

NATIONAL ASSEMBLY
Thirty-fourth Legislature, first session

1991, chapter 103
**AN ACT RESPECTING MUTUELLE DES
FONCTIONNAIRES DU QUÉBEC**

Bill 293

Introduced by Mr Jean Leclerc, Member for Taschereau

Introduced 14 November 1991

Passage in principle 5 December 1991

Passage 5 December 1991

Assented to 5 December 1991

Coming into force: 1 January 1992

Act replaced:

Act to incorporate La Mutuelle des Employés Civils, a mutual life assurance company (1956-57, chapter 166)





CHAPTER 103

An Act respecting *Mutuelle des Fonctionnaires du Québec*

[Assented to 5 December 1991]

Preamble WHEREAS *Mutuelle des Fonctionnaires du Québec* was incorporated as a mutual life assurance company by the Act to incorporate *La Mutuelle des Employés Civils*, a mutual life assurance company (1956-57, chapter 166);

Whereas under the Insurance Act (R.S.Q., 1964, chapter 295), its corporate name was changed on 6 April 1965 to “*La Mutuelle-Vie des Fonctionnaires du Québec*”;

Whereas under the Special Corporate Powers Act (R.S.Q., chapter P-16), its corporate name was changed on 24 January 1983 to “*Mutuelle des Fonctionnaires du Québec*”;

Whereas *Mutuelle des Fonctionnaires du Québec* wishes to convert into a capital stock insurance company, committed to pursuing its activities, and into a mutual management corporation, grouping the policyholders in order to control at all times the capital stock insurance company resulting from the conversion;

Whereas the directors of *Mutuelle des Fonctionnaires du Québec* have adopted, by unanimous vote, a resolution approving the proposed conversion and reorganization of the company;

Whereas the members of *Mutuelle des Fonctionnaires du Québec* adopted on 1 November 1991, by a majority vote, a resolution approving the proposed conversion and reorganization of the company at a special general meeting called for that purpose;

Whereas an appraisal will be made in order to determine, in particular, the fair market value of *Mutuelle des Fonctionnaires du Québec*;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

INTERPRETATION

- 1.** In this Act, unless the context indicates otherwise,
- Interpretation
 “capital stock insurance company” means the capital stock insurance company resulting from the conversion of Mutuelle des Fonctionnaires du Québec;
- “spouse” means either of two persons who are married to each other and who are cohabiting, or who are living together in a *de facto* union without being married to each other and who have been cohabiting for at least one year;
- “family member” means the spouse of the person or employee referred to in section 8, or a person dependent upon him or his spouse maintained wholly or to a substantial extent by them;
- “holding company” means a company incorporated under Part IA of the Companies Act (R.S.Q., chapter C-38) of which the principal business is to act as a holding company;
- “Minister” means the Minister responsible for the administration of the Act respecting insurance (R.S.Q., chapter A-32);
- “mutual management corporation” means the mutual management corporation resulting from the conversion of Mutuelle des Fonctionnaires du Québec;
- “Mutuelle” means Mutuelle des Fonctionnaires du Québec;
- “public body” means a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) and a court within the meaning of the Courts of Justice Act (R.S.Q., chapter T-16).
- 2.** A legal person is controlled by another person where the latter person directly holds shares therein to which are attached over 50 % of the voting rights and where the votes attached to the shares held by the person are sufficient, if exercised, to elect a majority of the directors of that legal person.
- Control of legal person

Control The capital stock insurance company is considered to be controlled directly by such of the legal persons referred to in section 30 which holds directly shares to which are attached over 50 % of the voting rights.

CHAPTER II

CONVERSION

Conversion **3.** La Mutuelle is converted into a mutual management corporation and a capital stock insurance company. Its corporate existence is continued, without interruption, as two separate legal persons in accordance with the provisions of this Act.

Continuance **4.** The capital stock insurance company continues, under its own corporate name, the existence of La Mutuelle in every respect except with regard to the rights of policyholders who are members thereof, which, subject to the third paragraph of section 14, shall henceforth be exercised exclusively through the mutual management corporation. The rights and obligations of La Mutuelle are not affected by its conversion.

Corporate name In all contracts, licences or documents referring to La Mutuelle, the corporate name of the capital stock insurance company replaces by operation of law, without further formality, that of La Mutuelle. All legal actions pending prior to the conversion shall be pursued by or against the capital stock insurance company without continuance of suit. The capital stock insurance company is authorized to use any document or means of identification already prepared under the corporate name "Mutuelle des Fonctionnaires du Québec" for a period of 12 months following the coming into force of this Act.

