

1986, chapter 113

**AN ACT TO AMEND THE ACT RESPECTING
QUÉBEC BUSINESS INVESTMENT COMPANIES**

Bill 158

Introduced by Mr Daniel Johnson, Minister of Industry and Commerce

Introduced 13 November 1986

Passage in principle 12 December 1986

Passage 19 December 1986

Assented to 19 December 1986

Coming into force: 19 December 1986

Act amended:

Act respecting Québec business investment companies (R.S.Q., chapter S-29.1)





CHAPTER 113

An Act to amend the Act respecting Québec business investment companies

[Assented to 19 December 1986]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. S-29.1, s.
4.1, added

1. (1) The Act respecting Québec business investment companies (R.S.Q., chapter S-29.1) is amended by inserting, after section 4, the following section:

Employee
owned
company

“4.1 The Société de développement industriel du Québec shall register a company as an employee owned company where, in addition to the requirements determined in section 4 and following the establishment of a stock ownership plan referred to in Division III.1, the company proves that each shareholder of the company is an eligible employee referred to in section 15.2.”

Retroactive
effect

(2) This section has effect from 2 May 1986.

c. S-29.1, s.
5, replaced

2. (1) Section 5 of the said Act, replaced by section 227 of chapter 15 of the statutes of 1986, is replaced by the following section:

Common
share with
full voting
rights

“5. For the purposes of this Act, a common share with full voting rights is a common share within the meaning of section 1 of the Taxation Act (R.S.Q., chapter I-3) to which are attached a number of voting rights in the issuing corporation, in all circumstances and regardless of the number of shares held, which is not less than the number attached to any other share of the share capital of the corporation.”

Application

(2) This section applies to every share acquired after 1 May 1986.

c. S-29.1, s. 8, am. **3.** Section 8 of the said Act is amended

(1) by replacing that part which precedes paragraph 1 by the following:

Revocation of registration **“8.** Registration of a company is revoked of right upon the occurrence of any of the following events:”;

(2) by adding, after paragraph 4, the following paragraphs:

“(5) upon the reduction by the company, after 1 May 1986, of the paid-up capital in respect of its shares to less than \$100 000;

“(6) upon the adoption or approval by the company’s shareholders of a resolution ordering the amalgamation of the company.”

c. S-29.1, s. 9, am. **4.** Section 9 of the said Act is amended by striking out, at the end, the words “or becomes void”.

c. S-29.1, s. 12, am. **5.** (1) Section 12 of the said Act is amended

(1) by replacing the first paragraph by the following paragraphs:

Qualified investment **“12.** An investment validated by the Société de développement industriel du Québec which is,

(1) in the case of a company referred to in section 4, a common share with full voting rights of the share capital of a qualified corporation that is acquired by a company as first purchaser,

(2) in the case of a company referred to in section 4.1, a common share with full voting rights of the share capital of a qualified corporation that is acquired by a company as first purchaser provided each shareholder of the company holds, directly, indirectly or with related persons who are not in the employ of the qualified corporation or of a subsidiary referred to in section 15.2, less than 5% of the voting shares of the share capital of the qualified corporation,

is a qualified investment.

Restriction Notwithstanding the first paragraph, an investment in a qualified corporation is not a qualified investment if the shareholder directly or indirectly controlling the qualified corporation that, but for this paragraph, would benefit by a qualified investment or a person with whom the shareholder is not dealing at arm’s length, is the shareholder of a company that, within the two years preceding the investment, made a qualified investment in a qualified corporation any of whose shareholders directly or indirectly controlling it or any person with whom the shareholder is not dealing at arm’s length is also a shareholder

of the company that, but for this paragraph, would have made a qualified investment.”;

(2) by adding, at the end, the following paragraph:

Fulfillment
of condition

“The condition referred to in subparagraph 4 must be fulfilled within two years following the acquisition of a qualified investment by a qualified corporation.”

Application

(2) This section applies to any investment made after 1 May 1986, and takes effect from 1 May 1986 in respect of the addition of the last paragraph of section 12.

c. S-29.1, s.
15, replaced

6. (1) Section 15 of the said Act is replaced by the following section:

Statement
to
shareholders

“**15.** The Société de développement industriel du Québec shall issue a statement to each shareholder of a company, attesting to the amount of his adjusted interest in a qualified investment.

