



CHAPTER 31

An Act to amend the Companies Act and other legislation

[Assented to 22 June 1979]

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

R.S.,
c. 271,
ss. 1 and 2,
replaced.

1. Sections 1 and 2 of the Companies Act (Revised Statutes, 1964, chapter 271) are replaced by the following:

“PRELIMINARY PROVISIONS

Carrying
out.

1. The Ministre des consommateurs, coopératives et institutions financières is entrusted with the carrying out of Parts I, II and III and the Director is entrusted with the carrying out of Part IA.

Assistance.

1-1 The Director is assisted by one or more Deputy Directors and by the other civil servants considered necessary.

Appoint-
ment and
remunera-
tion.

The Director and the Deputy Directors shall be appointed and remunerated in accordance with the Civil Service Act (1978, chapter 15).

Keeping
of
registers.

1-2 The Minister is the keeper of all registers and archives required for the carrying out of Parts I, II and III; the Director is the keeper of those required for the carrying out of Part IA.

Copies.

They may issue official copies thereof over their signatures.

Registra-
tion by
Minister.

2. The Minister shall register the letters patent, and all other documents the registration of which is required by Part I, II or III, by depositing in a register a copy of each such document together with a certificate establishing, over his signature, that it is an authentic copy of the original and the number of the volume and folio of the register in which that copy is deposited.

Certification. On the original document, he shall certify, over his signature, the date of that registration and the number of the volume and folio of the register in which such copy was deposited.

Registration by Director. “**2-1** The Director shall register all the documents the registration of which is required under Part IA, by depositing in a register a copy or a duplicate, as the case may be, of each such document together with a certificate establishing, over his signature, that it is an authentic copy of the original, the date of the registration and the number of the volume and folio of the register in which that copy or duplicate is deposited.

Examination of registers. “**2-2** The Minister or the Director, as the case may be, shall preserve and keep open for examination by the public, during office hours, the registers used for registration purposes under this act.

Copies of documents. “**2-3** The Minister or the Director, as the case may be, shall furnish and deliver copies of the documents he registers and of the certificate of their registration and issue, over his signature, to all persons requiring them, certificates relating to those objects.

Signature. “**2-4** The Minister may appoint under his hand and seal a person competent to sign any document that he is authorized to sign under Parts I, II and III; the writing by which such appointment is made must be filed in the Ministère des consommateurs, coopératives et institutions financières to form part of the archives of that department.

Director's signature. The Lieutenant-Governor in Council may, by regulation published in the *Gazette officielle du Québec*, allow, on such conditions as he may fix, that the signature of the Director be affixed by means of an automatic device to any deed, document or writing which must be signed by the Director under Part IA or a regulation made under the said Part, or that a facsimile be engraved, lithographed or printed on such documents as he may determine; in the latter case, the facsimile has the same value as the signature itself.

Copies of document. “**2-5** The Minister or the Director, as the case may be, may accept a copy of every document that, under the terms of this act, must be sent to him.

Authenticity. “**2-6** The certificates issued by the Director and the copies of the articles attached thereto are authentic.

Effect of
signature.

The signature of the Minister or, as the case may be, of the Director on copies of documents, registers and archives is proof of the fact that these documents exist and are lawfully in his possession.

Copy
equivalent
to original.

Any copy signed by the Minister or, as the case may be, by the Director is equivalent to the original itself in any court of justice, and any document or copy purporting to bear his signature is deemed to do so until proof of the contrary.

Certified
copies
authentic.

Every copy of the registration made at full length of letters patent, articles and other documents the registration of which is required under this act, duly certified by the Minister or, as the case may be, by the Director, is deemed authentic and is evidence of their registration, and has the same effect as the production in court of these letters patent, articles or documents.

Quality
and format
of
documents.

“2-7 The Lieutenant-Governor in Council may regulate the quality and format of the paper used for documents subject to registration by the Minister or the Director, the arrangement of the text of such documents, the style of copies or duplicates to be registered, the form of certificates of registration and the manner of keeping the registers.

Ordinary
paper.

“2-8 The documents issued by the Minister or the Director under this act may be written, typewritten or printed on ordinary paper.”

R.S.,
c. 271,
s. 3-1,
added.

2. The said act is amended by inserting after section 3 the following section:

“Deed of
incorpora-
tion”.

“3-1 In this Part, “deed of incorporation” means, as the case may be, the memorandum of agreement, letters patent, supplementary letters patent, the by-laws made under sections 21 and 84 and the notices contemplated in section 30 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 120-10, the documents contemplated in section 120-9 and the notices contemplated in sections 120-31 and 120-42.”

R.S.,
c. 271, s. 5,
replaced.

3. Section 5 of the said act is replaced by the following section:

Irregular-
ities.

“5. No deed of incorporation of a company may be held voidable solely on account of any irregularity in the observance of the prescribed formalities.”

R.S.,
c. 271, s. 7,
am.

4. Section 7 of the said act is amended:

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

Applica-
tion.

“**7.** The applicants, who must be eighteen years of age, shall file in the Department of the Ministère des consommateurs, coopératives et institutions financières an application setting forth the following particulars:”;

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

Corporate
name.

“(1) The corporate name of the company, which must comply with the regulations of the Lieutenant-Governor in Council and which must not be reserved for a third person under this act;”.

R.S.,
c. 271, s. 8,
am.

5. Section 8 of the said act, amended by section 2 of chapter 61 of the statutes of 1972, is again amended by replacing the third paragraph by the following paragraph:

Conditions
of issue.

“Before the letters patent are issued, the applicants shall establish, to the satisfaction of the Minister, the sufficiency of their application and memorandum of agreement, and the truth and sufficiency of the facts therein set forth, and that the proposed corporate name complies with the requirements of paragraph 1 of section 7; and for that purpose the Minister shall take and keep on record any requisite evidence in writing, given under oath.”

