parcel is partly exempt and partly taxable, it need not be severed, but the taxes on the taxable portion shall be deemed to apply to the whole parcel.</p>	<p>... and also including an area of the land surrounding the buildings <b>determined by the minister</b> to be reasonably necessary in connection with them, and if the land and improvements are primarily in use for the purpose of the instruction, the minister may determine the proportions of the land and improvements that are exempt and taxable respectively;</p>

**Ministry of Finance  
SIGN-OFF SHEET**

**Item:** ☐BN for Information ☐BN for Decision ☒Correspondence ☒OIC  
☐Other \_\_\_\_\_

**Issue:** OIC re: New Mine Allowance Regulation

**CLIFF #:** 342990

Date initiated: \_\_\_\_\_ Final Due on: \_\_\_\_\_

Approvals Required:	Reviewer	Reviewer Initial	Approval	Date Signed
<b>Drafter</b>	David Karp			
<b>Director</b>			<input type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	
<b>A/Executive Director</b>	Richard Purnell	<i>Richard has verbally approved</i>	<input type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	
<b>ADM</b>	Heather Wood	<i>HW</i>	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	<i>April 26/15</i>
<b>DM</b>	Peter Milburn		<input type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	
<b>Notes:</b>				

**Included are the following:** (check all that apply)

- ☐ Correspondence
- ☐ Incoming
- ☐ Memo
- ☐ OIC
- ☐ Briefing Note
- ☐ Certificate
- ☐ Other: Explain

**Speaking Points for Minister de Jong**  
**May 20, 2015 Cabinet Meeting**  
**Mineral Tax Costs and Expenditures Regulation**  
**(R/85/2015/14)**

**Introduction**

- To encourage mining development, BC offers a new mine allowance.
- The new mine allowance allows corporations that develop a new mine or carry out major expansions to existing mines to defer the payment of mineral taxes.
- The new mine allowance is set to expire at the end of 2015. In *Budget 2015*, the government committed to extend the new mine allowance to the end of 2019.

**Reasons Why the Amendments to the Regulation are Needed / Why the OIC Should be Approved**

- A regulatory amendment is required to enact the extension to the new mine allowance announced in *Budget 2015*.

**Overview of the Amendments / OIC**

- The amendment will extend the new mine allowance to the end of 2019.

To: Honourable Michael de Jong, Q.C.  
Minister of Finance

April 22, 2015  
342990

Re: **Mineral Tax Costs and Expenditures Regulation**

Please find attached an Order in Council (OIC) and related documentation for your approval. The OIC relates to the *Mineral Tax Costs and Expenditures Regulation*.

This OIC amends the *Mineral Tax Costs and Expenditures Regulation* under the *Mineral Tax Act* to extend the new mine allowance to December 31, 2019. The changes are effective upon deposit.

To encourage mining development, the new mine allowance defers the payment of the net revenue tax and reduces provincial mineral tax revenue by the amount that would have been paid during the deferred period. In *Budget 2015*, the government announced it would extend the new mine allowance to the end of 2019.

If you agree with the proposed regulation, please return the signed OIC package to the Office of the Deputy Minister for the appropriate distribution and processing for the **May 20, 2015** Cabinet meeting.

Peter Milburn  
Deputy Minister

Attachments



**Ministry of Finance**

**BRIEFING DOCUMENT**

**To:** Honourable Michael de Jong, Q.C. **Date Requested:** April 22, 2015  
Minister of Finance

**Initiated by:** Peter Milburn  
Deputy Minister

**Date Prepared:** April 22, 2015

**Ministry Contact:** David Karp  
Tax Policy Analyst  
Tax Policy Branch

**Phone Number:** 250-387-5044  
**Email:** David.Karp@gov.bc.ca

Richard Purnell  
Senior Director  
Tax Policy Branch

**Phone Number:** 250-387-9072  
**Email:** Richard.Purnell@gov.bc.ca

**342990**

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**TITLE:** New Mine Allowance Regulation

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**PURPOSE:**

**(X) DECISION REQUIRED**

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**DATE PREPARED:** April 22, 2015

**TITLE:** New Mine Allowance Regulation

**ISSUE:** This Order in Council extends the new mine allowance to January 1, 2020, as announced in *Budget 2015*.

**BACKGROUND:**

This Order in Council (OIC) amends the *Mineral Tax Costs and Expenditures Regulation* to extend the new mine allowance to the end of 2019 as announced in *Budget 2015*.

**DISCUSSION:**

To encourage mining development, the new mine allowance provides for an allowance of one-third of the capital costs of new mines and expansions to existing mines to be added to a mine's lifetime costs (referred to as a mine's "cumulative expenditure account" (CEA)). Each capital cost dollar in a new mine is treated as if it were actually \$1.33. A larger CEA means mines take longer to recover their "costs," delaying payment of the 13 per cent net revenue tax. Therefore, the new mine allowance defers the payment of the net revenue tax and reduces provincial mineral tax revenue by the amount that would have been paid during the deferred period.

The new mine allowance was set to expire at the end of 2015. In *Budget 2015*, the government announced it would extend the new mine allowance to the end of 2019. This regulatory amendment would enact the extension.

s.12,s.14

**REGULATORY CRITERIA EXEMPTION:**

The OIC has no impact on regulatory requirements.

**OPTIONS:**

**Option 1.** Approve the amendment to the *Mineral Tax Costs and Expenditures Regulation* and forward to Cabinet for consideration at the next available Cabinet Meeting.

**Option 2.** Do not approve the proposed amendment.

**RECOMMENDATION:**

- Option 1.** Approve the amendment to the *Mineral Tax Costs and Expenditures Regulation* and forward to Cabinet for consideration at the next available Cabinet Meeting.

**APPROVED / NOT APPROVED**

  
\_\_\_\_\_  
Michael de Jong, Q.C.  
Minister

  
\_\_\_\_\_  
Date

## Order in Council Cabinet Summary Information

**Ministry:** Finance

**Date Prepared:** April 22, 2015

**Cliff #:** 342990

**Log #:** R/85/2015/14

Section	Detail
<b>1. Type of OIC:</b>	<input type="checkbox"/> BRDO appointment* <input type="checkbox"/> Non-BRDO appointment <input type="checkbox"/> Not a regulation <input checked="" type="checkbox"/> Regulation - provide Regulatory Count: 0
<b>2. Routine or For Attention:</b>	Routine For Attention because (select all that apply): <div style="display: flex; align-items: center;"> <span style="margin-right: 10px;">s.12</span> <div style="text-align: center;">                         REQUIRES DISCUSSION                          CONTROVERSIAL                          REVISES POLICY                     </div> </div>
<b>3. Required Effective Date (Select all timing constraints that apply. Include Rationale. )</b>	<div style="display: flex; align-items: center;"> <span style="margin-right: 10px;">s.12</span> <div style="flex-grow: 1;"></div> </div>

\* For Board Resourcing Development Office ("BRDO") appointments, no need to fill out rows 7 through 12. However, along with the tagged OIC, please provide the Biography and signed-off Request for Appointment (BRDO documents).

<b>4. Processing Instructions after approval</b>	<input checked="checked" type="checkbox"/> Process normally <input type="checkbox"/> Hold because (select all that apply): <input type="checkbox"/> Ministry requests hold until release by the Minister, no later than _____ <input type="checkbox"/> Other _____
<b>5. Authorizing Act and section number(s)</b>	<i>Mineral Tax Act</i> , R.S.B.C. 1996, chapter 291, section 44.
<b>6. Purpose, Content and Context (OIC "Essence")</b> What needs to take place (new or changed)? Why?  How will that be accomplished (e.g., is something being added, removed, granted or amended)?  Who requested this change?  What constituencies/ electoral districts does this affect?  What are the consequences if this OIC is not approved?	s.12

<p><b>7. Fiscal Management</b></p> <p><b>Considerations</b> If there are any fiscal implications, include the following details:</p> <p><b>Cost</b> What is the charge/amount/value involved?  How is the cost being covered?</p> <p><b>Fine, Fee or Administrative Penalty</b> If the OIC includes a fine, fee or administrative penalty:  Is Treasury Board review required?  If so, when was the item reviewed and recommended to Cabinet for approval? When did Cabinet ratify that recommendation?</p>	s.12
<p><b>8. Legislative Counsel</b></p> <p><b>Cautions</b> (yellow or red tags)  Please speak to each concern expressed.</p>	s.12,s.14
<p><b>9. Stakeholder and Affected Party Consultations</b> Who is impacted? Include First Nations, local governments, stakeholders, ministries, agencies or offices (e.g., Labour Relations).  Include support or non-support (and why), reason for concern, status of consultation and resolution as of the date of the reviewing Cabinet meeting.</p>	N/A

<b>10. Trade Obligations</b>  <input checked="checked" type="checkbox"/> Trade is not affected.  <div style="float: right;"> The OIC affects trade and  <input type="checkbox"/> BC, Alberta and Saskatchewan Trade Offices have been notified.  <input type="checkbox"/> Trade partners have not yet been notified because:  _____ </div>	
<b>11. Prerequisites</b> (e.g., sponsorship, agreements, surveys, etc.) that need to be met and how each prerequisite has been met (or "N/A").	N/A
<b>12. Communication plan overview</b> (or "N/A"). *Please provide a copy of ALL DM signed OIC Summary Information docs to <u>Nina Chiarelli and Shannon Hagerman</u>	N/A

\_\_\_\_\_  
Deputy Minister

\_\_\_\_\_  
Date Signed

Contact Name: David Karp  
Title: Tax Policy Analyst  
Phone Number: (250) 387-5044

Alternate Contact Name: Richard Purnell  
Title: Strategic Advisor  
Phone Number: (250) 387-9072

Prepared By: David Karp  
Phone Number: (250) 387-5044

**Attached Appendices:**

- ☒ Distribution Form
- ☒ Regulatory Criteria Checklist
- ☐ Regulatory Criteria Exemption Form
- ☐ Map(s)
- ☐ Other:



## Regulatory Criteria Checklist

The purpose of the checklist is to demonstrate that legislative and regulatory changes have been developed according to the Regulatory Reform Policy, while still protecting public health, safety and the environment.

Name of authorizing legislation: Mineral Tax Act

Name of regulation, if applicable: Mineral Tax Costs and Expenditures Regulation

Purpose: Extend the new mine allowance to the end of 2019.

