



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

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Bill 78
(2021, chapter 19)

**An Act mainly to improve the
transparency of enterprises**

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EXPLANATORY NOTES

This Act amends the Act respecting the legal publicity of enterprises mainly to improve the transparency of enterprises.

The Act provides that the enterprise registrar must take reasonable measures to optimize the reliability of the information contained in the enterprise register.

The Act requires registrants to declare certain information relating to the natural persons who are their ultimate beneficiaries, including their names, domiciles and dates of birth. In that regard, it establishes the conditions under which a natural person is considered to be an ultimate beneficiary and allows the Government to make regulations determining other conditions.

The Act adds the date of birth to the information required to be declared by a registrant about a natural person and allows a registrant to declare such a person's professional address so that the information relating to that person's domicile may not be consulted, except by a court bailiff in the practice of his or her profession.

The Act requires registrants to provide a copy of identification for each of the registrant's directors to the registrar.

The Act provides that a natural person's name may be part of a compilation of information or serve as the basis for a compilation, including for the purposes of a search in the enterprise register. However, it specifies that information that may not be consulted may not be part of such a compilation or serve as the basis for one.

The Act allows the Government to make regulations determining terms relating to the declaration of certain information concerning ultimate beneficiaries as well as the information contained in the enterprise register that may not be consulted.

The Act allows the Minister to make a regulation exempting a category of registrants from paying the registration fee.

The Act also amends the Act respecting parental insurance to retroactively grant recipients whose benefit period was in progress on 27 September 2020 a weekly benefit of \$500 for every week of benefits paid starting on that date.

Finally, the Act makes consequential amendments to the Regulation respecting the application of the Act respecting the legal publicity of enterprises, and contains amending, transitional and final provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting parental insurance (chapter A-29.011);
- Act respecting the legal publicity of enterprises (chapter P-44.1).

REGULATION AMENDED BY THIS ACT:

- Regulation respecting the application of the Act respecting the legal publicity of enterprises (chapter P-44.1, r. 1).

Bill 78

AN ACT MAINLY TO IMPROVE THE TRANSPARENCY OF ENTERPRISES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE LEGAL PUBLICITY OF ENTERPRISES

I. The Act respecting the legal publicity of enterprises (chapter P-44.1) is amended by adding the following chapter before Chapter I:

“CHAPTER 0.1

“PURPOSES AND DEFINITIONS

“**0.1.** This Act establishes the enterprise register and sets rules relating to the information required to be recorded in the register in order to optimize the reliability of that information and improve the transparency of enterprises.

The purpose of the Act is to enhance the protection of the public by providing public access to certain information contained in the register, particularly in the context of socio-economic relations.

A further purpose of the Act is to prevent and fight tax evasion, money laundering and corruption.

“**0.2.** For the purposes of this Act,

“government enterprise” means any enterprise listed in Schedule 3 to the Financial Administration Act (chapter A-6.001);

“legal person constituted in Québec” means a legal person constituted under the laws of Québec and includes, except for the purposes of the second paragraph of section 36, a legal person constituted under the laws of a jurisdiction other than Québec that is continued under the laws of Québec;

“registrant” means a person or group of persons registered voluntarily or any person, trust or partnership required to be registered.

“**0.3.** For the purposes of this Act, a government body includes

(1) any body referred to in the first paragraph of section 2 of the Financial Administration Act (chapter A-6.001);

(2) any body whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1); and

(3) the Commission de la construction du Québec.

In addition, persons designated by the National Assembly to exercise a function under its authority and municipal bodies referred to in section 5 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) are considered government bodies.

“0.4. In this Act, a natural person who meets any of the following conditions is considered to be an ultimate beneficiary of a registrant:

(1) the person is a holder, even indirectly, or beneficiary of a number of shares or units of the registrant conferring on the person the power to exercise 25% or more of the voting rights attached to the shares or units;

(2) the person is a holder, even indirectly, or beneficiary of a number of shares or units the value of which corresponds to 25% or more of the fair market value of all the shares or units issued by the registrant;

(3) the person has any direct or indirect influence that, if exercised, would result in control in fact of the registrant;

(4) the person is the general partner of the registrant or, if a general partner of the registrant is not a natural person, the person meets one of the conditions described in subparagraphs 1 and 3 or is a party to an agreement referred to in the second paragraph in respect of the general partner; or

(5) the person is the trustee of the registrant.

Where natural persons who are holders, even indirectly, or beneficiaries of shares or units of the registrant have agreed to jointly exercise the voting rights attached to the shares or units and the agreement confers on them, together, the power to exercise 25% or more of those voting rights, each of those natural persons is considered to be an ultimate beneficiary of the registrant.

