

Business Corporations Act

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PART I

DEFINITIONS, INTERPRETATION AND APPLICATION

Definitions and interpretation

1 (1) In this Act,

“affairs” means the relationships among a corporation, its affiliates and the shareholders, directors and officers of such bodies corporate but does not include the business carried on by such bodies corporate; (“affaires internes”)

“affiliate” means an affiliated body corporate within the meaning of subsection (4); (“membre du même groupe”)

“articles” means the original or restated articles of incorporation, articles of amendment, articles of amalgamation, articles of arrangement, articles of continuance, articles of dissolution, articles of reorganization, articles of revival, letters patent, supplementary letters patent, a special Act and any other instrument by which a corporation is incorporated; (“statuts”)

“associate”, where used to indicate a relationship with any person, means,

- (a) any body corporate of which the person beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding,
- (b) any partner of that person,
- (c) any trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity,
- (d) any relative of the person, including the person's spouse, where the relative has the same home as the person, or
- (e) any relative of the spouse of the person where the relative has the same home as the person; (“personne qui a un lien”)

“auditor” includes a partnership of auditors and an auditor that is incorporated; (“vérificateur”)

“beneficial interest” or “beneficial ownership” includes ownership through a trustee, legal representative, agent or other intermediary and, in the case of a security, includes the interest of an entitlement holder, as defined in the *Securities Transfer Act, 2006*, with respect to that security, but does not include the interest of an entitlement holder that is a securities intermediary, as defined in the *Securities Transfer Act, 2006*, that has established a security entitlement, as defined in the *Securities Transfer Act, 2006*, in favour of its entitlement holder with respect to that security; (“intérêt bénéficiaire”, “propriété bénéficiaire”)

“body corporate” means any body corporate with or without share capital and whether or not it is a corporation to which this Act applies; (“personne morale”)

“certified copy” means,

- (a) in relation to a document of a corporation, a copy of the document certified to be a true copy by an officer thereof,
- (b) in relation to a document issued by a court, a copy of the document certified to be a true copy under the seal of the court and signed by the registrar thereof,
- (c) in relation to a document in the custody of the Director, a copy of the document certified to be a true copy by the Director and signed by the Director or by such officer of the Ministry as is designated by the regulations; (“copie certifiée conforme”)

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (c) of the definition of “certified copy” in subsection 1 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 1 (1))

- (c) in relation to a document in the custody of the Director, a copy of the document certified to be a true copy by the Director and signed by the Director or by any other public servant employed under Part III of the *Public Service of Ontario Act, 2006* and designated by the regulations; (“copie certifiée conforme”)

“Commission” means the Ontario Securities Commission; (“Commission”)

“corporation” means a body corporate with share capital to which this Act applies; (“société”, “société par actions”)

“corporation number” means the number assigned by the Director to a corporation in accordance with subsection 8 (1) and “number” in relation to a corporation means the corporation number of that corporation; (“numéro de la société”, “numéro”)

“court” means the Superior Court of Justice; (“tribunal”)

“day” means a clear day and a period of days shall be deemed to commence the day following the event that began the period and shall be deemed to terminate at midnight of the last day of the period except that if the last day of the period falls on a Sunday or holiday the period shall terminate at midnight of the day next following that is not a Sunday or holiday; (“jour”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “day” in subsection 1 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 1 (2))

“day” means a clear day; (“jour”)

“debt obligation” means a bond, debenture, note or other similar obligation or guarantee of such an obligation of a body corporate, whether secured or unsecured; (“titre de créance”)

“Director” means the Director appointed under section 278; (“directeur”)

“director” means a person occupying the position of director of a corporation by whatever name called, and “directors” and “board of directors” include a single director; (“administrateur”)

“electronic signature” means an identifying mark or process that is,

- (a) created or communicated using telephonic or electronic means,
- (b) attached to or associated with a document or other information, and
- (c) made or adopted by a person to associate the person with the document or other information, as the case may be; (“signature électronique”)

“endorse” includes imprinting a stamp on the face of articles or other document sent to the Director; (“apposer”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “endorse” in subsection 1 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 1 (4))

“endorse” includes,

- (a) imprinting a stamp on the face of articles or other documents sent to the Director, and

(b) electronically producing an equivalent to a stamp in respect of articles or other documents sent to the Director; (“produire”)

“financial statement” means a financial statement referred to in section 154; (“état financier”)

“incorporator” means a person who signs articles of incorporation; (“fondateur”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “incorporator” in subsection 1 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 1 (4))

“incorporator” means a person who signs or otherwise authorizes articles of incorporation; (“fondateur”)

“individual” means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his or her capacity as trustee, executor, administrator or other legal representative; (“particulier”)

“interim financial statement” means a financial statement referred to in section 160; (“état financier périodique”)

“liability” includes a debt of a corporation arising under section 36, subsection 185 (29) or clause 248 (3) (f) or (g); (“passif”)

“Minister” means the Minister of Consumer and Business Services or such other member of the Executive Council to whom the administration of this Act may be assigned; (“ministre”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “Minister” in subsection 1 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 1 (4))

“Minister” means the member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

“Ministry” means the Ministry of the Minister; (“ministère”)

“non-resident corporation” means a corporation incorporated in Canada before the 27th day of April, 1965, and that is not deemed to be resident in Canada for the purposes of the *Income Tax Act* (Canada) by subsection 250 (4) of that Act; (“société non résidente”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “non-resident corporation” in subsection 1 (1) of the Act is repealed. (See: 2020, c. 34, Sched. 1, s. 1)

“number name” means the name of a corporation that consists only of its corporation number followed by the word “Ontario” and one of the words or abbreviations provided for in subsection 10 (1); (“dénomination sociale numérique”)

“offering corporation” means a corporation that is offering its securities to the public within the meaning of subsection (6) and that is not the subject of an order of the Commission deeming it to have ceased to be offering its securities to the public; (“société faisant appel au public”)

“officer” means an officer designated under section 133 and includes the chair of the board of directors, a vice-chair of the board of directors, the president, a vice-president, the secretary, an assistant secretary, the treasurer, an assistant treasurer and the general manager of a corporation, and any other individual designated an officer of a corporation by by-law or by resolution of the directors or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office; (“dirigeant”)

“ordinary resolution” means a resolution that is submitted to a meeting of the shareholders of a corporation and passed, with or without amendment, at the meeting by at least a majority of the votes cast; (“résolution ordinaire”)

“person” includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his or her capacity as trustee, executor, administrator, or other legal representative; (“personne”)

“personal representative”, where used with reference to holding shares in that capacity, means an executor, administrator, estate trustee, guardian, tutor, trustee, receiver or liquidator or the curator, guardian for property or attorney under a continuing power of attorney with authority for a person who is mentally incapable of managing his or her property; (“ayant droit”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“redeemable share” means a share issued by a corporation,

(a) that the corporation may purchase or redeem upon the demand of the corporation, or

(b) that the corporation is required by its articles to purchase or redeem at a specified time or otherwise upon the demand of a shareholder; (“action rachetable”)

“registered form” means registered form as defined in the *Securities Transfer Act, 2006*; (“nominatif”)

“registered office” means the office of a corporation located at the address specified in its articles or in the notice most recently filed by the corporation under the *Corporations Information Act*; (“siège social”)

“regulations” means the regulations made under this Act; (“règlements”)

“related person”, where used to indicate a relationship with any person, means,

- (a) any spouse, son or daughter of that person,
- (b) any relative of the person or of the person’s spouse, other than an individual referred to in clause (a), who has the same home as the person, or
- (c) any body corporate of which the person and any of the persons referred to in clause (a) or (b) or the partner or employer of the person, or any combination, beneficially own, directly or indirectly, voting securities carrying more than 50 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding; (“personne liée”)

“resident Canadian” means an individual who is,

- (a) a Canadian citizen ordinarily resident in Canada,
- (b) a Canadian citizen not ordinarily resident in Canada who is a member of a prescribed class of persons, or
- (c) a permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada) and ordinarily resident in Canada; (“résident canadien”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “resident Canadian” in subsection 1 (1) of the Act is repealed. (See: 2020, c. 34, Sched. 1, s. 1)

“security” means a share of any class or series of shares or a debt obligation of a body corporate; (“valeur mobilière”)

“security certificate” means a certificate evidencing a security; (“certificat de valeur mobilière”)

“security interest” means an interest in or charge upon the property of a body corporate by way of mortgage, hypothec, pledge or otherwise, to secure payment of a debt or performance of any other obligation of the body corporate; (“sûreté”)

“send” includes deliver or mail; (“envoyer”)

“senior officer” means,

- (a) the chair of the board of directors, a vice-chair of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a corporation or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office, and
- (b) each of the five highest paid employees of a corporation, including any individual referred to in clause (a); (“cadre dirigeant”)

“series”, in relation to shares, means a division of a class of shares; (“série”)

“special resolution” means a resolution that is,

- (a) submitted to a special meeting of the shareholders of a corporation duly called for the purpose of considering the resolution and passed, with or without amendment, at the meeting by at least two-thirds of the votes cast, or
- (b) consented to in writing by each shareholder of the corporation entitled to vote at such a meeting or the shareholder’s attorney authorized in writing; (“résolution spéciale”)

“spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage; (“conjoint”)

“telephonic or electronic means” means telephone calls or messages, facsimile messages, electronic mail, transmission of data or information through automated touch-tone telephone systems, transmission of data or information through computer networks, any other similar means or any other prescribed means; (“voie téléphonique ou électronique”)

Note: On a day to be named by proclamation of the Lieutenant Governor, the definition of “telephonic or electronic means” in subsection 1 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 1 (4))

“telephonic or electronic means” means any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, voice mail, fax, e-mail, an automated touch-tone telephone system, computers or computer networks; (“moyen de communication téléphonique ou électronique”)

“unanimous shareholder agreement” means an agreement described in subsection 108 (2) or a declaration of a shareholder described in subsection 108 (3); (“convention unanime des actionnaires”)

“uncertificated security” means an uncertificated security as defined in the *Securities Transfer Act, 2006*; (“valeur mobilière sans certificat”)

“voting security” means any security other than a debt obligation of a body corporate carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing; (“valeur mobilière avec droit de vote”)

“warrant” means any certificate or other document issued by a corporation as evidence of conversion privileges or options or rights to acquire securities of the corporation. (“bon de souscription”) R.S.O. 1990, c. B.16, s. 1 (1); 1994, c. 27, s. 71 (1); 1999, c. 6, s. 3; 1999, c. 12, Sched. F, s. 1; 2001, c. 9, Sched. D, s. 2 (1, 2); 2005, c. 5, s. 4; 2006, c. 8, s. 106; 2006, c. 34, Sched. B, s. 1; 2011, c. 1, Sched. 2, s. 1 (1, 2); 2016, c. 23, s. 36; 2017, c. 2, Sched. 12, s. 1 (1); 2017, c. 20, Sched. 6, s. 1 (3).

Interpretation: subsidiary body corporate

(2) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if,

- (a) it is controlled by,
 - (i) that other, or
 - (ii) that other and one or more bodies corporate each of which is controlled by that other, or
 - (iii) two or more bodies corporate each of which is controlled by that other; or
- (b) it is a subsidiary of a body corporate that is that other’s subsidiary. R.S.O. 1990, c. B.16, s. 1 (2).

Holding body corporate

(3) For the purposes of this Act, a body corporate shall be deemed to be another’s holding body corporate if, but only if, that other is its subsidiary. R.S.O. 1990, c. B.16, s. 1 (3).

Affiliated body corporate

(4) For the purposes of this Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person. R.S.O. 1990, c. B.16, s. 1 (4).

Control

(5) For the purposes of this Act, a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if,

- (a) voting securities of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and
- (b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate. R.S.O. 1990, c. B.16, s. 1 (5).

Offering securities to public

(6) For the purposes of this Act, a corporation is offering its securities to the public only where,

- (a) in respect of any of its securities a prospectus or statement of material facts has been filed under the *Securities Act* or any predecessor thereof, or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, so long as any of such securities are outstanding or any securities into which such securities are converted are outstanding; or
- (b) any of its securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Commission regardless of when such listing and posting for trading commenced,

except that where, upon the application of a corporation, the Commission is satisfied, in its discretion, that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as the Commission may

impose, that the corporation shall be deemed to have ceased to be offering its securities to the public. R.S.O. 1990, c. B.16, s. 1 (6); 2000, c. 26, Sched. B, s. 3 (1, 2).

