

1967 Bill 87

Fifth Session, 15th Legislature, 15 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 87

An Act to amend The Companies Act

THE PROVINCIAL SECRETARY

First Reading

Second Reading

Third Reading

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An Act to amend The Companies Act

(Assented to _____, 1967)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Companies Act* is hereby amended.

2. Section 2 is amended

(a) by adding after clause (f) the following:

(f1) "Commission" means the Alberta Securities Commission;

(b) by adding after clause (dd) the following:

(dd1) "securities" means notes, bonds, debentures or other evidences of indebtedness issued by a corporation, whether secured or unsecured;

3. Section 79 is amended

(a) as to subsection (3) by striking out the words "a sum equal to the amount applied in redeeming the shares" and by substituting the words "a sum equal to the nominal amount of the shares redeemed",

(b) by adding the following after subsection (8):

(8a) Subsection (8) does not apply to the acceptance by a company of the surrender of mutual fund shares pursuant to section 79a.

4. The following section is added after section 79:

79a. (1) In this section "mutual fund shares" means shares having conditions attached thereto that include conditions requiring the company issuing the shares to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions, the surrender of the shares, or fractions or parts thereof, that are fully paid.

(2) Where the only undertaking of a company is the business of investing the funds of the company, its memorandum may provide for the issuing of mutual fund shares, in which case the memorandum shall set out the conditions governing

Explanatory Notes

1. This Bill amends chapter 53 of the Revised Statutes.
2. "Commission" and "securities" defined.

3. Section 79, subsections (3) and (8) presently read:

(3) Where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, a sum equal to the amount applied in redeeming the shares shall, out of profits that would otherwise have been available for dividend, be transferred to a reserve fund, to be called "the capital redemption reserve fund", and the provisions of this Act relating to the reduction of the share capital of a company apply, except as provided in this section, as if the capital redemption reserve fund were paid-up share capital of the company.

(8) Where pursuant to this section a company has redeemed or is about to redeem any preference shares, it may issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued, and accordingly the share capital of the company shall not for the purposes of any enactments relating to fees be deemed to be increased by the issue of shares pursuant to this subsection.

The amendment to subsection (3) will make it clear that the amount to be transferred to the capital redemption reserve fund is the nominal amount of the shares redeemed. This is in accordance with the common practice in share redemptions.

The new subsection (8a) is added as a consequence of subsection (3) of the new section 79a added by clause 4 of this Bill. Section 79 (8) presently empowers a company to issue new shares upon redemption of existing shares, but section 79a (4) prohibits this in the case of mutual fund shares and requires that upon surrender they will not be reissued. Subsection (8a) is intended to resolve this conflict.

4. The new section 79a is added to expressly authorize the issue of mutual funds shares and thus remove any uncertainty as to the powers of existing mutual fund companies to issue this type of shares. Section 79a follows similar amendments made for the same purpose to the Canada Corporations Act in 1965.

The rule in section 79 (1) of the Act is that redeemable shares can only be redeemed from profits that would be otherwise available for dividends or from the proceeds of a fresh issue made for the purposes of the redemption. Ordinarily, this rule applies to preferred shares. Mutual fund shares are, however, a type of equity share and are redeemable from capital as well as profits and thus need to be an exception to the general rule. This is achieved in subsection (4) of the new section 79a.

- (a) the surrender of fully paid mutual fund shares or any fraction or parts thereof that are fully paid, and
- (b) the determination of the price to be paid therefor and the manner and time of payment thereof.

(3) Any mutual fund shares or fractions or parts thereof surrendered to the company pursuant to the conditions attached to such shares shall be deemed to be no longer outstanding and shall not be reissued by the company.

(4) Notwithstanding subsection (1) of section 79 or anything to the contrary in the company's memorandum or in the certificate for any mutual fund shares, all mutual fund shares shall be deemed to contain the condition that, upon the surrender of any fully paid mutual fund shares, or any fractions or parts thereof that are fully paid, the price to be paid therefor may be paid out of the company's capital.

(5) Where in any memorandum of association the expression "redemption" or "purchase for cancellation", or an expression of like import, is used in relation to any shares of a company, the expression shall, in relation to mutual fund shares of the company, be deemed to be a reference to acceptance by the company of the surrender of those shares.

(6) A company incorporated before the commencement of this section and whose only undertaking is the business of investing of the funds of the company shall be deemed to have always had the power to issue mutual fund shares under subsection (2) and this section applies also to that company and any mutual fund shares issued by it before the commencement of this section.

5. The following Division is added after section 88:

Division (2A) — Insider Trading

88a. (1) In this Division,

- (a) "affiliate" means an affiliated company within the meaning of subsection (3) of section 124f;
- (b) "associate", where used to indicate a relationship with any person, means
 - (i) any company of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding,
 - (ii) any trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity, or

5. General. The new Division (2A) will enact insider trading provisions with respect to companies incorporated in Alberta and is the counterpart of Part 11 of the proposed Securities Act, 1967 (Bill 2) which applies to extra-provincial companies that issue equity shares in Alberta or have their shares listed on the Calgary Stock Exchange. This new Division will require directors, senior officers and other "insiders" of an Alberta public company to report their shareholdings to the Alberta Securities Commission. These reports will be open to the public for inspection.

An insider of a company who in trading in his shares uses confidential information which, when it becomes generally known, will likely affect the price of the shares, is liable for any direct loss suffered by the other shareholder who was the party to the trade. The insider would not be liable if the other shareholder had the same information or might reasonably have known of it at the time of the trade. The insider is also liable to the company itself for any profit made on the trade. See section 88e.

Similar insider trading provisions are also found in sections 70 to 76 of the proposed Trust Companies Act, 1967 (Bill 60).

88a. Interpretation.

