

1998 BILL 5

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Second Session, 24th Legislature, 46 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 5

**CANADIAN AIRLINES CORPORATION  
AMENDMENT ACT, 1998**

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MS GRAHAM

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 5*  
*Ms Graham*

## **BILL 5**

1998

### **CANADIAN AIRLINES CORPORATION AMENDMENT ACT, 1998**

*(Assented to , 1998)*

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

Amends SA  
1983 cC-0.6

**1 The *Canadian Airlines Corporation Act* is amended by  
this Act.**

**2 Section 2(2) is repealed.**

**3 Section 3(2)(d) is amended by striking out “statutory”.**

## Explanatory Notes

1 Amends chapter C-0.6 of the Statutes of Alberta, 1983.

2 Section 2(2) presently reads:

*(2) When voting shares are held by a person or members of a group of associated persons in excess of the percentage limit in section 4, all of the voting shares held by that person or members of that group are held in contravention of section 4 for the purposes of this Act.*

3 Section 3(2)(d) presently reads:

*(2) Notwithstanding subsection (1), for the purposes of this Act,*

*(d) if one shareholder who is associated with another shareholder under subsection (1) submits to the Corporation a statutory declaration*

*(i) stating that none of the voting shares or limited shares held by him or to be held by him are or will be, to his knowledge, held in right of, or for the use or benefit of, himself or any person with whom he is associated under subsection (1), or*

*(ii) specifying the number of voting shares or limited shares of which he is the shareholder that are not held by him, and will not to his knowledge be held by him, in right of, or for the use or benefit of, any person with whom he is associated under subsection (1),*

**4 Sections 4 to 10 are repealed.**

*then neither shareholder is associated with the other in relation to those shares so long as the shares from time to time held by the shareholder who made the declaration are not held contrary to the statements made in the declaration.*

**4** Sections 4 to 10 presently read:

*4(1) The total number of voting shares that may be held*

*(a) by any one person as a shareholder or beneficial owner or partly as a shareholder and partly as a beneficial owner, or*

*(b) by the members of any one group of associated persons, as shareholders or beneficial owners or partly as shareholders and partly as beneficial owners,*

*shall not exceed 10% of the total number of the issued and outstanding voting shares.*

*(3) The validity of a transfer of voting shares that has been made or recorded in the securities register of the Corporation or the validity of the issuance of voting shares of the Corporation is not affected by the holding of the shares in contravention of this section.*

*(4) If 2 or more persons hold the same voting shares as shareholders or as beneficial owners, each of those persons is deemed to be the sole holder of those shares for the purposes of subsection (1).*

*(5) Subsection (1) does not apply to a person acting as an underwriter in connection with a distribution of voting shares during the period commencing on the commencement date of that distribution and ending on the date of completion of that distribution or 120 days after the commencement date of that distribution, whichever occurs first.*

*(6) In subsection (5), "distribution" and "underwriter" have the meanings given to them in the Securities Act.*

*(7) If a shareholder submits to the Corporation a statutory declaration*

*(a) stating that, in respect of voting shares of which he is the shareholder, he holds those shares in right of, or for the use or benefit of, another person with whom he is not associated, and*

*(b) showing the name and address of that other person and the number of shares so held,*

*the shareholder shall be deemed not to be the holder of those shares for the purposes of determining whether this section has been contravened.*

*5(1) When voting shares are held in contravention of section 4, no dividend shall be paid in respect of any of those voting shares.*



(2) *Notwithstanding subsection (1), if*

(a) *voting shares are held in contravention of section 4 by 2 or more associated persons, and*

(b) *the contravention was inadvertently caused by the acquisition of voting shares by one or more of those persons in circumstances where the person or persons who acquired the voting shares did not know of the association or did not know that the acquisition would result in the contravention,*

*dividends shall be paid only in respect of the number of voting shares not in excess of the percentage limit in section 4(1), and in determining which voting shares are in excess of that limit, the voting shares held for the shortest period of time according to the securities register of the Corporation shall be considered as being in excess of that limit before other voting shares held for a longer time.*