### Regulatory Criteria

☒ I certify that the following Regulatory Reform Principles were considered for this legislation or regulation:

1. Is needed and efficient
2. Is outcome based and will be regularly reviewed
3. Was transparently developed and will be clearly communicated
4. Is cost effective and evidence based
5. Is supportive of BC's economy and small business

Please provide an explanation if any of the criteria above were not considered (continued on page 2):

Number of Regulatory Requirements to be added: +0

Number of Regulatory Requirements to be eliminated: -0

NET CHANGE: 0

Signature, Responsible Minister or Head of Regulatory Authority

Date:

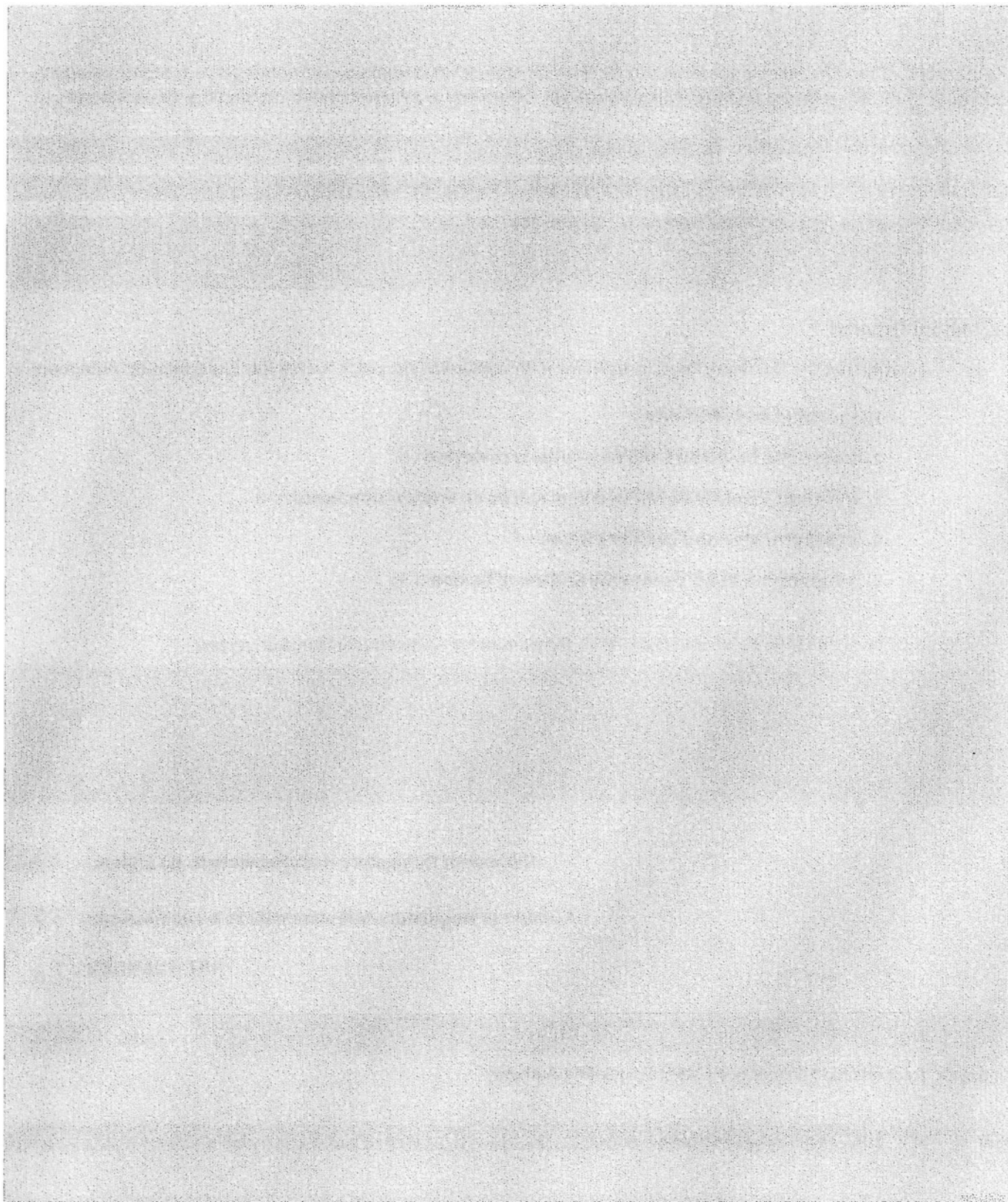
Signator Name: Honourable Michael de Jong, Q.C.

Ministry/Agency Name: Ministry of Finance

Contact Name: David Karp



## Explanation Continued



## ORDER IN COUNCIL DISTRIBUTION FORM

**STATUTE:** *Mineral Tax Act*

For OIC Office use only:

**MINISTRY:** Finance

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### SUMMARY OF SUBJECT MATTER

- Mineral Tax Costs and Expenditures Regulation

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### ORIGINATOR (Name/Ministry/Branch/Telephone/email):

David Karp  
Finance, Tax Policy Branch  
(250) 387-5044  
David.Karp@gov.bc.ca

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### COPIES

☒ PDF copies (Please provide name, Ministry and exact email address for each recipient below):

David Karp, Finance, David.Karp@gov.bc.ca

☐ Certified true copy of this OIC - for legal or evidentiary purposes only  
(Please provide name, Ministry/Company, mailing address, city, postal code and telephone):

Page 035

Withheld pursuant to/removed as

s.12;s.14

**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

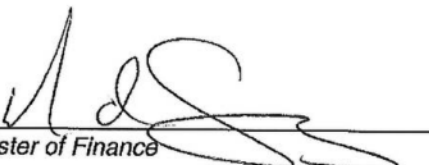
Order in Council No.

, Approved and Ordered

\_\_\_\_\_  
*Lieutenant Governor*

**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that section 5 (1) (a) of the Mineral Tax Costs and Expenditures Regulation, B.C. Reg. 405/89, is amended in subparagraphs (i), (ii), (iii) and (iv) by striking out "before January 1, 2016" and substituting "before January 1, 2020".

  
Minister of Finance

\_\_\_\_\_  
Presiding Member of the Executive Council

\_\_\_\_\_  
*(This part is for administrative purposes only and is not part of the Order.)*

**Authority under which Order is made:**

Act and section: *Mineral Tax Act*, R.S.B.C. 1996, c. 291, s. 44

Other: O.C. 1825/89

February 17, 2015

R/85/2015/14

## Order in Council Cabinet Summary Information

**Ministry:** Finance

**Date Prepared:** April 22, 2015

**Cliff #:** 342990

**Log #:** R/85/2015/14

Section	Detail
<b>1. Type of OIC:</b>	<input type="checkbox"/> BRDO appointment* <input type="checkbox"/> Non-BRDO appointment <input type="checkbox"/> Not a regulation <input checked="" type="checkbox"/> Regulation - provide Regulatory Count: 0
<b>2. Routine or For Attention:</b>	Routine For Attention because (select all that apply): <div style="display: flex; align-items: center;"> <div style="margin-right: 20px;">s.12</div> <div>             REQUIRES DISCUSSION              CONTROVERSIAL              REVISES POLICY           </div> </div>
<b>3. Required Effective Date (Select all timing constraints that apply. Include Rationale. )</b>	s.12, s.14

\* For Board Resourcing Development Office ("BRDO") appointments, no need to fill out rows 7 through 12. However, along with the tagged OIC, please provide the Biography and signed-off Request for Appointment (BRDO documents).

<b>4. Processing Instructions after approval</b>	<input checked="" type="checkbox"/> Process normally <input type="checkbox"/> Hold because (select all that apply): <input type="checkbox"/> Ministry requests hold until release by the Minister, no later than _____ <input type="checkbox"/> Other _____
<b>5. Authorizing Act and section number(s)</b>	<i>Mineral Tax Act, R.S.B.C. 1996, chapter 291, section 44.</i>
<b>6. Purpose, Content and Context (OIC "Essence")</b> What needs to take place (new or changed)? Why?  How will that be accomplished (e.g., is something being added, removed, granted or amended)?  Who requested this change?  What constituencies/ electoral districts does this affect?  What are the consequences if this OIC is not approved?	<ul style="list-style-type: none"> <li>• s.12</li> <li>•</li> <li>•</li> </ul>

<p><b>7. Fiscal Management Considerations</b>          If there are any fiscal implications, include the following details:</p> <p><b>Cost</b>          What is the charge/amount/value involved?          How is the cost being covered?</p> <p><b>Fine, Fee or Administrative Penalty</b>          If the OIC includes a fine, fee or administrative penalty:          Is Treasury Board review required?          If so, when was the item reviewed and recommended to Cabinet for approval? When did Cabinet ratify that recommendation?</p>	<p>s.12</p>
<p><b>8. Legislative Counsel Cautions (yellow or red tags)</b>          Please speak to each concern expressed.</p>	<p>s.12,s.14</p>
<p><b>9. Stakeholder and Affected Party Consultations</b>          Who is impacted? Include First Nations, local governments, stakeholders, ministries, agencies or offices (e.g., Labour Relations).          Include support or non-support (and why), reason for concern, status of consultation and resolution as of the date of the reviewing Cabinet meeting.</p>	<p>N/A</p>

<b>10. Trade Obligations</b> <input checked="" type="checkbox"/> Trade is not affected. <div style="float: right;"> The OIC affects trade and  <input type="checkbox"/> BC, Alberta and Saskatchewan Trade Offices have been notified.  <input type="checkbox"/> Trade partners have not yet been notified because:  _____ </div>	
<b>11. Prerequisites</b> (e.g., sponsorship, agreements, surveys, etc.) that need to be met and how each prerequisite has been met (or "N/A").	N/A
<b>12. Communication plan overview</b> (or "N/A"). *Please provide a copy of ALL DM signed OIC Summary Information docs to <u>Nina Chiarelli and Shannon Hagerman</u>	N/A

  
\_\_\_\_\_  
Deputy Minister  
  
\_\_\_\_\_  
Date Signed

Contact Name: David Karp  
Title: Tax Policy Analyst  
Phone Number: (250) 387-5044

Alternate Contact Name: Richard Purnell  
Title: Strategic Advisor  
Phone Number: (250) 387-9072

Prepared By: David Karp  
Phone Number: (250) 387-5044

**Attached Appendices:**

- ☒ Distribution Form
- ☒ Regulatory Criteria Checklist
- ☐ Regulatory Criteria Exemption Form
- ☐ Map(s)
- ☐ Other:



**Ministry of Finance  
SIGN-OFF SHEET**

**Item:** ☐ BN for Information ☐ BN for Decision ☒ Correspondence ☒ OIC  
☐ Other \_\_\_\_\_

**Issue:** OIC re: Small Venture Capital Regulation

**CLIFF #:** 342991

Date initiated: \_\_\_\_\_ Final Due on: \_\_\_\_\_

Approvals Required:	Reviewer	Reviewer Initial	Approval	Date Signed
<b>Drafter</b>	David Karp			
<b>Director</b>			<input type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	
<b>A/Executive Director</b>	Richard Purnell	<i>Richard verbally approves</i>	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	
<b>ADM</b>	Heather Wood	<i>HW</i>	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	<i>April 26/15</i>
<b>DM</b>	Peter Milburn		<input type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	
<b>Notes:</b>				

**Included are the following:** (check all that apply)

- ☐ Correspondence
- ☐ Incoming
- ☐ Memo
- ☐ OIC
- ☐ Briefing Note
- ☐ Certificate
- ☐ Other: Explain \_\_\_\_\_

**Ministry of Finance**

**BRIEFING DOCUMENT**

**To:** Honourable Michael de Jong, Q.C. **Date Requested:** April 22, 2015  
Minister of Finance

**Initiated by:** Peter Milburn  
Deputy Minister

**Date Prepared:** April 22, 2015

**Ministry Contact:** David Karp  
Tax Policy Analyst  
Tax Policy Branch

**Phone Number:** 250-387-5044  
**Email:** David.Karp@gov.bc.ca

Richard Purnell  
Senior Director  
Tax Policy Branch

**Phone Number:** 250-387-9072  
**Email:** Richard.Purnell@gov.bc.ca

**342991**

---

**TITLE:** Small Business Venture Capital Regulation

---

**PURPOSE:**

**(X) DECISION REQUIRED**

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**DATE PREPARED:** April 22, 2015

**TITLE:** Small Business Venture Capital Regulation

**ISSUE:** This Order in Council is required to increase the small business venture capital tax credit by \$3 million for the 2015 program year as announced in Budget 2015.

