LIBRARY OF PARLIAMENT
BIBLIOTHÈQUE DU PARLEMENT

PRELIMINARY VERSION

UNEDITED

The preliminary, unedited version of this legislative summary is provided to parliamentarians, parliamentary staff and the public to ensure timely access to the information, research and analysis needed to study the bill in question. If the bill receives Royal Assent, this version will be replaced on the Parliament of Canada website by a final version, which may differ from this document.

Legislative Summary

BILL C-10: AN ACT RESPECTING THE COMMISSIONER FOR MODERN TREATY IMPLEMENTATION

45-1-C-10-E

13 January 2026

Brittany Collier and Allison Lowenger

Research and Education

PRELIMINARY VERSION
UNEDITED

AUTHORSHIP

13 January 2026 Brittany Collier
Allison Lowenger

ABOUT THIS PUBLICATION

Library of Parliament legislative summaries summarize bills currently before Parliament and provide background information about them in an objective and impartial manner. They are prepared by Research and Education, which carries out research for and provides information and analysis to parliamentarians, Senate and House of Commons committees and parliamentary associations. Legislative summaries are revised as needed to reflect amendments made to bills as they move through the legislative process.

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

Any substantive changes to this Library of Parliament legislative summary that have been made since the preceding issue are indicated in **bold print**.

© Library of Parliament, Ottawa, Canada, 2026

Legislative Summary of Bill C-10
(Preliminary version)

45-1-C-10-E

Ce document est également publié en français.

PRELIMINARY VERSION
UNEDITED

CONTENTS

1 BACKGROUND 1

1.1 Modern Treaties and Self-Government Agreements in Canada 1

1.2 Modern Treaty Implementation 2
1.2.1 Dispute Resolution 3
1.2.2 Indigenous Modern Treaty Signatories Call for Change 4
1.2.3 Recent Federal Initiatives Related to Modern Treaty Implementation 4

1.3 Agents or Officers of Parliament 6

2 DESCRIPTION AND ANALYSIS 6

2.1 Preamble 6

2.2 Interpretation
(Clauses 2 and 3) 7

2.3 Consultations – Legislative Proposals of the Government
(Clause 5) 8

2.4 Commissioner for Modern Treaty Implementation
(Clauses 6 and 7) 8

2.5 Mandate and Powers, Duties and Functions of the Commissioner
(Clauses 8 to 17) 9

2.6 Office of the Commissioner for Modern Treaty Implementation
(Clauses 18 to 20) 10

2.7 Immunity
(Clauses 21 to 23) 11

2.8 Information
(Clauses 24 to 27) 11

2.9 Reports
(Clauses 28 and 29) 13

2.10 Reviews
(Clauses 30 and 31) 13

2.11 Regulations
(ClauseS 32 and 33) 13

2.12 Consequential Amendments 14

PRELIMINARY VERSION
UNEDITED

LEGISLATIVE SUMMARY OF BILL C-10, AN ACT RESPECTING THE COMMISSIONER FOR MODERN TREATY IMPLEMENTATION

1 BACKGROUND

Bill C-10, An Act respecting the Commissioner for Modern Treaty Implementation,[1] was introduced in the House of Commons by the Minister of Crown-Indigenous Relations on 25 September 2025. It received first reading that same day. Bill C-10 is identical to Bill C-77, a bill with the same title from the 44th Parliament that died on the *Order Paper* following the prorogation of Parliament on 6 January 2025.[2]

Bill C-10 provides for the appointment of a Commissioner for Modern Treaty Implementation. The commissioner is mandated to assess whether the modern treaty implementation activities of a government institution are consistent with certain objectives such as fulfilling the Government of Canada's obligations under modern treaties. Bill C-10 also provides for the establishment of the Office of the Commissioner for Modern Treaty Implementation to assist the commissioner in exercising their functions and duties.

The following sections provide background information on modern treaties and their implementation along with a discussion of recent federal initiatives.

1.1 MODERN TREATIES AND SELF-GOVERNMENT AGREEMENTS IN CANADA

As noted by the Supreme Court of Canada, treaties play a fundamental role in reconciling the interests of Indigenous and non-Indigenous Peoples in Canada.[3] The preamble of Bill C-10 also describes modern treaties as part of reconciliation. Treaties with Indigenous Peoples in Canada are often divided into pre-1975 treaties and modern treaties. Pre-1975 treaties include those signed by the Crown and First Nations prior to 1975. Modern treaties are constitutionally protected agreements signed after 1975 between Indigenous Peoples, Canada, and often the relevant province or territory. Bill C-10 defines modern treaties as treaties entered into by the Crown and an Indigenous People that come into force after 1974. Topics covered in modern treaties vary but may include jurisdiction over lands and resources and rights to harvest fish, animals and plants. Some modern treaties also include self-government agreements. Negotiated self-government agreements provide Indigenous communities with control over their internal affairs, including decisions about program and service delivery in areas such as language, culture and education. Each agreement is different, but they may set out law making authority in areas such as governance,

health and economic development. The rights set out in modern treaties are referred to as "treaty rights" and are constitutionally protected.

