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<b>Artificial Intelligence and Data Act</b>
<b>Enactment of the Act</b>
<p><b>39</b> The <i>Artificial Intelligence and Data Act</i>, <del>is enacted</del> <i>whose text is</i> as follows <i>and whose schedule is set out in Schedule 2 to this Act, is enacted:</i></p> <p>An Act respecting artificial intelligence systems and data used in artificial intelligence systems.</p>
<b>Short Title</b>
<p><b>1</b> This Act may be cited as the <i>Artificial Intelligence and Data Act</i></p>
<b>Definitions and Application</b>
<p><b>Definitions</b></p> <p><b>2</b> The following definitions apply in this Act.</p> <p><b>artificial intelligence system</b> means a technological system that, <del>autonomously or partly autonomously, processes data related to human activities through the use of a genetic algorithm</del> <b>using, a model, makes inferences</b> <del>neural network, machine learning or another technique in order to generate output, including predictions, recommendations or content or make decisions. recommendations or predictions.</del> (<i>système d'intelligence artificielle</i>)</p>



**person** includes a trust, a joint venture, a partnership, an unincorporated association and any other legal entity. (*personne*)

**personal information** has the meaning assigned by subsections 2(1) and (3) of the *Consumer Privacy Protection Act*. (*renseignement personnel*)

### Non-application

**3 (1)** This Act does not apply with respect to a *government institution* as defined in section 3 of the *Privacy Act*.

### Product, service or activity

**(2)** This Act does not apply with respect to a product, service or activity that is under the direction or control of

- (a)** the Minister of National Defence;
- (b)** the Director of the Canadian Security Intelligence Service;
- (c)** the Chief of the Communications Security Establishment; or
- (d)** any other person who is responsible for a federal or provincial department or agency and who is prescribed by regulation.

### Regulations

**(3)** The Governor in Council may make regulations prescribing persons for the purpose of paragraph (2)(d).

## Purposes of Act

### Purposes

**4** The purposes of this Act are

- (a)** to regulate international and interprovincial trade and commerce in artificial intelligence systems by establishing common requirements, applicable across Canada, for the design, development and use of those systems; and
- (b)** to prohibit certain conduct in relation to artificial intelligence systems that may result in serious harm to individuals or harm to their interests.



## Part 1: Regulation of Artificial Intelligence Systems in the Private Sector

### Interpretation

#### Definitions

**5 (1)** The following definitions apply in this Part.

**biased output** means content that is generated, or a decision, recommendation or prediction that is made, by an artificial intelligence system and that adversely differentiates, directly or indirectly and without justification, in relation to an individual on one or more of the prohibited grounds of discrimination set out in section 3 of the *Canadian Human Rights Act*, or on a combination of such prohibited grounds. It does not include content, or a decision, recommendation or prediction, the purpose and effect of which are to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be based on or related to the prohibited grounds. (*résultat biaisé*)

**Commissioner** means the Artificial Intelligence and Data Commissioner referred to in subsection 33(1). (*commissaire*)

**confidential business information**, in respect of a person to whose business or affairs the information relates, means business information

(a) that is not publicly available;

(b) in respect of which the person has taken measures that are reasonable in the circumstances to ensure that it remains not publicly available; and

(c) that has actual or potential economic value to the person or their competitors because it is not publicly available and its disclosure would result in a material financial loss to the person or a material financial gain to their competitors. (*renseignements commerciaux confidentiels*)

**general-purpose system** means an artificial intelligence system that is designed for use, or that is designed to be adapted for use, in many fields and for many purposes and activities, including fields, purposes and activities not contemplated during the system's development. (*système à usage général*)



**harm** means

- (a) physical or psychological harm to an individual;
- (b) damage to an individual's property; or
- (c) economic loss to an individual. (*préjudice*)

**high-impact system** means an artificial intelligence system ~~that meets~~ **of which at least one of the intended uses may reasonably be concluded to fall within** ~~criteria for a class of uses set out~~ **high-impact system that are established in the schedule** regulations. (*système à incidence élevée*)

**machine learning model** means a digital representation of patterns identified in data through the automated processing of the data using an algorithm designed to enable the recognition or replication of those patterns. (*modèle d'apprentissage automatique*)

**Minister** means the member of the Queen's Privy Council for Canada designated under section 31 or, if no member is so designated, the Minister of Industry. (*ministre*)

~~**regulated activity** means any of the following activities carried out in the course of international or interprovincial trade and commerce:~~

- ~~(a) processing or making available for use any data relating to human activities for the purpose of designing, developing or using an artificial intelligence system;~~
- ~~(b) designing, developing or making available for use an artificial intelligence system or managing its operations. (*activité réglementée*)~~

**Person responsible**

~~(2) For the purposes of this Part, a person is responsible for an artificial intelligence system, including a high-impact system, if, in the course of international or interprovincial trade and commerce, they design, develop or make available for use the artificial intelligence system or manage its operation.~~

**For greater certainty**

**(2) For greater certainty, an artificial intelligence system may be a general-purpose system and a high-impact system at the same time.**



## Application

### International or interprovincial trade and commerce

5.1 This Part applies only in respect of

- (a) artificial intelligence systems made available in the course of international or interprovincial trade and commerce;
- (b) the management of the operations of artificial intelligence systems that are used in the course of international or interprovincial trade and commerce; and
- (c) machine learning models made available in the course of international or interprovincial trade and commerce.