Purpose of continuance **5.** The mutual management corporation continues the existence of La Mutuelle solely for the purpose of ensuring that the rights of policyholders who are members of La Mutuelle are preserved; such rights shall henceforth be exercised through the mutual management corporation in accordance with this Act. The mutual management corporation shall not otherwise enjoy any of the rights, property or privileges of La Mutuelle, nor shall it otherwise be responsible for La Mutuelle's obligations.

CHAPTER III

CAPITAL STOCK INSURANCE COMPANY

DIVISION I

CORPORATE NAME, HEAD OFFICE AND OBJECTS

Corporate name **6.** The corporate name of the capital stock insurance company is “Corporation d’assurance des Fonctionnaires du Québec” and its English version “Québec Civil Servants’ Insurance Corporation”.

Head office **7.** The head office of the capital stock insurance company is located in the judicial district of Québec.

Object **8.** The object of the capital stock insurance company is to engage in the business of insurance of persons in accordance with the Act respecting insurance with persons occupying an office or employment with the Government of Québec or a public body, or with the Government of Québec or a public body to which these persons belong, or with its employees or the employees of a corporation with which the company is affiliated within the meaning of the Act respecting insurance, or with this corporation, or with a family member of such persons or employees, or with members of the mutual management corporation. Without restricting the extent of this power, the company may, in particular, make contracts

(1) of life insurance and insurance against accidents, disability, sickness and all other risks of a similar nature;

(2) of annuities or pension of any type;

(3) of indemnity for hospital, medical, surgical, dental, nursing, and pharmaceutical expenses, or any other expenses of a similar nature incurred by reason of accident, sickness or maternity;

(4) of capitalization or sinking fund.

Additional power The company also has the power to make contracts of reinsurance as reinsured or as reinsurer with respect to contracts of insurance of persons or annuities or pension of any type.

DIVISION II

ADMINISTRATION

Directors
and officers

9. The directors and officers of La Mutuelle in office prior to its conversion are the first directors and officers of the capital stock insurance company.

Term of
office

Those directors shall remain in office until the next annual general meeting unless they resign or unless a vacancy on the board of directors occurs prior to the said meeting.

Election of
board of
directors

10. Notwithstanding the provisions of the Companies Act, the majority of the members of the board of directors of the capital stock insurance company must be elected by the general meeting of the members of the mutual management corporation. No director thus elected shall be dismissed except by the general meeting of the members of the mutual management corporation.

Executive
committee

If the board of directors of the capital stock insurance company is authorized to elect an executive committee from among its members, the majority of the members thus elected shall be composed of directors elected by the general meeting of the members of the mutual management corporation.

Inapplica-
bility of
c. A-32,
s. 55

11. Section 55 of the Act respecting insurance does not apply to the capital stock insurance company.

By-laws

12. Subject to the Act respecting insurance, the by-laws of La Mutuelle are the by-laws of the capital stock insurance company, adapted as required, until they are amended or replaced by the directors.

DIVISION III

CAPITAL STOCK

Authorized
capital
stock

13. The authorized capital stock of the capital stock insurance company is one billion shares issuable for a total consideration of one billion dollars and consisting of the following:

350 000 000 participating class A shares with no par value, each carrying ten voting rights and issuable for a total consideration of \$350 000 000;

100 000 000 participating class B shares with no par value, each carrying one voting right and issuable for a total consideration of \$100 000 000;

100 000 000 participating class C shares with no par value, carrying no voting right and issuable for a total consideration of \$100 000 000;

450 000 000 class D shares with a par value of \$1 each.

Class D
shares

The class D shares do not carry voting rights. They provide entitlement to a fixed equity, which is preferential to that of class A, B and C shares in respect of dividends. In the event of winding-up, the class D shares share in the assets of the capital stock insurance company up to their par value only, plus, if the case arises, any premium determined by the directors when the shares are issued and all dividends then accrued and unpaid, in preference to any participation in such sharing by class A, B and C shares.

Terms

Subject to the characteristics common to all class D shares, these shares of the capital stock insurance company are issuable in one or more series and the directors of the capital stock insurance company shall determine, from time to time, in accordance with section 146 of the Companies Act, the description, rights, conditions and limitations attaching to the shares of each series.

Modifying
by-law

Subject to ratification by letters patent and the other formalities set out in the Companies Act, the directors of the capital stock insurance company may at any time adopt a by-law to modify the rights, privileges and limitations attached to the class D shares or to authorize the creation of new shares ranking ahead of or concurrently with the class D, but no such by-law will have effect unless it is approved by the vote of not less than two-thirds in value of the class D shares represented by the holders present or represented at a special general meeting of such holders duly convened for the purpose of considering such by-law.

