
Fourth Session, Forty-second Parliament
1 Charles III, 2023
Legislative Assembly of British Columbia

BILL 20

**BUSINESS CORPORATIONS
AMENDMENT ACT, 2023**

Honourable Katrine Conroy
Minister of Finance

Explanatory Notes

CLAUSE 1: *[Business Corporations Act, section 1]* adds and amends definitions for the Act.

BILL 20 – 2023

**BUSINESS CORPORATIONS
AMENDMENT ACT, 2023**

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1 Section 1 (1) of the Business Corporations Act, S.B.C. 2002, c. 57, is amended

(a) by repealing the definition of “corporate register” and substituting the following:

“**corporate register**” means the information filed with or recorded by the registrar under this Act or a former *Companies Act*, including any corrections, additions or notations made to that information under this Act or a former *Companies Act* by the registrar, but not including either of the following:

- (a) the memorandum and articles for a pre-existing company that has complied with section 370 (1) (a) or 436 (1) (a);
- (b) information in the registrar’s transparency register; ,

(b) by adding the following definitions:

“**enforcement officer**” means a person designated under section 424.1 as an enforcement officer;

“**health authority designate**” means health authority designate as defined in section 1 of the *Adult Guardianship Act*;

“**publicly accessible information**” means the information in the registrar’s transparency register that may be searched by a member of the public under section 399.44;

“**registrar’s transparency register**” means the information filed with the registrar under section 119.52, including any corrections, additions or notations made to that information under this Act by the registrar; , *and*

(c) by repealing the definition of “transparency register” and substituting the following:

“**transparency register**”, in relation to a private company, means a transparency register referred to in section 119.2; .

CLAUSE 2: *[Business Corporations Act, heading to Part 4.1]* amends the heading to Part 4.1, consequential to amendments made by this Bill to the Act.

CLAUSE 3: *[Business Corporations Act, section 119.2]* adds required information and actions respecting transparency registers of private companies.

CLAUSE 4: *[Business Corporations Act, section 119.31]* shortens the period of time in which information in a private company's transparency register must be updated.

CLAUSE 5: *[Business Corporations Act, section 119.5]* adds inspections by an enforcement officer to the inspections referred to in the section, consequential to amendments made by this Bill to the Act.

CLAUSE 6: *[Business Corporations Act, section 119.52]* requires private companies to file their transparency registers with the registrar annually and at other times.

2 *The heading to Part 4.1 is repealed and the following substituted:*

PART 4.1 – TRANSPARENCY REGISTER OF PRIVATE COMPANY .

3 *Section 119.2 is amended*

(a) in subsection (2) by adding the following paragraphs:

- (d.1) the individual's social insurance number, if any;
- (d.2) the individual tax number, if any, assigned to the individual by the Canada Revenue Agency;
- (f.1) if the private company ascertains, as a result of steps taken in accordance with subsection (3.1) or through any other means, that a determination that the individual is incapable of managing the individual's own affairs has been made, a statement setting this out; , *and*

(b) by adding the following subsection:

- (3.1) If, at any time, a private company becomes aware that a significant individual may be incapable of managing the individual's own affairs, the company must take reasonable steps to ascertain whether, in respect of the individual, a determination that the individual is incapable of managing the individual's own affairs has been made by a court, health authority designate or prescribed person.

4 *Section 119.31 (1) is amended by striking out “30 days” and substituting “15 days”.*

5 *Section 119.5 (2) is amended by striking out “sections 119.7 to 119.91” and substituting “sections 119.7 to 119.91 and 424.16”.*

6 *The following section is added:*

Annual and other filing with registrar required

119.52 A private company that is required to take reasonable steps to maintain a transparency register must file with the registrar, in the prescribed form and manner, the information in the company's transparency register

- (a) within 6 months after the date the company is
 - (i) recognized under this Act, or
 - (ii) fully restored within the meaning of section 354 (1),
- (b) within 15 days after the date the company becomes aware, as a result of steps taken in accordance with section 119.3 or through any other means, of any information that is new or different from the information referred to in section 119.2 (2) that is in the transparency register, and
- (c) annually within the prescribed period.

CLAUSE 7: *[Business Corporations Act, section 119.61]* allows an enforcement officer to inspect the transparency registers of private companies.

CLAUSE 8: *[Business Corporations Act, section 119.62]* restricts the use and disclosure of information obtained for the transparency registers of private companies.

CLAUSE 9: *[Business Corporations Act, section 267.1]* is consequential to the repeal by this Bill of the Schedule to the Act.

CLAUSE 10: *[Business Corporations Act, section 330]* adds references to requirements, consequential to amendments made by this Bill to the Act.