**BACKGROUND:**

This Order in Council (OIC) amends the *Small Business Venture Capital Regulation* to increase the small business venture capital tax credit by \$3 million for the 2015 program year, as announced in *Budget 2015*. The \$3 million is restricted to direct investments in eligible new corporations.

**DISCUSSION:**

BC provides a 30 per cent tax credit for eligible investors in qualifying new and existing businesses, giving small businesses access to early-stage venture capital to help them develop and grow. Individual investors can claim up to \$60,000 in refundable tax credits per year (i.e., \$200,000 in eligible investments per year). Corporate investors can receive non-refundable credits without limit. All investments must be in business with fewer than 100 employees that pay at least 75 per cent of wages to BC employees.

The government offers credits on a first-come, first-served basis up to a prescribed maximum, which is currently \$30 million. In *Budget 2015*, the government announced it would expand the credit by \$3 million for 2015. The \$3 million is restricted to direct investments in eligible new corporations that are less than two years old. This measure effectively continues the \$3 million budget for eligible new corporations, which expired at the end of 2014, allowing for up to \$10 million in additional equity financing for qualifying new corporations in 2015.

s.12

**REGULATORY CRITERIA EXEMPTION:**

The OIC has no impact on regulatory requirements.


**OPTIONS:**

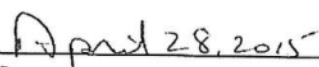
- Option 1.** Approve the amendment to the *Small Business Venture Capital Regulation* and forward to Cabinet for consideration at the next available Cabinet Meeting.
- Option 2.** Do not approve the proposed amendment.

**RECOMMENDATION:**

- Option 1.** Approve the amendment to the *Small Business Venture Capital Regulation* and forward to Cabinet for consideration at the next available Cabinet Meeting.

**APPROVED / NOT APPROVED**

  
\_\_\_\_\_  
Michael de Jong, Q.C.  
Minister

  
\_\_\_\_\_  
Date


OFFICE OF LEGISLATIVE COUNSEL

Examined by: Sandra Borthwick

**GREEN  
TAG**

Order in Council ☐ Regulation ☒

**Comments:**

Signed: 

Date: March 27, 2015

*This legal opinion is subject to solicitor-client privilege.*

R/118/2015/10

**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

Order in Council No.

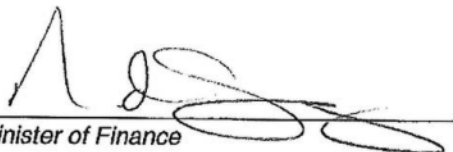
, Approved and Ordered

\_\_\_\_\_  
*Lieutenant Governor*

**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that section 21 of the Small Business Venture Capital Regulation, B.C. Reg. 390/98, is amended

- (a) in subsections (1) (a) and (2) (d) by striking out "2014" and substituting "2015", and
- (b) in subsection (1) (b) by striking out "2015" and substituting "2016".

  
\_\_\_\_\_  
Minister of Finance

\_\_\_\_\_  
Presiding Member of the Executive Council

\_\_\_\_\_  
*(This part is for administrative purposes only and is not part of the Order.)*

**Authority under which Order is made:**

Act and section: *Small Business Venture Capital Act*, R.S.B.C. 1996, c. 429, ss. 29.1 and 37

Other: M367/98

March 27, 2015

R/118/2015/10

## Order in Council Cabinet Summary Information

Ministry: Finance

Date Prepared: April 22, 2015

Cliff #: 342991

Log #: R/118/2015/10

Section	Detail
<b>1. Type of OIC:</b>	<input type="checkbox"/> BRDO appointment* <input type="checkbox"/> Non-BRDO appointment <input type="checkbox"/> Not a regulation <input checked="" type="checkbox"/> Regulation - provide Regulatory Count: 0
<b>2. Routine or For Attention:</b>	Routine For Attention because (select all that apply): <div style="display: flex; align-items: center;"> <span style="margin-right: 10px;">s.12</span> <div>                         REQUIRES DISCUSSION                          CONTROVERSIAL                          REVISES POLICY                     </div> </div>
<b>3. Required Effective Date (Select all timing constraints that apply. Include Rationale.)</b>	<div style="display: flex;"> <div style="flex: 1;"> <p>s.12</p> <p>s.12</p> </div> <div style="flex: 1; padding-left: 10px;"> <p><b>No Timing Requirements</b></p> </div> </div>

\* For Board Resourcing Development Office ("BRDO") appointments, no need to fill out rows 7 through 12. However, along with the tagged OIC, please provide the Biography and signed-off Request for Appointment (BRDO documents).

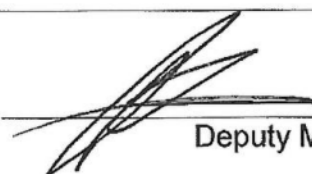
Confidential Advice to Cabinet Page | 1

<b>4. Processing Instructions after approval</b>	<input checked="" type="checkbox"/> Process normally <input type="checkbox"/> Hold because (select all that apply): <input type="checkbox"/> Ministry requests hold until release by the Minister, no later than _____ <input type="checkbox"/> Other _____
<b>5. Authorizing Act and section number(s)</b>	<i>Small Business Venture Capital Act, R.S.B.C. 1996, chapter 429, sections 29.1 and 37.</i>
<b>6. Purpose, Content and Context (OIC "Essence")</b> What needs to take place (new or changed)? Why?  How will that be accomplished (e.g., is something being added, removed, granted or amended)?  Who requested this change?  What constituencies/ electoral districts does this affect?  What are the consequences if this OIC is not approved?	<ul style="list-style-type: none"> <li>• s.12</li> <li>•</li> <li>•</li> </ul>



<p><b>7. Fiscal Management Considerations</b>          If there are any fiscal implications, include the following details:</p> <p><b>Cost</b>          What is the charge/amount/value involved?          How is the cost being covered?</p> <p><b>Fine, Fee or Administrative Penalty</b>          If the OIC includes a fine, fee or administrative penalty:          Is Treasury Board review required?          If so, when was the item reviewed and recommended to Cabinet for approval? When did Cabinet ratify that recommendation?</p>	s.12
<p><b>8. Legislative Counsel Cautions (yellow or red tags)</b>          Please speak to each concern expressed.</p>	N/A
<p><b>9. Stakeholder and Affected Party Consultations</b>          Who is impacted? Include First Nations, local governments, stakeholders, ministries, agencies or offices (e.g., Labour Relations).          Include support or non-support (and why), reason for concern, status of consultation and resolution as of the date of the reviewing Cabinet meeting.</p>	N/A

<b>10. Trade Obligations</b> <input checked="" type="checkbox"/> Trade is not affected. <div style="float: right;"> The OIC affects trade and  <input type="checkbox"/> BC, Alberta and Saskatchewan Trade Offices have been notified.  <input type="checkbox"/> Trade partners have not yet been notified because:  _____ </div>	
<b>11. Prerequisites</b> (e.g., sponsorship, agreements, surveys, etc.) that need to be met and how each prerequisite has been met (or "N/A").	N/A
<b>12. Communication plan overview (or "N/A").</b> *Please provide a copy of ALL DM signed OIC Summary Information docs to <u>Nina Chiarelli and Shannon Hagerman</u>	N/A

  
\_\_\_\_\_  
Deputy Minister

\_\_\_\_\_  
Date Signed

Contact Name: David Karp  
Title: Tax Policy Analyst  
Phone Number: (250) 387-5044

Alternate Contact Name: Richard Purnell  
Title: Strategic Advisor  
Phone Number: (250) 387-9072

Prepared By: David Karp  
Phone Number: (250) 387-5044

**Attached Appendices:**

- ☒ Distribution Form
- ☒ Regulatory Criteria Checklist
- ☐ Regulatory Criteria Exemption Form
- ☐ Map(s)
- ☐ Other:



# Regulatory Criteria Checklist

The purpose of the checklist is to demonstrate that legislative and regulatory changes have been developed according to the Regulatory Reform Policy, while still protecting public health, safety and the environment.

Name of authorizing legislation: Small Business Venture Capital Act

Name of regulation, if applicable: Small Business Venture Capital Regulation

Purpose: To increase the small business venture capital tax credit by \$3 million for the 2015 program year as announced in Budget 2015.

## Regulatory Criteria

☒ I certify that the following Regulatory Reform Principles were considered for this legislation or regulation:


1. Is needed and efficient
2. Is outcome based and will be regularly reviewed
3. Was transparently developed and will be clearly communicated
4. Is cost effective and evidence based
5. Is supportive of BC's economy and small business

Please provide an explanation if any of the criteria above were not considered (continued on page 2):