Class A
shares

14. On 1 January 1992, the directors of the capital stock insurance company shall hold a first meeting during which they shall issue and allot to the mutual management corporation, as paid up in full, class A shares of the capital stock of the capital stock insurance company. All such shares shall immediately thereafter be transferred by the mutual management corporation to the holding company in consideration for the issuance and allotment by the latter, as paid up in full, of shares of its capital stock having a value and paid-up capital equivalent to the combined paid up capital stock and capital surplus of the capital stock insurance company.

Capital
stock and
capital
surplus

The combined paid up capital stock and capital surplus of the capital stock insurance company shall be an amount equivalent to the assets of the insured persons of La Mutuelle on 31 December 1991.

Right of
La Mutuelle
members

Until such time as the issue of class A shares provided for in this section is effected, the members of La Mutuelle may vote at any general meeting of the capital stock insurance company in accordance with the structure of representation provided for in the deed of incorporation and in the general by-law of La Mutuelle as if the conversion had not occurred. This right is in addition to those the members enjoy through the mutual management corporation and shall expire by operation of law, with no compensation whatsoever, upon the issue of shares contemplated by this section.

Provisions
not appli-
cable

15. Section 43 of the Act respecting insurance and section 69 of the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01) do not apply to the allotment and registration of a transfer of shares under section 14.

CHAPTER IV

MUTUAL MANAGEMENT CORPORATION

DIVISION I

CORPORATE NAME, HEAD OFFICE, OBJECTS AND POWERS

Corporate
name

16. The corporate name of the mutual management corporation is “Corporation mutuelle de gestion des Fonctionnaires du Québec” and its English version “Québec Civil Servants’ Mutual Management Corporation”.

Head office

17. The head office of the mutual management corporation is located in the judicial district of Québec.

Status

18. The mutual management corporation is a legal person without share capital operating in accordance with the representative form of government provided for in Divisions II and III of this chapter.

Object

Its object is to control the capital stock insurance company at all times through its holding company and any other legal person referred to in section 30.

Investments

19. The mutual management corporation may make any investments referred to in section 245.0.1 of the Act respecting insurance or referred to in the rules for investment of moneys belonging to other persons set out in the Civil Code of Lower Canada as would be made in similar circumstances by a reasonable and prudent person, acting honestly and faithfully in the best interest of the members. It may also invest its funds in the holding company.

DIVISION II

MEMBERS

Corporation member **20.** Every holder of an insurance policy established by La Mutuelle, La Mutuelle des Employés Civils, mutual life assurance company or the capital stock insurance company is a member of the mutual management corporation as long as the policy is in force.

Voting right A member is entitled to one vote, regardless of the number or value of the policies held by him. No voting by proxy is permitted.

DIVISION III

ADMINISTRATION

Directors **21.** The general meeting of the members shall elect, from among the members of the mutual management corporation, the directors of the mutual management corporation.

First directors **22.** The directors of La Mutuelle in office prior to its conversion are the first directors of the mutual management corporation.

Term of office Those directors shall remain in office for the unexpired portion of their term, unless they resign or unless a vacancy occurs prior to the said meeting.

Restriction **23.** The remunerated officers and the employees of legal persons which are affiliated, within the meaning of the Act respecting insurance, with the mutual management corporation, may not make up more than one third of the board of directors of the mutual management corporation.

By-laws **24.** The by-laws of La Mutuelle are the by-laws of the mutual management corporation, adapted as required, until they are amended or replaced by the directors.

DIVISION IV

MISCELLANEOUS PROVISIONS

Operating expenses **25.** The expenses inherent in the operation of the mutual management corporation may be assumed by the capital stock insurance company or the holding company.

Provisions applicable **26.** The second paragraph of section 87, as well as sections 88 and 91 to 93.1 of the Act respecting insurance, adapted as required, apply to the mutual management corporation.

Provisions
applicable

27. In the absence of a corresponding provision in this chapter and subject to section 25 of this Act, section 88, paragraph 3 of section 89 and sections 89.1 to 89.4 of Part I and the provisions of Part II of the Companies Act, adapted as required, apply to the mutual management corporation with the exception of sections 126, 129 and 130, 136.1, 139 to 141, 143 to 168, 171 to 181, paragraph 3 of section 182, paragraphs *a* and *b* of subsection 2 of section 185, sections 187 and 190, paragraphs *j* and *k* of subsection 3 of section 191, section 192, sections 195 and 196, paragraphs *d* and *e* of subsection 1, and subsection 2 of section 197.