To date, over 25 modern treaties have been signed in Canada.[4] All modern treaties have been signed in areas where Indigenous Peoples and Canada have not signed treaties before 1975, or where court decisions led to legal uncertainty about Aboriginal title to the land.[5] Many modern treaties contain self-government arrangements. In 1995, the federal government released a policy that recognized self-government as a constitutionally protected Aboriginal right, leading to the negotiation of distinct self-government arrangements in modern treaties.[6] Prior to 1995, there are a few examples of elements of self-government being negotiated into parts of modern treaties.[7] In some cases, modern treaties signed before 1995 contained provisions contemplating the negotiation of stand-alone self-government agreements in the future.[8]

Modern treaties have been signed across Canada, including for example, in all four regions of the Inuit homeland collectively known as Inuit Nunangat.[9] The Supreme Court of Canada has stated that modern treaties play a role in reconciliation between Indigenous Peoples and Canada.[10] The Land Claims Agreements Coalition, an organization whose members include many modern treaty signatories, describes modern treaties as "nation-to-nation relationships" that "enable Indigenous [P]eoples to rebuild their communities and nations on their own terms."[11] Moreover, modern treaties are "intended to improve the social, cultural, political, and economic well-being of the Indigenous [P]eoples concerned."[12]

1.2 MODERN TREATY IMPLEMENTATION

Reaching a modern treaty often involves decades of negotiations. Once a modern treaty is signed, it is given effect through legislation enacted by Parliament, and, if applicable, the relevant provincial or territorial legislature. All modern treaties signed after 1986 contain provisions related to their implementation. Since 1986, federal policy has stipulated that modern treaties must be accompanied by implementation plans.[13] All signatories to pre-1986 modern treaties have also developed implementation mechanisms or agreements.[14]

Modern treaty implementation is complex since it involves Indigenous signatories and multiple federal departments and agencies, as well as relevant provincial or territorial signatories. Indigenous signatories to modern treaties have long raised concerns about the federal government's implementation of their modern treaties. Some Indigenous signatories argue that the federal government's approach to modern treaty implementation is too narrow, focused solely on implementing legal obligations.[15] Indigenous signatories advocate for a more holistic approach focused

PRELIMINARY VERSION
UNEDITED

on the "spirit and intent" of the treaty.[16] At least one author has suggested that determining a treaty's spirit and intent also involves considering the potential for the "robust fulfilment" of a modern treaty and its potential to improve the lives of Indigenous People and support self-determination.[17]

Concerns related to modern treaty implementation have been identified by federal and parliamentary committee reports, and in audits by the Office of the Auditor General of Canada.[18] An August 2022 federal evaluation of the management and implementation of treaties and agreements noted that:

> Indigenous partners overall have not been consistently experiencing a timely, whole-of-government response to implementation issues or other priorities, and stakeholders expressed a clear desire for enhanced accountability. Other factors that have limited Indigenous partners' satisfaction with implementation include resourcing constraints, insufficient coordination across the federal government, implementation delays, narrow or restrictive interpretations of Treaties and Agreements, federal turnover and lost corporate memory, and limitations in the extent of partnership offered by Canada. Further efforts are needed to spread awareness of Treaties and Agreements across government and ensure that officials are fully equipped to understand and respond to department-specific as well as whole-of-government obligations and issues.[19]

Some research suggests that implementation challenges may affect Indigenous signatories' ability to fully achieve the objectives of their agreements.[20]

1.2.1 Dispute Resolution

Disputes related to modern treaty implementation may concern several subjects such as differences in interpretation, the rights or authority of a party to the agreement, and resources for the implementation of modern treaties.[21] Indigenous signatories have attempted to resolve disputes through existing mechanisms in modern treaties or, where these options fail, the courts.

Dispute resolution provisions differ between various modern treaties. Some modern treaties create arbitration boards or panels, while others require negotiation and mediation prior to arbitration. Most modern treaties require the consent of all parties to engage in arbitration.[22]

Some Indigenous signatories have also turned to the courts to resolve disputes. The Supreme Court of Canada has issued rulings on modern treaty interpretation. For example, in *First Nation of Nacho Nyak Dun v. Yukon*, the Supreme Court ruled that modern treaty provisions must be interpreted in consideration of the whole modern

PRELIMINARY VERSION
UNEDITED

treaty text and objectives of the agreement.[23] Further, the Supreme Court noted that while the courts must defer to the terms of a modern treaty when settling disputes, the interpretation of a treaty is "always subject to such constitutional limitations as the honour of the Crown."[24] The principle of the honour of the Crown requires the Crown to act honourably in its dealings with Aboriginal people.

1.2.2 Indigenous Modern Treaty Signatories Call for Change

For years, Indigenous modern treaty signatories have called for changes to address challenges concerning modern treaty implementation. For example, in 2003, Indigenous modern treaty signatories agreed on actions to address implementation challenges, including the need for a federal commitment to achieve the broad objectives of modern treaties and the possibility of creating an independent review body focused on modern treaty implementation.[25] In 2017, the Land Claims Agreements Coalition released a proposal for the creation of a Modern Treaties Implementation Review Commission (MTIRC) through federal legislation. The proposed MTIRC would be an adjunct to the Office of the Auditor General of Canada to monitor and report to Parliament on the progress of modern treaty implementation.[26] The proposed MTIRC would be headed by a commissioner appointed by the Auditor General of Canada and would undertake reviews in a manner similar to audits undertaken by the Office of the Auditor General of Canada.[27] The Land Claims Agreements Coalition envisioned that federal legislation would provide the proposed MTIRC with the power to enter agreements concerning information sharing between the MTIRC and the provinces and territories.[28]

