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of Ontario



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# Bill 188

*(Chapter 5 of the Statutes of Ontario, 2020)*

## **An Act to enact and amend various statutes**

**The Hon. R. Phillips**  
Minister of Finance

|              |                |
|--------------|----------------|
| 1st Reading  | March 25, 2020 |
| 2nd Reading  | March 25, 2020 |
| 3rd Reading  | March 25, 2020 |
| Royal Assent | March 25, 2020 |





## EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 188 and does not form part of the law. Bill 188 has been enacted as Chapter 5 of the Statutes of Ontario, 2020.*

### **SCHEDULE 1 EMPLOYER HEALTH TAX ACT**

The *Employer Health Tax Act* allows for certain eligible employers to claim an exemption amount in determining their taxable total Ontario remuneration used to calculate the amount of tax payable under the Act. The Schedule amends the Act to provide for an exemption amount of \$1,000,000 for a year beginning after December 31, 2019 and before January 1, 2021.

### **SCHEDULE 2 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT**

The Schedule amends the *Freedom of Information and Protection of Privacy Act*.

Section 49.1 is amended to add a definition of an “extra-ministerial data integration unit”, which is a person or entity, or an administrative division of a person or entity, that is designated in the regulations. The new term “multi-sector data integration unit” means either an inter-ministerial data integration unit or an extra-ministerial data integration unit.

Many provisions in Part III.1 of the Act that previously applied to inter-ministerial data integration units are amended so that they also apply to extra-ministerial data integration units. Certain amendments are made to the restrictions on collecting personal information under Part III.1 of the Act, in particular those that relate to personal health information. Rules respecting access to personal information collected by an extra-ministerial data integration unit that is not an institution under the Act are provided for.

### **SCHEDULE 3 HEARINGS IN TRIBUNAL PROCEEDINGS (TEMPORARY MEASURES) ACT, 2020**

The Schedule enacts the *Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020*, which empowers specified tribunals to determine how hearings before them may be held. The Act is to be repealed on proclamation of the Lieutenant Governor.

### **SCHEDULE 4 ONTARIO GUARANTEED ANNUAL INCOME ACT**

The *Ontario Guaranteed Annual Income Act* is amended to provide that for the period beginning on April 1, 2020 and ending on September 30, 2020, the amount payable to an eligible recipient under the Act is double what the Act otherwise provides for.

### **SCHEDULE 5 ONTARIO LOAN ACT, 2020**

The *Ontario Loan Act, 2020* is enacted. Subsection 1 (1) of the Act authorizes the Crown to borrow a maximum of \$31.2 billion.

### **SCHEDULE 6 PERSONAL HEALTH INFORMATION PROTECTION ACT, 2004**

The Schedule amends the *Personal Health Information Protection Act, 2004*. The major elements are set out below.

New section 10.1 of the Act sets out a new requirement for health information custodians that use electronic means to collect, use, disclose, modify, retain or dispose of personal health information to maintain, audit and monitor an electronic audit log.

Section 34 of the Act is amended to allow prescribed persons, and health information custodians that are providing health care to a person, to collect or use the person's health number, with the person's consent, for certain verification and linking purposes.

Section 39 of the Act is amended to allow for the disclosure of personal health information for purposes related to the *Immunization of School Pupils Act*.

Section 45 of the Act is amended to allow entities that are extra-ministerial data integration units under Part III.1 of the *Freedom of Information and Protection of Privacy Act* to use personal health information for a purpose set out in section 49.2 of that Act.

Section 46 of the Act is re-enacted to allow for the disclosure of personal health information to the Minister, or other prescribed ministers, for certain health care payment purposes.

Section 52 of the Act is amended to provide that the right to access a record of personal health information includes the right to access it in an electronic format that meets the prescribed requirements, subject to such restrictions, additional requirements or exceptions that may be prescribed.

New section 54.1 of the Act sets out new requirements for consumer electronic service providers that provide electronic services to individuals for the purpose of, among other things, allowing those individuals to access their records of personal health information.

Section 55.9 of the Act is re-enacted to allow members of a ministry data integration unit located within the Ministry to collect personal health information by means of the electronic health record for the purposes set out in section 49.2 of the *Freedom of Information and Protection of Privacy Act*.

New section 55.9.1 of the Act provides for the provision of personal health information from an electronic health record to a coroner and to provide for the collection of personal health information from an electronic health record by medical officers of health for purposes related to their duties under the *Health Protection and Promotion Act* or the *Immunization of School Pupils Act*.

Section 60 of the Act is amended to provide for the inspection of records of personal health information without consent by the Commissioner where the records may have been abandoned.

Section 61 of the Act is amended to allow the Commissioner to order that an administrative penalty be paid by persons who have contravened the Act or its regulations. New section 61.1 and the amendments to sections 63 and 64 set out certain requirements that apply to these orders.

New section 65.1 of the Act clarifies that the use of an enforcement measure provided for in the Act does not prohibit the use of any other enforcement measure or remedy.

New section 71.1 of the Act allows justices to make production orders requiring persons to produce certain documents or data if satisfied that an offence under the Act has been or is being committed and that the document or data will provide evidence respecting the offence or suspected offence.

Section 72 of the Act is amended to increase the potential maximum penalty for offences to \$200,000 for a natural person and \$1,000,000 if the offender is not a natural person, as well as to provide for the possibility of imprisonment in the case of a natural person.

Section 73 of the Act is amended to add related regulation-making powers.

A consequential amendment is made to *The People's Health Care Act, 2019*.

#### **SCHEDULE 7 TAXATION ACT, 2007**

Currently, subsection 92 (5.1.2) of the *Taxation Act, 2007* provides rules governing a qualifying corporation's expenditure limit for the purposes of determining its Ontario production services tax credit for a taxation year. The method for determining a corporation's expenditure limit is based on, in part, eligible service contract expenditures in respect of a production that relates to certain salary and wages paid to Ontario-based individuals. Amendments are made to provide that eligible service contract expenditures included in determining a corporation's expenditure limit must instead relate to remuneration paid by the corporation, and new subsection 92 (5.1.3) sets out rules for determining such remuneration. The amendments are retroactive to June 4, 2015.

New section 97.1 provides for the regional opportunities investment tax credit. The credit is available in respect of eligible expenditures made by a qualifying corporation. The criteria for a corporation to be a qualifying corporation are set out in subsection 97.1 (3). The criteria for an expenditure to be an eligible expenditure are set out in subsection 97.1 (4), which includes a requirement that the expenditure be incurred in respect of eligible property. Subsection 97.1 (14) defines eligible property and includes a requirement that the property be located wholly within the qualifying region. The geographic areas that are included in the qualifying region are set out in subsection 97.1 (12). Subsection 84 (1) is amended to add the regional opportunities investment tax credit to the list of refundable tax credits.