- (iii) any relative or spouse of such person or any relative of such spouse who, in any such case, has the same home as such person;
- (c) "capital security" means any share of any class of shares of a company or any bond, debenture, note or other obligation of a company, whether secured or unsecured;
- (d) "equity share" means any share of any class of shares of a company carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
- (e) "insider" or "insider of a company" means
 - (i) any director or senior officer of a public company that has 15 or more shareholders, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder, or
 - (ii) any person who beneficially owns, directly or indirectly, equity shares of such a company carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding, provided that in computing the percentage of voting rights attached to equity shares owned by an underwriter there shall be excluded any equity shares that have been acquired by him as underwriter in the course of distribution to the public of such shares, but such exclusion ceases to have effect on completion or cessation of the distribution to the public by him;
- (f) "senior officer" means
 - (i) the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a company or any other individual who performs functions for the company similar to those normally performed by an individual occupying any such office, and
 - (ii) each of the five highest paid employees of a company, including any individual referred to in subclause (i);
- (g) "underwriter" has the same meaning as in *The Securities Act, 1967*.
- (2) For the purposes of this Division,
 - (a) every director or senior officer of a corporation that is itself an insider of a company shall be deemed to be an insider of that company,

- (b) an individual shall be deemed to own beneficially capital securities beneficially owned by a company controlled by him or by an affiliate of such company,
- (c) a company shall be deemed to own beneficially capital securities beneficially owned by its affiliates, and
- (d) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a capital security shall be deemed a change in the beneficial ownership of the capital security to which such transferable option relates.

88b. (1) A person who is an insider of a company on July 1, 1967 shall, on or before August 10, 1967, file with the Commission a report, as of July 1, 1967, of his direct or indirect beneficial ownership of capital securities of the company.

(2) A person who, after July 1, 1967, becomes an insider of a company shall, within 10 days after the end of the month in which he becomes an insider, file with the Commission a report, as of the day on which he became an insider, of his direct or indirect beneficial ownership of capital securities of the company.

(3) If a person who is an insider of a company, but has no direct or indirect beneficial ownership in capital securities of the company, acquires direct or indirect beneficial ownership of any such securities, he shall, within 10 days after the end of the month in which he acquired such direct or indirect beneficial ownership, file with the Commission a report, as of the date of such acquisition, of his direct or indirect beneficial ownership of capital securities of the company.

(4) A person who has filed or is required to file a report under subsection (1), (2) or (3) and whose direct or indirect beneficial ownership of capital securities of the company changes from that shown or required to be shown in such report or in the last report filed by him under this subsection shall, within 10 days following the end of the month in which such change takes place, if he was an insider of the company at any time during such month, file with the Commission a report of his direct or indirect beneficial ownership of capital securities of the company at the end of such month and the change or changes therein that occurred during the month and giving such details of each transaction as may be required by the regulations made under section 88g.

88c. All reports filed with the Commission under section 88b shall be open to public inspection at the offices of the Commission during normal business hours of the Commission, and any person may make extracts from such reports.

88b. Insiders to report holdings to Alberta Securities Commission.

88c. Public inspection of reports.

88d. (1) Every person who is required to file a report under section 88b and who fails to do so is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in such failure is also guilty of an offence and is liable on summary conviction to a like fine.

(2) Every person who files a report under section 88b that is false or misleading by reason of the misstatement or omission of a material fact is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in the filing of such false or misleading report is also guilty of an offence and is liable on summary conviction to a like fine.

(3) No person is guilty of an offence under subsection (2) if he did not know and with the exercise of reasonable diligence could not have known that the report was false or misleading by reason of the misstatement or omission of a material fact.

(4) No prosecution shall be brought under subsection (1) or (2) without the consent of the Commission.

(5) Whenever it appears to the Commission that any person has failed to comply with section 88b, it may in its discretion apply to a judge of the court designated by the Chief Justice of the Trial Division for an order requiring such person to comply therewith.

(6) An appeal lies to the Appellate Division of the court from an order made under subsection (5).

88e. (1) Every insider of a company or associate or affiliate of such insider, who, in connection with a transaction relating to the capital securities of the company, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of such securities,

(a) is liable to compensate any person for any direct loss suffered by such person as a result of such transaction, unless such information was known or ought reasonably to have been known to such person at the time of such transaction, and

(b) is also accountable to the company for any direct benefit or advantage received or receivable by such insider, associate or affiliate, as the case may be, as a result of such transaction.

(2) An action to enforce any right created by subsection (1) may be commenced only within two years after the date of completion of the transaction that gave rise to the cause of action.

88d. Offences re reports.

88e. Liability of insiders.

88f. (1) Upon application by any person who was at the time of a transaction referred to in subsection (1) of section 88e or is at the time of the application an owner of capital securities of the company, a judge of the court designated by the Chief Justice of the Trial Division may, if satisfied that

- (a) such person has reasonable grounds for believing that the company has a cause of action under section 88e, and
 - (b) either
 - (i) the company has refused or failed to commence an action under section 88e within 60 days after receipt of a written request from such person to do so, or
 - (ii) the company has failed to prosecute diligently an action commenced by it under section 88e,
- make an order, upon such terms as to security for costs and otherwise as to the judge seems fit, requiring the Commission to commence or continue an action in the name of and on behalf of the company to enforce the liability created by section 88e.

(2) The company and the Commission shall be given notice of any application under subsection (1) and shall have the right to appear and be heard thereon.

(3) Every order made under subsection (1) shall provide that the company shall co-operate fully with the Commission in the institution and prosecution of such action and shall make available to the Commission all books, records, documents and other material or information known to the company or reasonably ascertainable by the company relevant to such action.

(4) An appeal lies to the Appellate Division of the court from an order made under subsection (1).