1.2.3 Recent Federal Initiatives Related to Modern Treaty Implementation

Several federal policy documents and directives aim to improve modern treaty implementation. In 2015, following engagement with "Indigenous modern treaty partners," the federal government issued a statement of principles and a cabinet directive on modern treaty implementation.[29] The *Statement of Principles on the Federal Approach to Modern Treaty Implementation* is intended to provide guidance on modern treaty implementation to the federal Crown. Identified principles include: modern treaties are "reconciliation in action," "modern treaty implementation is an ongoing process," "[m]odern treaties must be implemented in a manner that upholds the honour of the Crown" and the need for "a whole-of-government approach to modern treaty implementation."[30] Among other matters, the *Cabinet Directive on the Federal Approach to Modern Treaty Implementation* identifies the roles and responsibilities of federal departments and agencies concerning modern treaty implementation and creates a Deputy Minister-level Oversight Committee to oversee implementation of the directive and the roles and responsibilities of Canada related to modern treaties.[31]

The preamble to the bill mentions both *Canada's Collaborative Modern Treaty Implementation Policy* and the *United Nations Declaration on the Rights of Indigenous Peoples Act*.

In February 2023, the Government of Canada released *Canada's Collaborative Modern Treaty Implementation Policy* which it developed with First Nations, Inuit and Métis modern treaty signatories. The implementation policy is intended to build on the 2015 cabinet directive and statement of principles. This implementation policy:

- includes a list of principles to guide the implementation of modern treaties, many of which are different than those identified in 2015;
- reiterates the need for a whole-of-government approach to modern treaty implementation;
- provides direction to public servants including steps to be taken to "ensure legislative, policy and program proposals are consistent with obligations and responsibilities under modern treaties";
- establishes an Intergovernmental Leaders' Forum which meets at least once per year to discuss matters related to the relationship between Indigenous signatories of modern treaties and self-government agreements and Canada; and
- includes a commitment that Canada and Indigenous modern treaty signatories will develop recommendations within six months for the development of an independent oversight mechanism to review and monitor the federal implementation of modern treaties.[32]

The *United Nations Declaration on the Rights of Indigenous Peoples Act*, enacted in 2021, requires the development of an action plan to achieve the objectives of the *United Nations Declaration on the Rights of Indigenous Peoples* (the Declaration).[33] On 21 June 2023, the federal government released the *United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan* (the action plan), which outlines federal commitments related to the implementation of the Declaration in Canada.[34] Part of the action plan focuses on the priorities of modern treaty signatories and associated federal commitments. In the action plan, the federal government commits to ensure the "full, effective, diligent and timely implementation of all Modern Treaties in Canada" and "[c]o-develop recommendations to establish a credible, effective, sustainable and independent Modern Treaty oversight mechanism to hold the federal government accountable to Parliament by September 2023."[35]

In May 2024, then Prime Minister Justin Trudeau announced the federal government's intention to establish an independent oversight body, led by a Commissioner for Modern Treaty Implementation, to help ensure the federal government is held accountable for its modern treaty obligations.[36] The federal

PRELIMINARY VERSION
UNEDITED

government engaged with Indigenous modern treaty and self-government agreement signatories, those negotiating modern treaties, and national Indigenous organizations, among others, to develop legislation concerning the establishment of this oversight body. This legislation was introduced in the House of Commons as Bill C-77 in October 2024.[37] Bill C-77 died on the *Order Paper* following the prorogation of Parliament on 6 January 2025. An identical bill, Bill C-10 was introduced in the 45th Parliament on 25 September 2025. The Land Claims Agreements Coalition has expressed support for Bill C-10.[38]

1.3 AGENTS OR OFFICERS OF PARLIAMENT

In the statement introducing the bill to establish a new Commissioner for Modern Treaty Implementation in the 44th Parliament, the Minister of Crown-Indigenous Relations stated that Bill C-10 (at that time Bill C-77) establishes a new "independent Agent of Parliament."[39] Agents or officers of Parliament have duties defined by statute and are responsible directly to Parliament rather than to federal ministers or the government.[40]

There are currently nine officers of Parliament: The Auditor General of Canada, the Chief Electoral Officer of Canada, the Commissioner of Official Languages, the Information Commissioner of Canada, the Privacy Commissioner of Canada, the Conflict of Interest and Ethics Commissioner, the Commissioner of Lobbying of Canada, the Public Sector Integrity Commissioner of Canada and the Parliamentary Budget Officer. All nine meet the following criteria:

> their appointment is made by the Governor in Council by commission under the Great Seal; their appointment is approved by one or both houses of Parliament through a resolution; the term of their appointment is guaranteed by statute; they can be removed from office by a resolution of one or both houses; their reports are submitted to the Speakers of one or both houses; and they have independence from the government of the day.[41]

2 DESCRIPTION AND ANALYSIS

Bill C-10 includes a preamble and 41 clauses.

2.1 PREAMBLE

Professor Kent Roach has explained that through preambles, Parliament "engage[s] in dialogue with both courts and society."[42] The preamble to legislation is evidence of a statute's purpose and can be used by the courts to help interpret a law's provisions.

PRELIMINARY VERSION
UNEDITED

The preamble of Bill C-10 begins by reaffirming the Government of Canada's commitment to reconciliation with Indigenous Peoples identified in section 35 of the *Constitution Act, 1982*.[43] It goes on to underscore the recognition of rights, respect, cooperation, and partnership as being foundational to the achievement of said reconciliation. The preamble identifies modern treaties as part of the constitutional framework of Canada and representative of a distinct expression of reconciliation.