In the case of a registrant who is a natural person operating a sole proprietorship, that person, unless the person declares otherwise, is presumed to be the only ultimate beneficiary of the registrant.

For the purposes of this section, a legal person acting as a trustee is considered to be a natural person.

To determine whether there has been influence within the meaning of subparagraph 3 of the first paragraph, sections 21.25 and 21.25.1 of the Taxation Act (chapter I-3) apply, with the necessary modifications.

The Government may make regulations determining other cases and conditions according to which a natural person is considered to be an ultimate beneficiary.

“0.5. In the case of a registrant that is a trust, other than a trust that issues units, the following are also considered to be ultimate beneficiaries of the registrant:

- (1) natural persons who are the registrant’s beneficiaries; and
- (2) if one of the beneficiaries is not a natural person, the ultimate beneficiaries of that beneficiary, and if that beneficiary is not a registrant, those determined as if that beneficiary were a registrant.

Where, in respect of a registrant, a trustee meets one of the conditions described in subparagraphs 1 to 3 of the first paragraph of section 0.4 or is a party to an agreement referred to in the second paragraph of that section, the beneficiaries of the trust administered by that trustee that meet one of the conditions described in subparagraphs 1 and 2 of the first paragraph or in subparagraphs 1 and 2 of the first paragraph of section 0.4 are also considered to be ultimate beneficiaries of the registrant.

Despite the preceding paragraphs, the beneficiaries of a trust whose interests are dependent on the death of another person are not considered to be ultimate beneficiaries of the trust.

“0.6. Where, in respect of a registrant, a limited partnership meets one of the conditions described in subparagraphs 1 and 2 of the first paragraph of section 0.4 or is a party to an agreement referred to in the second paragraph of that section, the natural persons who meet one of the conditions described in subparagraph 4 of the first paragraph of the same section in respect of the limited partnership are also considered to be ultimate beneficiaries of the registrant.

“0.7. For the purposes of sections 0.4 to 0.6, an entity, registered or not, that belongs to one of the following categories is considered to be a natural person:

- (1) the categories referred to in subparagraphs 1 to 7 of the fifth paragraph of section 33; or
- (2) the categories exempted by regulation of the Minister from declaring the information required under subparagraphs 2.1 and 2.2 of the second paragraph of section 33.”

2. Section 3 of the Act is amended

- (1) by replacing “register described in Chapter II” in paragraph 1 by “enterprise register”;

(2) by adding the following paragraph after paragraph 3:

“(4) taking reasonable measures to optimize the reliability of the information contained in the register.”

3. Section 18 of the Act is repealed.

4. Section 26 of the Act is amended by replacing “by regulation of the Minister” by “under subparagraph 1 of the second paragraph of section 148”.

5. Section 27 of the Act is amended by replacing “the information required under subparagraph 4 of the first paragraph of section 33 and” by “the domicile referred to in subparagraph 1 of the first paragraph of section 33 and the information required under”.

6. Section 31 of the Act is repealed.

7. Section 32 of the Act is amended by adding the following paragraph at the end:

“The Minister may make a regulation exempting a category of registrants from paying the fee referred to in the first paragraph subject to the conditions determined by the Minister.”

8. Section 33 of the Act is amended

(1) in the first paragraph,

(a) by striking out “Unless an exemption established by regulation of the Minister applies,” in the introductory clause;

(b) by replacing “the registrant’s name and” in subparagraph 1 by “the registrant’s name, domicile and, in the case of a natural person, date of birth as well as”;

(c) by striking out subparagraph 4;

(2) in the second paragraph,

(a) by inserting the following subparagraphs after subparagraph 2:

“(2.1) the names, domiciles and dates of birth of the ultimate beneficiaries and any other name used by the ultimate beneficiaries in Québec and by which they are identified as well as, according to the terms determined by regulation of the Government, the type of control exercised by each ultimate beneficiary or the percentage of shares or units each one holds or of which each one is a beneficiary;

“(2.2) the date on which an ultimate beneficiary became one, and that on which the ultimate beneficiary ceased to be one;”;

(b) by replacing all occurrences of “the names and domiciles” by “the names, domiciles and dates of birth”;

(3) by replacing “subparagraph 4” in the third paragraph by “subparagraph 1”;

(4) by adding the following paragraphs at the end:

“Registrants belonging to the following categories are exempted from declaring the information required under subparagraphs 2.1 and 2.2 of the second paragraph:

(1) non-profit legal persons established for a private interest;

(2) legal persons established in the public interest;

(3) reporting issuers within the meaning of the Securities Act (chapter V-1.1);

(4) financial institutions referred to in paragraphs 1 to 3 of section 4 of the Insurers Act (chapter A-32.1);

(5) trust companies governed by a provincial or federal statute or a statute of another province or territory of Canada;

(6) banks and authorized foreign banks listed in Schedules I, II and III to the Bank Act (Statutes of Canada, 1991, chapter 46); and

(7) associations within the meaning of the Civil Code.