Execution of documents

(7) Any articles, notice, resolution, requisition, statement or other document required or permitted to be executed by more than one person for the purposes of this Act may be executed in several documents of like form each of which is executed by one or more of such persons, and such documents, when duly executed by all persons required or permitted, as the case may be, to do so, shall be deemed to constitute one document for the purposes of this Act. R.S.O. 1990, c. B.16, s. 1 (7).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 1 of the Act is amended by adding the following subsection: (See: 2017, c. 20, Sched. 6, s. 1 (5))

Interpretation re period of days

(8) In this Act, a period of days is deemed to commence on the day following the event that began the period and is deemed to terminate at midnight of the last day of the period, except that if the last day of the period falls on a holiday, the period terminates at midnight of the next day that is not a holiday. 2017, c. 20, Sched. 6, s. 1 (5).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (1) - 01/03/1995; 1999, c. 6, s. 3 (1-4) - 01/03/2000; 1999, c. 12, Sched. F, s. 1 - 27/03/2000

2000, c. 26, Sched. B, s. 3 (1, 2) - 06/12/2000

2001, c. 9, Sched. D, s. 2 (1, 2) - 29/06/2001

2005, c. 5, s. 4 (1-5) - 09/03/2005

2006, c. 8, s. 106 (1-4) - 01/01/2007; 2006, c. 34, Sched. B, s. 1 - 01/08/2007

2011, c. 1, Sched. 2, s. 1 (1, 2) - 31/12/2015

2016, c. 23, s. 36 (1, 2) - 05/12/2016

2017, c. 2, Sched. 12, s. 1 (1) - 22/03/2017; 2017, c. 20, Sched. 6, s. 1 (1, 2, 4, 5) - not in force; 2017, c. 20, Sched. 6, s. 1 (3) - 14/11/2017

2020, c. 34, Sched. 1, s. 1 - not in force

Application

2 (1) This Act, except where it is otherwise expressly provided, applies to every body corporate with share capital,

- (a) incorporated by or under a general or special Act of the Parliament of the former Province of Upper Canada;
- (b) incorporated by or under a general or special Act of the Parliament of the former Province of Canada that has its registered office and carries on business in Ontario; or
- (c) incorporated by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1990, c. B.16, s. 2 (1).

Idem

(2) Despite *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, and subject to subsection 168 (6), this Act applies to a body corporate with share capital that is a company as defined in that Act but that is not engaged in constructing or operating a railway, street railway or incline railway. R.S.O. 1990, c. B.16, s. 2 (2).

Idem

(3) This Act does not apply to a body corporate with share capital that,

- (a) is a company within the meaning of the *Corporations Act* and has objects in whole or in part of a social nature;
- (b) is a corporation to which the *Co-operative Corporations Act* applies;
- (c) is a corporation that is an insurer within the meaning of subsection 141 (1) of the *Corporations Act*; or
- (d) is a corporation to which the *Credit Unions and Caisses Populaires Act, 1994* applies. R.S.O. 1990, c. B.16, s. 2 (3); 2017, c. 2, Sched. 12, s. 1 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 2 (3) (d) of the Act is amended by striking out “Credit Unions and Caisses Populaires Act, 1994” and substituting “Credit Unions and Caisses Populaires Act, 2020”. (See: 2020, c. 36, Sched. 7, s. 296 (1))

Section Amendments with date in force (d/m/y)

2017, c. 2, Sched. 12, s. 1 (2) - 22/03/2017

2020, c. 36, Sched. 7, s. 296 (1) - not in force

PART II INCORPORATION

Incorporation

3 (1) REPEALED: 2000, c. 42, Sched., s. 1.

Incorporation

(2) A corporation may be incorporated under this Act with its powers restricted by its articles to lending and investing money on mortgage of real estate or otherwise, or with its powers restricted by its articles to accepting and executing the office of liquidator, receiver, assignee, trustee in bankruptcy or trustee for the benefit of creditors and to accepting the duty of and acting generally in the winding up of corporations, partnerships and estates, other than estates of deceased persons, and shall not by reason thereof be deemed to be a corporation within the meaning of the *Loan and Trust Corporations Act*, but the number of its shareholders, exclusive of persons who are in the employment of the corporation, shall be limited by its articles to five, and no such corporation shall issue debt obligations except to its shareholders, or borrow money on the security of its property except from its shareholders, or receive money on deposit or offer its securities to the public. R.S.O. 1990, c. B.16, s. 3 (2).

Section Amendments with date in force (d/m/y)

2000, c. 42, Sched., s. 1 - 01/11/2001

Professional corporations

3.1 (1) In this section and in sections 3.2, 3.3 and 3.4,

“member” means a member of a profession governed by an Act that permits the profession to be practised through a professional corporation; (“membre”)

“professional corporation” means a corporation incorporated or continued under this Act that holds a valid certificate of authorization or other authorizing document issued under an Act governing a profession. (“société professionnelle”) 2000, c. 42, Sched., s. 2.

Professions

(2) Where the practice of a profession is governed by an Act, a professional corporation may practise the profession if,

- (a) that Act expressly permits the practice of the profession by a corporation and subject to the provisions of that Act; or
- (b) the profession is governed by an Act named in Schedule 1 of the *Regulated Health Professions Act, 1991*, one of the following Acts or a prescribed Act:

1. *Chartered Professional Accountants of Ontario Act, 2017*.
2. REPEALED: 2017, c. 8, Sched. 3, s. 74.
3. *Law Society Act*.
4. *Social Work and Social Service Work Act, 1998*.
5. *Veterinarians Act*. 2000, c. 42, Sched., s. 2; 2010, c. 6, Sched. A, s. 69; 2010, c. 6, Sched. C, s. 67; 2017, c. 8, Sched. 3, s. 74.

Regulations

(3) The Lieutenant Governor in Council may make regulations prescribing Acts for the purposes of clause (2) (b). 2000, c. 42, Sched., s. 2.

Section Amendments with date in force (d/m/y)

2000, c. 42, Sched., s. 2 - 01/11/2001

2010, c. 6, Sched. A, s. 69 - 18/05/2010; 2010, c. 6, Sched. C, s. 67 - 18/05/2010

2017, c. 8, Sched. 3, s. 74 - 17/05/2017

Application of Act to professional corporations

3.2 (1) This Act and the regulations apply with respect to a professional corporation except as otherwise set out in this section and sections 3.1, 3.3 and 3.4 and the regulations. 2000, c. 42, Sched., s. 2.

Conditions for professional corporations

(2) Despite any other provision of this Act but subject to subsection (6), a professional corporation shall satisfy all of the following conditions:

1. All of the issued and outstanding shares of the corporation shall be legally and beneficially owned, directly or indirectly, by one or more members of the same profession.
2. All officers and directors of the corporation shall be shareholders of the corporation.
3. The name of the corporation shall include the words “Professional Corporation” or “société professionnelle” and shall comply with the rules respecting the names of professional corporations set out in the regulations and with the rules respecting names set out in the regulations or by-laws made under the Act governing the profession.
4. The corporation shall not have a number name.
5. The articles of incorporation of a professional corporation shall provide that the corporation may not carry on a business other than the practice of the profession but this paragraph shall not be construed to prevent the corporation from carrying on activities related to or ancillary to the practice of the profession, including the investment of surplus funds earned by the corporation. 2000, c. 42, Sched., s. 2; 2002, c. 22, s. 8; 2005, c. 28, Sched. B, s. 1 (1); 2017, c. 20, Sched. 6, s. 2.

Deemed compliance

(2.1) A professional corporation that has a name that includes the words “société professionnelle” shall be deemed to have complied with the requirements of subsection 10 (1). 2004, c. 19, s. 3 (1).

Corporate acts not invalid

(3) No act done by or on behalf of a professional corporation is invalid merely because it contravenes this Act. 2000, c. 42, Sched., s. 2.

Voting agreements void

(4) An agreement or proxy that vests in a person other than a shareholder of a professional corporation the right to vote the rights attached to a share of the corporation is void. 2000, c. 42, Sched., s. 2.

Unanimous shareholder agreements void

(5) Subject to subsection (6), a unanimous shareholder agreement in respect of a professional corporation is void unless each shareholder of the corporation is a member of the professional corporation. 2000, c. 42, Sched., s. 2; 2005, c. 28, Sched. B, s. 1 (2).

Special rules, health profession corporations

(6) The Lieutenant Governor in Council may make regulations,

- (a) exempting classes of health profession corporations, as defined in section 1 (1) of the *Regulated Health Professions Act, 1991*, from the application of subsections (1) and (5) and such other provisions of this Act and the regulations as may be specified and prescribing terms and conditions that apply with respect to the health profession corporations in lieu of the provisions from which they are exempted;
- (b) exempting classes of the shareholders of those health profession corporations from the application of subsections 3.4 (2), (4) and (6) and such other provisions of this Act and the regulations as may be specified and prescribing rules that apply with respect to the shareholders in lieu of the provisions from which they are exempted;
- (c) exempting directors and officers of those health profession corporations from the application of such provisions of this Act and the regulations as may be specified and prescribing rules that apply with respect to the directors and officers in lieu of the provisions from which they are exempted. 2005, c. 28, Sched. B, s. 1 (3).

Section Amendments with date in force (d/m/y)

2000, c. 42, Sched., s. 2 - 01/11/2001

2002, c. 22, s. 8 - 09/12/2002

2004, c. 19, s. 3 (1) - 01/06/2005

2005, c. 28, Sched. B, s. 1 (1-3) - 01/01/2006

2017, c. 20, Sched. 6, s. 2 - 14/11/2017

Consequences of occurrence of certain events

3.3 (1) Despite any other Act, a professional corporation's certificate of authorization or other authorizing document remains valid and the corporation does not cease to be a professional corporation despite,

- (a) the death of a shareholder;
- (b) the divorce of a shareholder;
- (c) the bankruptcy or insolvency of the corporation;
- (d) the suspension of the corporation's certificate of authorization or other authorizing document; or
- (e) the occurrence of such other event or the existence of such other circumstance as may be prescribed. 2000, c. 42, Sched., s. 2; 2001, c. 8, s. 1 (1); 2001, c. 23, s. 6 (1).

Invalidity of certificate

(2) Subject to the regulations, a certificate of authorization or other authorizing document becomes invalid and the corporation ceases to be a professional corporation on the revocation of the certificate. 2000, c. 42, Sched., s. 2; 2001, c. 8, s. 1 (2).

Regulations

(3) For the purposes of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) prescribing events and circumstances for the purposes of clause (1) (e);
- (a.1) providing that, despite clause (1) (a), (b), (c), (d) or (e), whichever applies, a professional corporation's certificate of authorization or other authorizing document ceases to be valid and the corporation ceases to be a professional corporation because of a failure to meet the terms and conditions described in the regulation;
- (a.2) prescribing terms and conditions that apply with respect to the events and circumstances referred to in clauses (1) (a), (b), (c), (d) and (e);
- (a.3) prescribing exceptions to the events and circumstances referred to in clauses (1) (a), (b), (c), (d) and (e);
- (b) prescribing the manner in which shares of a shareholder are to be dealt with on the occurrence of any event mentioned in clauses (1) (a) to (e), the time within which they are to be dealt with and any other matter related to dealing with the shares. 2000, c. 42, Sched., s. 2; 2001, c. 23, s. 6 (2).

Name change

(4) A corporation that ceases to be a professional corporation shall change its name to remove from it the word "professional" or "professionnelle". 2001, c. 8, s. 1 (3).

Section Amendments with date in force (d/m/y)

2000, c. 42, Sched., s. 2 - 01/11/2001

2001, c. 8, s. 1 (1-3) - 01/11/2001; 2001, c. 23, s. 6 (1-2) - 05/12/2001

No limit on professional liability

3.4 (1) Subsection 92 (1) shall not be construed as limiting the professional liability of a shareholder of a professional corporation under an Act governing the profession for acts of the shareholder or acts of employees or agents of the corporation. 2000, c. 42, Sched., s. 2.

Deemed acts

(2) For the purposes of professional liability, the acts of a professional corporation shall be deemed to be the acts of the shareholders, employees or agents of the corporation, as the case may be. 2000, c. 42, Sched., s. 2.

Professional liability

(3) The liability of a member for a professional liability claim is not affected by the fact that the member is practising the profession through a professional corporation. 2000, c. 42, Sched., s. 2.

Joint and several liability

(4) A person is jointly and severally liable with a professional corporation for all professional liability claims made against the corporation in respect of errors and omissions that were made or occurred while the person was a shareholder of the corporation. 2000, c. 42, Sched., s. 2.

Same

(5) The liability of a member under subsection (4) cannot be greater than his or her liability would be in the circumstances if he or she were not practising through the professional corporation. 2001, c. 8, s. 2.

Same, partnerships and limited liability partnerships

(6) If a professional corporation is a partner in a partnership or limited liability partnership, the shareholders of the corporation have the same liability in respect of the partnership or limited liability partnership as they would have if the shareholders themselves were the partners. 2001, c. 8, s. 2.