Number of Regulatory Requirements to be added: +0

Number of Regulatory Requirements to be eliminated: -0

NET CHANGE: 0

  
Signature, Responsible Minister or Head of Regulatory Authority

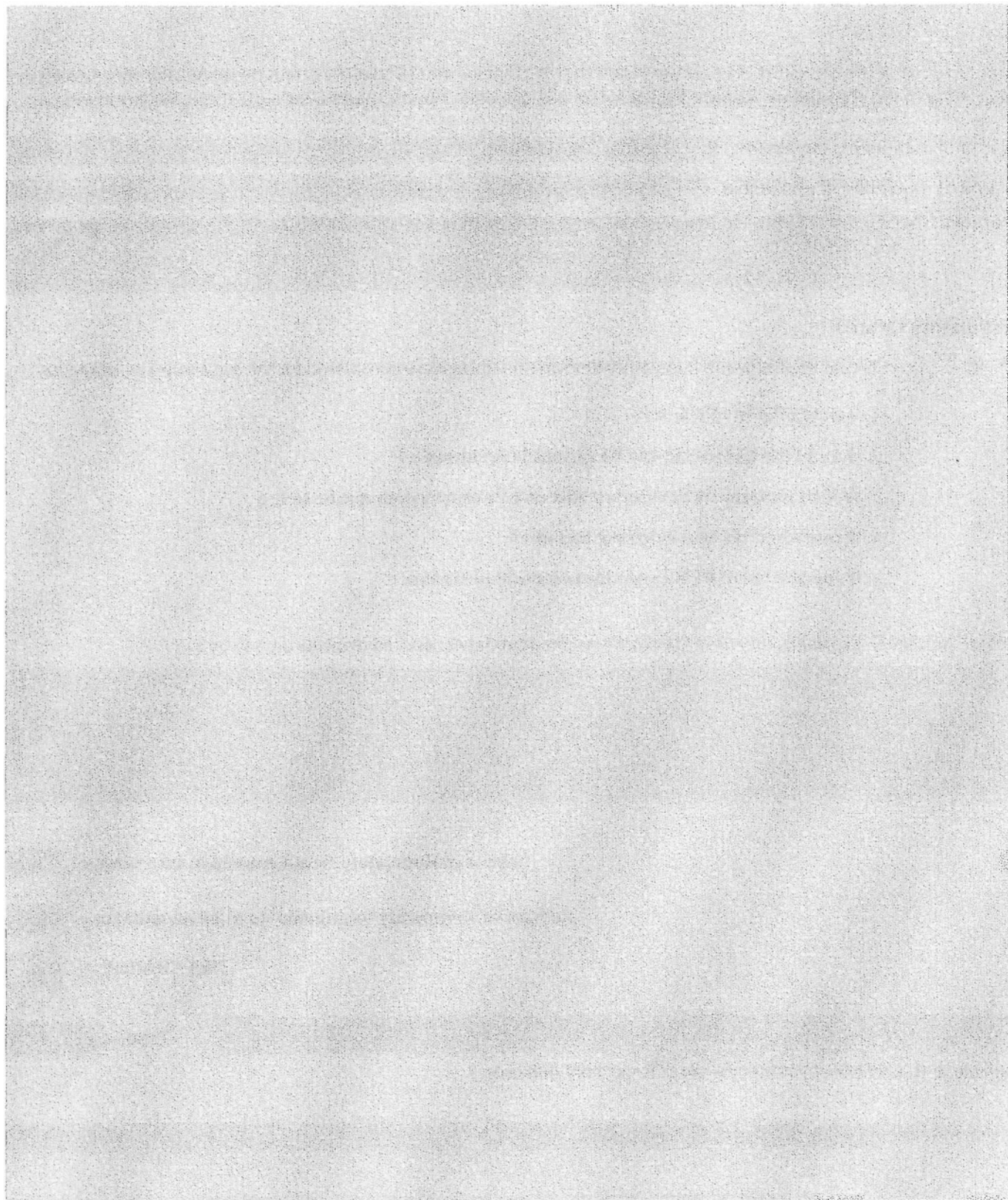
Date: April 28, 2015

Signator Name: Honourable Michael de Jong, Q.C.

Ministry/Agency Name: Ministry of Finance

Contact Name: David Karp

## Explanation Continued



## ORDER IN COUNCIL DISTRIBUTION FORM

**STATUTE:** *Small Business Venture Capital Act*

For OIC Office use only:

**MINISTRY:** Finance

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**SUMMARY OF SUBJECT MATTER**

- Small Business Venture Capital Regulation

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**ORIGINATOR** (Name/Ministry/Branch/Telephone/email):

David Karp  
Finance, Tax Policy Branch  
(250) 387-5044  
David.Karp@gov.bc.ca

---

**COPIES**

☒ PDF copies (Please provide name, Ministry and exact email address for each recipient below):

David Karp, Finance, David.Karp@gov.bc.ca

☐ Certified true copy of this OIC - for legal or evidentiary purposes only  
(Please provide name, Ministry/Company, mailing address, city, postal code and telephone):



Ministry of  
Finance

Office of the  
Deputy Minister

## MEMORANDUM

To: Honourable Michael de Jong, Q.C.  
Minister of Finance

April 22, 2015  
342991

Re: **Small Business Venture Capital Regulation**

Please find attached an Order in Council (OIC) and related documentation for your approval. The OIC relates to the *Small Business Venture Capital Regulation*.

This OIC amends the *Small Business Venture Capital Regulation* under the *Small Business Venture Capital Act* to increase the budget for direct investments in eligible new corporations by \$3 million for the 2015 program year. The temporary enhancement can be claimed in respect of investments in "new" corporations that are fewer than two years old. The changes are effective upon deposit.

This measure effectively continues the \$3 million budget for eligible new corporations, which expired at the end of 2014, allowing for up to \$10 million in additional equity financing for qualifying new corporations in 2015.

There is no specific date by which the amended regulation needs to be in place. However, it is recommended that the changes be made as soon as possible because tax credits cannot be allocated until the regulation is deposited.

If you agree with the proposed regulation, please return the signed OIC package to the Office of the Deputy Minister for the appropriate distribution and processing for the **May 20, 2015** Cabinet meeting.

A handwritten signature in black ink, appearing to read "Peter Milburn", written over a horizontal line.

Peter Milburn  
Deputy Minister

Attachments

**Speaking Points for Minister de Jong**  
**May 20, 2015 Cabinet Meeting**  
**Small Business Venture Capital Regulation**  
**(R/118/2015/10)**

**Introduction**

- To encourage early investments in small businesses, BC offers a small business venture capital tax credit. In *Budget 2015*, the government committed to increase the budget for direct investments in eligible new corporations by \$3 million for the 2015 program year.

**Reasons Why the Amendments to the Regulation are Needed / Why the OIC Should be Approved**

- A regulatory amendment is required to enact the \$3 million enhancement announced in *Budget 2015*.

**Overview of the Amendments / OIC**

- The amendment will provide a \$3 million budget for investments in eligible new corporations in 2015, as announced in *Budget 2015*.
- This effectively continues the \$3 million budget for eligible new corporations, which expired at the end of 2014, allowing for up to \$10 million in additional equity financing for qualifying new corporations in 2015.

**Ministry of Finance  
SIGN-OFF SHEET**

**Item:** ☐BN for Information ☐BN for Decision ☐Correspondence ☒OIC  
☐Other OT

**Issue:** Order-in-Council (OIC) to bring into force the new *Pension Benefits Standards Act* and Regulation, effective s.12.s.14

**CLIFF #:** 340970

Date initiated: April 9, 2015 Final Due on: April 23, 2015

Approvals Required:	Reviewer	Reviewer Initial	Approval	Date Signed
<b>Drafter</b>	Cynthia Callahan-Maureen			
<b>Executive Director</b>	Marcus Gill		<input type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	
<b>ADM</b>	Heather Wood		<input type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	
<b>DM</b>	Peter Milburn		<input type="checkbox"/> Approved <input type="checkbox"/> Approved w/ Changes <input type="checkbox"/> Needs Rewrite	

**Notes:**

For the May 8, 2015 Cabinet meeting.

Cabinet Operations' deadlines:

- the Deputy Minister's signature is required by noon on Thursday, April 16 and
- the Minister's signature is required by noon on Thursday, April 23.

Please return the signed OIC package to the Office of the Deputy Minister for the appropriate distribution.

**Included are the following:** (check all that apply)

- ☐ Correspondence
- ☐ Incoming
- ☒ Memo
- ☒ OIC x 2 (bring new PBSA & regulation into force and repeal current Act & regulation, and amend Divisions of Pensions Regulation under *Family Law Act*)
- ☒ Briefing Note
- ☐ Certificate
- ☒ Other: OIC Summary Information Sheet; Summary of Changes Made by the New PBSA; OIC Distribution Form; Regulatory Criteria Checklists; Questions and Answers; Speaking Points



To: Honourable Michael de Jong, Q.C.  
Minister of Finance

April 13, 2015  
340970

Re: Order-in-Council (OIC) to bring into force the new *Pension Benefits Standards Act*,  
effective s.12,s.14

The *Pension Benefits Standards Act* sets minimum standards for British Columbia employer-sponsored pension plans in areas such as eligibility, vesting, portability, survivor benefits, employer contributions and disclosure to members. The Act is also designed to protect the financial health of pension plans by imposing rules for investment of a plan's assets and for funding and solvency standards.

Bill 38, the new *Pension Benefits Standards Act* (new PBSA), was passed by the BC Legislature on May 31, 2012. The new PBSA is a comprehensive rewrite of pension standards legislation intended to improve workplace pension coverage and security by accommodating alternative plan designs and improving plan governance. On May 29, 2014, Bill 10 was passed by the BC Legislature. Bill 10 makes the technical corrections needed before the new PBSA can come into force.

The new PBSA implements recommendations from the 2008 Report of the BC-Alberta Joint Expert Panel on Pension Standards, and fulfills BC's commitment to create highly harmonized pension legislation with Alberta. The Expert Panel undertook two rounds of public consultations which indicated broad support for the recommendations in their final report. BC and AB staff developed the legislation in consultation with a joint BC/Alberta advisory group that includes pension actuaries, lawyers and administrators who have expressed their general support for the proposed legislation.

The new PBSA will give former pension plan members who demonstrate financial hardship greater access to locked-in Registered Retirement Savings Plans (RRSPs) and life income funds. It also contains provisions that are necessary to support the new Agreement Respecting Multi-Jurisdictional Pension Plans. The Agreement has already been signed by Ontario and Quebec.  
s.12

This OIC package consists of the following:

- a) an OIC Briefing Note;
- b) an OIC to bring the new PBSA and regulation into force and repeal the current PBSA and regulation;
- c) an OIC to amend the Division of Pensions Regulation under the *Family Law Act*;
- d) an OIC Cabinet Summary Information sheet;

.../2

- e) a Summary of Changes Made by the New *Pension Benefits Standards Act*;
- f) an OIC Distribution Form;
- g) Regulatory Criteria Checklists for the PBSA (Bill 38-2012) and the Regulation, showing a net reduction of 44 resulting from this OIC;
- h) a Question and Answer document; and
- i) Speaking Points.

The OIC will be submitted to Cabinet for consideration at the May 6, 2015 Cabinet meeting.

If you concur with proceeding with the OIC, please return the signed package to the Office of the Deputy Minister for appropriate distribution.

Peter Milburn  
Deputy Minister

Attachments

**Ministry of Finance**  
**BRIEFING DOCUMENT**

<b>To:</b>	Honourable Michael de Jong, Q.C. Minister of Finance	<b>Date Requested:</b> <b>Date Required:</b> April 23, 2015
<b>Initiated by:</b>	Heather Wood Assistant Deputy Minister Policy and Legislation Division	<b>Date Prepared:</b> Mar 23, 2015
<b>Ministry Contact:</b>	Marcus Gill, Executive Director Financial and Corporate Sector Policy Branch	<b>Phone Number:</b> 250-387-7567 <b>Email:</b> Marcus.Gill@gov.bc.ca  <b>Cliff #:</b> 340970

---

**TITLE:** Order-in-Council (OIC) to bring into force the new *Pension Benefits Standards Act*, effective<sup>s.12,s.14</sup>

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**PURPOSE:** To bring into force the new *Pension Benefits Standards Act* (Bill 38-2012 and Bill 10-2014) and Regulation and repeal the current *Pension Benefits Standards Act* and Regulation.

