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

BILL 4

FINANCE STATUTES AMENDMENT ACT, 2023

Honourable Katrine Conroy
Minister of Finance

Explanatory Notes

CLAUSE 1: *[Pension Benefits Standards Act, section 70]* provides that pension payments may be subject to an order of preservation, forfeiture or other enforcement under the *Securities Act*.

BILL 4 – 2023

FINANCE STATUTES 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:

Pension Benefits Standards Act

1 Section 70 of the Pension Benefits Standards Act, S.B.C. 2012, c. 30, is amended

(a) by repealing subsection (4) and substituting the following:

- (4) Despite subsection (1), a payment, return or withdrawal referred to in subsection (4.1) may be attached
- (a) by a notice of attachment under section 15 of the *Family Maintenance Enforcement Act*, an order of garnishment under section 18 (2) of that Act or an attachment order under section 24 of that Act,
 - (b) by a preservation order or a forfeiture order under Part 18.1 of the *Securities Act*, or
 - (c) in furtherance of any other process to enforce an order under the *Securities Act*.

(b) by adding the following subsection:

- (4.1) For the purposes of subsection (4), the following may be attached:
- (a) any payment in the series of payments that constitutes a pension;
 - (b) a payment under section 57 (4) (a) or (6) (b);
 - (c) a return of a contribution under section 59;
 - (d) a withdrawal, a payment or any payments in a series of payments under section 69 (1), (2), (3) or (4);
 - (e) any payment under section 76;
 - (f) any payment that forms part of a phased retirement benefit within the meaning of section 83 (1).

(c) in subsection (5) (c) by striking out “the execution, seizure or attachment is by” and substituting “the execution, seizure or attachment is by or in furtherance of”,

(d) in subsection (5) (c) (i) by striking out “subsection (4), or” and substituting “subsection (4) (a),”, and

CLAUSE 1: *[Pension Benefits Standards Act, section 70 – continued]*

CLAUSE 2: *[Pooled Registered Pension Plans Act, section 9]* provides that pension payments may be subject to an order of preservation, forfeiture or other enforcement under the *Securities Act*.

CLAUSE 3: *[Securities Act, section 1]* repeals the definition of “portfolio security”.

CLAUSE 4: *[Securities Act, section 32]* repeals the requirement for exchanges to appoint auditors from among a panel of auditors.

CLAUSE 5: *[Securities Act, section 83]*

- authorizes regulations providing for alternative means of information disclosure;
- removes an inoperative provision;
- authorizes regulations prescribing the period within which an investor may cancel a purchase of securities.

(e) in subsection (5) (c) by striking out “or” at the end of subparagraph (ii) and by adding the following subparagraphs:

- (iii) a preservation order or a forfeiture order referred to in subsection (4) (b), or
- (iv) a process referred to in subsection (4) (c), or .

Pooled Registered Pension Plans Act

- 2 Section 9 (4) of the Pooled Registered Pension Plans Act, S.B.C. 2014, c. 17, is amended by striking out “or an attachment order under section 24 [attachment orders] of that Act” and substituting “, an attachment order under section 24 [attachment orders] of that Act, a preservation order or a forfeiture order under Part 18.1 of the Securities Act, or in furtherance of any other process to enforce an order under the Securities Act”.**

Securities Act

- 3 Section 1 (1) of the Securities Act, R.S.B.C. 1996, c. 418, is amended by repealing the definition of “portfolio security”.**
- 4 Section 32 is amended**
- (a) by repealing subsection (1),**
 - (b) by repealing subsection (3) and substituting the following:**
 - (3) Each member of a self-regulatory body must appoint an auditor from the panel appointed under subsection (2). ,**
 - (c) in subsection (4) (a) (i) by striking out “or exchange”, and**
 - (d) in subsection (4) (b) by striking out “or exchange, as the case may be”.**
- 5 Section 83 is amended**
- (a) in subsection (1) by striking out “, subject to the regulations,” and by adding “or otherwise disclose in the prescribed manner” after “send to the purchaser”,**
 - (b) by repealing subsection (2), and**
 - (c) in subsection (3) by striking out “not later than 2 business days after receipt by the purchaser of the latest prospectus, any amendment to the prospectus or another prescribed document, that the purchaser is entitled to receive under this Act” and substituting “within the prescribed period”.**