Section Amendments with date in force (d/m/y)

2000, c. 42, Sched., s. 2 - 01/11/2001

2001, c. 8, s. 2 - 01/11/2001

Articles of incorporation

4 (1) One or more individuals or bodies corporate or any combination thereof may incorporate a corporation by signing articles of incorporation and complying with section 6. R.S.O. 1990, c. B.16, s. 4 (1).

Idem

(2) Subsection (1) does not apply to an individual who,

- (a) is less than eighteen years of age;
- (b) has been found under the *Substitute Decisions Act, 1992* or under the *Mental Health Act* to be incapable of managing property or who has been found to be incapable by a court in Canada or elsewhere; or
- (c) has the status of bankrupt. R.S.O. 1990, c. B.16, s. 4 (2); 2006, c. 34, Sched. B, s. 2.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 2 - 01/08/2007

Contents of articles

5 (1) Articles of incorporation shall follow the prescribed form and shall set out the prescribed information. 1994, c. 27, s. 71 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 5 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 3 (1))

Contents of articles

(1) Articles of incorporation must be in the form approved by the Director and must set out the information required by this Act, the regulations or the Director. 2017, c. 20, Sched. 6, s. 3 (1).

Director's consent

(2) The corporation shall keep at its registered office address the consent, in the prescribed form, to act as a first director,

- (a) of each individual who is named in the articles as a first director and who is not an incorporator; and
- (b) of each individual who is named in the articles as a first director and who is an incorporator, if the articles are sent to the Director in a prescribed electronic format and the electronic signature of the individual is not set out on the articles under clause 273 (4) (a) because the regulations provide that the signature is not required. 2006, c. 19, Sched. G, s. 2.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 5 (2) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 3 (1))

First director's consent

(2) The corporation shall keep at its registered office the consent to act as a first director, in the approved form,

- (a) of each individual who is named in the articles as a first director and who is not an incorporator; and

(b) of each individual who is named in the articles as a first director and who is an incorporator, if the articles are sent to the Director in an electronic format and the consent is required by the regulations. 2017, c. 20, Sched. 6, s. 3 (1).

Inspection of consent

(2.1) Upon request and without charge, the corporation shall permit a director, shareholder or creditor to inspect a consent mentioned in subsection (2) during the normal business hours of the corporation and to make a copy. 1999, c. 12, Sched. F, s. 2.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 5 of the Act is amended by adding the following subsection: (See: 2017, c. 20, Sched. 6, s. 3 (2))

Director may require copy of consent

(2.2) The Director may, at any time by notice, require that a copy of a consent mentioned in subsection (2) be provided to the Director within the time period set out in the notice. 2017, c. 20, Sched. 6, s. 3 (2).

Provisions in articles

(3) The articles may set out any provisions permitted by this Act or permitted by law to be set out in the by-laws of the corporation. R.S.O. 1990, c. B.16, s. 5 (3).

Where articles, etc., prevail

(4) Subject to subsection (5), if a greater number of votes of directors or shareholders are required by the articles or a unanimous shareholder agreement than are required by this Act to effect any action, the provisions of the articles or of the unanimous shareholder agreement prevail. R.S.O. 1990, c. B.16, s. 5 (4).

Votes to remove director

(5) The articles shall not require a greater number of votes of shareholders to remove a director than the number specified in section 122. R.S.O. 1990, c. B.16, s. 5 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 5 (5) of the Act is repealed and the following substituted: (See: 2020, c. 34, Sched. 1, s. 2)

Removal of director

(5) The articles shall not require,

- (a) a greater number of votes of shareholders to remove a director than the number specified in section 122; or
- (b) a greater number of shareholders or their attorney authorized in writing to sign a resolution referred to in clause 104 (1) (c) to remove a director than the number specified in that clause. 2020, c. 34, Sched. 1, s. 2.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (2) - 01/03/1995; 1999, c. 12, Sched. F, s. 2 - 27/03/2000

2006, c. 19, Sched. G, s. 2 - 01/08/2007

2017, c. 20, Sched. 6, s. 3 (1, 2) - not in force

2020, c. 34, Sched. 1, s. 2 - not in force

Certificate of incorporation

6 An incorporator shall send to the Director articles of incorporation and, upon receipt of the articles, the Director shall endorse thereon, in accordance with section 273, a certificate which shall constitute the certificate of incorporation. R.S.O. 1990, c. B.16, s. 6.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 6 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 4)

Certificate of incorporation

6 An incorporator shall send to the Director articles of incorporation and any other required documents and information and, upon receipt of the articles, documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of incorporation. 2017, c. 20, Sched. 6, s. 4.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 4 - not in force

Certificate of incorporation

7 A certificate of incorporation is conclusive proof that the corporation has been incorporated under this Act on the date set out in the certificate, except in a proceeding under section 240 to cancel the certificate for cause. R.S.O. 1990, c. B.16, s. 7.

Assignment of number

8 (1) Every corporation shall be assigned a number by the Director and such number shall be specified as the corporation number in the certificate of incorporation and in any other certificate relating to the corporation endorsed or issued by the Director. R.S.O. 1990, c. B.16, s. 8 (1); 2017, c. 20, Sched. 6, s. 5 (1).

Idem

(2) Where no name is specified in the articles that are delivered to the Director, the corporation shall be assigned a number name. R.S.O. 1990, c. B.16, s. 8 (2).

Idem

(3) Where, through inadvertence or otherwise, the Director has assigned to a corporation a corporation number or number name that is the same as the number or name of any other corporation previously assigned, the Director may, without holding a hearing, issue a certificate of amendment to the articles of the corporation changing the number or name assigned to the corporation and, upon the issuance of the certificate of amendment, the articles are amended accordingly. R.S.O. 1990, c. B.16, s. 8 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsections 8 (3) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 5 (2))

Changing corporation number or number name

(3) If, through inadvertence or otherwise, the Director has assigned to a corporation a corporation number or number name that is the same as the corporation number or number name of any other corporation previously assigned, the Director may, without holding a hearing, change the corporation number or number name assigned to the corporation and any certificate subsequently endorsed for the corporation under this Act must bear its new corporation number or number name. 2017, c. 20, Sched. 6, s. 5 (2).

Reissue of certificate of incorporation or amalgamation

(3.1) If a new corporation number or number name is assigned to a corporation under subsection (3), the Director may reissue the certificate of incorporation or certificate of amalgamation, whichever was most recently issued to the corporation, and the reissued certificate must bear the new corporation number or number name. 2017, c. 20, Sched. 6, s. 5 (2).

Idem

(4) Where for any reason the Director has endorsed a certificate on articles that sets out the corporation number incorrectly, the Director may substitute a corrected certificate that bears the date of the certificate it replaces. R.S.O. 1990, c. B.16, s. 8 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsections 8 (4) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 5 (2))

Substitution of endorsed certificate

(4) If, for any reason, the Director has endorsed a certificate in respect of articles that sets out the corporation number or number name incorrectly, the Director may, without holding a hearing, substitute a corrected certificate that bears the date of the certificate it replaces. 2017, c. 20, Sched. 6, s. 5 (2).

Assignment of corporation numbers to bodies corporate

(4.1) The Director may assign a corporation number to a body corporate that has not already been assigned a corporation number if the Director is of the opinion that it is appropriate to do so. 2017, c. 20, Sched. 6, s. 5 (2).

Idem

(5) The file number that was assigned to each corporation by the Minister prior to the 29th day of July, 1983 shall be deemed to be that corporation's number. R.S.O. 1990, c. B.16, s. 8 (5).

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 5 (1) - 14/11/2017; 2017, c. 20, Sched. 6, s. 5 (2) - not in force

Name prohibition

9 (1) Subject to subsection (2), a corporation shall not have a name,

- (a) that contains a word or expression prohibited by the regulations;
- (b) that is the same as or, except where a number name is proposed, similar to,
 - (i) the name of a known,
 - (A) body corporate,
 - (B) trust,
 - (C) association,
 - (D) partnership,
 - (E) sole proprietorship, or
 - (F) individual,

whether in existence or not, or

- (ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship, or individual, carries on business or identifies himself, herself or itself,

if the use of that name would be likely to deceive; or

- (c) that does not meet the requirements prescribed by the regulations. R.S.O. 1990, c. B.16, s. 9 (1).

Exception to subs. (1)

(2) A corporation may have a name described in clause (1) (b) upon complying with conditions prescribed by the regulations. R.S.O. 1990, c. B.16, s. 9 (2).

Documents filed

(3) There shall be filed with the Director such documents relating to the name of the corporation as may be prescribed by the regulations. R.S.O. 1990, c. B.16, s. 9 (3).

Restrictions on corporate name

10 (1) The word “Limited”, “Limitée”, “Incorporated”, “Incorporée” or “Corporation” or the corresponding abbreviations “Ltd.”, “Ltée”, “Inc.” or “Corp.” shall be part, in addition to any use in a figurative or descriptive sense, of the name of every corporation, but a corporation may be legally designated by either the full or the abbreviated form. R.S.O. 1990, c. B.16, s. 10 (1).

Languages

(2) Subject to this Act and the regulations, a corporation may have a name that is,

- (a) English only;
- (b) French only;
- (c) one name that is a combination of English and French; or
- (d) one name in English and one name in French that are equivalent but are used separately. 2010, c. 16, Sched. 8, s. 1 (1).

Same

(2.1) A corporation that has a name described in clause (2) (d) may be legally designated by its English name or its French name. 2010, c. 16, Sched. 8, s. 1 (2).

Other restrictions

(3) For the purposes of subsections (1) and (2), only letters from the Roman alphabet or Arabic numerals or a combination thereof, together with such punctuation marks and other marks as are permitted by regulation, may form part of the name of a corporation. R.S.O. 1990, c. B.16, s. 10 (3).

Other languages

(4) Subject to the provisions of this Act and the regulations, a corporation may have in its articles a special provision permitting it to set out its name in any language and the corporation may be legally designated by that name. R.S.O. 1990, c. B.16, s. 10 (4).

Legibility

(5) Despite subsection (4), a corporation shall set out its name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the corporation and in all documents sent to the Director under this Act. R.S.O. 1990, c. B.16, s. 10 (5).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (3) - 01/03/1995

2010, c. 16, Sched. 8, s. 1 (1, 2) - 25/10/2010

Unauthorized use of “Limited”, etc.

11 (1) No person, while not incorporated, shall trade or carry on a business or undertaking under a name in which “Limited”, “Incorporated” or “Corporation” or any abbreviation thereof, or any version thereof in another language, is used. R.S.O. 1990, c. B.16, s. 11 (1).

Idem

(2) Where a corporation carries on business or identifies itself to the public by a name or style other than as provided in the articles, that name or style shall not include the word “Limited”, “Incorporated” or “Corporation” or any abbreviation thereof or any version thereof in another language. R.S.O. 1990, c. B.16, s. 11 (2).

Change of name if objectionable

12 (1) If a corporation, through inadvertence or otherwise, has acquired a name contrary to section 9 or 10, the Director may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly. R.S.O. 1990, c. B.16, s. 12 (1); 2004, c. 19, s. 3 (2).

Written hearing

(1.1) A hearing referred to in subsection (1) shall be in writing in accordance with the rules made by the Director under the *Statutory Powers Procedure Act*. 1998, c. 18, Sched. E, s. 20.

Failure to perform undertaking

(2) Where an undertaking to dissolve or change its name is given by a corporation and the undertaking is not carried out within the time specified, the Director may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of a certificate of amendment, the articles are amended accordingly. R.S.O. 1990, c. B.16, s. 12 (2).

Idem

(3) Where an undertaking to dissolve or change its name is given by a person who is not a corporation and the undertaking is not carried out within the time specified, the Director may, after giving the corporation that acquired the name by virtue of such undertaking an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate, the articles are amended accordingly. R.S.O. 1990, c. B.16, s. 12 (3).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. E, s. 20 - 01/03/1999;

2004, c. 19, s. 3 (2) - 01/06/2005

Corporate seal

13 A corporation may, but need not, have a corporate seal. R.S.O. 1990, c. B.16, s. 13.

Registered office

14 (1) A corporation shall at all times have a registered office in Ontario at the location specified in its articles, in a resolution made under subsection (3) or in a special resolution made under subsection (4). 1994, c. 27, s. 71 (4); 2000, c. 26, Sched. B, s. 3 (3).

Idem

(2) The head office of every corporation incorporated prior to the 29th day of July, 1983 shall be deemed to be the registered office of the corporation. R.S.O. 1990, c. B.16, s. 14 (2).

Change of location

(3) A corporation may by resolution of its directors change the location of its registered office within a municipality or geographic township. 1994, c. 27, s. 71 (5).

Change of municipality, etc.

(4) A corporation may by special resolution change the municipality or geographic township in which its registered office is located to another place in Ontario. 1994, c. 27, s. 71 (5).