**(X) DECISION REQUIRED**

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**COMMENTS:**

s.12,s.14

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**RECOMMENDATION:**

- Approve the requested OIC

**DATE PREPARED:** March 23, 2015

**ISSUE:** Whether to approve an OIC to bring into force the new PBSA and Regulation and repeal the current PBSA and Regulation, effective<sup>s.12,s.14</sup>

**BACKGROUND:**

- The *Pension Benefits Standards Act* (PBSA) and the Pension Benefits Standards Regulation apply to all British Columbia employer-sponsored pension plans.
- The PBSA is designed to protect the interests of British Columbia pension plan members by setting minimum standards in areas such as eligibility, vesting, portability, survivor benefits, employer contributions and disclosure to members.
- The PBSA is also designed to protect the financial health of pension plans by imposing rules for funding, solvency and investments.
- Bill 38, the new *Pension Benefits Standards Act*, was passed by the BC Legislature on May 31, 2012. The new PBSA is a comprehensive rewrite of pension standards legislation intended to improve workplace pension coverage and security by accommodating alternative plan designs and improving plan governance.
- On May 29, 2014, Bill 10 was passed by the B.C. Legislature. Bill 10 makes the technical corrections needed before the new PBSA can come into force.
- The new PBSA implements recommendations from the 2008 Report of the BC-Alberta Joint Expert Panel on Pension Standards (JEPPS), and fulfills BC's commitment to create highly harmonized pension legislation with Alberta.
- The Expert Panel undertook two rounds of public consultations which indicated broad support for the recommendations in their final report.
- BC and AB staff developed the legislation in consultation with a joint BC/Alberta advisory group that includes pension actuaries, lawyers and administrators who have expressed their general support for the proposed legislation.
- The new PBSA will give former pension plan members who demonstrate financial hardship greater access to locked-in Registered Retirement Savings Plans (RRSPs) and life income funds.
- The new PBSA contains provisions that are necessary to support the new Agreement Respecting Multi-Jurisdictional Pension Plans. The Agreement has already been signed by Ontario and Quebec.

<sup>s.12</sup>

**DISCUSSION:**

- Pension standards legislation in British Columbia has not been thoroughly reviewed for two decades. During this time, occupational pension plans have become more complex, coverage has declined and benefit security has diminished, creating issues in a number of areas including funding, governance, unlocking and enforcement.

- Harmonized legislation that is flexible enough to accommodate different types of pension arrangements was identified by the JEPPS as essential to increase pension coverage and improve the security of benefits.
- The revised legislation aims to reduce administrative cost, improve benefit security and enable the private sector to offer more retirement income options.
- The new legislation was drafted in close consultation with the Office of the Superintendent of Pensions, BC Pension Corporation and the Public Sector Employers' Council Secretariat. Catalyst Paper Corporation was consulted on the language to continue the regulatory exemption for its Retirement Plan for Salaried Employees.

The most significant changes in the new PBSA are:

1. Target benefit plans

This new type of pension plan limits an employer's liability to providing the specified contributions. The plan will set out a benefit formula, but unlike a DB plan, benefits will be subject to reduction if funding is insufficient due to lower than expected investment returns or declining interest rates.

The new legislation gives collectively-bargained, multi-employer, negotiated cost defined benefit plans the ability to convert, with union consent, to target benefit plans as a permanent solution to their solvency funding deficiencies.

s.12,s.14

2. Immediate vesting

Members' rights will be enhanced by giving members who terminate membership full entitlement to their entire benefit, instead of the current requirement that a pension must vest after two years of membership.

3. Financial hardship unlocking

The new legislation provides authority for regulations that will give former pension plan members who demonstrate financial hardship greater access to locked-in RRSPs and life income funds. The corresponding regulations implement criteria and processes for withdrawals for low income and medical expenses that are consistent with the tests and processes under Alberta, Ontario and federal legislation.

Other significant changes will:

- clarify that a pension plan is not liable after transferring responsibility for pensions to a regulated insurance company, as long as prescribed conditions are met;
- require governance policies for all plans and funding policies for defined benefit and target benefit plans;
- enhance disclosure to members, s.12,s.14
- recognize jointly-sponsored pension plans;

- create solvency reserve accounts for defined benefit plans; and
- provide the regulator with new tools, including the power to impose administrative penalties and appoint replacement administrators or actuaries.

**REGULATORY CRITERIA CHECKLIST:**

Regulatory count change: - 44.

**RECOMMENDATION:**

- Approve the requested OIC.

**APPROVED / NOT APPROVED**

---

Michael de Jong, Q.C.  
Minister

---

Date

**Order in Council**  
**Cabinet Summary Information**  
Last Updated: March 2014

**Ministry:** Ministry of Finance

**Date Prepared:** April 9, 2015

**Cliff #:** 340970

**Log #:** R/141/2015/15

*The text below will enable Cabinet Ministers to have a clear picture of the decision points, shifts in policy, risks, implications, outstanding issues and timing sensitivities related to the Order in Council. The ministry is responsible for ensuring the information below will enable an informed decision by Cabinet.*

*All sections must be completed. If no information is relevant, please indicate "N/A."*

Section	Detail
<b>1. Type of OIC:</b>	<input type="checkbox"/> BRDO appointment* <input type="checkbox"/> Non-BRDO appointment <input type="checkbox"/> Not a regulation <input checked="" type="checkbox"/> Regulation - provide Regulatory Count: - 44
<b>2. Routine or For Attention:</b>	Routine For Attention because (select all that apply): s.12      REQUIRES DISCUSSION CONTROVERSIAL REVISES POLICY

\* For Board Resourcing Development Office ("BRDO") appointments, no need to fill out rows 7 through 12. However, along with the tagged OIC, please provide the Biography and signed-off Request for Appointment (BRDO documents).

<b>3. Required Effective Date</b> (Select all timing constraints that apply. Include Rationale. )	s.12,s.14
<b>4. Processing Instructions after approval</b>	<input checked="" type="checkbox"/> Process normally <input type="checkbox"/> Hold because (select all that apply): <input type="checkbox"/> Ministry requests hold until release by the Minister, no later than _____ <input type="checkbox"/> Other _____
<b>5. Authorizing Act and section number(s)</b>	Order to bring the new <i>Pension Benefits Standards Act</i> into force: <ul style="list-style-type: none"> <li>• <i>Pension Benefits Standards Act</i>, S.B.C. 2012, c. 30, ss. 133 and 177;</li> <li>• <i>Pension Benefits Standards Amendment Act, 2014</i>, S.B.C. 2014, c. 22, s. 38;</li> <li>• <i>Pooled Registered Pension Plans Act</i>, S.B.C. 2014, c. 17, s. 31.</li> </ul> Order to amend the Division of Pensions Regulation: <ul style="list-style-type: none"> <li>• <i>Family Law Act</i>, S.B.C. 2011, c. 25, ss. 246 and 248 (2).</li> </ul>



**6. Purpose, Content and Context (OIC "Essence")**

What needs to take place (new or changed)? Why?

How will that be accomplished (e.g., is something being added, removed, granted or amended)?

Who requested this change?

What constituencies/ electoral districts does this affect?

What are the consequences if this OIC is not approved?

The proposed Orders in Council will:

1. bring into force the new *Pension Benefits Standards Act*, the *Pension Benefits Standards Amendment Act, 2014* and the new Pension Benefits Standards Regulation, and related amendments in the *Pooled Registered Pension Plans Act*;
2. make consequential, technical amendments to the Division of Pensions Regulation under the *Family Law Act*.

• s.12,s.14

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*continued on page 4...*

<p><b>6. Purpose, Content and Context</b> <i>(continued)</i></p>	<p>The significant changes in the new PBSA and Regulation will:</p> <ul style="list-style-type: none"> <li>• s.12,s.14</li> <li>•</li> <li>•</li> <li>•</li> <li>•</li> <li>•</li> <li>•</li> <li>•</li> <li>•</li> </ul> <p>See attached "Summary of Changes Made by the New <i>Pension Benefits Standards Act</i>."</p> <p>If this OIC is not approved:</p> <ul style="list-style-type: none"> <li>• s.12</li> <li>•</li> <li>•</li> <li>•</li> </ul> <p style="text-align: right;"><i>continued on page 5...</i></p>
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<p><b>6. Purpose, Content and Context</b> <i>(continued)</i></p>	<ul style="list-style-type: none"> <li>● s.12,s.14</li> <li>•</li> <li>•</li> </ul>
<p><b>7. Fiscal Management Considerations</b>  If there are any fiscal implications, include the following details:</p> <p><b>Cost</b>  What is the charge/amount/value involved?</p> <p>How is the cost being covered?</p> <p><b>Fine, Fee or Administrative Penalty</b>  If the OIC includes a fine, fee or administrative penalty:</p> <p>Is Treasury Board review required?</p> <p>If so, when was the item reviewed and recommended to Cabinet for approval? When did Cabinet ratify that recommendation?</p>	<ul style="list-style-type: none"> <li>● s.12</li> <li>•</li> <li>•</li> <li>•</li> </ul>

<p><b>8. Legislative Counsel Cautions</b> (yellow or red tags) Please speak to each concern expressed.</p>	<ul style="list-style-type: none"> <li>• s.12,s.14</li> <li>•</li> <li>•</li> </ul>
<p><b>9. Stakeholder and Affected Party Consultations</b> Who is impacted? Include First Nations, local governments, stakeholders, ministries, agencies or offices (e.g., Labour Relations).  Include support or non-support (and why), reason for concern, status of consultation and resolution as of the date of the reviewing Cabinet meeting.</p>	<ul style="list-style-type: none"> <li>• s.12</li> <li>•</li> <li>•</li> <li>•</li> <li>•</li> <li>•</li> <li>•</li> </ul> <p style="text-align: right;"><i>continued on page 7...</i></p>

<b>9. Stakeholder and Affected Party Consultations</b> (continued)	<ul style="list-style-type: none"> <li>• s.12,s.14</li> <li>•</li> <li>•</li> </ul>
<b>10. Trade Obligations</b>  <input checked="" type="checkbox"/> Trade is not affected.	The OIC affects trade and <input type="checkbox"/> BC, Alberta and Saskatchewan Trade Offices have been notified. <input type="checkbox"/> Trade partners have not yet been notified because: <hr/>
<b>11. Prerequisites</b> (e.g., sponsorship, agreements, surveys, etc.) that need to be met and how each prerequisite has been met (or "N/A").	N/A

<p><b>12. Communication plan overview (or "N/A").</b></p> <p>*Please provide a copy of ALL DM signed OIC Summary Information docs to <u>Melissa Safarik</u></p>	<ul style="list-style-type: none"> <li>• Upon deposit: <ul style="list-style-type: none"> <li>○ News release, with link to the Superintendent of Pension's webpage with information on the new legislation.</li> <li>○ Stakeholders and industry spokespersons identified to speak in support of the changes when announced.</li> <li>○ Major industry stakeholders directly contacted by Ministry staff upon deposit of OIC.</li> </ul> </li> <li>• Follow-up information bulletin to announce actual implementation ons.12,s.14</li> </ul>
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Peter Milburn, Deputy Minister

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Date Signed

Contact Name: Marcus Gill  
Title: Executive Director  
Phone Number: 250 387-7567

Alternate Contact Name: Cynthia Callahan-Maureen  
Title: Senior Policy Advisor  
Phone Number: 250 387-7520

Prepared By: Cynthia Callahan-Maureen  
Phone Number: 250 387-7520

**Attached Appendices:**

- ☒ Distribution Form
- ☒ Regulatory Criteria Checklists
- ☐ Regulatory Criteria Exemption Form
- ☐ Map(s)
- ☒ Other: Summary of Changes Made by the New *Pension Benefits Standards Act*

## **Summary of Changes Made by the New *Pension Benefits Standards Act***

The new *Pension Benefits Standards Act* (Bill 38-2102) received Royal Assent in May 2012. Technical corrections were made to the new Act in 2014, by Bill 10-2014. The new legislation contains provisions for new plan structures, funding rules and disclosure requirements.

s.12,s.14

### **New types of plans:**

#### **1. Target benefit plans (TBPs)**

TBPs limit an employer's liability to payment of fixed contributions, independent of the plan's funded position.