The Minister may make regulations exempting a category of registrants from declaring certain information required under this section and under sections 34 to 35.1.”

9. Section 34 of the Act is amended by replacing both occurrences of “the name and domicile” and the occurrence of “the names and domiciles” in paragraph 1 by “the name, domicile and date of birth” and “the names, domiciles and dates of birth”, respectively.

10. Section 35 of the Act is amended by replacing “the names and domiciles” in paragraph 5 by “the names, domiciles and dates of birth”.

11. The Act is amended by inserting the following section after section 35.1:

“35.2. A registrant who must declare the domicile of a natural person under a provision of this Act may also declare a professional address for the natural person.

A natural person may have only one professional address for the purposes of this Act.”

12. The Act is amended by inserting the following section after section 39:

“**39.1.** A registrant who must declare information relating to the registrant’s ultimate beneficiaries must take the necessary measures to locate them and to ascertain their identities.

The same applies to any updating required by this Act for the information concerning those ultimate beneficiaries.”

13. Sections 41, 45 and 46 of the Act are amended by replacing “35.1” in the first paragraph by “35.2”.

14. The Act is amended by inserting the following section after section 68:

“**68.1.** The registrant must provide, for each of the registrant’s directors, a copy of identification issued by a government authority in support of any declaration or updating of information relating to the directors.

The copy of any identification filed in accordance with the first paragraph is kept by the registrar until the date of the registrant’s registration or of the updating of the register, as applicable. The copy is then destroyed in accordance with the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) and the Archives Act (chapter A-21.1).”

15. The Act is amended by inserting the following section after section 73:

“**73.1.** Despite section 73, if a registrant fails to comply with the obligation to update a professional address of a natural person, the registrant must make the required changes within 30 days after being requested to do so by the registrar.

A copy of the request is deposited in the register.

If the registrant fails to comply with the request, the information relating to the domicile declared for the person concerned may be consulted, provided the registrant does not again avail himself, herself or itself of the first paragraph of section 35.2.”

16. Section 98 of the Act is amended, in the first paragraph,

(1) by replacing “the registrant’s name and” in subparagraph 1 by “the registrant’s name and domicile as well as”;

(2) by striking out subparagraph 4;

(3) by inserting the following subparagraph after subparagraph 6.1:

“(6.2) the names and domiciles of the ultimate beneficiaries as well as the type of control exercised by each ultimate beneficiary or the percentage of shares or units each one holds or of which each one is a beneficiary;”;

(4) by striking out “, if applicable,” in subparagraph 7;

(5) by inserting the following subparagraph after subparagraph 7:

“(7.1) the date on which an ultimate beneficiary became one, and that on which the ultimate beneficiary ceased to be one;”;

(6) by adding the following subparagraph after subparagraph 17:

“(18) the professional address of a natural person.”

17. The Act is amended by inserting the following section after section 99:

“**99.1.** The following information contained in the register and that concerns a natural person may not be consulted:

(1) the person’s date of birth;

(2) the person’s domicile, if a professional address is declared for him or her under section 35.2; and

(3) the person’s name and domicile, if he or she is a minor and is an ultimate beneficiary of a registrant.

Despite the first paragraph, a court bailiff may, in the practice of his or her profession, consult the information relating to the domicile of any natural person.

The Government may make regulations determining any other information contained in the register that may not be consulted.”

18. Section 101 of the Act is amended by replacing the second paragraph by the following paragraphs:

“However, such a compilation may not, unless it is requested by a person or a body referred to in any of subparagraphs 1 to 3 and 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) or section 67 or 68 of that Act, for the purposes set out in those provisions,

(1) be based on information that may not be consulted under this Act or on an address of a natural person; or

(2) contain information that may not be consulted under this Act.

Despite the first paragraph, the registrar may provide free of charge to any person a compilation of information based on the name of the natural person.”

19. Section 102 of the Act is repealed.

20. Section 106 of the Act is amended

(1) by replacing “paragraph 2 of section 149” in the second paragraph by “subparagraph 3 of the second paragraph of section 148”;

(2) by inserting “and any other information that may not be consulted” at the end of the last paragraph.