(5) REPEALED: 2011, c. 1, Sched. 2, s. 1 (3).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (4, 5) - 01/03/1995

2000, c. 26, Sched. B, s. 3 (3) - 06/12/2000

2011, c. 1, Sched. 2, s. 1 (3) - 31/12/2015

Corporate powers

15 A corporation has the capacity and the rights, powers and privileges of a natural person. R.S.O. 1990, c. B.16, s. 15.

Capacity to act outside Ontario

16 A corporation has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Ontario to the extent that the laws of such jurisdiction permit. R.S.O. 1990, c. B.16, s. 16.

Corporate power

17 (1) It is not necessary for a by-law to be passed in order to confer any particular power on the corporation or its directors. R.S.O. 1990, c. B.16, s. 17 (1).

Power limited by articles, etc.

(2) A corporation shall not carry on any business or exercise any power that it is restricted by its articles from carrying on or exercising, nor shall the corporation exercise any of its powers in a manner contrary to its articles. R.S.O. 1990, c. B.16, s. 17 (2).

Acting outside powers

(3) Despite subsection (2) and subsection 3 (2), no act of a corporation including a transfer of property to or by the corporation is invalid by reason only that the act is contrary to its articles, by-laws, a unanimous shareholder agreement or this Act. R.S.O. 1990, c. B.16, s. 17 (3).

Where notice is not deemed

18 No person is affected by or is deemed to have notice or knowledge of the contents of a document concerning a corporation by reason only that the document has been filed with the Director or is available for inspection at an office of the corporation. R.S.O. 1990, c. B.16, s. 18.

Indoor management rule

19 A corporation or a guarantor of an obligation of a corporation may not assert against a person dealing with the corporation or with any person who has acquired rights from the corporation that,

- (a) the articles, by-laws or any unanimous shareholder agreement have not been complied with;
- (b) the persons named in the most recent notice filed under the *Corporations Information Act*, or named in the articles, whichever is more current, are not the directors of the corporation;
- (c) the location named in the most recent notice filed under the *Corporations Information Act* or named in the articles, whichever is more current, is not the registered office of the corporation;
- (d) a person held out by a corporation as a director, an officer or an agent of the corporation has not been duly appointed or does not have authority to exercise the powers and perform the duties that are customary in the business of the corporation or usual for such director, officer or agent;
- (e) a document issued by any director, officer or agent of a corporation with actual or usual authority to issue the document is not valid or not genuine; or
- (f) a sale, lease or exchange of property referred to in subsection 184 (3) was not authorized,

except where the person has or ought to have, by virtue of the person's position with or relationship to the corporation, knowledge to that effect. R.S.O. 1990, c. B.16, s. 19; 2006, c. 34, Sched. B, s. 3; 2011, c. 1, Sched. 2, s. 1 (4).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 3 - 01/08/2007

2011, c. 1, Sched. 2, s. 1 (4) - 31/12/2015

20 REPEALED: 2006, c. 34, Sched. B, s. 4.

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. B, s. 3 (4) - 06/12/2000

2006, c. 34, Sched. B, s. 4 - 01/08/2007

Contract prior to corporate existence

21 (1) Except as provided in this section, a person who enters into an oral or written contract in the name of or on behalf of a corporation before it comes into existence is personally bound by the contract and is entitled to the benefits thereof. R.S.O. 1990, c. B.16, s. 21 (1).

Adoption of contract by corporation

(2) A corporation may, within a reasonable time after it comes into existence, by any action or conduct signifying its intention to be bound thereby, adopt an oral or written contract made before it came into existence in its name or on its behalf, and upon such adoption,

- (a) the corporation is bound by the contract and is entitled to the benefits thereof as if the corporation had been in existence at the date of the contract and had been a party thereto; and
- (b) a person who purported to act in the name of or on behalf of the corporation ceases, except as provided in subsection (3), to be bound by or entitled to the benefits of the contract. R.S.O. 1990, c. B.16, s. 21 (2).

Assignment, etc., of contract before adoption

(2.1) Until a corporation adopts an oral or written contract made before it came into existence, the person who entered into the contract in the name of or on behalf of the corporation may assign, amend or terminate the contract subject to the terms of the contract. 2011, c. 1, Sched. 2, s. 1 (5).

Non-adoption of contract

(3) Except as provided in subsection (4), whether or not an oral or written contract made before the coming into existence of a corporation is adopted by the corporation, a party to the contract may apply to a court for an order fixing obligations under the contract as joint or joint and several or apportioning liability between the corporation and the person who purported to act in the name of or on behalf of the corporation, and, upon such application, the court may make any order it thinks fit. R.S.O. 1990, c. B.16, s. 21 (3).

Exception to subs. (1)

(4) If expressly so provided in the oral or written contract referred to in subsection (1), a person who purported to act in the name of or on behalf of the corporation before it came into existence is not in any event bound by the contract or entitled to the benefits thereof. R.S.O. 1990, c. B.16, s. 21 (4).

Section Amendments with date in force (d/m/y)

2011, c. 1, Sched. 2, s. 1 (5) - 31/12/2015

**PART III
CORPORATE FINANCE**

Shares

22 (1) Shares of a corporation shall be in registered form and shall be without nominal or par value. R.S.O. 1990, c. B.16, s. 22 (1).

Idem

(2) Shares with nominal or par value of a corporation incorporated before the 29th day of July, 1983 shall be deemed to be shares without nominal or par value. R.S.O. 1990, c. B.16, s. 22 (2).

Rights of shareholders

(3) Where a corporation has only one class of shares, the rights of the holders thereof are equal in all respects and include the rights,

- (a) to vote at all meetings of shareholders; and
- (b) to receive the remaining property of the corporation upon dissolution. R.S.O. 1990, c. B.16, s. 22 (3).

Idem

- (4) The articles may provide for more than one class of shares and where they so provide,
- (a) the rights, privileges, restrictions and conditions attaching to the shares of each class shall be set out therein; and
 - (b) each of the rights set out in subsection (3) shall be attached to at least one class of shares, but both such rights are not required to be attached to any one class. R.S.O. 1990, c. B.16, s. 22 (4).

Saving provision

(5) Despite subsection (4), the right of the holders of a class of shares to one vote for each share at all meetings of shareholders other than meetings of the holders of another class of shares, or to receive the remaining property of the corporation upon dissolution, need not be set out in the articles. R.S.O. 1990, c. B.16, s. 22 (5).

Shares within a class equal

(6) Except as provided in section 25, each share of a class shall be the same in all respects as every other share of that class. R.S.O. 1990, c. B.16, s. 22 (6).

Same rights, etc.

(7) The articles may provide that two or more classes of shares or two or more series within a class of shares may have the same rights, privileges, restrictions and conditions. 2006, c. 34, Sched. B, s. 5.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 5 - 01/08/2007

Issuance of shares

23 (1) Subject to the articles, the by-laws, any unanimous shareholder agreement and section 26, shares may be issued at such time and to such persons and for such consideration as the directors may determine. R.S.O. 1990, c. B.16, s. 23 (1).

Shares non-assessable

(2) Shares issued by a corporation are non-assessable and the holders are not liable to the corporation or to its creditors in respect thereof. R.S.O. 1990, c. B.16, s. 23 (2).

Fully-paid shares

(3) A share shall not be issued until the consideration for the share is fully paid in money or in property or past service that is not less in value than the fair equivalent of the money that the corporation would have received if the share had been issued for money. R.S.O. 1990, c. B.16, s. 23 (3).

Value determined by directors

- (4) The directors shall, in connection with the issue of any share not issued for money, determine,
- (a) the amount of money the corporation would have received if the share had been issued for money; and
 - (b) either,
 - (i) the fair value of the property or past service in consideration of which the share is issued, or
 - (ii) that such property or past service has a fair value that is not less than the amount of money referred to in clause (a). R.S.O. 1990, c. B.16, s. 23 (4).

Idem

(5) In determining the value of property or past service, the directors may take into account reasonable charges and expenses of organization and reorganization and payments for property and past service reasonably expected to benefit the corporation. R.S.O. 1990, c. B.16, s. 23 (5).

Interpretation of property

(6) For the purposes of subsection (3) and of subsection 24 (3), a document evidencing indebtedness of a person to whom shares are to be issued, or of any other person not dealing at arm's length with such person within the meaning of that term in the *Income Tax Act* (Canada), does not constitute property. R.S.O. 1990, c. B.16, s. 23 (6).

Separate capital account

24 (1) A corporation shall maintain a separate stated capital account for each class and series of shares it issues. R.S.O. 1990, c. B.16, s. 24 (1).

Idem

(2) A corporation shall add to the appropriate stated capital account in respect of any shares it issues the full amount of the consideration it receives as determined by the directors which, in the case of shares not issued for money, shall be the amount determined by the directors in accordance with clause 23 (4) (a) or, if a determination is made by the directors in accordance with subclause 23 (4) (b) (i), the amount so determined. R.S.O. 1990, c. B.16, s. 24 (2).

Exceptions

(3) Despite subsection (2) and subsection 23 (3), a corporation may, subject to subsection (4), add to the stated capital accounts maintained for the shares of classes or series the whole or any part of the consideration that it receives in exchange if the corporation issues shares,

- (a) in exchange for,
 - (i) property of a person who immediately before the exchange did not deal with the corporation at arm's length within the meaning of that term in the *Income Tax Act* (Canada),
 - (ii) shares of, or another interest in, a body corporate that immediately before the exchange, or that because of the exchange, did not deal with the corporation at arm's length within the meaning of that term in the *Income Tax Act* (Canada), or
 - (iii) property of a person who, immediately before the exchange, dealt with the corporation at arm's length within the meaning of that term in the *Income Tax Act* (Canada), if the person, the corporation and all holders of shares in the class or series of shares so issued consent to the exchange; or
- (b) under an agreement referred to in subsection 175 (1) or an arrangement referred to in clause (c) or (d) of the definition of "arrangement" in subsection 182 (1) or to shareholders of an amalgamating corporation who receive the shares in addition to or instead of securities of the amalgamated corporation. 2006, c. 34, Sched. B, s. 6.

Consent not required

(3.1) The consent referred to in subclause (3) (a) (iii) is not required if the issuance of the shares does not result in a decrease in the value of the stated capital account maintained for the class or series divided by the number of shares in the class or series. 2006, c. 34, Sched. B, s. 6.

Addition to stated capital account

(4) On the issue of a share, a corporation shall not add to a stated capital account in respect of the share an amount greater than the amount referred to in subsection (2). R.S.O. 1990, c. B.16, s. 24 (4).

Stated capital at time of coming into force or continuance

(5) Despite subsection (2), on the 29th day of July, 1983 or at such time thereafter as a corporation has been continued under this Act, as the case may be, the amount in the stated capital account maintained by a corporation in respect of each class or series of shares then issued shall be equal to the aggregate amount paid up on the shares of each such class or series of shares immediately prior thereto, and, after such time, a corporation may, upon complying with subsection (6), add to the stated capital account maintained by it in respect of any class or series of shares any amount it has credited to a retained earnings or other surplus account. R.S.O. 1990, c. B.16, s. 24 (5).

Additions to stated capital account

(6) Where a corporation proposes to add any amount to a stated capital account that it maintains in respect of a class or series of shares otherwise than under subsection 38 (2), the addition to the stated capital account must be approved by special resolution if,

- (a) the amount to be added,
 - (i) was not received by the corporation as consideration for the issue of shares, or

(ii) was received by the corporation as consideration for the issue of shares but does not form part of the stated capital attributable to such shares; and

(b) the corporation has outstanding shares of more than one class or series. R.S.O. 1990, c. B.16, s. 24 (6).

Idem

(7) Where a class or series of shares of a corporation would be affected by the addition of an amount to any stated capital account under subsection (6) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not such shares otherwise carry the right to vote. R.S.O. 1990, c. B.16, s. 24 (7).

Expressed in one or more currencies

(8) Stated capital accounts of a corporation may be expressed in one or more currencies. R.S.O. 1990, c. B.16, s. 24 (8).

Reduction in stated capital

(9) A corporation shall not reduce its stated capital or any stated capital account except in the manner provided in this Act. R.S.O. 1990, c. B.16, s. 24 (9).

Non-application of Act

(10) The provisions of this Act relating to stated capital do not apply to an open-end mutual fund. R.S.O. 1990, c. B.16, s. 24 (10).

Definition

(11) For the purposes of this section,

“open-end mutual fund” means an offering corporation that carries on only the business of investing the consideration it receives for the shares it issues, and all or substantially all the shares of which are redeemable upon the demand of the holders of such shares. R.S.O. 1990, c. B.16, s. 24 (11).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 6 - 01/08/2007

Special shares in series

25 (1) The articles, subject to the limitations set out in them,

- (a) may authorize the issue of any class of shares in one or more series and may fix the number of shares in, and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of, each series; and
- (b) may, where the articles authorize the issue of any class of shares in one or more series, authorize the directors to fix the number of shares in, and to determine the designation, rights, privileges, restrictions and conditions attaching to the shares of each series. R.S.O. 1990, c. B.16, s. 25 (1).