7 Section 119.61 is amended

(a) by adding the following subsection:

- (1.1) A person who maintains the records office for a private company must allow an enforcement officer who complies with the requirements and restrictions referred to in section 424.16 to inspect the company's transparency register. ,
and

(b) in subsection (2) by striking out "or" at the end of paragraph (a) and by adding the following paragraph:

- (a.1) an enforcement officer, or .

8 The following section is added:

Use and disclosure restricted

119.62 A private company must not use or disclose information obtained for the company's transparency register except as follows:

- (a) for the purpose of an inspection under sections 119.61 to 119.8 or to provide a copy of the transparency register under section 119.91;
- (b) to file information with the registrar under this Part or Part 11.1;
- (c) to provide information under this Part, Part 11.1 or Divisions 3.2 and 3.3 of Part 12 to the registrar, an enforcement officer or the minister;
- (d) with the consent of the individual to whom the information relates;
- (e) as required or authorized by law;
- (f) for prescribed purposes, if any.

9 Section 267.1 is amended by striking out "and in the Schedule to this Act".

10 Section 330 (c.01) is amended by striking out "ensure that the company's transparency register is maintained and made available in accordance with Part 4.1" and substituting "ensure that information in the company's transparency register is maintained, made available and filed in accordance with Parts 4.1 and 11.1 and Divisions 3.2 and 3.3 of Part 12".

CLAUSE 11: *[Business Corporations Act, Part 11.1]* adds a Part establishing, and setting requirements respecting, a registrar's transparency register.

11 The following Part is added:

PART 11.1 – REGISTRAR’S TRANSPARENCY REGISTER

Division 1 – Definitions

Definitions

399.4 In this Part:

“**information-sharing agreement**” means an agreement or arrangement to exchange, by electronic transmission, electronic data matching or any other means, information

(a) for a purpose referred to in section 399.5, or

(b) under section 399.51 with a corporate registrar as defined in that section;

“**permanent resident**” means permanent resident as defined in section 119.1;

“**private company**” means private company as defined in section 119.1;

“**regulator**” means regulator as defined in section 119.1;

“**significant individual**” means a significant individual as described in section 119.11;

“**taxing authority**” means taxing authority as defined in section 119.1.

Division 2 – Registrar’s Transparency Register

Verification of identity of significant individual

399.41 (1) On the request of the registrar, a significant individual, or a person in a prescribed class of persons who can verify the identity of the individual, must provide to the registrar

(a) any prescribed records, or

(b) information or proof the registrar considers necessary to verify the identity of the individual.

(2) The records, information or proof must be provided under subsection (1) in the prescribed form and manner.

Use and disclosure restricted

399.42 The registrar must not use or disclose information obtained for the registrar’s transparency register except in accordance with section 399.43 or as required by law.

CLAUSE 11: *[Business Corporations Act, Part 11.1 – continued]*

Division 3 – Search and Inspection of Registrar’s Transparency Register

Search and inspection of registrar’s transparency register

- 399.43** (1) Subject to this Act, the registrar must make the registrar’s transparency register available for search and inspection under sections 399.46 to 399.51.
- (2) Subject to this Act, the registrar must make publicly accessible information in the registrar’s transparency register available for search under section 399.44.

Search of publicly accessible information

- 399.44** (1) Except at prescribed times or in prescribed circumstances in which the publicly accessible information need not be made available for search, a member of the public may search in the registrar’s transparency register the following information about each significant individual in respect of a private company:
- (a) the individual’s full name and year of birth;
 - (b) whether or not the individual is a Canadian citizen or permanent resident of Canada;
 - (c) if the individual is not a Canadian citizen or permanent resident of Canada, every country or state of which the individual is a citizen.
- (2) The registrar must not make the information described in subsection (1) available under that subsection until 90 days after the date that the company filed that information under section 119.52.

Certain uses and disclosures by public prohibited

- 399.45** A member of the public who searches publicly accessible information must not use or disclose the information responding to the search
- (a) to solicit persons by telephone, mail or other means,
 - (b) to harass persons, or
 - (c) for prescribed purposes, if any.

Search and inspection by enforcement officer and ministry officials

- 399.46** (1) An enforcement officer may search and inspect the registrar’s transparency register for the purposes of determining compliance with Part 4.1, this Part, Divisions 3.2 and 3.3 of Part 12 and the regulations.

CLAUSE 11: *[Business Corporations Act, Part 11.1 – continued]*

- (2) An official or employee of the ministry may search and inspect the registrar's transparency register for any of the following purposes:
 - (a) compiling statistical information;
 - (b) formulating or evaluating government policy;
 - (c) prescribed purposes.