## Requirements

### Anonymized data

~~6 A person who carries out any regulated activity and who processes or makes available for use anonymized data in the course of that activity must, in accordance with the regulations, establish measures with respect to~~

- ~~(a) the manner in which data is anonymized; and~~
- ~~(b) the use or management of anonymized data.~~

### Informing individuals of artificial intelligence system

**6 (1)** If it is reasonably foreseeable that, in the circumstances, an individual communicating with an artificial intelligence system could believe that they are communicating with another individual, the person who manages the system's operations must ensure that the system, without delay, clearly advises the individual that they are communicating with an artificial intelligence system.

### Exception – physical product

**(2)** The person need not comply with subsection (1) if

- (a) the system is a *consumer product*, as defined in section 2 of the Canada Consumer Product Safety Act;
- (b) every individual using the system needs to use a physical product to communicate with it; and
- (c) a written statement is placed prominently on each such physical product or its packaging stating that, in using the product, the individual is communicating with an artificial intelligence system.



**Assessment – high-impact system**

~~7 A person who is responsible for an artificial intelligence system must, in accordance with the regulations, assess whether it is a high-impact system.~~

**General-purpose system – first time**

**7 (1)** Before a general-purpose system is made available in the course of international or interprovincial trade and commerce for the first time, the person who makes it available for that first time must ensure that

- (a) measures respecting the data used in developing the system have been established in accordance with the regulations;
- (b) an assessment of the adverse impacts that could result from any use of the system that is reasonably foreseeable has been carried out in accordance with the regulations;
- (c) measures to assess and mitigate any risks of harm or biased output that could result from any use referred to in paragraph (b) have been established in accordance with the regulations;
- (d) tests of the effectiveness of the mitigation measures established under paragraph (c) have been carried out;
- (e) the features prescribed by regulation that permit human oversight of its operations have been included in the system;
- (f) a plain-language description has been prepared of
  - (i) the system’s capabilities and limitations,
  - (ii) the risks of harm or biased output referred to in paragraph (c), and
  - (iii) any other information prescribed by regulation;
- (g) if the system generates digital output consisting of text, images or audio or video content,
  - (i) best efforts have been made so that members of the public, unaided or with the assistance of software that is publicly available and free of charge, are able to identify the output as having been generated by an artificial intelligence system, and
  - (ii) all measures prescribed by regulation have been taken so that members of the public are able to identify the output as having been generated by an artificial intelligence system;
- (h) all measures prescribed by regulation have been taken; and



(i) an assessment of the person's compliance with paragraphs (a) to (h) has been carried out in accordance with the regulations by a third party who meets the qualifications that are prescribed by regulation.

### **Records**

(2) The person must keep

- (a) records demonstrating that the requirements set out in paragraphs (1)(a) to (e), (g) and (h) have been met;
- (b) records relating to the data and processes used in developing the general-purpose system and in assessing the system's capabilities and limitations; and
- (c) any other records prescribed by regulation.

### **Existing system**

(3) If the general-purpose system was made available in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

### **Measures related to risks**

~~8 A person who is responsible for a high-impact system must, in accordance with the regulations, establish measures to identify, assess and mitigate the risks of harm or biased output that could result from the use of the system.~~

### **General-purpose system – making available**

8 (1) A person who makes a general-purpose system available must

- (a) make the plain-language description referred to in paragraph 7(1)(f) available to users of the system or, if the system is made available to the public, publish that description, in the time and manner that may be prescribed by regulation, on a publicly available website; and
- (b) take any measures prescribed by regulation.

### **Existing system**

(2) If the general-purpose system was made available in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.



**Changes – general-purpose system**

**8.1 (1)** If a change referred to in subsection (2) is made to a general-purpose system and the changed system remains a general-purpose system, the changed system is considered to be a distinct general-purpose system for the purposes of this Part.

**Change**

**(2)** A change for the purposes of subsection (1) is one such that

- (a)** the use of the system could result in risks of harm or biased output that are different than any such risks that could have resulted before the change;
- (b)** the mitigation measures established under paragraph 7(1)(c) could be less effective than they were before the change;
- (c)** the plain-language description prepared under paragraph 7(1)(f) is no longer accurate after the change;
- (d)** the measures taken under subparagraph 7(1)(g)(ii) could no longer be effective after the change; or
- (e)** the measures taken under paragraph 7(1)(h) could no longer be required after the change.

**Managing operations – general-purpose system**

**8.2 (1)** A person who manages the operations of a general-purpose system must

- (a)** ensure that the requirements set out in paragraphs 7(1)(a) to (i) are met and keep the records referred to in paragraphs 7(2)(a) to (c), if there are reasonable grounds to believe that any of the acts described in paragraphs 7(1)(a) to (i) have not been accomplished in respect of the system;
- (b)** establish measures to identify, assess and mitigate the risks of harm or biased output that could result from the use of the system, in accordance with the regulations;
- (c)** carry out tests of the effectiveness of the mitigation measures that are established under paragraph (b), in accordance with the regulations;
- (d)** ensure that humans are, in accordance with the regulations, overseeing the system's operations;
- (e)** if there are reasonable grounds to suspect that the use of the system has resulted, directly or indirectly, in serious harm or that the mitigation measures are not effective in mitigating risks of serious harm that could result from the use of the system, assess whether the use of the system did actually result in serious harm or the measures are actually not effective in mitigating those risks and, if so,





- (i) cease the system's operations until additional or modified measures are put in place that will mitigate the risks of serious harm,
- (ii) prepare a report and provide it to Commissioner, in accordance with the regulations, and
- (iii) notify the Commissioner when the system resumes operations;
- (f) take all measures prescribed by regulation; and
- (g) keep records demonstrating compliance with paragraphs (a) to (f) and any other records prescribed by regulation.