- CLAUSE 6: *[Securities Act, section 85]* enables disclosure regulations to be made in respect of issuers that are not reporting issuers.
- CLAUSE 7: *[Securities Act, section 130.1]* empowers the commission to exempt a mutual fund from a self-dealing transaction requirement if an independent committee has been created to review the transaction by the mutual fund.
- CLAUSE 8: *[Securities Act, section 135]* is consequential to the amendment made by this Bill to section 83 of the Act.
- CLAUSE 9: *[Securities Act, section 157]* empowers the commission to apply for a compliance order in respect of *Criminal Code* offences.
- CLAUSE 10: *[Securities Act, section 161]* empowers the commission or its executive director to apply for an enforcement order if a person does not comply with a commission summons or demand.
- CLAUSE 11: *[Securities Act, section 162]* authorizes an administrative penalty if a person refuses to comply with a summons or demand under section 144 (1) of the Act.

- 6 **Section 85 is amended by striking out “A reporting issuer” and substituting “An issuer”.**
- 7 **Section 130.1 is amended by striking out “A prescribed requirement of this Part does not apply” and substituting “A prescribed requirement of this Part, or of the regulations related to this Part, does not apply”.**
- 8 **Section 135 (a) is amended by striking out “required under section 83 to be sent” and substituting “required under section 83 to be sent or otherwise disclosed” and by striking out “was not sent or was not filed” and substituting “was not sent or otherwise disclosed under section 83 or filed”.**
- 9 **Section 157 is amended**
- (a) by adding the following subsection:**
- (0.1) The commission may apply to the Supreme Court for one or more of the orders referred to in subsection (1) if the commission considers that it is in the public interest to do so and that a person
- (a) has contravened or is contravening a provision of this Act or of the regulations,
 - (b) has failed to comply with or is not complying with a decision, or
 - (c) has been convicted of an offence under the *Criminal Code* arising from a transaction, business or course of conduct related to securities or derivatives. , **and**
- (b) in subsection (1) by striking out everything before paragraph (a) and substituting “In addition to any other powers it may have, the commission may, in the circumstances set out in subsection (0.1), apply to the Supreme Court for one or more of the following orders:”.**
- 10 **Section 161 is amended by adding the following subsection:**
- (6.1) The commission or the executive director may, after providing an opportunity to be heard, make an order under subsection (1) (b), (c), (d), (e), (f) or (j) in respect of a person if the person has failed or refused to comply with a summons or demand under section 144 (1).
- 11 **Section 162 is amended by adding the following subsection:**
- (3) If the commission, after a hearing, determines that a person named in a summons or demand under section 144 (1) has failed or refused
- (a) to attend,
 - (b) to take an oath,
 - (c) to answer questions,

CLAUSE 11: *[Securities Act, section 162 – continued]*

CLAUSE 12: *[Securities Act, section 162.03]* makes amendments consequential to an amendment made by this Bill to section 162.04 of the Act.

CLAUSE 13: *[Securities Act, section 162.04]*

- clarifies that a person must pay an administrative penalty or dispute an alleged contravention or administrative penalty within the period in the notice;
- clarifies that a person that pays an administrative penalty or fails to dispute a contravention or an administrative penalty within the period in the notice is deemed to have committed the contravention.

- (d) to preserve records and things or classes of records and things in the custody, possession or control of the person, or
- (e) to provide information or to produce the records and things or classes of records and things in the custody, possession or control of the person, the commission may, if the commission considers it to be in the public interest to make the order, order the person to pay the commission an administrative penalty of not more than \$1 million.