(3) *Notwithstanding subsection (1), the Board may authorize the payment of a dividend in respect of any voting shares to a shareholder who would otherwise be disentitled to it under that subsection if the Board is of the opinion that the contravention was inadvertent or is of a technical nature.*

(4) *If dividends are paid by the Corporation in respect of voting shares otherwise than in accordance with this section, the Corporation may by action recover the amount of the dividends so paid from the shareholders to whom they were paid whether or not the Corporation had knowledge of the contravention of this section.*

6(1) *If voting shares are held in contravention of section 4, the Corporation may, by notice to the shareholder of those shares, require the voting shares in excess of the percentage limit in section 4 to be disposed of within the period stated in the notice to a person who may hold voting shares.*

(2) *A notice under subsection (1)*

(a) *may be given by mail or by personal service, and*

(b) *shall prescribe a period of not less than 60 days as the period within which the voting shares must be disposed of.*

(3) *If the excess voting shares referred to in subsection (1) have not been disposed of within the time set out in the notice given under that subsection, the Corporation may, at any time while those shares continue to be held in contravention of section 4, redeem them for cancellation on*

(a) *the deposit by the Corporation of the amount of the redemption price of the shares in a special account with a bank or treasury branch, and*

(b) *the giving of a notice of redemption to the shareholder of those shares in the manner prescribed by the by-laws, including notice of the deposit referred to in clause (a),*





*and thereupon the voting shares shall be deemed to be redeemed for cancellation and the rights of the shareholder and any beneficial owners of them cease except the right of a beneficial owner to receive out of the amount so deposited, without interest, the redemption price payable with respect to the shares on presentation and surrender of the certificate representing the shares.*

*(4) Any interest payable by the bank or treasury branch on the deposit made pursuant to subsection (3)(a) shall be paid to the Corporation.*

*(5) the Corporation is not bound to see to the application of the amount deposited or to the execution of any trust, whether express, implied or constructive, in respect of any voting shares redeemed for cancellation under this section, nor is the Corporation estopped by any certificates outstanding in respect of any voting shares redeemed for cancellation.*

*(6) Unless, before a notice of redemption is given under subsection (3)(b), the Corporation is notified in writing of an agreement among the shareholders and beneficial owners of the voting shares concerned specifying the excess shares that are to be redeemed for cancellation, the Corporation shall redeem voting shares for cancellation under subsection (3) according to the length of time they have been held as evidenced by the securities register, with the voting shares held for the shortest period of time being redeemed for cancellation before others held for a longer time.*

*(7) The redemption price of voting shares for the purposes of this section is the lesser of*

*(a) the issue price per share on the first distribution of voting shares to the public after the coming into force of this Act, and*

*(b) the lowest closing price per share of the voting shares on the principal stock exchange occurring in the 12-month period preceding the date of the giving of the notice of redemption.*

*(8) In subsection (7)(b), "principal stock exchange" means the stock exchange in Canada designated by the Board as the principal stock exchange for the Corporation.*

*7(1) If a person or the members of any one group of associated persons hold, as shareholders or as beneficial owners or partly as shareholders and partly as beneficial owners, a number of*

*(a) voting shares,*

*(b) limited shares, or*

*(c) voting shares and limited shares,*

*which in the aggregate exceed 10% of the total number of shares of the Corporation then issued and outstanding, the voting rights attached to all of those shares so held shall not be exercised.*



*(2) If voting rights are exercised in contravention of subsection (1) at a meeting of the shareholders of the Corporation, no vote or other proceeding at that meeting is void by reason of the contravention, but any such vote or proceeding is, at any time within one year from the date of commencement of the meeting at which those voting rights were exercised, voidable at the option of the Board by a resolution of the Board.*

*8(1) A shareholder of the Corporation shall, on the written request of the Board given in accordance with subsection (2) and the by-laws, submit a statutory declaration to the Corporation with respect to*

