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Legislative Assembly of British Columbia
Parliament Buildings,
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Victoria, British Columbia
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VIA EMAIL: To the members of the Legislative Assembly

Dear Members of the Legislative Assembly of British Columbia:

RE: Bill 7 - *Economic Stabilization (Tariff Response) Act*

We are a registered charity and civil society organization with the purpose of upholding Canada's constitutional freedoms, civil rights and human rights. We litigate across Canada to defend the constitutional rights of Canadians.

We are writing to warn you that Bill 7, *Economic Stabilization (Tariff Response) Act*,¹ is undemocratic and undermines the rule of law. Bill 7 grants nearly unfettered power to the executive branch of government to legislate and suspend the application of laws passed by the Legislature. The only attempt at a limit contained in Bill 7 is so vague as to be no limit at all. We urge you to vote against it.

The Bill

Section 20 of Bill 7 allows the Lieutenant Governor in Council (the "GiC") to make exemptions from the requirements of legislation, modify requirements, and establish powers or duties in addition to what is set out in legislation (the "Power").² There are only three limits on this broad grant of Power:

1. the GiC may not change requirements to obtain authorizations or for environmental assessments in relation to natural resource projects;³
2. the GiC may not modify provisions of statutes "respecting engagement with

¹ Bill 7, *Economic Stabilization (Tariff Response) Act*, 1st Sess, 43rd Leg, British Columbia, 2025 ([first reading](#) March 13, 2025) [Bill 7].

² *Ibid*, s. 20(1)(a), (b), (d).

³ *Ibid*, s. 20(2)(a).

Indigenous peoples”;⁴ and

3. the powers in s. 20 must be exercised for the purpose of “addressing challenges, or anticipated challenges...arising from the actions of a foreign jurisdiction”, reducing interprovincial trade barriers, or “supporting the economy of British Columbia and Canada.”⁵

The first two limits prohibit the use of the Power with respect to narrow categories of legislation and do nothing to guide the GiC’s discretion in relation to all legislation outside the categories. The third limit requires that the Power be used for one of three listed purposes. However, purposes (a) and (c) are so broad that they provide no real limit at all. Subsection (a) includes the purpose of addressing “anticipated challenges” which is inherently speculative. Subsection (c) only requires that the Power be used to “support the economy.” These purposes are framed so broadly that there is almost no use of the Power which the government could not plausibly claim furthers either ss.19(a) or (c).

The Power is Undemocratic

If the Legislative Assembly passes Bill 7, it would be abdicating its role as democratic representative. “Democracy is a fundamental value in our constitutional law and political culture.”⁶ The Legislature is “at the core of the system of representative government.”⁷ The Legislature, not the executive, is elected by the citizens. Accordingly, the Legislature is the institution with the legitimacy to make and repeal laws.

The Power is a form of “Henry VIII clause” which delegates to the executive the power to make regulations effectively amending enabling statutes. The Legislature may enact Henry VIII clauses so long as it “does not abdicate its legislative role.”⁸ In our view, that is precisely what Bill 7 does. The Power is not limited by subject matter other than to exempt two narrow categories of laws. The purposes provided to guide the GiC’s discretion are too broad to provide any meaningful limit.

The Power would turn the GiC into an executive legislator and upends British Columbia’s system of democratic authority.

The Power Undermines the Rule of Law

The *Canadian Charter of Rights and Freedoms* states that “Canada is founded upon

⁴ *Ibid*, s. 20(2)(b).

⁵ *Ibid*, s. 19.

⁶ *Reference re Secession of Quebec*, [1998 CanLII 793 \(SCC\)](#), [1998] 2 SCR 217 at para. [61](#).

⁷ *Ibid*, at para. [65](#).

⁸ *References re Greenhouse Gas Pollution Pricing Act*, [2021 SCC 11](#) at para. [85](#) [*Greenhouse Gas Reference*].

principles that recognize...the rule of law.”⁹ The rule of law is also a “fundamental postulate of our constitutional structure.”¹⁰ It includes the concept of “executive accountability to legal authority.”¹¹ Arbitrary or unfettered state action is antithetical to the rule of law.¹²

The lack of limits on the Power undermines another aspect of the rule of law: legal accountability. The “courts play a fundamental role in holding the executive and legislative branches of government to account.”¹³ The courts perform this function by interpreting legal limits on executive action and reviewing that action for compliance with those limits. This is true even for Henry VIII clauses.¹⁴

The court’s role in upholding the rule of law is undermined when the limits on executive power are framed so vaguely that they do “not provide an adequate basis for legal debate.”¹⁵ The purposes delineated in s. 19 of Bill 7 are so broad that their boundaries are not susceptible to legal debate. Supporting the economy is such a vast, undefined concept, that a court would be unable to define its scope “by reasoned analysis applying legal criteria.”¹⁶ Bill 7 gives insufficient indications as to how the GiC should exercise the Power. It provides no “factors to be considered or determinative elements.”¹⁷ Rather, Bill 7 grants an “unfettered discretion” which “will deprive the judiciary of means of controlling the exercise of [that] discretion.”¹⁸

Outside of the specific subject matters excluded by s. 20(2), the Power is so broad as to be a nearly plenary power of legislation. There are no meaningful criteria by which a court could assess its exercise. This is antithetical to the rule of law.

The Power is Unnecessary

British Columbians’ democratic rights should be respected. Their elected representatives are capable of responding to urgent matters when necessary. The Legislative Assembly’s Standing Orders provide procedures for urgent matters. For example, urgent Government business may be given priority over all other matters.¹⁹ Urgent bills may be

⁹ *The Constitution Act, 1982*, Part I, *Canadian Charter of Rights and Freedoms, being Schedule B to the Canada Act 1982** (UK), [1982, c.11](#), Preamble; see also *Ontario (Attorney General) v. G*, [2020 SCC 38](#) at para. 96.

¹⁰ *Reference re Secession of Quebec*, [1998 CanLII 793 \(SCC\)](#), [1998] 2 SCR 217 at para. 70.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Canada (Attorney General) v. Power*, [2024 SCC 26](#) at para. 56.

¹⁴ *Greenhouse Gas Reference*, *supra* note 8, at para. 87.

¹⁵ *R. v. Nova Scotia Pharmaceutical Society*, [1992 CanLII 72 \(SCC\)](#), [1992] 2 SCR 606 at pp. 639-40.

¹⁶ *Ibid.*

¹⁷ *Ibid.*, at p. 642.

¹⁸ *Ibid.*

¹⁹ [Standing Orders of the Legislative Assembly of British Columbia](#), s. 27(3).

advanced through the three readings in one day.²⁰

The economic threat faced by Canada may be unprecedented, but so too is Bill 7's grant of power. The trade war threatens our economic prosperity, but Bill 7, if passed, would be an assault on the most fundamental values of our system of government. It would subject the residents of British Columbia to an executive with king-like powers.

We urge you, the members of the Legislative Assembly, to carefully consider the risks Bill 7 poses to democratic principles and the rule of law.

Yours sincerely,

CHARTER ADVOCATES CANADA

Per:

A handwritten signature in black ink that reads "Hatim Kheir". The signature is written in a cursive, flowing style.

Hatim Kheir
Staff Lawyer

²⁰ *Ibid*, s. 81.