

chapter C-38

**COMPANIES ACT**



*The Business Corporations Act (chapter S-31.1) replaces Parts I and IA of this Act.*

*However, Parts I and IA continue to have effect insofar as they are necessary for the purposes of Parts II and III of this Act or for the purposes of any other Act that provides for their application.*

*Likewise, Part I continues to have effect until 14 February 2016 in respect of any company constituted, continued or resulting from an amalgamation under Part I before 14 February 2011.*

*See 2009, c. 52, s. 728.*

2009, c. 52, s. 728.

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**REPEAL SCHEDULES**

PRELIMINARY PROVISIONS

1979, c. 31, s. 1.

**1.** The Minister of Finance is responsible for the administration of this Act except the provisions relating to the responsibilities of the enterprise registrar, which are administered by the Minister of Employment and Social Solidarity.

R. S. 1964, c. 271, s. 1; 1969, c. 26, s. 26; 1975, c. 76, s. 11; 1977, c. 5, s. 14; 1979, c. 31, s. 1; 1981, c. 9, s. 24; 1982, c. 52, s. 118; 2006, c. 38, s. 17; 2016, c. 29, s. 26.

**1.1.** *(Repealed).*

1979, c. 31, s. 1; 1982, c. 52, s. 118; 2002, c. 45, s. 278; 2006, c. 38, s. 18.

**1.2.** The enterprise registrar is the custodian of all registers and archives required for carrying out the administration of this Act.

He may issue copies thereof over his signature.

1979, c. 31, s. 1; 1982, c. 52, s. 118; 2002, c. 45, s. 278.

**2.** *(Repealed).*

R. S. 1964, c. 271, s. 2; 1969, c. 26, s. 26; 1975, c. 76, s. 11; 1979, c. 31, s. 1; 1982, c. 52, s. 118; 1993, c. 48, s. 228.

**2.1.** *(Repealed).*

1979, c. 31, s. 1; 1982, c. 52, s. 118; 1993, c. 48, s. 228.

**2.2.** *(Repealed).*

1979, c. 31, s. 1; 1982, c. 52, s. 118; 1993, c. 48, s. 228.

**2.3.** *(Repealed).*

1979, c. 31, s. 1; 1982, c. 52, s. 118; 1993, c. 48, s. 228.

**2.4.** The enterprise registrar may accept a copy of every document that, under the terms of this Act, must be sent to him.

1979, c. 31, s. 1; 1981, c. 9, s. 24; 1982, c. 52, s. 118; 2002, c. 45, s. 278.

**2.5.** The certificates issued by the enterprise registrar and the copies of the articles attached thereto are authentic.

The signature of the enterprise registrar on copies of documents, registers and archives is proof of the fact that these documents exist and are lawfully in his possession.

Any copy signed by the enterprise registrar is equivalent to the original itself in any court of justice, and any document or copy purporting to bear his signature is presumed to do so.

1979, c. 31, s. 1; 1982, c. 52, s. 118; 1993, c. 48, s. 229; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**2.6.** *(Repealed).*

1979, c. 31, s. 1; 1982, c. 52, s. 118; 1993, c. 48, s. 230.

**2.7.** The documents issued by the enterprise registrar under this Act may be written, typewritten or printed on ordinary paper.

1979, c. 31, s. 1; 1982, c. 52, s. 118; 2002, c. 45, s. 278.

**2.8.** *(Replaced).*

1979, c. 31, s. 1; 1982, c. 52, s. 118.

## PART I

### CONSTITUTION OF JOINT STOCK COMPANIES AS LEGAL PERSONS BY LETTERS PATENT



*The Business Corporations Act (chapter S-31.1) replaces Parts I and IA of this Act.*

*However, Parts I and IA continue to have effect insofar as they are necessary for the purposes of Parts II and III of this Act or for the purposes of any other Act that provides for their application.*

*Likewise, Part I continues to have effect until 14 February 2016 in respect of any company constituted, continued or resulting from an amalgamation under Part I before 14 February 2011.*

*See 2009, c. 52, s. 728.*

1999, c. 40, s. 70; 2009, c. 52, s. 728.

## DIVISION I

### INTERPRETATION

**3.** In this Part, in any constituting act, in regulations made by the Government and in by-laws made by a company, unless the context indicates otherwise,

- (1) the word “company” means any company to which this Part applies;
- (2) the expression “other company” means a company constituted as a legal person in any manner whatever;
- (3) the word “undertaking” means the business of every kind which the company is authorized to carry on;
- (4) the word “shareholder” means every subscriber to or holder of stock in the company, and includes the representatives of the shareholder;
- (5) the word “manager” includes also the cashier, the secretary, the treasurer and the secretary-treasurer;
- (6) *(subparagraph repealed);*
- (7) *(subparagraph repealed);*
- (8) the word “register” means the register referred to in Chapter II of the Act respecting the legal publicity of enterprises (chapter P-44.1).

Section 123.3 applies for the purpose of determining whether a company has made a distribution to the public of its securities.

R. S. 1964, c. 271, s. 3; 1969, c. 26, s. 27; 1975, c. 76, s. 11; 1980, c. 28, s. 3; 1981, c. 9, s. 24; 1982, c. 52, s. 119; 1993, c. 48, s. 231; 1999, c. 40, s. 70; 2010, c. 7, s. 282.



**3.1.** In this Part, “constituting act” means, as the case may be, the memorandum of agreement, letters patent, supplementary letters patent and by-laws made under sections 21 and 87 or, where the provision applies to companies governed by Part IA, the articles of these companies, together with the certificate contemplated in paragraph 2 of section 123.15, the documents contemplated in section 123.14 and the notice contemplated in section 123.36.

1979, c. 31, s. 2; 1980, c. 28, s. 4; 1993, c. 48, s. 232; 1999, c. 40, s. 70.

## DIVISION II

### APPLICATION OF PART I

**4.** (1) This Part shall apply,—

(a) to every company constituted as a legal person under it;

(b) to every company incorporated under Part I of chapter 223 of the Revised Statutes, 1925, or of chapter 276 of the Revised Statutes, 1941, or of chapter 271 of the Revised Statutes, 1964;

(c) to every company incorporated under Part I of The Québec Companies Act, 1920, as enacted by chapter 72 of the statutes of 1919-1920;

(d) to every company in existence at the date of the coming into force of chapter 72 of the statutes of 1919-1920, and incorporated by letters patent under any law of Québec at any date whatsoever before the coming into force of the said Act for any purpose other than trust business;

(e) to every company in existence at the said date, incorporated under any special or general Act, and which had subsequently obtained letters patent authorizing it to carry on business under the purview of chapter 48 of the statutes of 1907, or articles 6002 to 6090 of the Revised Statutes, 1909;

(f) to every corporation incorporated without share capital under the provisions of Part III of The Québec Companies Act, 1920, or of chapter 223 of the Revised Statutes, 1925, or of chapter 276 of the Revised Statutes, 1941, or of chapter 271 of the Revised Statutes, 1964, or under a general or special Act, and which, after the creation of a capital divided into shares, has obtained supplementary letters patent under Part I of The Québec Companies Act, 1920, or of chapter 223 of the Revised Statutes, 1925, or of chapter 276 of the Revised Statutes, 1941, or of chapter 271 of the Revised Statutes, 1964;

(g) to every corporation incorporated without share capital under the provisions of Part III of The Québec Companies Act, 1920, of chapter 223 of the Revised Statutes, 1925, or of chapter 276 of the Revised Statutes, 1941, or of chapter 271 of the Revised Statutes, 1964, or of this Act, or under a general or special Act, and which, after the creation of a capital divided into shares, obtains supplementary letters patent under the provisions of this Part.

(2) If it be necessary for the proper working of any joint stock company, created under an Act prior to the coming into force of The Québec Companies Act, 1920, that amendments be made to its charter, the enterprise registrar may issue supplementary letters patent amending the charter of such company, which letters patent shall be granted on the petition of the president and secretary of the company, accompanied by a resolution of the board of directors authorizing the application. The enterprise registrar shall deposit such letters patent in the register; the company’s charter is modified from the date of deposit.

R. S. 1964, c. 271, s. 4; 1966-67, c. 72, s. 23; 1969, c. 26, s. 28; 1972, c. 61, s. 1; 1974, c. 70, s. 426; 1975, c. 76, s. 11; 1980, c. 28, s. 5; 1981, c. 9, s. 24; 1982, c. 52, s. 120; 1993, c. 48, s. 233; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

## **DIVISION III**

### **PRELIMINARIES**

**5.** No constituting act of a company may be held voidable solely on account of any irregularity in the observance of the prescribed formalities.

R. S. 1964, c. 271, s. 5; 1979, c. 31, s. 3; 1999, c. 40, s. 70.

## **DIVISION IV**

### **FORMATION OF NEW COMPANIES**

**6.** The enterprise registrar may, by letters patent under his hand and seal, grant a charter to any number of persons, not less than three, who apply therefor, constituting such persons, and others who have become subscribers to the memorandum of agreement hereinafter mentioned and who thereafter become shareholders in the company thereby created, a legal person, for any of the purposes or objects to which the legislative authority of Québec extends.

The letters patent issued by the enterprise registrar under his hand and seal shall have the same effect as if they were issued by the Government under the Great Seal.

R. S. 1964, c. 271, s. 6; 1969, c. 26, s. 29; 1974, c. 70, s. 427; 1982, c. 52, s. 138; 1987, c. 95, s. 375; 1993, c. 75, s. 44; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**7.** The applicants must be 18 years of age.

They shall file with the enterprise registrar an application setting forth the following particulars:

- (1) the name of the company;
- (2) the purpose or purposes for which its constitution as a legal person is sought;
- (3) the place within Québec where its head office is to be situated;
- (4) the proposed amount of its capital stock;
- (5) the number of shares and the amount of each share;
- (6) the name in full and the address and calling of each of the applicants, with special mention of the names of not less than three of their number, who are to be the first or provisional directors of the company;
- (7) the amount of stock taken by each applicant.

In addition, the application shall be accompanied with a research report on the names of persons, partnerships or groups used and entered in the register.

R. S. 1964, c. 271, s. 7; 1966-67, c. 72, s. 23; 1975, c. 76, s. 11; 1977, c. 5, s. 14; 1979, c. 31, s. 4; 1981, c. 9, s. 24; 1982, c. 52, s. 121; 1993, c. 48, s. 234; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**8.** The application may ask for the embodying in the letters patent of any provision which, under this Part, might be made by by-law of the company or by by-law of the directors approved by a vote of the shareholders; and such provision so embodied shall not, unless provision to the contrary be made in the letters patent, be subject to repeal or alteration by by-law.

The application and a memorandum of agreement shall be drawn up on the form supplied for that purpose or authorized by the enterprise registrar.

Before the letters patent are issued, the applicants shall establish, to the satisfaction of the enterprise registrar, the sufficiency of their application and memorandum of agreement, and the truth and sufficiency of the facts therein set forth, and that the proposed name complies with the requirements of paragraphs 1 to 6 and 8 of section 9.1; and for that purpose the enterprise registrar shall take and keep on record any requisite evidence in writing, given under oath.

R. S. 1964, c. 271, s. 8; 1966-67, c. 72, s. 23; 1972, c. 61, s. 2; 1979, c. 31, s. 5; 1982, c. 52, s. 138; 1993, c. 48, s. 235; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**9.** The letters patent shall recite such of the established averments in the application and memorandum of agreement as the enterprise registrar thinks proper.

R. S. 1964, c. 271, s. 9; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 2002, c. 45, s. 278.

**9.1.** The company's name must not

- (1) contravene the Charter of the French language (chapter C-11);
- (2) include an expression which the law or the regulations reserve for another person or prohibit the company from using;
- (3) include an expression that evokes an immoral, obscene or offensive notion;
- (4) incorrectly indicate the company's juridical form or fail to indicate such form where so required by law;
- (5) falsely suggest that the company is a non-profit group;
- (6) falsely suggest that the company is, or is related to, a public authority mentioned in the regulation;
- (7) falsely suggest that the company is related to another person, partnership or group, in particular in the cases and taking into account the criteria determined by regulation;
- (8) be identical to a name used by another person, partnership or group in Québec, taking into account, in particular, the criteria determined by regulation;
- (9) lead to confusion with a name used by another person, partnership or group in Québec, taking into account, in particular, the criteria determined by regulation;
- (10) be liable, in whatever manner, to mislead third persons.

1993, c. 48, s. 236; 1999, c. 40, s. 70.

**9.2.** Upon application and on payment of the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1), the enterprise registrar may reserve a name for the time determined therein.

Upon application and on payment of the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1), he may also carry out a search and draw up a research report on the names of persons, partnerships or groups used and entered in the register.

1993, c. 48, s. 236; 1999, c. 40, s. 70; 2002, c. 45, s. 278; 2010, c. 7, s. 207.

**10.** The enterprise registrar may give to the company a name different from that proposed by the applicants, if it is not in conformity with any of paragraphs 1 to 6 or 8 of section 9.1.

R. S. 1964, c. 271, s. 10; 1969, c. 26, s. 30; 1979, c. 31, s. 6; 1982, c. 52, s. 138; 1993, c. 48, s. 237; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**10.1.** The enterprise registrar shall refuse to issue letters patent if the application is not accompanied with the research report prescribed in the third paragraph of section 7.

1993, c. 48, s. 238; 2002, c. 45, s. 278.

**11.** Immediately after the granting of the constituting act, the enterprise registrar shall deposit the deed in the register; and, subject to such deposit, but from the date of the constituting act, the persons therein named, and such persons as have become subscribers to the memorandum of agreement or who thereafter become shareholders in the company, shall be a legal person, by the name mentioned in the constituting act .

R. S. 1964, c. 271, s. 11; 1966-67, c. 72, s. 23; 1972, c. 61, s. 3; 1975, c. 76, s. 11; 1979, c. 31, s. 7, s. 8; 1981, c. 9, s. 24; 1982, c. 52, s. 138; 1993, c. 48, s. 239; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**12.** Whenever the letters patent contain any misnomer, misdescription or other clerical error, the enterprise registrar may, if there be no adverse claim, direct such letters patent to be corrected or to be cancelled, and correct ones to be issued in their stead.

The new or corrected letters patent shall be deposited in the register by the enterprise registrar. They have effect from the date of deposit of the original letters patent, subject to the acquired rights of third persons.

R. S. 1964, c. 271, s. 12; 1966-67, c. 72, s. 23; 1972, c. 61, s. 4; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 138; 1993, c. 48, s. 240; 2002, c. 45, s. 278.

## DIVISION V

### COMPANIES HAVING SHARES WITHOUT ANY NOMINAL OR PAR VALUE

**13.** (1) The authorized capital of a company, except redeemable shares or shares having priority as to capital, may consist in whole or in part of shares without par value.

(2) When the authorized capital of a company includes shares without par value, its paid-up capital, with respect to such shares, shall be an amount equal to the aggregate of the consideration received by the company for such of such shares as are issued.

(3) Each share without par value shall be equal to every other similar share of the capital stock, subject to the preferred or special rights, conditions or limitations attaching to any class of shares.

(4) Every certificate for shares without par value shall state on its face, in legible written or printed characters, the number of shares which it represents and the number of such shares which the company is authorized to issue, and such certificate shall not mention any par value for such shares.

(5) In the absence of other provisions in that respect in the constituting act or by-laws of the company, the shares without par value may be issued and allotted from time to time for such consideration, payable in cash, property or services, as may be fixed by the board of directors of the company; and all shares so issued shall be deemed fully paid upon receipt by the company of the consideration for their issue and allotment, and the holder of such shares shall not be liable to the company or its creditors in respect thereof.

R. S. 1964, c. 271, s. 13; 1979, c. 31, s. 8; 1999, c. 40, s. 70.

## DIVISION VI

### EXISTING COMPANIES

**14.** (1) Any company incorporated before 14 February 1920, for any purpose or object for which letters patent may be issued under this Part, whether under a special or a general Act of Québec, other than the Act 31 Victoria, chapter 25, or the joint stock companies' incorporation Act, being articles 4694 to 4753 of the Revised Statutes, 1888, or the chapter 48 of the statutes of 1907, or the Québec Companies' Act, being articles 6002 to 6090 of the Revised Statutes, 1909, and amendments thereto, and now being a subsisting and

valid corporation, may apply for letters patent to carry on its business under this Part; and the enterprise registrar may direct the issue of letters patent incorporating the shareholders of the said company as a company under this Part.

The third paragraph of section 7 and sections 9.1, 9.2, 10 and 10.1 apply to the application.

(2) It shall not be necessary in any such letters patent to set out the names of the shareholders.

(3) Immediately after the granting of the letters patent, the enterprise registrar shall deposit them in the register and dissolve the former company by drawing up an act of dissolution which he shall deposit in the register.

(4) Subject to such deposit, but counting from the issue of such letters patent, all the rights, property and obligations of the former company shall be and become transferred to the new company, and all proceedings may be commenced or continued by or against the new company that might have been commenced or continued by or against the old company.

(5) The company shall thereafter be governed in all respects by the provisions of this Part, except that the liability of the shareholders to creditors of the old company shall remain as at the time of the issue of the letters patent.

R. S. 1964, c. 271, s. 14; 1966-67, c. 72, s. 23; 1969, c. 26, s. 31; 1972, c. 61, s. 5; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 138; 1993, c. 48, s. 241; 2002, c. 45, s. 278.

**15.** If an existing company applies for the issue of letters patent under this Part, the enterprise registrar may, by the letters patent, extend the powers of the company to such other objects for which letters patent may be issued under this Part as the applicant desires, and as he thinks fit to include in the letters patent.

R. S. 1964, c. 271, s. 15; 1969, c. 26, s. 32; 1982, c. 52, s. 138; 2002, c. 45, s. 278.

**16.** The enterprise registrar may in any letters patent issued under this Part to any existing company name the first directors of the new company, and the letters patent may be issued to the new company by the name of the old company or by another name.

R. S. 1964, c. 271, s. 16; 1969, c. 26, s. 33; 1980, c. 28, s. 6; 1982, c. 52, s. 138; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

## DIVISION VII

### CONVERSION OF COMPANY WITHOUT SHARE CAPITAL INTO JOINT STOCK COMPANY

1999, c. 40, s. 70.

**17.** A legal person without share capital, constituted under Part III of this Act or under any other special or general Act of Québec, may, with the consent in writing of at least four-fifths of the members present at a special general meeting called for such purpose, provide by by-law for the creation of a capital divided into shares and for the allotment and payment of such shares, and may fix and prescribe the rights and privileges of the shareholders. Such by-law shall be forthwith transmitted to the enterprise registrar to be confirmed by letters patent or supplementary letters patent which he shall deposit in the register.

The third paragraph of section 7 and sections 9.1, 9.2, 10 and 10.1 apply to the by-law.

Subject to such deposit, but counting from the issue of the letters patent or supplementary letters patent, the legal person shall cease to be governed by the provisions of Part III, and shall in every respect be subject to the provisions of this Part.

In the case of a legal person constituted under any general or special Act, the by-law must, moreover, if not so provided in its charter of constitution as a legal person, contain all the declarations contained in section 7.

R. S. 1964, c. 271, s. 17; 1966-67, c. 72, s. 23; 1972, c. 61, s. 6; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 138; 1993, c. 48, s. 242; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

## **DIVISION VIII**

### **AMALGAMATION OF COMPANIES**

**18.** (1) Only the companies to which, as expressly determined by another Act, this Part applies may amalgamate under the rules provided in this division and enter into all contracts and agreements necessary to such amalgamation; the amalgamation of the other companies to which this Part applies is governed by Chapter XVII of Part IA.

(2) The companies proposing to amalgamate may enter into a joint agreement for such amalgamation, prescribing the terms and conditions thereof, the mode of carrying the same into effect, and stating the name of the new company, the names, callings and places of residence of the provisional directors thereof, and how and when the subsequent directors shall be elected, with such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and working of the new company, and in particular the description of its authorized capital and the manner of converting the shares issued by the amalgamating companies into issued shares of the new company.

(3) The agreement shall be submitted to the shareholders of each of the companies at a general meeting thereof called for the purpose of taking the same into consideration.

(4) To be adopted, the joint agreement must be voted by at least two-thirds in value of the shares represented by the shareholders present at the meeting; the adoption shall be certified on the agreement by the secretary of each of the companies under the seal thereof.

(4.1) Sections 9.1 and 10 apply to the joint agreement.

(5) Thereupon the amalgamating companies by their joint application may apply to the enterprise registrar for letters patent confirming the agreement; if such application be granted, the enterprise registrar shall issue letters patent and deposit them in the register; and, subject to such deposit, but from the date of the letters patent, the companies shall be deemed to be amalgamated and to form one corporation by the name in the letters patent provided, and the company so constituted as a legal person shall possess all the property, rights, privileges and franchises, and be subject to all the liabilities, contracts, disabilities and duties of each of the companies so amalgamated.

(6) All rights of creditors against the property, rights and assets of a company amalgamated or reincorporated under the provisions of this Part, and all liens upon its property, rights and assets, shall be unimpaired by such amalgamation or reincorporation, and all debts, contracts, liabilities and duties of such company shall thenceforth attach to the new reincorporated company, and may be enforced against it to the same extent as if such debts, contracts, liabilities and duties had been incurred or contracted by it.

R. S. 1964, c. 271, s. 18; 1966-67, c. 72, s. 23; 1969, c. 26, s. 34; 1972, c. 61, s. 7; 1973, c. 65, s. 1; 1975, c. 76, s. 11; 1979, c. 31, s. 7; 1980, c. 28, s. 7; 1981, c. 9, s. 24; 1982, c. 52, s. 138; 1993, c. 48, s. 243; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

## DIVISION IX

### CHANGE OF NAME

1979, c. 31, s. 7; 1999, c. 40, s. 70.

**18.1.** Any interested person may, upon payment of the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1), petition the enterprise registrar to issue supplementary letters patent to change the name of a company that is not in conformity with section 9.1.

1993, c. 48, s. 244; 1999, c. 40, s. 70; 2002, c. 45, s. 278; 2010, c. 7, s. 207.

**18.2.** Before rendering a decision, the enterprise registrar shall allow all interested parties to submit their observations.

1993, c. 48, s. 244; 2002, c. 45, s. 278.

**19.** If it be made to appear to the enterprise registrar that the name of a company does not comply with section 9.1, he may issue supplementary letters patent changing the name of the company to some other name which is set forth in the supplementary letters patent.

R. S. 1964, c. 271, s. 19; 1966-67, c. 72, s. 23; 1968, c. 72, s. 1; 1969, c. 26, s. 35; 1975, c. 76, s. 11; 1979, c. 31, s. 9; 1982, c. 52, s. 138; 1993, c. 48, s. 245; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**20.** Immediately after the granting of the supplementary letters patent mentioned in section 19, the enterprise registrar shall deposit them in the register. Subject to such deposit, but from the date of the supplementary letters patent, the company shall be described by the new name set forth in such supplementary letters patent.

R. S. 1964, c. 271, s. 20; 1968, c. 72, s. 2; 1972, c. 61, s. 8; 1979, c. 31, s. 7; 1982, c. 52, s. 138; 1993, c. 48, s. 246; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**21.** A company may change its name by a by-law approved by the vote of at least two-thirds in value of the shares represented by the shareholders present at a meeting called for such purpose.

Sections 9.1, 9.2, 10 and 10.1 apply to the application.

The by-law shall be submitted for approval to the enterprise registrar who, if he approves it, shall deposit in the register a notice specifying the change. From the date of such deposit, the company shall be designated by its new name.

R. S. 1964, c. 271, s. 21; 1968, c. 72, s. 2; 1969, c. 26, s. 36; 1979, c. 31, s. 7, s. 10; 1982, c. 52, s. 138; 1993, c. 48, s. 247; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**22.** No alteration of its name under section 19 or 21 shall affect the rights or obligations of the company; and all proceedings may be commenced or continued by or against the company under its new name that might have been commenced or continued by or against the company under its former name.

R. S. 1964, c. 271, s. 22; 1968, c. 72, s. 3; 1979, c. 31, s. 7; 1999, c. 40, s. 70.

**DIVISION X**

**FEES AND REGULATIONS**

2010, c. 7, s. 196.

**22.1.** The fees and charges payable on application for letters patent and supplementary letters patent, and for every act performed by the enterprise registrar, the Lieutenant-Governor or any other person under this Part, are set out in the Act respecting the legal publicity of enterprises (chapter P-44.1).

No letters patent or supplementary letters patent issued under this Part shall be delivered until after all fees payable are duly paid.

2010, c. 7, s. 196.

**23.** (1) *(Subsection repealed).*

(1.1) *(Subsection repealed).*

(2) *(Subsection repealed).*

(3) *(Subsection repealed).*

(4) The Government may, by regulation,

(1) determine the public authorities referred to in paragraph 6 of section 9.1;

(1.1) determine the cases where the name of a company suggests that the company is related to another person, partnership or group for the application of paragraph 7 of section 9.1;

(1.2) determine the criteria to be taken into account for the application of paragraphs 7 to 9 of section 9.1;

(1.3) determine the time for which a name may be reserved for the purposes of the first paragraph of section 9.2;

(2) determine standards, terms, conditions and requirements regarding the setting out of the objects and powers and capital stock in any application, petition or document sent to the enterprise registrar; and

(3) make any other provision to ensure the carrying out of this Part.

(5) The regulations of the Government shall be made only on prior notice of 30 days published in the *Gazette officielle du Québec* reproducing the text thereof.

These regulations come into force on the date of the publication in the *Gazette officielle du Québec* of a notice indicating that they have been made by the Government or, if amended by it, of their final text, or on any later date fixed in the notice or in the final text.

R. S. 1964, c. 271, s. 23; 1966-67, c. 72, s. 23; 1972, c. 61, s. 10; 1975, c. 76, s. 11; 1977, c. 5, s. 14; 1979, c. 31, s. 11; 1980, c. 28, s. 8; 1981, c. 9, s. 24; 1982, c. 52, s. 122, s. 138; 1993, c. 48, s. 248; 1999, c. 40, s. 70; 2002, c. 45, s. 278; 2010, c. 7, s. 197.

**24.** *(Repealed).*

1972, c. 61, s. 11; 1982, c. 52, s. 138; 1993, c. 48, s. 249.

**25.** *(Repealed).*

1972, c. 61, s. 11; 1979, c. 31, s. 12; 2010, c. 7, s. 198.



## DIVISION XI

*Repealed, 1993, c. 48, s. 250.*

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1979, c. 31, s. 13; 1993, c. 48, s. 250.

### **26.** *(Repealed).*

R. S. 1964, c. 271, s. 24; 1965 (1st sess.), c. 72, s. 1; 1966-67, c. 72, s. 23; 1969, c. 26, s. 37; 1975, c. 76, s. 11; 1975, c. 83, s. 84; 1979, c. 31, s. 14; 1982, c. 52, s. 138; 1993, c. 48, s. 250.

### **27.** *(Repealed).*

R. S. 1964, c. 271, s. 25; 1965 (1st sess.), c. 72, s. 1; 1966-67, c. 72, s. 23; 1969, c. 26, s. 38; 1979, c. 31, s. 15; 1982, c. 52, s. 138; 1993, c. 48, s. 250.

## DIVISION XII

### VOLUNTARY DISSOLUTION OF COMPANIES

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1979, c. 31, s. 16.