R.S.,
s. 271,
s. 10,
replaced.

6. Section 10 of the said act, amended by section 30 of chapter 26 of the statutes of 1969, is replaced by the following section:

Different
corporate
name.

“**10.** The Minister may give to the company a corporate name different from that proposed by the applicants, if it does not comply with the requirements of paragraph 1 of section 7.”

R.S.,
c. 271,
ss. 11, 18,
heading of
Div. IX,
ss. 20-22
and 216,
am.

7. The said act is amended by replacing the word “name” by the expression “corporate name” in sections 11 and 18, in the heading of Division IX of Part I and in sections 20, 21, 22 and 216.

R.S.,
c. 271,
expres-
sions
replaced.

8. The said act is amended by replacing, wherever they appear,

(a) the expression “letters patent” by the expression “deed of incorporation” in sections 11, 41, 44, 66, 85, 86 and 88;

(b) the expression “letters patent, supplementary letters patent”, “letters patent or supplementary letters patent”, “letters patent, or the supplementary letters patent” or “letters patent, supplementary letters patent”, as the case may be, by the expression “deed of incorporation” in sections 13, 44, 45, subsection 1 of section 46 and sections 51, 63, 94, 95, 98 and 99.

R.S.,
c. 271,
s. 19,
replaced

9. Section 19 of the said act, amended by section 1 of chapter 72 of the statutes of 1968 and by section 35 of chapter 26 of the statutes of 1969, is replaced by the following section:

Supple-
mentary
letters
patent.

“**19.** If it be made to appear to the Minister that the corporate name of a company does not comply with paragraph 1 of section 7, he may issue supplementary letters patent changing the corporate name of the company to some other name which is set forth in the supplementary letters patent.”

R.S.,
c. 271,
s. 21, am.

10. Section 21 of the said act, amended by section 2 of chapter 72 of the statutes of 1968 and by section 36 of chapter 26 of the statutes of 1969, is again amended by replacing the third paragraph by the following paragraph:

Registra-
tion of
notice.

“The Minister shall register, in accordance with section 2, a copy of that notice on which he shall attest the date of its publication in the *Gazette officielle du Québec*; another copy of that notice, bearing the same attestation and certified in accordance with the second paragraph of section 2, replaces the original provided for therein.”

R.S.,
c. 271,
s. 23, am.

11. Section 23 of the said act, amended by section 10 of chapter 61 of the statutes of 1972, is again amended by replacing subsection 4 by the following subsections:

Regula-
tion.

“(4) The Lieutenant-Governor in Council may, by regulation,

1. determine standards, terms, conditions and requirements regarding the corporate names of companies and any other names they may use to identify themselves;

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 Minister; and

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

Prior
notice.

“(5) The regulations of the Lieutenant-Governor in Council, except those respecting the fees to be paid, shall be made only on prior notice of sixty days published in the *Gazette officielle du Québec* reproducing the text thereof.

Coming
into force
of regula-
tions.

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 Lieutenant-Governor in Council or, if amended by him, of their final text, or on any later date fixed in the notice or in the final text.”

R.S.,
c. 271,
s. 23b,
replaced.

12. Section 23b of the said act, enacted by section 11 of chapter 61 of the statutes of 1972, is replaced by the following section:

Coming
into force
of regula-
tions.

“23b. The regulations respecting the fees to be paid and the forms prescribed under this Part come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date fixed therein.”

R.S.,
c. 271,
heading
replaced.

13. The heading preceding section 24 of the said act and reading “FORFEITURE OF CHARTER” is replaced by the following heading:

“FORCED DISSOLUTION OF COMPANIES”.

R.S.,
c. 271,
s. 24,
replaced.

14. Section 24 of the said act, replaced by section 1 of chapter 72 of the statutes of 1965 (1st session) and amended by section 37 of chapter 26 of the statutes of 1969, is again replaced by the following section:

Dissolution
by the
Minister.

“24. The Minister may dissolve any company which, during two consecutive years, has failed to file the return required by section 4 of the Companies Information Act (Revised Statutes, 1964, chapter 273), if a notice of such failure and of the penalty provided by this section has been given by the Minister at least sixty days in advance; such notice shall be published once in the *Gazette officielle du Québec* and forwarded by registered mail to the last directors of the company recorded in the files of the Minister and to the last address there shown.”

R.S.,
c. 271,
s. 25,
replaced.

15. Section 25 of the said act, replaced by section 1 of chapter 72 of the statutes of 1965 (1st session) and amended by section 38 of chapter 26 of the statutes of 1969, is again replaced by the following section:

Publica-
tion of
notice of
dissolution.

“25. The Minister shall cause to be published in the *Gazette officielle du Québec* a notice of every dissolution made under section 24; the company becomes dissolved upon the date of publication of that notice.

Retro-
active
revocation.

However, upon the application of any interested person, the Minister may, on such conditions as he may determine, revoke that dissolution retroactively by a notice published in the *Gazette officielle du Québec*. Such a revocation cannot prejudice the rights acquired by any person since the dissolution.”

R.S.,
c. 271,
heading
replaced.

16. The heading preceding section 26 of the said act and reading “SURRENDER OF CHARTER” is replaced by the following heading:

“VOLUNTARY DISSOLUTION OF COMPANIES”.

R.S.,
c. 271,
s. 26,
replaced;
s. 26-1
added.

17. Section 26 of the said act, amended by section 12 of chapter 61 of the statutes of 1972, is replaced by the following sections:

Conditions
of dissolution.

“**26.** A company may be dissolved, on its application, if it proves to the Minister

(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 assignees consent; and

(4) that it has given notice of its intent to apply for its dissolution in the *Gazette officielle du Québec* and in a newspaper published at or as near as may be to the place where the company has its head office.

Publication
of notice
of dissolution.