- (a) his beneficial ownership of any voting shares or limited shares;*
- (b) the identity of the beneficial owner of all or any of the voting shares or limited shares of which he is the shareholder;*
- (c) whether he is associated with any other person;*
- (d) any other matter the Board considers relevant for the purposes of determining whether the voting shares held by him or persons associated with him are held in contravention of section 4 or whether voting rights have been exercised in contravention of section 7.*

*(2) A request under subsection (1)*

- (a) may be given by mail or personal service, and*
- (b) shall prescribe the period following the giving of the request, being not less than 30 days, within which the request must be complied with.*

*(3) When a statutory declaration has been requested under this section by the Board from a shareholder and the shareholder fails or neglects to submit to the Board a declaration satisfactory to the Board within the time prescribed in the request, then, until a declaration satisfactory to the Board has been submitted to it,*

- (a) in the case of voting shares held by the shareholder, sections 5, 6 and 9(a) and (b) apply to those voting shares as though they were voting shares held in excess of the percentage limit in section 4, and*
- (b) sections 7 and 9(c) apply to the voting shares and limited shares held by that shareholder as though they were held in excess of the percentage limit in section 7.*

*(4) It is a condition of every transfer of a share to be made or recorded in the securities register of the Corporation and of the issue of any share of the Corporation that the transferee or purchaser shall, at the request of the Board, submit to the Board a declaration to the like effect as the declaration that may be requested by the Board under subsection (1).*



*(5) When the Board has requested a statutory declaration pursuant to subsection (4), the Board shall not accept any offer to purchase a voting share or allow any transfer to be made or recorded in the securities register of the Corporation unless the declaration has been submitted to the Board and it appears from the declaration that the purchaser or transferee would not, by the acceptance of the offer to purchase the shares being purchased or the entry in the securities register of the shares being transferred, hold those shares in contravention of section 4.*

*(6) When, in the case of the issue or transfer of any voting shares, it appears that the number of shares that would be held by the purchaser or the transferee, as shown by the securities register of the Corporation, would not be more than 5000 shares if the offer to purchase were accepted or the transfer allowed, the Board is entitled to assume that the purchaser or the transferee is not and will not be associated with any other person.*

*9 The Court of Queen's Bench may, on the application of a shareholder or beneficial owner of a share of the Corporation, make an order of any or all of the following kinds:*

- (a) an order directing the Corporation to commence and diligently prosecute an action under section 5(4);*
- (b) an order directing the Corporation to commence and diligently prosecute proceedings under section 6 for the redemption of the voting shares specified in the order;*
- (c) an order giving directions respecting
  - (i) an election of members of the Board, and*
  - (ii) the term of office of the members of the Board elected at that election,**

*if the Court is satisfied that all or a majority of the existing Board were elected at an election at which voting rights were exercised in contravention of section 7.*

*10 In determining, for the purposes of this Act,*

- (a) whether any voting shares are held in contravention of section 4,*
- (b) whether any voting rights were exercised in contravention of section 7,*
- (c) whether a person is associated with any other person, or*
- (d) any other circumstances relevant to the performance of the duties of the Board under this Act,*

*the Corporation and any director, officer, employee or agent of the Corporation may rely on any statements made in any declaration submitted under section 8 or rely on the knowledge of any of the directors of the circumstances and the Corporation and its directors,*

**5 Section 12 is repealed.**

*officers, employees or agents are not liable in an action for anything done or omitted by them in good faith as a result of any conclusions made by them on the basis of any such statement or knowledge.*

**5** Section 12 presently reads:

*12 The Board may, on application, make a ruling on whether any person or group of associated persons holds voting shares in contravention of section 4 or whether section 7(1) applies to any person or group of associated persons, and the Board is bound by a ruling so made unless the applicant did not disclose a fact material to the Board in making its ruling or unless there is a subsequent material change of circumstances.*