88g. The Lieutenant Governor in Council may make regulations

- (a) prescribing the form and content of the reports required to be filed under section 88b, and
- (b) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Division.

6. Section 97, subsection (1) is amended by striking out the words "Parts VIII, IX or X, as the case may be, of *The Securities Act, 1955*" and by substituting the words "Part 7 of *The Securities Act, 1967*".

88f. Court order to require the Commission to commence or continue an action against an insider on behalf of a company.

88g. Regulations.

6. The amendment is made to have the subsection refer to the proposed Securities Act, 1967 (Bill 2). Section 97 (1) presently reads:

97. (1) No person shall issue any form of application or subscription for a company's shares or debentures offered to the public unless the form is issued with a prospectus filed under section 93 and complying with Parts VIII, IX or X, as the case may be, of The Securities Act, 1955.

7. Division (5) of Part VI is struck out and the following is substituted:

Division (5) — Auditors

118. (1) The directors of a company may appoint the first auditors of the company who shall hold office until the close of the first annual meeting unless previously removed under subsection (4).

(2) The company at each annual meeting shall appoint one or more auditors to hold office until the close of the next annual meeting, and, if any appointment is not so made, the auditor in office shall continue in office until a successor is appointed.

(3) The directors may fill any casual vacancy in the office of auditor, but while the vacancy continues the surviving or continuing auditor, if any, may act.

(4) The shareholders, by special resolution, may remove any auditor before the expiration of his term of office, and shall by a majority of the votes cast at the meeting at which the resolution is passed appoint another auditor in his stead for the remainder of his term.

(5) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders or by the directors if the articles so provide, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

(6) Where for any reason no auditor is appointed, the court may, on the application of any shareholder, appoint one or more auditors to hold office until the close of the next annual meeting and fix the remuneration to be paid by the company for his or their services.

119. (1) Except as provided in subsection (2), no person shall be appointed as auditor of a company who is a director, officer or employee of that company or an affiliated company or who is a partner, employer or employee of any such director, officer or employee.

(2) Upon the unanimous vote of the shareholders of a private company present or represented at the meeting at which the auditor is appointed, a director, officer or employee of that company or an affiliated company or a partner, employer or employee of the director, officer or employee may be appointed as auditor of that company, if it is not a subsidiary company of a public company incorporated in Alberta or elsewhere in Canada.

(3) A person appointed as auditor under subsection (2) shall indicate in his report to the shareholders on the annual financial statement of the company that he is a director, officer or employee of the company or a partner, employer or employee of a director, officer or employee of the company.

7. General. The new Division (5) dealing with Auditors follows the provisions of the Revised Draft Uniform Act for Companies incorporated by Memorandum of Association published by the Conference of Commissioners on Uniformity of Legislation in Canada and dated November, 1960. This Draft Act was prepared after considerable work and study had been done in this field by the Federal-Provincial Committee on Uniform Company Law.

118. Appointment of auditors.

119. Eligibility of auditors.

120. (1) The auditor shall make such examination as will enable him to report to the shareholders as required under subsection (2).

(2) The auditor shall make a report to the shareholders on the financial statement to be laid before the company at any annual meeting during his term of office and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the company and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period.

(3) The auditor in his report shall make such statements as he considers necessary in any case where

- (a) the financial statement of the company is not in agreement with the accounting records, or
- (b) the financial statement of the company is not in accordance with the requirements of this Act, or
- (c) he has not received all the information and explanations that he has required, or
- (d) proper accounting records have not been kept, so far as appears from his examination.

(4) The auditor of a company has right of access at all times to all records, documents, books, accounts and vouchers of the company, and is entitled to require from the directors and officers of the company such information and explanation as in his opinion may be necessary to enable him to report as required by subsection (2).

(5) The auditor of a company is entitled to attend any meeting of shareholders of the company at which any accounts that have been examined or reported on by him are to be laid before the shareholders for the purpose of making any statement or explanation he desires with respect to the accounts.

8. Division (6) of Part VI is struck out and the following is substituted:

**Division (6) — Accounting Records and
Financial Statements**

121. (1) Every company shall cause to be kept proper books of account and accounting records in respect of all financial and other transactions of the company and, without limiting the generality of the foregoing, records of

- (a) all sums of money received and disbursed by the company and the matters in respect of which receipt and disbursement take place,
- (b) all sales and purchases by the company,
- (c) all assets and liabilities of the company, and

120. Auditor's report to shareholders.

8. General. This new Division will enact provisions on accounting records and financial disclosure that are derived largely from the Ontario Corporations Act which in turn are similar to those in the Revised Uniform Draft Companies Act referred to in the note to clause 7 of this Bill. Similar provisions are found in Part 12 of the proposed Securities Act, 1967 (Bill 2), which in turn follows the Ontario Securities Act, 1966. Similar provisions are also found in the Canada Corporations Act. These provisions are expected to eventually become reasonably uniform across Canada.

The new Division applies primarily to public companies, that is, the provisions setting out the detailed items to be included in the statements and balance sheet making up the financial statement are stated as being applicable to public companies only.

121. Books of account and accounting records.

(d) all other transactions affecting the financial position of the company.

(2) The books of account and accounting records mentioned in subsection (1) are admissible in evidence before and after dissolution of the company as *prima facie* proof of all facts purporting to be stated therein.

(3) Every company shall cause the books of account and accounting records mentioned in subsection (1)

(a) to be opened for inspection by any director during the normal business hours of the company, and

(b) except as provided in subsections (4) and (5) to be kept at the head office of the company.

(4) Any company may keep at any place where it carries on business such part of the accounting records as relate to the operations and assets and liabilities thereof or to such business of the company as may be carried on or supervised or accounted for at that place, but the company shall keep at the head office of the company or such other place as may be authorized under subsection (5) such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the company.