“**26-1** The Minister may, if the company has complied with section 26, accept to dissolve it and fix the date on which dissolution will take place. Notice of that dissolution is published by the Minister in the *Gazette officielle du Québec*, as in the form prescribed by the Minister.

Date of
dissolution.

The company is dissolved from the date fixed by the Minister.”

R.S.,
c. 271,
s. 31,
replaced.

18. Section 31 of the said act, amended by section 4 of chapter 72 of the statutes of 1968 and by section 2 of chapter 65 of the statutes of 1973, is replaced by the following section:

Use of
corporate
name.

“**31.** The corporate 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.,
c. 271,
s. 31a,
replaced;
ss. 31-1,
31-2,
added.

19. Section 31a of the said act, enacted by section 3 of chapter 65 of the statutes of 1973, is replaced by the following sections:

Other identification.

“**31-1** Subject to section 31 and the regulations of the Lieutenant-Governor in Council, the company may be identified under a name other than its corporate name.

Under-
taking with
limited
liability.

“**31-2** The Minister may require that the corporate name of the company include, in conformity with the regulations of the

Lieutenant-Governor in Council, an expression indicating that it is an undertaking with limited liability.”

R.S.,
c. 271,
s. 32,
replaced.
Offence
and
penalty.

20. Section 32 of the said act is replaced by the following section:

“**32.** Every company infringing section 31 or section 31-1 is liable, in addition to costs, to a fine of not less than fifty dollars nor more than one hundred dollars for each day of such infringement.”

R.S.,
c. 271,
s. 45, am.

21. Section 45 of the said act is amended by replacing subsection 2 by the following subsection:

Series of
shares of
the same
class.

“(2) The deed of incorporation 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.”

R.S.,
c. 271,
s. 86, am.

22. Section 86 of the said act is amended by replacing paragraph 3 by the following paragraph:

Vacancy;

“(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;”.

R.S.,
c. 271,
ss. 86-1-
86-4,
added.
Waiver of
notice of
meeting.

23. The said act is amended by inserting after section 86 the following sections:

Presump-
tion.

“**86-1** 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.

Meeting
by
telephone.

“**86-2** Subject to the by-laws of the company, the directors may, if all the directors consent, participate in a meeting of the board of directors by such means, particularly by telephone, as permit all persons participating in the meeting to hear each other. They are then deemed to be present at the meeting.

Proof of
written
resolu-
tions.

“**86-3** 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.

Copies.

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

Provisions applicable. **“86-4** Sections 86-1 to 86-3 apply, *mutatis mutandis*, to the meetings of the executive committee.”

R.S., c. 271, s. 95, am. **24.** Section 95 of the said act is amended by replacing subsection 1 by the following subsection:

Annual meeting of shareholders. **“95.** (1) An annual meeting of the shareholders of the company shall be held at such time and place each year as the deed of incorporation or by-laws of the company provide, and failing such provisions in that regard an annual meeting shall be held at the place named in the deed of incorporation as the place of the head office of the company or, as the case may be, in the judicial district where that head office is situated, on the fourth Wednesday in January every year, and, if that day is a holiday, then on the next following juridical day.”

R.S., c. 271, s. 101, am. **25.** Section 101 of the said act is amended by replacing paragraph *a* of subsection 1 by the following paragraph:

“(a) a copy of the deed of incorporation and of the by-laws of the company;”.

R.S., c. 271, s. 116, replaced. **26.** Section 116 of the said act is replaced by the following section:

Proof of incorporation of the company. **“116.** In any action or other legal proceeding, it is not requisite to set forth the mode of incorporation of the company; the notice in the *Gazette officielle du Québec* of the incorporation of the company is *prima facie* proof of its contents; and on production of the deed of incorporation or a copy or official duplicate, the fact of that notice is presumed.”

R.S., c. 271, Part IA, ss. 120-1-120-98, added. **27.** The said act is amended by inserting after section 120 the following:

“PART IA

“COMPANIES INCORPORATED BY THE FILING OF ARTICLES

“DIVISION I

“INTERPRETATION

Interpretation. **“120-1** In this Part, unless the context indicates otherwise,

“company”; (1) “company” means any company incorporated or continued under this Part;

“Director”. (2) “Director” means the Director entrusted with the administration of this Part.

“DIVISION II

“APPLICATION OF PART IA

Incorporation. “**120-2** Companies which may be incorporated under Part I, except those which, under the law, may be incorporated only under Part I, may be incorporated under this Part.

Applicability of Part IA. “**120-3** Part I of the act applies, *mutatis mutandis*, to companies incorporated or continued under this Part, except sections 6 to 12, 14 to 17, subsections 1 and 5 of section 18, sections 19 to 23*b*, 28 to 30, 31-2, 33 to 37, subsections 8 and 9 of section 45, the second paragraph of subsection 2 of section 46 and sections 52 to 62, 80, 81, 83, 84 and 117.

“DIVISION III

“INCORPORATION

Incorporators. “**120-4** A company may be incorporated by one or more incorporators.

Disqualifications. “**120-5** Any person may be an incorporator, except

- (1) a person who is under eighteen years of age;
- (2) an interdicted person;
- (3) a person of unsound mind, who has been declared incapable by a court in another province or in another country;
- (4) an undischarged bankrupt;
- (5) a liquidating corporation.

Articles filed. “**120-6** The articles of the company must be filed with the Director in two copies signed by each incorporator.

Content. “**120-7** 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 surname, given name, address and occupation of each incorporator or, as the case may be, the corporate name and address of the head office of the incorporator corporation and the act under which it is incorporated;

(4) the par value of the shares of each class it is authorized to issue or the fact that they are without par value and the maximum number of shares of each class, where such is the case;

(5) in the case of a plurality of classes, the rights, privileges, conditions and restrictions attaching to each class;

(6) if a class of shares may be 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;

(7) the restrictions, if any, imposed on the transfer of its shares;

(8) the precise number or the minimum and maximum number of directors; and

(9) the limits, if any, imposed on its activities.