### Existing system

(2) If the general-purpose system was made available in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

### ~~Monitoring of mitigation measures~~

~~9 A person who is responsible for a high-impact system must, in accordance with the regulations, establish measures to monitor compliance with the mitigation measures they are required to establish under section 8 and the effectiveness of those mitigation measures.~~

### Developing machine learning model

9 (1) Before a machine learning model is made available, for incorporation into a high-impact system, in the course of international or interprovincial trade and commerce for the first time, the person who makes it available for that first time must ensure that

- (a) measures respecting the data used in developing the model have been established in accordance with the regulations;
- (b) measures to identify, assess and mitigate the risks of biased output that could result from the use of the model by a high-impact system in which the model is intended to be incorporated have been established in accordance with the regulations;
- (c) a model card containing the information prescribed by regulation has been prepared; and
- (d) all measures prescribed by regulation have been taken.



### **Records**

**(2)** The person must keep

- (a)** records demonstrating that the requirements set out in paragraphs (1)(a) to (d) have been met;
- (b)** records relating to the data and processes used in developing the machine learning model; and
- (c)** any other records prescribed by regulation.

### **Existing machine learning model**

**(3)** If the machine learning model was made available, for incorporation into a high-impact system, in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

### **Model card**

**9.1 (1)** A person who makes a machine learning model available for incorporation into a high-impact system must make the model card referred to in paragraph 9(1)(c) available to any person to whom they make the model available.

### **Existing machine learning model**

**(2)** If the machine learning model is made available, for incorporation into a high-impact system, in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

### **Keeping general records**

~~**10 (1)** A person who carries out any regulated activity must, in accordance with the regulations, keep records describing in general terms, as the case may be,~~

- ~~**(a)** the measures they establish under sections 6, 8 and 9; and~~
- ~~**(b)** the reasons supporting their assessment under section 7.~~

### **Additional records**

~~**(2)** The person must, in accordance with the regulations, keep any other records in respect of the requirements under sections 6 to 9 that apply to them.~~



**Making high-impact system available**

**10 (1)** Before a high-impact system is made available in the course of international or interprovincial trade and commerce for the first time, the person who makes it available for that first time must ensure that

- (a) an assessment of the adverse impacts that could result from the intended use or from any other use of the system that is reasonably foreseeable has been carried out in accordance with the regulations;
- (b) measures to assess and mitigate any risks of harm or biased output that could result from any use referred to in paragraph (a) have been established in accordance with the regulations;
- (c) tests of the effectiveness of the mitigation measures established under paragraph (b) have been carried out;
- (d) the features prescribed by regulation that permit human oversight of its operation have been included in the system;
- (e) the system is performing reliably and as intended and is robust (namely, it will continue to perform reliably and as intended, even in adverse or unusual circumstances), in accordance with the regulations;
- (f) if a machine learning model is incorporated into the system,
  - (i) the measures referred to in paragraphs 9(1)(a) and (b) have been established in respect of the model,
  - (ii) the model card referred to in paragraph 9(1)(c) has been prepared in respect of the model, and
  - (iii) the measures referred to in paragraph 9(1)(d) have been taken in respect of the model;
- (g) all measures prescribed by regulation have been taken; and
- (h) a manual on the system's operations has been prepared in accordance with the regulations.

**Records**

**(2)** The person must keep

- (a) records demonstrating that the requirements set out in paragraphs (1)(a) to (g) have been met;
- (b) records relating to the data and processes used in developing the high-impact system; and
- (c) any other records prescribed by regulation.



**Existing system**

(3) If the high-impact system was made available in the course of international or interprovincial trade or commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

**Manual and prescribed measures**

**10.1 (1)** A person who makes a high-impact system available must

- (a) make the manual referred to in paragraph 10(1)(h) available to any person who manages the system's operations; and
- (b) take any measures prescribed by regulation.

**Existing system**

(2) If the high-impact system is made available in the course of international or interprovincial trade or commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

**Changes – high-impact system**

**10.2 (1)** If a change referred to in subsection (2) is made to a high-impact system and the changed system remains a high-impact system, the changed system is considered to be a distinct high-impact system for the purposes of this Part.

**Change**

(2) A change for the purposes of subsection (1) is one such that

- (a) the intended use of the system could fall within a class or subclass of uses set out in the schedule that is different than the class or subclass within which it fell before the change;
- (b) the intended use of the system could result in risks of harm or biased output that are different than any such risks that could have resulted before the change; or
- (c) the mitigation measures established under paragraph 10(1)(b) could be less effective than they were before the change.



**Publication of description – making system available for use**

~~11 (1) A person who makes available for use a high-impact system must, in the time and manner that may be prescribed by regulation, publish on a publicly available website a plain-language description of the system that includes an explanation of~~

- ~~(a) how the system is intended to be used;~~
- ~~(b) the types of content that it is intended to generate and the decisions, recommendations or predictions that it is intended to make;~~
- ~~(c) the mitigation measures established under section 8 in respect of it; and~~
- ~~(d) any other information that may be prescribed by regulation.~~

**Publication of description – managing operation of system**

~~(2) A person who manages the operation of a high-impact system must, in the time and manner that may be prescribed by regulation, publish on a publicly available website a plain-language description of the system that includes an explanation of~~

- ~~(a) how the system is used;~~
- ~~(b) the types of content that it generates and the decisions, recommendations or predictions that it makes;~~
- ~~(c) the mitigation measures established under section 8 in respect of it; and~~
- ~~(d) any other information that may be prescribed by regulation.~~