### **28.** A company may be dissolved, on its application, if it proves to the enterprise registrar

- (1) that it has no debts or obligations;
- (2) that it has parted with its property, divided its assets rateably amongst its shareholders or members, and has no debts or liabilities; or
- (3) that its debts and obligations have been duly provided for or protected, or that its creditors or their successors consent; and
- (4) that it has given notice to the enterprise registrar of its intention to apply for its dissolution by filing a declaration to that effect in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1) and by making an announcement to that effect in a newspaper published at or as near as may be to the place where the company has its head office.

R. S. 1964, c. 271, s. 26; 1966-67, c. 72, s. 23; 1972, c. 61, s. 12; 1975, c. 76, s. 11; 1979, c. 31, s. 17; 1982, c. 52, s. 138; 1993, c. 48, s. 251; 1999, c. 40, s. 70; 2002, c. 45, s. 278; 2010, c. 7, s. 282.

**28.1.** The enterprise registrar may, if the company has complied with section 28, accept to dissolve it and fix the date on which dissolution will take place. The enterprise registrar shall dissolve the company by drawing up an act of dissolution which he shall deposit in the register.

The company is dissolved from the date fixed by the enterprise registrar.

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1979, c. 31, s. 17; 1982, c. 52, s. 138; 1993, c. 48, s. 252; 2002, c. 45, s. 278.

**28.2.** The enterprise registrar shall, on request and upon payment of the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1), attest that a company is or is not dissolved.

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1993, c. 48, s. 253; 2002, c. 45, s. 278; 2010, c. 7, s. 207.

**29.** Notwithstanding the dissolution of a company under the application of the provisions of section 28, the persons acting as directors of such company at the time of its dissolution shall be solidarily liable for the debts of the company existing at the time of the dissolution, to every creditor of the company who has not given the

consent contemplated by the said section 28, unless the director against whom suit is brought establish his good faith.

R. S. 1964, c. 271, s. 27.

### **DIVISION XIII**

#### **GENERAL POWERS AND DUTIES OF THE COMPANY**

**30.** All powers given to the company by the letters patent or supplementary letters patent shall be exercised subject to the provisions and restrictions contained in this Part.

R. S. 1964, c. 271, s. 28.

**31.** The company may acquire and hold movable and immovable property, may sell and alienate such property, both movable and immovable, and hypothecate the latter, and shall forthwith become and be vested with all property and rights, movable and immovable, held for it up to the date of the letters patent and with all the powers, privileges and immunities requisite or incidental to the carrying on of its undertaking.

Subject to the provisions of the preceding paragraph and without restricting their application, and saving express exclusion in the letters patent or supplementary letters patent, the company may:

(a) acquire, lease, exchange and hold any movable or immovable property, rights or privileges and dispose of the same by sale or otherwise;

(b) apply for, acquire, develop, use or transact with others for the development or use of any patents or patent rights, copyrights, trade-marks, formulae, licences, concessions and the like calculated to benefit the company or to further any of its objects;

(c) make with any person or partnership carrying on or about to carry on any trade, industry or business capable of benefiting the company, any agreement for sharing of profits, or joint adventure, union of interests, reciprocal concession, mutual co-operation or other similar purposes;

(d) make with any public authority arrangements calculated to facilitate the pursuit of the company's objects, and carry out the same and exercise the rights and privileges and discharge the obligations resulting therefrom;

(e) construct, possess, maintain, improve and use, on its properties or on those of which it has the enjoyment, any works capable of furthering its interests, and contribute to or assist in any way the construction, improvement and maintenance of such works;

(f) make loans to any partnership or person having business dealings with the company, or to any legal person any shares or securities of which are held by the company, assist them to obtain funds and guarantee the performance of their obligations;

(g) issue, endorse, accept and discount promissory notes, bills of exchange, warrants and other negotiable instruments;

(h) sell or otherwise dispose of the undertaking of the company in whole or in part for such consideration as it may think fit, including shares, bonds and other securities of any other company having objects altogether or in part similar to those of the company;

(i) pay, in cash or by the allotment of shares, bonds or other securities of the company or otherwise, for services rendered in respect of the formation and organization of the company and the sale, placing or guaranteeing of the placing of any shares, bonds or other securities of the company;

(j) establish and maintain or aid in the establishment or maintenance of relief or superannuation funds for present or former employees of the company or its predecessors in business, or the relatives or dependents of such employees, grant pensions and allowances to them and pay insurance premiums for them, the whole subject to the approval of the Autorité des marchés financiers;

(k) subscribe or guarantee funds for charitable, benevolent, educational or artistic purposes;

(l) make known its products or activities by any legal mode of advertising which it may deem useful for its purposes, including the purchase and exhibition of works of art or of general interest, the publication of books and periodicals and advertising by radio and television and in newspapers, reviews and other publications;

(m) invest the available funds of the company in any manner which it may consider to be in its interests;

(n) take and hold hypothecs to secure payment of the price of sale of any portion of such property or to secure the payment of any debt due to the company, and dispose of such hypothecary rights by sale or otherwise;

(o) carry on any activity and do anything incidental or accessory to the powers granted to the company by this section and its letters patent or connected with the attainment of its objects;

(p) establish agencies and branches and exercise its powers under the law and its letters patent as principal, mandatary, agent or contractor, either alone or in partnership or in conjunction with any person or partnership;

(q) distribute among its shareholders, in kind or otherwise, any property of the company, provided that such distribution is made for the purpose of enabling it to be dissolved or in circumstances where it would be lawful to make the same in cash.

Notwithstanding the preceding paragraph and its subparagraphs, any other lawful powers may be granted to a company by letters patent or supplementary letters patent.

Furthermore and subject to the specific provisions of this Part, the company shall be subject to the obligations and restrictions and shall possess the rights and privileges declared in the Civil Code with respect to legal persons.

R. S. 1964, c. 271, s. 29; 1982, c. 52, s. 123; 1992, c. 57, s. 510; 1993, c. 48, s. 254; 1999, c. 40, s. 70; 2002, c. 45, s. 276; 2004, c. 37, s. 90.

**32.** The company shall give notice of the address of its head office or principal establishment and of any change of address by filing a declaration to that effect in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1).

The company may establish such other offices and agencies elsewhere as it deems expedient.

R. S. 1964, c. 271, s. 30; 1972, c. 61, s. 13; 1982, c. 52, s. 138; 1993, c. 48, s. 255; 1999, c. 40, s. 70; 2010, c. 7, s. 282.

**33.** The name of the company must be set out in legible characters in all negotiable instruments, contracts, invoices and orders for goods or services.

R. S. 1964, c. 271, s. 31; 1968, c. 72, s. 4; 1973, c. 65, s. 2; 1979, c. 31, s. 18; 1999, c. 40, s. 70.

**34.** Subject to section 33 and the regulations of the Government, the company may be identified under a name other than its name.

1973, c. 65, s. 3; 1979, c. 31, s. 19; 1999, c. 40, s. 70.

**34.1.** The enterprise registrar may require that the word “inc.”, “s.a.” or “ltée” be placed at the end of the name of a company where the name does not include the word “société par actions” or “compagnie”, to indicate that the company is an undertaking with limited liability.

1979, c. 31, s. 19; 1982, c. 52, s. 138; 1993, c. 48, s. 256; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**35.** Every company infringing section 33 or section 34 is liable to a fine of not less than \$50 nor more than \$100 for each day of such infringement.

R. S. 1964, c. 271, s. 32; 1979, c. 31, s. 20; 1990, c. 4, s. 301.

**36.** Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or indorsed on behalf of the company, by any agent, officer or employee of the company, in general accordance with his powers as such under the by-laws of the company, shall be binding upon the company; and in no case shall it be necessary to have the seal of the company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque, or to prove that the same was made, drawn, accepted or indorsed, as the case may be, in pursuance of any by-law, resolution or special order; and the person so acting as agent, officer or employee of the company shall not be thereby subjected individually to any liability whatsoever to any third person therefor; provided always that nothing in this Part shall authorize the company to issue any promissory note payable to bearer or to order and intended to be circulated as money, or as a bank-note.

R. S. 1964, c. 271, s. 33; 1999, c. 40, s. 70.

## DIVISION XIV

### OBTAINING OF FURTHER POWERS OR RESTRICTION OF POWERS

**37.** The company may, from time to time, by a resolution passed by the vote of at least two-thirds in value of the shares represented by the shareholders present at a special general meeting called for the purpose, authorize the directors to apply for supplementary letters patent:

(1) extending the powers of the company to such further or other purposes or objects for which a company may be constituted as a legal person under this Part, as set out in such resolution; or

(2) reducing, amending or varying such powers, or any provisions of the letters patent or supplementary letters patent, in the manner set out in such resolution.

R. S. 1964, c. 271, s. 34; 1999, c. 40, s. 70.

**38.** The directors may, at any time within six months after the passing of any such resolution, apply to the enterprise registrar for the issue of such supplementary letters patent to confirm it.

Sections 9.1, 9.2, 10 and 10.1 apply to the application.

R. S. 1964, c. 271, s. 35; 1969, c. 26, s. 39; 1982, c. 52, s. 138; 1993, c. 48, s. 257; 2002, c. 45, s. 278.

**39.** Before such supplementary letters patent are issued, the petitioners shall establish, to the satisfaction of the enterprise registrar, the due passing of the resolution authorizing the application, and for that purpose the enterprise registrar shall take and keep on record any requisite evidence in writing, given under oath.

R. S. 1964, c. 271, s. 36; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 2002, c. 45, s. 278.

**40.** Upon due proof so made, the enterprise registrar may grant supplementary letters patent extending the powers of the company to all or any of the objects set out in the resolution, or reducing, amending or varying such powers, according to the tenor of the resolution. The enterprise registrar shall immediately deposit the supplementary letters patent in the register; and, after such deposit, but from the date of the supplementary letters patent, the undertaking of the company shall extend to or be limited to the objects set forth in the

supplementary letters patent, as if such objects were mentioned in the letters patent or the charter by which the company was constituted as a legal person.

R. S. 1964, c. 271, s. 37; 1966-67, c. 72, s. 23; 1969, c. 26, s. 40; 1972, c. 61, s. 14; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 124, s. 138; 1993, c. 48, s. 258; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

## **DIVISION XV**

### **LIABILITY OF SHAREHOLDERS**

**41.** The shareholders of the company shall not, as such, be responsible for any act, default or liability of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the company, beyond the amount unpaid on their respective shares in the capital stock thereof.

R. S. 1964, c. 271, s. 38.

**42.** No person holding stock in the company as a liquidator of a succession, administrator, tutor, curator, guardian or trustee of or for any person named in the books of the company as being so represented by him, shall be personally subject to liability as a shareholder; but the property and funds in the hands of such person shall be liable in like manner, and to the same extent, as the testator or intestate, or the minor or a person of full age under tutorship or curatorship, or the person interested in such trust fund would be, if living and competent to act and holding such stock in his own name; and no person holding such stock as collateral security shall be personally subject to such liability, but the person pledging such stock shall be considered as holding the same, and shall be liable as a shareholder accordingly.

R. S. 1964, c. 271, s. 39; 1989, c. 54, s. 161; 1999, c. 40, s. 70.

**43.** Every such liquidator of a succession, administrator, tutor, curator, guardian or trustee shall represent the stock held by him, at all meetings of the company, and may vote thereon as a shareholder; and every person who pledges his stock may represent the same at all such meetings, and, notwithstanding such pledge, vote thereon as a shareholder.

R. S. 1964, c. 271, s. 40.

## **DIVISION XVI**

### **HOLDING STOCK OF OTHER COMPANIES**

**44.** The company shall not use any of its funds in the purchase of stock in any other company unless and until the directors have been expressly authorized by a by-law passed by them for the purpose and sanctioned by the vote of at least two-thirds in value of the shares represented by the shareholders present at a general meeting of the company duly called for considering the subject of the by-law; but if the constituting act authorizes such purchase it shall not be necessary to pass such by-law.

This section shall not apply to a company constituted for the purpose of carrying on the business of buying, selling or dealing in shares, as to shares bought with the intention of reselling them.

R. S. 1964, c. 271, s. 41; 1979, c. 31, s. 8; 1999, c. 40, s. 70.

## **DIVISION XVII**

### **CAPITAL STOCK**

**45.** Shares with par value shall not be issued as fully paid, save for a consideration payable in cash to the total par value of the shares so issued, or for a consideration payable in property or services which the directors determine by resolution to be, in all the circumstances of the transaction, the fair equivalent of cash to the total par value of the shares so issued.

The consideration for the issue of shares without par value shall be determined in accordance with subsection 5 of section 13.

The amount of the paid-up shares shall be published annually in the report to the shareholders.

R. S. 1964, c. 271, s. 42.

**46.** Shares of a company are movable property; the transfer of company shares is governed by the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002), on the conditions prescribed by this Part and, if the conditions are effective under that Act, by the constituting act or the by-laws of the company.

Shares subject to restrictions regarding the right to transfer them shall not be offered to the public unless:

(a) such restrictions are prescribed in the constituting act; and

(b) such restrictions are required to allow the company or any other company in which the company has an interest to obtain, protect or renew, under a statute of Canada or of Québec, any authorization necessary to attain the objects of its undertaking or part of it.

R. S. 1964, c. 271, s. 43; 1973, c. 65, s. 4; 1980, c. 28, s. 9; 1999, c. 40, s. 70; 2008, c. 20, s. 155.

**47.** If the constituting act makes no other definite provision, the stock of the company, or any increased amount thereof, so far as it is not allotted thereby, shall be allotted at such times and in such manner as the directors, by by-law, may order.

R. S. 1964, c. 271, s. 44; 1979, c. 31, s. 8; 1999, c. 40, s. 70.

**48.** (1) The constituting act of a company may provide for shares of more than one class, and for the preferred or special rights, conditions or limitations attaching to each class of shares, including:

(a) a limitation of the right of the holders thereof to specific dividends, profits or repayments, or

(b) provision that the holders of such shares shall have the right to elect a stated number of directors, or that they shall have greater or less control of the affairs of the company than the holders of shares of another class, or

(c) provisions limiting or extending the rights of the holders of such shares in any other way not contrary to law, or

(d) provision for the purchase or redemption of such shares by the company.

(2) The constituting act of the company may authorize the issue of one or more series of shares of the same class; it may also authorize the directors to determine from time to time, before issue, the number and description of the shares of each series and the rights, privileges, conditions and limitations attaching to the shares of each series of such class.

(3) Each share of any series of the same class shall carry the same right to vote or the same conditions and limitations respecting the right to vote.

(4) When amounts payable as dividends, repayment of capital or premium on the repayment of capital are not paid in full, the shares of all series of the same class shall participate in the amount payable proportionately to the sums which would be payable on a payment in full.

(5) The directors of a company may make a by-law for the purposes contemplated in subsection 1 or for the conversion of shares of any class into shares of another class.

(6) The conversion of shares must not increase or decrease the amount paid up on the company's issued shares.

(7) No shares shall be converted without the consent of the holders thereof, except in conformity with the conditions attaching thereto or on a compromise under section 49.

(8) Any by-law made under subsection 5 shall be subject to sections 63, 64 and 65.

(9) Any resolution passed under subsection 2 shall be subject to sections 64 and 65 in the same manner as a by-law but shall not be subject to approval by the shareholders.

(10) Holders of shares entitled to preferred or special rights, conditions or limitations shall be shareholders and shall in all respects possess all the rights and be subject to all the obligations of shareholders within the meaning of this Part, subject however to the provisions of the constituting act or by-laws.

(11) The privileges or preference granted to shareholders shall not affect the rights of the company's creditors.

(12) The whole text of the preferred or special rights, conditions and limitations attaching to shares issued under this section shall be a part of every certificate for such shares, unless a summary is inscribed thereon with a statement that the text thereof will be furnished free of cost on demand.

(13) The purchase or redemption of shares by a company in the exercise of a right attaching thereto shall not be considered to reduce its capital stock if the price is paid out of the proceeds of an issue of shares made by it for such purpose, or out of its surplus available for the payment of dividends, provided, in the latter case, that no cumulative dividend is in arrears on any shares not purchased or redeemed and that an amount equal to the portion of the price representing repayment of paid-up capital shall constitute a special surplus not available for distribution before the shares concerned are cancelled in accordance with section 58. Likewise, the purchase or redemption of shares by a company that is compelled to do so under the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002) shall not be considered to reduce its capital stock.

R. S. 1964, c. 271, s. 45; 1979, c. 31, s. 8, s. 21; 1999, c. 40, s. 70; 2008, c. 20, s. 156.

**49.** (1) Where a compromise or arrangement is proposed between a company and its shareholders or any class of them, affecting the rights of shareholders or any class of them, under the company's constituting act or by-laws, a judge of the Superior Court of the district in which the company has its head office may, on application in a summary way of the company or of any shareholder, order a meeting of the shareholders of the company or of any class of shareholders, as the case may be, to be summoned in such manner as the said judge directs.

(2) If the shareholders, or class of shareholders, as the case may be, present in person or by proxy at the meeting, agree, by three-fourths of the shares of each class represented, to the compromise or arrangement either as proposed or as altered or modified at such meeting, such compromise or arrangement may be sanctioned by a judge as aforesaid.

If so sanctioned, such compromise or arrangement shall thereupon be confirmed by supplementary letters patent deposited in the register by the enterprise registrar. Subject to such deposit, but from the date of the supplementary letters patent, the compromise or arrangement shall be binding on the company and the shareholders or class of shareholders, as the case may be.

R. S. 1964, c. 271, s. 46; 1966-67, c. 72, s. 23; 1975, c. 76, s. 11; 1979, c. 31, s. 8; 1981, c. 9, s. 24; 1982, c. 52, s. 138; 1993, c. 48, s. 259; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**50.** (1) Where a compromise or arrangement is proposed between a company and its creditors, or any class of them, a judge of the Superior Court of the district in which the company has its head office or principal establishment may, on application in a summary way of the company or of any creditor who might

be affected, order a meeting of the creditors of the company, or of any class of creditors, as the case may be, to be summoned in such manner as the said judge directs.

(2) If the said creditors, or class of creditors, as the case may be, present in person or by proxy at the meeting, agree, by three-fourths in value of the creditors, or class of creditors, as the case may be, present or represented at the meeting, to the compromise or arrangement either as proposed or as altered or modified at such meeting, such compromise or arrangement may be sanctioned by a judge as aforesaid. Prior to any such sanction, the judge shall require the production before him of a duly certified copy of a resolution of the company, embodying and approving the said compromise or arrangement as agreed to by the creditors.

If so sanctioned, a certified copy of the judgment or order giving such sanction shall be filed with the enterprise registrar, who shall deposit a notice to that effect in the register.

From the date of such deposit, the compromise or arrangement shall be binding on the company and the creditors or class of creditors, as the case may be.

(3) The word “creditors” when used in this section shall include only the holders of scrip interest certificates, or scrip dividend certificates, and warrants, and provided the same do not carry any registered claim or registered hypothec on the company’s property or assets.

R. S. 1964, c. 271, s. 47; 1966-67, c. 72, s. 23; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 125, s. 138; 1992, c. 57, s. 511; 1993, c. 48, s. 260; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**51.** (1) When an offer to acquire all the shares of a certain class has been accepted by the holders of 9/10 of the shares of such class, the offerer may give notice, within six months after the date of the offer, that he wishes to acquire the shares of the dissentient shareholders.

(2) Such notice shall be given in the manner prescribed by a judge of the Superior Court on application by the offerer and shall state that, unless the Superior Court of the district in which the company has its head office decides otherwise, upon application by a dissentient shareholder filed within one month from the date of the notice, the offerer shall acquire the shares on the conditions of the offer.

(3) When a notice has been so given and the court has not otherwise ordered, the offerer, at the expiration of the period of one month from the date of the notice or, if an application is then pending, after the court has adjudicated finally upon such application, shall deliver, against a receipt, to a trust company authorized under the Trust Companies and Savings Companies Act (chapter S-29.02) for the benefit of the dissentient shareholders, the sums or securities offered for the shares which he is entitled to acquire under this section.

(4) Upon production of a copy of the offer, notice and receipt, with a certificate of the clerk of the Superior Court of the district in which the company has its head office, certifying that no application has been filed within the period fixed or that one has been dismissed by final judgment, the company shall register in its books the offerer as the holder of the shares that were held by the dissentient shareholders.

(5) An offer to acquire all the shares of a certain class, except those of a shareholder mentioned therein, shall give rise to the application of this section if it is accepted by the holders of 9/10 of the shares to which it refers and the offerer acquires, on the same conditions, the shares of the shareholder mentioned.

R. S. 1964, c. 271, s. 48; 1999, c. 40, s. 70; I.N. 2016-01-01 (NCCP); 2018, c. 23, s. 744.

**52.** The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, in respect of any share; and the receipt of the shareholder in whose name the same stands in the books of the company shall be a valid and binding discharge to the company for any dividend or money payable in respect of such share, and whether or not notice of such trust has been given to the company; and the company shall not be bound to see to the application of the money paid upon such receipt.

R. S. 1964, c. 271, s. 49.



**DIVISION XVIII**

**SHARE CERTIFICATES**

**53.** (1) Every shareholder shall, without payment, be entitled to a certificate under the common seal of the company, stating the number of shares held by him and the amount paid up thereon; but, in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate.

(2) The certificate shall be *prima facie* evidence of title of the shareholder to the shares mentioned in it.

(3) If a share certificate be defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding \$0.25 and on such terms, if any, as to evidence and indemnity, as the directors think fit.

R. S. 1964, c. 271, s. 50.

**54.** (1) A company, if so authorized by its constituting act, and subject to the provisions thereof, may, with respect to any fully paid-up shares, issue under its seal a warrant stating that the bearer of the warrant is entitled to the share or shares therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the share or shares included in the warrant hereafter termed a share warrant.

(2) A share warrant shall entitle the bearer thereof to the shares therein specified.

(3) The bearer of a share warrant shall, subject to the provisions and regulations respecting share warrants contained in the constituting act, be entitled, on surrendering it for cancellation, to have his name entered on the books of the company as the holder of the shares specified in such share warrant, and the company shall be responsible for any injury sustained by any person by reason of the company entering on the books of the company the name of the bearer of a share warrant in respect of the shares therein specified without the warrant being surrendered and cancelled.

(4) The bearer of a share warrant may, if the provisions and regulations respecting share warrants so provide, be considered to be a shareholder of the company either to the full extent or for any purposes defined by such regulations. In no case however, shall the bearer of a share warrant be qualified in respect of the shares specified in the warrant for being a director of the company.

(5) On the issue of a share warrant the company shall remove from its books the name of the shareholder then entered therein as holding such share or shares, as if he had ceased to be a shareholder, and shall enter in such books the following particulars, namely:

- (a) the fact of the issue of the warrant;
- (b) a statement of the shares included in the warrant; and
- (c) the date of the issue of the warrant.

(6) Until the warrant is surrendered, the above particulars shall be deemed to be the particulars required by this Part to be entered in the books of the company in respect of such share or shares, and, on the surrender, the date of the surrender shall be entered as if it were the date at which a person ceased to be a shareholder.

(7) Unless the bearer of a share warrant is entitled to attend and vote at general meetings, the shares represented by such share warrant shall not be counted as part of the stock of the company for the purposes of a general meeting.

R. S. 1964, c. 271, s. 51; 1979, c. 31, s. 8; 1999, c. 40, s. 70; 2008, c. 20, s. 157.

**DIVISION XIX**

**INCREASE AND REDUCTION OF CAPITAL, AND ALTERATION IN THE VALUES OF SHARES**

**55.** (1) The directors of the company may, at any time, make a by-law:

(a) to subdivide the existing shares into shares of a smaller amount;

(b) to change the authorized shares with a par value, whether issued or not, into shares without par value, save in the case of preferred shares having preferential rights as to the principal;

(c) to change the authorized shares without par value, whether issued or not, into shares with a par value.

(2) The directors may also, at any time, whenever the par value of the existing shares of the company is less than \$100 each, make a by-law consolidating them into shares of a greater par value; but no such consolidated share shall exceed the par value of \$100.

(3) For the purpose of such consolidation, the company may purchase fractions of shares, and the company shall sell any such shares held by them, within two years.

R. S. 1964, c. 271, s. 52; 1999, c. 40, s. 70.

**56.** The by-law ordering the change contemplated by paragraph *c* of subsection 1 of section 55 must mention what the capital of the company shall be in future. For such purpose, the shares issued without par value and replaced by shares with a par value shall be considered as fully paid, but their aggregate par value shall not exceed the value of the net assets of the company as represented by the shares without par value issued before the change.

R. S. 1964, c. 271, s. 53.

**57.** (1) The directors of a company may make a by-law to increase the capital stock to any amount which they consider requisite for the due carrying out of its objects.

(2) Such by-law shall declare the number of the shares of such new stock, and may prescribe the manner in which the same shall be allotted; and in default of its so doing, the control of such allotment shall vest absolutely in the directors.

R. S. 1964, c. 271, s. 54.

**58.** A company may by by-law reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may,—

(1) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or

(2) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or

(3) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company;

and may reduce the amount of its share capital and of its shares accordingly.

R. S. 1964, c. 271, s. 55.

**59.** (1) Where the proposed reduction of share capital involves either extinction or diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the enterprise registrar so directs, every creditor of the company who at the date of the petition for supplementary letters patent is entitled to any debt or claim which, if that date were the

commencement of the winding-up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

(2) The enterprise registrar shall settle a list of creditors so entitled to object, and for that purpose shall ascertain the names of such creditors and the nature and amount of their debts or claims. He may thereupon publish notices fixing a period within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction.

(3) Where a creditor entered on the list does not consent to the reduction, the enterprise registrar may, if he thinks fit, dispense with the consent of that creditor, on the company paying to the creditor his debt or claim in one of the ways hereafter mentioned, as the enterprise registrar may direct, to wit:

(a) if the company admits the full amount of his debt or claim, or, though not admitting it, is willing to pay it, then the full amount of the debt or claim;

(b) if the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, than an amount fixed by the enterprise registrar after the like inquiry and adjudication as if the company were being wound up.

R. S. 1964, c. 271, s. 56; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**60.** (1) A shareholder of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount paid, or, as the case may be, the reduced amount, if any, which is to be deemed to have been paid, on the share, and the amount of the share as fixed by the supplementary letters patent.

Provided that if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions respecting the winding-up of companies, to pay the amount of his debt, or claim, then:

(a) every person who was a shareholder of the company at the date of the supplementary letters patent shall be liable to contribute for the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before the date of the supplementary letters patents, and

(b) if the company is wound up, the court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding-up.

(2) Nothing in this section shall affect the rights of the contributories among themselves, nor the recourse of any creditor against the company or the shareholders.

R. S. 1964, c. 271, s. 57.

**61.** Any director, manager or officer of the company who

(a) wilfully conceals the name of any creditor entitled to object to the reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor; or who

(b) aids or abets in any such concealment or misrepresentation,

shall be guilty of an indictable offence and liable to a fine of not more than \$200.

R. S. 1964, c. 271, s. 58; 1992, c. 61, s. 211.

**62.** The enterprise registrar may require the company to publish, as he directs, the reasons for reduction, or such other information in regard thereto as he may think expedient with a view to giving proper information to the public.