Additional provisions.

“120-8 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.

Accompanying documents.

“120-9 The following documents must accompany the articles:

(1) a list of the directors of the company indicating the surname, given name, address and occupation of each;

(2) a notice of the address of the head office of the company, within the limits of the judicial district indicated in the articles;

(3) the other documents required by regulation of the Government.

Duties of the Director.

“120-10 The Director must, upon receiving the articles, the documents accompanying them and the fees prescribed by regulation of the Government,

(1) endorse on each copy 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 of the copies of the articles;

(3) register a copy of the certificate and attached articles and documents;

(4) send to the company or its representative a copy of the certificate and articles;

(5) publish a notice of the issue of the certificate in the *Gazette officielle du Québec*.

Date of
existence.

“120-11 From the date indicated in the certificate of incorporation, the company is a corporation within the meaning of the Civil Code.

“DIVISION IV

“ORGANIZATION MEETING

Issue of
shares and
appoint-
ment
of auditor.

“120-12 After the company is incorporated, the directors shall hold an organization meeting at which they must authorize the issue of shares and appoint an auditor whose term expires at the first annual meeting.

Powers
of the
directors.

“120-13 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; and
- (4) transact any other business.

Convoca-
tion.

“120-14 Any incorporator 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.

Quorum.

“120-15 A majority of the directors is a quorum of the organization meeting.

“DIVISION V

“CORPORATE NAME

Corporate
name
reserved.

“120-16 The Director may, upon request, reserve for the period prescribed by regulation of the Government a corporate name for an intended company or for a company about to change its corporate name.

Conformity
with the
regulations.

“120-17 No company may receive a corporate name not in conformity with the regulations of the Government or reserved for a third person under this act.

Under-
taking
with
limited
liability.

“120-18 The corporate name of a company must include an expression indicating, in accordance with the regulations of the Government, that it is an undertaking with limited liability.

Designating
number.

“**120-19** At the request of the incorporators or the company, the Director shall assign to the company as its corporate name a designating number determined by him.

Replace-
ment.

“**120-20** A company to which a designating number has been assigned as a corporate name must replace it by a corporate name within sixty days after an order of the Director to that effect.

Change of
corporate
name.

“**120-21** The Director may order the company to change its corporate name if it does not comply with the laws and regulations in force when it is granted.

Corporate
name
assigned
ex officio.

“**120-22** If a company fails to comply with the order of the Director provided for in section 120-20 or 120-21 within sixty days of its service, the Director may revoke the designating number of the company or, where such is the case, its corporate name and assign to it *ex officio* a corporate name of his choice.

Certificate
and notice.

“**120-23** Where the Director assigns a corporate name to a company *ex officio*, he shall deliver in duplicate a certificate establishing the change and publish a notice of the change in the *Gazette officielle du Québec*.

Registra-
tion.

The Director shall register one duplicate of the certificate and send the other duplicate to the company or its representative.

Effect.

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

“DIVISION VI

“POWERS OF A COMPANY

Civil rights.

“**120-24** 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 that respect.

Knowledge
not pre-
sumed.

“**120-25** Third persons are not presumed to have knowledge of the contents of a document concerning a company by reason only that the document has been filed under this Part or is available for inspection at the offices of the company.

Presump-
tion.

“**120-26** Third persons may presume that

(1) the company exercises its powers within the scope of its articles and by-laws;

(2) the documents sent to the Director and filed 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.

Provisions not to apply in certain cases. **“120-27** Sections 120-25 and 120-26 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.

“DIVISION VII

“HEAD OFFICE

Head office and domicile. **“120-28** A company shall at all times have a head office in Québec, in the judicial district specified in its articles. Its domicile is at its head office.

Transfer of head office. **“120-29** A company may transfer its head office to another judicial district by way of amendment to its articles in accordance with sections 120-44 to 120-48.

Address. **“120-30** The address of the head office of a company, within the limits of the judicial district specified in the articles, is established by a mere resolution of the board of directors.

Change of address. A notice of any change of address of the head office of a company must be given to the Director within fifteen days.

Effect. The change of address has effect from the receipt of the notice by the Director.

Filing of notice. **“120-31** The notice respecting the address or change of address of a head office shall be filed with the Director.

Notice to accompany amendments. Such a notice must accompany any amendment to the articles transferring the head office of a company; in that case, the change of address has effect at the same time as the amendment to the articles.

Registration. The Director shall register every notice he receives in this way.

“DIVISION VIII

“SHARE CAPITAL

Unlimited share capital. **“120-32** A company shall have an unlimited share capital, except where otherwise provided in its articles.

"DIVISION IX

"DIRECTORS

Board of directors.

"120-33 The affairs of a company shall be managed by a board of one or more directors. However, where any of the issued securities of a company were part of a distribution to the public and are outstanding, the board shall have not fewer than three directors.

Presumption.

"120-34 For the purposes of section 120-33, a company is deemed to have made a distribution to the public of securities where one or more of the issued securities

(1) have been registered with a stock exchange or with a government agency for the supervision and control of trading in securities; or

(2) in respect of which documents such as a prospectus or a statement of material facts have been previously filed.

Disqualifications.

"120-35 Any natural person may be a director, except

(1) a person who is under eighteen years of age;

(2) an interdicted person;

(3) a person of unsound mind, who has been declared incapable by a court in another province or in another country;

(4) an undischarged bankrupt.

Not necessary to be a shareholder.

"120-36 Unless otherwise provided in the articles, it is not necessary to be a shareholder in order to be a director of a company.

Term of office.

"120-37 The term of office of a director whose name appears on the list referred to in paragraph 1 of section 120-9 commences on the date of the certificate of incorporation and terminates when the term of office of the person replacing him commences.

Removal.

"120-38 Unless otherwise provided in the articles, the shareholders may by resolution remove a director at a special general meeting called for that purpose.