Proportionate abatement

(2) If any amount,

- (a) of cumulative dividends, whether or not declared, or declared non-cumulative dividends; or
- (b) payable on return of capital in the event of the liquidation, dissolution or winding up of a corporation,

in respect of shares of a series is not paid in full, the shares of the series shall participate rateably with the shares of all other series of the same class in respect of,

- (c) all accumulated cumulative dividends, whether or not declared, and all declared non-cumulative dividends; or
- (d) all amounts payable on return of capital in the event of the liquidation, dissolution or winding up of the corporation,

as the case may be. R.S.O. 1990, c. B.16, s. 25 (2).

No priority of shares of same class

(3) No rights, privileges, restrictions or conditions attached to a series of shares authorized under this section shall confer upon the shares of a series a priority in respect of,

- (a) dividends; or
- (b) return of capital in the event of the liquidation, dissolution or winding up of the corporation,

over the shares of any other series of the same class. R.S.O. 1990, c. B.16, s. 25 (3).

Articles designating special shares

(4) Where, in respect of a series of shares, the directors exercise the authority conferred on them, before the issue of shares of such series, the directors shall send to the Director articles of amendment in the prescribed form designating such series. R.S.O. 1990, c. B.16, s. 25 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 25 (4) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 6)

Articles designating special shares

(4) If, in respect of a series of shares, the directors exercise the authority conferred on them, before the issue of shares of the series, the directors shall send to the Director articles of amendment designating the series and any other required documents and information. 2017, c. 20, Sched. 6, s. 6.

Certificate re special shares

(5) On receipt of articles of amendment designating a series of shares under subsection (4), the Director shall endorse thereon, in accordance with section 273, a certificate which shall constitute the certificate of amendment. R.S.O. 1990, c. B.16, s. 25 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 25 (4) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 6)

Certificate re special shares

(5) On receipt of articles of amendment designating a series of shares under subsection (4) and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of amendment. 2017, c. 20, Sched. 6, s. 6.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 6 - not in force

Pre-emptive rights

26 If it is so provided in the articles or a unanimous shareholder agreement, no shares of a class or series shall be issued unless the shares have first been offered to the shareholders of the corporation holding shares of that class or series or of another class or series on such terms as are provided in the articles or unanimous shareholder agreement. R.S.O. 1990, c. B.16, s. 26.

Conversion privileges, etc.

27 (1) A corporation may issue warrants as evidence of conversion privileges or options or rights to acquire securities of the corporation, and shall set out the conditions thereof,

- (a) in certificates evidencing the securities to which the conversion privileges, options or rights are attached; or
- (b) in separate certificates or other documents. R.S.O. 1990, c. B.16, s. 27 (1).

Idem

(2) Conversion privileges and options or rights to purchase securities of a corporation may be made transferable or non-transferable, and options or rights to purchase may be made separable or inseparable from any securities to which they are attached. R.S.O. 1990, c. B.16, s. 27 (2).

Corporation to maintain sufficient reserve

(3) Where a corporation has granted privileges to convert any securities, other than shares issued by the corporation, into shares of the corporation or has issued or granted options or rights to acquire shares of the corporation and where the articles limit the number of authorized shares, the corporation shall reserve and continue to reserve sufficient authorized shares to meet the exercise of such conversion privileges, options and rights. R.S.O. 1990, c. B.16, s. 27 (3).

Subsidiaries not to hold shares of holding bodies corporate

28 (1) Except as provided in subsection (2) and sections 29 to 32, a corporation,

- (a) shall not hold shares in itself or in its holding body corporate; and
- (b) shall not permit any of its subsidiary bodies corporate to hold shares of the corporation. R.S.O. 1990, c. B.16, s. 28 (1).

Disposal of shares

(2) A corporation shall cause a subsidiary body corporate of the corporation that holds shares of the corporation to sell or otherwise dispose of those shares within five years from the date the body corporate became a subsidiary of the corporation. R.S.O. 1990, c. B.16, s. 28 (2).

Exception to s. 28

29 (1) A corporation may in the capacity of a legal representative hold shares in itself or in its holding body corporate unless it or the holding body corporate or a subsidiary of either of them has a beneficial interest in the shares. R.S.O. 1990, c. B.16, s. 29 (1).

Idem

(2) A corporation may permit a subsidiary body corporate to hold shares of the corporation in the capacity of a legal representative unless the corporation or the subsidiary body corporate or a subsidiary of either of them has a beneficial interest in the shares. R.S.O. 1990, c. B.16, s. 29 (2).

Idem

(3) A corporation may hold shares in itself or in its holding body corporate by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money. R.S.O. 1990, c. B.16, s. 29 (3).

Exception relating to Canadian ownership

(4) A corporation may, for the purpose of assisting the corporation or any of its affiliates or associates to qualify under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control, hold shares in itself that,

- (a) are not restricted for the purpose of assisting the corporation or any of its affiliates or associates to so qualify; or
- (b) are shares into which shares held under clause (a) were converted by the corporation that are restricted for the purpose of assisting the corporation to so qualify and that were not previously held by the corporation. R.S.O. 1990, c. B.16, s. 29 (4).

Prohibited transfers

(5) A corporation shall not transfer shares held under subsection (4) to any person unless the corporation is satisfied, on reasonable grounds, that the ownership of the shares as a result of the transfer would assist the corporation or any of its affiliates or associates to achieve the purpose set out in subsection (4). R.S.O. 1990, c. B.16, s. 29 (5).

Where shares are transferred

(6) Where shares held under subsection (4) are transferred by a corporation, subsections 23 (1), (3), (4), (5) and (6), clause 127 (3) (c) and subsection 130 (1) apply, with such modifications as the circumstances require, in respect of the transfer as if the transfer were an issue. R.S.O. 1990, c. B.16, s. 29 (6).

Transfer not void

(7) No transfer of shares by a corporation shall be void or voidable solely because the transfer is in contravention of subsection (5). R.S.O. 1990, c. B.16, s. 29 (7).

Corporation holding shares in itself

(8) A corporation holding shares in itself or in its holding body corporate or a subsidiary body corporate of a corporation holding shares of the corporation shall not vote or permit those shares to be voted unless the corporation or subsidiary body corporate, as the case may be,

- (a) holds the shares in the capacity of a legal representative; and
- (b) has complied with section 49 of the *Securities Act* where that section is applicable. R.S.O. 1990, c. B.16, s. 29 (8).

Exception, conditions precedent

(9) A corporation may permit any of its subsidiary bodies corporate to acquire shares of the corporation through the issuance of those shares by the corporation to the subsidiary body corporate if, before the acquisition takes place, the conditions prescribed for the purposes of this subsection are met. 2006, c. 34, Sched. B, s. 7.

Conditions subsequent

(10) After the acquisition has taken place under the purported authority of subsection (9), the conditions prescribed for the purposes of this subsection shall be met. 2006, c. 34, Sched. B, s. 7.

Non-compliance with conditions

(11) If a corporation permits a subsidiary body corporate to acquire shares of the corporation under the purported authority of subsection (9) and either,

- (a) one or more of the conditions prescribed for the purposes of subsection (9) were not met; or
- (b) one or more of the conditions prescribed for the purposes of subsection (10) were not met or have ceased to be met,

then, despite subsections 17 (3) and 24 (2), the prescribed consequences apply in respect of the acquisition of the shares and their issuance. 2006, c. 34, Sched. B, s. 7.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 7 - 01/08/2007

Purchase of issued shares permitted

30 (1) Subject to subsection (2) and to its articles, a corporation may purchase or otherwise acquire any of its issued shares or warrants. R.S.O. 1990, c. B.16, s. 30 (1).

Where prohibited

(2) A corporation shall not make any payment to purchase or otherwise acquire shares issued by it if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or
- (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
 - (i) its liabilities, and
 - (ii) its stated capital of all classes. R.S.O. 1990, c. B.16, s. 30 (2).

Where s. 30 (2) does not apply

31 (1) Despite subsection 30 (2) but subject to subsection (3) of this section and to its articles, a corporation may purchase or otherwise acquire shares issued by it to,

- (a) settle or compromise a debt or claim asserted by or against the corporation;
- (b) eliminate fractional shares; or
- (c) fulfil the terms of a non-assignable agreement under which the corporation has an option or is obliged to purchase shares owned by a current or former director, officer or employee of the corporation. R.S.O. 1990, c. B.16, s. 31 (1).

Idem

(2) Despite subsection 30 (2), a corporation may purchase or otherwise acquire shares issued by it to,

- (a) satisfy the claim of a shareholder who dissents under section 185; or
- (b) comply with an order under section 248. R.S.O. 1990, c. B.16, s. 31 (2).

Restriction on payment

(3) A corporation shall not make any payment to purchase or acquire under subsection (1) shares issued by it if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or
- (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
 - (i) its liabilities, and
 - (ii) the amount required for the payment on a redemption or in a liquidation of all shares where the holders have the right to be paid before the holders of the shares to be purchased or acquired, to the extent that the amount has not been included in its liabilities. R.S.O. 1990, c. B.16, s. 31 (3); 2006, c. 34, Sched. B, s. 8.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 8 - 01/08/2007

Redemption of shares

32 (1) Despite subsection 30 (2) and subsection 31 (3), but subject to subsection (2) and to its articles, a corporation may purchase or redeem any redeemable shares issued by it at prices not exceeding the redemption price thereof stated in the articles or calculated according to a formula stated in the articles. R.S.O. 1990, c. B.16, s. 32 (1).

Restriction on redemption

(2) A corporation shall not make any payment to purchase or redeem any redeemable shares issued by it if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or
- (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
 - (i) its liabilities, and
 - (ii) the amount that would be required to pay the holders of shares that have a right to be paid, on a redemption or in a liquidation, rateably with or before the holders of the shares to be purchased or redeemed, to the extent that the amount has not been included in its liabilities. R.S.O. 1990, c. B.16, s. 32 (2); 2006, c. 34, Sched. B, s. 9.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 9 - 01/08/2007

Donation of share

33 A corporation may accept from any shareholder a share of the corporation surrendered to it as a gift, but may not extinguish or reduce a liability in respect of an amount unpaid on any such share except in accordance with section 34. R.S.O. 1990, c. B.16, s. 33.

Reduction of liability re unpaid share: stated capital

34 (1) Subject to subsection (4), a corporation may by special resolution,

- (a) extinguish or reduce a liability in respect of an amount unpaid on any share; or
- (b) reduce its stated capital for any purpose including, without limiting the generality of the foregoing, for the purpose of,
 - (i) distributing to the holders of issued shares of any class or series of shares an amount not exceeding the stated capital of the class or series, or
 - (ii) declaring its stated capital to be reduced by,
 - (A) an amount that is not represented by realizable assets, or
 - (B) an amount otherwise determined in respect of which no amount is to be distributed to holders of issued shares of the corporation. R.S.O. 1990, c. B.16, s. 34 (1).

Right to vote where reduction under subs. (1)

(2) Where a class or series of shares of a corporation would be affected by a reduction of stated capital under clause (1) (b) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not the shares otherwise carry the right to vote. R.S.O. 1990, c. B.16, s. 34 (2).

Account to be reduced specified

(3) A special resolution under this section shall specify the stated capital account or accounts from which the reduction of stated capital effected by the special resolution will be made. R.S.O. 1990, c. B.16, s. 34 (3).

Restriction on reduction

(4) A corporation shall not take any action to extinguish or reduce a liability in respect of an amount unpaid on a share or to reduce its stated capital for any purpose other than the purpose mentioned in sub-subclause (1) (b) (ii) (A) if there are reasonable grounds for believing that,

- (a) the corporation is or, after the taking of such action, would be unable to pay its liabilities as they become due; or
- (b) after the taking of such action, the realizable value of the corporation's assets would be less than the aggregate of its liabilities. R.S.O. 1990, c. B.16, s. 34 (4).

Application for order where improper reduction

- (5) A creditor of a corporation is entitled to apply to the court for an order compelling a shareholder or other recipient,
- (a) to pay to the corporation an amount equal to any liability of the shareholder that was extinguished or reduced contrary to this section; or
 - (b) to pay or deliver to the corporation any money or property that was paid or distributed to the shareholder or other recipient as a consequence of a reduction of capital made contrary to this section. R.S.O. 1990, c. B.16, s. 34 (5).
- (6) REPEALED: 2002, c. 24, Sched. B, s. 25.

Class action

(7) Where it appears that there are numerous shareholders who may be liable under this section, the court may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes a claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim, which amount may not, in the case of any particular shareholder, exceed the amount referred to in subsection (5), and the referee may direct payment of the sums so determined. R.S.O. 1990, c. B.16, s. 34 (7).

