

# CANADA LEGALLY COMMITS TO NET-ZERO EMISSIONS BY 2050

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On November 19, 2020, the Canadian Minister of Environment and Climate Change tabled optimistic new legislation to chart a course for Canada to reach net-zero greenhouse gas (“GHG”) emissions by 2050, being Bill C-12, the *Canadian Net-Zero Emissions Accountability Act* (the “Act”).<sup>[1]</sup>

This move follows in the footsteps of net-zero emissions reduction targets already set at the local and provincial level across the country. Many Canadian cities including Vancouver, Hamilton, Toronto and Halifax have all proposed strategies to achieve net-zero GHG emissions by 2050.<sup>[2]</sup> In addition, Prince Edward Island committed to reaching net-zero GHG emissions by 2040<sup>[3]</sup> and Nova Scotia and British Columbia have also proposed legislation to reach net-zero GHG emissions by 2050.<sup>[4]</sup> Alberta has implemented various emission reduction programs this year, the most significant being the *Technology Innovation and Emission Reduction (TIER) Regulation*.<sup>[5]</sup> The provincial governments of Alberta, British Columbia and Saskatchewan have each recently finalized equivalency agreements with the Federal Government allowing the provinces to remain in charge of regulating their methane emissions on the basis that the provincial requirements are equivalent to or stricter than the federal methane emission regulations.

## What to Expect

Under the Act, the Federal government will be required to establish new 2030 emissions reduction targets within 6 months of the bill becoming law.<sup>[6]</sup> The government must also set critical interim national targets every five years on the path to 2050.<sup>[7]</sup> The targets are to be set by taking into account the best scientific information available and Canada’s international commitments with respect to climate change.<sup>[8]</sup>

Net-zero emissions are defined by the Act as the anthropogenic emissions of GHGs (i.e. GHGs caused by human activity) into the atmosphere balanced by the anthropogenic removal of GHGs from the atmosphere over a specified period of time.<sup>[9]</sup>

Based on the Governor General’s Throne Speech this past September, we can expect that the Federal government’s upcoming 2030 reduction plan will likely focus on improved energy efficiency through building retrofits as well as incentivizing the transition from traditional gas powered vehicles to hybrid and electric vehicles by making zero-emissions vehicles more affordable.<sup>[10]</sup>

## No Enforcement in Sight

Notably, the legislation does not include any enforcement powers. Instead, it only requires the Minister to report progress for each milestone year to Parliament for the purpose of holding the government accountable to its reduction targets and to facilitate Canada's reporting requirements under the international climate change regime. The only real compliance provision is section 16 which allows the Minister to identify in the assessment report for the applicable milestone year, the reasons why a target was missed, a description of the action the Federal government is taking or will take to address the shortcoming, and any other appropriate information.<sup>[11]</sup> Critics of the Act argue that a robust compliance mechanism is necessary to achieve the aggressive reduction targets on time and to prevent future governments from ducking their responsibilities and simply repealing the Act.

Moreover, the Act does not include any explicit requirements for provinces, which reflects the limited constitutional ability of the Federal government to bind provinces. However, the Minister's progress reports may take into account information on initiatives of a province. In addition, the Minister must provide provinces with an opportunity to make submissions during the setting of emissions reduction targets and plans.

## Impact on Industries

Canada has confirmed that achieving a net-zero economy by 2050 is required to avoid the worst impacts of climate change.<sup>[12]</sup> The transition to a more sustainable, lower-carbon economy is increasingly viewed as critical to the long-term success of businesses, economies and society. With the increasing enactment of legislation intended to combat climate change, developing sustainable practices will assist in fostering a thriving economy and company longevity.

Interestingly, the Act includes an explicit role for the Minister of Finance, by specifying that the Minister must prepare an annual report addressing the measures the federal public administration has taken to manage its financial risks and opportunities related to climate change.<sup>[13]</sup> In recognition of the economic aspects of GHG emissions reduction programs, the government has announced plans to facilitate the transition, including the launch of a new fund to attract investments in companies making zero-emissions products, as well as cutting the corporate tax rate in half for these companies.<sup>[14]</sup> This plan is aimed at increasing the available jobs in our economy and also incentivizing the innovation necessary for Canada to become a world leader in the massive clean-growth opportunity.

The Act is a significant achievement in Canada's aim to meet its long-term emissions reduction targets and recognize the economic costs and opportunities in doing so. Although the Act has a number of novel features, it has a weak compliance mechanism and does not constitute a unified Canadian plan inclusive of input and commitment from provincial and municipal governments, First Nations communities and the private sector.

To effect a smoother and economically feasible transition, a coordinated effort will be needed to build on this Federal initiative.

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[1] [ps2id id='1' target='']Environment and Climate Change Canada, “Government of Canada charts course for clean growth by introducing bill to legislate net-zero emissions by 2050”, November 19, 2020, [Government of Canada charts course for clean growth - Net Zero Emissions by 2050](#) [News Release].

[2] [ps2id id='2' target='']*Ibid.*

[3] [ps2id id='3' target='']Prince Edward Island, “A Path Towards Net Zero (2040) Proposed Framework”, September 2020, [Path Towards Net Zero 2040 Proposed Framework](#)

[4] [ps2id id='4' target='']News Release, *supra* note 1.

[5][ps2id id='5' target=''] Emissions Management and Climate Resilience Act, *Technology Innovation and Emissions Reduction Regulation*, Alta Reg 133/2019.

[6] [ps2id id='6' target='']Bill C-12 s. 7(2).

[7] [ps2id id='7' target='']*Ibid* s. 7(4).

[8] [ps2id id='8' target='']*Ibid* s. 8.

[9][ps2id id='9' target=''] *Ibid* s. 2.

[10] [ps2id id='10' target='']Speech from the [Throne, September 2020, Throne Speech 2020 - Stronger Resilient Canada](#) [Speech from the Throne].

[11] [ps2id id='11' target='']*Supra* note 6, s. 16.

[12] [ps2id id='12' target='']News Release, *supra* note 1.

[13][ps2id id='13' target='']*Supra* note 6, s. 23.

[14][ps2id id='14' target=''] Speech from the Throne, *supra* note 8.

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.