Election and removal.

Where the holders of any class of shares have an exclusive right to elect a director, he may only be removed at a special meeting of these shareholders called for that purpose in the same manner as at a special general meeting of the shareholders of a company or in any manner provided for in the articles or by-laws.

- Vacancy.** “**120-39** 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 86.
- Notice of calling.** The notice of the calling of a meeting contemplated in section 120-38 must mention, where such is the case, that such an election is to be held if the resolution for removal is adopted.
- Delay.** “**120-40** 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 contemplated in section 120-38.
- Hearing.** 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.
- Decrease in number of directors.** “**120-41** A decrease in the number of directors does not entail a reduction of the term of office of the directors then in office.
- Notice.** “**120-42** Within fifteen days after a change is made to the composition of the board of directors, the company must give a notice containing the information contemplated in paragraph 1 of section 120-9 to the Director, and he shall register it.
- Order to comply.** On the motion of any interested person or the Director, a judge of the Superior Court may require, by order, that a company comply with this section, and he may take any other appropriate measure that he thinks fit.
- One director.** “**120-43** Where a company has only one director, he may regularly constitute a meeting.
- Cumulative functions.** He may hold the offices of chairman, secretary or any other officer of the company at the same time.

“DIVISION X

“AMENDMENTS TO ARTICLES AND SHARE CAPITAL

- By-laws.** “**120-44** The board of directors of a company may make a by-law for the purpose of amending its articles in order to
- (1) change its corporate name;
 - (2) transfer its head office to another judicial district;
 - (3) amend the structure of the share capital or the characteristics pertaining to any class of shares and contemplated in paragraphs 4 to 7 of section 120-7;

(4) increase or decrease the specified, minimum or maximum number of its directors;

(5) add, change or remove any restriction upon its activities;

(6) add, change or remove any other provision of the articles.

Articles amended.

“120-45 The by-law contemplating the amendment of the articles of the company must be confirmed by the vote of at least two-thirds in value of the shares represented by the shareholders present at a special general meeting called by a notice setting out the proposed amendment.

Authorization.

The by-law must authorize one of the directors to sign the articles of amendment.

By-law annulled.

The board of directors may, if so authorized by the by-law provided for in this section, annul the by-law before it is acted upon.

Articles of amendment filed.

“120-46 Two copies, signed by one of the directors, of the articles of amendment shall be filed with the Director.

Certificate.

“120-47 Upon receipt of the articles of amendment and of the fees prescribed by regulation of the Government, the Director shall issue a certificate attesting the amendment in accordance with the procedure established in section 120-10.

Effect.

“120-48 The amendment becomes effective from the date shown on the certificate attesting it and the articles are amended accordingly.

Reduction of issued share capital.

“120-49 A company wishing to reduce its issued share capital shall make a by-law in accordance with section 120-45.

Filing of articles.

“120-50 Two copies, signed by one of the directors, of the articles reducing the issued share capital shall be filed with the Director.

Report of the auditor.

A report of the auditor of the company shall be attached to the copies in the form and tenor prescribed by regulation of the Government.

Certificate.

“120-51 Upon receipt of the articles reducing the issued share capital, of the fees prescribed by regulation of the Government and of the report of the auditor contemplated in section 120-50, the Director shall deliver a certificate attesting that reduction in accordance with the procedure established in section 120-10.

- Effect. “**120-52** The reduction of the issued share capital becomes effective from the date shown on the certificate attesting it.
- Articles amended. “**120-53** Where a resolution is adopted under subsection 2 of section 45, the articles of the company shall be amended in accordance with sections 120-46 to 120-48, but that resolution does not require the approval of the shareholders.
- Procedure. “**120-54** The cancellation of shares mentioned in subsection 13 of section 45 is carried out in accordance with the procedure provided in sections 120-49 to 120-52.
- Compromise or arrangement. “**120-55** The articles shall be amended to confirm a compromise or arrangement approved by the shareholders and sanctioned by the judge in accordance with section 46, without its being necessary to follow the procedure provided in sections 120-44 to 120-48.
- Articles filed. “**120-56** Two copies, signed by one of the directors, of the articles confirming a compromise or arrangement shall be filed with the Director.
- Certificate. “**120-57** Upon receipt of the articles confirming a compromise or arrangement, of a copy of the judgment or order, and of the fees prescribed by regulation of the Government, the Director shall issue a certificate attesting the amendment in accordance with the procedure established in section 120-10.
- Compromise or arrangement binding. “**120-58** 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, and the articles are amended accordingly.
- Director involved. “**120-59** The Director must be involved in every application brought under section 46.

“DIVISION XI

“AMALGAMATION

- Amalgamation. “**120-60** Any two or more companies to which this Part applies or contemplated in section 120-64 may amalgamate into one company and may enter into all contracts and agreements necessary to such amalgamation.
- Articles filed. “**120-61** Two copies, signed by one of the directors of each amalgamating company, of the articles of amalgamation shall be filed with the Director.

Certificate. “**120-62** Upon receipt of the articles of amalgamation, of the documents contemplated in section 120-9 and of the fees prescribed by regulation of the Government, the Director may issue a certificate attesting the amalgamation in accordance with the procedure established in section 120-10.

Date of existence. “**120-63** The company resulting from the amalgamation exists from the date shown on the certificate attesting the amalgamation; it also has the rights and is bound by the obligations of each company so amalgamated.

Applicability. This Part applies to the company resulting from the amalgamation.

“DIVISION XII

“CONTINUANCE

Companies governed by Part I. “**120-64** This section applies only to companies governed by Part I, excluding those to which another act expressly declares Part I applicable.

Continuance. “**120-65** The board of directors of a company may make a by-law to continue under this Part.

By-law confirmed. “**120-66** The by-law contemplating the continuance of the company must be confirmed 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 that purpose.

Authorized signature. The by-law must authorize one of the directors to sign the articles of continuance.