Search and inspection for tax purposes

399.47 An official or employee of a taxing authority may search and inspect the registrar's transparency register for any of the following purposes:

- (a) administering or enforcing
 - (i) a law of British Columbia or Canada that provides for the imposition or collection of a tax, royalty or duty, or
 - (ii) a prescribed law of British Columbia or Canada that is related to a law referred to in subparagraph (i) of this paragraph;
- (b) providing information in the registrar's transparency register to another jurisdiction in or outside Canada to assist the jurisdiction in the administration or enforcement of a law of that jurisdiction that provides for the imposition or collection of a tax, royalty or duty if the assistance is authorized under an arrangement, written agreement, treaty or law of British Columbia or Canada.

Search and inspection for law enforcement purposes

399.48 An officer within the meaning of the *Police Act* or a member of the Royal Canadian Mounted Police may search and inspect the registrar's transparency register for any of the following purposes:

- (a) conducting an investigation in Canada
 - (i) that is undertaken with a view to a law enforcement proceeding, or
 - (ii) from which a law enforcement proceeding is likely to result;
- (b) policing and criminal intelligence operations in Canada;
- (c) assisting another law enforcement agency in Canada for a purpose described in paragraph (a) or (b);
- (d) providing information in the registrar's transparency register to a law enforcement agency in a jurisdiction outside Canada to assist the agency in a law enforcement proceeding if the assistance is authorized under an arrangement, written agreement, treaty or law of British Columbia or Canada.

CLAUSE 11: *[Business Corporations Act, Part 11.1 – continued]*

Search and inspection for regulatory purposes

399.49 An official or employee of a regulator may search and inspect the registrar’s transparency register for any of the following purposes:

- (a) administering or enforcing a law for which the regulator is responsible;
- (b) assisting another agency in Canada in the administration or enforcement of a law that is similar to a law for which the regulator is responsible;
- (c) providing information in the registrar’s transparency register to an agency outside Canada to assist the agency in the administration or enforcement of a law that is similar to a law for which the regulator is responsible if the assistance is authorized under an arrangement, written agreement, treaty or law of British Columbia or Canada.

Search and inspection under information-sharing agreements for prescribed purposes

399.5 (1) If an applicable information-sharing agreement is in place, a person or entity referred to in section 5 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) may search and inspect prescribed information in the registrar’s transparency register for prescribed purposes.

(2) If an applicable information-sharing agreement is in place, a prescribed person or a person in a prescribed class of persons may search and inspect prescribed information in the registrar’s transparency register for prescribed purposes.

Other search and inspection under information-sharing agreements

399.51 (1) In this section, “**corporate registrar**”, in respect of another jurisdiction in Canada or a jurisdiction outside Canada, means a body with powers and duties that are similar to the powers and duties of the registrar respecting the corporate register or the registrar’s transparency register.

(2) If an applicable information-sharing agreement is in place, a corporate registrar may search and inspect the registrar’s transparency register in accordance with that agreement.

Mandatory omission or obscuring of information

399.52 (1) Subject to subsection (3), the registrar must omit from or obscure in publicly accessible information any information about a significant individual if the information filed with the registrar under section 119.52 indicates either of the following about the individual:

- (a) the individual is under 19 years of age;
- (b) the individual has been determined by a court, health authority designate or prescribed person to be incapable of managing the individual’s own affairs.

CLAUSE 11: *[Business Corporations Act, Part 11.1 – continued]*

- (2) If the information filed with the registrar under section 119.52 indicates that a significant individual has been determined by a court, health authority designate or prescribed person to be incapable of managing the individual's own affairs, the individual, the individual's personal or legal representative or the private company in respect of which the individual is a significant individual must, on the request of the registrar, provide records, information or proof satisfactory to the registrar that the individual has been determined to be incapable of managing the individual's own affairs.
- (3) The registrar may cease omitting or obscuring information about a significant individual whose information is omitted or obscured under subsection (1) 90 days after the date that the registrar receives satisfactory records, information or proof verifying, as applicable, that the individual
 - (a) has reached 19 years of age, or
 - (b) has been determined to not be, or has been determined to no longer be, incapable of managing the individual's own affairs.