**An Act to enact and amend various statutes****CONTENTS**

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**Contents of this Act**

**1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.**

**Commencement**

**2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.**

**(2) The Schedules to this Act come into force as provided in each Schedule.**

**(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.**

**Short title**

**3 The short title of this Act is the *Economic and Fiscal Update Act, 2020*.**

**SCHEDULE 1  
EMPLOYER HEALTH TAX ACT**

**1 (1) The definition of “A” in subsection 2.1 (2) of the *Employer Health Tax Act* is amended by adding “subject to subsection (2.1)” at the end.**

**(2) Section 2.1 of the Act is amended by adding the following subsection:**

**Value of “A” for 2020**

(2.1) Despite any other provision of this Act, for a year beginning after December 31, 2019 and before January 1, 2021, the amount of “A” that is referred to in subsection (2) is \$1,000,000.

**2 Section 2.1.1 of the Act is amended by adding the following subsection:**

**2020 calendar year**

(1.1) The amount of “X” in subsection (1) is calculated without reference to subsection 2.1 (2.1).

**Commencement**

**3 This Schedule comes into force on the day the *Economic and Fiscal Update Act, 2020* receives Royal Assent.**

**SCHEDULE 2  
FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT**

**1 (1) Subsection 37 (2) of the *Freedom of Information and Protection of Privacy Act* is amended by striking out “an inter-ministerial data integration unit” and substituting “a multi-sector data integration unit”.**

**(2) Section 37 of the Act is amended by adding the following subsection:**

**Right of access, extra-ministerial data integration unit**

(3) Where an extra-ministerial data integration unit is not an institution, sections 47 to 49 apply, with any modifications prescribed by the regulations, to personal information that is collected by a member of the extra-ministerial data integration unit under Part III.1 as if the extra-ministerial data integration unit were an institution and, for that purpose, the senior officer of the unit shall be considered the head.

**2 (1) Subsection 49.1 (1) of the Act is amended by adding the following definitions:**

“extra-ministerial data integration unit” means a person or entity, or an administrative division of a person or entity, that is designated as an extra-ministerial data integration unit in the regulations; (“service extraministériel d’intégration des données”)

“multi-sector data integration unit” means,

- (a) an inter-ministerial data integration unit, or
- (b) an extra-ministerial data integration unit. (“service multisectoriel d’intégration des données”)

“senior officer” means, in respect of an extra-ministerial data integration unit, the administrative head of the person or entity or another officer of the person or entity designated in the regulations as the senior officer. (“cadre dirigeant”)

**(2) The definition of “member” in subsection 49.1 (1) of the Act is repealed and the following substituted:**

“member” means,

- (a) in relation to an inter-ministerial data integration unit or a ministry data integration unit, an officer, employee or agent of the ministry in which the unit is located who works in the unit, and
- (b) in relation to an extra-ministerial data integration unit, an officer, employee or agent of the person or entity who works as part of the unit; (“membre”)

**3 Section 49.3 of the Act is amended by striking out “an inter-ministerial data integration unit” wherever it appears and substituting in each case “a multi-sector data integration unit”.**

**4 (1) Subsection 49.4 (1) of the Act is amended by striking out “an inter-ministerial data integration unit” in the portion before paragraph 1 and substituting “a multi-sector data integration unit”.**

**(2) Paragraph 2 of subsection 49.4 (1) of the Act is repealed and the following substituted:**

- 2. In the case of an inter-ministerial data integration unit, the personal information is to be collected from,
  - i. an institution, including another inter-ministerial data integration unit or a ministry data integration unit, or an institution within the meaning of the *Municipal Freedom of Information and Protection of Privacy Act*,
  - ii. an extra-ministerial data integration unit, or
  - iii. a person or entity prescribed by the regulations.

- 2.1 In the case of an extra-ministerial data integration unit, the personal information is to be collected from,
  - i. an institution, including a ministry data integration unit or an inter-ministerial data integration unit, or an institution within the meaning of the *Municipal Freedom of Information and Protection of Privacy Act*;
  - ii. if the extra-ministerial data integration unit, or the person or entity in which it is located, is also a prescribed entity mentioned in subsection 45 (1) of the *Personal Health Information Protection Act, 2004*, an officer, employee or agent who is responsible for personal health information collected under that subsection,
  - iii. another extra-ministerial data integration unit, or
  - iv. a person or entity prescribed by the regulations, but only if the regulations authorize a member to collect the type of personal information.

**(3) Paragraph 4 of subsection 49.4 (1) of the Act is amended by striking out “The minister of the ministry in which the inter-ministerial data integration unit is located, or a person designated by the minister” at the beginning and substituting “The minister of the ministry in which the inter-ministerial data integration unit is located or the senior officer of the extra-ministerial data integration unit, as the case may be, or a person designated by the minister or the senior officer”.**

**(4) Paragraph 5 of subsection 49.4 (1) of the Act is amended by striking out “inter-ministerial data integration unit” and substituting “multi-sector data integration unit”.**

**(5) Subsection 49.4 (4) of the Act is amended by striking out “in paragraph 2 of subsection (1) or (2)” in the portion before clause (a) and substituting “in paragraph 2 or 2.1 of subsection (1) or paragraph 2 of subsection (2)”.**

**(6) Section 49.4 of the Act is amended by adding the following subsection:**

**Same**

(5.1) If an extra-ministerial data integration unit, or the person or entity in which the unit is located, is also a prescribed entity mentioned in subsection 45 (1) of the *Personal Health Information Protection Act, 2004*, despite subsection 45 (6) of that Act, an officer, employee or agent of the prescribed entity who is responsible for personal health information under subsection 45 (1) of that Act may disclose personal health information under subsection (1) of this section.

**5 (1) Paragraph 1 of subsection 49.5 (1) of the Act is amended by striking out “an inter-ministerial data integration unit” wherever it appears and substituting in each case “a multi-sector data integration unit”.**

**(2) Paragraphs 3 and 4 of subsection 49.5 (1) of the Act are repealed and the following substituted:**

3. Subject to subsection (1.1), a member of an inter-ministerial data integration unit or a ministry data integration unit shall not collect personal health information from a health information custodian unless the unit is located in the Ministry of Health or Ministry of Long-Term Care, or if the unit is designated by the regulations for this purpose.
4. A member of an extra-ministerial data integration unit may only collect personal health information if,
  - i. it is collected from an inter-ministerial data integration unit or a ministry data integration unit,
  - ii. the extra-ministerial data integration unit is also a prescribed entity mentioned in subsection 45 (1) of the *Personal Health Information Protection Act, 2004* and information has been collected under that subsection,
  - iii. it is collected from another extra-ministerial data integration unit that is also a prescribed entity mentioned in subsection 45 (1) of the *Personal Health Information Protection Act, 2004* and that has collected the personal health information under that subsection, or
  - iv. the collection is authorized by the regulations.