Although reconciliation is mentioned in the preamble of the bill, the term is not defined, nor has it been defined when mentioned in other federal legislation.[44] The Supreme Court of Canada has described reconciliation as aimed at building a "mutually respectful long-term relationship" between Indigenous and non-Indigenous Canadians, as a "first principle of Aboriginal law," and as "the grand purpose of s[ection] 35 of the *Constitution Act*, 1982."[45] The Truth and Reconciliation Commission indicates that reconciliation is "something that grows, rather than something that is imposed."[46]

The preamble of Bill C-10 indicates that modern treaties are living and evolving documents intended to improve well-being and create lasting relationships between signatories.[47]

Mirroring language in *Canada's Collaborative Modern Treaty Implementation Policy*, the preamble notes that the Government of Canada supports the creation of a credible, effective, sustainable, and independent oversight mechanisms to hold the federal government accountable to Parliament.[48]

The preamble recalls article 37 of the *United Nations Declaration on the Rights of Indigenous Peoples*,[49] which states that Indigenous Peoples have a right to have their treaties with states recognized, observed and enforced. The preamble also confirms the Declaration as "a source for the interpretation of Canadian law" under the *United Nations Declaration on the Rights of Indigenous Peoples Act*.

2.2 INTERPRETATION (CLAUSES 2 AND 3)

Clause 2 defines terms used in the bill, including "government institution," which in the context of Bill C-10 means any entity named in Schedule I, I.1, II or III of the *Financial Administration Act*.[50] Schedule I lists ministerial departments; Schedule I.1 lists departmental agencies, including officers of Parliament; Schedule II covers departmental corporations, including service agencies; and Schedule III lists parent Crown corporations.[51] A consequential amendment to the bill adds the Office of the Commissioner for Modern Treaty Implementation to Schedule I.1 (clauses 37 and 38).

Bill C-10 defines "Indigenous modern treaty partner" as an Indigenous entity named in the Schedule to the bill. The Schedule currently lists 30 Indigenous modern treaty signatories.

Clause 3 specifies that any references to the implementation of a modern treaty in Bill C-10 also refer to the implementation of any agreement related to the implementation of the modern treaty, including any associated self-government agreements.[52]

2.3 CONSULTATIONS – LEGISLATIVE PROPOSALS OF THE GOVERNMENT (CLAUSE 5)

Generally, the Minister of Crown Indigenous Relations (the Minister) must consult with Indigenous modern treaty partners regarding any Government of Canada legislative proposal to amend the contents of Bill C-10 (clauses 4 and 5(1)). Clause 5(2) provides that the Minister must consult with specified modern treaty partners or Indigenous entities before amending the schedule to replace, delete or add Indigenous entities or modern treaty partners.

The terms "consult with" and "consultation" are used in clauses 5, 6, 30, 31, and 34. Bill C-10 does not include any additional detail about the consultations required.

When the Crown asserted sovereignty over the lands that now form Canada, it took on the obligation to "act with honour, integrity, good faith, and fairness" in its dealings with Indigenous Peoples.[53] The honour of the Crown gives rise to a legal duty to consult Indigenous Peoples when the Crown contemplates actions that may impact Aboriginal and treaty rights.[54]

2.4 COMMISSIONER FOR MODERN TREATY IMPLEMENTATION (CLAUSES 6 AND 7)

Clause 6 outlines the process for appointing a Commissioner for Modern Treaty Implementation by the Governor in Council. The appointment is made by Governor in Council by commission under the Great Seal, following the recommendation of the Minister after consultations with Indigenous modern treaty partners (clause 6(1)). This follows initial consultations with specific leaders in the Senate and the House of Commons prescribed by clause 6(1)(a) and is pending the approval of the appointment by resolution of the Senate and the House of Commons (clause 6(1)(b)).

In appointing the Commissioner, the Governor in Council must consider the knowledge and experience of the candidate in relation to modern treaties and related agreements (clause 6(5)).

PRELIMINARY VERSION
UNEDITED

The Commissioner's term of office is up to seven years, for a maximum of two terms (clauses 6(2) and 6(3)). The seven-year term is consistent with that of most officers of Parliament, although the Auditor General of Canada and Chief Electoral Officer may hold office for 10-year terms.[55]

The Commissioner can be removed on the address of the Senate and House of Commons (clause 6(2)). This is a high is a standard for dismissal. The Governor General, acting on the advice of the Queen's Privy Council for Canada, may remove an individual from office for specific, legally defensible reasons, such as serious misconduct, a breach of ethical standards, or an inability to perform one's duties. Similar removal provisions exist for other officers of Parliament.

The Commissioner may not hold any other federal office or any other gainful employment and must not be involved in any matters that create a conflict of interest (clauses 7(1) and 7(4)). However, the bill specifies that being a participant, beneficiary or enrollee of a modern treaty or agreement does not create such a conflict. Therefore, individuals who are members of Indigenous modern treaty partners listed in the Schedule may be appointed Commissioner without being considered to have a conflict of interest.

2.5 MANDATE AND POWERS, DUTIES AND FUNCTIONS OF THE COMMISSIONER (CLAUSES 8 TO 17)

Clause 8 outlines the Commissioner's mandate to independently assess the activities of any government institution related to the implementation of modern treaties to ensure they are consistent with the goals of:

- strengthening the relationships between the Government of Canada and Indigenous modern treaty partners;
- fulfilling the Government of Canada's commitments around modern treaties and interpreting them in a "broad and purposeful" manner; and
- upholding the honour of the Crown with regard to the timely and effective implementation of modern treaties.