Adjusted
interest

For the purposes of this Act, an adjusted interest in a qualified investment is the adjusted interest in a qualified investment as determined under section 965.31.1 of the Taxation Act.”

Application

(2) This section applies to any qualified investment made after 1 May 1986.

c. S-29.1,
ss. 15.1 to
15.11,
added

7. (1) The said Act is amended by inserting, after section 15, the following:

“DIVISION III.1

“STOCK OWNERSHIP PLAN

Stock
ownership
plan

“**15.1** A stock ownership plan is a plan instituted by a qualified corporation to enable all its eligible employees to acquire common shares with full voting rights from a company referred to in section 4.1.

Eligible
employee

“**15.2** The expression “eligible employee of a qualified corporation” means any individual residing in Québec who is in the employ of the qualified corporation or of a subsidiary not less than 90 per cent of the shares of the issued capital stock of which having full voting rights under all circumstances are owned directly or indirectly by the qualified corporation and who, immediately before the acquisition of the shares, from the company, and immediately before its registration, holds directly, indirectly or with related persons who are not in the employ of the eligible corporation or of such a subsidiary, less than 5 per cent of the shares of the issued capital stock of the qualified corporation.

Uneligible
employee

“15.3 A stock ownership plan may provide that an individual is not an eligible employee of a corporation if, at the time of acquisition of the shares of the company, he cannot prove three consecutive months of service with the corporation, or with a subsidiary not less than 90 per cent of the shares of the issued capital stock of which having full voting rights under all circumstances are owned directly or indirectly by the corporation.

Maximum
number of
common
shares

“15.4 A stock ownership plan may set a maximum limit to the number of common shares with full voting rights of the capital stock of the company that may be acquired thereunder, provided the number is determined by means of the same formula for all eligible employees.

Minimum
number of
common
shares

“15.5 In no case may a stock ownership plan require each eligible employee to acquire a minimum number of common shares with full voting rights of the capital stock of the company under the plan.

Purchase
price

“15.6 Every stock ownership plan shall provide the identical formula for all eligible employees for the determination of the purchase price of each common share with full voting rights of the capital stock of the company that may be acquired under the plan.

Financing

“15.7 Every stock ownership plan shall provide eligible employees with means for financing the acquisition of common shares with full voting rights of the share capital of the company within the scope of the plan, as provided for in section 15.8, which shall be identical for all, up to the amount of the acquisition.

Loan

“15.8 The means of financing provided under a stock ownership plan shall be an interest-free loan granted by the qualified corporation, a loan granted by the corporation bearing interest at a rate not exceeding the market rate at the time of the loan or a loan from another person, provided the terms and conditions are negotiated by the qualified corporation.

Loan
repayment

“15.9 Every stock ownership plan shall provide the terms of repayment of a loan, which shall be reasonable and spread the payments over a reasonable period beginning with the time of the loan.

Failure to
repay

“15.10 A stock ownership plan may provide clauses applicable in the event of an eligible employee's failure to repay his loan, the death, retirement, illness or layoff of an eligible employee, the sale or transfer of shares acquired under the plan or any other situation that may compromise repayment of the loan contracted by an eligible employee.

Retaking
possession
of shares

A stock ownership plan may provide, notwithstanding section 3 of the said Act, that a qualified corporation may become the shareholder

of an employee owned company where an eligible employee leaves his employment permanently and ceases to repay his loan. In such a case, a qualified corporation may retake possession of the shares of the share capital of the employee owned company in the proportion of the sums borrowed from it by the eligible employee or guaranteed by it with another person on behalf of that employee and remaining due by that employee at the time he leaves his employment.

Application The second paragraph of this section applies from 11 December 1986.

Management by dealer “**15.11** Every stock ownership plan shall be managed by a dealer, within the meaning of paragraph *f* of section 965.1 of the Taxation Act, who has custody of the certificate attesting to the share of the company and who is required to keep, in Québec, a register, in a separate account, of all the operations made by each shareholder of the company within the scope of the stock ownership plan.”

Retroactive effect (2) This division has effect from 2 May 1986.

Coming into force **8.** This Act comes into force on 19 December 1986.