**Application to omit or obscure information
if health or safety at risk**

- 399.53** (1) A significant individual or the individual's personal or legal representative may, by application to the registrar, request that some or all of the information that relates to the individual that would otherwise be publicly accessible information be omitted from or obscured in publicly accessible information if the individual or the individual's personal or legal representative believes that making the information publicly accessible information could reasonably be expected to threaten the safety or mental or physical health of
- (a) the individual, or
 - (b) a member of the individual's household.
- (2) An application under subsection (1) must be made in the form and manner specified by the registrar, and an applicant under this section must do the following:
- (a) specify in the application
 - (i) the grounds on which the application is based,
 - (ii) the particular information the applicant seeks to have omitted or obscured, and
 - (iii) the address at which the applicant is to be given notice under section 399.54 (2) of the registrar's decision;
 - (b) give the application to the registrar, together with the applicable fee, if any;
 - (c) provide to the registrar, within the period of time and in the form and manner specified by the registrar, any other records, information or proof the registrar may require.

CLAUSE 11: *[Business Corporations Act, Part 11.1 – continued]*

- (3) Promptly after receiving an application and any applicable fee under this section, the registrar must omit from or obscure in publicly accessible information the information specified by the applicant under subsection (2) (a) (ii).
- (4) Despite subsection (3), the registrar must cease omitting from or obscuring in publicly accessible information the information specified by an applicant under subsection (2) (a) (ii) if the applicant fails to provide, within the time specified by the registrar, any records, information or proof required under subsection (2) (c).

Determination of application to omit or obscure information

- 399.54** (1) The registrar may, subject to this section, cease omitting from or obscuring in publicly accessible information the information that an applicant specifies under section 399.53 (2) (a) (ii) if the registrar is satisfied that making the information publicly accessible information could not reasonably be expected to threaten the safety or mental or physical health of
- (a) the significant individual to whom the information relates, or
 - (b) a member of that individual's household.
- (2) The registrar must, within a reasonable period of time, give to the applicant written notice of a decision made under subsection (1).
 - (3) The applicant may, within 45 days after the date of the registrar's notice of a decision made under subsection (1), ask the minister to review that decision.
 - (4) The applicant must give a copy of the request made under subsection (3) to the registrar.
 - (5) The minister may, within a reasonable period of time, rescind, vary or confirm the decision of the registrar.
 - (6) The minister must give notice of the minister's decision made under subsection (5) to the applicant and the registrar.
 - (7) If the applicant seeks judicial review of the minister's decision under subsection (5), the application for judicial review must be made within 45 days after the date of the minister's notice of decision.
 - (8) The registrar must continue omitting or obscuring information referred to in subsection (1) until the later of the following dates, as applicable:
 - (a) 46 days after the date on which the applicant is given notice under subsection (2);
 - (b) if the applicant seeks a minister's review in accordance with subsection (3), 46 days after the minister's notice of a decision made under subsection (5) is given to the applicant;
 - (c) if the applicant seeks judicial review in accordance with subsection (7), the date a decision is given in the judicial review;

- CLAUSE 11: *[Business Corporations Act, Part 11.1 – continued]*
- CLAUSE 12: *[Business Corporations Act, section 400.1]* requires the registrar to follow general policy direction given by the minister.
- CLAUSE 13: *[Business Corporations Act, section 406]* provides that decisions, added by this Bill, of the registrar are not subject to appeal.
- CLAUSE 14: *[Business Corporations Act, section 406.1]* provides that decisions, added by this Bill, of the minister are not subject to appeal.
- CLAUSE 15: *[Business Corporations Act, section 406.2]* empowers the registrar to require authentication of persons who access the registrar’s services or functions.
- CLAUSE 16: *[Business Corporations Act, section 416]* provides search criteria respecting publicly accessible information in the registrar’s transparency register.

- (9) The applicable dates set out in subsection (8) apply unless the applicable decision is that the information should continue to be omitted or obscured.

12 The following section is added:

Policy direction of minister

- 400.1** In exercising the powers and performing the duties of the registrar, the registrar is subject to general policy direction given by the minister.

13 Section 406 (3) is repealed and the following substituted:

- (3) No appeal lies under this section in respect of
- (a) an order of the registrar under section 29 (5), or
 - (b) a decision of the registrar under section 399.54 (1).

14 The following section is added to Division 1 of Part 12:

Minister's decision not subject to appeal

- 406.1** No appeal lies in respect of a decision of the minister under section 399.54 (5) or 424.29.

15 The following section is added to Division 1 of Part 12:

Authentication of individual

- 406.2** (1) The registrar may require that, at the time an individual attempts to access services or functions of the registrar, the individual be authenticated in the prescribed manner.

16 Section 416 is amended

(a) in paragraphs (a) (iii) and (a.1) (ii) by striking out “other”, and

(b) by adding the following paragraph:

- (a.01) conduct a search of publicly accessible information in the registrar's transparency register according to
- (i) the name, translated name or incorporation number of a private company,
 - (ii) the name of a significant individual of a private company, or
 - (iii) any prescribed criteria.