According to legal academic Ruth Sullivan, "[i]t is well established that legislation relating to Aboriginal peoples should receive a large, liberal and purposive interpretation; doubts or ambiguities should be resolved in their favour."[56]

If the Commissioner considers it appropriate, or if a matter is referred by any federal minister or an Indigenous treaty partner, the Commissioner may conduct reviews and performance audits the implementation of modern treaties by government institutions, but these reviews and audits cannot replace specific treaty or

statute-based dispute resolution mechanisms. The bill gives the Commissioner discretion to set priorities, determine how to exercise their powers, and decide on the relevant procedures for audits and reviews, but indicates that guidelines must be published (clauses 9 and 10). The Commissioner may also brief any Indigenous modern treaty partner, the Minister, or any parliamentary committee on issues related to the Commissioner's mandate, powers, duties or functions (clause 14).

Unlike most officers of Parliament, the Commissioner does not have specific powers to investigate complaints should concerns arise relating to non-respect of any provision, or the intent of the Act.[57]

The Commissioner must prepare reports upon the completion of each review or performance audit, including their findings and recommendations and submit their final report to the Speakers of the Senate and the House of Commons (clauses 11 and 13). Government institutions that are subject to performance audits and reviews, as well as Indigenous modern treaty partners, must be given a draft of findings and recommendations relevant to them, and be given the chance to respond in writing. Responses will be included in the final report of each review of performance audit (clause 12).

Clause 15 states that the Commissioner is to coordinate its activities with the required parties to avoid overlap with the work of the Office of the Auditor General and any body prescribed by regulation. The Commissioner may provide the Auditor General of Canada, or any body prescribed by regulation, with any information that has been received or obtained under Bill C-10 from a government institution and that is related to the fulfillment of the mandate of the Auditor General or prescribed body (clause 16).

Clause 32 contains regulation making powers, including the power to make regulations listing the bodies with which the Commissioner must coordinate activities to avoid overlap of work (as required by clause 15), or to which the Commissioner may provide information obtained from a government institution, as authorized in clause 16.

2.6 OFFICE OF THE COMMISSIONER FOR MODERN TREATY IMPLEMENTATION (CLAUSES 18 TO 20)

Clause 18 establishes the Office of the Commissioner for Modern Treaty Implementation, whose purpose is to aid the Commissioner in fulfilling their duties and functions. The Governor in Council, on the recommendation by the Minister, will designate the location of the office within Canada (clause 19).

Clause 20 deals with the staff and employees of the Office, who will be members of the federal public service (see also clause 40). For all staff, being a beneficiary or citizen of a modern treaty or agreement is not a conflict of interest. Other officers of

PRELIMINARY VERSION
UNEDITED

Parliament, such as the Information Commissioner and the Privacy Commissioner, are provided with an "Assistant Commissioner" supporting role by way of their enabling statues, but no such provision is made in Bill C-10.[58]

2.7 IMMUNITY (CLAUSES 21 TO 23)

Overall, the clauses in the "Immunity" section of Bill C-10 are similar to those that apply to other officers of Parliament. Some officers of Parliament's enabling statutes do not have specific provisions related to immunity.[59]

Additionally, the Commissioner, or anyone acting on their behalf or under their direction, is immune from criminal or civil proceedings for anything done in good faith in their role (clause 22). Clause 23 protects verbal, written, or reported information produced by or prepared in good faith by the Commissioner, or anyone acting on their behalf or under their direction from defamation claims. Defamation is unfavourable oral or written communication that would likely damage the reputation of the individual or entity to which it refers.

2.8 INFORMATION (CLAUSES 24 TO 27)

Clause 24 governs the Commissioner's access to information from government institutions related to fulfilling the Commissioner's mandate, exercising their powers, or performing their duties or functions. The Commissioner is entitled "at all convenient times, to free access" to this information, except as provided by any other Act of Parliament that specifically refers to clause 24 of the bill. The Commissioner may require and receive from government institutions information, reports, or explanations the Commissioner considers necessary for their work. Clause 24 mirrors language in the *Auditor General Act* around access to information, although the latter Act provides for stationing of staff in relevant departments to carry out these duties more efficiently.[60]

Clause 25 outlines the provision of information to the Commissioner from government institutions, which is to be facilitated by discussions between the Minister and the Commissioner. This dialogue may lead to the development of "joint protocols" to provide information (clause 25(1)). If the Commissioner still does not believe that they have received the necessary information to fulfill their mandate, exercise their powers or perform their duties or functions, the Minister and the Commissioner can discuss further and develop a joint protocol under which the information will be provided "to the extent possible" (clause 25(2)).

PRELIMINARY VERSION
UNEDITED

The statutes governing other officers of Parliament have varying access to information powers. For instance, while the *Auditor General Act* entitles the Auditor General to "free access at all convenient times" to information related to the fulfillment of their responsibilities, that Act empowers the Auditor General to summon individuals under oath for questioning and require individuals to produce documents about any account subject to audit.[61] The Act also provides a statutory method of engaging the Governor in Council to direct the officers of a Crown corporation to furnish required information to the Auditor General, and a specific power to report to Parliament on whether the Auditor General received all the information and explanations required in carrying out the work of the office.[62]

The Parliamentary Budget Officer (PBO) is entitled to "free and timely" access to information from federal departments and Crown Corporations required to fulfill its mandate, subject to certain exceptions based on the statute and common law.[63] Federal departments and Crown corporations must provide a written justification if they refuse to provide requested information.[64] If the PBO "is of the opinion that he or she has not been provided with free or timely access to information requested … , he or she may so notify the Speaker of the Senate and the Speaker of the House of Commons or any appropriate committee of the Senate, of the House of Commons or of both Houses of Parliament."[65]

Clause 27 is a non-disclosure clause by which the Commissioner and every person acting on behalf or under the direction of the Commissioner must not disclose any personal, privileged or confidential information obtained in the course of the work of the Commissioner or the Office.