**Managing operations – high-impact system**

**11 (1) A person who manages the operations of a high-impact system must**

- (a) ensure that the requirements set out in paragraphs 10(1)(a) to (h) are met and keep the records referred to in paragraphs 10(2)(a) to (c), if there are reasonable grounds to believe that any of the acts described in paragraphs 10(1)(a) to (h) have not been accomplished in respect of the system;**
- (b) establish measures to identify, assess and mitigate the risks of harm or biased output that could result from the use of the system, in accordance with the regulations;**
- (c) carry out tests of the effectiveness of the mitigation measures that are established under paragraph (b), in accordance with the regulations;**



- (d) ensure that humans are, in accordance with the regulations, overseeing the system's operations;
- (e) establish measures allowing users to provide feedback on the system's performance, in accordance with the regulations;
- (f) in the time and manner prescribed by regulation, publish on a publicly available website a plain-language description of the system that includes the following information:
  - (i) how the system is being used,
  - (ii) the types of output that it generates,
  - (iii) the mitigation measures established under paragraph (b) in respect of it, and
  - (iv) any other information that may be prescribed by regulation;
- (g) if there are reasonable grounds to suspect that the use of the system has resulted, directly or indirectly, in serious harm or that the mitigation measures are not effective in mitigating risks of serious harm that could result from the use of the system, assess whether the use of the system did actually result in serious harm or the measures are actually not effective in mitigating those risks and, if so,
  - (i) cease the system's operations until additional or modified measures are put in place that will mitigate risks of serious harm,
  - (ii) prepare a report and provide it to the Commissioner, in accordance with the regulations, and
  - (iii) notify the Commissioner when the system resumes operation;
- (h) take all measures prescribed by regulation; and
- (i) keep records demonstrating compliance with paragraphs (a) to (h) and any other records prescribed by regulation.

### Existing system

(2) If the high-impact system was made available in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

### Notification of material harm

~~12 A person who is responsible for a high-impact system must, in accordance with the regulations and as soon as feasible, notify the Minister if the use of the system results or is likely to result in material harm.~~



**Accountability framework – general-purpose system**

**12 (1)** A person who makes a general-purpose system available or who manages the operations of one must establish and maintain a written accountability framework.

**Existing general-purpose system**

**(2)** If the general-purpose system is made available in the course of international or interprovincial trade and commerce before the day on which subsection (1) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

**Accountability framework – high-impact system**

**(3)** A person who makes a high-impact system available or who manages its operations must establish and maintain a written accountability framework.

**Existing high-impact system**

**(4)** If the high-impact system was made available in the course of international or interprovincial trade and commerce before the day on which subsection (3) comes into force, the person referred to in that subsection has until the day prescribed by regulation to comply with that subsection.

**Elements**

**(5)** The accountability framework must, in accordance with the regulations, include

- (a)** a description of the roles and responsibilities and reporting structure for all personnel who contribute to making the artificial intelligence system available or who contribute to the management of its operations;
- (b)** policies and procedures respecting the management of risks relating to the system;
- (c)** policies and procedures respecting the data used by the system;
- (d)** a description of the training that the personnel referred to in paragraph (a) must receive in relation to the system and the training materials they are to be provided with;
- (e)** if the person establishing and maintaining the framework manages the operations of the system, policies and procedures on how the personnel referred to in paragraph (a) are to advise the person of any use of the system that results, directly or indirectly, in serious harm or of any mitigation measures that are not effective in mitigating risks of serious harm; and
- (f)** anything that is prescribed by regulation.



**Factors**

**(6)** In establishing and maintaining the accountability framework, the person must take into account the nature and size of their business and the risks of harm or biased output that could result from the use of the artificial intelligence system.

**Ministerial Orders Powers**

**Provision of ~~subsection 10(1) records~~ accountability framework**

**13 (1)** The ~~Commissioner~~ Minister may, by order, require that a person referred to in subsection ~~12 40(1) or (3)~~ provide the ~~Commissioner~~ Minister with all or any part of their accountability framework ~~the records referred to in that subsection.~~

**Guidance and corrective measures**

**(2)** The Commissioner may provide guidance to the person, or recommend to the person that corrective measures be taken, in relation to the accountability framework.

**~~Provision of subsection 10(2) records~~**

~~**14** If the Minister has reasonable grounds to believe that the use of a high-impact system could result in harm or biased output, the Minister may, by order, require that a person referred to in subsection 10(2) provide the Minister, in the form specified in the order, with any of the records referred to in that subsection that relate to that system.~~

**Required assessment**

**14 (1)** For the purpose of determining whether an artificial intelligence system is a high-impact system or general-purpose system or whether a model is a machine learning model that is intended to be incorporated into a high impact system, the Commissioner may, by order, require that a person who makes available or manages the system, or who makes the model available for incorporation, provide the Commissioner with

- (a)** the person’s assessment of whether the system is a high-impact system and, if so, of the class or subclass within which its intended use falls;
- (b)** the person’s assessment of whether the system is a general-purpose system;
- (c)** the person’s assessment of whether the model is a machine learning model that is intended to be incorporated into a high-impact system; and
- (d)** any information that is relevant to the making of an assessment referred to in any of paragraphs (a) to (c).





### Notification

(2) The Commissioner must notify the person in writing of whether the Commissioner agrees with an assessment provided under any of paragraphs (1)(a) to (c) and provide reasons in support of their agreement or disagreement.