R. S. 1964, c. 271, s. 59; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 2002, c. 45, s. 278.

**63.** No by-law enacting one of the operations contemplated by the provisions of sections 55, 57 and 58 of this Act shall have any force or effect before it has been approved by the vote of at least two-thirds in value of the shares represented by the shareholders present at a special general meeting of the company, and afterwards confirmed by supplementary letters patent.

R. S. 1964, c. 271, s. 60.

**64.** (1) The application for supplementary letters patent to confirm the by-law must be made by the directors not more than six months after the approval of the by-law by the shareholders.

(2) The directors shall, with such application, produce a copy of such by-law, under the seal of the company, and signed by the president or vice-president and the secretary, and establish, to the satisfaction of the enterprise registrar, the due passage and approval of such by-law, and the expediency and *bonafide* character of the operation or operations thereby provided for.

(3) The enterprise registrar shall, for that purpose, take and keep on record any requisite evidence in writing, given under oath.

R. S. 1964, c. 271, s. 61; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 2002, c. 45, s. 278.

**65.** Upon proof of the passing and approval of the by-law, the enterprise registrar may grant such supplementary letters patent, which he shall deposit in the register; and thereupon, from the date of the supplementary letters patent, the capital stock of the company shall be and remain changed to the amount, in the manner and subject to the conditions set forth by such by-law; and the whole of the stock, as so increased or reduced, shall become subject to the provisions of this Part, in like manner as if every part thereof had been or formed part of the stock of the company originally subscribed.

R. S. 1964, c. 271, s. 62; 1966-67, c. 72, s. 23; 1969, c. 26, s. 41; 1972, c. 61, s. 15; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 126, s. 138; 1993, c. 48, s. 261; 2002, c. 45, s. 278.

## **DIVISION XX**

### **CALLS**

**66.** The directors may, by resolution, demand from the shareholders the whole or any part of the amount unpaid on shares by them subscribed or held, at such times and in such manner as is required or permitted by this Part and the constituting act or by-laws of the company.

R. S. 1964, c. 271, s. 63; 1979, c. 31, s. 8; 1999, c. 40, s. 70.

**67.** A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed; and if a shareholder fails to pay any call due by him, on or before the day appointed for the payment thereon, he shall be liable to pay interest thereon at the rate of six per cent per annum, from the day appointed for payment to the time of actual payment thereof.

R. S. 1964, c. 271, s. 64.

**68.** The directors may, if they think fit, receive from any shareholder willing to advance the same, all or any part of the amounts due on the shares held by such shareholder, beyond the sums then actually called for; and upon the moneys so paid in advance, or so much thereof as, from time to time, exceeds the amount of the call then made upon the shares in respect of which such advance is made, the company may pay interest at

such rate, not exceeding eight per cent per annum, as may be agreed upon between the shareholders who pay such sum in advance, and the directors.

R. S. 1964, c. 271, s. 65.

**69.** If, after such demand or notice as is prescribed by the constituting act, or by resolution of the directors, or by the by-laws of the company, any call made upon any share is not paid within such time as, by such constituting act or by resolution of the directors or by the by-laws, is limited in that behalf, the directors, in their discretion, by vote to that effect duly recorded in their minutes, may summarily declare forfeited any shares whereon such payment has not been made; and the same shall thereupon become the property of the company and may be disposed of as, by the by-laws of the company or otherwise, they prescribe; but notwithstanding such forfeiture, the holder of such shares at the time of forfeiture shall continue liable to the then creditors of the company for the full amount unpaid on such shares at the time of forfeiture, less any sums which are subsequently received by the company in respect thereof.

R. S. 1964, c. 271, s. 66; 1979, c. 31, s. 8; 1999, c. 40, s. 70.

**70.** The directors may, if they see fit, instead of declaring forfeited any share or shares, enforce payment of all calls, and interest thereon, by action in any court of competent jurisdiction; and in such action it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrears amount, in respect of one call or more, upon one share or more, stating the number of calls and the amount of each call, whereby an action has accrued to the company under this Part.

A certificate under the seal of the company, and purporting to be signed by any of its officers, to the effect that the defendant is a shareholder, that such calls have been made, and that so much is due by him thereon, shall be received in all courts as evidence to that effect.

R. S. 1964, c. 271, s. 67.

## **DIVISION XXI**

### **TRANSFER OF SHARES**

**71.** (1) No transfer of shares, unless made by sale under execution or under the decree, order or judgment of a court of competent jurisdiction, shall be valid for any purpose until entry thereof is duly made in the register of transfers, except for the purpose of exhibiting the rights of the parties thereto towards each other and of rendering the transferee liable in the meantime, solidarily with the transferor, to the company and its creditors.

(2) This section shall not apply to companies whose stock is listed and dealt with on any recognized stock exchange by means of scrip commonly in use, indorsed in blank and transferable by delivery, which shall constitute valid transfers; but the scrip-holder shall not be entitled to vote upon the shares until they are registered in his name in the books of the company.

R. S. 1964, c. 271, s. 68.

**72.** No transfer of shares, whereof the whole amount has not been paid in, shall be made without the consent of the directors; and whenever any transfer of shares not fully paid up has been made, with such consent, to a person who is not apparently of sufficient means to fully pay up such shares, the directors shall be solidarily liable to the creditors of the company, in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been; but if any director present when any such transfer is allowed does forthwith, or if any director then absent does, within 24 hours after he becomes aware thereof and is able so to do, enter on the minute-book of the board of directors his protest against the same, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the company is situated, or, if there is no newspaper there

published, then in the newspaper published nearest thereto, such director may thereby, and not otherwise, exonerate himself from such liability.

R. S. 1964, c. 271, s. 69.

**73.** No share shall be transferable until all calls payable thereon up to the time of transfer have been fully paid.

The directors may decline to register any transfer of shares belonging to any shareholder who is indebted to the company.

The provisions of the immediately preceding paragraph shall not apply to the shares contemplated by subsection 2 of section 71.

R. S. 1964, c. 271, s. 70.

**74.** *(Repealed).*

R. S. 1964, c. 271, s. 71; 2008, c. 20, s. 158.

**75.** *(Repealed).*

R. S. 1964, c. 271, s. 72; 1999, c. 40, s. 70; 2008, c. 20, s. 158.

**76.** *(Repealed).*

R. S. 1964, c. 271, s. 73; 2008, c. 20, s. 158.

## **DIVISION XXII**

### **BORROWING AND HYPOTHECATING POWERS**

1992, c. 57, s. 512.

**77.** (1) If authorized by by-law, sanctioned by a vote of not less than two-thirds in value of the shares represented by the shareholders present at a general meeting called for considering the by-law, the directors may, when they deem it expedient,

(a) borrow money upon the credit of the company;

(b) issue debentures or other securities of the company, and pledge or sell the same for such sums and at such prices as may be deemed expedient;

(c) *(paragraph repealed);*

(d) hypothecate the property or otherwise encumber the movable property of the company.

(1.1) The by-law may provide that the powers mentioned in subsection 1 shall be exercised, to the extent determined in the by-law, by one or more directors or officers designated by the directors or by the by-law.

The by-law may also provide that the powers so delegated may be amended, to the extent determined in the by-law, by a by-law subject to the provisions of subsection 3 of section 91.

(2) The limitations and restrictions contained in this section shall not apply to the borrowing of money by the company on bills of exchange or promissory notes made, drawn, accepted or endorsed by or on behalf of the company.

R. S. 1964, c. 271, s. 74; 1987, c. 5, s. 1; 1992, c. 57, s. 513; 1999, c. 40, s. 70.

**78.** (1) A copy of any trust deed for securing any issue of debentures or other securities of the company shall be forwarded to every holder of any such debenture or other security at his request, on payment in the case of a printed trust deed of the sum of \$0.25, or such less sum as may be prescribed by by-law of the company, or, where the trust deed has not been printed, on payment of \$0.10 for every 100 words required to be copied.

(2) If such copy is refused or is not forwarded upon request, the company shall be liable to a fine of not more than \$100 for such refusal or neglect, and to a further fine of not more than \$10 for every day during which the neglect to forward a copy continues; and every director, manager, secretary or other officer of the company who knowingly authorizes or permits the neglect shall be liable to the like penalty.

R. S. 1964, c. 271, s. 75.

## **DIVISION XXIII**

### **DIVIDENDS**

**79.** (1) No dividend shall be declared which will impair the capital of the company.

(2) The annual dividend may, however, be supplemented or paid entirely out of the reserve fund.

R. S. 1964, c. 271, s. 76.

**80.** The provisions of subsection 1 of section 79 shall not prevent a mining company or a company whose assets are wholly or in part composed of goods which are consumed by the use made of them from declaring or paying a dividend out of the funds derived from such use.

The powers conferred by the preceding paragraph may be exercised, although the value of the net assets of the company may thereby be reduced to a sum less than the value of its issued capital stock, provided that, after payment of the dividend, the remaining assets be sufficient to meet all the obligations of the company apart from the paid-up capital.

Such company may pay a dividend by distributing, in species or in kind, part of its property; but the real value of such property shall not exceed the amount of the dividend declared.

R. S. 1964, c. 271, s. 77.

**81.** The directors may provide that the amount of any dividend that they may lawfully declare shall be paid, in whole or in part, in capital stock of the company, and for that purpose they may authorize the issue of shares of the company as fully paid or partly paid, or may credit the amount of such dividend on the shares of the company already issued but not fully paid, and, in the latter case, the liability of the holders of such shares shall be reduced by the amount of such dividend.

R. S. 1964, c. 271, s. 78.

**82.** The directors may deduct from the dividends payable to any shareholder all such sums of money as are due from him to the company, on account of calls or otherwise.

R. S. 1964, c. 271, s. 79.

## **DIVISION XXIV**

### **DIRECTORS AND THEIR POWERS**

**83.** The affairs of the company shall be managed by a board of not less than three directors.

R. S. 1964, c. 271, s. 80.

**84.** The persons named as such, in the letters patent, shall be the directors of the company, until replaced by others duly appointed in their stead, and, in the absence of other provisions in respect thereof in the letters patent, their number shall be that of the directors to be elected, until otherwise provided in accordance with section 87.

If not so replaced within six months from the date of the constitution of the company as a legal person, any of said persons or, if they be not living, their heirs or assigns, may cause a meeting to be held by giving 15 clear days' notice of the time and place thereof in the *Gazette officielle du Québec*, and the said persons, their heirs or assigns, present at such meeting, may pass by-laws, allot stock, and elect directors.

R. S. 1964, c. 271, s. 81; 1999, c. 40, s. 70.

**85.** If, at any time, an election of directors is not made or does not take effect at the proper time, the company shall not be held to be thereby dissolved, but such election may take place at any subsequent general meeting of the company called for that purpose, and the retiring directors shall continue in office until their successors are elected.

R. S. 1964, c. 271, s. 82.

**86.** (1) No person shall be elected or appointed a director of a company unless he, or any other company of which he is an officer or director, is a shareholder and, if the by-laws of the company so provide, owning shares of the company absolutely in his own right or in the right of such other company to a required amount and not in arrears in respect of any calls thereon.

(2) Any person holding, as liquidator of a succession, tutor, curator or trustee, shares not in arrears in respect of any call, may be elected or appointed a director and, where another company holds such shares in any of such capacities, any officer of such other company may be elected or appointed a director.

(3) A director elected or appointed under subsection 2 shall not be personally liable under section 96, but the succession or other beneficial owner of the shares held by such director or by the company of which he is an officer, shall be subject to the liabilities imposed upon the directors by the said section.

(4) An undischarged bankrupt shall not be elected or appointed a director, and when any director becomes a bankrupt he shall thereby cease to be a director.

R. S. 1964, c. 271, s. 83; 1999, c. 40, s. 70.

**87.** The company may, by by-law, increase, or decrease to not less than three, the number of its directors, or may transfer the company's head office to another locality within Québec, but no by-law for either of the said purposes shall be valid or acted upon unless it be approved by the vote of at least two-thirds in value of the shares represented by the shareholders present at a special general meeting called for considering the by-law, nor until a copy of such by-law, certified under the seal of the company, has been deposited with the enterprise registrar.

A notice of such by-law shall be deposited in the register.

R. S. 1964, c. 271, s. 84; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 1993, c. 48, s. 262; 2002, c. 45, s. 278.

**88.** Directors of the company shall be elected by the shareholders, at such times, in such manner and for such term, not exceeding two years, as the constituting act or, as the case may be, the by-laws of the company prescribe.

However, the election of the directors of a company that has not made a distribution to the public of its securities may be held outside Québec if its constituting act provides for it, or, failing a provision in the deed to that effect, if all the shareholders entitled to vote at the election consent thereto.

R. S. 1964, c. 271, s. 85; 1979, c. 31, s. 8; 1980, c. 28, s. 10; 1999, c. 40, s. 70.



**89.** In the absence of other provisions in such behalf in the constituting act or by-laws of the company,—

(1) the election of directors shall take place yearly, and all the directors then in office shall retire, but, if otherwise qualified, they shall be eligible for reelection;

(2) every election of directors shall be by ballot;

(3) any vacancy occurring in the board of directors may be filled, for the remainder of the term, by the directors, from among qualified persons;

(4) the directors shall elect from among themselves a president and, if they see fit, a chairman of meetings and one or more vice-presidents of the company, and may also appoint all other officers thereof.

R. S. 1964, c. 271, s. 86; 1979, c. 31, s. 8, s. 22; 1999, c. 40, s. 70.

**89.1.** A director may waive in writing a notice of a meeting of the board of directors.

His sole attendance at a meeting is a waiver except where he attends a meeting for the express purpose of objecting to the holding of the meeting on the ground that the manner of calling it was irregular.

1979, c. 31, s. 23.

**89.2.** Unless otherwise indicated in the constituting act or in the by-laws of the company, the directors may participate in a meeting of the board of directors by such means, particularly by telephone, as permit all persons participating in the meeting to communicate directly with one another. They are then deemed to be present at the meeting.

A vote may then be held entirely by any means of communication enabling votes to be cast in a way that allows them to be verified afterwards and protects the secrecy of the vote when a ballot has been requested.

1979, c. 31, s. 23; 1987, c. 5, s. 2; 1999, c. 40, s. 70; 2019, c. 23, s. 1.

**89.3.** A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of the board of directors, is as valid as if it had been passed at a meeting.

A copy of every resolution shall be kept with the minutes of the proceedings of the board of directors.

1979, c. 31, s. 23.

**89.4.** Sections 89.1 to 89.3 apply, with the necessary modifications, to the meetings of the executive committee and general meetings.

1979, c. 31, s. 23; 2019, c. 23, s. 2.

**90.** Every director of the company may, with the consent of the company, given at any general meeting thereof, be indemnified and saved harmless out of the funds of the company, from and against all costs, charges and expenses which he sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing made, done or permitted by him, in or about the execution of the duties of his office, and also from and against all other costs, charges and expenses which he sustains or incurs, in or about or in relation to the affairs thereof,—except such costs, charges or expenses as are occasioned by his own fault.

R. S. 1964, c. 271, s. 87.

**91.** (1) The directors may administer the affairs of the company in all things, and make or cause to be made for it, in its name, any kind of contract which it may lawfully enter into.

(2) They may make by-laws not contrary to law, nor to the constituting act of the company, for the following purposes:

(a) the regulating of the allotment of stock, the making of calls thereon, the payment thereof, the issue and registration of certificates of stock, the forfeiture of stock for non-payment, the disposal of forfeited stock and of the proceeds thereof, and the transfer of stock;

(b) the declaration and payment of dividends;

(c) the number of the directors, their term of service, the amount of their stock qualifications, and their remuneration, if any;

(d) the appointment, functions, duties and removal of all officers, agents and employees of the company, the security to be given by them to the company, and their remuneration;

(e) the time and the place for the holding of the annual meetings of the company, the calling of meetings, regular and special, of the board of directors and of the company, the quorum, the requirements as to proxies not otherwise prescribed by this Part, and the procedure in all things at such meetings;

(f) the imposition and recovery of all penalties and forfeitures which admit of regulation by by-law;

(g) the conduct in all other particulars of the affairs of the company.

(3) The directors may repeal, amend or re-enact such by-laws, but every such by-law (except by-laws made respecting the matters set forth in paragraph *d* of subsection 2 of this section) and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the company duly called for that purpose, shall have effect only until the next annual meeting of the company, and, in default of confirmation thereat, shall, at and from that time only, cease to be in force.

R. S. 1964, c. 271, s. 88; 1979, c. 31, s. 8; 1980, c. 28, s. 11; 1999, c. 40, s. 70.

**92.** When the board of directors of a company consists of more than six directors it may, if thereunto authorized by by-law regularly adopted by the vote of at least two-thirds in value of the shares represented by the shareholders present at a special general meeting of the company, elect from among its members an executive committee composed of at least three directors. The executive committee may exercise the powers of the board of directors delegated by such by-law, subject to the restrictions therein contained and subject to the other by-laws which may be enacted from time to time by the directors.

R. S. 1964, c. 271, s. 89.

**93.** When a company has ceased to carry on business, except for the purpose of winding-up its affairs, and has no debts or obligations that have not been provided for or protected, the directors may pass by-laws for distributing the assets of the company, or any part of them, among the shareholders. No such distribution shall be made until 15 days after the publication of a summary of the by-law in the *Gazette officielle du Québec*.

R. S. 1964, c. 271, s. 90; 1999, c. 40, s. 70.

## DIVISION XXV

### LIABILITY OF DIRECTORS

**94.** If the directors of the company declare and pay any dividend when the company is insolvent, or any dividend the payment of which renders the company insolvent or impairs the capital thereof, they shall be solidarily liable, as well to the company as to the individual shareholders and creditors thereof, for all the debts of the company then existing and for all thereafter contracted during their continuance in office, but if any director present when such dividend is declared does forthwith, or if any director then absent does, within 24 hours after he becomes aware thereof and able so to do, enter on the minutes of the board of directors his protest against the same, and within eight days thereafter publishes such protest in at least one newspaper

published at the place in which the head office or chief place of business of the company is situated, or, if there is no newspaper there published, then in the newspaper nearest thereto, such director may thereby, and not otherwise, exonerate himself from such liability.

R. S. 1964, c. 271, s. 91.

**95.** No loan shall be made by the company to any shareholder. If such loan is made, all directors and other officers of the company making the same, or in anywise assenting thereto, shall be solidarily liable for the amount of such loan, with interest, to the company, and also to the creditors of the company.

R. S. 1964, c. 271, s. 92.

**96.** (1) The directors of the company shall be solidarily liable to its employees for all debts not exceeding six months' wages due for services rendered to the company whilst they are such directors respectively.

(2) No director shall be liable to an action therefor unless

(a) the company is sued within one year after the debt became due and the notice of execution is returned unsatisfied wholly or in part; or

(b) during such period, a winding-up order is made against the company or it becomes bankrupt within the meaning of the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3) and a claim for such debt is filed.

R. S. 1964, c. 271, s. 93; 1999, c. 40, s. 70; I.N. 2016-01-01 (NCCP).

## DIVISION XXVI

### GENERAL MEETINGS

**97.** In default of other express provision in the constituting act or by-laws of a company, notice of the time and place for holding general meetings, including the annual and special meetings, shall be given at least ten days previously thereto by registered mail to each shareholder at his last known address, and by an advertisement in a newspaper published in the English language and in a newspaper published in the French language at the place where the company has its head office, or if there is only one, by a notice inserted in one or two newspapers, as the case may be, published in the nearest place.

R. S. 1964, c. 271, s. 94; 1975, c. 83, s. 84; 1979, c. 31, s. 8; 1999, c. 40, s. 70; I.N. 2016-01-01 (NCCP).

**98.** (1) An annual meeting of the shareholders of the company shall be held at such time each year as the constituting act or by-laws of the company provide, and failing such provisions to that effect an annual meeting shall be held at the place named as the place of the head office of the company, on the fourth Wednesday in January in every year, and, if such day be a holiday, then on the next following working day.

The annual meeting of the company shall be held in Québec at such place as its by-laws or constituting act provide. However, the annual meeting of a company that has not made a distribution to the public of its securities may be held outside Québec if its constituting act provides for it, or, failing a provision in the deed to that effect, if all the shareholders entitled to attend the meeting consent thereto.

(2) At such meeting the directors shall lay before the company,—

(a) a balance sheet made up to a date not more than four months before such annual meeting; provided however that a company which carries on its undertaking outside Québec may, by resolution at a general meeting, extend this period to not more than six months;

(b) a general statement of income and expenditure for the financial period ending nearest to the date of such balance sheet;

(c) the report of the auditor or auditors;

(d) such further information respecting the company's financial position as the constituting act or by-laws of the company require.

(3) Every balance sheet shall be drawn up so as to distinguish severally at least the following classes of assets and liabilities, namely:

(a) cash;

(b) debts owing to the company by its customers;

(c) debts owing to the company by its directors, officers and shareholders respectively;

(d) stock in trade;

(e) expenditures made on account of future business;

(f) movable and immovable property;

(g) goodwill, franchises, patents and copyrights, trade-marks, leases, contracts and licences;

(h) debts owing by the company, secured by mortgage or other lien upon the property of the company;

(i) debts owing by the company, but not secured;

(j) amount of common shares, subscribed for and allotted, and the amount paid thereon, showing the amount thereof allotted for services rendered, for commissions or for assets acquired since the last annual meeting;

(k) amount of preferred shares subscribed for and allotted and the amount paid thereon, showing the amount thereof allotted for services rendered, for commissions or for assets acquired since the last annual meeting;

(l) indirect and contingent liabilities;

(m) amount written off on account of depreciation of plant, machinery, stock-in-trade and all other similar items.

R. S. 1964, c. 271, s. 95; 1979, c. 31, s. 8, s. 24; 1980, c. 28, s. 12; 1999, c. 40, s. 70; I.N. 2016-01-01 (NCCP).

***Not in force***

**98.1.** *(Not in force).*

2002, c. 70, s. 160.

***Not in force***

**98.2.** *(Not in force).*

2002, c. 70, s. 160.

***Not in force***

**98.3.** *(Not in force).*

2002, c. 70, s. 160.

*Not in force*

**98.4.** *(Not in force).*

2002, c. 70, s. 160.

*Not in force*

**98.5.** *(Not in force).*

2002, c. 70, s. 160.

*Not in force*

**98.6.** *(Not in force).*

2002, c. 70, s. 160.

*Not in force*

**98.7.** *(Not in force).*

2002, c. 70, s. 160.

*Not in force*

**98.8.** *(Not in force).*

2002, c. 70, s. 160.

*Not in force*

**98.9.** *(Not in force).*

2002, c. 70, s. 160.

*Not in force*

**98.10.** *(Not in force).*

2002, c. 70, s. 160.

*Not in force*

**98.11.** *(Not in force).*

2002, c. 70, s. 160.

*Not in force*

**98.12.** *(Not in force).*

2002, c. 70, s. 160.

**99.** (1) Upon the receipt by the secretary of the company of a requisition in writing, signed by the holders of not less than one-tenth of the subscribed shares of the company, setting out the objects of the proposed meeting, the directors, or, if there is not a quorum in office, the remaining directors or director, shall

forthwith convene a special general meeting of the company for the transaction of the business mentioned in the requisition.

(2) If the meeting is not called and held within twenty-one days from the date upon which the requisition was left at the head office of the company, any shareholders holding not less than one-tenth in value of the subscribed shares of the company, whether they signed the requisition or not, may themselves convene such special general meeting.

(3) The directors may at any time, of their own motion, call a special general meeting of the company for the transaction of any business.

(4) Notice of any special general meeting shall state the business which is to be transacted thereat.

R. S. 1964, c. 271, s. 96.

**100.** The chairman of meetings, if there be one, shall preside at every general meeting of the company. If there is no chairman of meetings or if he is absent, then the president of the company shall *de jure* preside as chairman, and, in his absence, such right shall devolve upon the vice-president. If, at any meeting, none of the above-mentioned officers is present within fifteen minutes after the time appointed for holding the meeting, the shareholders present shall choose one of their number to be chairman of such meeting.

R. S. 1964, c. 271, s. 97.

**101.** (1) At any general meeting, unless a poll be demanded, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the minutes of the company, shall be *prima facie* evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(2) If a poll is demanded it shall be taken in such manner as the by-laws prescribe, and, if the by-laws make no provision therefor, then as the chairman may direct.

(3) Failing other provisions in that behalf in the constituting act or by-laws of the company, in the case of an equality of votes at any general meeting the chairman shall be entitled to a second or casting vote.

(4) Nevertheless, in the case of the election of directors of a company which has never offered shares of its capital stock for sale to the public and of which 60% or more of the shares are held by members of the same family, the chairman shall not be entitled to a second or casting vote, but in such case, if there is an equality of votes, and the shareholders cannot agree on the choice of one or more directors, such director or directors shall be chosen, from amongst the persons qualified for office, by a board of arbitration composed of three persons appointed as follows: one by each of the opposing shareholders or groups of shareholders and the third by the two arbitrators so appointed; if the latter do not agree on such appointment, it shall be made, on summary application by a shareholder, served at the head office of the company, with at least one day's notice of its presentation, by the chief judge of the Court of Québec or by the judge he designates. On failure by one or other of such shareholders or groups of shareholders to appoint his or its arbitrator at the meeting or within two days thereafter, he shall be designated by the senior associate chief judge of the Court of Québec, in accordance with the same procedure.

R. S. 1964, c. 271, s. 98; 1965 (1st sess.), c. 17, s. 2; 1979, c. 31, s. 8; 1980, c. 11, s. 117; 1988, c. 21, s. 84; 1995, c. 42, s. 53; 1999, c. 40, s. 70; I.N. 2016-01-01 (NCCP).

**102.** Subject to the constituting act or by-laws, at all meetings of shareholders every shareholder shall be entitled to as many votes as he holds shares in the company, and may vote by proxy, but no shareholder in arrears in respect of any call shall be entitled to vote at any meeting.

R. S. 1964, c. 271, s. 99; 1979, c. 31, s. 8; 1999, c. 40, s. 70.

**103.** (1) The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor be a legal person, either under the seal of the legal

person or under the hand of an officer or attorney so authorized, and shall cease to be valid after the expiration of one year from the date thereof, unless it be for some other period.

Any shareholder represented at a general or special meeting of shareholders by proxy, given according to law or the by-laws of the company, is deemed to be present himself at the meeting.

(2) Every person, whether he is a shareholder of the company or not, may act as a proxy.

(3) A proxy for an absent shareholder shall not have the right to vote on a show of hands.

(4) An instrument appointing a proxy shall be dated and contain the appointment and name of the proxy and, if need be, the revocation of a former instrument appointing a proxy.

(5) An instrument appointing a proxy may be revoked at any time.

R. S. 1964, c. 271, s. 100; 1972, c. 61, s. 16; 1999, c. 40, s. 70.

## DIVISION XXVII

### BOOKS OF THE COMPANY

**104.** (1) The company shall cause a book or books to be kept by the secretary, or by some other officer specially charged with that duty, wherein shall be kept recorded:

(a) a copy of the constituting act and of the by-laws of the company;

(b) the names, alphabetically arranged, of all persons who are or have been shareholders;

(c) the address and calling of every such person, while such shareholder, as far as can be ascertained;

(d) the number of shares of stock held by each shareholder;

(e) the amounts paid in and remaining unpaid, respectively, on the stock of each shareholder;

(f) the names, addresses and callings of all persons who are or have been directors of the company, with the several dates at which each became or ceased to be such director.