(5) Where a company

(a) shows, to the satisfaction of the Registrar, the necessity of keeping any of the books of account and accounting records mentioned in subsection (1) at a place other than the head office of the company, and

(b) gives to the Registrar adequate assurance that such books of account and accounting records will be open for inspection

(i) at the head office or some other place in Alberta designated by the Registrar, and

(ii) by any person who is entitled to inspect them and who has applied to the Registrar for such an inspection,

the Registrar may, by order and upon such terms as he thinks fit permit the company to keep such of them at such place or places, other than the head office, as he thinks fit.

(6) The Registrar may by order upon such terms as he thinks fit rescind any order made under subsection (5).

(7) The Registrar shall cause notice of the issue of every order made by him under this section to be given forthwith in the *Gazette*.

122. (1) The directors shall lay before each annual meeting of shareholders,

(a) in the case of a private company, a financial statement for the period that commenced on the date of incorporation and ended not more than six months before such annual meeting or, if the company has

122. Financial statements to be laid before annual meeting.

completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before such annual meeting, as the case may be, made up of

- (i) a statement of profit and loss for such period,
 - (ii) a statement of surplus for such period, and
 - (iii) a balance sheet as at the end of such period,
- (b) in the case of a public company, a comparative financial statement relating separately to
- (i) the period that commenced on the date of incorporation and ended not more than six months before such annual meeting or, if the company has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before such annual meeting, as the case may be, and
 - (ii) the period covered by the financial year next preceding such latest completed financial year, if any,
- and made up of
- (iii) a statement of profit and loss for each period,
 - (iv) a statement of surplus for each period,
 - (v) a statement of source and application of funds for each period, and
 - (vi) a balance sheet as at the end of each period,
- (c) the report of the auditor to the shareholders, and
- (d) such further information respecting the financial position of the company as the articles of the company require.

(2) It is not necessary to designate the statements referred to in subsection (1) as the statement of profit and loss, statement of surplus, statement of source and application of funds and balance sheet.

(3) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection by any shareholder.

(4) Notwithstanding clause (b) of subsection (1), the financial statement referred to in such clause may relate only to the period that ended not more than six months before the annual meeting if the reason for the omission of the statement in respect of the period covered by the previous financial statement is set out in the financial statement to be laid before such meeting or by way of note thereto.

(5) Notwithstanding subclause (v) of clause (b) of subsection (1), the statement of source and application of funds may be omitted if the reason for such omission is set out in the financial statement or by way of note thereto.

123. (1) The statement of profit and loss to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the company for the period covered by the statement and, in the case of a public company, so as to distinguish severally at least the following:

- (a) sales or gross operating revenue,
 - (b) the operating profit or loss before including or providing for other items of income or expense that are required to be shown separately,
 - (c) income from investments in subsidiaries whose financial statements are not consolidated with those of the company,
 - (d) income from investments in affiliated companies other than subsidiaries,
 - (e) income from other investments,
 - (f) non-recurring profits and losses of significant amount including profits or losses on the disposal of capital assets and other items of a special nature to the extent that they are not shown separately in the statement of earned surplus,
 - (g) provision for depreciation or obsolescence or depletion,
 - (h) amounts written off for goodwill or amortization of any other intangible assets to the extent that they are not shown separately in the statement of earned surplus,
 - (i) interest on indebtedness initially incurred for a term of more than one year, including amortization of debt discount or premium and expense, and
 - (j) taxes on income imposed by any taxing authority,
- and shall show the net profit or loss for the financial period.

(2) Notwithstanding subsection (1), items of the natures described in clauses (g) and (h) of subsection (1) may be shown by way of note to the statement of profit and loss.

(3) A public company may apply to a judge of the court designated by the Chief Justice of the Trial Division for an order permitting sales or gross operating revenue referred to in clause (a) of subsection (1) or subclause (i) of clause (b) of subsection (1) of section 124j to be omitted from the statement of profit and loss or the interim financial statement, as the case may be, and the judge may, on such terms and conditions as he may impose, permit such omission where he is satisfied that in the circumstances the disclosure of such information would be unduly detrimental to the interests of the company.

(4) The applicant shall give the Commission notice of an application under subsection (3) and the Commission has the right to appear and be heard thereon.

(5) An appeal lies to the Appellate Division of the court from an order made under subsection (3).

123. Statement of profit and loss.

124. (1) The statement of surplus shall be drawn up so as to present fairly the transactions reflected in the statement and shall show separately a statement of contributed surplus and a statement of earned surplus.

(2) In the case of a public company, the statement of contributed surplus shall be drawn up so as to include and distinguish the following items:

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period including,
 - (a) the amount of surplus arising from the issue of shares or the reorganization of the company's issued capital, including *inter alia*,
 - (i) the amount of premiums received on the issue of shares at a premium, and
 - (ii) the amount of surplus realized on the purchase for cancellation of shares,
 - and
 - (b) donations of cash or other property by shareholders.
3. The balance of such surplus at the end of the financial period.

(3) In the case of a public company, the statement of earned surplus shall be drawn up so as to distinguish at least the following items:

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period and without restricting the generality of the foregoing at least the following:
 - (a) the amount of the net profit or loss for the financial period,
 - (b) the amount of dividends declared on each class of shares, and
 - (c) the amount transferred to or from reserves.
3. The balance of such surplus at the end of the financial period.

124a. The statement of source and application of funds referred to in subclause (v) of clause (b) of subsection (1) of section 122 and clause (a) of subsection (1) of section 124j shall be drawn up so as to present fairly the information shown therein for the period, and shall show separately at least

- (a) funds derived from
 - (i) current operations,

124. Statement of surplus.

124a. Statement of source and application of funds.