### Audit

15 (1) If the ~~Commissioner~~ Minister has reasonable grounds to believe that a person has contravened or is likely to contravene any of sections 6 to 12, a provision of the regulations or an order made under section 13, ~~or 14, 16 or 18,~~ the ~~Commissioner~~ Minister may ~~by order, require that the person~~

(a) conduct an audit with respect to the possible contravention; ~~or~~

(b) require, by order, that the person conduct the audit; or

~~(b)~~ (c) require, by order, that the person engage the services of an independent auditor to conduct the audit.

### Qualifications

(2) ~~An~~ The audit conducted under paragraph (1)(b) or (c) must be conducted by a person who meets the qualifications that are prescribed by regulation.

### Powers of Commissioner

(2.1) For the purpose of conducting an audit, the Commissioner may

(a) enter any place other than a dwelling-house and

(i) examine anything found in the place,

(ii) use or cause to be used any computer system at the place, including for the purpose of gaining access to any electronic data,

(iii) use or cause to be used any copying equipment in the place or copy any electronic data found in or accessed from the place, and

(iv) remove anything from the place for examination or copying;

(b) conduct or cause to be conducted any testing of an artificial intelligence system or machine learning model; and

(c) by order, require that the person being audited provide the Commissioner with any specified information.



**Remote access**

**(2.2)** For the purposes of paragraph (2.1)(a), the Commissioner is considered to have entered a place when they access it remotely by a means of telecommunication.

**Limitation on remote access**

**(2.3)** The Commissioner may access a place that is not accessible to the public remotely by a means of telecommunication only if they do so with the knowledge of the owner or person in charge of the place. The Commissioner must be remotely in the place for no longer than the period necessary for the purpose of conducting the audit.

**Assistance**

**(3)** ~~If the audit is conducted by an independent auditor, the~~ The person who is audited must give all assistance that is reasonably required to enable an ~~the auditor to conduct the audit, to~~ be conducted including by providing any records or other information specified by the auditor.

**Copy to person**

**(3.1)** If the Commissioner conducts an audit, the Commissioner must provide the person who is audited with a copy of the audit report.

~~Report~~ **Copy to Commissioner**

**(4)** The person who is audited must provide the ~~Commissioner Minister~~ with the audit report, in the case of an audit conducted under paragraph (1)(b) or (c).

**Cost**

**(5)** ~~In all cases, the~~ The cost of ~~an the~~ audit conducted under paragraph (1)(b) or (c) is payable by the person who is audited.

**Delegation**

**(6)** The Commissioner may delegate the conduct of an audit under paragraph (1)(a) and any of the powers set out in subsection (2.1) to an employee in the department over which the Minister presides.



### Minister may request audit

**15.1** The Minister may request that the Commissioner conduct an audit under paragraph 15(1)(a), in which case the Commissioner must

- (a) conduct the audit, if the Commissioner has the reasonable grounds referred to in subsection 15(1); or
- (b) if there are no such reasonable grounds, refuse the Minister's request and provide the Minister with written reasons for the refusal.

### For greater certainty

**15.2** For greater certainty, the Commissioner's power to require the provision of documents or other information under subsection 13(1) or 14(1) or paragraph 15(2.1)(c) includes the power to require the provision of personal information or confidential business information.

### Implementation of measures

**16** The Minister may, by order, require that a person who has been audited

- (a) implement any measure specified in the order to bring the person into compliance with, or address anything referred to remedy any contravention of, this Act; or in the audit report.
- (b) cease making an artificial intelligence system available or cease its operations, if the Minister is satisfied that it is not possible in the circumstances to bring the person into compliance with this Act or to remedy the contravention.

### Cessation

**17 (1)** The Minister may, by order, require that any person who makes is responsible for a high-impact system or general-purpose system available, or who manages the operations of such a system, cease using it or making it available or cease its operations for use if the Minister has reasonable grounds to believe that the use of the system gives rise to a serious risk of imminent and serious harm.

### Statutory Instruments Act

**(2)** The order is exempt from the application of sections 3 and 9 of the *Statutory Instruments Act*.



**Publication**

**18 (1)** The Minister may, by order, require that a person referred to in any of sections 6 to 12, 15 and 16 publish, on a publicly available website, any information related to any of those sections. However, the Minister is not permitted to require that the person disclose confidential business information.

**Regulations**

**(2)** The person must publish the information under subsection (1) in accordance with any regulations.

**Compliance**

**19** A person who is the subject of an order made by the Minister or Commissioner under this Part must comply with the order.

**Filing – Federal Court**

**20** The Minister or Commissioner may file a certified copy of an order made under any of sections 13 to 15 and 16 to 18 in the Federal Court and, on the certified copy being filed, the order becomes and may be enforced as an order of the Federal Court.

**Statutory Instruments Act**

**21** An order made under any of sections 13 to 15, 16 and 18 is not a *statutory instrument* as defined in subsection 2(1) of the *Statutory Instruments Act*.

**Information**

**Confidential nature maintained**

**22** For greater certainty, confidential business information that is obtained by the Commissioner Minister under this Part does not lose its confidential nature by the mere fact that it is so obtained or that it has been disclosed by the Commissioner Minister under section 25 or 26.

**Obligation – confidentiality of Minister**

**23** Subject to sections 24 to 26, the Minister and the Commissioner must take measures to maintain the confidentiality of any confidential business information that they obtain the Minister obtains under this Part.

**Disclosure of confidential business information – subpoena, warrant, etc.**

**24** The Minister and the Commissioner may disclose confidential business information for the purpose of complying with a subpoena or warrant issued or order made by a court, person or body with jurisdiction to compel the production of information or for the purpose of complying with rules of court relating to the production of information.