**(3) Paragraph 5 of subsection 49.5 (1) of the Act is amended by striking out “an inter-ministerial data integration unit” in the portion before subparagraph i and substituting “a multi-sector data integration unit”.**

**(4) Section 49.5 of the Act is amended by adding the following subsection:**

**Collection of personal health information**

(1.1) Paragraphs 3 and 4 of subsection (1) do not have the effect of preventing a member of a multi-sector data integration unit or a ministry data integration unit from collecting personal health information from a ministry, even if that ministry is a health information custodian in respect of some or all of its functions.

**6 Subsection 49.6 (1) of the Act is amended by striking out “an inter-ministerial data integration unit” in the portion before paragraph 1 and substituting “a multi-sector data integration unit”.**

**7 (1) Section 49.7 of the Act is amended by adding the following subsection:**

**Extra-ministerial data integration unit**

(1.1) A member of an extra-ministerial data integration unit may only use personal information collected under this Part to link and de-identify the information under section 49.6.

**(2) Subsection 49.7 (2) of the Act is repealed and the following substituted:**

**Reporting on use**

(2) The minister of the ministry in which an inter-ministerial data integration unit or a ministry data integration unit is located and the senior officer of every extra-ministerial data integration unit shall publicly report on the use of personal information under subsection (1) in accordance with the data standards.

**8 (1) Section 49.9 of the Act is amended by striking out “an inter-ministerial data integration unit” in the portion before clause (a) and substituting “a multi-sector data integration unit”.**

**(2) Clause 49.9 (a) of the Act is amended by striking out “inter-ministerial data integration unit” and substituting “multi-sector data integration unit”.**

**(3) Subclause 49.9 (d) (i) of the Act is repealed and the following substituted:**

- (i) in the case of a member of an inter-ministerial data integration unit or a ministerial data integration unit, the ministry or the Government of Ontario is, or is expected to be, a party,



- (i.1) in the case of a member of an extra-ministerial data integration unit, the unit, or the person or entity in which the unit is located, as the case may be, is or is expected to be, a party, or

**(4) Section 49.9 of the Act is amended by adding the following subsection:**

**Exception**

- (2) Clause (1) (c) does not apply to an extra-ministerial data integration unit.

**9 (1) Section 49.10 of the Act is amended by striking out the portion before paragraph 1 and substituting the following:**

**Notice of collection**

**49.10** The minister of the ministry in which an inter-ministerial data integration unit or a ministry data integration unit is located and the senior officer of every extra-ministerial data integration unit shall ensure that a notice is published on a website that contains the following information respecting any personal information that a member of the unit intends to collect under this Part:

**(2) Paragraph 5 of section 49.10 of the Act is amended by striking out “inter-ministerial data integration unit” and substituting “multi-sector data integration unit”.**

**10 (1) Subsection 49.11 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:**

**Security and retention**

**49.11** (1) The minister of the ministry in which an inter-ministerial data integration unit or a ministry data integration unit is located and the senior officer of every extra-ministerial data integration unit shall ensure that any personal information collected under this Part is,

**(2) Clause 49.11 (1) (b) of the Act is amended by adding “or extra-ministerial data integration unit” at the end.**

**(3) Subsection 49.11 (2) of the Act is amended by adding “or the senior officer, as the case may be” after “the minister”.**

**(4) Subsection 49.11 (3) of the Act is amended by striking out the portion before clause (a) and substituting the following:**

**Notice of theft, loss, etc., to individual**

(3) Subject to the exceptions and additional requirements, if any, that are prescribed, if personal information collected under this Part that is in the custody or control of an inter-ministerial data integration unit, an extra-ministerial data integration unit or a ministry data integration unit is stolen or lost or if it is used or disclosed in a manner that is not permitted by this Part, the minister of the ministry in which the unit is located or the senior officer of the extra-ministerial data integration unit, as the case may be, shall,

**(5) Subsection 49.11 (4) of the Act is amended by adding “or the senior officer, as the case may be” after “the minister”.**

**11 (1) Subsections 49.12 (1) and (2) of the Act is amended by striking out “an inter-ministerial data integration unit” wherever it appears and substituting in each case “a multi-sector data integration unit”.**

**(2) Section 49.12 of the Act is amended by adding the following subsection:**

**Same**

(2.1) The Commissioner may determine that a review of the practices and procedures of an extra-ministerial data integration unit conducted by the Commissioner under the *Personal Health Information Protection Act, 2004* is satisfactory, in whole or in part, for the purposes of subsection (2) and shall notify the senior officer of the extra-ministerial data integration of this determination.

**(3) Subsection 49.12 (3) of the Act is amended by striking out “inter-ministerial data integration unit” in the portion before clause (a) and substituting “multi-sector data integration unit”.**

**(4) Subsection 49.12 (4) of the Act is repealed and the following substituted:**

**Duty to assist**

(4) Members of the inter-ministerial data integration unit, extra-ministerial data integration unit or the ministry data integration unit and the minister of the ministry in which the unit is located or the senior officer of the extra-ministerial data integration unit shall co-operate with and assist the Commissioner in the conduct of the review.

**(5) Clauses 49.12 (5) (a) to (c) of the Act are repealed and the following substituted:**

- (a) in the case of an inter-ministerial data integration unit or a ministry data integration unit, the ministry in which the unit is located;
- (b) in the case of an extra-ministerial data integration unit, the unit or the person or entity in which the unit is located, as the case may be;
- (c) an institution, an institution within the meaning of the *Municipal Freedom of Information and Protection of Privacy Act*, a person or an entity that has disclosed personal information to the inter-ministerial data integration unit, extra-ministerial data integration unit or the ministry data integration unit, as the case may be, under this Part; or
- (d) an institution, an institution within the meaning of the *Municipal Freedom of Information and Protection of Privacy Act*, a person or entity to whom a member of the inter-ministerial data integration unit, extra-ministerial data integration unit or the ministry data integration unit has disclosed personal information under this Part.

**(6) Subsection 49.12 (6) of the Act is repealed and the following substituted:**

**Same**

(6) A member of an inter-ministerial data integration unit or a ministry data integration unit, the minister of the ministry in which the unit is located, a member of an extra-ministerial data integration unit and its senior officer, the head of an institution referred to in clause (5) (c) or (d), the administrative head of any person or entity referred to in either of those clauses and any person referred to in either of those clauses who is an individual shall provide the Commissioner with whatever assistance is reasonably necessary for the conduct of the review, including using any data storage processing or retrieval device or system to produce a record required by the Commissioner in readable form.

**(7) Subsection 49.12 (7) of the Act is amended by adding “or the senior officer of the extra-ministerial data integration unit, as the case may be” after “is located” in the portion before paragraph 1.**

**12 (1) Section 49.13 of the Act is amended by adding the following subsection:**

**Same**

(1.1) The senior officer of an extra-ministerial data integration unit that collects personal information under this Part during the course of a year shall ensure that an annual report for the year is published on a publicly accessible website on or before April 1 in the following year.