CLAUSE 17: *[Business Corporations Act, section 418]* restricts the information the registrar may provide and certify in response to a search by a member of the public.

CLAUSE 18: *[Business Corporations Act, Divisions 3.1 to 3.3 of Part 12]* adds three Divisions to Part 12 establishing enforcement officers, powers and duties of enforcement officers and a scheme for administrative penalties.

17 Section 418 is amended by adding the following subsections:

- (1.1) Despite subsection (1), the registrar may issue only publicly accessible information in response to a search by a member of the public.
- (2.1) A record issued by the registrar in response to a search by a member of the public may not be certified to be a true copy of a record if information is omitted from or obscured in the record.

18 The following Divisions are added to Part 12:

Division 3.1 – Enforcement Officer

Designation of enforcement officer

- 424.1** The minister may designate as an enforcement officer a person appointed under the *Public Service Act*.

Delegation of enforcement officer's powers and duties

- 424.11** (1) An enforcement officer may delegate to any person any of the enforcement officer's powers and duties.
- (2) A delegation under subsection (1) may be to a person or to a class of persons.

Policy direction of minister

- 424.12** In exercising the powers and performing the duties of an enforcement officer, an enforcement officer is subject to general policy direction given by the minister.

Records certified by enforcement officer as evidence

- 424.13** (1) An enforcement officer may, in the prescribed manner, certify a copy or extract of a record inspected or obtained by the enforcement officer under Division 3.2 of this Part as being a true copy of that record or extract.
- (2) A copy or extract certified by an enforcement officer under subsection (1) is admissible in evidence to the same extent as, and has the same evidentiary value as, the original record or extract, without proof of the signature of the enforcement officer.

Enforcement officer not compellable

- 424.14** An enforcement officer must not be compelled to disclose any information, record, extract or thing obtained under Division 3.2 of this Part unless the disclosure is necessary for the administration or enforcement of this Act or is otherwise required by law.

CLAUSE 18: *[Business Corporations Act, Divisions 3.1 to 3.3 of Part 12 – continued]*

How enforcement officer must give documents

- 424.15** (1) A request, demand or notice that an enforcement officer or minister is required to give to a person under any of the following provisions must be given in the prescribed manner:
- (a) section 424.2;
 - (b) section 424.21;
 - (c) section 424.27;
 - (d) section 424.29;
 - (e) any prescribed provision of this Act or the regulations.
- (2) A notice or other document referred to in subsection (1) that is given to a person in the prescribed manner is conclusively deemed to be received by the person at the time prescribed in relation to the prescribed manner.

Division 3.2 – Inspections and Demands for Information

Enforcement officer's entry and inspection powers

- 424.16** (1) An enforcement officer may conduct inspections for the purposes of determining compliance with the following:
- (a) Part 4.1;
 - (b) Part 11.1;
 - (c) this Division and Division 3.3 of this Part;
 - (d) the regulations.
- (2) For the purpose of conducting an inspection, the enforcement officer may, during statutory business hours and subject to this section, enter a place where a private company's records are kept.
- (3) If a private company has passed an ordinary resolution in accordance with section 119.81 (2) that reduces the hours during which its transparency register may be inspected, the inspection of the company's transparency register must occur during those hours.
- (4) An enforcement officer must comply with prescribed requirements and restrictions, if any.
- (5) Except as authorized by a warrant under section 424.18, an enforcement officer may enter a place occupied as a private residence only with the consent of the owner or occupier of the private residence.
- (6) Subject to section 424.19, an enforcement officer may do any of the following:
- (a) inspect records and things that may be relevant to the inspection;
 - (b) obtain information, including personal information, relevant to the inspection;

CLAUSE 18: *[Business Corporations Act, Divisions 3.1 to 3.3 of Part 12 – continued]*

- (c) remove a record or thing for the purpose of inspecting the record or thing;
 - (d) remove a record for the purpose of making a copy of, or taking an extract from, the record.
- (7) When conducting an inspection, an enforcement officer must
- (a) carry identification and present the identification on request, and
 - (b) advise the owner, manager or person apparently in charge of the place in which the inspection is being conducted of the reason for the inspection.
- (8) If an enforcement officer removes a record or thing from a place, the enforcement officer must
- (a) provide a receipt for the record or thing, and
 - (b) return the record or thing within a reasonable period of time.
- (9) In this section, “**personal information**” means personal information as defined in the *Personal Information Protection Act*.

Duty to cooperate with inspection

- 424.17** (1) On the request of an enforcement officer, an occupant of a place that the enforcement officer is authorized to enter under section 424.16 or a warrant issued under section 424.18 must
- (a) promptly allow the enforcement officer to enter the place, and
 - (b) facilitate the enforcement officer’s inspection.
- (2) A person who has possession or control of records, things or information that an enforcement officer is entitled to inspect or obtain under section 424.16 or a warrant issued under section 424.18 must promptly produce or provide access to the records, things or information as required by the enforcement officer.

