

1974 Bill 23

Third Session, 17th Legislature, 23 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 23

The Attorney General Statutes Amendment Act, 1974

THE ATTORNEY GENERAL

First Reading

Second Reading

Third Reading

Printed by L. S. WALL, Queen's Printer for the Province of Alberta, EDMONTON

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THE ATTORNEY GENERAL STATUTES AMENDMENT ACT, 1974

(Assented to _____, 1974)

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

The Clerks of the Court Act

1. (1) *The Clerks of the Court Act is amended by this section.*

(2) *Section 10, subsection (1), clause (a) is amended by striking out the words "between the hours of 9:30 in the morning and four in the afternoon" and by substituting therefor the words "during such hours as may be fixed from time to time by the Attorney General".*

The Execution Creditors Act

2. (1) *The Execution Creditors Act is amended by this section.*

(2) *Section 31 is amended*

(a) *by striking out subsection (9), and*

(b) *as to subsection (10) by striking out the words "In all other cases the" and by substituting therefor the word "The".*

The Franchises Act

3. (1) *The Franchises Act is amended by this section.*

(2) *Section 1, subsection (1), clause 8, subclause (ii) is amended*

(a) *as to paragraph (A) by adding after the word "goods" the words "in a reasonable amount", and*

(b) *as to paragraph (B) by adding after the word "services" the words "in a reasonable amount".*

(3) *Section 3, subsection (1) is amended by adding after the words "section 5" the words "or of any of the provisions of section 4, subsection (1) specifying the contents of a statement of material facts or of any of the provisions of the regulations specifying the contents of a prospectus".*

Explanatory Notes

The Clerks of the Court Act

1. (1) This section will amend chapter 51 of The Revised Statutes of Alberta 1970.

(2) This amendment will permit flexibility in setting the hours the clerk's office will be open.

The Execution Creditors Act

2. (1) This section will amend chapter 128 of the Revised Statutes of Alberta 1970.

(2) This amendment arises from the removal of the monetary jurisdictional ceiling on the district courts. Section 31 (9) and (10) presently read:

(9) If the sum in dispute appears to be over \$2,000 exclusive of costs the judge shall direct that the action be brought or the issue tried in the Supreme Court of Alberta, and, subject to any order which a judge of that court may make, shall name the district in which the trial is to take place.

(10) In all other cases the judge may

- (a) determine a question in dispute in a summary manner, or
- (b) direct an action to be brought or an issue to be tried in any court and in any district for the determination of a question in dispute,

and make any order relating to the costs of the proceedings which he considers just.

The Franchises Act

3. (1) This section will amend chapter 38 of the Statutes of Alberta, 1971.

(2) This amendment to the exceptions to franchise fees is designed to prevent overloading of mandatory goods or services acquisitions.

(3) The director will have the discretion to omit mandatory information requirements in a prospectus or statement of material facts where it would not prejudice the public interests.

(4) The following section is added after section 3:

3.1 (1) No franchisor who claims an exemption under section 2 or who seeks an exemption from registration under section 3 shall trade in the franchise until

- (a) the franchisor has obtained an acknowledgement of the exemption under section 2 from the Director, or
- (b) the franchisor has obtained an order from the Director under section 3 granting the exemption, and has filed with the Commission a copy of the statement of material facts.

(2) An acknowledgement of the exemption or an order granting the exemption expires one year from the date thereof unless the Director by order specifies a different period.

(3) The acknowledgement of an exemption or the order granting an exemption may be renewed for additional periods of one year each by submitting to the Director an application for renewal in the prescribed form no later than 30 business days prior to the expiration of the acknowledgement or order unless such period is waived by an order of the Director.

(4) An application for renewal submitted under subsection (3) shall be accompanied by a copy of the franchisor's most recent statement of material facts.

(5) Where a material adverse change occurs after the date of the application for acknowledgement of an exemption or for an order granting an exemption or the submission of an application for renewal that may have an effect upon the granting of the acknowledgement or the order or renewal thereof, notice of such change shall be filed with the Director as soon as practicable and in any event within 10 days from the date the change occurs.

(5) Section 4 is amended

(a) as to subsection (1)

(i) by adding after the word "Director" the words "from the provisions of section 5", and

(ii) by adding after clause 23 the following clauses:

24. the provisions governing withdrawal from the franchise agreement;

25. the provisions relating to the right to rescind the franchise agreement.

and

(b) by striking out subsection (2).

(4) This amendment clarifies that an exemption under this Act is reviewable annually.

(5) This amendment will add to the requirements to be contained in a statement of material facts. Subsection (2) is now included in the proposed section 3.1.

(6) *The following section is added after section 8:*

8.1 (1) If any solicitor, auditor, accountant, engineer, appraiser or any other person or company whose profession gives authority to a statement made by him, is named as having prepared or certified any part of a prospectus or statement of material facts, the written consent of such person or company to the inclusion of such report or valuation shall be filed with the Commission not later than the time the prospectus or statement of material facts is filed.

(2) The Director may dispense with the filing of a consent required by subsection (1) if, in his opinion, such filing is impracticable or involves undue hardship.