Annulment. The board of directors, if so authorized by the by-law, may annul it before it is acted upon.

Deed of incorporation amended. “**120-67** Upon its continuance, a company may make the same amendments to its deed of incorporation as those a company governed by this Part may make to its articles.

Prohibitions. However, the company shall not, on that occasion, reduce its issued share capital or the preferred or special rights, conditions, privileges or restrictions attaching to its shares, nor effect a compromise or arrangement, or a change of corporate name.

Articles to be filed. “**120-68** Two copies, signed by one of the directors, of the articles of continuance shall be filed with the Director.

Certificate. “**120-69** Upon receipt of the articles of continuance, of the documents contemplated in section 120-9 and of the fees

prescribed by regulation of the Government, the Director shall issue a certificate attesting the continuance of the company in accordance with the procedure established in section 120-10.

Publication of a notice. “**120-70** The Director shall publish a notice of the issue of a certificate of continuance in the *Gazette officielle du Québec*.

Certificate of continuance. “**120-71** 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) this Part applies to the continued company;

(3) the articles of continuance are deemed to be the articles of the continued company.

Rights and obligations not affected. “**120-72** The rights, obligations and deeds of the company, and those of the shareholders, are not affected by the continuance.

“DIVISION XIII

“DISSOLUTION AND CANCELLATION

Dissolution or cancellation of articles and certificate. “**120-73** The Attorney General or any person who has an interest if authorized in writing by the Attorney General may demand the dissolution of a company or the cancellation of the articles and of the certificate pertaining thereto where the certificate has been obtained by fraud or in ignorance of some material fact or where the articles contain illegal provisions or false or erroneous statements.

Decision of the Court. The Court may dissolve a company or cancel the articles and the certificate the cancellation of which is demanded.

“DIVISION XIV

“APPEALS

Appeal. “**120-74** Any person aggrieved by a decision of the Director may appeal from it to a judge of the Provincial Court of the district of the residence or head office of the person concerned or, in the case of an artificial person having its head office outside Québec, of the district of its principal place of business in Québec.

Procedure. “**120-75** The appeal is brought by a motion served on the Director. This motion must be filed in the office of the Provincial

Court within sixty days following the mailing of the notice to the applicant of the decision of the Director.

Record sent
to clerk.

“**120-76** Upon receipt of the motion, the Director shall send to the clerk of the Provincial Court the record relating to the decision concerned.

Power to
inquire.

“**120-77** In case of an appeal, the judge is vested with the powers and immunity granted to commissioners appointed under the Public Inquiry Commission Act (Revised Statutes, 1964, chapter 11).

Notice of
hearing.

“**120-78** The judge, before rendering any decision on an appeal, shall allow the parties to present their points of view and, for that purpose, give them, in the manner he considers appropriate, a prior notice of not less than five clear days specifying the date, time and place they may be heard.

Default to
appear or
to be heard.

If a party thus summoned does not appear or refuses to be heard at the sitting fixed for that purpose or at a resumption of that sitting, the judge may nevertheless conduct the hearing of the case and no judicial recourse may be based on the fact that he so proceeded in the absence of that party.

Evidence.

“**120-79** The judge may admit as evidence a copy or extract of a document, if the original is not available.

Examina-
tion.

“**120-80** At the proof and hearing, each party may examine the witnesses and present his arguments.

Right to be
repre-
sented.

“**120-81** Every party is entitled to be represented by an advocate.

Privileges
and immu-
nity of a
witness.

“**120-82** Every person who testifies before the judge has the same privileges and immunity as a witness before the Superior Court and articles 307 to 310 of the Code of Civil Procedure apply to him, *mutatis mutandis*.

Powers of
the judge.

“**120-83** The judge has all the powers necessary for the exercise of his jurisdiction; he may, in particular, make such orders as he deems appropriate to safeguard the rights of the parties.

Decision.

“**120-84** The judge may confirm or quash any decision submitted to him.

Substan-
tiated
judgment.

The judgment shall be evidenced in writing and signed by the judge who rendered it. It shall contain, in addition to the conclusions, the reasons on which it is founded.

Certified true copy sent to the parties. **"120-85** A certified true copy of the judgment must be sent to each party by the clerk of the Provincial Court, by registered mail.

Original. The original shall be kept in the office of the Provincial Court.

Appeal. **"120-86** An appeal from the judgment lies to the Court of Appeal.

"DIVISION XV

"GENERAL PROVISIONS

Lawfulness of articles. **"120-87** The persons concerned, and not the Director, are responsible for verifying the lawfulness of the articles and documents required to be registered under this Part.

Prescribed form and tenor. **"120-88** The articles and documents required to be registered under this Part shall be in the form and tenor prescribed by regulation of the Government.

Refusal to register. **"120-89** The Director may refuse any article or document required to be registered under this Part if it does not contain all the statements legally required, is not presented strictly in the form and tenor prescribed by the regulations of the Government, or provides for the assignment to a company of a corporate name not in conformity with the law, the regulation applicable, made or approved by the Government or reserved for a third person under this act.

Alterations. **"120-90** The Director may alter the notices he is responsible for or, with the authorization of the signatory, the documents the registration of which is required under this Part.

Certificate completed or corrected. **"120-91** If an incomplete certificate or a certificate containing an error is issued to a company by the Director, he may issue a completed or corrected certificate.

Date of issue. The completed or corrected certificate is deemed to have been issued on the date shown in the certificate that it replaces.

Notice. **"120-92** If a completed or corrected certificate materially amends the incomplete certificate or the certificate containing an error, the Director shall give notice thereof in the *Gazette officielle du Québec*.

One shareholder. **"120-93** A shareholder holding all the voting shares holds the powers of the general meeting by himself.

Seal of the company. **“120-94** A document is never invalid on the ground that the seal of the company is not affixed thereto.

