

1969 Bill 77

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Second Session, 16th Legislature, 18 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 77**

An ~~Act to~~ amend The Companies Act

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~~THE~~ PROVINCIAL SECRETARY

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 77

1969

An Act to amend The Companies Act

(Assented to , 1969)

**H**ER 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 78 is amended

(a) by striking out subsection (3) and by substituting the following:

(3) If any class of shares has attached thereto preferred rights as to dividend, the memorandum of association may provide that the shares of that class may from time to time be issued in one or more series and that the directors may by resolution from time to time before issuance, fix the designation, rights, restrictions, conditions and limitations attaching to the shares of each series of such class.

(b) by striking out subsection (5) and by substituting the following:

(5) No shares of any series of such class shall be issued unless and until a certified copy of the resolution of the directors referred to in subsection (3) has been filed with the Registrar, except in the case of the first series if such designation, rights, restrictions, conditions and limitations have been set forth in the memorandum of association or altered memorandum of association.

3. Section 88*a*, subsection (1), clause (e) is amended by adding the word "or" at the end of subclause (ii) and by adding the following subclause:

(iii) any person or company who exercises control or direction over the equity shares of 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;

## Explanatory Notes

**1.** This Bill amends chapter 53 of the Revised Statutes.

**2.** Section 78 (3) and (5) presently read:

(3) If any class of shares has attached thereto preferred rights as to dividend, the shares of that class may from time to time be issued in one or more series and the directors may, from time to time before issuance, fix the designation, rights, restrictions, conditions and limitations attaching to the shares of each series of such class.

(5) No shares of any series of such class shall be issued unless and until a special resolution authorizing the same has been passed setting forth the designation, rights, restrictions, conditions and limitations attaching to the shares of such series except in the case of the first series if such designation, rights, restrictions, conditions and limitations have been set forth in the memorandum of association or altered memorandum of association.

**3.** Section 88a (1) (e) presently reads:

88a. (1) In this Division,

.....

(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;

Subclause (ii) of the definition refers only to the beneficial owner of equity shares of the company. The new subclause (iii) will extend the definition of "insider" to include a person who is not the beneficial owner but exercises control and direction over 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. The change in the definition necessitates amendment to section 88b so as to include reference to persons who exercise control or direction over equity shares.

4. Section 88b is amended

- (a) by adding the following subsection after subsection (1) :

(1a) A person or company that is an insider of a company under section 88a, subsection (1), clause (e), subclause (iii) shall, within 10 days after the end of the month in which this subsection comes into force, file with the Commission a report, as of such day, of the direction or control he exercises over the capital securities of the company.

- (b) by striking out subsections (2), (3) and (4) and by substituting the following:

(2) A person or company that 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 or control or direction over capital securities of the company.

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

(4) A person or company who has filed or is required to file a report under subsection (1), (1a), (2) or (3) and whose direct or indirect beneficial ownership of or control or direction over 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, provided that 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 or his control or direction over capital securities of the company at the end of such month and the change or changes therein that occurred during the month giving such details of each transaction as may be required by the regulations.

**4. Section 88b presently reads:**

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.

See note to section 3 of this Bill.

**5.** Section 121 is amended by striking out subsections (5), (6) and (7) and by substituting the following:

(5) A company may determine by resolution of the directors

(a) that books of account and accounting records required to be kept pursuant to this section be kept at a place other than the registered office of the company, and

(b) the place where the books of account or accounting records shall be kept.

(6) A copy of the resolution of the directors under subsection (5) shall be filed with the Registrar within 15 days of its date.

**6.** Section 128*g* is amended by striking out the words “for or”.

**7.** The word “extra-provincial” in

(a) section 19, subsection (1), clause (t),

(b) section 124*c*, subsection (3), clause 2,

(c) section 130, subsection (3),

(d) section 7, clauses (a) and (b) of the Third Schedule is struck out and the word “foreign” is substituted.

**8.** This Act comes into force on the day upon which it is assented to and upon so coming into force section 7 shall be deemed to have been in force at all times on and after May 2, 1968.

**5. Section 121 (5), (6) and (7) presently read:**

- (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 registered 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 registered 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 registered 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.

**6. Section 128g presently reads:**

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.

To eliminate an uncertainty.

**7. Amendments to correct an error in 1968 amendment to The Companies Act.**