#### **Conversions to TBPs**

The new Act permits conversion of accrued benefits in defined benefit plans to TBPs, with union consent. At least 30 days before a conversion amendment is filed with the Superintendent, the plan administrator must provide notice of the conversion to all affected members.

s.12,s.14

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### **Funding of TBPs**

s.12,s.14

If the expected contributions are insufficient to fund a TBP, contributions must be increased or the plan must be amended to adjust the target benefit provision.

s.12,s.14

### **Commutated value calculations for TBPs**

s.12,s.14

New rules have been added with respect to the allocation and distribution of excess member contributions from pension plans that have a target benefit provision.

s.12,s.14



## **2. Jointly sponsored plans (JSPs)**

Under a JSP, active plan members and participating employers share the funding obligations of the plan, including special payments toward solvency and going concern deficits.

s.12,s.14

### **Immediate vesting**

All members of a pension plan will become immediately vested as of September 30, 2015, instead of the current requirement that a pension must vest after two years of membership. Members who terminate membership will be entitled to their entire benefit. As a result of immediate vesting, special rules for partial plan terminations have been eliminated.

### **Unlocking**

s.12,s.14

The new Act requires all plans to provide for unlocking of a member's pension benefit in the case of considerably shortened life expectancy. The ability to unlock on the basis of 2-years' non-residency in Canada continues to be required.

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### **Disclosure requirements**

The new Regulation introduces new member statements and expanded disclosure obligations, many aimed at increasing awareness of member rights and responsibilities.

New statements include:

s.12,s.14

### **Solvency reserve account**

Employers may establish a solvency reserve account, as part of a defined benefit plan's pension fund, to hold special payments to amortize solvency deficiencies.

s.12,s.14

## **Governance and funding policies**

Every plan must establish a governance policy by <sup>s.12,s.14</sup> Every plan with a defined benefit provision or a target benefit provision must establish a funding policy by the same date.  
s.12,s.14

## **Plan assessments**

Plan administrators must conduct a review of their plans every <sup>s.12,s.14</sup> to confirm they comply with the plan text, the plan's policies and the new Act. The plan assessment does not have to be filed with the Superintendent, but it must be available upon request. The first plan assessment must be completed by <sup>s.12,s.14</sup> Subsequent <sup>s.12,s.14</sup> assessments must be completed every <sup>s.12,s.14</sup> within 1 year after the end of the plan fiscal year.

## **Pension advisory committee**

The provision requiring a pension advisory committee to be established in certain circumstances has been eliminated as the provision has not been used.

## **Plans for connected persons**

s.12,s.14

s.12,s.14

## **Plan amendments**

s.12,s.14

s.12,s.14

### **Actuarial valuations and cost certificates**

s.12,s.14

### **Audited financial statements**

s.12,s.14

### **Contributions and fundholders**

Administrators must provide a summary of contributions to the fundholder within 30 days after the beginning of each fiscal year of the plan.

The fundholder must monitor the contribution remittances and compare against the summary of contributions<sup>s.12,s.14</sup> If the comparison reveals that the remitted contributions are<sup>s.12,s.14</sup>

The fundholder must notify the Superintendent within 15 days after the end of the month if no contributions were received.

These new requirements do not apply to collectively bargained multi-employer plans.

s.12,s.14

### **Locked-in registered retirement savings plans (RRSPs) and life income funds**

Locked-in RRSPs have been renamed as locked-in retirement accounts (LIRAs).

s.12,s.14

The age at which a life income fund may be purchased has been lowered from age 55 to age 50.  
s.12,s.14

### **Annuity purchase from ongoing plan**

The new Act clarifies that a pension plan is not liable after transferring responsibility for pensions to a regulated insurance company, as long as specific conditions are met. For example, members must receive the same benefits from the annuities that they would have received from the plan, and

s.12,s.14

### **Transfer of employee from predecessor to successor employer**

Rules regarding predecessor and successor pension plans have been expanded to

s.12,s.14

s.12,s.14

s.12,s.14

Under the current Act, the employee's years of employment with both employers contributed toward eligibility to join the successor employer's plan.

### **Transfer rights on winding-up**

Defined benefit pension plans generally provide that life annuities, which match the form and amount of pension that retirees were receiving from the plan, must be purchased for the retirees if the plan winds up. Under the new Act, retired members and other pensioners are entitled to transfer their benefit entitlement to a locked-in vehicle or a life annuity in certain circumstances:

s.12,s.14

### **Distribution of assets on winding-up**

s.12,s.14

### **Administrative penalties**

The Superintendent may impose administrative penalties up to \$50,000 (for an individual) and \$250,000 (for a corporation) for non-compliance of prescribed sections of the new Act and new Regulation. Specific maximum penalties are prescribed for individual provisions.

### **Multi-jurisdictional pension plans**

The new Act contains the necessary provisions to authorize BC's participating in the Agreement Respecting Multi-Jurisdictional Pension Plans.

s.12,s.14

s.12,s.14

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## **Transitional provisions**

s.12,s.14



## Regulatory Criteria Checklist

The purpose of the checklist is to demonstrate that legislative and regulatory changes have been developed according to the Regulatory Reform Policy, while still protecting public health, safety and the environment.

Name of authorizing legislation: Pension Benefits Standards Act

Name of regulation, if applicable: Pension Benefits Standards Regulation

Purpose: To repeal the current Pension Benefits Standards Regulation and replace it with the new Pension Benefits Standards Regulation, effective s.12, s.14

## Regulatory Criteria

☒ I certify that the following Regulatory Reform Principles were considered for this legislation or regulation:

1. Is needed and efficient
2. Is outcome based and will be regularly reviewed
3. Was transparently developed and will be clearly communicated
4. Is cost effective and evidence based
5. Is supportive of BC's economy and small business

Please provide an explanation if any of the criteria above were not considered (continued on page 2):

The increase of 99 regulatory requirements for the new Pension Benefits Standards Regulation will be more than offset by the reduction in regulatory requirements in the Pension Benefits Standards Act. The new Pension Benefits Standards Act eliminates 144 regulatory requirements in the current Act.

When the new Pension Benefits Standards Act and Pension Benefits Standards Regulation come into force, the total count for Act and Regulation will be reduced by 44.

Number of Regulatory Requirements to be added: +760

Number of Regulatory Requirements to be eliminated: -661

NET CHANGE: 99

Date:

Signature, Responsible Minister or Head of Regulatory Authority

Signator Name: Michael de Jong, Q.C.

Ministry/Agency Name: Ministry of Finance

Contact Name: Marcus Gill, Financial and Corporate Sector Policy Branch







## Regulatory Criteria Checklist

The purpose of the checklist is to demonstrate that legislative and regulatory changes have been developed according to the Regulatory Reform Policy, while still protecting public health, safety and the environment.

Name of authorizing legislation: Pension Benefits Standards Act

Name of regulation, if applicable:

Purpose: To repeal the current Pension Benefits Standards Act and replace it with the new Pension Benefits Standards Act, effective s.12, s.14 (The requirements to be added apply to the new PBSA, Bill 38-2012 (+164) and the PBS Amendment Act, 2014 (+1).

## Regulatory Criteria

☒ I certify that the following Regulatory Reform Principles were considered for this legislation or regulation:

1. Is needed and efficient
2. Is outcome based and will be regularly reviewed
3. Was transparently developed and will be clearly communicated
4. Is cost effective and evidence based
5. Is supportive of BC's economy and small business

Please provide an explanation if any of the criteria above were not considered (continued on page 2):

Number of Regulatory Requirements to be added: +165

Number of Regulatory Requirements to be eliminated: - 308

NET CHANGE: -143

Signature, Responsible Minister or Head of Regulatory Authority

Date:

Signator Name: Michael de Jong, Q.C.

Ministry/Agency Name: Ministry of Finance

Contact Name: Marcus Gill, Financial and Corporate Sector Policy Branch



## ORDER IN COUNCIL DISTRIBUTION FORM

**STATUTE:** *Pension Benefits Standards Act*

For OIC Office use only:

**MINISTRY:** Ministry of Finance

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### SUMMARY OF SUBJECT MATTER

OIC to,

- s.12,s.14

- 

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### ORIGINATOR (Name/Ministry/Branch/Telephone/email):

Ministry of Finance

Financial and Corporate Sector Policy Branch

Tele: (250) 387-1269

Email: [fcsp@gov.bc.ca](mailto:fcsp@gov.bc.ca)

---

### COPIES

☒ PDF copies (Please provide name, Ministry and exact email address for each recipient below):

Marcus Gill, Executive Director

Ministry of Finance

[Marcus.Gill@gov.bc.ca](mailto:Marcus.Gill@gov.bc.ca)

Leanne Allen, Legislative Co-ordinator

Ministry of Finance

[Leanne.Allen@gov.bc.ca](mailto:Leanne.Allen@gov.bc.ca)

☐ Certified true copy of this OIC - for legal or evidentiary purposes only

(Please provide name, Ministry/Company, mailing address, city, postal code and telephone):

## **Speaking Points for Minister de Jong, Q.C.**

### **Order-in-Council**

#### **Commencement of the new *Pension Benefits Standards Act***

##### **Introduction**

- In 2012, the Legislative Assembly of British Columbia enacted Bill 38-2012 as a new *Pension Benefits Standards Act*. Technical corrections were made last Spring by Bill 10-2014.
- In 2012 the Legislative Assembly of Alberta enacted parallel legislation as the *Employment Pension Plans Act*. That Act became law in Alberta on September 1, 2014 (except for a few provisions).
- The new PBSA represents BC's joint commitment with Alberta to create highly-harmonized pension standards legislation on the basis of the recommendations in the 2008 Report of the BC/Alberta Joint Expert Panel on Pension Standards.
- The new BC and Alberta legislation is a comprehensive rewrite of pension standards legislation. It is intended to improve workplace pension coverage and security by accommodating alternative plan designs and improving plan governance.
- Highly harmonized pension standards will reduce the cost and complexity of administering plans that have members in both BC and Alberta, and further support labour mobility between our provinces.
- This Order-in-Council will bring the new PBSA into force, effective  
s.12,s.14

##### **What This is Not About**

- The new PBSA is a separate initiative from the work being done by Finance Ministers across Canada about retirement income adequacy and the new tool that we're implementing to help British Columbians

save for retirement: Pooled Registered Pension Plans (PRPPs). BC's PRPP legislation was enacted in Spring 2014.

s.12

### **Reasons Why the New PBSA Is Needed**

s.12,s.14

### **Overview of Significant Changes**

Here is an explanation of the most significant changes in the new PBSA:

#### **Target benefit plans**

- This new type of pension plan limits an employer's liability to the contributions specified in the plan. Like defined benefit (or DB) plans, these plans will use a formula to determine benefits. But unlike DB plans, benefits will be subject to reduction if funding is insufficient. This may be due to lower than expected investment returns or declining interest rates.
- Under the new PBSA, multi-employer, negotiated cost plans will be able to convert to target benefit as a permanent solution to their solvency funding deficiencies, as long as the union consents.

