

# Goodmans<sup>LLP</sup> Update

## Government of Canada Permits Compulsory Licensing to Respond to COVID-19

On March 25, 2020, in response to the COVID-19 pandemic, [Bill C-13](#) received Royal Assent. Among other things, Bill C-13 amends the *Patent Act* to permit compulsory licensing to respond to a “public health emergency that is a matter of national concern”.

More specifically, Part 12 of Bill C-13 amends the *Patent Act* to permit the Government of Canada, upon application to the Commissioner of Patents, to make, construct, use and sell a patented invention to the extent it is necessary to respond to a public health emergency.

Bill C-13 indicates that the relevant patentee is to be paid any amount the Commissioner considers to be “adequate remuneration in the circumstances, taking into account the economic value of the authorization and the extent to which they make, construct, use and sell the patented invention”. Bill C-13 explicitly provides that the authorized use, sale or construction of the patented invention, in relation to a public health emergency, does not infringe the patent.

The authorization expires up to one year after the day on which it is granted, and authorizations may not be granted after September 30, 2020.

Patentees may apply to the Federal Court for an order requiring the Government of Canada to cease making, constructing, using or selling the patented invention in a manner that is inconsistent with the authorization.

Part 9 of Bill C-13 also amends the *Food and Drugs Act* to, among other things, “prevent shortages of therapeutic products in Canada or alleviating those shortages or their effects, in order to protect human health”.

For further information on these developments, please contact any member of our [Intellectual Property Group](#).

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