- (ii) sale of non-current assets, segregating investments, fixed assets and intangible assets,
- (iii) issue of securities or other indebtedness maturing more than one year after issue, and
- (iv) issue of shares, and
- (b) funds applied to
 - (i) purchase of non-current assets, segregating investments, fixed assets and intangible assets,
 - (ii) redemption or other retirement of securities or repayment of other indebtedness maturing more than one year after issue,
 - (iii) redemption or other retirement of shares, and
 - (iv) payment of dividends.

124b. (1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the company as at the date to which it is made up and, in the case of a public company, so as to distinguish severally at least the following:

1. Cash.
2. Debts owing to the company from its directors, officers or shareholders, except debts of reasonable amount arising in the ordinary course of its business that are not overdue having regard to its ordinary terms of credit.
3. Debts owing to the company, whether on account of a loan or otherwise, from subsidiaries whose financial statements are not consolidated with those of the company.
4. Debts owing to the company, whether on account of a loan or otherwise, from affiliated companies other than subsidiaries.
5. Other debts owing to the company, segregating those that arose otherwise than in the ordinary course of its business.
6. Inventory, stating the basis of valuation.
7. Shares, bonds, debentures and other investments owned by the company, except those referred to in items 8 and 9, stating their nature and the basis of their valuation and showing separately those that are marketable with a notation of their market value.
8. Shares or securities of subsidiaries whose financial statements are not consolidated with those of the company stating the basis of valuation.

124b. Balance sheet.

9. Shares or securities of affiliated companies other than subsidiaries, stating the basis of valuation.
10. Lands, buildings, and plant and equipment, stating the basis of valuation, whether cost or otherwise, and, if valued on the basis of an appraisal, the date of appraisal, the name of the appraiser, the basis of the appraisal value and, if such appraisal took place within five years preceding the date to which the balance sheet is made up, the disposition in the accounts of the company of any amounts added to or deducted from such assets on appraisal and also the amount or amounts accumulated in respect of depreciation, obsolescence and depletion.
11. There shall be stated under separate headings, in so far as they are not written off,
 - (a) expenditures on account of future business,
 - (b) any expense incurred in connection with any issue of shares,
 - (c) any expense incurred in connection with any issue of securities, including any discount thereon, and
 - (d) any one or more of the following:
 - (i) goodwill,
 - (ii) franchises,
 - (iii) patents,
 - (iv) copyrights,
 - (v) trade marks, and
 - (vi) other intangible assets,and the amount, if any, by which the value of any such assets has been written up after the 30th day of June, 1967.
12. The aggregate amount of any outstanding loans under clauses (c) and (d) of subsection (2) of section 14.
13. Bank loans and overdrafts.
14. Debts owing by the company on loans from its directors, officers or shareholders.
15. Debts owing by the company to subsidiaries whose financial statements are not consolidated with those of the company whether on account of a loan or otherwise.
16. Debts owing by the company to affiliated companies other than subsidiaries whether an account of a loan or otherwise.
17. Other debts owing by the company, segregating those that arose otherwise than in the ordinary course of its business.

18. Liability for taxes, including the estimated liability for taxes in respect of the income of the period covered by the statement of profit and loss.
 19. Dividends declared but not paid.
 20. Deferred income.
 21. Securities issued by the company, stating the interest rate, the maturity date, the amount outstanding and the existence of sinking fund, redemption requirements and conversion rights, if any.
 22. The authorized capital, giving the number of each class of shares and a brief description of each such class, and indicating therein any class of shares that is redeemable and the redemption price thereof.
 23. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing
 - (a) the number of shares of each class issued since the date of the last balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration, and
 - (b) where any shares have not been fully paid,
 - (i) the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
 - (ii) the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.
 24. Contributed surplus.
 25. Earned surplus.
 26. Reserves, showing the amounts added thereto and the amounts deducted therefrom during the financial period.
- (2) Explanatory information or particulars of any item mentioned in subsection (1) may be shown by way of note to the balance sheet.
- 124c.** (1) There shall be stated by way of note to the financial statement of every company
- (a) particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and
 - (b) the effect, if material, of any such change upon the profit or loss for the period.

124c. Notes to financial statement.

(2) For the purpose of subsection (1), a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period, even though it did not have a material effect upon the profit or loss for the period.

(3) Where applicable in the case of a public company, the following matters shall be referred to in the financial statement or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the company.
3. Contractual obligations that will require abnormal expenditures in relation to the company's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.
4. Material contractual obligations in respect of long-term leases, including, in the year in which the transaction was effected, the principal details of any sale and lease transaction.
5. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
6. Any liability secured otherwise than by operation of law on any asset of the company, stating the liability so secured.
7. Any default of the company in principal, interest, sinking fund or redemption provisions with respect to any issue of its securities or credit agreements.
8. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.
9. Where a company has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.
10. The aggregate direct remuneration paid or payable by the company and its subsidiaries whose financial statements are consolidated with those of the company to the directors, and the senior officers as defined by clause (f) of subsection (1) of section 88a, of the company and, as a separate amount, the aggregate direct remuneration paid or payable to such directors and senior officers by the subsidiaries of the company whose financial statements are not consolidated with those of the company.

11. In the case of a holding company, the aggregate of any shares in, and the aggregate of any securities of, the holding company held by subsidiary companies whose financial statements are not consolidated with that of the holding company.
 12. The amount of any loans by the company, or by a subsidiary company, otherwise than in the ordinary course of business, during the company's financial period, to the directors or officers of the company.
 13. Any restriction by the memorandum or articles of the company or by contract on the payment of dividends that is significant in the light of the company's financial position.
 14. Any event or transaction, other than one in the normal course of business operations, between the date to which the financial statement is made up and the date of the auditor's report thereon that materially affects the financial statement.
 15. In the case of a public company, the amount of any obligation for pension benefits arising from service prior to the date of the balance sheet, whether or not such obligation has been provided for in the accounts of the company, the manner in which the company proposes to satisfy such obligation and the basis on which it has charged or proposes to charge the related costs against operations.
- (4) A note to a financial statement is a part of it.