- These large, trade union-sponsored plans are currently categorized as defined benefit. The largest is the IWA – Forest Industry Pension Plan.
- Currently, a statutory override allows these plans to reduce *both* accrued and future benefits if funding requirements are not met, despite a general statutory prohibition on reducing accrued benefits.

- s.12,s.14

- Many multi-employer, negotiated cost plans only fund on a going concern basis because they are currently exempt from solvency funding rules.

s.12,s.14

- s.12,s.14

Other significant changes in the new PBSA will:

- enhance members' rights by giving members who terminate membership full entitlement to their entire benefit (instead of the current requirement that a pension must vest after no more than two years of membership);
- clarify that a pension plan is not liable after transferring responsibility for pensions to a regulated insurance company, as long as prescribed conditions are met;
- require governance policies for all plans and funding policies for defined benefit and target benefit plans;
- enhance disclosure to members, s.12,s.14  
s.12,s.14
- recognize jointly-sponsored pension plans; and
- provide the regulator with new tools, including the power to impose administrative penalties and appoint replacement administrators or actuaries.

**Questions and Answers**  
**New Pension Benefits Standards Act**

**1. What prompted the new *Pension Benefits Standards Act* (PBSA)?**

In 2007, the Ministers of Finance of Alberta and British Columbia (BC) established a Joint Expert Panel on Pension Standards to conduct a full and independent public review of the pension standards legislation in the two provinces. After conducting extensive research and consultation with stakeholders, the Expert Panel released its report in 2008, which contained over 100 recommendations for a comprehensive rewrite of pension benefits standards legislation in Alberta and British Columbia.

The purpose of this legislative rewrite is to substantially implement the Expert Panel's recommendations, including:

- to facilitate private sector pension plan coverage and improve benefit security by implementing an outcomes and risk based approach to pension plan regulation in both provinces; and
- to harmonize pension standards legislation in BC and Alberta, to the extent possible.

**2. What are some of the significant changes under the new PBSA?**

The significant changes include:

- giving former pension plan members who demonstrate financial hardship greater access to locked-in RRSPs and life income funds;
- recognizing "target benefit" pension plans as a type of pension plan;
- providing for immediate vesting of pension benefits;
- requiring governance policies for all plans and funding policies for defined benefit (DB) and "target benefit" plans;
- enhancing disclosure requirements;
- recognizing jointly-sponsored pension plans;
- creating pension solvency reserve accounts;
- clarifying that a pension plan is not liable after transferring responsibility for pensions to a regulated insurance company, as long as specific conditions are met; and
- providing the regulator with new tools, including the power to levy administrative penalties and appoint replacement administrators or actuaries.

## Questions and Answers

### *New Pension Benefits Standards Act*

#### **3. How does this legislation affect a person's ability to access "locked-in" pension funds?**

The legislation will permit former pension plan members to have greater access to locked-in RRSP and Life Income Fund (LIF) accounts in certain circumstances of financial hardship. Hardship unlocking applications would

s.12,s.14

Applicants will be able to apply s.12,s.14  
following reasons:

for each of the

s.12,s.14

Finally, the proposed regulations will require all RRSP and LIF contracts to contain provisions that parallel the new Act's requirement that all plans must provide for unlocking of a member's pension benefit in the case of considerably shortened life expectancy. The proposed regulations carry forward existing requirements that permit RRSP and LIF holders to unlock on the basis of 2-years' non-residency in Canada.

#### **4. If the money in retirement accounts belongs to the account owner, why don't we just allow unlimited access?**

s.12



**Questions and Answers**  
***New Pension Benefits Standards Act***

s.12

**5. What is a target benefit plan?**

A target benefit plan can be thought of as a hybrid of a defined benefit (DB) and a defined contribution (DC) pension plan which balances the interests of employers and members. A target benefit plan has a benefit formula like a DB plan, but like a DC plan, both employer and employee contributions are specified, and benefits must be reduced if funding is insufficient. The current Act recognizes only DB and DC plans. Ontario and Nova Scotia have also enacted legislation to enable target benefit plans.

These plans currently exist in the form of multi-employer negotiated cost defined benefit plans sponsored by trade unions.

s.12,s.14

**6. What are the funding requirements for target benefit plans?**

Under the proposed regulations, target benefit plans will be subject to a different set of minimum funding standards than traditional employer-sponsored DB plans.

s.12,s.14

**Questions and Answers**  
***New Pension Benefits Standards Act***

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- 7. How does the new PBSA help multi-employer negotiated cost plans that have been experiencing funding difficulties?**

s.12,s.14

- 8. Will retired members who are receiving a pension receive any disclosure from the plan?**

s.12,s.14

- 9. What are solvency reserve accounts and why are they being created? How will they benefit British Columbians?**

A solvency reserve account will allow an employer to make solvency contributions to a sub-account within the pension fund. When the plan returns to a solvency surplus position, the money in the reserve account may be refunded directly to the employer, subject to

s.12,s.14

- 10. Under the new legislation, will pension plans be liable if the plan purchases annuities and the life insurance company fails?**

The new legislation clarifies that plans are not liable to members for whom appropriate annuities were purchased in the unlikely event that the life insurance company fails and the members suffered a loss.

**Questions and Answers**  
**New Pension Benefits Standards Act**

These annuity purchases must comply with certain conditions, including:

- members must receive the same benefits they would have received from the plan;

s.12,s.14

**11. Is it in the best interest of pensioners to provide liability protection for plans that purchase annuities?**

s.12

Life insurance companies must meet minimum capital requirements.

If a life insurance company fails, the annuity policy would be transferred to a solvent company. The holder is guaranteed to receive the greater of \$2,000 per month, 85% of monthly income, or the amount obtained by the liquidator, whichever is higher.

In the unlikely event of an insolvency, protection for annuity holders is provided by the Canadian Life and Health Insurance Compensation Corporation, commonly known as Assuris. Assuris is a not-for-profit organization to which all Canadian life insurance companies are required to contribute.

Since its establishment in 1990, Assuris has dealt with four failures of life insurance companies involving 2.9 million policyholders. In two insolvencies, all policyholders were fully protected. In the other two, between 96% and 100% of policy holders were fully protected and the remainder received between 95% and 99% of their benefits.

**12. How does this legislation affect public sector pension plans?**

The PBSA will continue to apply to public sector pension plans although those plans will continue to be exempt from specific provisions of the Act and regulation.

s.12

**13. What is the Agreement Respecting Multi-Jurisdictional Pension Plans?**

Multi-jurisdictional pension plans are plans that have members in more than one province. Pension regulators and government staff from all provinces have worked together in creating the Agreement Respecting Multi-Jurisdictional Pension Plans (ARMPP). The PBSA legislation has been developed with the necessary amendments to implement the ARMPP. The ARMPP is in force in Quebec and Ontario.

s.12

**Questions and Answers**  
***New Pension Benefits Standards Act***

**14. What is a plan for specified individuals?**

A plan for specified individuals is a plan comprised of members who are the directing minds of the employer sponsoring the plan and/or members who earn in excess of 2.5 times YMPE (for 2015, \$134,000).

**15. What is a plan for connected persons?**

A plan for connected persons is a plan comprised exclusively of members who are the directing minds of the employer sponsoring the plan.

**16. What are the changes in the Act and Regulation respecting plans for specified individuals and plans for connected persons?**

Under the current Act, plans for specified individuals are only subject to a few rules regarding vesting, locking-in, portability, survivor benefits and age restrictions.

s.12,s.14

**17. Have consultations been conducted on this new legislation?**

The Ministry of Finance consulted extensively with the public and industry on reforms to pension standards. The current review began in 2007, when the JEPPS was asked to review pension standards legislation in Alberta and BC. The public was asked to provide comments on both the JEPPS' discussion paper and on the JEPPS' final recommendations. The legislative rewrite is proceeding on the basis of the JEPPS' recommendations as well as input provided by industry and the public.

Support for the new target benefit plan design has been expressed by existing multi-employer negotiated cost plans (which are similar in design) and participating unions, and by the former Opposition Critic for Finance.

Ministry staff consulted a Joint Advisory Group on an ad hoc basis as issues arose. The group consists of pension lawyers, actuaries, pension plan managers and other professionals from the pension industry in Alberta and BC.

s.12

**Questions and Answers**  
***New Pension Benefits Standards Act***

**18. Is there any relationship between this legislation and other initiatives to reform the pension system in Canada, like Pooled Registered Pension Plans (PRPPs)?**

The PBSA is completely separate from the PRPP Act. The PBSA sets minimum standards for benefits, funding, investments, disclosure and regulatory oversight for employer-sponsored pension plans.

However, the new PBSA aligns with other pension reform initiatives intended to increase pension coverage and improve benefit security, such as Pooled Registered Pension Plans (PRPPs). PRPPs are a new type of defined contribution pension plan. Legislation to implement PRPPs for BC workers was enacted in 2014,

s.12

**19. What might happen if we don't proceed with these amendments?**

s.12,s.14

## Questions and Answers

### ***New Pension Benefits Standards Act***

**20. What is the status of the parallel Alberta legislation?**

Alberta's parallel legislation, the new *Employment Pension Plans Act*, was brought into force on September 1, 2014. More time was provided for plan administrators and others to make changes to comply with some provisions.

**21. When will the new PBSA come into force?**

s.12,s.14

**22. Can the financial hardship unlocking provisions be brought into force before the rest of the legislation?**

s.12

**Ministry of Finance**  
**BRIEFING DOCUMENT**

**To:** Honourable Michael de Jong, Q.C.  
Minister of Finance

**Date Required:** April 15, 2015

**Initiated by:** Pat Parkinson  
Executive Lead  
LNG Tax Development

**Date Prepared:** April 13, 2015

**Ministry Contact:** Pat Parkinson  
Executive Lead  
LNG Tax Development

**Phone Number:** 250-387-8990  
**Email:** Pat.Parkinson@gov.bc.ca

**Cliff #:**343045

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**TITLE:** BC Corporate Income Tax (BC CIT) - Natural Gas Tax Credit Regulations

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**PURPOSE:**

**(X) DECISION REQUIRED**

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Executive Director approval: \_\_\_\_\_

ADM approval: \_\_\_\_\_

DM approval: \_\_\_\_\_

**DATE PREPARED:** April 13, 2015

**TITLE:** BC Corporate Income Tax (BC CIT) - Natural Gas Tax Credit Regulations

**ISSUE:** A decision is needed on the prescribed percentage for the purposes of calculating the annual natural gas tax credit.

**BACKGROUND:**

To be eligible for a deduction under the BC CIT natural gas tax credit, a "qualifying corporation" must be both a LNGITA taxpayer (i.e. carry on or derive income from liquefaction activities at an LNG Facility) and a BC CIT taxpayer (i.e. have a permanent establishment in BC). The amount that may be deducted by a qualifying corporation is the least of:

- the "accumulated natural gas tax credit", which is currently the total of 0.5% (plus a prescribed percentage) of the eligible cost of natural gas for the taxation year, plus the amount of the natural gas tax credit for all previous tax years, less any tax credits previously taken;
- the difference in the amount of tax payable if the BC CIT tax rate is reduced to 8% for the taxation year; and,
- the BC CIT payable (before the deduction) for the tax year.

