AN ACT MAINLY TO IMPROVE THE TRANSPARENCY OF ENTERPRISES

Bill 78 | Fasken can help you comply

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Own tomorrow

On March 31, 2023, *An Act mainly to improve the transparency of enterprises* (Bill 78) will come into force*.

The Bill amends the Act respecting the legal publicity of enterprises (ALPE) to maximize the transparency of companies registered in Québec, strengthen the public protection and contribute to actions aimed at preventing and combatting tax evasion, money laundering and corruption.

Conclusion: registrants must report additional information.

Fasken has prepared a summary of your new obligations in this regard to guide your actions.

Key Dates

June 8, 2021
Bill 78 is assented

March 31, 2023
The Act comes into force

March 31, 2024
Searching the REQ using a person's first and last name

Who are the registrants?

Any company (Québec, Canadian or foreign) that is voluntarily registered or required to be registered under the ALPE:

- ✓ joint stock companies;
- ✓ natural persons operating a sole proprietorship;
- ✓ partnerships (e.g., limited partnerships, general partnerships);
- ✓ cooperatives, with the exception of financial services cooperatives;
- ✓ trusts carrying on a business.

On the horizon – Time limit for complying

Once Bill 78 comes into force, the registrants must comply with the new rules when they file their Annual Updating Declarations to the Registraire des entreprises du Québec (REQ).

*With the exception of sections 26 and 32, relating to the *Act respecting parental insurance*, which came into force on June 8, 2021.

The new obligations

Reportable information on ultimate beneficiaries

For each ultimate beneficiary, the registrants will have to declare the name, residential address, date of birth, as well as the type of control exercised or the percentage of shares or units held to the REQ.

Reportable information for officers and directors

In the case of directors, officers and partners, in addition to the names and residences that were already required to be declared to the REQ, the persons covered will now have to declare dates of birth. An identity document of the directors in office must also be provided. This information will not be public.

Declare a business address

In addition to declaring the home address, the registrants will now also be able to declare the business address of natural persons, in which case only the latter will be published in the company register.



What do we mean by “ultimate beneficiary”?

“A natural person who has a right to benefit from a portion of the income or assets of an enterprise or a right to direct or influence the activities of such an enterprise.” This person:

- ✓ holds, directly or indirectly, 25% or more of the voting rights (alone or in a group);
- ✓ directly or indirectly owns 25% or more of the fair market value;
- ✓ has influence that could result in de facto control.

Exemption from reporting ultimate beneficiaries

The following registrants are exempt from reporting their ultimate beneficiaries:

- a legal person established in the public interest;
- a non-profit legal entity;
- a reporting issuer;
- a financial institution;
- a trust company governed by a provincial or federal statute, or by a statute of another province or territory of Canada;
- a bank or an authorized foreign bank;
- an association.

On the horizon – Consequences

Failure to comply with the new obligations could result in penalties of up to **$25,000**, in addition to **automatic deregistration**. This type of non-compliance can also cause significant damage to your company’s reputation.

On the cutting edge of legal developments

We have the expertise to support you in this transition. In addition, Fasken's team provides you with a number of resources to help you better understand the upcoming legislative changes.

Fasken has centralized the entire body of documentation relating to the Act. Access the Resource Centre here.

Are you interested in new development on the legal front?

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