Shareholder holding shares in fiduciary capacity

(8) No person holding shares in the capacity of a personal representative and registered on the records of the corporation as a shareholder and therein described as the personal representative of a named person is personally liable under this section, but the person named is subject to all liabilities imposed by this section. R.S.O. 1990, c. B.16, s. 34 (8).

s. 130 does not apply

(9) This section does not affect any liability that arises under section 130. R.S.O. 1990, c. B.16, s. 34 (9).

Section Amendments with date in force (d/m/y)

2002, c. 24, Sched. B, s. 25 - 01/01/2004

Amount deducted from account upon purchase, etc., of shares

35 (1) Upon a purchase, redemption or other acquisition by a corporation under section 30, 31, 32, 40 or 185 or clause 248 (3) (f) of shares or fractions thereof issued by it, the corporation shall deduct from the stated capital account maintained for the class or series of shares of which the shares purchased, redeemed or otherwise acquired form a part, an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series or fractions thereof purchased, redeemed or otherwise acquired, divided by the number of issued shares of that class or series immediately before the purchase, redemption or other acquisition. R.S.O. 1990, c. B.16, s. 35 (1).

Idem

(2) A corporation shall deduct the amount of a payment made by the corporation to a shareholder under clause 248 (3) (g) from the stated capital account maintained for the class or series of shares in respect of which the payment was made. R.S.O. 1990, c. B.16, s. 35 (2).

Adjustment in stated capital account

(3) A corporation shall adjust its stated capital account or accounts in accordance with any special resolution referred to in subsection 34 (3). R.S.O. 1990, c. B.16, s. 35 (3).

Idem

(4) Upon a change under section 168, 186 or 248 of issued shares of a corporation, or upon a conversion of such shares pursuant to their terms, into shares of another class or series, the corporation shall,

- (a) deduct from the stated capital account maintained for the class or series of shares changed or converted an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series changed or converted, and dividing by the number of issued shares of that class or series immediately before the change or conversion; and
- (b) add the result obtained under clause (a) and any additional consideration received pursuant to the change or conversion to the stated capital account maintained or to be maintained for the class or series of shares into which the shares have been changed or converted. R.S.O. 1990, c. B.16, s. 35 (4).

Idem

(5) For the purpose of subsection (4) and subject to its articles, where a corporation issues two classes or series of shares and there is attached to each class or series a right to convert a share of the one class or series into a share of the other class or series, the amount of stated capital attributable to a share in either class or series is the amount obtained when the sum of the stated capital of both classes or series of shares is divided by the number of issued shares of both classes or series of shares immediately before the conversion. R.S.O. 1990, c. B.16, s. 35 (5).

Status of shares purchased, etc.

(6) Shares of any class or series or fractional shares issued by a corporation and purchased, redeemed or otherwise acquired by it shall be cancelled or, if the articles limit the number of authorized shares of the class or series, may be restored to the status of authorized but unissued shares of the class. R.S.O. 1990, c. B.16, s. 35 (6).

Interpretation

(7) For the purposes of this section,

- (a) a corporation holding shares in itself as permitted by subsections 29 (1) and (2) shall be deemed not to have purchased, redeemed or otherwise acquired the shares; and
- (b) a corporation holding shares in itself under clause 29 (4) (a) shall be deemed not to have purchased, redeemed or otherwise acquired the shares at the time they were acquired, but,
 - (i) any of those shares that are held by the corporation at the expiration of two years, and
 - (ii) any shares into which any of those shares were converted by the corporation and held under clause 29 (4) (b) that are held by the corporation at the expiration of two years after the shares from which they were converted were acquired,

shall be deemed to have been acquired at the expiration of the two years. R.S.O. 1990, c. B.16, s. 35 (7).

Conversion of shares

(8) Where shares of a class or series are changed under section 168, 186 or 248, or converted pursuant to their terms, into the same or another number of shares of another class or series, such shares become the same in all respects as the shares of the class or series respectively into which they are changed or converted and, if the articles limit the number of shares of either of such classes or series, the number of authorized shares of such class or series is changed and the articles are amended accordingly. R.S.O. 1990, c. B.16, s. 35 (8).

Contract with corporation re purchase of its shares

36 (1) A contract with a corporation providing for the purchase of shares of the corporation by the corporation is specifically enforceable against the corporation except to the extent that the corporation cannot perform the contract without thereby being in breach of section 30, 31 or 32. R.S.O. 1990, c. B.16, s. 36 (1); 2006, c. 34, Sched. B, s. 10 (1).

Idem

(2) In any action brought on a contract referred to in subsection (1), the corporation has the burden of proving that performance thereof is prevented by section 30, 31 or 32. R.S.O. 1990, c. B.16, s. 36 (2); 2006, c. 34, Sched. B, s. 10 (2).

Enforcement of contract

(3) Until the corporation has fulfilled all of its obligations under a contract referred to in subsection (1), the other party to the contract retains the status of a claimant entitled to be paid as soon as the corporation is lawfully able to do so or, in a liquidation, to be ranked subordinate to the rights of creditors and to the rights of holders of any class of shares whose rights were in priority to the rights given to the holders of the class of shares being purchased, but in priority to the rights of other shareholders. 2006, c. 34, Sched. B, s. 10 (3).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 10 (1-3) - 01/08/2007

Commission on sale of shares

37 The directors may authorize the corporation to pay a reasonable commission to any person in consideration of the person's purchasing or agreeing to purchase shares of the corporation from the corporation or from any other person, or procuring or agreeing to procure purchasers for any such shares. R.S.O. 1990, c. B.16, s. 37.

Declaration of dividends

38 (1) Subject to its articles and any unanimous shareholder agreement, the directors may declare and a corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a corporation may pay a dividend in money or property. R.S.O. 1990, c. B.16, s. 38 (1).

Stock dividend

(2) If shares of a corporation are issued in payment of a dividend, the corporation may add all or part of the value of those shares to the stated capital account of the corporation maintained or to be maintained for the shares of the class or series issued in payment of the dividend. 2006, c. 34, Sched. B, s. 11.

When dividend not to be declared

(3) The directors shall not declare and the corporation shall not pay a dividend if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or
- (b) the realizable value of the corporation's assets would thereby be less than the aggregate of,
 - (i) its liabilities, and
 - (ii) its stated capital of all classes. R.S.O. 1990, c. B.16, s. 38 (3).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 11 - 01/08/2007

Corporations with wasting assets

39 (1) Despite anything in this Act, a corporation,

- (a) that for the time being carries on as its principal business the business of operating a producing mining, gas or oil property owned and controlled by it;
- (b) that has at least 75 per cent of its assets being of a wasting character; or
- (c) that is incorporated for the purpose of acquiring the assets or a substantial part of the assets of a body corporate and administering such assets for the purpose of converting them into cash and distributing the cash among the shareholders of the corporation,

may declare and pay dividends out of the funds derived from the operations of the corporation. R.S.O. 1990, c. B.16, s. 39 (1).

Extent of impairment of capital

(2) The powers conferred by subsection (1) may be exercised even though the value of the net assets of the corporation may be thereby reduced to less than its stated capital of all classes if the payment of the dividends does not reduce the value of its remaining assets to an amount insufficient to meet all the liabilities of the corporation, exclusive of its stated capital of all classes. R.S.O. 1990, c. B.16, s. 39 (2).

Special resolution

(3) The powers conferred by subsection (1) may be exercised only under the authority of a special resolution. R.S.O. 1990, c. B.16, s. 39 (3).

Lien on share

40 (1) The articles or by-laws of a corporation or, in the case of a corporation other than an offering corporation, a unanimous shareholder agreement, may provide that the corporation has a lien on a share registered in the name of a shareholder or the shareholder's legal representative for a debt of that shareholder to the corporation, including an amount unpaid in respect of a share issued by a body corporate on the date it was continued under this Act. 2006, c. 8, s. 107.

Exception

(2) Subsection (1) does not apply to any class or series of shares listed and posted for trading on a stock exchange in or outside Canada. 2006, c. 8, s. 107.

Enforcement of lien

(3) A corporation may enforce a lien referred to in subsection (1) in accordance with its articles, by-laws or unanimous shareholder agreement. 2006, c. 8, s. 107.

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 107 - 01/01/2007

Shares personal property

41 The shares of a corporation are personal property. R.S.O. 1990, c. B.16, s. 41.

Restrictions on transfer, etc.

42 (1) An offering corporation shall not impose restrictions on the transfer or ownership of shares of any class or series except such restrictions as are authorized by its articles. R.S.O. 1990, c. B.16, s. 42 (1); 1994, c. 27, s. 71 (6); 2006, c. 8, s. 108 (1).

No public offer if transfer, etc., restricted — exceptions

(2) A corporation that has imposed restrictions on the transfer or ownership of a class or series of its shares shall not offer any of its shares of that class or series, or any shares convertible into shares of that class or series, to the public unless the restrictions are necessary,

- (a) by or under any Act of Canada or Ontario as a condition to the obtaining, holding or renewal of authority to engage in any activity necessary to its undertaking;
- (b) for the purpose of achieving or preserving its status as a Canadian body corporate for the purpose of any Act of Canada or Ontario;
- (c) to limit to a specified level the ownership of its shares by any prescribed class of person for the purpose of assisting the corporation or any of its affiliates or associates to qualify under the *Securities Act* or similar legislation of a province or territory to obtain, hold or renew registration, or to qualify for membership in a stock exchange in Ontario recognized as such by the Commission; or
- (d) to attain or to maintain a specified level of Canadian ownership or control for the purpose of assisting the corporation or any of its affiliates or associates to qualify to receive licences, permits, grants, payments or other benefits under any prescribed Act of Canada or a province or ordinance of a territory. R.S.O. 1990, c. B.16, s. 42 (2); 1994, c. 27, s. 71 (6); 2006, c. 8, s. 108 (2).

Application of subs. (2) (c, d)

(3) Nothing in clause (2) (c) or (d) authorizes a corporation to impose restrictions on the transfer or ownership of shares of any class or series of which any shares are outstanding unless,

- (a) in the case of restrictions in respect of a class, the shares of the class; or
- (b) in the case of restrictions in respect of a series, the shares of the series,

are already subject to restrictions for the purpose described in clause (2) (c) or (d). R.S.O. 1990, c. B.16, s. 42 (3); 1994, c. 27, s. 71 (6).

Idem

(4) A corporation may,

- (a) limit the number of its shares that may be owned; or
- (b) prohibit the ownership of its shares,

by any person whose ownership would adversely affect the ability of the corporation or any of its affiliates or associates to attain or maintain a level of Canadian ownership or control specified in its articles that equals or exceeds a specified level referred to in clause (2) (d). R.S.O. 1990, c. B.16, s. 42 (4).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (6) - 01/03/1995;

2006, c. 8, s. 108 (1, 2) - 01/01/2007

Bearer debt obligations

43 Nothing in this Act prohibits the issue of debt obligations in bearer form. R.S.O. 1990, c. B.16, s. 43.

Irredeemable debt obligation

44 (1) A condition contained in a debt obligation or in an instrument for securing a debt obligation is not invalid by reason only that the debt obligation is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. R.S.O. 1990, c. B.16, s. 44 (1).

Debt obligations

(2) Debt obligations issued, pledged, hypothecated or deposited by a corporation are not redeemed by reason only that the indebtedness evidenced by the debt obligations or in respect of which the debt obligations are issued, pledged, hypothecated or deposited is repaid. R.S.O. 1990, c. B.16, s. 44 (2).

Idem

(3) Debt obligations issued by a corporation and purchased, redeemed or otherwise acquired by it may be cancelled or, subject to any applicable trust indenture or other agreement, may be reissued, pledged or hypothecated to secure any obligation of the corporation then existing or thereafter incurred, and any such acquisition and reissue, pledge or hypothecation is not a cancellation of the debt obligations. R.S.O. 1990, c. B.16, s. 44 (3).

PART IV SALE OF RESTRICTED SHARES

Sale of restricted shares by corporation

45 (1) A corporation that has restrictions on the issue, transfer or ownership of its shares of any class or series may, for any of the purposes set out in clauses (a) to (c), sell, under the conditions and after giving the notice that may be prescribed, as if it were the owner of the shares, any of those restricted shares that are owned, or that the directors determine in the manner that may be prescribed may be owned, contrary to the restrictions in order to,

- (a) assist the corporation or any of its affiliates or associates to qualify under the *Securities Act* or similar legislation of a province or territory to obtain, hold or renew a registration, or to qualify for membership in a stock exchange in Ontario recognized as such by the Commission, by reason of limiting to a specified level the ownership of its shares by any prescribed class of persons;
- (b) assist the corporation or any of its affiliates or associates to qualify under any prescribed law of Canada or of a province or territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control; or
- (c) assist the corporation to comply with a prescribed law. 2006, c. 34, Sched. B, s. 12.

