

Observation 1

Division 15 of Part 6: Amendments to the *Judges Act*

The committee remains concerned about the high number of vacancies among federally appointed judge positions across Canada (59, as of 24 May 2018¹). The committee recalls its second priority recommendation contained in its final report on court delays released in June 2017, entitled *Delaying Justice is denying Justice: An Urgent Need to Address Lengthy Court Delays in Canada*:

“The committee recommends that Superior Court Judges be appointed on the day of a known retirement of a Judge and the only exceptions to this immediate replacement would be an unexpected death or unexpected early retirement of a sitting Judge.”

Observation 2

Division 20 of Part 6: *Criminal Code* Remediation Agreements

The committee is concerned that proposed sections 715.33 and 715.34 of the *Criminal Code*, which set out, among other things, the mandatory and optional content of remediation agreements and the rules governing their admissibility in evidence in other legal proceedings, is not sufficiently clear to ensure that relevant information contained in such agreements, or arising as a result of them, can be admitted as evidence where appropriate in civil, criminal, administrative, or other legal proceedings.

Observation 3

Division 20 of Part 6: *Criminal Code* Remediation Agreements

The committee is concerned that given proposed section 715.42(2) of the *Criminal Code* permits a court to decide not to publish a remediation agreement or other decision or reasons where it is satisfied that the non-publication is “necessary for the proper administration of justice,” it is possible that victims, other interested parties and the public may never be informed about these outcomes. In order to guarantee that the proposed remediation agreement regime is transparent and to ensure public confidence in it, remediation agreements and other relevant decisions and orders should always be published at the earliest reasonable opportunity.

Observation 4

Division 20 of Part 6: *Criminal Code* Remediation Agreements

The committee is mindful that the *Canadian Victims Bill of Rights* guarantees the rights of victims, including to information about investigations and proceedings, and expresses its concern

¹ According to the testimony of the Commissioner for Federal Judicial Affairs Canada.

that proposed section 715.36 of the *Criminal Code* should be interpreted in a manner that respects these rights.

Observation 5

Division 20 of Part 6: *Criminal Code* Remediation Agreements

The committee is concerned that this type of significant change to the *Criminal Code* is encompassed in a large budget implementation act.

Observation 6

General

The committee notes that it did not have the opportunity to hear the testimony of the Minister of Justice on the proposed amendments that are under her ministerial mandate, although she was invited to appear.

Observation 7

(Observation rejected by a majority (the Honourable Senators Boniface, Dupuis, Gold, Pate and Pratte) and proposed by a minority (the Honourable Senators Batters, Boisvenu, Eaton and McInnis))

Division 20 of Part 6: *Criminal Code* Remediation Agreements

The committee is concerned about the lack of answers from the Department of Justice on the number of victims consulted before the drafting of this bill.