**Disclosure of information – analyst**

**25 (1)** The ~~Commissioner Minister~~ may disclose any information that is obtained under this Part to an analyst designated under section 34.

**Conditions – confidentiality**

**(2)** The ~~Commissioner Minister~~ may impose any condition on the analyst in order to protect the confidentiality of information that the ~~Commissioner Minister~~ discloses.

**Duty and restriction**

**(3)** An analyst must maintain the confidentiality of information disclosed to them under subsection (1) and may use the information only for the administration and enforcement of this Part.

**Disclosure of information – others**

**26 (1)** The ~~Commissioner Minister~~ may disclose any information obtained under this Part to any of the following recipients, if the ~~Commissioner Minister~~ has reasonable grounds to believe that a person who carries out any regulated activity has contravened, or is likely to contravene, another Act of Parliament or a provincial legislature that is administered or enforced by the intended recipient of the information and if the information ~~may be~~ is relevant to the **administration or enforcement by the recipient of another Act of Parliament or an Act of a provincial legislature** ~~intended recipient's powers, duties or functions under that Act:~~

- (a)** the Privacy Commissioner;
- (b)** the Canadian Human Rights Commission;
- (c)** the Commissioner of Competition;
- (d)** the Canadian Radio-television and Telecommunications Commission;
- (d.1)** the Office of the Superintendent of Financial Institutions;
- (d.2)** the Financial Consumer Agency of Canada;
- (d.3)** the Financial Transactions and Reports Analysis Centre of Canada;
- (d.4)** the Minister of Health;
- (d.5)** the Minister of Transport;



(e) any person appointed by the government of a province, or any provincial entity, with powers, duties and functions that are similar to those of the Privacy Commissioner or the Canadian Human Rights Commission;

(e.1) any provincial government agency or body that regulates or supervises financial institutions;

(f) any other person or entity prescribed by regulation.

### Restriction

(2) The ~~Commissioner~~ Minister may disclose personal information or confidential business information under subsection (1) only if they are (a) ~~the Minister is satisfied that the disclosure is necessary for the purposes of enabling the recipient to administer or enforce the Act in question;~~ and (b) ~~the recipient agrees in writing to will maintain the confidentiality of the information except as necessary for the purpose of enabling the recipient to administer or enforce the Act in question any of those purposes.~~

### Restriction – use

(3) The recipient may use the disclosed information only for the purpose of the administration and enforcement of the Act in question.

### Disclosure to Commissioner

26.1 Despite any other Act of Parliament, the following persons and entities may disclose any information in their possession to the Commissioner for the purposes of the administration and enforcement of this Part if they have reasonable grounds to believe that the information is relevant to those purposes:

(a) the Privacy Commissioner;

(b) the Canadian Human Rights Commission;

(c) the Commissioner of Competition;

(d) the Canadian Radio-television and Telecommunications Commission;

(e) the Office of the Superintendent of Financial Institutions;

(f) the Financial Consumer Agency of Canada;

(g) the Minister of Health;

(h) the Minister of Transport.



**Publication of information – contravention**

**27 (1)** If the Minister considers that it is in the public interest to do so, the Minister may, for the purpose of encouraging compliance with this Part, publish information about any contravention of this Part on a publicly available website.

**Restriction**

**(2)** However, the Minister is not permitted to publish confidential business information under subsection (1).

**Publication of information – harm**

**28 (1)** Without the consent of the person to whom the information relates and without notifying that person, the Minister may publish, on a publicly available website, information that relates to an artificial intelligence system and that is obtained under this Part if the Minister has reasonable grounds to believe that

- (a)** the use of the system gives rise to a serious risk of imminent harm; and
- (b)** the publication of the information is essential to prevent the harm.

**Restriction**

**(2)** However, the Minister is not permitted to publish personal information or confidential business information under subsection (1).

**Administrative Monetary Penalties**

**29 (1)** A person who is found under the regulations to have committed a violation is liable to the administrative monetary penalty established by the regulations.

**Purpose of penalty**

**(2)** The purpose of an administrative monetary penalty is to promote compliance with this Part and not to punish.

**Violation or offence**

**(3)** If an act or omission may be proceeded with as a violation or as an offence, proceeding with it in one manner precludes proceeding with it in the other.



## Regulations

- (4)** The Governor in Council may make regulations respecting an administrative monetary penalties scheme, including regulations
- (a)** designating the provisions of this Part or of the regulations the contravention of which constitutes a violation, including those provisions the contravention of which, if continued on more than one day, constitutes a separate violation in respect of each day during which the violation is continued;
  - (b)** classifying each violation as a minor violation, a serious violation or a very serious violation;
  - (c)** respecting the proceedings in respect of a violation, including in relation to
    - (i)** commencing the proceedings,
    - (ii)** maintaining the confidentiality of confidential business information in the proceedings,
    - (iii)** the defences that may be available in respect of a violation, and
    - (iv)** the circumstances in which the proceedings may be brought to an end;
  - (d)** respecting the administrative monetary penalties that may be imposed for a violation, including in relation to
    - (i)** the amount, or range of amounts, of the administrative monetary penalties that may be imposed on persons or classes of persons,
    - (ii)** the factors to be taken into account in imposing an administrative monetary penalty,
    - (iii)** the payment of administrative monetary penalties that have been imposed, and
    - (iv)** the recovery, as a debt, of unpaid administrative monetary penalties;
  - (e)** respecting reviews or appeals of findings that a violation has been committed and of the imposition of administrative monetary penalties;
  - (f)** respecting compliance agreements; and
  - (g)** respecting the persons or classes of persons who may exercise any power, or perform any duty or function, in relation to the scheme, including the designation of such persons or classes of persons by the Minister.