12 Section 162.03 is amended

- (a) in paragraphs (a) and (b) by adding “alleged” before “contravention”, and**
- (b) in paragraph (e) by striking out “the person will be deemed to have committed the contravention” and substituting “the person will be deemed to have committed the alleged contravention”.**

13 Section 162.04 is amended

(a) by repealing subsection (1) and substituting the following:

- (1) A person to which a notice of administrative penalty has been given must, within 30 days of the date set out in the notice or within any longer period that the executive director may specify, do either of the following:
 - (a) pay the administrative penalty;
 - (b) give written notice to the executive director requesting an opportunity to be heard to dispute the alleged contravention or the amount of the administrative penalty. ,

(b) in subsection (2) by striking out “a contravention” and substituting “an alleged contravention”,

(c) by adding the following subsection:

- (2.1) A person is deemed to have committed an alleged contravention set out in the notice if any of the following applies:
 - (a) the person pays the administrative penalty;
 - (b) the person fails to, within the 30-day period referred to in subsection (1) or, if applicable, any longer period specified by the executive director under subsection (1),
 - (i) pay all of the administrative penalty, or
 - (ii) give written notice to the executive director requesting an opportunity to be heard to dispute the alleged contravention or the amount of the administrative penalty. ,

CLAUSE 13: *[Securities Act, section 162.04 – continued]*

CLAUSE 14: *[Securities Act, section 163]* is consequential to the amendment made by this Bill to section 162.04 of the Act.

CLAUSE 15: *[Securities Act, section 163]* is consequential to the amendment made by this Bill to section 162.04 of the Act.

CLAUSE 16: *[Securities Act, section 183]* empowers the commission to

- regulate credit ratings, and
- regulate auditors of persons registered or required to be registered under the Act.

CLAUSE 17: *[Securities Act, section 187]* allows the commission to designate a credit rating for the purposes of a rule.

(d) in subsection (3) (a) by striking out “each contravention” and substituting “each alleged contravention”, and

(e) in subsection (3) (b) by striking out “a contravention” and substituting “an alleged contravention”.

14 Section 163 (1.01) is amended

(a) by striking out “If the executive director has issued a notice under section 162.01, or made an order under section 162.04,” and substituting “If the executive director has issued a notice under section 162.01 or made an order under section 162.04, or the commission has made a decision under section 165 (4) in respect of an order under section 162.04,”, and

(b) by striking out “or” at the end of paragraph (a), by adding “, or” at the end of paragraph (b) and by adding the following paragraph:

(c) in the case of a decision under section 165 (4) in respect of an order under section 162.04, a certified copy of the decision.

15 Section 163 (2) is amended by striking out “On being filed under subsection (1), (1.01), (1.1) or (1.2), the decision” and substituting “Upon filing, a decision referred to in subsection (1), (1.1) or (1.2) or a notice, order or decision referred to in subsection (1.01)”.

16 Section 183 is amended

(a) by repealing paragraph (9.1) and substituting the following:

(9.1) respecting any matter necessary or advisable to regulate credit rating organizations or a class of credit rating organizations;

(9.2) referring to a credit rating or credit rating organization, or a class of credit ratings or class of credit rating organizations, designated by the commission; , and

(b) in paragraph (17.1) by striking out “auditors of reporting issuers” and substituting “auditors of registrants or reporting issuers, including a condition relating to, or requiring membership in, one or more self-regulatory bodies specified in the regulation”.

17 Section 187 (1) (c.1) (iv) is repealed and the following substituted:

(iv) a credit rating, credit rating organization, class of credit ratings or class of credit rating organizations for the purposes of a rule contemplated by section 183 (9.2), or .

Commencement

18 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 4	By regulation of the Lieutenant Governor in Council
3	Section 5 (a) and (c)	By regulation of the Lieutenant Governor in Council
4	Sections 6 to 17	By regulation of the Lieutenant Governor in Council