Companies
Act

The Government may, however, by order, make a provision of the Companies Act applicable to the mutual management corporation.

Application
of c. L-4

28. The Winding-up Act (R.S.Q., chapter L-4), adapted as required, applies to the mutual management corporation.

Interpreta-
tion

29. For the purposes of the Companies Act and the Winding-up Act, “company” means the mutual management corporation and “shareholder” means a member of the mutual management corporation and where a provision of the said Acts refers to a specified proportion in value of the company’s capital stock, the provision shall be construed as meaning the number of persons present who are qualified to vote and represent the specified proportion in value.

CHAPTER V

MAINTENANCE OF CONTROL OF THE CAPITAL STOCK INSURANCE COMPANY AND EQUITY PERCENTAGE

Control

30. The mutual management corporation must, at all times, control the capital stock insurance company through the holding company and such other legal person incorporated in Québec as may be authorized by the Minister upon the recommendation of the Inspector General of Financial Institutions.

Restriction

No legal person referred to in the first paragraph may allot shares of its capital stock or register a transfer of such shares if, as a consequence, there would, at any time, cease to be direct control from one to the other of the legal persons referred to in the first paragraph.

Applicabil-
ity of
c. A-32

31. Section 30 shall not be construed as rendering sections 43 to 50.5 of the Act respecting insurance inapplicable.

Absolute
nullity

An allotment of shares or a registration of a transfer of shares made contrary to section 30 is absolutely null.

Restriction
on allotment
and transfer
of shares

32. Under pain of absolute nullity, no legal person referred to in section 30 may allot shares participating in its assets or register a transfer of such shares if, as a consequence, the equity percentage of the mutual management corporation in the capital stock insurance company would fall below 26 %, or 13 % where the Minister has given first authorization in accordance with section 30, or such other minimum threshold as is approved by two-thirds of the votes cast at a special general meeting of the members of the mutual management corporation.

Information
circular

An information circular authorized by the Inspector General shall be sent to all members of the mutual management corporation prior to the calling of such a meeting.

Equity
percentage

33. The equity percentage of the mutual management corporation in the capital stock insurance company is equal to the sum

(1) of the result obtained by multiplying all the direct equity percentages of any legal person referred to in section 30 in the legal person it controls referred to in the same section, from the mutual management corporation to the capital stock insurance company; and

(2) of the direct equity percentage of the mutual management corporation in the capital stock insurance company.

Interpreta-
tion

For the purposes of this section, the “equity percentage” of a person in a legal person means the percentage that the number of shares participating in the assets of the legal person owned by that person as a shareholder is of the total number of issued and outstanding shares participating in the assets of the legal person.

CHAPTER VI

VOLUNTARY DISSOLUTION, WINDING-UP AND SALE

Dissolution
or winding-
up

34. The voluntary dissolution or winding-up of the mutual management corporation entails the winding-up of the capital stock insurance company.

Dissolution
or winding-
up

Similarly, the voluntary dissolution of the capital stock insurance company, its winding-up or the sale of all or nearly all its property or enterprise outside the ordinary course of its business entails the winding-up of the mutual management corporation.

Approval
requirement

Notwithstanding any contrary provision, the approval of two-thirds of the votes cast by the members of the mutual management corporation at a special general meeting is required to decide to commence or to discontinue the winding-up of the capital

stock insurance company or a sale of its property or of its enterprise referred to in the preceding paragraph.

CHAPTER VII

MISCELLANEOUS AND FINAL PROVISIONS

- Control **35.** For the purposes of the Act respecting insurance, there is deemed to be direct control from one to the other of the legal persons referred to in section 30.
- Fair market value **36.** No allotment or transfer of shares of the capital stock insurance company or the holding company, other than those referred to in section 14, may be effected before the fair market value of La Mutuelle has been determined to the satisfaction of the Inspector General.
- Appraisal report **37.** Following the determination of the fair market value of La Mutuelle to the satisfaction of the Inspector General, and as soon as possible thereafter, the Inspector General shall transmit to the Standing Committee on the Budget and Administration a report on the methods and means of appraisal used to determine the fair market value of La Mutuelle.
- 1956-57,
c. 166,
replaced **38.** This Act replaces the Act to incorporate La Mutuelle des Employés Civils, a mutual life assurance company (1956-57, chapter 166).
- Coming into force **39.** This Act comes into force on 1 January 1992.