**(2) Clause 49.13 (2) (e) of the Act is amended by striking out “the inter-ministerial data integration unit or the ministry data integration unit” and substituting “the multi-sector data integration unit or the ministry data integration unit, as the case may be”.**

**13 Subsection 49.14 (4) of the Act is amended by striking out “an inter-ministerial data integration unit” and substituting “a multi-sector data integration unit”.**

**14 Subsection 49.15 (3) of the Act is repealed and the following substituted:**

**Consultation with Commissioner**

(3) A minister shall consult with the Commissioner before recommending a regulation to the Lieutenant Governor in Council that,

- (a) designates a multi-sector data integration unit; or
- (b) permits the disclosure of personal information for a research purpose under clause 49.9 (1) (f) or establishes any conditions for the purposes of that clause.

**15 Section 50 of the Act is amended by adding the following subsection:**

**Same**

(1.0.1) This Part applies, with any necessary modifications, to a request for access to personal information made under subsection 48 (1) to an extra-ministerial data integration unit, as that subsection applies by application of subsection 37 (3).

**16 Subsection 60 (1) of the Act is amended by adding the following clause:**

- (a.1) prescribing modifications for the purposes of subsection 37 (3);

**Commencement**

**17 (1) Subject to subsection (2), this Schedule comes into force on the day the *Economic and Fiscal Update Act, 2020* receives Royal Assent.**

**(2) Subsection 1 (2) and sections 15 and 16 come into force on a day to be named by proclamation of the Lieutenant Governor.**

**SCHEDULE 3**  
**HEARINGS IN TRIBUNAL PROCEEDINGS (TEMPORARY MEASURES) ACT, 2020**

**Definitions**

**1** In this Act,

“hearing” means,

- (a) a hearing in a proceeding, and
- (b) any other appearance before a tribunal or a member of a tribunal in the course of a proceeding, including a case management or other pre-hearing conference or an alternative dispute resolution process; (“audience”)

“regulations” means the regulations made under this Act; (“rèlements”)

“tribunal” means a tribunal as defined in the *Statutory Powers Procedure Act*. (“tribunal”)

**Application**

**2** This Act applies with respect to,

- (a) every hearing in a proceeding to which the *Statutory Powers Procedure Act* applies;
- (b) every hearing in a proceeding to which the *Statutory Powers Procedure Act* would apply if the application of that Act were not excluded under another Act; and
- (c) every hearing in any proceeding before a tribunal that may be specified by the regulations.

**Conduct of hearings**

**3** (1) A tribunal may conduct a hearing in person, electronically, in writing or by a combination of any of them, as the tribunal considers appropriate.

**Directions, orders**

(2) For the purposes of subsection (1), a tribunal may make any orders or give any directions that it considers appropriate in the circumstances respecting,

- (a) the format of a hearing and its conduct; and
- (b) any matters ancillary to the holding of the hearing, including respecting notice of the hearing, the service or filing of materials for the hearing, attendance at the hearing, any recording of the hearing or public access to the hearing.

**Rules**

(3) Unless the regulations provide otherwise, a tribunal may make rules for the purposes of subsection (1) respecting any matters referred to in clause (2) (a) or (b) as they relate to hearings before the tribunal.

**Same**

(4) Rules made under subsection (3) may be general or particular in their application.

**Same**

(5) The tribunal shall make the rules available to the public in English and in French.

**Same**

(6) Part III (Regulations) of the *Legislation Act, 2006* does not apply with respect to rules made under subsection (3).

**Conflict**

**4** (1) In the event of a conflict between this Act and any of the following, this Act prevails:

- 1. The *Statutory Powers Procedure Act* and any regulations made under that Act.
- 2. Any other Act and any regulations made under any other Act.
- 3. Any rules made by a tribunal under the *Statutory Powers Procedure Act* or any other Act.

**Same**

(2) In the event of a conflict between a determination, order, direction or rule made by a tribunal under section 3 and any of the following, the determination, order, direction or rule prevails:

- 1. Any other Act or regulation that applies with respect to the tribunal including, if applicable, the *Statutory Powers Procedure Act* and its regulations.
- 2. Any rules made by the tribunal under any other Act.

**Transition, application to on-going proceedings**

**5** This Act applies with respect to a proceeding commenced before, on or after the day this Act comes into force.

**Regulations**

**6** (1) The Attorney General or such other member of the Executive Council to whom the administration of this Act may be assigned may make regulations,

- (a) specifying proceedings to which this Act applies, for the purposes of clause 2 (c);
- (b) providing that subsection 3 (3) does not apply with respect to a tribunal or class of tribunals;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

**Same**

(2) A regulation made under clause (1) (a) may specify any proceedings listed under subsection 3 (2) of the *Statutory Powers Procedure Act*, other than in clause 3 (2) (a) of that Act.

**Repeal**

**7** This Act is repealed on a day to be named by proclamation of the Lieutenant Governor.

**Commencement**

**8** The Act set out in this Schedule comes into force on the day the *Economic and Fiscal Update Act, 2020* receives Royal Assent.

**Short title**

**9** The short title of the Act set out in this Schedule is the *Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020*.

**SCHEDULE 4**  
**ONTARIO GUARANTEED ANNUAL INCOME ACT**

**1** The *Ontario Guaranteed Annual Income Act* is amended by adding the following section:

**Double amount, April 1, 2020 to September 30, 2020**

**5.1** The amount of an increment payment to an eligible person for the period beginning on April 1, 2020 and ending on September 30, 2020 is the amount payable under section 2 multiplied by 2.

**Commencement**

**2** This Schedule comes into force on the day the *Economic and Fiscal Update Act, 2020* receives Royal Assent.

**SCHEDULE 5  
ONTARIO LOAN ACT, 2020**

**Borrowing authorized**

**1** (1) The Lieutenant Governor in Council may borrow in any manner provided by the *Financial Administration Act* such sums, not exceeding a total aggregate amount of \$31.2 billion, as are considered necessary to discharge any indebtedness or obligation of Ontario or to make any payment authorized or required by any Act to be made out of the Consolidated Revenue Fund.

**Other Acts**

(2) The authority to borrow conferred by this Act is in addition to that conferred by any other Act.

**Expiry**

**2** (1) No order in council authorizing borrowing authorized under this Act shall be made after December 31, 2022.

**Same**

(2) The Crown shall not borrow money after December 31, 2023 under the authority of an order in council that authorizes borrowing under this Act unless, on or before December 31, 2023,

- (a) the Crown has entered into an agreement to borrow the money under the order in council; or
- (b) the Crown has entered into an agreement respecting a borrowing program and the agreement enables the Crown to borrow up to a specified limit under the order in council.

**Commencement**

**3** The Act set out in this Schedule comes into force on the day the *Economic and Fiscal Update Act, 2020* receives Royal Assent.