(2) A book called the register of transfers shall be provided, and in such book shall be entered the particulars of every transfer of shares in the capital of the company.

R. S. 1964, c. 271, s. 101; 1979, c. 31, s. 25; 1999, c. 40, s. 70.

**105.** (1) Every company shall keep a register of mortgages, and enter therein all mortgages and charges affecting property of the company, giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge, and (except in the case of debentures and other securities payable to order or to bearer) the names of the mortgagees or successors. As regards the hypothecs and charges securing the payment of debentures and other securities payable to order or to bearer, it shall be sufficient to mention the name of the trustee in whose favour the hypothec is created.

(2) If any director, manager or other officer of the company knowingly and wilfully authorizes or permits the omission of any entry required to be made in pursuance of this section, he shall be liable to a fine of not more than \$200.

R. S. 1964, c. 271, s. 102; 1990, c. 4, s. 302; 1999, c. 40, s. 70.

**106.** The books and registers mentioned in sections 104 and 105 shall, during reasonable business hours of every day, except Sundays and holidays, be kept open at the head office or chief place of business of the company, for the inspection of holders of preferred or common shares and creditors of the company, and their

representatives, and of any judgment creditor of a shareholder; and every such shareholder, creditor or representative may make extracts therefrom.

R. S. 1964, c. 271, s. 103.

**107.** Every company shall keep, at its head office in Québec, one or more books in which are entered:

- (a) its receipts and disbursements and the matters to which each of them relates;
- (b) its financial transactions;
- (c) its credits and liabilities;
- (d) the minutes of the meetings of its shareholders and of its directors and of the votes taken at such meetings.

All the minutes entered in such book or books shall be certified by the president of the company or the chairman of the meeting or by the secretary of the company.

R. S. 1964, c. 271, s. 104.

**108.** (1) Every director, officer or employee of the company

(a) who refuses to exhibit the books and registers mentioned in sections 104 and 105 or to allow the said books and registers to be inspected and extracts taken therefrom; or

(b) who, knowingly, makes or assists in making any untrue entry in any such books and registers mentioned in sections 104, 105 and 107, or who refuses or neglects to make any proper entry therein,

shall be liable to a fine of \$100 for every such untrue entry and for every such refusal or neglect, and shall be responsible for any injury resulting from the losses which any interested party may have sustained from such acts and omissions.

(2) Every company which neglects to keep any such books or registers as aforesaid shall be liable to a penalty of not more than \$20 for each day that such neglect continues, and also in damages for all loss or injury which any party interested may have sustained thereby.

R. S. 1964, c. 271, s. 105; 1999, c. 40, s. 70.

**109.** Such books and registers shall be *prima facie* evidence of all facts purporting to be thereby stated, in any action, suit or proceeding against the company or against any shareholder.

R. S. 1964, c. 271, s. 106.

## DIVISION XXVIII

### INSPECTION

**110.** (1) The enterprise registrar may appoint one or more competent inspectors to investigate the affairs of any company, and to report thereon in such manner as he may direct, on the application of shareholders holding such a proportion of the issued stock of the company as in the opinion of the enterprise registrar warrants the application.

(2) The application shall be supported by such evidence as the enterprise registrar may require for the purpose of showing that the applicants have good reason for and are not actuated by malicious motives in applying for the investigation; and the enterprise registrar may, before appointing an inspector, require the applicants to give security for payment of the costs of the inquiry.



(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or control.

(4) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(5) If any officer or agent refuses to produce any book or document which under this section it is his duty to produce, or to answer any question relating to the affairs of the company, he shall be liable to a fine of not more than \$100 in respect of each offence.

(6) On the conclusion of the investigation the inspectors shall report their opinion to the Department of the enterprise registrar, and a copy of the report shall be forwarded by him to the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

(7) The report shall be written or printed, as may be directed by the enterprise registrar.

(8) The expenses of and incidental to the investigation shall be borne by the applicants or the company, as the enterprise registrar may order, or by both the applicants and the company, in the proportion which the enterprise registrar shall determine, when he shall deem it equitable to apportion them between the parties.

They shall be recoverable at the instance of the inspector from any party against whom they have been adjudged.

Such expenses shall be determined by the chief judge of the Court of Québec or by the judge he designates, upon verbal application of the inspector, after a notice of at least three days, to every party obliged to pay the same, of the hour, date and place where the bill of costs will be filed.

The certificate of adjudication of the expenses by the enterprise registrar and the certificate issued by the judge who determined the expenses shall be incontestable and shall be evidence of the obligation of any party against whom they have been adjudged to pay the amount determined.

R. S. 1964, c. 271, s. 107; 1965 (1st sess.), c. 17, s. 2; 1966-67, c. 72, s. 23; 1980, c. 11, s. 117; 1982, c. 52, s. 138; 1988, c. 21, s. 85; 1990, c. 4, s. 302; 1995, c. 42, s. 54; 2002, c. 45, s. 278; I.N. 2016-01-01 (NCCP).

**111.** (1) A company may, by resolution passed at any annual or special general meeting, appoint inspectors to investigate its affairs.

(2) Inspectors so appointed by the company shall have the same powers and duties as inspectors appointed by the enterprise registrar, except that, instead of reporting to the enterprise registrar, they shall report in such manner and to such persons as the company by resolution may direct.

(3) Officers and agents of the company shall be liable to the like sentences in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have been liable to if the inspectors had been appointed by the enterprise registrar.

R. S. 1964, c. 271, s. 108; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 1990, c. 4, s. 304; 2002, c. 45, s. 278.

**112.** A copy of the report of any inspectors appointed under this division, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

R. S. 1964, c. 271, s. 109.

## DIVISION XXIX

### AUDITORS

**113.** (1) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) If no appointment of auditors is made at any annual general meeting, the enterprise registrar may, on the application of any shareholder of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(3) No director or officer of a company may be appointed auditor of the company.

(4) The directors may fill any vacancy in the office of auditor, but while any such vacancy continues the remaining auditor or auditors, if any, shall continue to act.

R. S. 1964, c. 271, s. 110; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 2002, c. 45, s. 278.

**114.** (1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

(2) The auditors shall make a report to the shareholders on the accounts examined by them, and on every balance sheet laid before the company in general meeting during their tenure of office, and the report shall state:

(a) whether or not they have obtained all the information and explanations they have required, and

(b) whether the balance sheet referred to in the report is drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(3) The balance sheet shall be signed on behalf of the board by two of the directors of the company, and the auditor's report shall be attached to the balance sheet, or there shall be inserted at the foot of the balance sheet a reference to the report, and the report shall be read before the shareholders in general meeting, and shall be open to inspection by any shareholder.

(4) Thereafter any shareholder shall be entitled to be furnished with a copy of the balance sheet and auditor's report at a charge of not more than \$0.10 for every 100 words.

(5) If any copy of a balance sheet which has not been signed as required by this section is issued, circulated or published, or if any copy of a balance sheet is issued, circulated, or published without either having a copy of the auditor's report attached thereto or containing such reference to such report as is required by this section, the company, and every director, manager or other officer of the company who is knowingly a party to the default, shall be liable to a fine of not more than \$200.

R. S. 1964, c. 271, s. 111; 1990, c. 4, s. 302.

## DIVISION XXX

### PROCEDURE

**115.** Any summons, notice, order or proceeding requiring authentication by the company, may be signed by any director, manager or other authorized officer of the company, and need not be under the seal of the company.

R. S. 1964, c. 271, s. 112.

**116.** Subject to the provisions of section 97 respecting general meetings, notices to be notified by the company to the shareholders may be notified either personally or by registered mail, addressed to the shareholders at their places of abode as they appear on the books of the company.

R. S. 1964, c. 271, s. 113; 1975, c. 83, s. 84; I.N. 2016-01-01 (NCCP).

**117.** A notice or other document notified by post by the company to a shareholder is deemed to be notified at the time when the registered mail containing it would be delivered in the ordinary course of post, and to prove the fact and time of notification it shall be sufficient to prove that such letter was properly addressed and registered, and was put into the post-office, and the time when it was put in, and the time requisite for its delivery in the ordinary course of post.

R. S. 1964, c. 271, s. 114; 1975, c. 83, s. 84; 1999, c. 40, s. 70; I.N. 2016-01-01 (NCCP).

**118.** A copy of any by-law of the company, under its seal, and purporting to be signed by any officer of the company, shall be received as against any shareholder of the company, as *prima facie* evidence of such by-law in all courts in Québec.

R. S. 1964, c. 271, s. 115.

**119.** In any action or other legal proceeding, it is not requisite to set forth the mode of incorporation of the company.

R. S. 1964, c. 271, s. 116; 1979, c. 31, s. 26; 1993, c. 48, s. 263.

**120.** Except in any proceeding under articles 407 and following of the Code of Civil Procedure (chapter C-25.01) for the purpose of rescinding or annulling the same, the letters patent or supplementary letters patent, or any exemplification or copy thereof, shall be proof of every matter and thing therein set forth.

R. S. 1964, c. 271, s. 117; 1965 (1st sess.), c. 80, a. 1; I.N. 2016-01-01 (NCCP).

**121.** Proof of any matter which is necessary to be made under this Part may be made by oath.

R. S. 1964, c. 271, s. 118.

**122.** Every holder of preferred shares or debentures of a company shall have the same right as an ordinary shareholder to examine the financial statement, the auditor's report or any other report.

R. S. 1964, c. 271, s. 119.

## DIVISION XXXI

### PENAL PROVISIONS

1992, c. 61, s. 212.

**123.** Everyone who, being a director, manager or officer of a company, commits any act contrary to the provisions of this Part, or fails or neglects to comply with any such provisions, shall, if no penalty for such act, failure or neglect is expressly provided by this Part, be liable to a fine of not more than \$200.

R. S. 1964, c. 271, s. 120; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 1990, c. 4, s. 305; 1992, c. 61, s. 213.

## DIVISION XXXII

### FINAL PROVISIONS

1980, c. 28, s. 13.

**123.0.1.** The enterprise registrar shall cease to grant letters patent from such date as the Minister may determine, except those the registrar may grant under sections 12, 14 and 17 or upon an application in respect of a company to which another Act expressly declares Part I applicable.

The enterprise registrar shall also cease to grant supplementary letters patent from such date as the Minister may determine, except those the registrar may grant under section 17 or 19 or upon an application made in respect of a company to which another Act expressly declares Part I applicable.

The Minister shall publish a notice of the cessation in the *Gazette officielle du Québec* at least 30 days before the determined date, in the case of letters patent, and at least 180 days before the determined date, in the case of supplementary letters patent.

1980, c. 28, s. 13; 1982, c. 52, s. 127; 1987, c. 5, s. 3; 2002, c. 45, s. 278.

## PART IA

### COMPANIES CONSTITUTED BY THE FILING OF ARTICLES



*The Business Corporations Act (chapter S-31.1) replaces Parts I and IA of this Act.*

*However, Parts I and IA continue to have effect insofar as they are necessary for the purposes of Parts II and III of this Act or for the purposes of any other Act that provides for their application.*

*Likewise, Part I continues to have effect until 14 February 2016 in respect of any company constituted, continued or resulting from an amalgamation under Part I before 14 February 2011.*

*See 2009, c. 52, s. 728.*

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70; 2009, c. 52, s. 728.

## CHAPTER I

### INTERPRETATION

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.1.** In this Part, unless the context indicates otherwise,

“parent legal person” means a legal person that controls another legal person;

“subsidiary” means a legal person controlled by another legal person.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.2.** A legal person controls another legal person if it holds, otherwise than as a creditor, shares giving it over 50% of the votes enabling it to elect the majority of the directors of the other legal person.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.3.** A company is deemed to have made a distribution of securities to the public where the securities issued by it were

(1) listed on a stock exchange or with a regulatory body for control of trade in such securities, or

(2) described in a document filed prior to their issue, such as a prospectus or a statement of material facts.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

## CHAPTER II

### SCOPE

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.4.** This Part applies to every company constituted, continued or resulting from an amalgamation under this Part.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.5.** Companies whose objects come under the legislative authority of Québec, except companies constituted to carry on the trust business, or which, under another Act, may be constituted only under Part I, may be constituted under this Part.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1993, c. 75, s. 45; 1999, c. 40, s. 70.

**123.6.** Part I applies, with the necessary modifications, to the companies governed by this Part, except paragraphs 1 and 2 of section 3, sections 4, 6 to 9 and 10 to 12, subsections 1 and 2 of section 13, sections 14 to 25, 30 to 32, 34.1, 36 to 40 and 44, subsections 1, 8, 9 and 13 of section 48, the second paragraph of subsection 2 of section 49, sections 55 to 65, 79, 80, 83 to 87, 90, 94, 95 and 104 to 106, paragraph *d* of section 107, section 108, subsection 1 of section 113 and sections 120 and 123.0.1.

However, sections 77 and 92 must be read as if the expression “by the vote of at least two-thirds in value of the shares represented by the shareholders present” were replaced by the expression “by two-thirds of the votes given by the shareholders”.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1993, c. 48, s. 264.

## CHAPTER III

### REPRESENTATION OF THE COMPANY BEFORE ITS CONSTITUTION

1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.7.** A company is bound by any deed performed in its interest before its constitution provided it ratifies the deed within 90 days after its constitution.

The ratification transfers to the company the rights and obligations of the party who performed the deed, but does not of itself effect a novation; moreover, the person who performed the deed has the same rights and is bound by the same obligations as a mandatary of the company.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.8.** The person who performs a deed in the interest of a company before its constitution is bound by that deed unless the contract entered into for the company includes a clause excluding or limiting his liability and a statement to the effect that the company might not be constituted or might not assume its obligations.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**CHAPTER IV**

**CONSTITUTION**

1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.9.** A company may be constituted by one or more founders.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.10.** Any person may be a founder, except

- (1) a person who is under 18 years of age;
- (2) a person of full age under tutorship or curatorship;
- (3) a person declared incapable by a court in another province or in another country;
- (4) an undischarged bankrupt;
- (5) a liquidating legal person.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1989, c. 54, s. 162; 1999, c. 40, s. 70.

**123.11.** The articles of the company must be filed with the enterprise registrar in two duplicates signed by each founder.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**123.12.** The articles set out

- (1) the corporate name of the company;
- (2) the judicial district in which it establishes its head office in Québec;
- (3) the name and address of each founder or, as the case may be, the name and address of the head office of the founding legal person and the Act under which it is constituted;
- (4) the amount to which its share capital is limited, where such is the case;
- (5) the par value of its shares, where such is the case;
- (6) in the case of a plurality of classes of shares, the rights, privileges, conditions and restrictions attaching to each class;
- (7) if a class of shares is issued in series, the authority given to the directors to determine, before issue, the number and the designation of the shares of each series and the rights, privileges, conditions and restrictions attaching to the shares of each series;
- (8) the restrictions, if any, imposed on the transfer of its shares;
- (9) the precise number or the minimum and maximum number of directors; and
- (10) the limits, if any, imposed on its activities.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1993, c. 48, s. 265; 1999, c. 40, s. 70.

**123.13.** The articles may set out any other provision permitted by law to be set out in the by-laws, in addition to the provisions permitted by this Act to be set out.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.14.** The following documents must accompany the articles:

- (1) a list of the directors of the company indicating the name and address of each;
- (2) a notice of the address of the head office of the company within the boundaries of the judicial district indicated in the articles;
  - (2.1) a research report on the names of persons, partnerships or groups used and entered in the register;
- (3) the other documents required by regulation of the Government.

However, the list of the directors or the notice establishing the address of the company's head office need not accompany the articles if they are sent to the enterprise registrar with the initial declaration under the Act respecting the legal publicity of enterprises (chapter P-44.1).

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1993, c. 48, s. 266; 2002, c. 45, s. 278; 2010, c. 7, s. 282.

**123.15.** The enterprise registrar must, upon receiving the articles, the documents accompanying them and the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1),

- (1) endorse on each duplicate of the articles the word "Filed" and the date of the filing;
- (2) issue in duplicate the appropriate certificate and attach to each certificate one duplicate of the articles;
- (3) deposit in the register one duplicate of the certificate and one duplicate of the articles, together with the accompanying documents;
- (4) send to the company or its representative one duplicate of the certificate and articles;
- (5) *(paragraph repealed)*.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 267; 2002, c. 45, s. 278; 2010, c. 7, s. 207.

**123.16.** From the date indicated in the certificate of constitution, the company is a legal person.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

## CHAPTER V

### ORGANIZATION MEETING

1980, c. 28, s. 14.

**123.17.** After the company is constituted, the directors shall hold an organization meeting at which they must issue at least one share.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.18.** Any founder or director may call an organization meeting by notifying each director, at least ten days in advance, of the date, time and place of the meeting.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.19.** At the organization meeting, the directors may

- (1) make general by-laws;
- (2) appoint officers;
- (3) adopt all measures respecting the banking arrangements of the company.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.20.** A majority of the directors is a quorum of the organization meeting.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

## CHAPTER VI

### NAME

1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.21.** (*Repealed*).

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1993, c. 48, s. 268.

**123.22.** The word “inc.”, “s.a.” or “ltée” must be placed at the end of the name of a company where the name does not include the word “société par actions” or “compagnie”, to indicate that the company is an undertaking with limited liability.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1993, c. 48, s. 269; 1999, c. 40, s. 70.

**123.23.** At the request of the founders or the company, the enterprise registrar shall assign a designating number to the company as its corporate name.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**123.24.** The enterprise registrar may order a company to which a designating number has been assigned to replace it by a name.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**123.25.** (*Repealed*).

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 270.

**123.26.** If a company fails to comply with an order of the enterprise registrar within 60 days of its notification, the enterprise registrar may revoke the designating number of the company and assign to it *ex officio* a name.

The name assigned by the enterprise registrar is deemed to have been requested by the company.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 271; 1999, c. 40, s. 70; 2002, c. 45, s. 278; I.N. 2016-01-01 (NCCP).

**123.27.** Where the enterprise registrar assigns a name to a company *ex officio*, he shall deliver in duplicate a certificate establishing the change and deposit one copy of the certificate in the register.

The enterprise registrar shall send the other copy of the certificate to the company or the company’s representative.



The change has effect from the date indicated in the certificate.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 272; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**123.27.1.** Any interested person may, upon payment of the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1), apply to the enterprise registrar to order a company to change its name if the name is not in conformity with section 9.1.

1993, c. 48, s. 273; 1999, c. 40, s. 70; 2002, c. 45, s. 278; 2010, c. 7, s. 207; I.N. 2016-01-01 (NCCP).

**123.27.2.** Before rendering a decision, the enterprise registrar shall, in accordance with section 5 of the Act respecting administrative justice (chapter J-3), inform all the persons affected by the decision an opportunity to present observations.

1993, c. 48, s. 273; 1997, c. 43, s. 200; 2002, c. 45, s. 278.

**123.27.3.** The decision of the enterprise registrar must be in writing, give reasons and be signed. It must be forwarded without delay to the persons affected by the decision and be deposited in the register.

The decision is executory on the expiry of the time limit for bringing a proceeding under section 123.145 if no proceeding has been brought.

1993, c. 48, s. 273; 1997, c. 43, s. 201; 2002, c. 45, s. 278.

**123.27.4.** On the expiry of the time limit for bringing a proceeding, the enterprise registrar may, at the request of a person concerned, change the name of a company that does not respect the order.

The enterprise registrar may also, of his own initiative, change the name of a company that does not respect the order issued by him, on the ground that the name is not in conformity with any of paragraphs 1 to 6 or paragraph 8 of section 9.1.

1993, c. 48, s. 273; 1997, c. 43, s. 202; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**123.27.5.** Where the enterprise registrar assigns a name to the company, he shall deliver in duplicate a certificate establishing the change and deposit one copy of the certificate in the register.

The enterprise registrar shall give the other copy of the certificate to the company or the company's representative.

The change has effect from the date indicated in the certificate.

1993, c. 48, s. 273; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**123.27.6.** *(Repealed).*

1993, c. 48, s. 273; 2002, c. 45, s. 278; 2006, c. 38, s. 19.

**123.27.7.** *(Repealed).*

1993, c. 48, s. 273; 1997, c. 43, s. 203.

**123.28.** *(Repealed).*

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 274.

## CHAPTER VII

### POWERS OF A COMPANY

1980, c. 28, s. 14.

**123.29.** A company has the full enjoyment of civil rights in Québec and outside Québec, except respecting what is proper to the human person and subject to the laws applicable in any particular case.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.30.** Third persons are not presumed to have knowledge of the information contained in a document concerning the company, other than the information set out in section 98 of the Act respecting the legal publicity of enterprises (chapter P-44.1), by reason only that the document has been deposited in the register or that the document may be consulted in the offices of the company.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1993, c. 48, s. 275; 2010, c. 7, s. 199.

**123.31.** Third persons may presume that

(1) the company exercises its powers within the scope of its articles and by-laws and the unanimous agreement of the shareholders or the statement referred to in section 123.91;

(2) the documents deposited in the register under this Part contain true information;

(3) the directors and officers of the company validly hold office and lawfully exercise the powers arising therefrom;

(4) the documents of the company issued by one of its directors, officers or other mandataries are valid.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 276.

**123.32.** Sections 123.30 and 123.31 do not apply to third persons in bad faith or to persons who ought to have knowledge to the contrary by virtue of their position with or relationship to the company.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.33.** In no case may third persons invoke against the company the restrictions imposed on its operations by its articles.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

## CHAPTER VIII

### HEAD OFFICE

1980, c. 28, s. 14.

**123.34.** A company shall at all times have a head office in Québec, in the judicial district specified in its articles.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.35.** A company may change the address of its head office within the boundaries of the judicial district indicated in its articles.

The company must give notice of the change by filing a declaration to that effect in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1).

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 277; 2010, c. 7, s. 282.

**123.36.** A company may transfer its head office to another judicial district by way of amendment to its articles.

A notice respecting the address of a head office must accompany any amendment to the articles transferring the head office; in such a case, the change of address has effect from the date of the amendment to the articles.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.37.** *(Repealed).*

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 278.

## CHAPTER IX

### SHARE CAPITAL

1980, c. 28, s. 14.

#### DIVISION I

##### GENERAL PROVISIONS

1980, c. 28, s. 14.

**123.38.** A company has an unlimited share capital and its shares are without par value, except where otherwise provided in its articles.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.39.** The share capital of a company may consist of shares with par value or shares without par value, or both.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.40.** The share capital of a company must include shares giving the right

- (1) to vote at all meetings of the shareholders,
- (2) to receive any declared dividend, and
- (3) to share the residual assets at the winding-up of the company.

The rights need not be attached to shares of the same class.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.41.** Except where provided to the contrary in the articles, the rights mentioned in section 123.40 attach to every share.

If a right under this section is attached to no issued share, every restriction to that right has no effect until a share is issued to which the right affected by that restriction is attached.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.42.** When a company acquires a share of its share capital, the share is cancelled.

However, the cancelled share again becomes an unissued share if the articles limit the number of authorized shares, except where provided to the contrary in the articles.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

## DIVISION II

### HOLDING SHARES

1980, c. 28, s. 14.

**123.43.** No company may hold its own shares or those of its parent legal person, nor allow its shares to be acquired by its subsidiary.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.44.** A company may, however, hold its own shares or those of its parent legal person as mandatory, hypothecary creditor, or administrator of the property of another person. It may also hold its own shares if compelled to do so under the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002).

No voting rights attached to the shares may be exercised except at the demand of the owner and on such terms and conditions as he may fix.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1992, c. 57, s. 514; 1999, c. 40, s. 70; 2008, c. 20, s. 159.

**123.45.** A company that becomes the subsidiary of a legal person must sell, within five years after the change, the shares it holds of its parent legal person.

In no case may the company exercise the voting rights attached to the shares while it continues to hold them.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.46.** Should the company fail to sell the shares of its parent legal person within the prescribed time, the court, on application by any person concerned, may order the company to sell the shares or take any other measure it deems expedient.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70; I.N. 2016-01-01 (NCCP).

## DIVISION III

### ACCOUNT OF ISSUED AND PAID-UP SHARE CAPITAL

1980, c. 28, s. 14.

**123.47.** A company shall keep an account of issued and paid up share capital.

The company shall subdivide the account by class or series of shares.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.48.** The company shall pay into the issued and paid-up share capital account the amounts received in consideration of the shares it issues, but not more than the amount of the par value in the case of a share having a par value.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.49.** A company that issues shares without par value may pay into the issued and paid-up share capital account the whole or a part of the consideration received, if the shares are issued

(1) in exchange for property of a person with whom, at the time of the exchange, it is not dealing at arm's length within the meaning of the Taxation Act (chapter I-3);

(2) in exchange for property of a legal person with which, at the time of the exchange or immediately afterwards, it is not dealing at arm's length within the meaning of the said Act; or

(3) to shareholders of an amalgamating company that receives the shares in addition to or instead of securities of the company resulting from the amalgamation in accordance with section 123.122.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.50.** A company changes its issued and paid-up share capital account every time it acquires shares of its issued share capital or reduces or increases the amount of its issued and paid-up share capital.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.51.** A company that acquires shares or fractions of shares it has issued shall reduce its issued and paid-up share capital account

(1) by the product obtained by multiplying the par value of the shares by the number of shares or fractions of shares acquired, or

(2) by the product obtained by multiplying, in the case of shares without par value, the amount being the average of the amounts received by or credited to the account, as the case may be, for the shares, at the time of issue of the shares of the class or series concerned, by the number of shares or fractions of shares acquired.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

## CHAPTER X

### RULE RESPECTING THE MAINTAINING OF THE CAPITAL

1980, c. 28, s. 14.

## DIVISION I

### ACQUISITION OF SHARES

1980, c. 28, s. 14.

**123.52.** A company may acquire fully paid-up shares it has issued to make up for the debt of any of its shareholders, except where there is reasonable ground to believe that, as a consequence,

(1) it could not discharge its liabilities when due, or

(2) the book value of its assets would be less than the aggregate of its liabilities and the sums necessary for the payment, in case of redemption or winding-up, of the shares payable by preference or concurrently.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.53.** A company may acquire fully paid-up shares it has issued and that, under its articles, it may redeem unilaterally at the price determined in its articles or computed in accordance with the method provided in the articles.

In no case, however, may a company acquire the shares where there is reasonable ground to believe that, as a consequence,

(1) it could not discharge its liabilities when due, or

(2) the book value of its assets would be less than the aggregate of its liabilities and the sums necessary for the payment, in case of redemption or winding-up, of the shares payable by preference or concurrently.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.54.** A company may acquire fully paid-up shares it has issued and that, under its articles, it must redeem on demand of a shareholder or on a fixed date or a date that may be fixed, for a price determined in its articles or computed in accordance with the method provided in the articles.

In no case, however, may a company pay for the shares where there is reasonable ground to believe that, as a consequence,

(1) it could not discharge its liabilities when due, or

(2) the book value of its assets would be less than the aggregate of its liabilities and the sums necessary for the payment, in case of redemption or winding-up, of the shares payable by preference or concurrently.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.55.** A company may acquire fully paid-up shares it has issued to avoid, in whole or in part, the splitting of its shares or to carry out an unassignable contract under which it has an option to purchase or must purchase shares owned by one of its directors, officers or employees.