(3) The consent of an auditor or accountant referred to in subsection (1) shall refer to the report required to be made by him under the regulations, stating the date thereof and the dates of the financial statements on which the reports are made, and shall contain a statement that he has read the prospectus or statement of material facts and that the information contained therein, which is derived from the financial statements contained in the prospectus or statement of material facts or which is within his knowledge, is, in his opinion, presented fairly and is not misleading.

(4) If a solicitor, auditor, accountant, engineer, appraiser or other person or company referred to in subsection (1)

(a) has directly or indirectly received or expects to receive any interest, direct or indirect, in the property of the franchisor or any affiliate, or

(b) beneficially owns, directly or indirectly, any securities of the franchisor or any affiliate,

that interest or ownership shall be disclosed in the prospectus or statement of material facts.

(5) If a person or company referred to in subsection (1) is or is expected to be elected, appointed or employed as a director, officer or employee of the franchisor or any affiliate, that fact shall be disclosed in the prospectus or statement of material facts.

(6) Notwithstanding subsections (4) and (5), the Director may direct the Registrar not to issue a receipt for a prospectus if a person or company referred to in subsection (1) is not acceptable to him.

(7) Where any change is proposed to be made in a prospectus or statement of material facts that in the opinion of the Director materially affects any consent required by section 8.1, subsection (1), the Director may require that a further consent be filed with the Commission before a receipt for the amended prospectus or statement of material facts is issued.

(6) Consents by experts will be required when their material or opinions are used in a prospectus or statement of material facts.

(7) Section 14, subsection (1) is amended by striking out the words "after the registration of a prospectus under this Part and the issuance of a receipt therefor,".

(8) Section 22 is amended by adding after the words "salesman registration" the words "or may reprimand a salesman".

(9) Section 42 is amended by striking out the figure "32" and by substituting therefor the figure "41".

(10) Section 50 is amended by adding after rule 7 the following rule:

8. The provisions of any rules of court or of law relating to witnesses and to the payment of conduct money or witness fees apply.

The Judicature Act

4. (1) *The Judicature Act is amended by this section.*

(2) Section 6, subsection (2), clause (b) is amended by striking out the word "six" and by substituting therefor the word "seven".

The Securities Act

5. (1) *The Securities Act is amended by this section.*

(2) Section 5, rule 8 is amended by striking out the words "do not".

(3) Section 144, clause (n) is amended by striking out the words "with respect to securities issued for a consideration other than cash".

The Trust Companies Act

6. (1) *The Trust Companies Act is amended by this section.*

(2) Section 111, subsection (1), clause (a) is amended by adding the word "or" at the end of subclause (vi) and by adding after subclause (vi) the following subclause:

- (vii) issued or guaranteed by Inter-American Development Bank or by Asian Development Bank, but only if the principal and interest thereunder are payable in the currency of Canada or the United States of America,

The Trustee Act

7. (1) *The Trustee Act is amended by this section.*

(2) Section 5 is amended by adding after clause (1) the following clause:

(7) Section 14, subsection (1) presently reads as follows:

14. (1) Where it appears to the Commission, after the registration of a prospectus under this Part and the issuance of a receipt therefor,

- (a) that any of the circumstances set out in section 10 exist, or
- (b) that there has been a failure to comply with any provisions of this Act or the regulations or any rule or order of the Commission, or
- (c) that the trade would constitute deceit or fraud of the purchasers, the Commission may order that all trading in the franchise shall cease.

(8) This amendment will permit the Director to reprimand a salesman in those situations which are not serious enough to warrant the cancellation or suspension of the registration.

(9) This amendment will correct a cross-reference.

(10) Section 50 enumerates rules relating to hearings under the Act.

The Judicature Act

4. (1) This section will amend chapter 193 of the Revised Statutes of Alberta 1970.

(2) This amendment will make provision for the addition of another judge of the Appellate Division.

The Securities Act

5. (1) This section will amend chapter 333 of the Revised Statutes of Alberta 1970.

(2) Section 5, rule 8 presently reads:

8. The provisions of any rules of court or of law relating to the service of subpoenas to witnesses and to the payment of conduct money or witness fees do not apply

(3) Section 144 (n) presently reads:

(n) prescribing terms and conditions that shall be contained in an escrow or pooling agreement with respect to securities issued for a consideration other than cash,

This amendment will bring the clause into conformity with a 1972 amendment to section 61 (1) (d).

The Trust Companies Act

6. (1) This section will amend chapter 372 of the Revised Statutes of Alberta 1970.

(2) Permits a provincial trust company to invest in securities of the mentioned Banks.

The Trustee Act

7. (1) This section will amend chapter 373 of the Revised Statutes of Alberta 1970.

(2) Permits trustees to invest trust money in securities of the mentioned Banks.

(11) securities issued or guaranteed by Inter-American Development Bank or by Asian Development Bank, but only if the bonds, debentures or other securities are payable in the currency of Canada or the United States of America;

Commencement

8. *This Act comes into force on the day upon which it is assented to.*