21. Section 121 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“The Minister may enter into an agreement with a government department, body or enterprise to allow the registrar to communicate to the department, body or enterprise all or part of the information contained in the register and any subsequent updates.”;

(2) by replacing subparagraph 2 of the third paragraph by the following subparagraph:

“(2) make, for its own purposes, a compilation of information that, unless it is made for the purposes set out in any of subparagraphs 1 to 3 and 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) or section 67 or 68 of that Act,

(a) is based on information that may not be consulted under this Act or on an address of a natural person; or

(b) contains information that may not be consulted under this Act.”

22. Section 123 of the Act is amended by striking out the second paragraph.

23. Section 148 of the Act is amended by adding the following paragraph at the end:

“The Minister may also

(1) in respect of a province of Canada and provided there is reciprocity with that province, make a regulation exempting certain registrants from designating an attorney in accordance with section 26;

(2) make a regulation exempting a category of registrants from paying the fee referred to in the first paragraph of section 32 subject to the conditions determined by the Minister; and

(3) make a regulation exempting a category of registrants from declaring certain information required under sections 33 to 35.1.”

24. Section 149 of the Act is repealed.

25. Section 150 of the Act is amended

(1) by adding the following paragraph before paragraph 1:

“(0.1) the cases and conditions according to which a natural person is considered to be an ultimate beneficiary;”;

(2) by adding the following paragraphs at the end:

“(5) the terms relating to the declaration of the type of control exercised by each ultimate beneficiary or of the percentage of shares or units each one holds or of which each one is a beneficiary; and

“(6) the information contained in the register that may not be consulted.”

ACT RESPECTING PARENTAL INSURANCE

26. The Act respecting parental insurance (chapter A-29.011) is amended by inserting the following chapter after section 121.1:

“CHAPTER VII.1

“TEMPORARY MEASURES

“**121.2.** A recipient whose benefit period is in progress on 27 September 2020, and whose amount of weekly benefits determined pursuant to sections 18 and 21 is less than \$500 is entitled to an adjustment so that the weekly benefit payable to the recipient is \$500 for every week of benefits paid starting on that date until the end of the recipient’s benefit period.

“**121.3.** Where a recipient referred to in section 121.2 is entitled to a weekly lump sum determined under sections 44 to 49 of the Regulation under the Act respecting parental insurance (chapter A-29.011, r. 2), the amount is added to the adjusted weekly benefit referred to in section 121.2.

“**121.4.** In the event of the death of a recipient referred to in section 121.2, the benefits payable to the surviving parent under section 17 may not be less than \$500 per week.”

REGULATION RESPECTING THE APPLICATION OF THE ACT RESPECTING THE LEGAL PUBLICITY OF ENTERPRISES

27. Section 1 of the Regulation respecting the application of the Act respecting the legal publicity of enterprises (chapter P-44.1, r. 1) is amended by replacing “35.1” in subparagraph 1 of the first paragraph by “35.2”.

28. Section 5 of the Regulation is amended by replacing subparagraph 1 of the first paragraph by the following subparagraph:

“(1) the domicile referred to in subparagraph 1 of the first paragraph of section 33 of the Act and the information referred to in subparagraphs 1 and 8 of the second paragraph of that section;”.

TRANSITIONAL AND FINAL PROVISIONS

29. A registrant is not required to declare the date of birth of any person or the information relating to the person’s ultimate beneficiaries under sections 33 to 35 of the Act respecting the legal publicity of enterprises (chapter P-44.1), as amended by sections 8 to 10, before filing a first annual update after the date of coming into force of the provisions under which that information is required.

The same applies in respect of the registrant’s obligation to provide, for each of the registrant’s directors, a copy of identification issued by a government authority in support of any declaration concerning the directors.

30. The provisions of the Regulation respecting the application of the Act respecting the legal publicity of enterprises (chapter P-44.1, r. 1) made under section 149 of the Act respecting the legal publicity of enterprises are deemed to have been made under the second paragraph of section 148 of that Act.

31. The Minister of Employment and Social Solidarity must, not later than 90 days after five years from the date of coming into force of section 1 of this Act, report to the Government on the implementation of the provisions of the Act respecting the legal publicity of enterprises relating to ultimate beneficiaries and, if applicable, on the advisability of amending, in particular, the 25% threshold prescribed by section 0.4 of that Act.

The report is tabled in the National Assembly by the Minister within 30 days or, if the Assembly is not sitting, within 30 days of resumption.

32. The provisions of sections 121.2 to 121.4 of the Act respecting parental insurance (chapter A-29.011), enacted by section 26, have effect from 27 September 2020.

33. The provisions of this Act come into force on the date or dates to be determined by the Government, except the provisions of sections 26 and 32, which come into force on 8 June 2021.