In no case, however, may a company pay for the shares where there is reasonable ground to believe that, as a consequence,

(1) it could not discharge its liabilities when due, or

(2) the book value of its assets would be less than the aggregate of its liabilities and the sums necessary for the payment, in case of redemption or winding-up, of the shares payable by preference.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.56.** In all other cases, a company may acquire fully paid-up shares it has issued, but in no case may it pay for the shares where there is reasonable ground to believe that, as a consequence,

(1) it could not discharge its liabilities when due, or

(2) the book value of its assets would be less than the sum of its liabilities and its issued and paid-up share capital account.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.57.** In no case may a company be required to pay for a share of its share capital that it has acquired if it shows that by paying for the share at its book value it would contravene sections 123.54 to 123.56.

The person who held the share then becomes a creditor of the company and is entitled to be paid as soon as the company may legally do so or, in the case of a winding-up, to be collocated by preference to the shareholders of the class of the shares he held, but after the creditors.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.58.** Directors who authorize the acquisition of shares or payment therefor in contravention of this division are solidarily liable for the sums or property involved and not yet recovered.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.59.** No acquisition of shares or payment therefor contrary to this division may be cancelled, in the case of a shareholder in good faith, except where the company is still in a condition described in sections 123.52 to 123.56.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.60.** A company may accept any gift or legacy of shares of its shares capital or of the share capital of its parent legal person if the shares are fully paid-up.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

## DIVISION II

### INCREASES AND REDUCTIONS OF THE SHARE CAPITAL

1980, c. 28, s. 14.

**123.61.** A company may increase the amount of its issued and paid-up share capital only if a by-law to that effect is adopted by the company, except where the increase is a result of the payment of shares.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.62.** A company may also reduce the amount of its issued share capital, in particular to limit or remove the shareholder's obligation to pay for the shares issued, or to reimburse any portion of the share capital exceeding its needs to the shareholders, if a by-law to that effect is adopted by the company.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.63.** A company may in no case reduce the amount of its issued share capital if there is reasonable ground to believe that, as a consequence,

(1) it could not discharge its liabilities when due, or

(2) the book value of its assets would, after the reduction, be less than the sum of its liabilities and its issued and paid-up share capital account.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.64.** Directors who authorize a reduction of share capital in contravention of section 123.63 are solidarily liable for the sums or property accounting for the unlawful reduction.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.65.** The by-law to increase or to reduce the share capital must be confirmed by the vote of two-thirds of the shareholders present at a special general meeting called for that purpose.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

## DIVISION III

### FINANCIAL ASSISTANCE

1980, c. 28, s. 14.

**123.66.** A company may in no case grant a loan, give security or furnish any other form of financial assistance to a shareholder, a shareholder of its parent legal person or a person to assist him in purchasing its shares if there is reasonable ground to believe that, as a consequence,

(1) it could not discharge its liabilities when due, or

(2) the book value of its assets would be less than the sum of its liabilities and its issued and paid-up share capital account.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1987, c. 5, s. 4; 1999, c. 40, s. 70.

**123.67.** The company may, however, notwithstanding the rule provided in section 123.66, grant financial assistance to

(1) a shareholder or a shareholder of the parent legal person within the framework of its ordinary activities if the lending of money is part of its activities or as an advance for expenses incurred on its behalf, or

(2) a shareholder who is an employee or an employee of the parent legal person within the framework of a share purchasing program.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.68.** Financial assistance granted in contravention of section 123.66 does not entail the nullity of the contract granting the assistance in respect of the company and the lender in good faith.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.69.** Directors who authorize the granting of financial assistance in contravention of section 123.66 are solidarily liable for the sums involved and not yet recovered.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

## DIVISION IV

### PAYMENT OF DIVIDENDS

1980, c. 28, s. 14.

**123.70.** In no case may a company declare or pay a dividend if there is reasonable ground to believe that, as a consequence,

(1) it could not discharge its liabilities when due, or

(2) the book value of its assets would be less than the sum of its liabilities and its issued and paid-up share capital account.

1979, c. 31, s. 27; 1980, c. 28, s. 14.



**123.71.** Directors who authorize the payment of a dividend in contravention of section 123.70 are solidarily liable for the sums or property involved and not yet recovered.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

## CHAPTER XI

### DIRECTORS

1980, c. 28, s. 14.

**123.72.** The affairs of a company shall be managed by a board of one or more directors.

However, the affairs of a company that has made a distribution to the public of its securities shall be managed by a board of not fewer than three directors.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.73.** Any natural person may be a director, except

- (1) a person who is under eighteen years of age;
- (2) a person of full age under tutorship or curatorship;
- (3) a person declared incapable by a court in another province or in another country;
- (4) an undischarged bankrupt.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1989, c. 54, s. 163.

**123.74.** Unless otherwise provided in the articles, it is not necessary to be a shareholder in order to be a director of a company.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.75.** Unless otherwise provided in the articles or by-laws or by unanimous agreement of the shareholders or in a statement contemplated in section 123.91, the directors may establish their remuneration and that of the officers and other representatives of the company notwithstanding subsection 2 of section 91.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.76.** Notwithstanding the expiry of his term, a director remains in office until he is re-elected, replaced, or removed.

A director may resign from office by giving notice to that effect.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.77.** Unless otherwise provided in the articles, the shareholders may, by resolution, remove a director at a special meeting called for that purpose.

Where persons holding shares of a class have the exclusive right to elect a director, that director may be removed only at a special meeting of the shareholders called for that purpose in the same manner as a special general meeting of the shareholders of the company or in any other manner indicated in the articles or by-laws of the company.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1987, c. 5, s. 5.

**123.78.** A vacancy created by the removal of a director may be filled at the meeting at which the removal took place or, if not so filled, in accordance with paragraph 3 of section 89.

The notice of the calling of the meeting must mention, where such is the case, that such an election is to be held if the resolution for removal is adopted.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.79.** A director who is to be removed must be informed of the place, date and time of the meeting within the same period as that provided for calling the meeting.

He may attend the meeting and be heard or, in a written statement read by the chairman of the meeting, give the reasons why he opposes the resolution proposing his removal.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.80.** A decrease in the number of directors does not terminate the term of office of the directors then in office.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.81.** Within 15 days after a change is made to the composition of the board of directors, the company must give a notice of a change by filing a declaration to that effect in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1).

On application by any person concerned or the enterprise registrar, the court may require a company to comply with this section, and take any other appropriate measure that it thinks fit.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 279; 2002, c. 45, s. 278; 2010, c. 7, s. 282; I.N. 2016-01-01 (NCCP).

**123.82.** Where there is only one director, he shall exercise the rights and assume the obligations of a board of directors.

He may hold the offices of chairman, secretary or any other officer of the company at the same time.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.83.** Directors, officers and other representatives of a company are mandataries of the company.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.84.** A director is presumed to have acted with appropriate skill and with prudence and diligence if he relies on the opinion or report of an expert to take a decision.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

**123.85.** A director present at a meeting of the board or executive committee is deemed to have approved any resolution or participated in any measure taken at that meeting, unless

(1) he demands at the meeting that his dissent be registered in the minutes of proceedings, or

(2) he notifies the secretary of the meeting in writing of his dissent before the adjournment or rising of the meeting.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.86.** A director absent from a meeting of the board or of the executive committee is presumed not to have approved a resolution or participated in a measure taken at that meeting.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.87.** A company shall assume the defence of its mandatary prosecuted by a third person for an act done in the exercise of his duties and shall pay damages, if any, resulting from that act, unless the mandatary has committed a grievous offence or a personal offence separable from the exercise of his duties.

However, in a penal or criminal proceeding the company shall assume only the payment of the expenses of its mandatary if he had reasonable grounds to believe that his conduct was in conformity with the law, or the payment of the expenses of its mandatary if he has been freed or acquitted.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.88.** A company shall assume the expenses of its mandatary if, having prosecuted him for an act done in the exercise of his duties, it loses its case and the court so decides.

If the company wins its case only in part, the court may determine the amount of the expenses it shall assume.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.89.** A company shall assume the obligations contemplated in sections 123.87 and 123.88 in respect of any person who acted at its request as director for a legal person of which it is a shareholder or creditor.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1999, c. 40, s. 70.

## CHAPTER XII

### SHAREHOLDERS

1980, c. 28, s. 14.

#### DIVISION I

##### GENERAL PROVISION

1980, c. 28, s. 14.

**123.90.** A shareholder holding all the voting shares holds the powers of the shareholders' meeting by himself.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

#### DIVISION II

##### UNANIMOUS AGREEMENT OF THE SHAREHOLDERS

1980, c. 28, s. 14.

**123.91.** The shareholders, if all of them consent thereto and make a written agreement to that effect, may restrict the powers of the directors.

The sole shareholder may also restrict the powers of the directors if he makes a written statement to that effect.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.92.** The shareholders or the sole shareholder, as the case may be, shall then manage the affairs of the company as if they, or he, were its directors; they, or he, shall exercise the rights that have been withdrawn from the directors and assume the obligations from which the directors have been discharged.

The shareholders may, however, govern the exercise of their voting rights.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.93.** A person who becomes a shareholder while a unanimous agreement of the shareholders is in force is deemed to be a party to the agreement.

However, the person may, within six months after the contract by virtue of which he became a shareholder, have it annulled if, at the time it was entered into, he was not aware of the agreement.

The person is presumed not to have been aware of the unanimous agreement of the shareholders if the share certificates held by him do not mention the existence of such an agreement or, if the shares are uncertificated securities within the meaning of the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002) and the person did not receive notice of such an agreement.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 2008, c. 20, s. 160.

## CHAPTER XIII

### SHAREHOLDERS' MEETING

1980, c. 28, s. 14.

**123.94.** A shareholder may waive a notice of a shareholders' meeting.

His sole attendance at a meeting is a waiver except where he attends a meeting for the express purpose of objecting to the holding of the meeting on the ground that the manner of calling it was irregular.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.95.** The shareholders of a company that has not made a distribution to the public of its securities may participate and vote at a shareholders' meeting by any means allowing all the participants to communicate with each other,

(1) if the articles of the company permit it, or,

(2) failing provisions that permit it in the articles, if all the shareholders entitled to participate and vote at the meeting consent thereto.

1979, c. 31, s. 27; 1980, c. 28, s. 14; 1987, c. 5, s. 6.

**123.96.** A resolution in writing, signed by all the shareholders entitled to vote on that resolution at a shareholders' meeting, is as valid as if it had been passed at a meeting.

The resolution is kept with the minutes of the proceedings of the shareholders' meeting.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

## CHAPTER XIV

### AUDITORS

1980, c. 28, s. 14.

**123.97.** The shareholders shall at their first meeting and at every subsequent annual meeting appoint an auditor whose term of office expires at the next annual meeting.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.98.** The shareholders of a company that has not made a distribution to the public of its securities may decide, by resolution, not to appoint an auditor.

1979, c. 31, s. 27; 1980, c. 28, s. 14.

**123.99.** The shareholders of a company that has made a distribution to the public of its securities and that has redeemed or reimbursed them may also decide, by resolution, not to appoint an auditor.

1980, c. 28, s. 14.

**123.100.** A resolution for the purpose of not appointing an auditor must receive the consent of all the shareholders, including those who otherwise are not qualified to vote.

The resolution is valid only until the next annual meeting.

1980, c. 28, s. 14.

## CHAPTER XV

### AMENDMENTS TO ARTICLES AND SHARE CAPITAL

1980, c. 28, s. 14.

#### DIVISION I

##### GENERAL PROVISIONS

1980, c. 28, s. 14.

**123.101.** To amend the articles of a company, the directors must pass a by-law.

1980, c. 28, s. 14.

**123.102.** The directors, before issuing shares in series that the articles authorize them to issue, must amend the articles in order to enter therein, as necessary, the number and description and the rights, privileges, conditions and restrictions attaching to such shares.

1980, c. 28, s. 14.

**123.103.** Except in the cases provided for in sections 123.102 and 123.107, the by-law amending the articles of a company must be confirmed by two-thirds of the votes cast by the shareholders at a special general meeting called for that purpose.

The by-law must authorize one of the directors to sign the articles of amendment.

The directors may, before the appropriate certificate is prepared, annul the by-law if they are authorized to do so by the by-law.

1980, c. 28, s. 14; 1987, c. 5, s. 7.

**123.104.** Two duplicates of the articles of amendment signed by one of the directors must be filed with the enterprise registrar.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 2002, c. 45, s. 278.

**123.105.** Upon receipt of the articles of amendment, the accompanying documents, if any, and the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1), the enterprise registrar shall prepare a certificate attesting the amendment according to the procedure in section 123.15.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 2002, c. 45, s. 278; 2010, c. 7, s. 207.

**123.106.** The amendment becomes effective from the date shown on the certificate attesting it.

1980, c. 28, s. 14.

## DIVISION II

### COMPROMISE OR ARRANGEMENT

1980, c. 28, s. 14.

**123.107.** The articles are amended to confirm a compromise or arrangement.

Notwithstanding section 49, the intervention of the judge is not required if all the shareholders concerned agree to a compromise or arrangement.

Section 123.103 does not apply to an amendment the sole object of which is to confirm a compromise or arrangement.

1980, c. 28, s. 14; 1987, c. 5, s. 8.

**123.107.1.** The directors shall, in the case contemplated in section 123.107, authorize one of their number to sign the articles confirming the compromise or arrangement.

1987, c. 5, s. 8.

**123.108.** Two duplicates, signed by one of the directors, of the articles confirming a compromise or arrangement shall be filed with the enterprise registrar.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 2002, c. 45, s. 278.

**123.109.** Upon receipt of the articles confirming a compromise or arrangement and of the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1), the enterprise registrar shall prepare a certificate attesting the amendment in accordance with the procedure in section 123.15.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 280; 2002, c. 45, s. 278; 2010, c. 7, s. 207.

**123.110.** The compromise or arrangement is binding on the company and the shareholders or a class of the shareholders, as the case may be, from the date shown on the certificate attesting it.

1980, c. 28, s. 14.

**CHAPTER XVI**

**BOOK OF THE COMPANY**

1980, c. 28, s. 14.

**123.111.** Every company shall keep a book at its head office containing

(1) its articles, its by-laws and the unanimous agreement of the shareholders or the statement contemplated in section 123.91;

(2) the minutes of proceedings of meetings and the resolutions of shareholders;

(3) the name and address of each of its directors with an indication, for each term of office, of the date on which it begins and the date on which it ends;

(4) the information contemplated in section 123.113 in respect of shares.

1980, c. 28, s. 14; 1993, c. 48, s. 281.

**123.112.** The book of the company also contains the minutes of proceedings of the meetings and resolutions of the board of directors and the executive committee.

1980, c. 28, s. 14.

**123.113.** The book of the company contains the following information in respect of each share:

(1) the names in alphabetical order and the last known addresses of the persons who hold or have held shares, where such is the case;

(2) the number of shares held by those persons;

(3) the date and details of the issue and transfer of each share;

(4) the amount due on each share, if any.

1980, c. 28, s. 14.

**123.114.** Every shareholder may consult the book containing the particulars contemplated in section 123.111.

A shareholder may also obtain, free of charge, a copy of the articles and by-laws and a copy of a unanimous agreement of the shareholders.

1980, c. 28, s. 14.

**CHAPTER XVII**

**AMALGAMATION**

1980, c. 28, s. 14.

**DIVISION I**

**GENERAL PROVISIONS**

1980, c. 28, s. 14.

**123.115.** Companies governed by this Part or Part I, excluding those to which another Act expressly declares Part I applicable, may amalgamate.

Amalgamation effects continuance without its being necessary for a company to continue in accordance with Chapter XVIII.

1980, c. 28, s. 14.

**123.116.** In no case may companies amalgamate, however, if there is reasonable ground to believe that, as a consequence,

(1) the company resulting from the amalgamation could not discharge its liabilities when due, or

(2) the book value of the assets of the company resulting from the amalgamation would be less than the sum of its liabilities and its issued and paid-up share capital account.

1980, c. 28, s. 14.

**123.117.** The articles of amalgamation contain, in addition to the other provisions authorized by this Act to be included, the provisions contemplated in paragraphs 1, 3, 4 and 5 of section 123.122 or in paragraph 2 of section 123.129 and in paragraph 2 of section 123.130, as the case may be.

The articles must be accompanied with the documents contemplated in section 123.14.

1980, c. 28, s. 14.

**123.118.** Two duplicates of the articles of amalgamation, signed by one of the directors of each of the amalgamating companies, are filed with the enterprise registrar.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 2002, c. 45, s. 278.

**123.119.** Upon receipt of the articles of amalgamation, the accompanying documents and the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1), the enterprise registrar shall prepare a certificate attesting the amalgamation according to the procedure in section 123.15.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 2002, c. 45, s. 278; 2010, c. 7, s. 207.

**123.120.** From the date shown on the certificate of amalgamation, the companies that have amalgamated continue in existence as one and the same company.

The resulting company has the rights of the amalgamated companies and assumes their obligations.

1980, c. 28, s. 14.

**123.121.** The directors of the amalgamated companies who authorize the amalgamation in contravention of section 123.116 are solidarily liable to pay to the company resulting from the amalgamation an amount



equal to the amount by which the sum of its liabilities and its issued and paid-up share capital account exceeds the book value of its assets.

1980, c. 28, s. 14.

## **DIVISION II**

### **ORDINARY AMALGAMATION**

1980, c. 28, s. 14.

**123.122.** Companies that propose to amalgamate shall enter into an agreement that, in addition to the terms and conditions of amalgamation, indicates

(1) the provisions contemplated in section 123.12, with the exception of paragraph 3 and, where applicable, in section 123.13;

(2) the name, address and occupation of each of the future directors of the company resulting from the amalgamation;

(3) the terms and conditions of converting the shares of each company into shares or other securities of the company resulting from the amalgamation;

(4) if shares of one of the companies are not converted into shares of the company resulting from the amalgamation, the amount of money or any other form of payment that the holders of those shares must receive in addition to or instead of the shares of the company resulting from the amalgamation;

(5) the amount of money or any other form of payment that must take the place of fractions of shares of the company resulting from the amalgamation;

(6) the by-laws of the company resulting from the amalgamation, those it proposes to adopt or those it designates;

(7) the provisions necessary to complete the amalgamation and to ensure the organization and management of the company resulting from the amalgamation, where such is the case.

1980, c. 28, s. 14.

**123.123.** An agreement must also provide that any share of one of the amalgamating companies that is the property of another amalgamating company is cancelled at the time of the amalgamation without reimbursement of the capital represented by the share. No such share may be converted into a share of the company resulting from the amalgamation.

1980, c. 28, s. 14.

**123.124.** The directors of each of the amalgamating companies shall adopt a by-law in order to approve the agreement and authorize one among them to sign the articles of amalgamation.

1980, c. 28, s. 14.

**123.125.** The by-law of amalgamation is submitted to the shareholders of each of the amalgamating companies at a special general meeting called for that purpose.

The notice of the meeting is accompanied with a duplicate or a summary of the agreement of amalgamation.

1980, c. 28, s. 14.

**123.126.** The by-law must be confirmed by two-thirds of the votes cast by the shareholders at the special general meeting.

For the purposes of the meeting, every share is a voting share with respect to the by-law of amalgamation.

1980, c. 28, s. 14.

**123.127.** The shareholders of each class shall vote separately on the specific amendments to their class when the by-law of amalgamation affects the rights, privileges, conditions or restrictions of shares of a class or changes them in relation to another class.

In similar circumstances, the shareholders of each series shall also vote separately on the specific amendments to their series.

Those amendments must be confirmed by two-thirds of the votes cast by those shareholders at a special meeting called for that purpose.

1980, c. 28, s. 14.

**123.128.** Within ten days of the confirmation of the by-law of amalgamation, the board of directors of a company may annul the by-law of amalgamation if the by-law authorizes it to do so.

1980, c. 28, s. 14.

### DIVISION III

#### SIMPLIFIED AMALGAMATION

1980, c. 28, s. 14.

**123.129.** A company and a subsidiary of which it holds all the shares may amalgamate without conforming to Division II, if their board of directors adopts a resolution providing that

(1) the shares of the subsidiary will be cancelled without reimbursement of the capital represented by these shares;

(2) the articles of amalgamation will be identical to the constituting act of the parent company, taking account, however, of this Part and the regulations of the Government;

(3) the company resulting from the amalgamation will not issue shares or other titles of indebtedness at the time of amalgamation;

(4) the directors of the company resulting from the amalgamation will be those of the parent company and its by-laws will be those of the parent company or those prescribed by the board of directors of the parent company; the by-laws so prescribed are, however, subject to the provisions of subsection 3 of section 91.

1980, c. 28, s. 14; 1987, c. 5, s. 9; 1999, c. 40, s. 70.

**123.130.** Subsidiaries all of whose shares are held by the same legal person may, if the shares issued by the subsidiary whose shares are not cancelled are without par value, amalgamate without conforming to Division II if their board of directors adopts a resolution providing that

(1) the shares of the subsidiaries, except those of one of them, will be cancelled, without reimbursement of the capital represented by these shares;

(2) the articles of amalgamation will be identical to the constituting act of the subsidiary whose shares are not cancelled, taking account, however, of this Part and the regulations of the Government;

(3) the issued and paid-up share capital account of the amalgamated subsidiaries will be added, to the extent that the subsidiaries determine, to the account of the subsidiary whose shares are not cancelled.

1980, c. 28, s. 14; 1987, c. 5, s. 10; 1999, c. 40, s. 70.

## CHAPTER XVIII

### CONTINUANCE

1980, c. 28, s. 14.

#### DIVISION I

##### CONTINUANCE OF A COMPANY

1982, c. 26, s. 292.

**123.131.** This division applies to companies governed by Part I, excluding those to which another Act expressly declares Part I applicable.

It applies, however, to companies constituted under the Mining Companies Act (chapter C-47) provided that

(1) they have no share issued at a discount rate that is outstanding at the time of the continuance;

(2) the shares issued at a discount rate are converted into shares without par value at the time of the continuance and that the paid-up capital on those shares are credited to the issued and paid-up share capital account;

(3) the shares issued at a discount rate have been converted into shares without par value or exchanged for such shares before the continuance.

1980, c. 28, s. 14; 1982, c. 26, s. 292; 1987, c. 5, s. 11; 1999, c. 40, s. 70.

**123.132.** The directors of a company may make a by-law to continue under this Part.

1980, c. 28, s. 14.

**123.133.** The by-law contemplating the continuance of the company must be confirmed by two-thirds of the votes cast by the shareholders at a special general meeting called for that purpose.

The by-law must authorize one of the directors to sign the articles of continuance.

The directors may, before the certificate is prepared, cancel the by-law if it authorizes them to do so.

1980, c. 28, s. 14.

**123.134.** A company may change its name, reduce its issued share capital in accordance with section 123.63 or make any other amendment to its constituting act that a company governed by this Part may make to its articles.

However, the company may not make any amendment that affects the rights, conditions, privileges or restrictions attaching to issued shares without obtaining the consent of all the shareholders concerned by the amendment, whether or not they are eligible to vote; however, it is not necessary to obtain their consent to increase the share capital or the number of shares of the company.

1980, c. 28, s. 14; 1987, c. 5, s. 12; 1999, c. 40, s. 70.

**123.135.** Two duplicates, signed by one of the directors, of the articles of continuance shall be filed with the enterprise registrar.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 2002, c. 45, s. 278.

**123.136.** Upon receipt of the articles of continuance, of the accompanying documents and of the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1), the enterprise registrar shall prepare a certificate attesting the continuance of the company in accordance with the procedure provided for in section 123.15.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 2002, c. 45, s. 278; 2010, c. 7, s. 207.

**123.137.** *(Repealed).*

1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 282.

**123.138.** On the date shown in the certificate of continuance,

- (1) that certificate attests the existence of the company and its continuance under this Part;
- (2) the articles of continuance are deemed to be the articles of the continued company.

1980, c. 28, s. 14.

**123.139.** The rights, obligations and deeds of the company, and those of the shareholders, are not affected by the continuance.

1980, c. 28, s. 14.

## DIVISION II

### CONTINUANCE OF A COOPERATIVE

1982, c. 26, s. 293; 1995, c. 67, s. 176.

**123.139.1.** A cooperative that is liable to be dissolved under section 188 of the Cooperatives Act (chapter C-67.2) may, if the Minister responsible for the administration of the Cooperatives Act has approved under section 259 of the said Act its plan of continuance, be converted into a company so as to enable it to continue under this Part.

1982, c. 26, s. 293; 1982, c. 52, s. 128; 1995, c. 67, s. 177.

**123.139.2.** The members must, at a special meeting called for that purpose, make a by-law so as to enable the cooperative to continue as a company governed by this Part.

1982, c. 26, s. 293; 1995, c. 67, s. 178.

**123.139.3.** The by-law must be adopted by two-thirds of the votes cast by the members or representatives present at the special meeting.

The by-law must authorize one of the directors to sign the articles of continuance.

The directors may, before the certificate is prepared, cancel the by-law if it authorizes them to do so.

1982, c. 26, s. 293.

**123.139.4.** The articles of continuance must contain the provisions contemplated in section 123.12 excluding paragraph 3 and in section 123.13.

The articles must be accompanied with any documents prescribed by government regulation and any other documents prescribed by section 123.14.

1982, c. 26, s. 293.

**123.139.5.** Sections 123.135 and 123.136 apply to this division.

1982, c. 26, s. 293; 1993, c. 48, s. 283.

**123.139.6.** On the date shown in the certificate of continuance,

(1) that certificate attests the existence of the cooperative and the continuance of the cooperative as a company governed by this Part;

(2) the articles of continuance are deemed to be the articles of the company.

1982, c. 26, s. 293; 1995, c. 67, s. 179.

**123.139.7.** Subject to this Part, the rights and obligations of the cooperative and those of its members, are not affected by the continuance.

1982, c. 26, s. 293; 1995, c. 67, s. 180.

## CHAPTER XIX

### CORRECTION, DISSOLUTION AND CANCELLATION OF ARTICLES

1980, c. 28, s. 14.

**123.140.** A company may amend its articles to correct an illegality or an irregularity or to insert a provision required by this Act if the correction or insertion does not affect the rights of the shareholders or creditors.

1980, c. 28, s. 14.

**123.141.** Where the correction of an illegality or an irregularity contained in the articles or the insertion of a provision required by this Act may affect the rights of the shareholders or the creditors, the company may apply to a court of the place of its head office, request the sanction of any agreement having as its purpose such a correction or insertion, or, failing that, such order as the court deems expedient to correct the illegality or irregularity or to insert the provision required by this Act.

The application is served on the enterprise registrar.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 2002, c. 45, s. 278; I.N. 2016-01-01 (NCCP).

**123.142.** Two duplicates, signed by one of the directors, of the articles amending the illegality or the irregularity or inserting the provision required by this Act must be filed with the enterprise registrar.

Upon receipt of the amended articles, a copy of the judgment, if any, and the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1), the enterprise registrar shall prepare a certificate attesting the amendment according to the procedure in section 123.15.

1980, c. 28, s. 14; 1982, c. 52, s. 129, s. 139; 2002, c. 45, s. 278; 2010, c. 7, s. 207.

**123.143.** The amendment is retroactive to the date specified by the enterprise registrar in the certificate accompanying the articles being amended, unless the articles of amendment or the judgment provide for a later date.