**Short title**

**4** The short title of the Act set out in this Schedule is the *Ontario Loan Act, 2020*.

**SCHEDULE 6  
PERSONAL HEALTH INFORMATION PROTECTION ACT, 2004**

**1 (1) Section 2 of the *Personal Health Information Protection Act, 2004* is amended by adding the following definition:**

“Crown” means the Crown in right of Ontario; (“Couronne”)

**(2) The definition of “de-identify” in section 2 of the Act is amended by striking out “to remove any information” and substituting “to remove, in accordance with such requirements as may be prescribed, any information”.**

**2 Paragraph 2 of the definition of “health information custodian” in subsection 3 (1) of the Act is repealed and the following substituted:**

2. A service provider within the meaning of the *Home Care and Community Services Act, 1994* who provides a community service within the meaning of that Act. A service provider is a health information custodian in connection with the provision of any community service within the meaning of *Home Care and Community Services Act, 1994*, regardless of whether a particular community service is publicly funded.

**3 The Act is amended by adding the following section:**

**Electronic audit log**

**10.1 (1)** Subject to any prescribed exceptions, a health information custodian that uses electronic means to collect, use, disclose, modify, retain or dispose of personal health information shall,

- (a) maintain, or require the maintenance of, an electronic audit log described in subsection (4);
- (b) audit and monitor the electronic audit log as often as is required by the regulations; and
- (c) comply with any requirements that may be prescribed.

**Access by Commissioner**

(2) A health information custodian referred to in subsection (1) shall provide a copy of the electronic audit log to the Commissioner, upon request.

**Same**

(3) Despite subsection 60 (13), the Commissioner may be provided with a copy of the electronic audit log even if it contains personal health information.

**Content of log**

(4) The electronic audit log must include, for every instance in which a record or part of a record of personal health information that is accessible by electronic means is viewed, handled, modified or otherwise dealt with,

- (a) the type of information that was viewed, handled, modified or otherwise dealt with;
- (b) the date and time on which the information was viewed, handled, modified or otherwise dealt with;
- (c) the identity of all persons who viewed, handled, modified or otherwise dealt with the personal health information;
- (d) the identity of the individual to whom the personal health information relates; and
- (e) any other information that may be prescribed.

**4 (1) Subsection 34 (2) of the Act is amended by adding the following clause:**

- (b.1) if the person is prescribed and is collecting or using the health number, as the case may be, with the express consent of the other person, for the purpose of accurately identifying the other person’s records of personal health information, verifying their identity or linking their records of personal health information, subject to the additional requirements, if any, that are prescribed;

**(2) Section 34 of the Act is amended by adding the following subsections:**

**Collection, use and disclosure, non-provincially funded health resource**

(6) Subject to the additional requirements, if any, that are prescribed, a health information custodian that is providing health care to a person may collect, use or disclose the person’s health number with the consent of the person for the purpose of accurately identifying the person’s records of personal health information, verifying their identity or linking their records of personal health information, even where the health information custodian is not providing a provincially funded health resource.

**Same, provincially funded health resource**

(7) Subject to the additional requirements, if any, that are prescribed, a health information custodian that has collected a health number for purposes related to the provision of a provincially funded health resource to a person may use the health number for the purpose of accurately identifying the person’s records of personal health information, verifying their identity or linking their records of personal health information.

**Other permitted collection, etc. not affected**

(8) Nothing in subsection (6) or (7) limits a health information custodian's authority to collect, use or disclose a health number as otherwise permitted or required by this Act.

**5 Clauses 39 (2) (a) and (b) of the Act are amended by adding "or the *Immunization of School Pupils Act*" at the end of each clause.**

**6 Section 44 of the Act is amended by adding the following subsection:**

**Same**

(1.1) For greater certainty, the decision of only one research ethics board is sufficient for the purposes of subclause (1) (a) (iii).

**7 Section 45 of the Act is amended by adding the following subsection:**

**Additional uses, extra-ministerial data integration unit**

(7) Despite subsection (6), if an entity that receives personal health information under subsection (1) is an extra-ministerial data integration unit within the meaning of Part III.1 of the *Freedom of Information and Protection of Privacy Act*, or if such an extra-ministerial data integration unit is located within the entity, the entity may also use the personal health information for a purpose set out in section 49.2 of that Act if the entity complies with Part III.1 of that Act as if it were initially collecting the personal health information.

**8 (1) Section 46 of the Act is repealed and the following substituted:**

**Health care payments**

**46 (1)** If requested by the Minister or the minister of a prescribed ministry, a health information custodian shall disclose personal health information to the minister who made the request for the purpose of determining, providing, monitoring or verifying payment or funding for health care funded wholly or in part by the Ministry, the prescribed ministry, a local health integration network or the Agency or for goods used for health care funded wholly or in part by one or more of them.

**Disclosure by minister**

(2) The Minister or a minister of a prescribed ministry may disclose information collected under subsection (1) to any person for a purpose set out in that subsection if the disclosure is reasonably necessary for that purpose.

**Other information**

(3) The Minister or minister of a prescribed ministry, as the case may be, who makes a request under subsection (1) shall not collect, use or disclose personal health information if other information will serve the purpose of the collection, use or disclosure.

**Extent of information**

(4) The Minister or minister of a prescribed ministry, as the case may be, who makes a request under subsection (1) shall not collect, use or disclose more personal health information than is reasonably necessary to meet the purpose of the collection, use or disclosure, as the case may be.

**(2) Subsection 46 (1) of the Act, as re-enacted by subsection (1), is amended by striking out "a local health integration network".**

**9 Section 52 of the Act is amended by adding the following subsection:**

**Format of records**

(1.1) The right to access a record of personal health information includes the right to access the record in an electronic format that meets the prescribed requirements, subject to any restrictions, additional requirements or exceptions that may be prescribed.

**10 The Act is amended by adding the following section:**

**Consumer electronic service providers**

**54.1 (1)** In this section,

"consumer electronic service provider" means a person who provides electronic services to individuals at their request, primarily for,

- (a) the purpose of allowing those individuals to access, use, disclose, modify, maintain or otherwise manage their records of personal health information, or
- (b) such other purposes as may be prescribed.

**Prescribed requirements**

(2) In providing electronic services to an individual, a consumer electronic service provider shall comply with the prescribed requirements.



**Health number**

(3) Despite section 34, a consumer electronic service provider may, if authorized by the individual who requested the provider's services, collect and use health numbers in accordance with any prescribed rules in order to verify the identity of an individual or for any other prescribed purpose.

**Health information custodians**

(4) A health information custodian that provides personal health information to a consumer electronic service provider shall comply with any prescribed requirements or procedures.

**Not required to respond through consumer electronic service provider**

(5) For greater certainty, a health information custodian that receives an individual's request for access to their records of personal health information from a consumer electronic service provider is not required to provide the personal health information to the consumer electronic service provider in responding to the request.

**11 Section 55.9 of the Act is repealed and the following substituted:****Collection of information by Ministry**

**55.9** (1) Despite section 55.5, members of a ministry data integration unit located within the Ministry may collect personal health information by means of the electronic health record for the purposes set out in section 49.2 of the *Freedom of Information and Protection of Privacy Act* in accordance with the requirements set out in Part III.1 (Data Integration) of that Act.

