

Proclamation by the Government of Alberta removes director residency requirements

By Robyn Finley and Colleen Konkin

On March 24, 2021 portions of Bill 22: *The Red Tape Reduction Implementation Act (Bill 22)* were proclaimed, and the corresponding amendments to the legislation introduced by Bill 22 came into force on March 29, 2021. Among the legislative amendments that became law was the removal of the requirement that at least 25% of the directors of corporations registered under the *Business Corporations Act (Alberta)* RSA 2000 c. B-9 (the **ABCA**) and the *Companies Act* RSA 2000 c. C-21, (the **Companies Act**) be residents in Alberta.

Bill 22 received Royal Assent on July 23, 2020 and forms part of the Government of Alberta's efforts to reduce inefficient regulations and barriers to entry in Alberta, to promote investment and to make Alberta more competitive with other provinces. Bill 22 is omnibus legislation that amends 14 different statutes. These amendments will become law as they are proclaimed.

Director residency requirement removed

The amendments effected through the proclamation primarily pertained to the corporate governance requirements of the ABCA and the *Companies Act*. Most notably, Sections 105(3) of the ABCA and 90(1) of the *Companies Act* were repealed, with the effect of eliminating the requirement that one quarter of directors of enterprises governed by the ABCA or the *Companies Act* be resident in Alberta. This reform aligns Alberta with other Canadian jurisdictions that do not have director residency requirements, including British Columbia, and creates an advantage over provinces that retain residency requirements, such as Ontario.

Frequently, when companies controlled by non-Albertans incorporate to do business in the province, they opt to incorporate in another province without residency requirements, and then extra-provincially register in Alberta. Bill 22 has removed the need for this step.

Agent for service requirement for all corporations and non-profits

The latest proclamation of Bill 22 also introduced a requirement for an "agent for service" in a new Section 20.1 of the ABCA for all new companies incorporated in Alberta, as well as existing corporations, non-profit corporations, and those that undergo amalgamation, continuances, and revivals. The *Companies Act*, which applies to not-for-profit organizations, was also amended to include the same "agent for service" requirement in a new Section 29.1. An agent for service must:

- be resident in Alberta;
- have a publically accessible office during normal business hours that is readily identifiable; and
- notify the Registrar at least 60 days prior to resigning as the agent of service.

Existing corporations have a one-year grace period to appoint an agent for service and notify the Registrar. If enterprises subject to the ABCA or the *Companies Act* do not appoint an agent for service by March 29, 2022, the Registrar may dissolve the corporation.

Prior to the introduction of Bill 22, corporations incorporated in other jurisdictions that were registered in Alberta were required to appoint an attorney for service, pursuant to Section 280(2)(c) of the ABCA. The new agent for service requirement effectively universalizes this requirement. Going forward, all entities governed by the ABCA must appoint an Alberta-based agent. Under the ABCA, current references to attorneys for service will be redefined as agents for service, through the amendments to Part 21 and contained in Bill 22.

For further information on the corporate governance changes brought about by Bill 22, see our previous bulletin [here](#). The changes to the Partnership Act RSA 2000 c P-3 described in this update have not yet been proclaimed into force. We will continue to publish articles as more information becomes available. For assistance with corporate updates to reflect new legislative changes, please contact the authors or a member of our [corporate team](#). This bulletin is general information only, not legal advice.

