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Canada's Government Moves Forward With Senate Reform

News Release

Date: May 28, 2009

(OTTAWA) - Steven Fletcher, Minister of State (Democratic Reform), today reaffirmed the Government's commitment to Senate reform and announced the introduction of legislation in the Senate this afternoon to establish term limits for new senators.

"Our Government is committed to moving ahead with reform of the Upper House increase the democratic legitimacy of the Senate," said Minister of State Fletcher. "This bill is a step forward and creates a solid basis for further reform."

The Senate Term Limits bill will cap the tenure of new senators at one term of eight years. The bill also provides that the eight-year term limit will apply to all senators appointed after the October 2008 general election, including the 18 recently appointed senators. The eight year terms will begin once the bill receives Royal Assent. If term limits are passed by the Senate, the Government is prepared to introduce measures to ensure term limited Senators are provided the same severance as Members of the House of Commons.

Currently senators can potentially serve terms as long as 45 years, if they are appointed at the minimum age of 30 years and serve until the 75-year retirement age.

"The fact that senators can hold their seats for as long as 45 years is contrary to the democratic ideals of Canadians," stated Minister of State Fletcher. "Setting term limits for Senators is one important step in making the Senate worthy of a 21st century democracy."

The November 19, 2008 Speech from the Throne reaffirmed the government's commitment to Senate reform: "Legislation will also be introduced to allow for nominees to the Senate to be selected by voters, to serve fixed terms of not longer than eight years, and for the Senate to be covered by the same ethics regime as the House of Commons."

Last week, the Government introduced legislation to bring the Senate under the auspices of Conflict of Interest and Ethics Commissioner. The Senate Term Limits bill is the next step in meeting those commitments and the Government will be introducing further Senate reform legislation in the near future.

For more information, visit www.democraticreform.gc.ca

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Backgrounder

Senate Term Limits

Section 23 of the Constitution Act, 1867 provides that senators "shall be of the full age of Thirty Years", and section 29 (2) states that a senator shall "hold his place in the Senate until he attains the age of seventy-five years". Thus, a

senator could serve a term as long as 45 years should he or she be appointed at the age of 30 and serve until the mandated retirement age.

Under section 44 of the Constitution Act, 1982, Parliament alone may make laws amending the Constitution of Canada in relation to the executive government of Canada, or the Senate and the House of Commons. The Senate Tenure bill uses section 44 to amend section 29 to provide that "a person summoned to the Senate after the coming into force of the Constitution Act, 2009 (Senate Term Limits) shall hold a place in that House for one term of eight years". The eight-year term would not be renewable.

The eight-year term for senators will be subject to sections 29A, 30 and 31 of the Constitution Act, 1867. Section 29A maintains the retirement age of 75 years for all senators, regardless of when they are appointed (i.e., before or after the coming into force of the bill).

Sections 30 and 31 of the Constitution Act, 1867 set out instances in which a senator's seat becomes vacant. Section 30 provides for the resignation of a senator. Section 31 sets out the scenarios which would trigger the disqualification of a senator, including non-compliance with attendance rules, bankruptcy or insolvency, criminal conviction or ceasing to meet the property and residency requirements of a senator. The bill provides that, should a senator's term be interrupted prior to the completion of the eight-year term, that senator may be summoned again, but only for the remaining portion of the original eight-year term.

The bill includes a transitional provision which will apply the eight-year term to those senators appointed after October 14, 2008 but before the coming into force of the Act. These senators will continue to hold a seat in the Senate for a period of eight years following the coming into force of the bill.

Senators were originally appointed to the Senate "for Life", but that was changed unilaterally by Parliament through an amendment to section 29 of the Constitution Act, 1867 (via the Constitution Act, 1965) that created the current mandatory retirement provision for senators attaining the age of 75 years.

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