**No other uses and disclosures permitted**

(2) Despite any other provision in this Act or the regulations, members of a ministry data integration unit shall not use or disclose the personal health information collected under subsection (1) except as authorized by this section or by Part III.1 of the *Freedom of Information and Protection of Privacy Act*.

**Direction to prescribed organization**

(3) A member of a ministry data integration unit located within the Ministry may issue a direction requiring the prescribed organization to provide members of the ministry data integration unit with the information that the members are authorized to collect under subsection (1), and the prescribed organization must comply with the direction.

**Terms and conditions**

(4) A direction made under subsection (3) may specify the form, manner and timeframe in which the information that is the subject of the direction is to be provided to the ministry data integration unit.

**Disclosure**

(5) If members of a ministry data integration unit collect personal health information by means of the electronic health record under subsection (1), the disclosure of the personal health information to the members of the ministry data integration unit by the health information custodian who provided it to the prescribed organization is permitted under this Act.

**Definitions**

(6) In this section, "member" and "ministry data integration unit" have the same meanings as in Part III.1 of the *Freedom of Information and Protection of Privacy Act*.

**12 The Act is amended by adding the following section:****Provision of personal health information to, and collection by, coroners and medical officers of health****Provision to coroner**

**55.9.1** (1) Where the prescribed requirements, if any, are met, the prescribed organization may provide personal health information that is accessible by means of the electronic health record to a coroner in relation to an investigation conducted under the *Coroners Act*.

**Collection by medical officer of health**

(2) The Chief Medical Officer of Health or a medical officer of health within the meaning of the *Health Protection and Promotion Act* may collect personal health information by means of the electronic health record for purposes related to their duties under that Act or the *Immunization of School Pupils Act*.

**Disclosure**

(3) Personal health information may be provided or collected in accordance with subsection (1) or (2) despite any provision of sections 55.5, 55.6 and 55.7.

**13 Subsection 55.12 (1) of the Act is repealed and the following substituted:**

### **Practices and procedures review**

(1) The Commissioner shall review the practices and procedures of the prescribed organization referred to in paragraph 14 of section 55.3 every three years after they are first approved or reviewed, as the case may be, to determine if the practices and procedures continue to meet the requirements of subparagraph 14 i of section 55.3 and, after the review, the Commissioner may renew the approval.

### **14 Clause 55.14 (2) (g) of the Act is repealed.**

### **15 (1) Section 60 of the Act is amended by adding the following subsection:**

#### **Inspection of record without consent**

(12.1) Despite subsections (2) and (12), the Commissioner shall not inspect a record of, require evidence of, or inquire into personal health information without the consent of the individual to whom it relates except in the circumstances referred to in subsections (13) and (14.1).

### **(2) Subsection 60 (13) of the Act is amended by striking out the portion before clause (a) and substituting the following:**

#### **Same, public interest**

(13) The Commissioner may inspect a record of, require evidence of, or inquire into personal health information without the consent of the individual to whom it relates if,

. . . . .

### **(3) Section 60 of the Act is amended by adding the following subsection:**

#### **Inspection of record without consent, abandoned records**

(14.1) The Commissioner may inspect a record of, require evidence of, or inquire into personal health information without the consent of the individual to whom it relates if the Commissioner determines or has reasonable grounds to suspect that the record of personal health information has been abandoned.

### **16 (1) Subsection 61 (1) of the Act is amended by adding the following clause:**

(f.1) make an order requiring a health information custodian or a class of health information custodians to cease providing personal health information to a consumer electronic service provider;

### **(2) Subsection 61 (1) of the Act is amended by adding the following clause:**

(h.1) make an order in accordance with section 61.1 requiring any person whose activities the Commissioner reviewed to pay an administrative penalty in the amount set out in the order if the Commissioner is of the opinion that the person has contravened this Act or its regulations;

### **17 The Act is amended by adding the following section:**

#### **Administrative penalties**

**61.1** (1) An order requiring a person to pay an administrative penalty may be issued under clause 61 (1) (h.1) for the purposes of,

- (a) encouraging compliance with this Act and its regulations; or
- (b) preventing a person from deriving, directly or indirectly, any economic benefit as a result of a contravention of this Act or its regulations.

#### **Amount of administrative penalty**

(2) The amount of an administrative penalty for a contravention shall,

- (a) reflect the purposes referred to in subsection (1); and
- (b) be determined by the Commissioner in accordance with the regulations made under this Act.

#### **Two-year limitation**

(3) An order requiring a person to pay an administrative penalty shall not be issued under this section more than two years after the day the most recent contravention on which the order is based first came to the knowledge of the Commissioner.

#### **Content of order of administrative penalty**

(4) An order requiring a person to pay an administrative penalty shall,

- (a) contain or be accompanied by a description of the contravention; and
- (b) set out the amount of the penalty to be paid and specify the time and manner of the payment.

### **Payment to Minister of Finance**

(5) A person who is required to pay an administrative penalty shall pay the penalty to the Minister of Finance.

**18 Subsection 62 (1) of the Act is amended by striking out “to (h)” and substituting “to (h.1)”.**

**19 Section 63 of the Act is amended by adding the following subsections:**

#### **Interest**

(2) Section 129 of the *Courts of Justice Act* applies in respect of an order requiring a person to pay an administrative penalty under clause 61 (1) (h.1) and, for the purpose, the date on which the order is filed under subsection (1) is deemed to be the date of the order that is referred to in section 129 of the *Courts of Justice Act*.

#### **Debt due to the Crown**

(3) An administrative penalty imposed under clause 61 (1) (h.1) that is not paid in accordance with the terms of the order is a debt due to the Crown, and the Crown may recover the debt by action or by any other remedy or procedure available by law to the Crown for the collection of debts owed to the Crown.

**20 (1) Clause 64 (3) (b) of the Act is amended by striking out “to (h)” and substituting “to (h.1)”.**

**(2) Subsection 64 (4) of the Act is amended by striking out “to (h)” and substituting “to (h.1)”.**

**21 The Act is amended by adding the following section:**

#### **Enforcement measures**

**65.1** The use of an enforcement measure provided for in this Act in respect of a contravention of this Act or its regulations does not prohibit the use, at the same time or different times, of any other enforcement measure or remedy provided for in this Act or otherwise available in law in respect of the same contravention.

**22 The Act is amended by adding the following section:**

#### **Production order**

**71.1** (1) On application without notice by a provincial offences officer, a justice may issue a production order to a person, other than a person under investigation for an offence, requiring the person to,

- (a) produce documents or copies of documents, certified by affidavit to be true copies, or produce data; or
- (b) prepare a document based on documents or data already in existence and produce it.

#### **Contents of order**

(2) A production order must stipulate when, where and how the documents or data are to be produced, and to whom they are to be produced.