Articles prevail over by-laws. **“120-95** In case of conflict, the articles prevail over the by-laws of the company.

Regulations. **“120-96** The Government may, by regulation,

(1) establish the fees to be paid and fix the amount thereof, in respect of the filing, examination or copying of any document, or in respect of any action that the Director is authorized or required to take under this Part;

(2) determine the form and content of the articles, certificates and other documents required to be registered under this Part;

(3) determine the period of time for which the Director may reserve a corporate name, and standards, terms, conditions and requirements regarding the corporate names or any other name a company may use to identify itself;

(4) make any other provision for the carrying out of this Part.

Regulations. **“120-97** Instead of making regulations applicable to this Part, the Government may declare the regulations made under sections 23 to 23*b* applicable, with or without amendment.

Notice. The regulations of the Government, other than those establishing or amending fees to be paid, shall be made only on prior notice of sixty days published in the *Gazette officielle du Québec* reproducing the text thereof.

Coming into force. 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.

Forms. **“120-98** The Director may prescribe the forms, including the forms of notices, required for the application of this Part.

Coming into force. These forms come into force on the date of their publication in the *Gazette officielle du Québec*.”

R.S., c. 271, heading replaced. **28.** The heading preceding section 124 of the said act is replaced by the following:

“TARIFF OF FEES AND BY-LAWS”.

R.S.,
c. 271,
s. 124, re-
placed.

29. Section 124 of the said act is replaced by the following section:

Provisions
applicable.

“124. Sections 23 to 23*b* apply to this Part, *mutatis mutandis*.”

R.S.,
c. 271,
s. 132, re-
placed;
s. 132-1,
added.

30. Section 132 of the said act, amended by section 5 of chapter 72 of the statutes of 1968, is replaced by the following sections:

Corporate
name.

“132. The corporate name of the company shall be legibly indicated in all its negotiable instruments, contracts, invoices and orders for goods or services.

Other iden-
tification.

“132-1 Subject to section 132 and to the regulations of the Lieutenant-Governor in Council, the company may identify itself under a name other than its corporate name.”

R.S.,
c. 271,
s. 133, re-
placed.

31. Section 133 of the said act is replaced by the following section:

Offence
and
penalty.

“133. Every company infringing section 132 or 132-1 is liable, in addition to costs, to a fine of not less than fifty dollars nor more than one hundred dollars for each day of such infringement.”

R.S.,
c. 271,
s. 215, am.

32. Section 215 of the said act, amended by section 21 of chapter 61 of the statutes of 1972, is again amended:

(a) by replacing the words “of the full age of twenty-one years” in the second and third lines of subsection 1 by the words “at least eighteen years of age”;

(b) by replacing paragraph *a* of subsection 1 by the following paragraph:

“(a) the proposed corporate name of the corporation, which must comply with the regulations of the Lieutenant-Governor in Council and which must not be reserved for a third person under this act;”.

R.S.,
c. 271,
s. 232, re-
placed.

33. Section 232 of the said act is replaced by the following section:

Provisions
applicable.

“232. Sections 23 to 23*b* apply to this Part, *mutatis mutandis*.”

C.C.,
a. 1891, re-
placed.

34. Article 1891 of the Civil Code is replaced by the following article:

1891. The incorporation and management of joint-stock companies are governed by the acts applicable in that respect.”

R.S.,
c. 272, s. 1,
am. **35.** Section 1 of the Companies and Partnerships Declaration Act (Revised Statutes, 1964, chapter 272) is amended by replacing subsections 2 and 3 by the following subsections:

Content. “(2) Such declaration shall contain the corporate name of the company or, where such is the case, any name other than its corporate name mentioned in a licence issued under the Extra-Provincial Companies Act (Revised Statutes, 1964, chapter 282) and any other name under which it may identify itself, the date and mode of its incorporation, the place where it was incorporated and the location of its principal place of business within the Province.

Form. “(3) Such declaration shall be made according to the form prescribed by the Minister entrusted with the application of this act and shall be produced by the president, the principal manager or the chief agent of the company within fifteen days after commencing operations and business.”

R.S.
c. 272, s. 2,
replaced. **36.** Section 2 of the said act is replaced by the following section:

New declaration. **2.** In the case of a change in a fact that must be mentioned in the declaration contemplated in section 1, the company shall produce a new declaration within fifteen days from the change.”

R.S.,
c. 272, s. 3,
am. **37.** Section 3 of the said act, amended by section 217 of chapter 5 of the statutes of 1977, is again amended:

(a) by inserting after the first paragraph the following paragraph:

Indexes. “In addition, he must enter in the indexes mentioned in section 12 every corporate name and name contemplated in section 1.”;

(b) by adding after the third paragraph the following paragraph:

Conditions of registration. “The declaration of a company made under section 1 may be registered only if its corporate name or any other name mentioned therein complies with the law and the regulations applicable made or approved by the Lieutenant-Governor in Council and not reserved for a third person under the Companies Act (Revised Statutes, 1964, chapter 271).”

R.S.,
c. 272, s. 9,
am. **38.** Section 9 of the said act is amended by adding the following subsection:

Company in partnership. “(5) Such declaration shall be completed, *mutatis mutandis*, by a company pursuing, in partnership with any other person, one of the purposes mentioned in subsection 1.”

New declaration not required. **39.** A company which, before the coming into force of this act, has registered in a judicial district a firm name declaration under section 10 of the Companies and Partnerships Declaration Act (Revised Statutes, 1964, chapter 272), mentioning a name other than its corporate name is not bound to register in that district a new declaration in respect of that name under section 1 of the said act.

R.S., c. 275, heading replaced. **40.** The heading preceding section 2 of the Special Corporate Powers Act (Revised Statutes, 1964, chapter 275) is replaced by the following heading:

“POWERS OF COMPANIES AND CORPORATIONS TO CHANGE THEIR CORPORATE NAME AND HEAD OFFICE”.