In the 17 November 2025 Charter Statement, the Minister of Justice flagged potential ways in which Bill C-10 may engage with section 8 of the Canadian Charter of Rights and Freedoms, which protects against "unreasonable" searches and seizures.[66] Section 8 is raised due to Bill C-10's creation of a broad power for the Commissioner to access information, set out in clauses 24 to 27. The Charter Statement mentions multiple considerations that support Bill C-10 nevertheless being section 8 compliant. For example, the power to access information would be in a purely administrative context, the information sought is to be limited and strictly in relation to government institutions, and the potential section 8 right infringement is to be mitigated by the existence of the statutory obligation of non-disclosure.[67]

PRELIMINARY VERSION
UNEDITED

2.9 REPORTS (CLAUSES 28 AND 29)

Clause 28 requires the Commissioner to submit an annual report submitted to the designated Minister, as soon as possible after the end of each calendar year. The Minister must table these reports in Parliament.

Special reports on any matter relating to the Commissioner's mandate, powers, duties and functions may, at any time, be prepared by the Commissioner and submitted to the designated Minister, on any subject of pressing urgency or importance (clause 29(1)). Like the annual report, a copy of the special report is to be tabled in Parliament, before subsequently being referred to the parliamentary committee for review (clause 29(2) and 29(3)).

2.10 REVIEWS (CLAUSES 30 AND 31)

Clause 30 provides for a mandatory review of the operation and administration of Bill C-10 by one or more parliamentary committees every 10 years after it comes into force. Similar reviews are mandated for other officers of Parliament,[68] although some, such as the *Lobbying Act*, provide for review more frequently.[69] A parliamentary committee conducting a review must consult with Indigenous treaty partners during the review and prepare a report to be tabled in its respective House of Parliament (clause 30(3)).

Clause 31 provides for an independent five-year review and report to the designated Minister on the administration and operation of the bill, and further independent review every seven years. The report must involve consultation with Indigenous modern treaty partners, set out any findings, recommendations or proposed changes to Bill C-10, and must be tabled in Parliament (clause 31(2) and 31(3)).

2.11 REGULATIONS (CLAUSES 32 AND 33)

Clause 33 provides that the Governor in Council must ensure that the Commissioner and Indigenous modern treaty partners are provided "meaningful opportunity to collaborate in policy development" regarding the development of regulations. What may constitute "meaningful," nor how to ensure meaningfulness of collaboration is consistency ensured, is not elaborated upon.

PRELIMINARY VERSION
UNEDITED

2.12 CONSEQUENTIAL AMENDMENTS

As a result of consequential amendments made in the Act, the Commissioner and the Office are government institutions to which the *Access to Information Act* and the *Privacy Act* apply (clauses 36 and 39).[70]

A consequential amendment to the *Official Languages Act*[71] in clause 41 adds the Office of the Commissioner for Modern Treaty Implementation to the list of institutions reporting directly to Parliament, which means that the Office must "ensure that any member of the public can communicate with and obtain available services from all of its offices or facilities in Canada or elsewhere in either official language."[72] Bill C-10 does not indicate how or whether Indigenous languages will be incorporated into the Commissioner's work.

NOTES

1. Bill C-10, An Act respecting the Commissioner for Modern Treaty Implementation, 45th Parliament, 1st session.
2. Bill C-77, An Act respecting the Commissioner for Modern Treaty Implementation, 44th Parliament, 1st session.
3. For example, see: *Ontario (Attorney General) v. Restoule*, 2024 SCC 27, para. 68; *Beckman v. Little Salmon/Carmacks First Nation*, 2010, 3 SCR 103, para. 10.
4. For a map of modern treaties, see: Government of Canada, *Map Room – Modern Treaties*. Indigenous organizations have also produced their own maps of modern treaties, see, e.g., Yellowhead Institute, *The Treaty Map*; Land Claims Agreements Coalition, *Interactive Map*.
5. Although two pre-1975 treaties were signed in the Northwest Territories, a court decision raised doubts that the Aboriginal title to the land was extinguished through these treaties. See: *Re Paulette's Application to file a Caveat*, N.W.T. [1973] 6 W.W.R., p. 148; *Paulette et al. v. The Queen*, [1977] 2 S.C.R. 628. Modern treaties have been signed and are currently being negotiated in the Northwest Territories.
6. Government of Canada, *The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*.
7. For example, the *James Bay and Northern Quebec Agreement* signed in 1975 between the Cree, Inuit, Government of Quebec, Government of Canada, James Bay Energy Corporation, James Bay Development Corporation and Hydro-Quebec includes elements of self-government, including the creation of Cree institutions in areas such as health and education.
8. See e.g., the *Sahtu Dene and Metis Comprehensive Land Claim Agreement* section 5.1. To date, the Déljne Final Self-Government Agreement (2015) is the only self-government agreement force for a community signatory to the *Sahtu Dene and Metis Comprehensive Land Claim Agreement*.
9. Inuit Nunangat includes the land, water and ice of the Inuvialuit Settlement Region (Northwest Territories and part of Yukon), Nunatsiavut (Labrador), Nunavut, and Nunavik (northern Quebec).
10. *First Nation of Nacho Nyak Dun v. Yukon*, 2017, 2 SCR 576, para. 1; *Beckman v. Little Salmon/Carmacks First Nation*, 2010, 3 SCR 103, para. 10.
11. Land Claims Agreements Coalition, *What is a Modern Treaty?*
12. Land Claims Agreements Coalition, *What is a Modern Treaty?*
13. Government of Canada, *General Briefing Note on Canada's Self-government and Comprehensive Land Claims Policies and the Status of Negotiations*.