## Offences

### Contravention – sections 6 to 12

**30 (1)** Every person who contravenes any of sections 6 to 12 is guilty of an offence.

### Obstruction or providing false or misleading information

**(2)** Every person who carries out a regulated activity is guilty of an offence if the person obstructs – or provides false or misleading information to – the Minister, anyone acting on behalf of the Minister or an independent auditor in the exercise of their powers or performance of their duties or functions under this Part.

### Punishment

**(3)** A person who commits an offence under subsection (1) or (2)

**(a)** is liable, on conviction on indictment,

**(i)** to a fine of not more than the greater of \$10,000,000 and 3% of the person's gross global revenues in its financial year before the one in which the person is sentenced, in the case of a person who is not an individual, and

**(ii)** to a fine at the discretion of the court, in the case of an individual; or

**(b)** is liable, on summary conviction,

**(i)** to a fine of not more than the greater of \$5,000,000 and 2% of the person's gross global revenues in its financial year before the one in which the person is sentenced, in the case of a person who is not an individual, and

**(ii)** to a fine of not more than \$50,000, in the case of an individual.

### Defence of due diligence

**(4)** A person is not to be found guilty of an offence under subsection (1) or (2) if they establish that they exercised due diligence to prevent the commission of the offence.

### Employee, agent or mandatary

**(5)** It is sufficient proof of an offence under subsection (1) or (2) to establish that it was committed by an employee, agent or mandatary of the accused, whether or not the employee, agent or mandatary is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.



## Administration

### Designation

**31** The Governor in Council may, by order, designate any member of the Queen's Privy Council for Canada to be the Minister for the purposes of this Part.

### General powers of Minister

**32** The Minister may

- (a) promote public awareness of this Act and provide education with respect to it;
- (b) make recommendations and cause to be prepared reports on the establishment of measures to facilitate compliance with this Part; and
- (c) establish guidelines with respect to compliance with this Part.

### Artificial Intelligence and Data Commissioner

**33 (1)** The Minister may designate a senior official of the department over which the Minister presides to be called the Artificial Intelligence and Data Commissioner, ~~whose role is to assist the Minister in the administration and enforcement of this Part.~~

### Delegation

**(2)** The Minister may delegate to the Commissioner any power, duty or function conferred on the Minister under this Part, except the power to make regulations under section 37.

### Administration and enforcement

**(3)** The Commissioner must administer and enforce this Part in a manner that takes into account the variety of persons who are subject to any of the requirements set out in sections 6 to 12, including the nature and size of their businesses.

### Absence, incapacity or no designation

**(4)** If the Commissioner is absent or incapacitated or if no Commissioner is designated, the Minister is to exercise the powers and perform the duties and functions of the Commissioner.



### **Arrangements**

**33.1** The Commissioner may enter into arrangements with any of the following persons and entities in respect of artificial intelligence systems for the purpose of assisting any of the persons and entities in the exercise of their powers or the performance of their functions and duties:

- (a) the Privacy Commissioner;
- (b) the Canadian Human Rights Commission;
- (c) the Commissioner of Competition;
- (d) the Canadian Radio-television and Telecommunications Commission;
- (e) the Office of the Superintendent of Financial Institutions;
- (f) the Financial Consumer Agency of Canada;
- (g) the Financial Transactions and Reports Analysis Centre of Canada;
- (h) the Minister of Health;
- (i) the Minister of Transport.

### **Analysts**

**34** The Minister may designate any individual or class of individuals as analysts for the administration and enforcement of this Part.

### **Advisory committee**

**35 (1)** The Minister may establish a committee to provide the Minister with advice on any matters related to this Part.

### **Advice available to public**

**(2)** The Minister may cause the advice that the committee provides to the Minister to be published on a publicly available website.

### **Remuneration and expenses**

**(3)** Each committee member is to be paid the remuneration fixed by the Governor in Council and is entitled to the reasonable travel and living expenses that they incur while performing their duties away from their ordinary place of residence.



**Annual report**

**35.1** Before July 1 of each calendar year, the Commissioner must prepare a report on the administration and enforcement of this Part during the previous calendar year and must cause the report to be published on a publicly available website.

**Regulations – Governor in Council**

**36** The Governor in Council may make regulations for the purposes of this Part, including regulations

- (a) respecting what constitutes or does not constitute justification for the purpose of the definition *biased output* in subsection 5(1);
- (b) ~~establishing criteria for the purposes of sections 7, 8, 8.2 to 10.1, 11, and 12, subject to section 37 the definition *high-impact system* in subsection 5(1);~~
- (c) respecting ~~the data used in the development of, or the making of changes to, an artificial intelligence system~~ ~~establishment of measures for the purposes of sections 6, 8 and 9;~~
- (d) respecting ~~measures to be taken before making an artificial intelligence system available~~ ~~the assessment for the purposes of section 7;~~
- (e) respecting ~~the making available of artificial intelligence systems and the operations of artificial intelligence systems~~ ~~what constitutes or does not constitute material harm for the purpose of section 12;~~
- (e.1)** respecting the advertising or labelling of artificial intelligence systems;
- (f) prescribing qualifications for the purposes of subsection 15(2); and
- (g) prescribing persons and entities for the purpose of paragraph 26(1)(f).

**Amending schedule – Governor in Council**

**36.1 (1)** The Governor in Council may, by regulation, amend the schedule by adding, varying or deleting a class or subclass of uses.