124d. Notwithstanding sections 123 to 124c, it is not necessary to state in a financial statement any matter that in all the circumstances is of relative insignificance.

124c. (1) A company, in this section referred to as "the holding company", may include in the financial statement to be submitted at an annual meeting the assets and liabilities and income and expense of any one or more of its subsidiaries, making due provision for minority interests, if any, and indicating in such financial statement that it is presented in consolidated form.

(2) Where the assets and liabilities and income and expense of any one or more subsidiaries of the holding company are not so included in the financial statement of the holding company,

- (a) the financial statement of the holding company shall include a statement setting forth
 - (i) the reason why the assets and liabilities and income and expense of such subsidiary or subsidiaries are not included in the financial statement of the holding company,

124d. Insignificant matters need not be included.

124e. Consolidated financial statement.

- (ii) if there is only one such subsidiary, the amount of the holding company's proportion of the profit or loss of such subsidiary for the financial period coinciding with or ending in the financial period of the holding company, or, if there is more than one such subsidiary, the amount of the holding company's proportion of the aggregate profits less losses, or losses less profits, of all such subsidiaries for the respective financial periods coinciding with or ending in the financial period of the holding company,
 - (iii) the amount included as income from such subsidiary or subsidiaries in the statement of profit and loss of the holding company and the amount included therein as a provision for the loss or losses of such subsidiary or subsidiaries,
 - (iv) if there is only one such subsidiary, the amount of the holding company's proportion of the undistributed profits of such subsidiary earned since the acquisition of the shares of such subsidiary by the holding company to the extent that such amount has not been taken into the accounts of the holding company, or, if there is more than one such subsidiary, the amount of the holding company's proportion of the aggregate undistributed profits of all such subsidiaries earned since the acquisition of their shares by the holding company less its proportion of the losses, if any, suffered by any such subsidiary since the acquisition of its shares to the extent that such amount has not been taken into the accounts of the holding company, and
 - (v) any qualifications contained in the report of the auditor of any such subsidiary on its financial statement for the financial period ending as aforesaid, and any note or reference contained in that financial statement to call attention to a matter that, apart from the note or reference, would properly have been referred to in such a qualification, in so far as the matter that is the subject of the qualification or note is not provided for by the company's own financial statement and is material from the point of view of its shareholders,
- (b) if for any reason the directors of the holding company are unable to obtain such information as is necessary for the preparation of the statement that is to be included in the financial statement of the holding company, the directors who sign the financial statement shall so report in writing and their

report shall be included in the financial statement in lieu of the statement,

- (c) true copies of the latest financial statement of such subsidiary or subsidiaries shall be kept on hand by the holding company at its head office and shall be open to inspection by the shareholders of the holding company on request during the normal business hours of the holding company, but the directors of the holding company may by resolution refuse the right of such inspection if such inspection is not in the public interest or would prejudice the holding company or such subsidiary or subsidiaries, which resolution may, on the application of any such shareholder to the court, be set aside by the court, and
- (d) if, in the opinion of the auditor of the holding company, adequate provision has not been made in the financial statement of the holding company for the holding company's proportion
 - (i) where there is only one such subsidiary, of the loss of such subsidiary suffered since acquisition of its shares by the holding company, or
 - (ii) where there is more than one such subsidiary, of the aggregate losses suffered by such subsidiaries since acquisition of their shares by the holding company in excess of its proportion of the undistributed profits, if any, earned by any of such subsidiaries since such acquisition,the auditor shall state in his report the additional amount that in his opinion is necessary to make full provision therefor.

124f. (1) For the purposes of this Act, a company shall be deemed to be a subsidiary of another company if, but only if,

- (a) it is controlled by
 - (i) that other, or
 - (ii) that other and one or more companies each of which is controlled by that other, or
 - (iii) two or more companies each of which is controlled by that other,or
- (b) it is a subsidiary of a company that is that other's subsidiary.

(2) For the purposes of this Act, a company shall be deemed to be another's holding company if, but only if, that other is its subsidiary.

(3) For the purposes of this Act, one company shall be deemed to be affiliated with another company if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same company or each of them is controlled by the same person.

124f. Interpretation re subsidiaries, holding companies, affiliated companies and control.

(4) For the purposes of this Act, a company shall be deemed to be controlled by another company or person or by two or more companies if, but only if,

- (a) shares of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other company or person or by or for the benefit of such other companies, and
- (b) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned company.

124g. In a financial statement, the term “reserve” shall be used to describe only

- (a) amounts appropriated from earned surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from earned surplus pursuant to the instrument of incorporation, instrument amending the instrument of incorporation or by-laws of the company for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from earned surplus in accordance with the terms of a contract and that can be restored to the earned surplus when the conditions of the contract are fulfilled.

124h. (1) The financial statement shall be approved by the board of directors, such approval to be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign.

(2) The auditor’s report shall be attached to the financial statement or there shall be inserted at the foot of the balance sheet a reference to the report.

(3) A company that issues, circulates or publishes a copy of the financial statement

- (a) the original of which has not been approved by its board of directors, or
- (b) without having the balance sheet signed by two directors, or
- (c) without accompanying the statement with the auditor’s report,

is guilty of an offence.

124g. Reserves.

124h. Approval of financial statement.

124i. (1) A public company shall, 10 days or more before the date of the annual meeting, send by prepaid mail to each shareholder at his last address as shown on the books of the company a copy of the financial statement and a copy of the auditor's report.

(2) A shareholder of a private company is entitled to be furnished by the company on demand with a copy of the documents mentioned in subsection (1).