Warrant to enter place and conduct inspection

- 424.18** If satisfied that there are reasonable grounds to believe that entry into a place is necessary for the purposes of an inspection, a justice may issue a warrant to an enforcement officer to enter the place in accordance with the warrant and to exercise the powers referred to in section 424.16.

Records in possession of lawyer

- 424.19** Except in accordance with the regulations, an enforcement officer’s power to inspect records under section 424.16 or a warrant issued under section 424.18 must not be used to inspect records in the possession of a lawyer if the lawyer, at the time the records are about to be inspected, claims that a client or former client has solicitor-client privilege in relation to those records.

CLAUSE 18: *[Business Corporations Act, Divisions 3.1 to 3.3 of Part 12 – continued]*

Demand for information

- 424.2** (1) For the purpose of determining compliance with Parts 4.1 and 11.1 and the regulations, an enforcement officer may, by demand notice, require a person to provide
- (a) a written statement on matters specified in the demand notice, or
 - (b) any records specified in the demand notice.
- (2) A person to whom a demand notice is given under this section must provide the required written statement and records
- (a) within the period of time specified in the notice, and
 - (b) in the form and manner specified by an enforcement officer.

Division 3.3 – Administrative Penalties

Notice of administrative penalty

- 424.21** (1) An enforcement officer may give written notice to a person requiring the person to pay an administrative penalty if the enforcement officer, after considering the factors set out in section 424.22, determines that the person has contravened any of the following provisions:
- (a) section 119.2 (1), (2), (3), (4) or (5);
 - (b) section 119.21 (2);
 - (c) section 119.3;
 - (d) section 119.31 (1) or (2);
 - (e) section 119.4 (a) or (b);
 - (f) section 119.41;
 - (g) section 119.5 (1);
 - (h) section 119.51 (1) or (2);
 - (i) section 119.52 (a), (b) or (c);
 - (j) section 119.61 (1), (1.1) or (2);
 - (k) section 119.62;
 - (l) section 119.91 (1) or (3);
 - (m) section 399.41 (1) or (2);
 - (n) section 424.17 (1) (a) or (b) or (2);
 - (o) section 424.2 (2);
 - (p) any prescribed section of this Act or the regulations.
- (2) A determination under this section may be based on information obtained from an inspection or from any other source.

CLAUSE 18: *[Business Corporations Act, Divisions 3.1 to 3.3 of Part 12 – continued]*

Factors enforcement officer must consider

424.22 Before an enforcement officer imposes an administrative penalty on a person for a contravention referred to in section 424.21 (1), the enforcement officer must consider the following:

- (a) previous enforcement actions under this Act against the person who is the subject of the determination, and
 - (i) if the person is an individual, against a corporation for which the individual is or was a director, officer or agent, and
 - (ii) if the person is a corporation, against an individual who is or was a director, officer or agent of the corporation;
- (b) the gravity and magnitude of the contravention;
- (c) whether the contravention was repeated or continuous;
- (d) the person's efforts to correct the contravention;
- (e) whether the person has made efforts to prevent recurrence of the contravention;
- (f) any economic benefit derived by the person from the contravention.

Amount of administrative penalty

424.23 An administrative penalty for a contravention referred to in section 424.21 (1) must not exceed

- (a) in the case of an individual, \$25 000, and
- (b) in the case of a person other than an individual, \$50 000.

Content of notice of administrative penalty

424.24 A notice of administrative penalty for a contravention referred to in section 424.21 (1) must specify the following:

- (a) the contravention;
- (b) the amount of the administrative penalty;
- (c) the date by which the administrative penalty must be paid;
- (d) the person's right under section 424.26 (1) to dispute the administrative penalty.

Due date of administrative penalty

424.25 (1) A person on whom an administrative penalty is imposed must pay the administrative penalty to the government on or before the latest of the following dates, as applicable:

- (a) 30 days after the date that the person is given notice under section 424.21 (1);

CLAUSE 18: *[Business Corporations Act, Divisions 3.1 to 3.3 of Part 12 – continued]*

- (b) if the person disputes the administrative penalty in accordance with section 424.26, 30 days after the date that the person is given notice under section 424.27, unless the decision rescinds the contravention or the administrative penalty;
 - (c) if the person appeals the administrative penalty in accordance with section 424.28, 30 days after the date that the person is given notice under section 424.29, unless the decision rescinds the contravention or the administrative penalty.
- (2) On the date that an administrative penalty is payable under subsection (1), the penalty constitutes a debt payable to the government by the person on whom the administrative penalty is imposed.