### Factors to take into account

(2) In making a regulation under subsection (1), the Governor in Council must take into account

- (a) the risk of adverse impacts that the class or subclass of uses of artificial intelligence systems that is to be added, varied or deleted may have on the economy or any other aspect of Canadian society and on individuals, including on individuals' health and safety and on their rights recognized in international human rights treaties to which Canada is a party;
- (b) the severity and extent of those adverse impacts;
- (c) the social and economic circumstances of any individuals who may experience those adverse impacts; and
- (d) whether the uses in the class or subclass that is to be added, varied or deleted are adequately regulated under another Act of Parliament or an Act of a provincial legislature.

### Regulations – Minister

37 The Minister may make regulations

- (a) ~~respecting the records required to be kept under section 10;~~ prescribing information for the purposes of subparagraph 7(1)(f)(iii), paragraph 9(1)(c) and subparagraph 11(1)(f)(iv);
- (b) ~~prescribing, the records to be kept under paragraphs 7(2)(c), 8.2(1)(g), 9(2)(c), 10(2)(c) and 11(1)(i); for the purposes of subsections 11(1) and (2), the time and the manner in which descriptions are to be published and the information to be included in the descriptions;~~
- (c) ~~respecting the notice required to be provided under section 12; and~~ prescribing, for the purposes of paragraphs 8(1)(a) and 11(1)(f), the time and the manner in which descriptions are to be published; and
- (d) respecting the publication of information under section 18.

### Different treatment

37.1 Regulations made under sections 36 and 37 may distinguish among different categories of artificial intelligence systems.



## Part 2: General Offences Related to Artificial Intelligence Systems

### Possession or use of personal information

**38** Every person commits an offence if, for the purpose of designing, developing, using or making available for use an artificial intelligence system, the person possesses – within the meaning of subsection 4(3) of the *Criminal Code* – or uses personal information, knowing or believing that the information is obtained or derived, directly or indirectly, as a result of

- (a) the commission in Canada of an offence under an Act of Parliament or a provincial legislature; or
- (b) an act or omission anywhere that, if it had occurred in Canada, would have constituted such an offence.

### Making system available for use

**39** Every person commits an offence if the person

- (a) without lawful excuse and knowing that or being reckless as to whether the use of an artificial intelligence system is likely to cause serious physical or psychological harm to an individual or substantial damage to an individual's property, makes the artificial intelligence system available for use and the use of the system causes such harm or damage; or
- (b) with intent to defraud the public and to cause substantial economic loss to an individual, makes an artificial intelligence system available for use and its use causes that loss.

### Punishment

**40** Every person who commits an offence under section 38 or 39

- (a) is liable, on conviction on indictment,
  - (i) to a fine of not more than the greater of \$25,000,000 and 5% of the person's gross global revenues in its financial year before the one in which the person is sentenced, in the case of a person who is not an individual, and
  - (ii) to a fine in the discretion of the court or to a term of imprisonment of up to five years less a day, or to both, in the case of an individual; or
- (b) is liable, on summary conviction,



- (i) to a fine of not more than the greater of \$20,000,000 and 4% of the person’s gross global revenues in its financial year before the one in which the person is sentenced, in the case of a person who is not an individual, and
- (ii) to a fine of not more than \$100,000 or to a term of imprisonment of up to two years less a day, or to both, in the case of an individual.

**Part 3: Coming into Force**

**Order in council**

**41** The provisions of this Act come into force on a day or days to be fixed by order of the Governor in Council.

**Part 4: Coming into Force**

**Order in council**

**40** This Act, other than sections 2, 35, 36 and 39, comes into force on a day to be fixed by order of the Governor in Council.

**SCHEDULE (Section 2)**

**SCHEDULE**

(Subsection 6(3) and paragraph 122(2)(c))

Item	Column 1 Organization	Column 2 Personal information
1	World Anti-Doping Agency <i>Agence mondiale antidopage</i>	Personal information that the organization collects, uses, or discloses in the course of its interprovincial or international activities

**SCHEDULE 2 (Section 39)**

**SCHEDULE**

(Subsection 5(1), paragraph 10.2(2)(a) and section 36.1)

**High-Impact Systems – Uses**

1	The use of an artificial intelligence system in matters relating to determinations in respect of employment, including recruitment, referral, hiring, remuneration, promotion, training, apprenticeship, transfer or termination.
2	The use of an artificial intelligence system in matters relating to (a) the determination of whether to provide services to an individual; (b) the determination of the type or cost of services to be provided to an individual; or (c) the prioritization of the services to be provided to individuals.
3	The use of an artificial intelligence system to process biometric information in matters relating to (a) the identification of an individual, other than in cases in which the biometric information is processed with the individual’s consent to authenticate their identity; or (b) the assessment of an individual’s behaviour or state of mind.
4	The use of an artificial intelligence system in matters relating to (a) the moderation of content that is found on an online communications platform, including a search engine or social media service; or (b) the prioritization of the presentation of such content.
5	The use of an artificial intelligence system in matters relating to health care or emergency services, excluding a use referred to in any of paragraphs (a) to (e) of the definition <i>device</i> in section 2 of the <i>Food and Drugs Act</i> that is in relation to humans.
6	The use of an artificial intelligence system by a court or administrative body in making a determination in respect of an individual who is a party to proceedings before the court or administrative body.
7	The use of an artificial intelligence system to assist a <i>peace officer</i> , as defined in section 2 of the <i>Criminal Code</i> , in the exercise and performance of their law enforcement powers, duties and functions.