1980, c. 28, s. 14; 1993, c. 48, s. 284; 2002, c. 45, s. 278.

**123.144.** Upon application by a person concerned, a court may dissolve a company, cancel its articles and the certificate pertaining thereto or take any other measure that it deems expedient when the certificate has been obtained illegally, by fraud or in ignorance of some material fact, or when the articles contain illegal provisions or false or erroneous statements.

The enterprise registrar shall be brought into the case where the application is made by another person.

The court shall forward a copy of the judgment to the enterprise registrar, who shall deposit a notice to that effect in the register.

The company is dissolved from the date of the judgment or from the date provided for in the judgment.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 285; 2002, c. 45, s. 278; I.N. 2016-01-01 (NCCP).

## CHAPTER XX

### PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC

1980, c. 28, s. 14; 1997, c. 43, s. 204.

**123.145.** Any person aggrieved by a decision of the enterprise registrar rendered under this Part may, within 30 days of notification of the decision, contest the decision before the Administrative Tribunal of Québec.

1980, c. 28, s. 14; 1982, c. 52, s. 130; 1988, c. 21, s. 66; 1993, c. 48, s. 286; 1997, c. 43, s. 205; 2002, c. 45, s. 278.

**123.146.** Notwithstanding the second paragraph of section 15 of the Act respecting administrative justice (chapter J-3), the Tribunal may only confirm or quash the contested decision.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 1988, c. 21, s. 66; 1993, c. 48, s. 287; 1997, c. 43, s. 206.

**123.147.** Where the contestation concerns a decision referred to in section 123.27.3, the enterprise registrar shall deposit a notice of notification of the application in the register.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 1988, c. 21, s. 66; 1993, c. 48, s. 288; 1997, c. 43, s. 206; 2002, c. 45, s. 278; I.N. 2016-01-01 (NCCP).

**123.148.** The enterprise registrar shall, where necessary, make the required changes in the register and make an entry indicating that a decision of the Tribunal has been made where the decision concerns a decision of the enterprise registrar referred to in section 123.27.3.

1980, c. 28, s. 14; 1992, c. 61, s. 214; 1993, c. 48, s. 289; 1997, c. 43, s. 206; 2002, c. 45, s. 278.

**123.149.** *(Replaced).*

1980, c. 28, s. 14; 1993, c. 48, s. 289; 1997, c. 43, s. 206.

**123.150.** *(Repealed).*

1980, c. 28, s. 14; 1993, c. 48, s. 290.

**123.151.** *(Repealed).*

1980, c. 28, s. 14; 1993, c. 48, s. 290.

**123.152.** *(Repealed).*

1980, c. 28, s. 14; 1993, c. 48, s. 290.

**123.153.** *(Repealed).*

1980, c. 28, s. 14; 1993, c. 48, s. 290.

**123.154.** *(Repealed).*

1980, c. 28, s. 14; 1993, c. 48, s. 290.

**123.155.** *(Replaced).*

1980, c. 28, s. 14; 1997, c. 43, s. 206.

**123.156.** *(Replaced).*

1980, c. 28, s. 14; 1988, c. 21, s. 66; 1993, c. 48, s. 291; 1997, c. 43, s. 206.

**123.157.** *(Replaced).*

1980, c. 28, s. 14; 1993, c. 48, s. 292; 1997, c. 43, s. 206.

**CHAPTER XXI**

**FINAL PROVISIONS**

1980, c. 28, s. 14.

**123.158.** The persons concerned are responsible for verifying the lawfulness of the articles and documents required to be deposited in the register under this Part.

The persons concerned are also responsible for ensuring that the name of the company is in conformity with the law and the regulations of the Government.

1980, c. 28, s. 14; 1993, c. 48, s. 293; 1999, c. 40, s. 70.

**123.159.** The articles and documents required to be deposited in the register under this Part shall be in the form and tenor prescribed by regulation of the Government.

1980, c. 28, s. 14; 1993, c. 48, s. 294.

**123.160.** The enterprise registrar shall refuse to issue the appropriate certificate, if the article or document

- (1) does not contain the statements lawfully required by this Act;
- (2) is not presented in the form and tenor prescribed by regulation of the Government and on the forms prescribed by the enterprise registrar;
- (3) is not accompanied with the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1) or the prescribed documents; or
- (4) provides for a name not in conformity with any of paragraphs 1 to 6 or paragraph 8 of section 9.1;
- (5) is not accompanied with the research report prescribed in subparagraph 2.1 of the first paragraph of section 123.14.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 295; 1999, c. 40, s. 70; 2002, c. 45, s. 278; 2010, c. 7, s. 200.

**123.161.** The enterprise registrar shall assign to the certificate the date of filing of the articles or a later date indicated in the articles, as the case may be, or the date fixed by the court, where such is the case.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 2002, c. 45, s. 278.

**123.162.** The enterprise registrar may alter the notices he is responsible for or, with the authorization of the signatory, the documents required to be deposited under this Part.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 296; 2002, c. 45, s. 278.

**123.163.** The enterprise registrar may correct an incomplete certificate or a certificate containing an error.

The completed or corrected certificate is deemed to have been issued on the date shown in the certificate that it replaces or on the date that should have been shown in it, where such is the case.

The enterprise registrar shall deposit the completed or corrected certificate in the register.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 297; 2002, c. 45, s. 278.

**123.164.** If a completed or corrected certificate materially amends the incomplete certificate or the certificate containing an error, the enterprise registrar shall give a copy of the completed or corrected certificate to the company.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 298; 2002, c. 45, s. 278.

**123.165.** A document is never invalid on the ground that the seal of the company is not affixed thereto.

1980, c. 28, s. 14.

**123.166.** In case of conflict, the provisions of the articles prevail over the by-laws of the company.

1980, c. 28, s. 14.

**123.167.** Directors may, for the purposes of sections 123.52 to 123.56, 123.63, 123.66, 123.70 and 123.116 evaluate the assets of a company in relation to the value of the realization on its assets rather than in relation to its book value.

It is not necessary to provide for an allowance for the depletion of assets that depreciate following operation.

1980, c. 28, s. 14.

**123.168.** The right of action derived from sections 123.58, 123.64, 123.69, 123.71 and 123.121 is prescribed by two years from the deed impugned.

1980, c. 28, s. 14.

**123.169.** The Government may, by regulation,

(1) *(paragraph repealed)*;

(1.1) *(paragraph repealed)*;

(1.2) *(paragraph repealed)*;

(2) determine the form and content of the articles, certificates and other documents required to be deposited under this Part;



(3) determine the public authorities referred to in paragraph 6 of section 9.1;

(3.1) determine the cases in which the name of a company suggests that the company is related to another person, partnership or group, for the purposes of paragraph 7 of section 9.1;

(3.2) determine the criteria to be taken into account for the application of paragraphs 7 to 9 of section 9.1;

(3.3) determine the time for which a name may be reserved, for the purposes of the first paragraph of section 9.2;

(4) determine the nature of the documents which must be filed with the enterprise registrar and the number of duplicates of each;

(5) *(paragraph repealed)*;

(6) make any other provision for the carrying out of this Part.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 1987, c. 68, s. 67; 1993, c. 48, s. 299; 1999, c. 40, s. 70; 2002, c. 45, s. 278; 2010, c. 7, s. 201.

**123.170.** Instead of making regulations applicable to this Part, the Government may declare the regulations made under section 23 applicable, with or without amendment.

The regulations of the Government shall be made only on prior notice of thirty days published in the *Gazette officielle du Québec* reproducing the text thereof.

These regulations come into force on the date of the publication in the *Gazette officielle du Québec* of a notice indicating that they have been made by the Government or, if amended by it, of their final text, or on any later date fixed in the notice or in the final text.

1980, c. 28, s. 14; 2002, c. 70, s. 163; 2010, c. 7, s. 202.

**123.171.** The articles and other documents required for the application of this Part shall be drawn up on the form furnished for that purpose or authorized by the enterprise registrar.

1980, c. 28, s. 14; 1982, c. 52, s. 139; 1993, c. 48, s. 300; 2002, c. 45, s. 278.

**123.171.1.** The fees payable for measures the enterprise registrar may or must take under this Part are set out in the Act respecting the legal publicity of enterprises (chapter P-44.1).

2010, c. 7, s. 203.

**123.172.** From 30 January 1980, the indication, in the articles of a company, of Laval or Longueuil as the judicial district in which it establishes its head office in Québec is valid.

1987, c. 4, s. 2.

## PART II

### JOINT STOCK COMPANIES GENERAL CLAUSES

#### DIVISION I

##### DEFINITIONS

**124.** The following expressions, both in this Part and in the charter, shall have the following meanings, unless the subject matter or context otherwise requires,

(1) the word “charter” means any Act of the Parliament of Québec constituting a joint stock company as a legal person for any of the purposes or objects to which the legislative authority of Québec extends or for any other purpose for which other special provisions of law exist;

(2) the word “company” means the company constituted by the charter;

(3) the expression “other company” means a company constituted in any manner whatever;

(4) the word “undertaking” means the whole of the works and business of every kind, which the company is authorized to carry on;

(5) the word “shareholder” or “stockholder” means every subscriber to, or holder of, stock in the company, and extends to and includes the personal representatives of the shareholder;

(6) the word “manager” includes also the cashier, the secretary, the treasurer and the secretary-treasurer;

(7) the word “debentures” includes also bonds and debenture-stock;

(8) (*paragraph repealed*);

(9) the word “register” means the register referred to in Chapter II of the Act respecting the legal publicity of enterprises (chapter P-44.1).

R. S. 1964, c. 271, s. 121; 1968, c. 9, s. 90; 1969, c. 26, s. 42; 1974, c. 70, s. 428; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 131; 1987, c. 95, s. 376; 1993, c. 75, s. 46; 1993, c. 48, s. 301; 1999, c. 40, s. 70; 2010, c. 7, s. 282.

## DIVISION II

### APPLICATION OF PART II

**125.** This Part shall apply,—

(1) to every joint stock company constituted by an Act of the Parliament of Québec, after 31 August 1979, for any purpose other than the building and working of railways or for any other purpose for which other special provisions of law exist;

(2) to every joint stock company constituted by an Act of the Parliament of Québec before 1 September 1979, and which was, before their repeal, governed by the provisions of articles 5957 to 6001 of the Revised Statutes, 1909, or by the provisions of Part II of The Québec Companies’ Act, 1920, or of Part II of chapter 223 of the Revised Statutes, 1925 or of chapter 276 of the Revised Statutes, 1941, or by the provisions of Part II of chapter 271 of the Revised Statutes, 1964.

However, this Part shall not apply to insurers constituted by a special Act after 12 February 2003 or where the amending articles of such a company provide that Part IA of the Companies Act (chapter C-38) is applicable.

R. S. 1964, c. 271, s. 122; 1968, c. 9, s. 90; 1974, c. 70, s. 429; 1999, c. 40, s. 70; 2002, c. 70, s. 164; 2018, c. 23, s. 745.

**126.** The provisions of this Part, even although not specially inserted in the charter, shall, save insofar as they are expressly varied or excepted by such charter, be construed as if formally embodied and reproduced therein.

R. S. 1964, c. 271, s. 123.

**126.1.** Every company shall, without delay, send its charter to the enterprise registrar, who shall deposit it in the register.

1993, c. 48, s. 302; 2002, c. 45, s. 278.

### DIVISION III

#### FEES AND REGULATIONS

1979, c. 31, s. 28; 2010, c. 7, s. 204.

**127.** Sections 22.1 and 23 apply to this Part, with the necessary modifications.

R. S. 1964, c. 271, s. 124; 1966-67, c. 72, s. 23; 1975, c. 76, s. 11; 1977, c. 5, s. 14; 1979, c. 31, s. 29; 2010, c. 7, s. 207.

**128.** No act to be done by the enterprise registrar, or document or certificate to be issued by him under this Part, shall be so done or issued until after payment of all the fees and charges payable in respect thereof.

R. S. 1964, c. 271, s. 125; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 2002, c. 45, s. 278; 2010, c. 7, s. 205.

### DIVISION IV

*Repealed, 1993, c. 48, s. 303.*

1993, c. 48, s. 303.

**129.** *(Repealed).*

R. S. 1964, c. 271, s. 126; 1965 (1st sess.), c. 72, s. 2; 1966-67, c. 72, s. 23; 1969, c. 26, s. 43; 1975, c. 83, s. 84; 1982, c. 52, s. 138; 1993, c. 48, s. 303.

**130.** *(Repealed).*

1965 (1st sess.), c. 72, s. 2; 1966-67, c. 72, s. 23; 1969, c. 26, s. 44; 1982, c. 52, s. 138; 1993, c. 48, s. 303.

### DIVISION V

#### DISSOLUTION OF COMPANIES

1993, c. 48, s. 304.

- 131.** (1) A company may be dissolved if it prove, to the satisfaction of the enterprise registrar
- (a) that it has no debts or obligations, or
  - (b) that it has parted with its property, divided its assets rateably among its shareholders or members, and has no debts or liabilities; or
  - (c) that the debts and obligations of the company have been duly provided for or protected, or that the creditors of the company or their successors consent; and
  - (d) that the company has given notice to the enterprise registrar of its intention to apply for dissolution, by filing a declaration to that effect in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1) and by making an announcement to that effect, once in a newspaper published in the French language and once in a newspaper published in the English language at or as near as may be to the place where the company has its head office.

(2) If the company has complied with subsection 1, the enterprise registrar may agree to dissolve it and fix the date on which the dissolution will take place. The enterprise registrar shall dissolve the company by drawing up an act of dissolution which he shall deposit in the register.

R. S. 1964, c. 271, s. 127; 1966-67, c. 72, s. 23; 1972, c. 61, s. 17; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 132, s. 138; 1993, c. 48, s. 305; 1999, c. 40, s. 70; 2002, c. 45, s. 278; 2010, c. 7, s. 282.

**132.** Notwithstanding the dissolution of a company under the application or the provisions of section 131, the persons acting as directors of such company at the time of its dissolution shall be solidarily liable for the debts of the company existing at the time of its dissolution, to every creditor of the company who has not given the consent contemplated by the said section 131, unless the director against whom suit is brought establish his good faith.

R. S. 1964, c. 271, s. 128.

## **DIVISION VI**

### **GENERAL POWERS AND DUTIES OF THE COMPANY**

**133.** All powers given by the charter to the company shall be subject to the provisions and restrictions contained in this Part.

R. S. 1964, c. 271, s. 129.

**134.** The company may acquire and hold property, may sell and alienate such property and hypothecate it, and shall forthwith become and be vested with all property and movable and immovable rights, held for it up to the date of its charter and with all the powers, privileges and immunities requisite or incidental to the carrying on of its undertaking.

Subject to the provisions of the preceding paragraph and without restricting their application, and saving express exclusion in the charter, the company may:

(a) acquire, lease, exchange and hold any property, rights or privileges and dispose of the same by sale or otherwise;

(b) apply for, acquire, develop, use or transact with others for the development or use of any patents or patent rights, copyrights, trade-marks, formulae, licences, concessions and the like, calculated to benefit the company or to further any of its objects;

(c) make, with any person or partnership carrying on or about to carry on any trade, industry or business capable of benefiting the company, any agreement for sharing of profits or joint adventure, union of interests, reciprocal concession, mutual co-operation or other similar purposes;

(d) make with any public authority arrangements calculated to facilitate the pursuit of the company's objects, and carry out the same and exercise the rights and privileges and discharge the obligations resulting therefrom;

(e) construct, possess, maintain, improve and use, on its properties or on those of which it has the enjoyment, any works capable of furthering its interests, and contribute to or assist in any way the construction, improvement and maintenance of such works;

(f) make loans to any person or partnership having business dealings with the company, or to any legal person any shares or securities of which are held by the company, assist them to obtain funds and guarantee the performance of their obligations;

(g) issue, endorse, accept and discount promissory notes, bills of exchange, warrants and other negotiable instruments;

(h) sell or otherwise dispose of the undertaking of the company in whole or in part for such consideration as it may think fit, including shares, bonds and other securities of any other company having objects altogether or in part similar to those of the company;

(i) pay, in cash or by the allotment of shares, bonds or other securities of the company or otherwise, for services rendered in respect of the formation and organization of the company and the sale, placing or the guaranteeing of the placing of any shares, bonds or other securities of the company;

(j) establish and maintain or aid in the establishment or maintenance of relief or superannuation funds for present or former employees of the company or its predecessors in business or the relatives or dependents of such employees, grant pensions and allowances to them and pay insurance premiums for them, the whole subject to the approval of the Autorité des marchés financiers;

(k) subscribe or guarantee funds for charitable, benevolent, educational or artistic purposes;

(l) make known its products or activities by any legal mode of advertising which it may deem useful for its purposes, including the purchase and exhibition of works of art or of general interest, the publication of books and periodicals and advertising by radio and television and in newspapers, reviews and other periodicals;

(m) invest the available funds of the company on the security of hypothecs, in the purchase of immovables or in any other manner which the company may consider to be in its interests;

(n) take and hold hypothecs to secure payment of the price of sale of any portion of such property or to secure the payment of any debt due to the company, and dispose of such hypothecary rights by sale or otherwise;

(o) carry on any activity and do anything incidental or accessory to the powers granted to the company by this section and its letters patent or connected with the attainment of its objects;

(p) establish agencies and branches and exercise its powers under the law and its letters patent as principal, mandatary, agent or contractor, either alone or in partnership or in conjunction with any person or partnership;

(q) distribute among its shareholders, in kind or otherwise, any property of the company, provided that such distribution is made for the purpose of enabling it to apply for dissolution or in circumstances where it would be lawful to make the same in cash.

Notwithstanding the preceding paragraph and its subparagraphs, any other lawful powers may be granted to a company by letters patent or supplementary letters patent.

Furthermore and subject to the specific provisions of this Part, the company shall be subject to the obligations and restrictions and shall possess the rights and privileges declared in the Civil Code with respect to legal persons.

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R. S. 1964, c. 271, s. 130; 1992, c. 57, s. 515; 1993, c. 48, s. 306; 1997, c. 35, s. 14; 1999, c. 40, s. 70; 2002, c. 45, s. 277; 2004, c. 37, s. 90.

**135.** The company shall, at all times, have an office in the place in which its principal business establishment is situate, which shall be the legal domicile of the company, and notice of the situation thereof or of any change therein shall be given by filing a declaration to that effect in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1).

The company may establish such other offices and agencies elsewhere as it deems expedient.

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R. S. 1964, c. 271, s. 131; 1972, c. 61, s. 18; 1982, c. 52, s. 138; 1993, c. 48, s. 307; 2010, c. 7, s. 282.

**136.** The name of the company shall be legibly indicated in all its negotiable instruments, contracts, invoices and orders for goods or services.

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R. S. 1964, c. 271, s. 132; 1968, c. 72, s. 5; 1979, c. 31, s. 30; 1999, c. 40, s. 70.

**136.1.** Subject to section 136 and to the regulations of the Government, the company may identify itself under a name other than its name.

1979, c. 31, s. 30; 1999, c. 40, s. 70.

**137.** Every company infringing section 136 or 136.1 is liable to a fine of not less than \$50 nor more than \$100 for each day of such infringement.

R. S. 1964, c. 271, s. 133; 1979, c. 31, s. 31; 1990, c. 4, s. 301.

**138.** Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or indorsed, and every promissory note and cheque made, drawn or indorsed on behalf of the company, by any agent, officer or employee of the company, in general accordance with his powers as such under the by-laws of the company, shall be binding upon the company, and in no case shall it be necessary to have the seal of the company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque, or to prove that the same was made, drawn, accepted or indorsed, as the case may be, in pursuance of any by-law, resolution or special order; and the person so acting as agent, officer or employee of the company shall not be thereby subjected individually to any liability whatsoever to any third person therefor, provided always that nothing in this Part shall authorize the company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money or as a bank-note.

R. S. 1964, c. 271, s. 134; 1999, c. 40, s. 70.

## DIVISION VII

### LIABILITY OF SHAREHOLDERS

**139.** The shareholders of the company shall not as such be responsible for any act, default or liability whatever of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatever, relating to or connected with the company, beyond the amount unpaid on their respective shares in the capital stock thereof.

R. S. 1964, c. 271, s. 135.

**140.** No person holding stock in the company as a liquidator of a succession, administrator, tutor, curator, guardian or trustee of or for any person named in the books of the company as being so represented by him, shall be personally subject to liability as a shareholder, but the property and funds in the hands of such person shall be liable in like manner, and to the same extent, as the testator or intestate, or the minor or person of full age under tutorship or curatorship, or the person interested in such trust fund would be, if living and competent to act and holding such stock in his own name; and no person holding such stock as collateral security shall be personally subject to such liability, but the person pledging such stock shall be considered as holding the same and shall be liable as a shareholder accordingly.

R. S. 1964, c. 271, s. 136; 1989, c. 54, s. 164; 1999, c. 40, s. 70.

**141.** Every such liquidator of a succession, administrator, tutor, curator, guardian or trustee shall represent the stock held by him, at all meetings of the company, and may vote thereon as a shareholder, and every person who pledges his stock may represent the same at all such meetings, and, notwithstanding such pledge, vote thereon as a shareholder.

R. S. 1964, c. 271, s. 137.

## DIVISION VIII

### HOLDING STOCK OF OTHER COMPANIES

**142.** The company shall not use any of its funds in the purchase of stock in any other company unless and until the directors have been expressly authorized by a by-law passed by them for the purpose and sanctioned

by a vote of not less than two-thirds in value of the shares represented by the shareholders present at a general meeting of the company called for considering the subject of the by-law; but if the charter authorizes such purchase it shall not be necessary to pass such by-law.

This section shall not apply to a company constituted for the purpose of carrying on the business of buying, selling or dealing in shares, as to shares bought with the intention of reselling them.

R. S. 1964, c. 271, s. 138; 1999, c. 40, s. 70.

## DIVISION IX

### CAPITAL STOCK

**143.** Shares with par value shall not be issued as fully paid, save for a consideration payable in cash to the total par value of the shares so issued, or for a consideration payable in property or services which the directors determine by resolution to be, in all the circumstances of the transaction, the fair equivalent of cash to the total par value of the shares so issued.

The consideration for the issue of shares without par value shall be determined in accordance with subsection 4 of section 158.

The amount of the paid-up shares shall be published annually in the report to the shareholders.

R. S. 1964, c. 271, s. 139.

**144.** Shares of a company are movable property; the transfer of company shares is governed by the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002), on the conditions prescribed by this Part, by the charter of the company or, if the conditions are effective under that Act, by the by-laws of the company.

Shares subject to restrictions regarding the right to transfer them shall not be offered to the public unless:

(a) such restrictions are prescribed in the charter of the company; and

(b) such restrictions are required to allow the company, or any other company in which the company has an interest, to obtain, protect or renew, under a statute of Canada or of Québec, any authorization necessary to attain the objects of its undertaking or part of it.

R. S. 1964, c. 271, s. 140; 1973, c. 65, s. 5; 2008, c. 20, s. 161.

**145.** If the charter makes no other definite provision, the stock of the company shall be allotted when and as the directors, by by-law, may order.

R. S. 1964, c. 271, s. 141.

**146.** (1) The directors of a company may make a by-law for the issuing of shares carrying preferred or special rights, conditions or limitations, or for the conversion of shares of any class into shares of another class.

(2) Such by-law may provide for shares of more than one class and for the preferred or special rights, conditions or limitations attaching to each class of shares, including:

(a) a limitation of the right of the holders thereof to specific dividends, profits or repayments, or

(b) provision that the holders of such shares shall have the right to elect a stated number of directors, or that they shall have greater or less control of the affairs of the company than the holders of shares of another class, or

(c) provisions limiting or extending the rights of the holders of such shares in any other way not contrary to law, or

(d) provision for the purchase or redemption of such shares by the company.

(3) Such by-law may authorize the issue of one or more series of shares of the same class, and authorize the directors to determine from time to time, before issue, the description, rights, conditions and limitations attaching to the shares of each series of such class.

(4) Each share of any series of the same class shall carry the same right to vote or the same conditions and limitations respecting the right to vote.

(5) When amounts payable as dividends, repayment of capital or premium on the repayment of capital are not paid in full, the shares of all series of the same class shall participate in the amount payable proportionately to the sums which would be payable on a payment in full.

(6) The conversion of shares must not increase or decrease the amount paid up on the company's issued shares.

(7) No shares shall be converted without the consent of the holders thereof, except in conformity with conditions attaching thereto or on a compromise under section 147.

(8) Any by-law made under subsection 2 shall be subject to sections 155, 156 and 157.

(9) Any resolution passed under subsection 3 shall be subject to sections 156 and 157 in the same manner as a by-law but shall not be subject to approval by the shareholders.

(10) Holders of shares entitled to preferred or special rights, conditions or limitations shall be shareholders and shall in all respects possess all the rights and be subject to all the obligations of shareholders within the meaning of this Part, subject however to the provisions of the company's charter or by-laws.

(11) The privileges or preference granted to shareholders shall not affect the rights of the company's creditors.

(12) The whole text of the preferred or special rights, conditions and limitations attaching to shares issued under this section shall be a part of every certificate for such shares, unless a summary is inscribed thereon with a statement that the text thereof will be furnished free of cost on demand.

(13) The purchase or redemption of shares by a company in the exercise of a right attaching thereto shall not be considered to reduce its capital stock if the price is paid out of the proceeds of an issue of shares made by it for such purpose, or out of its surplus available for the payment of dividends provided, in the latter case, that no cumulative dividend is in arrears on any shares not purchased or redeemed and that an amount equal to the portion of the price representing repayment of paid-up capital shall constitute a special surplus not available for distribution before the shares concerned are cancelled in accordance with section 13 of the Act respecting the special powers of legal persons (chapter P-16). Likewise, the purchase or redemption of shares by a company that is compelled to do so under the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002) shall not be considered to reduce its capital stock.

R. S. 1964, c. 271, s. 142; 1999, c. 40, s. 70; 2008, c. 20, s. 162.

**147.** (1) Where a compromise or arrangement is proposed between a company and its shareholders or any class of them, affecting the rights of shareholders or any class of them, under the company's charter, letters patent or supplementary letters patent or by-laws, a judge of the Superior Court of the district in which the company has its head office may, on application in a summary way of the company or of any shareholder, order a meeting of the shareholders of the company, or of any class of shareholders, as the case may be, to be summoned in such manner as the said judge directs.



(2) If the shareholders, or class of shareholders, as the case may be, present in person or by proxy at the meeting, agree, by three-fourths of the shares of each class represented, to the compromise or arrangement either as proposed or as altered or modified at such meeting, such compromise or arrangement may be sanctioned by a judge as aforesaid.

If so sanctioned, such compromise or arrangement shall thereupon be confirmed by letters patent or supplementary letters patent, as the case may be, which shall be deposited in the register by the enterprise registrar. Subject to such deposit, but counting from the date of the letters patent or supplementary letters patent, as the case may be, the compromise or arrangement shall be binding on the company and the shareholders or class of shareholders, as the case may be.

R. S. 1964, c. 271, s. 143; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 1993, c. 48, s. 308; 2002, c. 45, s. 278.