Opportunity to dispute administrative penalty

- 424.26** (1) A person who receives a notice of administrative penalty under section 424.21 (1) may, within 30 days after receiving the notice, give written notice to an enforcement officer disputing
- (a) the contravention, or
 - (b) the amount of the administrative penalty.
- (2) On receipt by an enforcement officer of a written notice of dispute under subsection (1), the administrative penalty to which the dispute applies is stayed until the enforcement officer's notice of decision is issued and, if applicable, related minister's decision and judicial review proceedings are completed.
- (3) A person who gives a written notice of dispute under subsection (1) must give to an enforcement officer, within 30 days after the date that the person is given notice under section 424.21 (1) of the administrative penalty, a written statement that sets out
- (a) the material facts, and
 - (b) the reasons for disputing, as applicable,
 - (i) the contravention, or
 - (ii) the amount of the administrative penalty.
- (4) A statement under subsection (3) must be given in the form and manner specified by an enforcement officer.

Enforcement officer's decision

- 424.27** (1) Within a reasonable period of time after receiving a written statement under section 424.26 (3), an enforcement officer must confirm, vary or rescind the contravention or the administrative penalty, as applicable.

CLAUSE 18: *[Business Corporations Act, Divisions 3.1 to 3.3 of Part 12 – continued]*

- (2) The dispute of an administrative penalty under this section may be conducted in writing, electronically or orally, or any combination of them, as an enforcement officer, in the enforcement officer's discretion, considers appropriate.
- (3) Promptly after making a decision under subsection (1), an enforcement officer must give to the person to whom the decision relates written notice of the decision, including notice of the following, as applicable:
 - (a) the contravention, as confirmed, varied or rescinded by the enforcement officer;
 - (b) the amount of the administrative penalty, as confirmed, varied or rescinded by the enforcement officer;
 - (c) unless the administrative penalty has been rescinded, the date by which the administrative penalty must be paid;
 - (d) the person's right under section 424.28 (1) to appeal the enforcement officer's decision to the minister.

Appeal to minister

- 424.28** (1) A person who receives notice under section 424.27 (3) of a decision confirming or varying an administrative penalty may, within 30 days after receiving the notice, appeal the decision to the minister by giving a written notice of appeal that sets out
- (a) the material facts, and
 - (b) the reasons for appealing, as applicable,
 - (i) the contravention, or
 - (ii) the amount of the administrative penalty.
- (2) A notice of appeal under subsection (1) must be given in the form and manner specified by the minister.
- (3) On receipt by the minister of a written notice of appeal under subsection (1), the administrative penalty to which the appeal relates is stayed until the minister's notice of decision is issued and, if applicable, related judicial review proceedings are completed.

Minister's decision

- 424.29** (1) Within a reasonable period of time after receiving a written notice of appeal under section 424.28 (1), the minister must confirm, vary or rescind the contravention or the administrative penalty, as applicable.
- (2) An appeal under this section may be conducted in writing, electronically or orally, or any combination of them, as the minister, in the minister's discretion, considers appropriate.

CLAUSE 18: *[Business Corporations Act, Divisions 3.1 to 3.3 of Part 12 – continued]*

- (3) Promptly after making a decision under subsection (1), the minister must give to the person to whom the decision relates written notice of the decision, including notice of the following, as applicable:
 - (a) the contravention, as confirmed, varied or rescinded by the minister;
 - (b) the amount of the administrative penalty, as confirmed, varied or rescinded by the minister;
 - (c) unless the administrative penalty has been rescinded, the date by which the administrative penalty must be paid;
 - (d) the date by which an application for judicial review, if pursued, must be commenced.
- (4) The minister may, in writing, delegate to any person any of the minister's powers or duties under this section.
- (5) A delegation under subsection (4) may be to a person or to a class of persons.

Enforcement of administrative penalty

- 424.3**
- (1) In this section and section 424.31, “**amount owing**” means an amount remaining unpaid on an administrative penalty and any interest on that amount.
 - (2) If a person fails to pay an amount owing, an enforcement officer may issue a certificate that sets out the amount owing and the name of the person who owes it.
 - (3) A certificate issued under subsection (2) may be filed with the Provincial Court or Supreme Court.
 - (4) A certificate filed under subsection (3) has the same force and effect, and all proceedings may be taken on the certificate, as if it were a judgment of the court in favour of the government for the recovery of a debt in the amount specified in the certificate against the person named in the certificate.

