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## **Explanatory Note to Legislative Proposals Relating to the *Criminal Code***

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Published by

The Honourable Chrystia Freeland

Deputy Prime Minister and Minister of Finance

August 2024



Department of Finance  
Canada

Ministère des Finances  
Canada

## **Preface**

This explanatory note describes proposed amendments to the *Criminal Code*, clause by clause, for the assistance of Canadians; partners such as provincial and territorial regulators and policymakers; and other stakeholders such as consumer organizations, lenders, researchers and law enforcement.

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Deputy Prime Minister and Minister of Finance

These notes are intended for information purposes only and should not be construed as an official interpretation of the provisions they describe.

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## **Criminal Code**

Amendments to sections 347 and 347.1 of the *Criminal Code*

### **Criminal interest rate**

#### **Clause 1:**

##### *Definitions*

The definition of **insurance charge** under subsection 347(2) of the *Criminal Code* is amended to specify that the definition includes the cost of insuring the risk of credit that is paid for by the person to whom the credit is advanced or is to be advanced, for any face amount of the insurance charge.

The definition of **interest** under subsection 347(2) of the *Criminal Code* is amended to include all loan insurance charges, meaning that loan insurance charges paid by or on behalf of the borrower will be included in the calculation of interest for purposes of the determination of whether interest is being paid at a criminal rate.

#### **Clause 2 (1):**

##### *Payday lending exemption*

Paragraph 347.1(2)(a) of the *Criminal Code* is amended to create an additional condition for the payday lending exemption requiring that payday loans be offered with a minimum repayment term of 42 days, repayable in installments.

#### **Clause 2 (2):**

##### *Payday lending exemption*

Subsection 347.1(2) of the *Criminal Code* is amended to add a new paragraph 347.1(2)(d), which creates an additional condition for the payday lending exemption, that there is no charge for the sale of loan insurance, in connection with a payday loan.

### **Transitional provisions**

#### **Clause 3:**

Clause 3 affirms that the terminology in sections 4 and 5 have the same meaning as sections 347 and 347.1 of the Code.

#### **Clause 4(a)**

Clause 4(a) affirms that for purposes of subsection 347(1), changes to the definition of insurance charge and interest in subsection 347(2) of the Code will not apply to agreements or arrangements to receive interest at a criminal rate, if the agreement or arrangement was entered into before the day the proposed changes come into force.

**Clause 4(b):**

Clause 4(b) affirms that for purposes of subsection 347(1), changes to the definition of insurance charge and interest in subsection 347(2) of the Code will not apply to the receipt of payments that arise from credit agreements or arrangements entered into before the day the proposed changes come into force.

**Clause 5:**

Clause 5 affirms that the changes to paragraph 347.1(2)(a) and the inclusion of paragraph 347.1(2)(d) of the Code will not apply to payday loan agreements entered into before the day the changes come into force and will not apply to the receipt of payments that arise from payday loan agreements entered into before the changes come into force.

**Coordinating amendments****Clause 6:**

The coordinating amendments, as written, reconciles the *Criminal Code* language in any sequence of events, should the amendments contemplated here or the amendments to the *Criminal Code* made through the *Budget Implementation Act, 2024, No. 1*, come into force one before the other. Furthermore, it consolidates changes made in both acts if they come into force on same date.

**Clause 6(a):***Definitions*

The definition of **insurance charge** under subsection 347(2) of the *Criminal Code* is amended to specify that the definition includes the cost of insuring the risk of credit that is paid for by the person to whom the credit is advanced, is to be advanced, or would be advanced in the case of an offer, for any face amount of the insurance charge.

The definition of **interest** under subsection 347(2) of the *Criminal Code* is replaced to include all loan insurance charges, including any loan insurance charges that would be advanced in the case of an offer to enter into an agreement or arrangement to receive interest at a criminal rate.

**Clause 6(b):***Payday lending exemption*

Paragraph 347.1(2)(a) of the *Criminal Code* is amended to create an additional condition for the payday lending exemption requiring that payday loans be offered with a minimum repayment term of 42 days, repayable in installments.

Subsection 347.1(2) of the *Criminal Code* is amended to add a new paragraph 347.1(2)(d), which creates an additional condition for the payday lending exemption, that there is no charge for the sale of loan insurance, in connection with a payday loan.

**Coming into force****Clause 7:**

These changes will come into force on a day to be fixed by order of the Governor in Council. Bringing these amendments into force by order will provide transition time for Industry between royal assent and coming into force.