(3) A company that fails to comply with subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of not more than \$200, and every director or officer of the company who authorizes, permits or acquiesces in any such failure is guilty of an offence and is liable on summary conviction to a like fine.

124j. (1) A public company shall send to each shareholder a copy of a comparative interim financial statement for the six-month period that commenced on the date of incorporation or, if the company has completed a financial year, for the six-month period that commenced immediately after the end of the last completed financial year and for the comparable six-month period, if any, in the twelve months immediately preceding the commencement of the six-month period in respect of which such interim financial statement is issued, made up of

- (a) a statement of source and application of funds for each period that complies with section 124a, and
- (b) sufficient relevant financial information in summary form to present fairly the results of the operations of the company for each period, including
 - (i) a statement of sales or gross operating revenue,
 - (ii) extraordinary items of income or expense,
 - (iii) net income before taxes on income imposed by any taxing authority,
 - (iv) taxes on income imposed by any taxing authority, and
 - (v) net profit or loss.

(2) The interim financial statement required by subsection (1) may omit either or both of

- (a) the information relating to the comparable period, and
 - (b) the statement of source and application of funds,
- if the reason for the omission or omissions, as the case may be, is set out in the interim financial statement or by way of note thereto.

(3) There shall be stated by way of note to the interim financial statement required by subsection (1) particulars of

124i. Mailing of financial statements to shareholders.

124j. Comparative interim financial statements.

- (a) any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of such statement with the statement for the preceding period or with the interim financial statement for a part of the preceding period, and
- (b) the effect, if material, of any such change upon the profit or loss for the period covered by the interim financial statement.

(4) For the purpose of subsection (3), a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period or part thereof, even though it did not have a material effect upon the profit or loss for the period covered by the interim financial statement.

(5) The interim financial statement required by subsection (1) shall be sent by prepaid mail to each shareholder, within 60 days of the date to which it is made up, at his last address as shown on the books of the company.

(6) A company that fails to comply with any provision of this section is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000, and every director or officer of the company who authorized, permitted or acquiesced in any such failure is guilty of an offence and is liable on summary conviction to a like fine.

9. The following Division is added after section 128:

Division (7A) — Proxies and Proxy Solicitation

128a. In this Division,

- (a) “form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a shareholder, becomes a proxy;
- (b) “information circular” means the circular referred to in subsection (1) of section 128e;
- (c) “proxy” means a completed and executed form of proxy by means of which a shareholder has appointed a person as his nominee to attend and act for him and on his behalf at a meeting of shareholders;
- (d) “solicit” and “solicitation” include
 - (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
 - (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,
 - (iii) the sending or delivery of a form of proxy or other communication to a shareholder under

9. General. This new Division will enact provisions regarding proxies and proxy solicitation with respect to Alberta public companies having 15 or more shareholders, two or more joint shareholders being counted as one shareholder. It is the counterpart of Part 10 of the proposed Securities Act, 1967 (Bill 2) which applies to extra-provincial companies issuing equity shares in Alberta or having their shares listed on the Calgary Stock Exchange.

The new Division makes it mandatory that shareholders be furnished with proxy forms prior to a general meeting. It also requires any solicitation of proxies to be accompanied by specified information. There are also requirements as to the form and content of the forms of proxy to be used. These requirements are designed to enable the shareholder to better inform himself as to what business will be dealt with at the shareholders' meeting and to give him more control over the voting powers he should give to his nominee. This will in turn give him more direct participation in the affairs of the company.

Similar provisions are also found in sections 22 to 29 of the proposed Trust Companies Act, 1967 (Bill 60).

128a. Definitions.

- circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and
- (iv) the sending or delivery of a form of proxy to a shareholder pursuant to section 128*d*, but do not include
 - (v) the sending or delivery of a form of proxy to a shareholder in response to an unsolicited request made by him or on his behalf, or
 - (vi) the performance by any person of ministerial acts or professional services on behalf of a person soliciting a proxy.

128*b*. (1) Sections 128*d* and 128*e* do not apply to a private company or to a public company that has fewer than 15 shareholders, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder.

(2) Upon the application of any interested person, a judge of the court designated by the Chief Justice of the Trial Division may, if satisfied that in the circumstances of the particular case there is adequate justification for so doing, make an order, on such terms and conditions as seem to the judge just and expedient, exempting, in whole or in part, any person from the requirements of section 128*d* or from the requirements of subsection (1) of section 128*e*.

(3) The applicant shall give the Commission notice of an application under subsection (2) and the Commission has the right to appear and be heard thereon.

(4) An appeal lies to the Appellate Division of the court from an order made under subsection (2).

128*c*. (1) Every shareholder, including a shareholder that is a corporation, entitled to vote at a meeting of shareholders may by means of a proxy appoint a person, who need not be a shareholder, as his nominee to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy.

(2) A proxy shall be executed by the shareholder or his attorney authorized in writing or, if the shareholder is a corporation, under its corporate seal or by an officer or attorney thereof duly authorized, and ceases to be valid one year from its date.

(3) In addition to the requirements, where applicable, of section 128*f*, a proxy shall contain the date thereof and the appointment and name of the nominee and may contain a revocation of a former proxy and restrictions, limitations or instructions as to the manner in which the shares in respect of which the proxy is given are to be voted or that may be necessary to comply with the laws of any jurisdic-

128b. When sections 128d and 128e do not apply. Exemptions by court order.

128c. Execution, expiry and revocation of proxies. Contents of proxies. Time limit for deposit of proxies.

tion in which the shares of the company are listed on a stock exchange or a restriction or limitation as to the number of shares in respect of which the proxy is given.