Obligations of directors in sale

(2) Where shares are to be sold by a corporation under subsection (1), the directors of the corporation shall select the shares for sale in good faith and in a manner that is not unfairly prejudicial to, and does not unfairly disregard the interests of, the holders of the shares in the restricted class or series taken as a whole. R.S.O. 1990, c. B.16, s. 45 (2).

Effect of sale

(3) Where shares are sold by a corporation under subsection (1), the owner of the shares immediately prior to the sale shall, by that sale, be divested of the owner's interest in the shares, and the person who, but for the sale, would be the registered holder of the shares or a person who satisfies the corporation that, but for the sale, such person could properly be treated as the registered holder of the shares under section 67 shall, from the time of the sale, be entitled to receive only the net proceeds of the sale, together with any income earned thereon from the beginning of the month next following the date of the receipt by the corporation of the proceeds of the sale, less any taxes thereon and any costs of administration of a trust fund constituted under subsection (5) in relation thereto. R.S.O. 1990, c. B.16, s. 45 (3).

s. 67 (4-6) apply

(4) Subsections 67 (4), (5) and (6) apply in respect of the person who is entitled under subsection (3) to receive the proceeds of a sale of shares under subsection (1) as if the proceeds were a security and the person were a registered holder of the security. R.S.O. 1990, c. B.16, s. 45 (4).

Proceeds of sale to be trust fund

(5) The proceeds of a sale by a corporation under subsection (1) constitute a trust fund in the hands of the corporation for the benefit of the person entitled under subsection (3) to receive the proceeds of the sale, and any such trust fund may be commingled by the corporation with other such trust funds and shall be invested in such manner as may be prescribed. R.S.O. 1990, c. B.16, s. 45 (5).

Cost of administration

(6) Reasonable costs of administration of a trust fund referred to in subsection (5) may be deducted from the trust fund and any income earned thereon. R.S.O. 1990, c. B.16, s. 45 (6).

Appointment of trust corporation

(7) Subject to this section, a corporation may transfer any trust fund referred to in subsection (5) and the administration thereof, to a trust corporation in Canada registered as such under the laws of Canada, a province or a territory, and the corporation is thereupon discharged of all further liability in respect of the trust fund. R.S.O. 1990, c. B.16, s. 45 (7).

Discharge of corporation and trust corporation

(8) A receipt signed by a person entitled under subsection (3) to receive the proceeds of a sale that constitute a trust fund under subsection (5) shall be a complete discharge of the corporation and of any trust corporation to which a trust fund is transferred under subsection (7), in respect of the trust fund and income earned thereon paid to the person. R.S.O. 1990, c. B.16, s. 45 (8).

Forfeiture to Crown

(9) A trust fund described in subsection (5) together with any income earned thereon, less any taxes thereon and costs of administration, that has not been claimed, by a person entitled under subsection (3) to receive the proceeds of a sale that constitute the trust fund for a period of ten years after the date of the sale is forfeited to the Crown. R.S.O. 1990, c. B.16, s. 45 (9).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 12 - 01/08/2007

PART V INDENTURE TRUSTEES

Trust indentures

46 (1) In this Part,

“event of default” means an event specified in a trust indenture on the occurrence of which,

- (a) a security interest constituted by the trust indenture becomes enforceable, or
- (b) the principal, interest and other money payable thereunder become or may be declared to be payable before the date of maturity,

but the event is not an event of default until all conditions prescribed by the trust indenture in connection with such event for the giving of notice or the lapse of time or otherwise have been satisfied; (“cas de défaut”)

“trust indenture” means any deed, indenture or other instrument, including any supplement or amendment thereto, made by a body corporate under which the body corporate issues or guarantees debt obligations and in which a person is appointed as trustee for the holders of the debt obligations issued or guaranteed thereunder; (“acte de fiducie”)

“trustee” means any person appointed as trustee under the terms of a trust indenture to which a body corporate is a party and includes any successor trustee, whether or not the person is a trust corporation authorized to carry on business in Ontario. (“fiduciaire”) R.S.O. 1990, c. B.16, s. 46 (1).

Application of this Part

(2) This Part applies to a trust indenture, whether entered into before or after the 29th day of July, 1983, if, in respect of any debt obligations outstanding or guaranteed thereunder or to be issued or guaranteed thereunder, a prospectus or securities exchange issuer or take-over bid circular has been filed under the *Securities Act* or any predecessor thereof or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof. R.S.O. 1990, c. B.16, s. 46 (2).

Resident trustee

(3) The person appointed as trustee under a trust indenture, or at least one of such persons if more than one is so appointed, shall be resident or authorized to do business in Ontario. R.S.O. 1990, c. B.16, s. 46 (3).

Exemption by Commission

(4) Where, upon the application of a body corporate incorporated otherwise than under the laws of Canada, a province or a territory, the Commission is satisfied that to do so would not be prejudicial to the public interest, the Commission may

exempt, subject to such terms and conditions as the Commission may impose, a trust indenture from this Part. R.S.O. 1990, c. B.16, s. 46 (4).

Duty of trustee

47 (1) A trustee in exercising the trustee's powers and discharging the trustee's duties shall,

- (a) act honestly and in good faith with a view to the best interests of the holders of the debt obligations issued under the trust indenture; and
- (b) exercise the care, diligence and skill of a reasonably prudent trustee. R.S.O. 1990, c. B.16, s. 47 (1).

Exculpatory clauses

(2) No term of a trust indenture or of any agreement between a trustee and the holders of debt obligations issued thereunder or between the trustee and the issuer or guarantor shall operate so as to relieve a trustee from the duties imposed upon the trustee in subsection (1). R.S.O. 1990, c. B.16, s. 47 (2).

Conflict of interest

48 (1) No person shall be appointed as trustee if there is a material conflict of interest between the person's role as trustee and the person's role in any other capacity. R.S.O. 1990, c. B.16, s. 48 (1).

Idem

(2) A trustee shall, within ninety days after becoming aware that a material conflict of interest exists,

- (a) eliminate such conflict of interest; or
- (b) resign from office. R.S.O. 1990, c. B.16, s. 48 (2).

Validity not affected

(3) If, despite this section, a trustee has a material conflict of interest, the validity and enforceability of the trust indenture under which the trustee has been appointed, of the security interest constituted by or under such trust indenture and of the securities issued under such trust indenture are not affected in any manner whatsoever by reason only of the existence of such material conflict of interest. R.S.O. 1990, c. B.16, s. 48 (3).

Replacing trustee

(4) If a trustee contravenes subsection (1) or (2), any interested person may apply to the court for an order that the trustee be replaced, and the court may make an order on such terms as it thinks fit. R.S.O. 1990, c. B.16, s. 48 (4).

Evidence of compliance

49 (1) An issuer or a guarantor of debt obligations issued or to be issued under a trust indenture, before doing any act referred to in clause (a), (b), (c) or (d), shall furnish the trustee with evidence of compliance with the conditions in the trust indenture relating to,

- (a) the issue, certification and delivery of debt obligations under the trust indenture;
- (b) the release or release and substitution of property subject to a security interest constituted by the trust indenture;
- (c) the satisfaction and discharge of the trust indenture; or
- (d) the taking of any other action to be taken by the trustee at the request of or on the application of the issuer or guarantor. R.S.O. 1990, c. B.16, s. 49 (1).

Idem

(2) Evidence of compliance as required by subsection (1) shall consist in each case of,

- (a) a statutory declaration or certificate made by a director or an officer of the issuer or guarantor stating that the conditions referred to in that section have been complied with in accordance with the terms of the trust indenture; and
- (b) where the trust indenture requires compliance with conditions that are subject to review,
 - (i) by legal counsel, an opinion, and
 - (ii) by an auditor or accountant, an opinion or report of the auditor of the issuer or guarantor, or any accountant licensed under the *Public Accounting Act, 2004* or comparable legislation of the jurisdiction in which the accountant practises, based on the examinations or enquiries required to be made under the trust indenture,

in each case approved by the trustee, that the conditions have been complied with in accordance with the terms of the trust indenture. R.S.O. 1990, c. B.16, s. 49 (2); 2004, c. 8, s. 46.

Idem

- (3) The evidence of compliance referred to in subsection (2) shall include a statement by the person giving the evidence,
- (a) declaring that the person has read and understands the conditions of the trust indenture described in subsection (1);
 - (b) describing the nature and scope of the examination or investigation upon which the person based the statutory declaration, certificate, opinion or report; and
 - (c) declaring that the person has made such examination or investigation as the person believes necessary to enable the person to make the statements or give the opinions contained or expressed therein. R.S.O. 1990, c. B.16, s. 49 (3).

Certificate of issuer or guarantor

(4) At least once in each twelve-month period beginning on the date debt obligations are first issued under the trust indenture and at any other reasonable time upon the demand of a trustee, the issuer or guarantor of debt obligations issued under a trust indenture shall furnish the trustee with a certificate that the issuer or guarantor has complied with all requirements contained in the trust indenture that, if not complied with, would, with the giving of notice, lapse of time or otherwise, constitute an event of default, or, if there has been failure to so comply, giving particulars thereof. R.S.O. 1990, c. B.16, s. 49 (4).

Evidence of compliance

(5) Upon the demand of a trustee, the issuer or guarantor of debt obligations issued under a trust indenture shall furnish the trustee with evidence in such form as the trustee may require as to compliance with any condition therein relating to any action required or permitted to be taken by the issuer or guarantor under the trust indenture or as a result of any obligation imposed by the trust indenture. R.S.O. 1990, c. B.16, s. 49 (5).

Reliance on opinions

(6) A trustee is not in contravention of subsection 47 (1) if the trustee relies in good faith upon statements contained in a statutory declaration, certificate, opinion or report that complies with this Act or the trust indenture. R.S.O. 1990, c. B.16, s. 49 (6).

Section Amendments with date in force (d/m/y)

2004, c. 8, s. 46 - 01/11/2005

Trustee not to be receiver

50 A trustee under a trust indenture and any related person to the trustee shall not be appointed a receiver or receiver and manager or liquidator of the assets or undertaking of the issuer or guarantor of the debt obligations under the trust indenture. R.S.O. 1990, c. B.16, s. 50.

Notice of events of default

51 (1) The trustee shall be required to give to the holders of debt obligations issued under the trust indenture, within a reasonable time but not exceeding thirty days after the trustee becomes aware of the occurrence thereof, notice of every event of default arising under the trust indenture unless the trustee in good faith determines that the withholding of the notice is in the best interests of the holders of the debt obligations and so advises the issuer or guarantor in writing. R.S.O. 1990, c. B.16, s. 51 (1).

Idem

(2) Where notice of the occurrence of an event of default under a trust indenture is given under subsection (1) and the default is thereafter cured, notice that the default is no longer continuing shall be given by the trustee to the holders of the debt obligations within a reasonable time, but not exceeding thirty days, after the trustee becomes aware that the default has been cured. R.S.O. 1990, c. B.16, s. 51 (2).

Where list of debt obligation holders to be furnished

52 (1) Any person, upon payment to a trustee of a reasonable fee therefor, may require the trustee to furnish, within ten days after delivering to the trustee the statutory declaration referred to in subsection (3), a list setting out,

- (a) the names and addresses of the registered holders of the outstanding debt obligations;
- (b) the principal amount of outstanding debt obligations owned by each such holder; and
- (c) the aggregate principal amount of debt obligations outstanding,

as shown on the records maintained by the trustee on the day that the statutory declaration is delivered to the trustee. R.S.O. 1990, c. B.16, s. 52 (1).

Information to be furnished to trustee

(2) Upon the demand of a trustee, the issuer of debt obligations shall furnish the trustee with the information required to enable the trustee to comply with subsection (1). R.S.O. 1990, c. B.16, s. 52 (2).

Statutory declaration

(3) The statutory declaration required under subsection (1) shall state,

- (a) the name and address of the person requiring the trustee to furnish the list and, if the person is a body corporate, the address for service thereof; and
- (b) that the list will not be used except as permitted under subsection (5). R.S.O. 1990, c. B.16, s. 52 (3).

Idem

(4) If the person requiring the trustee to furnish a list under subsection (1) is a body corporate, the statutory declaration required under that subsection shall be made by a director or officer of the body corporate. R.S.O. 1990, c. B.16, s. 52 (4).

Use of list

(5) No person shall use a list obtained under this section except in connection with,

- (a) an effort to influence the voting of the holders of debt obligations;
- (b) an offer to acquire debt obligations; or
- (c) any other matter relating to the debt obligations or the affairs of the issuer or guarantor thereof. R.S.O. 1990, c. B.16, s. 52 (5).

PART VI CORPORATE SECURITIES

Application of *Securities Transfer Act, 2006*

53 Except as otherwise provided in this Act, the transfer or transmission of a security is governed by the *Securities Transfer Act, 2006*. 2006, c. 8, s. 110.