**148.** (1) Where a compromise or arrangement is proposed between a company and its creditors, or any class of them, a judge of the Superior Court of the district in which the company has its head office or principal establishment may, on application in a summary way of the company or of any creditor who might be affected, order a meeting of the creditors of the company, or of any class of creditors, as the case may be, to be summoned in such manner as the said judge directs.

(2) If the said creditors, or class of creditors, as the case may be, present in person or by proxy at the meeting, agree, by three-fourths in value of the creditors, or class of creditors, as the case may be, present or represented at the meeting, to the compromise or arrangement either as proposed or as altered or modified at such meeting, such compromise or arrangement may be sanctioned by a judge as aforesaid. Prior to any such sanction, the judge shall require the production before him of a duly certified copy of a resolution of the company, embodying and approving the said compromise or arrangement as agreed to by the creditors.

If so sanctioned, a certified copy of the judgment or order giving such sanction shall be filed with the enterprise registrar, who shall deposit a notice to that effect in the register.

From and after the date of such publication, the compromise or arrangement shall be binding on the company and the creditors, or class of creditors, as the case may be.

(3) The word “creditors” when used in this section shall include only the holders of scrip interest certificates, or scrip dividend certificates, and warrants, and provided the same do not carry any registered claim or registered hypothec against the company’s property or assets.

R. S. 1964, c. 271, s. 144; 1966-67, c. 72, s. 23; 1982, c. 52, s. 133; 1992, c. 57, s. 516; 1993, c. 48, s. 309; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**149.** (1) When an offer to acquire all the shares of a certain class has been accepted by the holders of 9/10 of the shares of such class, the offerer may give notice, within six months after the date of the offer, that he wishes to acquire the shares of the dissentient shareholders.

(2) Such notice shall be given in the manner prescribed by a judge of the Superior Court on application by the offerer and shall state that, unless the Superior Court of the district in which the company has its head office decides otherwise, upon application by a dissentient shareholder filed within one month from the date of the notice, the offerer shall acquire the shares on the conditions of the offer.

(3) When a notice has been so given and the court has not otherwise ordered, the offerer, at the expiration of the period of one month from the date of the notice or, if an application is then pending, after the court has adjudicated finally upon such application, shall deliver, against a receipt, to a trust company authorized under the Trust Companies and Savings Companies Act (chapter S-29.02) for the benefit of the dissentient shareholders, the sums or securities offered for the shares which he is entitled to acquire under this section.

(4) Upon production of a copy of the offer, notice and receipt, with a certificate of the clerk of the Superior Court of the district in which the company has its head office, certifying that no application has been

filed within the period fixed or that one has been dismissed by final judgment, the company shall register in its books the offerer as the holder of the shares that were held by the dissentient shareholders.

(5) An offer to acquire all the shares of a certain class, except those of a shareholder mentioned therein, shall give rise to the application of this section if it is accepted by the holders of 9/10 of the shares to which it refers and the offerer acquires, on the same conditions, the shares of the shareholder mentioned.

R. S. 1964, c. 271, s. 145; 1999, c. 40, s. 70; I.N. 2016-01-01 (NCCP); 2018, c. 23, s. 746.

**150.** The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, in respect of any share, and the receipt of the shareholder in whose name the same stands in the books of the company shall be a valid and binding discharge to the company for any dividend or money payable in respect of such share, whether or not notice of such trust shall have been given to the company, and the company shall not be bound to see to the application of the money paid upon such receipt.

R. S. 1964, c. 271, s. 146.

## DIVISION X

### SHARE CERTIFICATES

**151.** (1) Every shareholder shall, without payment, be entitled to a certificate under the common seal of the company, stating the number of shares held by him and the amount paid up thereon, but, in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate.

(2) The certificate shall be *prima facie* evidence of title of the shareholder to the shares mentioned in it.

(3) If a share certificate be defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding \$0.25, and on such terms, if any, as to evidence and indemnity, as the directors think fit.

R. S. 1964, c. 271, s. 147.

**152.** (1) A company, if so authorized by its charter, and subject to the provisions thereof, may, with respect to any fully paid-up shares, issue under its seal a warrant stating that the bearer of the warrant is entitled to the share or shares therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the share or shares included in the warrant, hereafter termed a share warrant.

(2) A share warrant shall entitle the bearer thereof to the shares therein specified.

(3) The bearer of a share warrant shall, subject to the provisions and regulations respecting share warrants contained in the charter, be entitled, on surrendering it for cancellation, to have his name entered on the books of the company as the holder of the shares specified in such share warrant, and the company shall be responsible for any loss incurred by any person by reason of the company entering on the books of the company the name of the bearer of a share warrant in respect of the shares therein specified without the warrant being surrendered and cancelled.

(4) The bearer of a share warrant may, if the provisions and regulations respecting share warrants so provide, be considered to be a shareholder of the company either to the full extent or for any purposes defined by such regulations. In no case, however, shall the bearer of a share warrant be qualified in respect of the shares specified in the warrant for being a director of the company.

(5) On the issue of a share warrant the company shall remove from its books the name of the shareholder then entered therein as holding such share or shares, as if he had ceased to be a shareholder and shall enter in such books the following particulars, namely:

(a) the fact of the issue of the warrant;

- (b) a statement of the shares included in the warrant; and
- (c) the date of the issue of the warrant.

(6) Until the warrant is surrendered, the above particulars shall be deemed to be the particulars required by this Part to be entered in the books of the company in respect of such share or shares, and, on the surrender, the date of the surrender shall be entered as if it were the date at which a person ceased to be a shareholder.

(7) Unless the bearer of a share warrant is entitled to attend and vote at general meetings, the shares represented by such share warrant are not part of the stock of the company for the purposes of a general meeting.

R. S. 1964, c. 271, s. 148; 1999, c. 40, s. 70; 2008, c. 20, s. 163.

## DIVISION XI

### CHANGING THE VALUE OF THE SHARES

**153.** (1) The directors of the company may, at any time, make a by-law:

- (a) to subdivide the existing shares into shares of a smaller amount;
- (b) to change the authorized shares with a par value, whether issued or not, into shares without par value, save in the case of preferred shares having preferential rights as to the principal;
- (c) to change the authorized shares without par value, whether issued or not, into shares with a par value.

(2) The directors may also, at any time, whenever the par value of the existing shares of the company is less than \$100 each, make a by-law consolidating them into shares of a greater par value; but no such consolidated share shall exceed the par value of \$100.

(3) For the purpose of such consolidation, the company may purchase fractions of shares, and the company shall sell any such shares held by them, within two years.

R. S. 1964, c. 271, s. 149; 1999, c. 40, s. 70.

**154.** The by-law ordering the change contemplated by paragraph *c* of subsection 1 of section 153 must mention what the capital of the company shall be in future. For such purpose, the shares issued without par value and replaced by shares with a par value shall be considered as fully paid, but their aggregate par value shall not exceed the value of the net assets of the company as represented by the shares without par value issued before the change.

R. S. 1964, c. 271, s. 150.

**155.** No by-law enacting one of the operations contemplated by the provisions of section 153 of this Act shall have any force or effect until it is approved by the vote of at least two-thirds in value of the shares represented by the shareholders present at a special general meeting of the company, and afterwards confirmed by the enterprise registrar.

R. S. 1964, c. 271, s. 151; 1969, c. 26, s. 45; 1982, c. 52, s. 138; 2002, c. 45, s. 278.

**156.** (1) The application for confirmation of the by-law by the enterprise registrar must be made by the directors not more than six months after the approval of the by-law by the shareholders.

(2) The directors shall, with such application, produce a copy of such by-law, under the seal of the company, and signed by the president or vice-president and the secretary, and establish, to the satisfaction of

the enterprise registrar, the due passage and approval of such by-law, and the expediency and *bonafide* character of the operation or operations thereby provided for.

(3) The enterprise registrar shall, for that purpose, take and keep of record any requisite evidence in writing, given under oath.

R. S. 1964, c. 271, s. 152; 1966-67, c. 72, s. 23; 1969, c. 26, s. 46; 1982, c. 52, s. 138; 2002, c. 45, s. 278.

**157.** Upon proof of the passing and approval of the by-law, the enterprise registrar may grant letters patent confirming such by-law and shall deposit the letters patent in the register; and, from the date of the letters patent, the capital of the company shall be changed, in the manner and subject to the conditions set forth by such by-law.

R. S. 1964, c. 271, s. 153; 1966-67, c. 72, s. 23; 1969, c. 26, s. 47; 1972, c. 61, s. 19; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 134; 1993, c. 48, s. 310; 2002, c. 45, s. 278.

**158.** (1) When the authorized capital of a company includes shares without par value, its paid-up capital, with respect to such shares, shall be an amount equal to the aggregate of the consideration received by the company for such of such shares as are issued.

(2) Each share without par value shall be equal to every other similar share of the capital stock, subject to the preferred or special rights, conditions or limitations attaching to any class of shares.

(3) Every certificate for shares without par value shall state on its face, in legibly written or printed characters, the number of shares which it represents and the number of such shares which the company is authorized to issue, and such certificate shall not mention any par value for such shares.

(4) In the absence of other provisions in that respect in the charter or by-laws of the company, the shares without par value may be issued and allotted from time to time for such consideration, payable in cash, property or services, as may be fixed by the board of directors of the company; and all shares so issued shall be deemed fully paid upon receipt by the company of the consideration for their issue and allotment, and the holder of such shares shall not be liable to the company or its creditors in respect thereof.

R. S. 1964, c. 271, s. 154.

## DIVISION XII

### CALLS

**159.** (1) The directors may, by resolution, demand from the shareholders the whole or any part of the amount unpaid on shares by them subscribed or held, at such times and in such manner as is required or permitted by this Part and the charter or by-laws of the company.

(2) A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed; and if a shareholder fails to pay any call due by him, on or before the day appointed for the payment thereof, he shall be liable to pay interest thereon at the rate of six per cent per annum, from the day appointed for payment to the time of actual payment thereof.

R. S. 1964, c. 271, s. 155.

**160.** The directors may, if they think fit, receive from any shareholder willing to advance the same, all or any part of the amounts due on the shares held by such shareholder, beyond the sums then actually called for; and upon the moneys so paid in advance, or so much thereof as, from time to time, exceeds the amount of the call then made upon the shares in respect of which such advance is made, the company may pay interest at such rate, not exceeding eight per cent per annum, as may be agreed upon between the shareholders who pay such sum in advance, and the directors.

R. S. 1964, c. 271, s. 156.

**161.** If after such demand or notice as is prescribed by the charter, or by resolution of the directors, or by the by-laws of the company, any call made upon any share is not paid within such time as, by such charter or by resolution of the directors or by the by-laws, is limited in that behalf, the directors, in their discretion, by vote to that effect duly recorded in their minutes, may summarily declare forfeited any shares whereon such payment has not been made, and the same shall thereupon become the property of the company and may be disposed of as, by the by-laws of the company or otherwise, they prescribe; but, notwithstanding such forfeiture, the holder of such shares at the time of forfeiture shall continue liable to the then creditors of the company for the full amount unpaid on such shares at the time of forfeiture, less any sums which are subsequently received by the company in respect thereof.

R. S. 1964, c. 271, s. 157.

**162.** The directors may, if they see fit, instead of declaring forfeited any share or shares, enforce payment of all calls, and interest thereon, by action in any court of competent jurisdiction; and in such action it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrears amount, in respect of one call or more, upon one share or more, stating the number of calls and the amount of each call, whereby an action has accrued to the company under this Part.

A certificate under the seal of the company, and purporting to be signed by any of its officers, to the effect that the defendant is a shareholder, that such calls have been made and that so much is due by him thereon, shall be received in all courts as evidence to that effect.

R. S. 1964, c. 271, s. 158.

## **DIVISION XIII**

### **TRANSFER OF SHARES**

**163.** (1) No transfer of shares, unless made by sale under execution or under the decree, order or judgment of a court of competent jurisdiction, shall be valid for any purpose until entry thereof is duly made in the register of transfers, except for the purpose of exhibiting the rights of the parties thereto towards each other and of rendering the transferee liable in the meantime, severally with the transferor, to the company and its creditors.

(2) This section shall not apply to companies whose stock is listed and dealt with on any recognized stock exchange by means of scrip commonly in use, endorsed in blank and transferable by delivery, which shall constitute a valid transfer; but the scrip-holder shall not be entitled to vote upon the shares until they are registered in his name in the books of the company.

R. S. 1964, c. 271, s. 159.

**164.** No transfer of shares, whereof the whole amount has not been paid in, shall be made without the consent of the directors; and whenever any transfer of shares not fully paid up has been made, with such consent, to a person who is not apparently of sufficient means to fully pay up such shares, the directors shall be severally liable to the creditors of the company, in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been; but if any director present when any such transfer is allowed, does forthwith, or if any director then absent does, within twenty-four hours after he becomes aware thereof and is able so to do, enter on the minute-book of the board of directors his protest against the same, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the company is situated, or if there is no newspaper there published, then in the newspaper published nearest thereto, such director may thereby, and not otherwise, exonerate himself from such liability.

R. S. 1964, c. 271, s. 160.

**165.** No share shall be transferable until all calls payable thereon up to the time of transfer have been fully paid.

The directors may decline to register any transfer of shares belonging to any shareholder who is indebted to the company.

The provisions of the immediately preceding paragraph shall not apply to the shares contemplated by subsection 2 of section 163.

R. S. 1964, c. 271, s. 161.

**166.** *(Repealed).*

R. S. 1964, c. 271, s. 162; 2008, c. 20, s. 164.

**167.** *(Repealed).*

R. S. 1964, c. 271, s. 163; 1999, c. 40, s. 70; 2008, c. 20, s. 164.

**168.** *(Repealed).*

R. S. 1964, c. 271, s. 164; 2008, c. 20, s. 164.

## DIVISION XIV

### BORROWING AND HYPOTHECATING POWERS

1992, c. 57, s. 517.

**169.** (1) If authorized by by-law, sanctioned by a vote of not less than two-thirds in value of the shares represented by the shareholders present at a general meeting called for considering the by-law, the directors may, when they deem it expedient,

(a) borrow money upon the credit of the company;

(b) issue debentures or other securities of the company, and pledge or sell the same for such sums and at such price as may be deemed expedient;

(c) *(paragraph repealed);*

(d) hypothecate the property or otherwise affect the movable property of the company.

(2) The limitations and restrictions contained in this section shall not apply to the borrowing of money by the company on bills of exchange or promissory notes made, drawn, accepted or indorsed by or on behalf of the company.

R. S. 1964, c. 271, s. 165; 1992, c. 57, s. 518; 1999, c. 40, s. 70.

**170.** (1) A copy of any trust deed for securing any issue of debentures or other securities of the company shall be forwarded to every holder of any such debenture or other security at his request, on payment in the case of a printed trust deed of the sum of \$0.25 or such less sum as may be prescribed by by-law of the company, or, where the trust deed has not been printed, on payment of \$0.10 for every 100 words required to be copied.

(2) If such copy is refused or is not forwarded upon request, the company shall be liable to a fine of not more than \$100 for such refusal or neglect, and to a further fine of not more than \$10 for every day during

which the neglect to forward a copy continues; and every director, manager, secretary or other officer of the company who knowingly authorizes or permits the neglect shall be liable to the like penalty.

R. S. 1964, c. 271, s. 166.

## **DIVISION XV**

### **DIVIDENDS**

**171.** (1) No dividend shall be declared which will impair the capital of the company.

(2) The annual dividend may, however, be supplemented or paid entirely out of the reserve fund.

R. S. 1964, c. 271, s. 167.

**172.** The provisions of subsection 1 of section 171 shall not prevent a mining company or a company whose assets are wholly or in part composed of goods which are consumed by the use made of them from declaring or paying a dividend out of the funds derived from such use.

The powers conferred by the preceding paragraph may be exercised, although the value of the net assets of the company may thereby be reduced to a sum less than the value of its issued capital stock, provided that, after payment of the dividend, the remaining assets be sufficient to meet all the obligations of the company apart from the paid-up capital.

Such company may pay a dividend by distributing, in species or in kind, part of its property; but the real value of such property shall not exceed the amount of the dividend declared.

R. S. 1964, c. 271, s. 168.

**173.** The directors may provide that the amount of any dividend that they may lawfully declare shall be paid, in whole or in part, in capital stock of the company, and for that purpose may authorize the issue of shares of the company as fully paid or partly paid, or may credit the amount of such dividend on the shares of the company already issued but not fully paid, and, in the latter case, the liability of the holders of such shares shall be reduced by the amount of such dividend.

R. S. 1964, c. 271, s. 169.

**174.** The directors may deduct from the dividend payable to any shareholder all such sums of money as are due from him to the company, on account of calls or otherwise.

R. S. 1964, c. 271, s. 170.

**175.** When the capital of a company is composed of subscribed and paid-up shares the nominal value whereof is expressed in foreign currency, the division of profits in any manner whatsoever and the repayment of the capital, as the case may be, shall be calculated and payable in currency of the same country, effective as a medium of discharge at the time of the division.

R. S. 1964, c. 271, s. 171.

## **DIVISION XVI**

### **DIRECTORS AND THEIR POWERS**

**176.** The affairs of the company shall be managed by a board of not less than three directors.

R. S. 1964, c. 271, s. 172.

**177.** The persons named as such in the charter shall be the directors of the company, until duly replaced; and, in the absence of other provisions in respect thereof in the charter, their number shall be that of the directors to be elected, until otherwise provided in accordance with section 180.

If not so replaced within six months from the date of the constitution of the company as a legal person, any of said persons or, if they be not living, their heirs or assigns, may cause a meeting to be held by giving 15 clear days' notice of the time and place thereof, in the *Gazette officielle du Québec*, and the said persons, or their heirs or assigns, present at such meeting, may pass by-laws, allot stock and elect directors.

R. S. 1964, c. 271, s. 173; 1999, c. 40, s. 70.

**178.** If, at any time, an election of directors be not made, or do not take effect at the proper time, the company shall not be held to be thereby dissolved; but such election may take place at any general meeting of the company called for that purpose; and the retiring directors shall continue in office until their successors are elected.

R. S. 1964, c. 271, s. 174.

**179.** (1) No person shall be elected or appointed a director of a company unless he, or any other company of which he is an officer or director, is a shareholder and, if the by-laws of the company so provide, owning shares of the company absolutely in his own right or in the right of such other company to a required amount and not in arrears in respect of any calls thereon.

(2) Any person holding, as liquidator of a succession, tutor, curator or trustee, shares not in arrears in respect of any call, may be elected or appointed a director and, when another company holds such shares in any of such capacities, any officer of such other company may be elected or appointed a director.

(3) A director elected or appointed under subsection 2 shall not be personally liable under section 189, but the succession or other beneficial owner of the shares held by such director or by the company of which he is an officer, shall be subject to the liabilities imposed upon the directors by the said section.

(4) An undischarged bankrupt shall not be elected or appointed a director, and when any director becomes a bankrupt he shall thereby cease to be a director.

R. S. 1964, c. 271, s. 175; 1999, c. 40, s. 70.

**180.** The company may, by by-law, increase, or decrease to not less than three, the number of its directors, but no such by-law shall be valid or acted upon, unless it be approved by the vote of at least two-thirds in value of the shares represented by the shareholders present at a special general meeting called for considering the by-law, nor until a copy of such by-law, certified under the seal of the company, has been deposited with the enterprise registrar.

A notice of such by-law shall be deposited in the register.

R. S. 1964, c. 271, s. 176; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 1993, c. 48, s. 311; 2002, c. 45, s. 278.

**181.** Directors of the company shall be elected by the shareholders, in general meeting of the company assembled, at some place within Québec, at such times, in such manner, and for such term, not exceeding two years, as the charter, or, if it makes no provision therefor, as the by-laws of the company prescribe.

R. S. 1964, c. 271, s. 177.

**182.** In the absence of other express provisions in such behalf, in the charter or the by-laws of the company,—

(1) the election of directors shall take place yearly, and all the directors then in office shall retire, but, if otherwise qualified, they shall be eligible for reelection;



(2) every election of directors shall be by ballot;

(3) any vacancy occurring in the board of directors may be filled, for the remainder of the term, by the directors, from among the qualified shareholders of the company;

(4) the directors shall elect from among themselves a president, and, if they see fit, a chairman of meetings and one or more vice-presidents of the company, and may also appoint all other officers thereof.

R. S. 1964, c. 271, s. 178.

**183.** When the board of directors of a company consists of more than six directors it may, if thereunto authorized by by-law regularly adopted by the vote of at least two-thirds in value of the shares represented by the shareholders present at a special general meeting of the company, elect from among its members an executive committee composed of at least three directors. The executive committee may exercise the powers of the board of directors delegated by such by-law, subject to the restrictions therein contained and subject to the other by-laws which may be enacted from time to time by the directors.

R. S. 1964, c. 271, s. 179.

**184.** Every director of the company may, with the consent of the company, given at any general meeting thereof, be indemnified and saved harmless, out of the funds of the company, from and against all costs, charges and expenses which he sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing made, done or permitted by him, in or about the execution of the duties of his office; and also from and against all other costs, charges and expenses which he sustains or incurs, in or about or in relation to the affairs thereof,—except such costs, charges or expenses as are occasioned by his own fault.

R. S. 1964, c. 271, s. 180.

**185.** (1) The directors may administer the affairs of the company in all things, and may make or cause to be made for it in its name any kind of contract which it may lawfully enter into.

(2) They may make by-laws not contrary to law, nor to the charter of the company, for the following purposes:

(a) the regulating of the allotment of stock, the making of calls thereon, the payment thereof, the issue and registration of certificates of stock, the forfeiture of stock for non-payment, the disposal of forfeited stock and of the proceeds thereof, and the transfer of stock;

(b) the declaration and payment of dividends;

(c) the number of the directors, their term of service, the amount of their stock qualifications, and their remuneration, if any;

(d) the appointment, functions, duties and removal of all officers, agents or employees of the company, the security to be given by them to the company, and their remuneration;

(e) the time and the place within Québec for the holding of the annual meetings of the company, the calling of meetings, regular and special, of the board of directors and of the company, the quorum, the requirements as to proxies not otherwise prescribed by this Part, and the procedure in all things at such meetings;

(f) the imposition and recovery of all penalties and forfeitures which admit of regulation by by-law;

(g) the conduct in all other particulars of the affairs of the company.

(3) The directors may repeal, amend or re-enact such by-laws; but every such by-law (except by-laws made respecting the matters set forth in paragraph *d* of subsection 2 of this section) and every repeal,

amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the company duly called for that purpose, shall have effect only until the next annual meeting of the company, and, in default of confirmation thereat, shall, at and from that time only, cease to be in force.

R. S. 1964, c. 271, s. 181; 1999, c. 40, s. 70.

**186.** When a company has ceased to carry on business, except for the purpose of winding up its affairs, and has no debts or obligations that have not been provided for a protected, the directors may pass by-laws for distributing the assets of the company, or any part of them, among the shareholders. No such distribution may be made until 15 days after the publication of a summary of the by-law in the *Gazette officielle du Québec* .

R. S. 1964, c. 271, s. 182; 1999, c. 40, s. 70.

## DIVISION XVII

### LIABILITY OF DIRECTORS

**187.** If the directors of the company declare and pay any dividend when the company is insolvent, or any dividend the payment of which renders the company insolvent or impairs the capital thereof, they shall be severally liable, as well to the company as to the individual shareholders and creditors thereof, for all the debts of the company then existing and for all thereafter contracted during their continuance in office; but if any director present when such dividend is declared does forthwith, or if any director then absent does, within twenty-four hours after he becomes aware thereof and able so to do, enter on the minutes of the board of directors his protest against the same, and within eight days thereafter publishes such protest in at least one newspaper published at the place in which the head office or chief place of business of the company is situated, or, if there is no newspaper there published, then in the newspaper nearest thereto, such director may thereby, and not otherwise, exonerate himself from such liability.

R. S. 1964, c. 271, s. 183.

**188.** No loan shall be made by the company to any shareholder. If such loan is made, all directors and other officers of the company making the same, or in anywise assenting thereto, shall be severally liable for the amount of such loan, with interest, to the company, and also to the creditors of the company.

R. S. 1964, c. 271, s. 184.

**189.** (1) The directors of the company shall be solidarily liable to its employees for all debts not exceeding six months' wages due for services rendered to the company whilst they are such directors respectively.

(2) No director shall be liable to an action therefor, unless

(a) the company is sued within one year after the debt became due and the notice of execution is returned unsatisfied, wholly or in part; or

(b) during such period, a winding-up order is made against the company or it becomes bankrupt within the meaning of the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3) and a claim for such debt is filed.

R. S. 1964, c. 271, s. 185; 1999, c. 40, s. 70; I.N. 2016-01-01 (NCCP).

## DIVISION XVIII

### GENERAL MEETINGS

**190.** In default of other express provision in the charter or by-laws of a company, notice of the time for holding general meetings, including the annual and special meetings, shall be given at least ten days previously thereto by registered mail to each shareholder at his last known address, and by an advertisement

in a newspaper published in French and in a newspaper published in English, at the place where the company has its head office, or, if there are no newspapers published at that place, or if there is only one, by a notice inserted in one or two newspapers, as the case may be, published in the nearest place.

R. S. 1964, c. 271, s. 186; 1975, c. 83, s. 84; I.N. 2016-01-01 (NCCP).

**191.** (1) An annual meeting of the shareholders of the company shall be held at such time and place in each year as the charter or by-laws of the company provide, and in default of such provisions in that behalf an annual meeting shall be held at the place named in the charter as the place of the head office of the company, on the fourth Wednesday in January in every year, and, if such day be a holiday, then on the next following working day.

(2) At such meeting the directors shall lay before the company,—

(a) a balance sheet made up to a date not more than four months before such annual meeting; provided however that a company which carries on its undertaking outside Québec may, by resolution passed at a general meeting, extend this period to not more than six months;

(b) a general statement of income and expenditure for the financial period ending nearest to the date of such balance sheet;

(c) the report of the auditor or auditors;

(d) such further information respecting the company's financial position as the charter or by-laws of the company require.

(3) Every balance sheet shall be drawn up so as to distinguish severally at least the following classes of assets and liabilities, namely:

(a) cash;

(b) debts owing to the company by its customers;

(c) debts owing to the company by its directors, officers and shareholders respectively;

(d) stock-in-trade;

(e) expenditures made on account of future business;

(f) movable and immovable property;

(g) goodwill, franchises, patents and copyrights, trade-marks, leases, contracts and licences;

(h) debts owing by the company, secured by mortgage or other lien upon the property of the company;

(i) debts owing by the company, but not secured;

(j) amount of common shares subscribed for and allotted, and the amount paid thereon, showing the amount thereof allotted for services rendered, for commissions or for assets acquired since the last annual meeting;

(k) amount of preferred shares subscribed for and allotted and the amount paid thereon, showing the amount thereof allotted for services rendered, for commissions, or for assets acquired since the last annual meeting;

(l) indirect and contingent liabilities;

(m) amount written off on account of depreciation of plant, machinery, goodwill and all other similar items.

R. S. 1964, c. 271, s. 187; I.N. 2016-01-01 (NCCP).

***Not in force***

**191.1.** *(Not in force).*

2002, c. 70, s. 166.

***Not in force***

**191.2.** *(Not in force).*

2002, c. 70, s. 166.

***Not in force***

**191.3.** *(Not in force).*

2002, c. 70, s. 166.