#### **Grounds**

(3) A justice may make a production order if satisfied by information given under oath or affirmation that there are reasonable grounds to believe that,

- (a) an offence under this Act has been or is being committed;
- (b) the document or data will provide evidence respecting the offence or suspected offence; and
- (c) the person who is subject to the order has possession or control of the document or data.

#### **Conditions**

(4) A production order may contain any conditions the justice considers advisable.

#### **Evidence**

(5) A copy of a document or data produced under this section, on proof by affidavit that it is a true copy, is admissible in evidence in proceedings under this Act and has the same probative force as the original document or data would have if it had been proved in the ordinary way.

#### **No return of copies**

(6) Copies of documents or data produced under this section are not required to be returned to the person who provided them.

#### **Compliance required**

(7) A person to whom a production order is directed shall comply with the order according to its terms.

#### **Definitions**

(8) In this section, “justice” and “provincial offences officer” have the same meanings as in the *Provincial Offences Act*.

**23 Clauses 72 (2) (a) and (b) of the Act are repealed and the following substituted:**

- (a) if the person is a natural person, to a fine of not more than \$200,000 or to a term of imprisonment of not more than 1 year, or to both; or
- (b) if the person is not a natural person, to a fine of not more than \$1,000,000.

**24 (1) Subsection 73 (1) of the Act is amended by adding the following clause:**

- (l.1) prescribing circumstances in which a person who compiles or maintains a registry of personal health information referred to in clause 39 (1) (c) may use or disclose personal health information;

**(2) Subsection 73 (1) of the Act is amended by adding the following clause:**

- (m.1) governing the services provided by consumer electronic service providers within the meaning of section 54.1, including their collection, use and disclosure of personal health information, the use of those services by health information custodians as well as by individuals and the rights of those individuals with regard to the services;

**(3) Subsection 73 (1) of the Act is amended by adding the following clauses:**

- (o.1) governing administrative penalties imposed by the Commissioner under clause 61 (1) (h.1) and all matters necessary and incidental to the administration of a system of administrative penalties under this Act;
- (o.2) governing the de-identification of personal health information and the collection, use and disclosure of de-identified information by health information custodians and any other persons;

**(4) Section 73 of the Act is amended by adding the following subsection:**

**Regulations respecting administrative penalties**

- (5) Without limiting the generality of clause (1) (o.1), regulations made under that clause may prescribe specific amounts of administrative penalties or provide that the amounts of administrative penalties be based on the type of the contravention in question, on the contravention history of the person required to pay the administrative penalty or on whether the person is or is not a natural person.

*The People's Health Care Act, 2019*

**25 Subsection 17 (8) of Schedule 3 to *The People's Health Care Act, 2019* is repealed.**

**Amendments in respect of Bill 175 — *Connecting People to Home and Community Care Act, 2020***

**26 (1) This section only applies if Bill 175 (*Connecting People to Home and Community Care Act, 2020*), introduced on February 25, 2020, receives Royal Assent.**

**(2) References in this section to provisions of Bill 175 are references to those provisions as they were numbered in the first reading version of the Bill.**

- (3) **On the later of the day this subsection comes into force and the day subsection 8 (4) of Schedule 3 to Bill 175 comes into force, paragraph 3 of the definition of "health information custodian" in subsection 3 (1) of the Act is amended by adding "A health service provider or person or entity that is part of an Ontario Health Team is a health information custodian in connection with the provision of any home and community care service within the meaning of the *Connecting Care Act, 2019*, even where a particular home and community care service is not funded under that Act." at the end.**

**Commencement**

**27 (1) Subject to subsection (2), this Schedule comes into force on the day the *Economic and Fiscal Update Act, 2020* receives Royal Assent.**

- (2) **Subsection 1 (2), section 3, subsection 8 (2), sections 10, 11, 12 and 13, subsection 24 (2) and section 26 come into force on a day to be named by proclamation of the Lieutenant Governor.**

**SCHEDULE 7  
TAXATION ACT, 2007**

**1 Subsection 84 (1) of the *Taxation Act, 2007* is amended by adding the following paragraph:**

11.1 A regional opportunities investment tax credit under section 97.1.

**2 (1) Clause (b) of the definition of “C” in subsection 92 (5.1.2) of the Act is amended by striking out “salary and wages paid to Ontario-based individuals” and substituting “remuneration paid by the corporation”.**

**(2) Section 92 of the Act is amended by adding the following subsection:**

**Remuneration paid by corporation**

(5.1.3) For the purposes of clause (b) of the definition of “C” in subsection (5.1.2), remuneration paid by a corporation means that portion of the corporation’s eligible service contract expenditure for the year or a previous taxation year in respect of the production that is paid to,

- (a) an Ontario-based individual at the time the amount is paid and who is not an employee of the corporation, to the extent that the amount paid,
  - (i) is attributable to services personally rendered by the individual in Ontario in respect of the production, or
  - (ii) is attributable to and does not exceed the salary or wages paid by the individual to the individual’s employees at a time when they were Ontario-based individuals for personally rendering services in Ontario in respect of the production;
- (b) another corporation that is a taxable Canadian corporation, to the extent that the amount paid is attributable to and does not exceed the salary or wages paid to the other corporation’s employees at a time when they were Ontario-based individuals for personally rendering services in Ontario in respect of the production;
- (c) another corporation that is a taxable Canadian corporation, all the issued and outstanding shares of the capital stock of which (except directors’ qualifying shares) belong to an Ontario-based individual and the activities of which consist principally of the provision of the individual’s services, to the extent that the amount paid is attributable to services rendered personally in Ontario by the individual in respect of the production; or
- (d) a partnership, to the extent that the amount paid,
  - (i) is attributable to services personally rendered in respect of the production by an Ontario-based individual who is a member of the partnership, or
  - (ii) is attributable to and does not exceed the salary or wages paid by the partnership to its employees at a time when they were Ontario-based individuals for personally rendering services in Ontario in respect of the production.

**3 The Act is amended by adding the following section:**

**Regional opportunities investment tax credit**

**97.1 (1)** A corporation that is a qualifying corporation and that complies with the requirements of this section may claim an amount for the taxation year in respect of and not exceeding the corporation’s regional opportunities investment tax credit for the year.

**Amount of tax credit**

(2) The amount of a qualifying corporation’s regional opportunities investment tax credit for a taxation year is equal to 10 per cent of the lesser of the following amounts:

1. The amount calculated using the formula,

$$A/365 \times \$450,000$$

in which,

“A” is the number of days in the taxation year.

2. The amount calculated using the formula,

$$(B/365 \times C) + D$$

in which,

“B” is the number of days in the taxation year,

“C” is the lesser of \$450,000 and the amount of the corporation’s eligible expenditures in the taxation year that exceeds \$50,000, and

“D” is the amount of the corporation’s unclaimed expenditure balance for the taxation year, if any, as determined under subsection (5).

### **Qualifying corporation**

- (3) A corporation is a qualifying corporation for a taxation year for the purposes of this section if,
- (a) it is a Canadian-controlled private corporation throughout the taxation year;
  - (b) it is not exempt from tax for the taxation year under Part III; and
  - (c) it carries on business in Ontario in the taxation year through a permanent establishment in Ontario.