If the calculation for the accumulated natural gas credit exceeds the amount of the BC CIT payable net of all other tax credits, then the actual amount of BC CIT payable will be the allowable deduction. However, the maximum allowable deduction is an amount of tax that reduces the tax rate to 8%.

A decision is now required on the percentage to prescribe for the annual natural gas tax credit.

**DISCUSSION:**



s.13

s.13,s.17

s.13

***Considerations for the future***

The value of the credit for any particular taxpayer in any given year depends on the price of natural gas (and the volume of natural gas used, but volumes are expected to be relatively constant once taxpayers operate at full capacity).

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**OPTIONS:****Option 1** <sup>s.13</sup>**Pros:**

s.13

s.13

Cons:

s.13

**Option 2:** s.13

Pros:

s.13

Cons:

s.13

**RECOMMENDATION:**

s.13

**DECISION**

s.13

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Michael de Jong, Q.C.  
Minister

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Date

**Appendix A:**

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**Ministry of Finance**

**BRIEFING DOCUMENT**

**To:** Honourable Michael de Jong, Q.C.  
Minister of Finance

**Initiated by:** Chris Dawkins  
Executive Director  
LNG Tax Development

**Date Prepared:** April 16, 2015  
**Date Required:** April 22, 2015

**Ministry Contact:** Chris Dawkins  
Executive Director  
LNG Tax Development

**Phone Number:** 250-356-5068  
**Email:** Christina.Dawkins@gov.bc.ca

**Cliff #:** 343076

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**TITLE:** LNG Income Tax – Cost of Natural Gas Regulation

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**PURPOSE:**

**(X) DECISION**

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Executive Director approval: \_\_\_\_\_

ADM approval: \_\_\_\_\_

DM approval: \_\_\_\_\_

**DATE PREPARED:** April 16, 2015

**TITLE:** LNG Income Tax – Cost of Natural Gas Regulation

**ISSUE:** The policy details for the cost of natural gas including the items to be prescribed in the cost of natural gas regulation under the *Liquefied Natural Gas Income Tax Act* (LNG Act).

**BACKGROUND:**

The cost of natural gas at the LNG facility inlet is a significant factor in determining a taxpayer's LNG income tax liability.

Where a taxpayer purchases natural gas at arm's length at the inlet to the LNG facility, the cost of natural gas is the price paid.

In all other situations, the LNG Act sets out how the monthly cost of natural gas at the inlet to the LNG facility must be calculated. The LNG Act provides for a number of aspects of the calculation to be determined by regulation.

The calculation is as follows:

- For natural gas that is purchased **at arm's length on the feedstock pipeline** (the pipeline leading from a feedstock pipeline inlet to the LNG facility), the cost of the natural gas at the inlet to the LNG facility represents the average purchase price plus the transportation cost to get the natural gas to the LNG facility inlet, allowing for losses of natural gas along the pipeline (due to its use at compressor stations or to measurement variance).
- All other natural gas (purchased from a non-arm's length party, purchased at arm's length upstream of the feedstock pipeline inlet or equity gas) is valued at the feedstock pipeline inlet in British Columbia based on a **reference price** that applies at a **reference point**. This reference price is adjusted using a **pipeline differential amount** to account for the fact that the feedstock pipeline inlet may be at a different location than the reference point.

The cost of natural gas at the inlet to the LNG facility is the reference price plus (or minus) the pipeline differential amount at the feedstock pipeline inlet plus the transportation costs to get the natural gas from the feedstock pipeline inlet to the LNG facility inlet, again, allowing for losses of natural gas along the pipeline.

The matters to be prescribed in the regulation are:

- **The reference price:** The LNG Act sets out that the reference price is, in the opinion of the Minister of Natural Gas Development, the fair market value of natural gas at the reference point, as determined in accordance with the regulations. The LNG Act

allows for regulations respecting the determination of the reference price for a month in respect of natural gas acquired in the month at a reference point, including price indices and other matters the Minister must consider in determining the reference price.

- **The reference point:** is the prescribed location at which the reference price applies.
- **The feedstock pipeline inlet:** means a meter station located in British Columbia that is designated by regulation for each LNG facility.
- **The feedstock spur pipeline inlet:** means the location, designated by regulation on a feedstock pipeline.
- **The pipeline fuel and loss adjustments:** The LNG Act allows for regulations respecting the monthly determination of the pipeline fuel and loss adjustment for an LNG Facility.
- **The pipeline differential amount:** The LNG Act allows for regulations respecting the differential amount. The differential must represent the monthly estimated cost of transporting the natural gas between the reference point and the feedstock pipeline inlets including the determination of the distance in a straight line between the reference point and a feedstock pipeline inlet and identifying the feedstock pipeline inlet as upstream or downstream of the reference point. In addition, the regulations allow a prescribed LNG facility to have a pipeline differential amount of zero.

#### DISCUSSION:

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The cost of natural gas at each feedstock pipeline inlet would be the reference price plus (or minus) the differential. The reference price would then be augmented by the transportation cost to move the natural gas from the feedstock pipeline inlet to the LNG facility inlet and further adjusted to account for the pipeline fuel and losses adjustments.

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The intention is to specify in the regulation that AECO monthly indices be used as the basis for the Minister of Natural Gas Development in setting a monthly reference price.

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Although the LNG Act only allows designation of the feedstock pipeline inlet for each LNG facility in the regulation, the proposed general policy for designating the feedstock pipeline inlet is:

- For feedstock pipelines that take delivery from the NOVA pipeline system, the feedstock pipeline inlet is the first meter located in British Columbia to which natural gas is delivered from the NOVA system. This policy would apply in instances where a feedstock pipeline is connected to both the NOVA and the Spectra systems. For any feedstock pipeline on the Spectra pipeline system (and that is not connected to the NOVA system) the feedstock pipeline inlet would be Spectra Station 2; and
- For feedstock pipelines that are connected to neither the NOVA nor the Spectra pipeline systems, the feedstock pipeline inlet is a meter in the upstream (in British Columbia) but downstream of the natural gas processing plant.

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**Differential:** The use of AECO monthly price indices as a basis for the reference price affects the value of the differential. The NOVA pipeline system averages transportation costs across the entire system so that the same AECO price applies regardless of where the gas is taken off the NOVA system.

This means that natural gas delivered from the NOVA system into different feedstock pipelines in British Columbia will have the same price at all the feedstock pipeline inlets.

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the proposal for the differential is:

- For any feedstock pipeline inlet that receives natural gas from the NOVA system (because all receive it for the same price and there are no identifiable transportation costs between various points of delivery from the NOVA system) the differential is zero;
- For any feedstock pipeline inlet that is designated at Spectra Station 2, the differential is an estimate of the cost of transporting natural gas from the reference point to Spectra Station 2.;

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- For any feedstock pipeline that is not connected to the NOVA system or to the Spectra system, an amount to be determined that represents estimated transportation costs between the reference point and the feedstock pipeline inlet.

**Pipeline Fuel and Losses Adjustment:** The regulation will set out the formula for calculating pipeline fuel and losses adjustments. s.13

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**Transportation Costs:** The LNG Act allows transportation costs on the feedstock pipeline to be included as expenses but does not allow or require these costs to be set out in regulation.

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**OPTIONS:**

**1.** <sup>s.13</sup>

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**2.** s.13

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**EVALUATION:**

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**RECOMMENDATION:**

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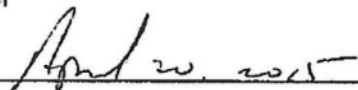
**DECISION:**

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Michael de Jong, Q.C.  
Minister

Date



**Ministry of Finance**  
**BRIEFING DOCUMENT**

**To:** Honourable Michael de Jong, Q.C.  
Minister of Finance

**Date Required:** April 15, 2015

**Initiated by:** Pat Parkinson  
Executive Lead  
LNG Tax Development

**Date Prepared:** April 13, 2015

**Ministry Contact:** Pat Parkinson  
Executive Lead  
LNG Tax Development

**Phone Number:** 250-387-8990  
**Email:** Pat.Parkinson@gov.bc.ca

**Cliff #:**343032

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**TITLE:** *Liquefied Natural Gas Income Tax Act* regulations – prescribed exclusions  
from the definition of "financial incentive"

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**PURPOSE:**

**(X) DECISION REQUIRED**

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Executive Director approval: \_\_\_\_\_

ADM approval: \_\_\_\_\_

DM approval: \_\_\_\_\_

**DATE PREPARED:** April 13, 2015

**TITLE:** *Liquefied Natural Gas Income Tax Act (LNGITA)* regulations – prescribed exclusions from the definition of “financial incentive”

**ISSUE:** A decision is required on whether certain BC tax credits received by a taxpayer should be excluded from the definition of “financial incentive” under LNGITA.

**BACKGROUND:**

The definition of “financial incentive” under LNGITA includes incentives, refunds, reimbursements, contributions, allowances or assistance received by a taxpayer. Similar to the federal Act, LNGITA requires that these amounts be taken into account when computing a taxpayer’s income.

The definition also allows for certain amounts to be excluded from the definition by regulation. A decision is required on whether to prescribe the following two tax credits for the purposes of the regulation:

- *BC Corporate Income Tax Natural Gas Tax Credit*

In the fall of 2014 the BC CIT natural gas tax credit legislation was introduced as part of Bill 6 and received Royal Assent. The legislation has been updated as part of Bill 26 which is before the Legislature currently.

The intent of the credit is to decrease the overall BC tax burden for future LNGITA taxpayers; and, to incent those taxpayers to set up permanent establishments and allocate income to BC by essentially reducing the BC corporate income tax rate to 8%.

- *LNGITA Closure Tax Credit*

The Province also introduced an LNG Facility closure tax credit in 2014 as part of Bill 6. The closure tax credit is available to a LNGITA taxpayer in its last taxation year and provides an incentive for continued compliance with the Act until closure activities are completed. The credit allows a taxpayer to claim the least of:

- 5% of the taxpayer’s eligible expenditures; or,
- the cumulative amount of tax paid on net income.

**DISCUSSION:**

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Expenditures that are eligible for the LNGITA closure tax credit are the necessary costs (i.e. statutory or contractual remediation, reclamation or restoration costs) incurred by a taxpayer to shut-down an LNG facility. Similar to the expenditures incurred during the life of the facility, any amount the taxpayer receives (incentive, assistance, etc.) in respect of an eligible closure expenditure must be deducted before they are considered "eligible expenditures". Only eligible expenditures may be included in the calculation of the credit.

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**OPTIONS:****Option 1:**

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**Pros:**

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**Cons:**

s.13

**Option 2:**

s.13

**Pros:**

s.13

**Cons:**

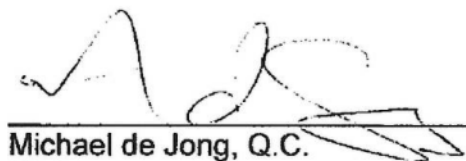
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**RECOMMENDATIONS:**

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**DECISION**

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Michael de Jong, Q.C.  
Minister

April 20, 2015

Date