Notice of enforcement proceedings

- 424.31**
- (1) Before taking proceedings for the recovery of an amount owing, an enforcement officer must give to the person named in the certificate notice of the enforcement officer's intention to enforce payment.
 - (2) Failure to give notice under subsection (1) does not affect the validity of the proceedings taken for the recovery of an amount owing.

Time limit for judicial review

- 424.32** If a person makes an application for judicial review of a decision made by the minister under section 424.29 (1), the application must be commenced within 30 days after the date that the person is given notice under section 424.29 (3).

CLAUSE 18: *[Business Corporations Act, Divisions 3.1 to 3.3 of Part 12 – continued]*

CLAUSE 19: *[Business Corporations Act, section 426]* adds offences respecting two requirements added by this Bill to the Act.

CLAUSE 20: *[Business Corporations Act, section 430]* adds a limitation period respecting the registrar's transparency register.

CLAUSE 21: *[Business Corporations Act, section 431]* is consequential to the repeal by this Bill of the Schedule to the Act.

Relationship between administrative penalties and offences

- 424.33** (1) A person who has been charged with an offence under this Act may not be subject to an administrative penalty under this Division in relation to the same matter.
- (2) A person on whom an administrative penalty has been imposed under this Division may be prosecuted for an offence under this Act in relation to the same matter.
- (3) In imposing a sentence for an offence under this Act, the court may consider an administrative penalty imposed under this Division in relation to the same matter.

Time limit for imposing administrative penalty

- 424.34** Notice under this Division of an administrative penalty for a contravention must not be given more than 6 years after the date on which the act or omission that is alleged to constitute the contravention occurred.

19 Section 426 is amended by adding the following subsection:

- (4.2) A person who does either of the following commits an offence:
- (a) obstructs an inspection under section 424.16;
 - (b) fails to provide information required under section 399.41.

20 Section 430 is repealed and the following substituted:

Limitation period

- 430** A legal proceeding for an offence under this Act may not be commenced,
- (a) in the case of an offence relating to the registrar’s transparency register, more than 6 years after the commission of the offence, and
 - (b) in the case of any other offence, more than 3 years after the commission of the offence.

21 Section 431 is amended

- (a) **by striking out** “in respect of each matter set out in Column 1 of the Schedule to this Act, the fee set out opposite that matter in Column 2 of that Schedule” **and substituting** “in respect of each prescribed matter, the prescribed fee”, **and**
- (b) **by striking out** “and payment of the applicable fee is” **and substituting** “and payment of the applicable fee, or an agreement satisfactory to the registrar to pay the applicable fee, is”.

CLAUSE 22: *[Business Corporations Act, section 432]* adds regulation-making authority, consequential to amendments made by this Bill to the Act.

CLAUSE 23: *[Business Corporations Act, Schedule]* repeals the Schedule to the Act.

22 Section 432 is amended

(a) in subsection (9.2) by striking out “in Part 4.1” and substituting “in Part 4.1 or 11.1 or Division 3.2 or 3.3 of this Part”,

(b) in subsection (9.2) (a) by striking out “for different matters or things or for different classes of matters or things” and substituting “for different matters, things or persons or for different classes of matters, things or persons”, and

(c) by adding the following subsections:

(9.21) In this section, “**lawyer’s record**” means a record or part of a record to which all of the following apply:

(a) the record or part is in the possession of a lawyer;

(b) the record or part is about to be

(i) inspected or removed for the purposes of an inspection under section 424.16 or a warrant issued under section 424.18, or

(ii) seized for the purposes of an investigation of an offence under this Part;

(c) at the time the record or part is about to be inspected, removed or seized, the lawyer, in respect of that record or part, makes a claim of solicitor-client privilege for a client or former client.

(9.22) Without limiting any other subsection of this section, the Lieutenant Governor in Council may make regulations in relation to a lawyer’s record in accordance with subsection (9.23).

(9.23) For the purposes of section 424.19, the Lieutenant Governor in Council may make regulations in relation to a lawyer’s record as follows:

(a) establishing procedures for allowing a lawyer’s record to be retained or seized and held in a secure manner until

(i) the claim of solicitor-client privilege is waived by the lawyer’s client or former client, or

(ii) the claim is determined, or the lawyer’s record is otherwise dealt with, on application to the Supreme Court in accordance with the regulations;

(b) establishing a right to apply to the Supreme Court to resolve a claim of solicitor-client privilege regarding a lawyer’s record retained or seized under paragraph (a) and establishing how the court is to deal with such an application.

23 The Schedule to the Act is repealed.

Commencement

24 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 1 to 14	By regulation of the Lieutenant Governor in Council
3	Sections 16 to 23	By regulation of the Lieutenant Governor in Council