### **Eligible expenditure**

- (4) An expenditure incurred by a corporation is an eligible expenditure of the corporation for the purposes of this section if,
- (a) the expenditure is incurred by the corporation,
    - (i) in the taxation year or a preceding taxation year in respect of the acquisition of eligible property,
    - (ii) at a time when the corporation has a permanent establishment in Ontario,
    - (iii) at a time when the corporation was a qualifying corporation; and
  - (b) at the end of the taxation year in which the property is considered to be available for use by the corporation, the expenditure is part of the capital cost of the property to the corporation.

### **Unclaimed expenditure balance**

(5) The unclaimed expenditure balance of a qualifying corporation for a taxation year is the total of all amounts, if any, determined under subsection (6) in respect of a short year that commenced less than 365 days before the taxation year.

### **Same**

(6) For the purposes of subsection (5), an amount in respect of a short year is the amount calculated using the formula,

$$E \times F$$

in which,

“E” is the lesser of \$450,000 and the amount of eligible expenditures in the short year that exceeds \$50,000, and

“F” is the lesser of,

- (a) the amount calculated using the formula,

$$(365 - G)/365$$

in which,

“G” is the number of days in the period that commences on the first day of the short year and ends on the day before the commencement of the taxation year, and

- (b) the amount determined by dividing the number of days in the taxation year by 365.

### **Associated corporations**

(7) Despite subsections (1) and (2), the regional opportunities investment tax credit for a qualifying corporation that is associated with one or more other corporations during a particular taxation year is nil unless each of the other corporations has agreed in writing to waive its right to claim a credit under this section for any taxation year of the other corporation that overlaps with the particular taxation year and the waiver has been filed with the Ontario Minister.

### **Amalgamation**

(8) Despite any other provision of this section, a qualifying corporation formed as a result of the amalgamation of two or more predecessor corporations shall not claim a credit under this section for any expenditure incurred in respect of eligible property by a predecessor corporation that was not a qualifying corporation at the time the expenditure was incurred.

### **Expenditure under a contract**

(9) If a corporation incurs an expenditure in respect of eligible property under a contract with a person or partnership with which the corporation does not deal at arm’s length at the time the expenditure was incurred or at the time the contract was entered into, the expenditure shall not be included in the corporation’s eligible expenditures in respect of the eligible property.

### **Exceptions re eligible property**

(10) Despite subsections (1) and (2), no credit shall be allowed in respect of property that would otherwise be eligible property, if any of the following circumstances exist:

1. The property was acquired by the corporation from a person or partnership with which the corporation did not deal at arm's length.
2. The property was acquired in circumstances where the property was previously owned by the corporation or by a person or partnership with which the corporation was not dealing at arm's length at any time when the property was owned or acquired by the person or partnership.
3. The property was acquired from a person or partnership,
  - i. who has a right or option to acquire all or part of the property in the future, or
  - ii. who has granted a right or option to any other person or partnership to acquire the property in the future.
4. The property is prescribed by the Minister of Finance for the purposes of this section.
5. The property satisfies such criteria as may be prescribed by the Minister of Finance.

### **Review**

(11) The Minister of Finance shall conduct a review of the effectiveness of the regional opportunities investment tax credit not later than the third anniversary of the day the *Economic and Fiscal Update Act, 2020* received Royal Assent, and not later than every third anniversary thereafter.

### **Qualifying region**

(12) Subject to subsection (13), the following is the qualifying region for the purpose of the definition of "eligible property" in subsection (14):

1. The following geographic areas named and described in Schedule 1 to Ontario Regulation 180/03 (Division of Ontario into Geographic Areas) made under the *Territorial Division Act, 2002*:
  - i. Bruce.
  - ii. Chatham-Kent.
  - iii. Elgin.
  - iv. Essex.
  - v. Frontenac.
  - vi. Grey.
  - vii. Haliburton.
  - viii. Hastings.
  - ix. Huron.
  - x. Kawartha Lakes.
  - xi. Lambton.
  - xii. Lanark.
  - xiii. Leeds and Grenville.
  - xiv. Lennox and Addington.
  - xv. Middlesex.
  - xvi. Northumberland.
  - xvii. Oxford.
  - xviii. Perth.
  - xix. Peterborough.
  - xx. Prescott and Russell.
  - xxi. Prince Edward.
  - xxii. Renfrew.
  - xxiii. Stormont, Dundas and Glengarry.
2. The following geographic areas named and described in Schedule 2 to Ontario Regulation 180/03 (Division of Ontario into Geographic Areas) made under the *Territorial Division Act, 2002*:

- i. Algoma.
- ii. Cochrane.
- iii. Kenora.
- iv. Manitoulin.
- v. Muskoka.
- vi. Nipissing.
- vii. Parry Sound.
- viii. Rainy River.
- ix. Sudbury.
- x. Thunder Bay.
- xi. Timiskaming.

3. Any other area prescribed by the Minister of Finance.

#### **Excluded areas**

(13) The Minister of Finance may prescribe any portion of land in any of the geographic areas set out in paragraph 1 or 2 of subsection (12), including the entire geographic area, to not be part of the qualifying region for the purposes of the definition of “eligible property” in subsection (14).

#### **Definitions**

(14) In this section,

“eligible property” means, in respect of a taxation year, property that satisfies all of the following criteria:

1. The property is capital property of the qualifying corporation that is depreciable property and, for the taxation year,
  - i. is, subject to paragraph 2, included in Class 1 of Schedule II to the Federal regulations, or
  - ii. is included in Class 6 of that Schedule.
2. If the property is included in Class 1 of Schedule II to the Federal regulations as a result of an election made under subsection 1103 (1) of those regulations, the property would otherwise not be included in Class 2, 3, 4, 5, 7, 8, 9, 10, 11 or 12 of that Schedule had the election not been made.
3. The property is considered to become available for use by the qualifying corporation on or after March 25, 2020 and in the taxation year.
4. If the property is a building, or an addition or alteration to a building, at least 90 per cent of the floor space of the building is used at the end of the taxation year for a non-residential use.
5. The property is located wholly within the qualifying region at the time the property is considered to become available for use by the qualifying corporation.
6. The property satisfies such other criteria as may be prescribed by the Minister of Finance; (“bien admissible”)

“short year” means a taxation year of a qualifying corporation where the year is less than 365 days and the corporation claimed a regional opportunities investment tax credit. (“exercice court”)

#### **Available for use**

(15) For the purposes of this section, a property is considered to become available for use at the time the property is considered to become available for use under subsection 13 (26) of the Federal Act.

#### **Commencement**

**4 (1) Subject to subsection (2), this Schedule comes into force on the day the *Economic and Fiscal Update Act, 2020* receives Royal Assent.**

**(2) Section 2 is deemed to have come into force on June 4, 2015.**