14. See, e.g., *Agreement Respecting the Implementation of the James Bay and Northern Quebec Agreement Between Her Majesty the Queen in Right of Canada and Makivik Corporation*, 1990; *Agreement Concerning a New Relationship Between the Government of Canada and the Cree of Eeyou Istchee*, 2008.

15. Land Claims Agreements Coalition, *A Modern Treaties Implementation Review Commission: A Proposal to the Government of Canada*, November 2017, p. 7; Modern Treaty Implementation Research Project, *Modern Treaty Implementation: Strengthening Our Shared Future*.

16. Land Claims Agreements Coalition, *A Modern Treaties Implementation Review Commission: A Proposal to the Government of Canada*, November 2017, p. 7; Modern Treaty Implementation Research Project, *Modern Treaty Implementation: Strengthening Our Shared Future*.

17. Stephanie Irlbacher-Fox et al., "Broadening the Base: Land Claims Agreements Coalition Advocacy for a National Modern Treaty Implementation Policy," in Stephanie Irlbacher-Fox and John B. Zoe, eds., *Kweedoo: Best Practices in Implementing Modern Treaties*, 2025, p. 3.

18. For example, see: Stephanie Irlbacher-Fox et al., "Broadening the Base: Land Claims Agreements Coalition Advocacy for a National Modern Treaty Implementation Policy," in Stephanie Irlbacher-Fox and John B. Zoe, eds., *Kweedoo: Best Practices in Implementing Modern Treaties*, 2025, p. 11; Office of the Auditor General of Canada, *Implementing the Labrador Inuit Land Claims Agreement*, Report 3 in *2015 Fall Reports of the Auditor General of Canada to the Parliament of Canada*; House of Commons, Standing Committee on Indigenous and Northern Affairs, *Indigenous Land Rights: Towards Respect and Implementation*, Twelfth Report, February 2018; Government of Canada, *Evaluation of the Management and Implementation of Agreements and Treaties*, August 2022; Government of Canada, *Evaluation of the Cabinet Directive on the Federal Approach to Modern Treaty Implementation*, December 2020.

19. Government of Canada, *Evaluation of the Management and Implementation of Agreements and Treaties*, August 2022.

20. Karen Bouchard et al., "Measuring What Counts to Advance Indigenous Self-Determination: A Case Study of the Nisga'a Lisims Government's Quality of Life Framework and Survey," *International Journal of Community*, 4(3), 2021, p. 416; Land Claims Agreements Coalition, *Implementation Issues*.

21. David V. Wright and Janna Promislow, *Modern Treaty Dispute Resolution: Taking Stock and Looking Forward*, August 2020, p. 7.

22. David V. Wright and Janna Promislow, *Modern Treaty Dispute Resolution: Taking Stock and Looking Forward*, August 2020, p. 2.

23. *First Nation of Nacho Nyak Dun v. Yukon*, 2017 SCC 58.

24. *First Nation of Nacho Nyak Dun v. Yukon*, 2017 SCC 58.

25. Land Claims Agreements Coalition, *"Four-Ten" Declaration of Dedication and Commitment*, December 2006, p 2.

26. Land Claims Agreements Coalition, *A Modern Treaties Implementation Review Commission: A Proposal to the Government of Canada*, November 2017, p. 4.

27. Land Claims Agreements Coalition, *A Modern Treaties Implementation Review Commission: A Proposal to the Government of Canada*, November 2017, p. 4.

28. Land Claims Agreements Coalition, *A Modern Treaties Implementation Review Commission: A Proposal to the Government of Canada*, November 2017, p. 5.

29. Crown-Indigenous Relations and Northern Affairs Canada, *Modern Treaties*.

30. Crown-Indigenous Relations and Northern Affairs Canada, *Statement of Principles on the Federal Approach to Modern Treaty Implementation*.

31. Government of Canada, *Cabinet Directive on the Federal Approach to Modern Treaty Implementation*.

32. Government of Canada, *Canada's Collaborative Modern Treaty Implementation Policy*.

33. *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14, s. 6.

34. Government of Canada, *United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan*.

PRELIMINARY VERSION
UNEDITED

35. Government of Canada, *United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan*, pp. 72–73.

36. Prime Minister's Office, *Advancing reconciliation with a new Commissioner for Modern Treaty Implementation*, News Release, 2 May 2024.

37. Crown-Indigenous Relations and Northern Affairs Canada, *Statement by Minister Anandasangaree on the Introduction of legislation to establish a new Commissioner for Modern Treaty Implementation*, 10 October 2024.

38. "Coalition pleased legislation to create commissioner for modern treaty implementation has been introduced," *Windspeaker*, 26 September 2025.

39. Government of Canada, *Statement by Minister Anandasangaree on the Introduction of legislation to establish a new Commissioner for Modern Treaty Implementation*, 10 October 2024.

40. Office of the Privacy Commissioner of Canada, *What is an Agent of Parliament*; Glossary of Parliamentary Procedure, *Officer of Parliament*.