R.S., c. 275, ss. 2, 3, replaced. **41.** Sections 2 and 3 of the said act are replaced by the following sections:

Corporate name changed or head office transferred. **“2.** Every company or corporation contemplated in section 1, except a company to which Part I or Part IA of the Companies Act (Revised Statutes, 1964, chapter 271) applies or a corporation to which Part III of the said act applies, may, by by-law, change its corporate name or transfer its head office to another place pursuant to this division.

New corporate name. **“3.** The new corporate name must comply with the regulations made under section 23 of the Companies Act (Revised Statutes, 1964, chapter 271) and must not be reserved for a third person under the said act.

Head office. The head office shall be located in Québec.”

R.S., c. 275, s. 9, replaced. **42.** Section 9 of the said act is replaced by the following section:

Rights and obligations unchanged. **“9.** The change of the corporate name of a company or corporation does not affect its rights or obligations, and all proceedings to which it is party may be continued under its new corporate name without continuance of suit.”

R.S., c. 275, s. 9a, repealed. **43.** Section 9a of the said act is repealed.

R.S., c. 281, s. 1, replaced. **44.** Section 1 of the Winding-up Act (Revised Statutes, 1964, chapter 281) is replaced by the following section:

Voluntary
winding-up.

1. Any joint-stock company incorporated by letters patent, by the filing of its articles or by special act may be wound up voluntarily whenever the directors deem it expedient that the company be dissolved.”

R.S.,
c. 282, s. 4,
am.

45. Section 4 of the Extra-Provincial Companies Act (Revised Statutes, 1964, chapter 282), amended by section 71 of chapter 26 of the statutes of 1969, is again amended by replacing paragraph 5 of the first paragraph and the second and third paragraphs by the following paragraphs:

“(5) where its corporate name does not comply with paragraph 6 of the first paragraph or is in a language other than French and where its charter, articles of association or deed of incorporation do not provide for a French version, it shall adopt, subject to the laws applicable thereto, a name other than its corporate name for the purposes contemplated in section 4-1;

“(6) establishes that its corporate name or the French version of it mentioned in its charter, as the case may be, its articles of association or its deed of incorporation, or the name contemplated in paragraph 5 of the first paragraph, complies with the regulations of the Lieutenant-Governor in Council, and is not reserved for a third person under the Companies Act (Revised Statutes, 1964, chapter 271).

Refusal to
grant or to
maintain a
licence.

The Minister may refuse to grant a licence to or to maintain the licence of an extra-provincial corporation that does not comply with the requirements of paragraph 5 of the first paragraph or of which the corporate name, the French version of that name or the name contemplated in that paragraph does not comply with the law, the regulations applicable, made or approved by the Lieutenant-Governor in Council or is reserved for a third person under the Companies Act (Revised Statutes, 1964, chapter 271).”

R.S.,
c. 282,
s. 4-1, 4-2,
added.

46. The said act is amended by inserting, after section 4, the following sections:

Valid
designation.

4-1 The name contemplated in paragraph 5 of the first paragraph of section 4 must be indicated in the licence. The extra-provincial corporation shall then identify itself and be identified in Québec under that name and its designation in that manner is as valid as its designation under its corporate name.

Licence
under
corporate
name.

4-2 The licence issued under this act must be issued under the corporate name of the extra-provincial corporation or under the French version of that name, as the case may be, indicated in its charter, its articles of association or other deed of incorporation.”

R.S.,
c. 282, s. 7,
am.

47. Section 7 of the said act is amended by inserting, after the first paragraph, the following paragraph:

Change of
name.

“If any extra-provincial corporation changes the French version of its corporate name or wishes to change the name contemplated in paragraph 5 of the first paragraph of section 4, it must apply for a new licence. The new corporate name, the new French version or, as the case may be, the new name must comply with the regulations of the Lieutenant-Governor in Council and not be reserved for a third person under the Companies Act (Revised Statutes, 1964, chapter 271).”

R.S.,
c. 282,
s. 10, re-
placed.

48. Section 10 of the said act is replaced by the following section:

Regula-
tions.

“**10.** The Lieutenant-Governor in Council may, by regulation,

(a) prescribe the forms of licences, powers of attorney, applications, notices, statements and other documents relating to applications and other procedures under this act;

(b) establish the fees to be paid for the granting of licences and the publication of notices under this act, and fix the amount thereof;

(c) prescribe standards, terms, conditions and requirements in respect of the corporate names of extra-provincial corporations, or of the French version of these names or of another name contemplated in paragraph 5 of the first paragraph of section 4;

(d) generally prescribe whatever may be necessary for the carrying out of this act.

Regula-
tions.

The Lieutenant-Governor in Council may, instead of making regulations under this act, declare applicable the regulations made under sections 23 to 23b of the Companies Act (Revised Statutes, 1964, chapter 271) with or without amendments.”

Sums
required.

49. The sums required for the application of this act shall be taken, for the fiscal period 1979/1980, out of the consolidated revenue fund.

Coming
into force.

50. This act will come into force on the date to be fixed by proclamation of the Government, except the provisions excluded by that proclamation, which will come into force on any later date to be fixed by proclamation of the Government. (*)

(*) Sections 120-96 to 120-98 enacted by section 27 and sections 49 and 50 of this act came into force on 3 October 1979 (Gazette officielle du Québec, 1979, page 6603.)

Section 1 came into force on 14 November 1979 (Gazette officielle du Québec, 1979, page 7025).

Sections 2 to 10, 13 to 18, section 31-2 enacted by section 19, section 32, except “or section 31-1”, enacted by section 20, sections 21 to 26, sections 120-1 to 120-95, enacted by section 27, section 132, enacted by section 30, section 133, except “or 132-1”, enacted by section 31 and sections 32, 34 and 40 to 44 came into force on 30 January 1980 (Gazette officielle du Québec, 1980, page 123).