(4) In addition to revocation in any other manner permitted by law, a proxy may be revoked by instrument in writing executed by the shareholder or by his attorney authorized in writing or, if the shareholder is a corporation, under its corporate seal or by an officer or attorney thereof duly authorized, and deposited either at the head office of the company at any time up to and including the last business day preceding the day of the meeting, or any adjournment thereof, at which the proxy is to be used or with the chairman of such meeting on the day of the meeting, or adjournment thereof, and upon either of such deposits the proxy is revoked.

(5) The directors may by resolution fix a time not exceeding 48 hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at that meeting must be deposited with the company or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting or in the information circular relating thereto.

128d. (1) Subject to section 128b, the management of a company shall, concurrently with or prior to giving notice of a meeting of shareholders of the company, send by prepaid mail to each shareholder who is entitled to vote at such meeting at his last address as shown on the books of the company a form of proxy for use at such meeting that complies with section 128f.

(2) If the management of a company fails to comply with subsection (1), the company is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000, and every director or officer of the company who authorized, permitted or acquiesced in such failure is also guilty of an offence and is liable on summary conviction to a like fine.

128e. (1) Subject to subsection (2) and section 128b, no person shall solicit proxies unless,

- (a) in the case of a solicitation by or on behalf of the management of a company, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each shareholder of the company whose proxy is solicited at his last address as shown on the books of the company, or
- (b) in the case of any other solicitation, the person making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each shareholder of the company whose proxy is solicited.

128d. Mandatory solicitation of proxies. This section does not apply to private companies or public companies with fewer than 15 shareholders or if the company is exempted by court order: see section 128b.

128e. Information circular and offences relating thereto. Subsection (1) does not apply to private companies or public companies with fewer than 15 shareholders or if the company is exempted by court order: see section 128b. As to clause (b) of subsection (2), section 79 of The Securities Act, 1967 (Bill 2) deals with shares held by a person registered under that Act as nominee for the beneficial owner and requires him to request voting instructions from the beneficial owner.

(2) Subsection (1) does not apply to

- (a) any solicitation, otherwise than by or on behalf of the management of a company, where the total number of shareholders whose proxies are solicited is not more than 15, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder,
- (b) any solicitation by a person made pursuant to section 79 of *The Securities Act, 1967*, and
- (c) any solicitation by a person in respect of shares of which he is the beneficial owner.

(3) A person who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000, and where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in such failure is also guilty of an offence and is liable on summary conviction to a like fine.

(4) A person who effects a solicitation that is subject to this section by means of a form of proxy, information circular or other communication that contains an untrue statement of a material fact or omits to state a material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in such offence is also guilty of an offence and is liable on summary conviction to a like fine.

(5) No person is guilty of an offence under subsection (4) in respect of any untrue statement of a material fact or omission to state a material fact in a form of proxy or information circular, if the untruth of such statement or the fact of such omission was not known to the person who effected the solicitation and in the exercise of reasonable diligence could not have been known to such person.

128f. Where section 128d or 128e is applicable to a solicitation of proxies,

- (a) the form of proxy sent to a shareholder by a person soliciting proxies
 - (i) shall indicate in bold-face type whether or not the proxy is solicited by or on behalf of the management of the company, and
 - (ii) shall provide a specifically designated blank space for dating the form of proxy,
- (b) the form of proxy shall provide means whereby the person whose proxy is solicited is afforded an opportunity to specify that the shares registered in his name shall be voted by the nominee in favour of or

128f. Special form of proxy.

against, in accordance with such person's choice, each matter or group of related matters identified therein or in the information circular as intended to be acted upon, other than the election of directors and the appointment of auditors, but a proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by such means if the form of proxy or the information circular states in bold-face type how it is intended to vote the shares represented by the proxy in each such case,

- (c) a proxy may confer discretionary authority with respect to amendments or variations to matters identified in the notice of meeting, or other matters which may properly come before the meeting, if
 - (i) the person by whom or on whose behalf the solicitation is made is not aware a reasonable time prior to the time the solicitation is made that any such amendments, variations or other matters are to be presented for action at the meeting, and
 - (ii) a specific statement is made in the information circular or in the form of proxy that the proxy is conferring such discretionary authority,
- (d) no proxy shall confer authority
 - (i) to vote for the election of any person as a director of the company unless a *bona fide* proposed nominee for such election is named in the information circular, or
 - (ii) to vote at any meeting other than the meeting specified in the notice of meeting or any adjournment thereof,
- (e) the information circular or form of proxy shall state that the shares represented by the proxy will be voted and that, where the person whose proxy is solicited specifies a choice with respect to any matter to be acted upon pursuant to clause (b), the shares shall, subject to section 128g, be voted in accordance with the specifications so made,
- (f) the information circular or form of proxy shall indicate in bold-face type that the shareholder has the right to appoint a person to attend and act for him and on his behalf at the meeting other than the person, if any, designated in the form of proxy, and shall contain instructions as to the manner in which the shareholder may exercise such right, and
- (g) if the form of proxy contains a designation of a named person as nominee, means shall be provided whereby the shareholder may designate in a form of proxy some other person as his nominee for the purpose of subsection (1) of section 128c.

128g. If the aggregate number of shares represented at a meeting by proxies required to be voted for or against a particular matter or group of matters carries, to the knowledge of the chairman of the meeting, less than 5 per cent of the voting rights attached to the shares entitled to vote and represented at the meeting, the chairman of the meeting has the right not to conduct a vote by way of ballot on any such matter or group of matters unless a poll is demanded at the meeting.

128h. The Lieutenant Governor in Council may make such regulations respecting the form and content of an information circular as he considers necessary or appropriate in the public interest.

10. (1) This Act, except sections 3 and 4, comes into force on July 1, 1967.

(2) Sections 3 and 4 come into force on the day upon which this Act is assented to.

128g. Where vote by ballot not required.

128h. Regulations.