***Not in force***

**191.4.** *(Not in force).*

2002, c. 70, s. 166.

***Not in force***

**191.5.** *(Not in force).*

2002, c. 70, s. 166.

***Not in force***

**191.6.** *(Not in force).*

2002, c. 70, s. 166.

***Not in force***

**191.7.** *(Not in force).*

2002, c. 70, s. 166.

***Not in force***

**191.8.** *(Not in force).*

2002, c. 70, s. 166.

***Not in force***

**191.9.** *(Not in force).*

2002, c. 70, s. 166.

***Not in force***

**191.10.** *(Not in force).*

2002, c. 70, s. 166.

***Not in force***

**191.11.** *(Not in force).*

2002, c. 70, s. 166.

***Not in force***

**191.12.** *(Not in force).*

2002, c. 70, s. 166.

**192.** (1) Upon the receipt by the secretary of the company of a requisition in writing, signed by the holders of not less than one-tenth of the subscribed shares of the company, setting out the objects of the proposed meeting, the directors, or, if there is not a quorum in office, the remaining directors or director, shall forthwith convene a special general meeting of the company for the transaction of the business mentioned in the requisition.

(2) If the meeting is not called and held within twenty-one days from the date upon which the requisition was left at the head office of the company, any shareholders holding not less than one-tenth in value of the subscribed shares of the company, whether they signed the requisition or not, may themselves convene such special general meeting.

(3) The directors may at any time, of their own motion, call a special general meeting of the company for the transaction of any business.

(4) Notice of any special general meeting shall state the business which is to be transacted thereat.

R. S. 1964, c. 271, s. 188.

**193.** The chairman of meetings, if there be one, shall preside at every general meeting of the company. If there is no chairman of meetings or if he is absent, then the president of the company shall *dejure* preside as chairman, and, in his absence, such right shall devolve upon the vice-president. If, at any meeting, none of the above-mentioned officers is present within fifteen minutes after the time appointed for holding the meeting, the shareholders present shall choose one of their number to be chairman of such meeting.

R. S. 1964, c. 271, s. 189.

**194.** (1) At any general meeting, unless a poll be demanded, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the minutes of the company, shall be *prima facie* evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(2) If a poll is demanded it shall be taken in such manner as the by-laws prescribe, and, if the by-laws make no provision therefor, then as the chairman may direct.

(3) Failing other provisions in that behalf in the charter or by-laws of the company, in the case of an equality of votes at any general meeting the chairman shall be entitled to a second or casting vote.

R. S. 1964, c. 271, s. 190.

**195.** Unless otherwise specially provided in the charter or in any by-law authorizing the issue of preferred stock, at all meetings of shareholders every shareholder shall be entitled to as many votes as he holds shares in the company, and may vote by proxy, but no shareholder in arrears in respect of any call shall be entitled to vote at any meeting.

R. S. 1964, c. 271, s. 191.

**196.** (1) The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor be a legal person, either under the seal of the legal person or under the hand of an officer or attorney so authorized, and shall cease to be valid after the expiration of one year from the date thereof, unless it be for some other period.

Any shareholder represented at a general or special meeting of shareholders by proxy, given according to law or the by-laws of the company, is deemed to be present himself at the meeting.

(2) Any person, whether he is a shareholder of the company or not, may act as a proxy.

(3) A proxy for an absent shareholder shall not have the right to vote on a show of hands.

(4) An instrument appointing a proxy shall be dated and contain the appointment and name of the proxy on a revocation of a former instrument appointing a proxy.

(5) An instrument appointing a proxy may be revoked at any time.

R. S. 1964, c. 271, s. 192; 1972, c. 61, s. 20; 1999, c. 40, s. 70.

## **DIVISION XIX**

### **BOOKS OF THE COMPANY**

**197.** (1) The company shall cause a book or books to be kept by the secretary, or by some other officer specially charged with that duty, wherein shall be kept recorded:

(a) every by-law of the company;

(b) the names, alphabetically arranged, of all persons who are or have been shareholders;

(c) the address and calling of every such person, while such shareholder, as far as can be ascertained;

(d) the number of shares of stock held by each shareholder;

(e) the amounts paid in, and remaining unpaid, respectively, on the stock of each shareholder; and

(f) the names, addresses and callings of all persons who are or have been directors of the company, with the several dates at which each became or ceased to be such director.

(2) A book called the register of transfers shall be provided, and in such book shall be entered the particulars of every transfer of shares in the capital of the company.

R. S. 1964, c. 271, s. 193.

**198.** (1) Every company shall keep a register of mortgages, and enter therein all mortgages and charges specifically affecting property of the company, giving in each case a short description of the property mortgaged, the amount of the mortgage or charge, and (except in the case of debentures or other securities to order or to bearer) the names of the mortgagees or successors. In regard to hypothecs or other charges securing the payment of debentures or other securities payable to order or to bearer, it shall be sufficient to mention the name of the trustee in whose favour the hypothec is created.

(2) If any director, officer or manager of the company knowingly and wilfully authorizes or permits the omission of an entry required to be made in pursuance of this section, he shall be liable to a fine of not more than \$200.

R. S. 1964, c. 271, s. 194; 1990, c. 4, s. 302; 1999, c. 40, s. 70.

**199.** The books and registers mentioned in sections 197 and 198 shall, during reasonable business hours of every day, except Sundays and holidays, be kept open, at the head office or chief place of business of the company, for the inspection of holders of preferred or common shares and creditors of the company, and their representatives, and of any judgment creditor of a shareholder; and every such shareholder, creditor or representative may make extracts therefrom.

R. S. 1964, c. 271, s. 195.

**200.** Every company shall keep, at its head office in Québec, one or several books in which are entered:

- (a) its receipts and disbursements and the matters to which each of them relates;
- (b) its financial transactions;
- (c) its credits and liabilities;
- (d) the minutes of the meetings of its shareholders and of its directors and of the votes taken at such meetings.

All the minutes entered in such book or books shall be certified by the president of the company or the chairman of the meeting or by the secretary of the company.

R. S. 1964, c. 271, s. 196.

**201.** (1) Every director, officer or employee of the company

(a) who refuses to exhibit the books and registers mentioned in sections 197 and 198 or to allow the said books and registers to be inspected and extracts taken therefrom; or

(b) who, knowingly, makes or assists in making any untrue entry in any of the books and registers mentioned in sections 197, 198 and 200, or who refuses or neglects to make any proper entry therein,

shall be liable to a fine of \$100 for every such untrue entry and for every such refusal or neglect, and shall be responsible for any injury resulting from the losses which any party interested may have sustained from such acts and omissions.

(2) Every company which neglects to keep any such books or registers as aforesaid, shall be liable to a penalty of not more than \$20 for each day that such neglect continues, and also in damages for all loss or injury which any party interested may have sustained thereby.

R. S. 1964, c. 271, s. 197; 1999, c. 40, s. 70.

**202.** Such books and registers shall be *prima facie* evidence of all facts purporting to be thereby stated, in any action, suit or proceeding against the company or against any shareholder.

R. S. 1964, c. 271, s. 198.

**DIVISION XX**

**INSPECTION**

**203.** (1) The enterprise registrar may appoint one or more competent inspectors to investigate the affairs of any company and to report thereon in such manner as the enterprise registrar may direct, on the application of shareholders holding such a proportion of the issued stock of the company as in the opinion of the enterprise registrar warrants the application.

(2) The application shall be supported by such evidence as the enterprise registrar may require for the purpose of showing that the applicants have good reason for and are not actuated by malicious motives in requiring the investigation; and the enterprise registrar may, before appointing an inspector, require the applicants to give security for payment of the costs of the inquiry.

(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or control.

(4) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(5) If any officer or agent refuses to produce any book or document which under this section it is his duty to produce, or to answer any question relating to the affairs of the company, he shall be liable to a fine of not more than \$100 in respect of each offence.

(6) On the conclusion of the investigation the inspectors shall report their opinion to the enterprise registrar, and a copy of the report shall be forwarded by him to the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

(7) The report shall be written or printed, as may be directed by the enterprise registrar.

(8) The expenses of and incidental to the investigation shall be borne by the applicants or the company, as the enterprise registrar may order, or by both the applicants and the company, in the proportion which the enterprise registrar shall determine, when he shall deem it equitable to apportion them between the parties.

They shall be recoverable at the instance of the inspector from any party against whom they have been adjudged.

Such expenses shall be determined by the chief judge of the Court of Québec or by the judge he designates, upon verbal application of the inspector, after a notice of at least three days, to every party obliged to pay the same, of the hour, date and place where the bill of costs will be filed.

The certificate of adjudication of the expenses by the enterprise registrar and the certificated issued by the judge who determined the expenses shall be incontestable and shall be evidence of the obligation of any party against whom they have been adjudged to pay the amount determined.

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R. S. 1964, c. 271, s. 199; 1965 (1st sess.), c. 17, s. 2; 1966-67, c. 72, s. 23; 1975, c. 76, s. 11; 1977, c. 5, s. 14; 1980, c. 11, s. 117; 1981, c. 9, s. 24; 1982, c. 52, s. 135, s. 138; 1988, c. 21, s. 86; 1990, c. 4, s. 302; 1995, c. 42, s. 55; 2002, c. 45, s. 278; I.N. 2016-01-01 (NCCP).

**204.** (1) A company may, by resolution at any annual or special general meeting, appoint inspectors to investigate its affairs.

(2) Inspectors so appointed by the company shall have the same powers and duties as inspectors appointed by the enterprise registrar, except that, instead of reporting to the enterprise registrar, they shall report in such manner and to such persons as the company by resolution may direct.



(3) Officers and agents of the company shall be liable to the like penalties in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have been liable to if the inspectors had been appointed by the enterprise registrar.

R. S. 1964, c. 271, s. 200; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 2002, c. 45, s. 278.

**205.** A copy of the report of any inspectors appointed under this division, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

R. S. 1964, c. 271, s. 201.

## **DIVISION XXI**

### **AUDITORS**

**206.** (1) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) If no appointment of auditors is made at any annual general meeting, the enterprise registrar may, on the application of any shareholder of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(3) No director or officer of a company may be appointed auditor of the company.

(4) The directors may fill any vacancy in the office of auditor; but while any such vacancy continues the remaining auditor or auditors, if any, shall continue to act.

R. S. 1964, c. 271, s. 202; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 2002, c. 45, s. 278.

**207.** (1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

(2) The auditors shall make a report to the shareholders on the accounts examined by them, and on every balance sheet laid before the company in general meeting during their tenure of office, and the report shall state,—

(a) whether or not they have obtained all the information and explanations they have required; and

(b) whether the balance sheet referred to in the report is drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(3) The balance sheet shall be signed on behalf of the board by two of the directors of the company, and the auditor's report shall be attached to the balance sheet, or there shall be inserted at the foot of the balance sheet a reference to the report, and the report shall be read before the company in general meeting, and shall be open to inspection by any shareholder.

(4) Thereafter any shareholder shall be entitled to be furnished with a copy of the balance sheet and auditor's report at a charge of not more than \$0.10 for every 100 words.

(5) If any copy of a balance sheet which has not been signed as required by this section is issued, circulated or published, or if any copy of a balance sheet is issued, circulated, or published without either having a copy of the auditor's report attached thereto or containing such reference to that report as is required

by this section, the company, and every director, manager or other officer of the company who is knowingly a party to the default, shall be liable to a fine of not more than \$200.

R. S. 1964, c. 271, s. 203; 1990, c. 4, s. 302.

## **DIVISION XXII**

### **PROCEDURE**

**208.** Any summons, notice, order or proceeding requiring authentication by the company, may be signed by any director, manager or other authorized officer of the company, and need not be under the seal of the company.

R. S. 1964, c. 271, s. 204.

**209.** Subject to the provisions of section 190 respecting general meetings, notices to be notified by the company to the shareholders may be notified either personally or by sending them through the post, by registered mail, addressed to the shareholders at their places of abode as they appear on the books of the company.

R. S. 1964, c. 271, s. 205; 1975, c. 83, s. 84; I.N. 2016-01-01 (NCCP).

**210.** A notice or other document notified by post by the company on a shareholder, is deemed to be notified at the time when the registered mail containing it would be delivered in the ordinary course of post; and to prove that fact and time of notification it shall be sufficient to prove that such letter was properly addressed and registered or certified, and was put into the post-office, and the time when it was put in, and the time requisite for its delivery in the ordinary course of post.

R. S. 1964, c. 271, s. 206; 1975, c. 83, s. 84; 1999, c. 40, s. 70; I.N. 2016-01-01 (NCCP).

**211.** A copy of any by-law of the company, under its seal, and purporting to be signed by any officer of the company, shall be received as against any shareholder of the company, as *prima facie* evidence of such by-law in all courts in Québec.

R. S. 1964, c. 271, s. 207.

**212.** In any action or other legal proceeding, it shall not be requisite to set forth the mode of constitution of the company as a legal person, otherwise than by mention of it under its name as constituted by virtue of its charter.

R. S. 1964, c. 271, s. 208; 1999, c. 40, s. 70.

**213.** Proof of any matter which is necessary to be made under this Act may be made by oath.

R. S. 1964, c. 271, s. 209.

**214.** Every holder of preferred shares or debentures of a company shall have the same right as an ordinary shareholder to examine the financial statement, the auditor's report or any other report.

R. S. 1964, c. 271, s. 210.

## DIVISION XXIII

### PENAL PROVISIONS

1992, c. 61, s. 215.

**215.** Every one who, being a director, manager or officer of a company, commits any act contrary to the provisions of this Part, or fails or neglects to comply with any such provision, shall, if no fine for such act, failure or neglect is expressly provided by this Part, be liable to a fine of not more than \$200.

R. S. 1964, c. 271, s. 211; 1990, c. 4, s. 307; 1992, c. 61, s. 216.

## PART III

### LEGAL PERSONS OR ASSOCIATIONS HAVING NO SHARE CAPITAL, CONSTITUTED OR CONTINUED BY LETTERS PATENT

1999, c. 40, s. 70; 2003, c. 18, s. 166.

## DIVISION I

### DEFINITIONS

**216.** In this Part, and in all letters patent and supplementary letters patent issued under it, as well as in all by-laws made by the legal persons, unless the context otherwise requires,

- (1) the word “legal person” means any legal person or association to which this Part applies;
- (2) the word “undertaking” means the business or operations of every kind which the legal person is authorized to carry on;
- (3) the word “member” means any person recognized as such by the rules or by-laws of the legal person;
- (4) the word “register” means the register referred to in Chapter II of the Act respecting the legal publicity of enterprises (chapter P-44.1).

R. S. 1964, c. 271, s. 212; 1993, c. 48, s. 312; 1999, c. 40, s. 70; 2010, c. 7, s. 282.

## DIVISION II

### APPLICATION OF PART III

**217.** This Part shall apply to:

- (1) every association constituted as a legal person under it;
- (2) every association constituted as a legal person under Part III of The Québec Companies Act, 1920, or of chapter 223 of the Revised Statutes, 1925, or of chapter 276 of the Revised Statutes, 1941, or of chapter 271 of the Revised Statutes, 1964;
- (3) every legal person existing under any special or general Act, which has obtained letters patent under the provisions of section 6088 of the Revised Statutes, 1909, as contained in The Québec Companies Act, 1920, of section 201 of chapter 223 of the Revised Statutes, 1925, or of section 217 of chapter 276 of the Revised Statutes, 1941, or of section 217 of chapter 271 of the Revised Statutes, 1964;
- (4) every legal person existing under any special or general Act, which obtains letters patent under the provisions of section 221 or 227.5;

(5) moreover, it shall govern, with the necessary modifications, the organization of historical societies, that is to say, societies whose object is the making of historical research or gathering and conserving material, for history in general or for a particular history;

(6) the historical societies constituted as legal persons before 7 March 1934 are, since such date, governed by the provisions of this Part and by those provisions of this Act to which this Part refers.

R. S. 1964, c. 271, s. 213; 1980, c. 28, s. 16; 1999, c. 40, s. 70; 2003, c. 18, s. 167.

### DIVISION III

#### FORMATION OF NEW LEGAL PERSONS

1999, c. 40, s. 70.

**218.** The enterprise registrar may, by letters patent under his hand and seal, grant a charter to any number of persons, not less than three, who apply therefor, for objects of a national, patriotic, religious, philanthropic, charitable, scientific, artistic, social, professional, athletic or sporting character, or the like, but without pecuniary gain.

Such charter shall constitute such persons, and others who have become subscribers to the application and memorandum hereinafter mentioned and who thereafter become members of the legal person thereby created, as a legal person for any of the purposes or objects above set forth or other objects of the same nature, and for no other purpose.

The letters patent issued by the enterprise registrar under his hand and seal shall have the same effect as if they were issued by the Lieutenant-Governor under the Great Seal.

R. S. 1964, c. 271, s. 214; 1969, c. 26, s. 48; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 136; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**219.** (1) The applicants for such letters patent, who must be at least 18 years of age, shall file with the enterprise registrar an application setting forth

(a) the proposed name of the legal person;

(b) the purposes for which constitution as a legal person is sought;

(c) the place within Québec where its head office is to be situated;

(d) the amount to which the immovable property which may be owned or held by the legal person, or the revenue therefrom, is limited;

(e) the name and the address and calling of each of the applicants, with special mention of the names of not less than three of their number, who are to be the first or provisional directors of the legal person.

(2) The application and a memorandum of agreement shall be drawn up using a form supplied for that purpose or authorized by the enterprise registrar.

(3) In addition, the application must be accompanied with a research report on the names of persons, partnerships or groups used and entered in the register.

R. S. 1964, c. 271, s. 215; 1966-67, c. 72, s. 23; 1972, c. 61, s. 21; 1975, c. 76, s. 11; 1977, c. 5, s. 14; 1979, c. 31, s. 32; 1981, c. 9, s. 24; 1982, c. 52, s. 137, s. 138; 1983, c. 54, s. 27; 1993, c. 48, s. 313; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**220.** Immediately after the granting of the letters patent, the enterprise registrar shall deposit them in the register; and, subject to such deposit, but from the date of the letters patent, the persons therein named, and

such persons as thereafter become members of the legal person, shall be a legal person, by the name mentioned in the letters patent.

R. S. 1964, c. 271, s. 216; 1966-67, c. 72, s. 23; 1972, c. 61, s. 22; 1975, c. 76, s. 11; 1979, c. 31, s. 7; 1981, c. 9, s. 24; 1982, c. 52, s. 138; 1993, c. 48, s. 314; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**221.** Any existing legal person created by or under any special or general Act for any of the objects mentioned in section 218 may apply under this Part for the issue of letters patent constituting it as a legal person under this Part, and the enterprise registrar may issue such letters patent constituting the members of the said legal person as a legal person governed by the provisions of this Part.

The enterprise registrar shall deposit the letters patent in the register, and, subject to such deposit, but from the issue of such letters patent, all the rights, property and obligations of the former legal person shall be and become transferred to the new legal person, and all proceedings may be continued or commenced by or against the new legal person that might have been continued or commenced by or against the old legal person.

The legal person shall thereafter be governed in all respects by the provisions of this Part, except that the liability of the members of the legal person to creditors of the old legal person shall remain as at the time of the issue of the letters patent.

R. S. 1964, c. 271, s. 217; 1966-67, c. 72, s. 23; 1969, c. 26, s. 49; 1972, c. 61, s. 23; 1975, c. 76, s. 11; 1981, c. 9, s. 24; 1982, c. 52, s. 138; 1993, c. 48, s. 315; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**221.1.** Any interested person may, upon payment of the fee set out in the Act respecting the legal publicity of enterprises (chapter P-44.1), apply to the enterprise registrar to issue supplementary letters patent to change the name of a legal person that is not in conformity with section 9.1.

1993, c. 48, s. 316; 1999, c. 40, s. 70; 2002, c. 45, s. 278; 2010, c. 7, s. 207; I.N. 2016-01-01 (NCCP).

**221.2.** Before rendering a decision, the enterprise registrar shall allow all interested parties to submit their observations.

1993, c. 48, s. 316; 2002, c. 45, s. 278.

**222.** The annual subscription or contribution of the members of the legal person must be paid in money at the dates and places and in the manner fixed by the by-laws or regulations.

R. S. 1964, c. 271, s. 218; 1999, c. 40, s. 70.

**223.** Every year a list shall be prepared of the duly qualified members of the legal person, and each of them shall be entitled to take communication thereof.

R. S. 1964, c. 271, s. 219; 1999, c. 40, s. 70.

**224.** The sections of Part I of this Act shall apply, with the necessary modifications, to every legal person incorporated or continued under the provisions of this Part, except the following: 3 and 4; 6 and 7; the second paragraph of 8; 11; 13 to 17; 18.1 and 18.2; 34.1; 41 to 43; 45 to 76; 79; 81; 82; 86; paragraphs *a* and *b* of subsection 2 of 91; 93; 94; 96; paragraphs *j* and *k* of subsection 3 of 98; 102; 103; paragraphs *d* and *e* of subsection 1, and subsection 2 of 104; 113; 114; 122, 123 and 123.0.1.

Subsection 1 of section 18 must, however, be read as follows:

“(1) Legal persons to which this Part applies may, in the manner herein provided, amalgamate and enter into all contracts and agreements necessary to such amalgamation.”

R. S. 1964, c. 271, s. 220; 1972, c. 61, s. 24; 1980, c. 28, s. 17; 1993, c. 48, s. 317; 1999, c. 40, s. 70; 2003, c. 18, s. 168.

**225.** In applying to legal persons so created or continued under this Part those sections of Part I of this Act which apply to such legal persons,

- (1) the word “company” means a legal person so created or continued;
- (2) the word “shareholder” means a member of such a legal person;

(3) a provision that the votes of shareholders representing a specified proportion in value of the stock of a company shall be requisite for any purpose, means that the votes of a like proportion in number of the members of the legal person are requisite for that purpose.

R. S. 1964, c. 271, s. 221; 1999, c. 40, s. 70; 2003, c. 18, s. 169.

**226.** The members shall not be personally responsible for the debts of the legal person.

R. S. 1964, c. 271, s. 222; 1999, c. 40, s. 70.

**227.** No provision of this Part shall have the effect of withdrawing any legal person constituted or continued thereunder, from the provisions of any other law which is applicable thereto.

R. S. 1964, c. 271, s. 223; 1999, c. 40, s. 70; 2003, c. 18, s. 170.

### **DIVISION III.1**

#### **CONTINUANCE OF A COOPERATIVE**

2003, c. 18, s. 171.

**227.1.** A cooperative that is liable to be dissolved under section 188 of the Cooperatives Act (chapter C-67.2) may, if the minister responsible for the administration of the Cooperatives Act has approved its continuance plan under section 259 of that Act, apply to the enterprise registrar for the issue of letters patent in order for it to continue under this Part.

2003, c. 18, s. 171.

**227.2.** *(Repealed).*

2003, c. 18, s. 171; 2009, c. 52, s. 552.

**227.3.** *(Repealed).*

2003, c. 18, s. 171; 2009, c. 52, s. 552.

**227.4.** The applicants shall file with the enterprise registrar an application setting out

- (1) the proposed name of the legal person;
- (2) the purpose or purposes of the legal person;
- (3) the place within Québec where its head office is to be situated;
- (4) the amount to which the immovable property which may be owned or held by the legal person, or the revenue therefrom, is limited;
- (5) the name and address of each of the directors of the legal person.

The application must be accompanied with a copy of the by-law made by the members and a research report on the names of persons, partnerships or groups used and entered in the register.

2003, c. 18, s. 171.

**227.5.** Immediately after the granting of the letters patent, the enterprise registrar shall deposit them in the register; subject to the deposit of and effective from the date of the letters patent, the cooperative shall continue as a legal person governed by this Part.

2003, c. 18, s. 171.

**227.6.** Subject to this Part, the rights and obligations of the cooperative and those of its members are not affected by the continuance.

2003, c. 18, s. 171.

## DIVISION IV

### REPORTS, INQUIRIES AND CANCELLATION OF LETTERS PATENT

**228.** The enterprise registrar may, at any time, by notice, require any legal person to make any return upon subjects connected with its affairs within the time specified in the notice, and, upon failing to make such return, each director of the legal person shall be liable to a fine of \$20 for each day of such default.

R. S. 1964, c. 271, s. 227; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 1990, c. 4, s. 308; 1999, c. 40, s. 70; 2002, c. 45, s. 278.

**229.** The provisions of section 228 shall not have the effect of relieving the legal persons to which this Division IV applies from the obligation imposed by any other provision of this Act or by any provision of any other Act to file annual or other returns.

R. S. 1964, c. 271, s. 228; 1999, c. 40, s. 70.

**230.** (1) The Government may, whenever it deems fit, order the holding of an inquiry into the affairs of any legal person.

(2) It may, for such purpose, by commission, appoint one or more persons to conduct such inquiry.

(3) For the purposes of such inquiry the person or persons so appointed shall have the same powers as those possessed by the commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to impose imprisonment.

R. S. 1964, c. 271, s. 229; 1990, c. 4, s. 309; 1999, c. 40, s. 70.

**231.** A judge of the Superior Court of the district in which the head office of a legal person is situated may order the cancellation of the letters patent of such legal person, on application by the enterprise registrar served upon the legal person and based on grounds of public interest, and in particular whenever the legal person:

(a) prints, publishes, edits or circulates, or aids in any manner whatsoever in printing, publishing, editing or circulating, any book, newspaper, periodical, pamphlet, print, publication or document of any kind, containing any blasphemous or seditious matter; or

(b) allows blasphemous or seditious words to be uttered at a meeting of its directors or of its members or at a public meeting convened by it; or

(c) aids or abets an unlawful assembly or riot.

R. S. 1964, c. 271, s. 230; 1966-67, c. 72, s. 23; 1982, c. 52, s. 138; 1999, c. 40, s. 70; 2002, c. 45, s. 278; I.N. 2016-01-01 (NCCP).

**232.** (1) The judge, if the evidence adduced in the application establishes that it should be granted, orders the cancellation of the letters patent of the legal person concerned.

(2) A copy of such judgment is forwarded to the enterprise registrar, who shall deposit a notice to that effect in the register, and, from the date of such deposit, the legal person concerned is dissolved and deprived of its rights except for the purposes of its liquidation.

R. S. 1964, c. 271, s. 231; 1993, c. 48, s. 318; 1999, c. 40, s. 70; 2002, c. 45, s. 278; I.N. 2016-01-01 (NCCP).

## **DIVISION V**

### **FEEES AND REGULATIONS**

2010, c. 7, s. 206.

**233.** Sections 22.1 and 23 apply to this Part, with the necessary modifications.

R. S. 1964, c. 271, s. 232; 1966-67, c. 72, s. 23; 1975, c. 76, s. 11; 1977, c. 5, s. 14; 1979, c. 31, s. 33; 2010, c. 7, s. 207.

**234.** *(This section ceased to have effect on 17 April 1987).*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.



REPEAL SCHEDULES

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 271 of the Revised Statutes, 1964, in force on 31 December 1977, is repealed effective from the coming into force of chapter C-38 of the Revised Statutes.

In accordance with section 17 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), sections 31-1 and 132-1 of chapter 271 of the Revised Statutes, 1964, in force on 31 December 1981, are repealed effective from the coming into force of the updating to 31 December 1981 of chapter C-38 of the Revised Statutes.