41. André Barnes, *Appointment of Officers of Parliament*, Publication No. 2025-12-E, Library of Parliament, 2025.

42. *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, 2024 SCC 5, para. 81; Kent Roach, "The Uses and Audiences of Preambles in Legislation," *McGill Law Journal*, Vol. 47, 2001, p. 159.

43. *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.), s. 35(1).

44. For example, it was not defined in such as in Bill C-29: An Act to provide for the establishment of a national council for reconciliation.

45. *R. v. Desautel*, 2021 SCC 17, para. 112; *Mikisew Cree First Nation v. Canada (Governor General in Council)*, 2018 SCC 40, para. 22; *Beckman v. Little Salmon/Carmacks First Nation*, 2010 SCC 53, para 10.

46. The Truth and Reconciliation Commission of Canada, The Final Report of the Truth and Reconciliation Commission of Canada: Volume 6, 2015, p. 172.

47. See: Government of Canada, *Canada's Collaborative Modern Treaty Implementation Policy*, p. 12, s. 8.1(e). The policy states that,

> Modern treaties are living documents capable of evolving over time. Should an Indigenous Modern Treaty Partner so choose, Canada will support the evolution of modern treaties in various ways. This includes, but is not limited to, introducing robust periodic review and renewal processes designed to facilitate negotiated amendments to modern treaties to reflect advancements in the law, changes in federal policies, recommendations from review processes, and contemporary contexts. Canada will collaboratively work with Indigenous Modern Treaty Partners to develop approaches that support the evolution of agreements.

48. Government of Canada, *Canada's Collaborative Modern Treaty Implementation Policy*, p. 15, s. B.2.

49. United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, 2007, art. 37(1), which states that "Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements."

50. *Financial Administration Act*, R.S.C., 1985, c. F-11.

51. Government of Canada, *Overview of federal organizations and interests.*

52. Self-government agreements may take on diverse and varied forms. An example of an associated self-government agreement could include any separate agreement associated with a modern treaty (pre-2000), such as the Tr'ondëk Hwëch'in First Nation Self-Government Agreement (1998).

PRELIMINARY VERSION
UNEDITED

53. Government of Canada, *Principles respecting the Government of Canada's relationship with Indigenous peoples*. The relationship between the honour of the Crown and the duty to consult is discussed in Isabelle Brideau, *The Duty to Consult Indigenous Peoples*, Publication no. 2019-17-E, Library of Parliament, 12 June 2019.

54. *Beckman v. Little Salmon/Carmacks First Nation*, 2010 SCC 53.

55. *Auditor General Act*, R.S.C., 1985, c. A-17, s. 3(1.1); *Canada Elections Act*, S.C. 2000, c. 9, s. 13(1).

56. Ruth Sullivan, Sullivan on the Construction of Statutes, 5th edn., LexisNexis, 2008, p. 509.

57. See: *Official Languages Act*, R.S.C., 1985, c. 31 (4th Supp.), ss. 58(1)–65; *Canada Elections Act*, S.C. 2000, c. 9, s. 510, 511(1); *Access to Information Act*, R.S.C., 1985, c. A-1, s. 30(1), s. 36(1); *Privacy Act*, R.S.C., 1985, c. P-21, s. 29–35; *Conflict of Interest Act*, S.C. 2006, c. 9, s. 2, ss. 45–50; *Lobbying Act*, R.S.C., 1985, c. 44 (4th Supp.), ss. 10.4(1)–10.6, and *Public Servants Disclosure Protection Act*, S.C. 2005, c. 46, ss. 19–20.6.

58. *Privacy Act*, R.S.C., 1985, c. P-21, s. 56; *Access to Information Act*, R.S.C., 1985, c. A-1, s. 56.

59. See, for example, *Canada Elections Act*, S.C. 2000, c. 9; *Access to Information Act*, R.S.C., 1985, c. A-1; *Privacy Act*, R.S.C., 1985, c. P-21; *Lobbying Act*, R.S.C., 1985, c. 44 (4th Supp.).

60. *Auditor General Act*, R.S.C., 1985, c. A-17, s. 13(1), s.13(2).

61. *Auditor General Act*, R.S.C., 1985, c. A-17, s. 13(1), s.13(4).

62. *Auditor General Act*, R.S.C., 1985, c. A-17, ss. 7(1), 13(1), 14(3).

63. *Parliament of Canada Act*, R.S.C., 1985, c. P-1, s. 79.4(1).

64. *Parliament of Canada Act*, R.S.C., 1985, c. P-1, s. 79.41.

65. *Parliament of Canada Act*, R.S.C., 1985, c. P-1, s. 79.42.

66. Government of Canada, *Bill C-10: An Act respecting the Commissioner for Modern Treaty Implementation Charter Statement*, 17 November 2025.

67. Government of Canada, *Bill C-10: An Act respecting the Commissioner for Modern Treaty Implementation Charter Statement*, 17 November 2025.

68. See, for example: *Official Languages Act*, R.S.C., 1985, c. 31 (4th Supp.), s. 93.1(1).

69. *Lobbying Act*, R.S.C., 1985, c. 44 (4th Supp.), s.14.1(1) requires that a Parliamentary Review take place every five years.

70. *Access to Information Act*, R.S.C., 1985, c. A-1, Schedule 1.

71. *Official Languages Act*, R.S.C., 1985, c. 31 (4th Supp.).

72. *Official Languages Act*, R.S.C., 1985, c. 31 (4th Supp.), s. 24(2).