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 110 - 01/01/2007

Certificated or uncertificated securities

54 (1) A security issued by a corporation may be represented by a security certificate or may be an uncertificated security. 2006, c. 8, s. 111.

Uncertificated securities

(2) Unless otherwise provided by the corporation's articles, the directors of a corporation may provide by resolution that any or all classes and series of its shares or other securities shall be uncertificated securities, provided that such resolution shall not apply to securities represented by a certificate until such certificate is surrendered to the corporation. 2006, c. 8, s. 111.

Notice to holder of uncertificated security

(3) Within a reasonable time after the issuance or transfer of an uncertificated security, the corporation shall send to the registered owner of the uncertificated security a written notice containing the information required to be stated on a share certificate pursuant to subsections 56 (1) and (2). 2006, c. 8, s. 111.

Parity of rights

(4) Except as otherwise expressly provided or authorized by law, the rights and obligations of the registered owners of uncertificated securities and the rights and obligations of the holders of certificated securities of the same class and series shall be identical. 2006, c. 8, s. 111.

Fee

(5) A corporation may charge a fee, not exceeding the prescribed amount, for a security certificate issued in respect of a transfer. 2006, c. 8, s. 111.

Joint holders

(6) A corporation required to issue a security certificate is not required to issue more than one security certificate in respect of securities held jointly by several persons, and delivery to one of several joint holders is sufficient delivery to all. 2006, c. 8, s. 111.

Definition

(7) In this section,

“certificated security” means a certificated security as defined in the *Securities Transfer Act, 2006*. 2006, c. 8, s. 111.

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 111 - 01/01/2007

Signing of security certificates

55 (1) A security certificate shall be signed by at least one of the following persons:

1. A director or officer of the corporation.
2. A registrar, transfer agent or branch transfer agent of the corporation, or an individual on their behalf.
3. A trustee who certifies it in accordance with a trust indenture. 2006, c. 8, s. 112.

Same

(2) A signature required by subsection (1) may be printed or otherwise mechanically reproduced on the security certificate. 2006, c. 8, s. 112.

Same

(3) If a security certificate contains a printed or mechanically reproduced signature of a person, the corporation may issue the security certificate even if the person has ceased to be a director or an officer of the corporation, and the security certificate is as valid as if the person were a director or an officer at the date of its issue. 2006, c. 8, s. 112.

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 112 - 01/01/2007

Contents of share certificate

56 (1) There shall be stated on the face of each share certificate issued by a corporation,

- (a) the name of the corporation;
- (b) the words “Incorporated under the law of the Province of Ontario”, “Subject to the *Business Corporations Act* (Ontario)” or words of like effect;
- (c) the name of the person to whom it was issued; and
- (d) the number and class of shares and the designation of any class or series that the certificate represents. 2006, c. 8, s. 113 (1); 2017, c. 2, Sched. 12, s. 1 (3).

Idem

(2) Where a corporation is authorized to issue shares of more than one class or series, the corporation shall legibly state on each share certificate issued by it,

- (a) the rights, privileges, restrictions and conditions attached to the shares of each class and series that exists when the share certificate is issued; or
- (b) that the class or series of shares that it represents has rights, privileges, restrictions or conditions attached thereto and that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of,
 - (i) the rights, privileges, restrictions and conditions attached to that share and to each class authorized to be issued and to each series in so far as the same have been fixed by the directors, and
 - (ii) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable. R.S.O. 1990, c. B.16, s. 56 (2).

(3)-(5) REPEALED: 2006, c. 8, s. 113 (2).

Par value share certificate

(6) A share certificate issued,

- (a) prior to the 29th day of July, 1983 by a corporation; or
- (b) prior to the date of the certificate of continuance by a body corporate continued under section 180,

does not contravene this Act merely because the certificate refers to the share or shares represented thereby as having a nominal or par value. R.S.O. 1990, c. B.16, s. 56 (6).

Information to be furnished by corporation

(7) Where a share certificate issued by a corporation contains the statement mentioned in clause (2) (b), the corporation shall furnish to a shareholder on demand and without charge a full copy of the text of,

- (a) the rights, privileges, restrictions and conditions attached to that class authorized to be issued and to that series in so far as the same have been fixed by the directors; and
- (b) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable. R.S.O. 1990, c. B.16, s. 56 (7).

Notice of restrictions

(8) Where the articles of a corporation restrict the issue, transfer or ownership of shares of any class or series for a purpose set out in clause 42 (2) (c) or (d), the restriction or a reference to it shall be noted conspicuously on every share certificate of the corporation evidencing a share that is subject to the restriction if the certificate is issued after the day on which the share becomes subject to the restriction under this Act and any reference to the restriction shall include a statement that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction. R.S.O. 1990, c. B.16, s. 56 (8).

Furnishing text of restrictions

(9) Where a share certificate of a corporation contains a reference to a restriction under subsection (8), the corporation shall furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction. R.S.O. 1990, c. B.16, s. 56 (9).

(10) REPEALED: 2006, c. 8, s. 113 (2).

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 113 (1, 2) - 01/01/2007

2017, c. 2, Sched. 12, s. 1 (3) - 22/03/2017

Certificate for fractional share or scrip certificates

57 (1) A corporation may issue a certificate for a fractional share or may issue in place thereof scrip certificates in bearer form that entitle the holder to receive a certificate for a full share by exchanging scrip certificates aggregating a full share. R.S.O. 1990, c. B.16, s. 57 (1).

Same

(1.1) A corporation may issue the fractional share described in subsection (1) as an uncertificated security registered or recorded in records maintained by or on behalf of the corporation or by or on behalf of a registrar, transfer agent, branch transfer agent or issuing or other authenticating agent of the corporation by the making of an appropriate entry in the records of the corporation or its registrar, transfer agent, branch transfer agent or other issuing or authenticating agent. 2006, c. 8, s. 114 (1).

Scrip certificates

(2) The directors may attach conditions to any scrip certificates issued by a corporation or its registrar, transfer agent, branch transfer agent or other issuing or authenticating agent, including conditions that,

- (a) the scrip certificates become void if not exchanged for a certificate, or an uncertificated security, representing a full share before a specified date; and
- (b) any shares for which such scrip certificates are exchangeable may, despite any pre-emptive right, be issued by the corporation to any person and the proceeds thereof distributed rateably to the holders of the scrip certificates. 2006, c. 8, s. 114 (2).

Rights of holder of fractional share

(3) A holder of a fractional share issued by a corporation is not entitled to exercise voting rights or to receive a dividend in respect of the fractional share unless,

- (a) the fractional share results from a consolidation of shares; or
- (b) the articles of the corporation otherwise provide. R.S.O. 1990, c. B.16, s. 57 (3).

Rights of holder of scrip certificate

(4) A holder of a scrip certificate is not entitled to exercise voting rights or to receive a dividend in respect of the scrip certificate. R.S.O. 1990, c. B.16, s. 57 (4).

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 114 (1, 2) - 01/01/2007

Overissue

58 (1) When there has been an overissue within the meaning of the *Securities Transfer Act, 2006* and the corporation subsequently amends its articles or trust indenture to increase any maximum number of securities to a number equal to or in excess of the maximum number of securities previously authorized plus the amount of the securities overissued, the securities so overissued, and any act taken by any person in reliance upon the validity of such overissued securities, are valid from the date of their issue. 2006, c. 8, s. 115.

Non-application of ss. 30, 31, 32, 35

(2) A purchase or payment in accordance with subsection 67 (2) or (3) of the *Securities Transfer Act, 2006* is not a purchase or payment to which section 30, 31, 32 or 35 of this Act applies. 2006, c. 8, s. 115.

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 115 - 01/01/2007

59.-66 REPEALED: 2006, c. 8, s. 116.

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 116 - 01/01/2007

Effect of registration

67 (1) An issuer or a trustee defined in subsection 46 (1) may, subject to sections 95, 96 and 100, treat the registered holder of a security as the person exclusively entitled to vote, to receive notices, to receive any interest, dividend or other payments in respect of the security, and otherwise to exercise all the rights and powers of a holder of the security. R.S.O. 1990, c. B.16, s. 67 (1).

Representatives, etc., may exercise rights of security holder

(2) A corporation whose articles or unanimous shareholder agreement restrict the right to transfer its securities shall, and any other corporation may, treat a person referred to in clause (a), (b) or (c) as a registered security holder entitled to exercise all the rights of the security holder that the person represents, if that person furnishes evidence as described in section 87 of the *Securities Transfer Act, 2006* to the corporation that the person is,

- (a) the executor, administrator, estate trustee, heir or legal representative of the heirs, of the estate of a deceased security holder;
- (b) a guardian, attorney under a continuing power of attorney with authority, guardian of property, committee, trustee, curator or tutor representing a registered security holder who is a minor, a person who is incapable of managing his or her property or a missing person; or
- (c) a liquidator of, or a trustee in bankruptcy for, a registered security holder. R.S.O. 1990, c. B.16, s. 67 (2); 2006, c. 8, s. 117 (1); 2006, c. 34, Sched. B, s. 13.

Rights where ownership devolves by operation of law

(3) If a person upon whom the ownership of a security devolves by operation of law, other than a person referred to in subsection (2), furnishes proof of the person's authority to exercise rights or privileges in respect of a security of the corporation that is not registered in the person's name, the corporation shall treat the person as entitled to exercise those rights or privileges. R.S.O. 1990, c. B.16, s. 67 (3); 2006, c. 8, s. 117 (2).

Corporation has no duty to enforce performance

(4) A corporation is not required to inquire into the existence of, or see to the performance or observance of, any duty owed to a third person by a registered holder of any of its securities or by anyone whom it treats, as permitted or required by this section, as the owner or registered holder thereof. R.S.O. 1990, c. B.16, s. 67 (4); 2006, c. 8, s. 117 (3).

Repudiation by minor

(5) If a minor exercises any rights of ownership in the securities of a corporation, no subsequent repudiation or avoidance is effective against the corporation. 2006, c. 8, s. 117 (4).

Joint holders

(6) Where a security is issued to several persons as joint holders, upon satisfactory proof of the death of one joint holder, the corporation may treat the surviving joint holders as owner of the security. R.S.O. 1990, c. B.16, s. 67 (6); 2006, c. 8, s. 117 (5).

Registration of executor, etc.

(7) Subject to any applicable law of Canada or a province of Canada relating to the collection of taxes, a person referred to in clause (2) (a) is entitled to become a registered holder or to designate a registered holder, if the person deposits with the corporation or its transfer agent,

- (a) the original grant of probate or of letters of administration, or a copy thereof certified to be a true copy by,
 - (i) the court that granted the probate or letters of administration,
 - (ii) a trust corporation incorporated under the laws of Canada or a province, or
 - (iii) a lawyer or notary acting on behalf of the person; or
- (b) in the case of transmission by notarial will in the Province of Quebec, a copy thereof authenticated under the laws of that Province,

together with,

- (c) an affidavit or declaration of transmission made by the person stating the particulars of the transmission;
- (d) the security certificate that was owned by the deceased holder,
 - (i) in case of a transfer to the person, with or without the endorsement of that person, and
 - (ii) in case of a transfer to any other person, endorsed in accordance with section 29 of the *Securities Transfer Act, 2006*; and
- (e) any assurance the issuer may require under section 87 of the *Securities Transfer Act, 2006*. R.S.O. 1990, c. B.16, s. 67 (7); 2006, c. 8, s. 117 (6-8).

Idem

(8) Despite subsection (7), if the laws of the jurisdiction governing the transmission of a security of a deceased holder do not require a grant of probate or of letters of administration in respect of the transmission, a legal representative of the deceased holder is entitled, subject to any applicable law of Canada or a province of Canada relating to the collection of taxes, to become a registered holder or to designate a registered holder, if the legal representative deposits with the corporation or its transfer agent,

- (a) any security certificate that was owned by the deceased holder; and
- (b) reasonable proof of the governing laws, the deceased holder's interest in the security and the right of the legal representative or the person the legal representative designates to become the registered holder. R.S.O. 1990, c. B.16, s. 67 (8); 2006, c. 8, s. 117 (9, 10).

Recording in security register

(9) Deposit of the documents required by subsection (7) or (8) empowers a corporation or its transfer agent to record in a securities register the transmission of a security from the deceased holder to a person referred to in clause (2) (a) or to such person as that person may designate and, thereafter, to treat the person who thus becomes a registered holder as the owner of those securities. R.S.O. 1990, c. B.16, s. 67 (9); 2006, c. 8, s. 117 (11).

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 117 (1 - 11) - 01/01/2007; 2006, c. 34, Sched. B, s. 13 - 01/08/2007

68.-91 REPEALED: 2006, c. 8, s. 118.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (7-10) - 01/03/1995

2006, c. 8, s. 118 - 01/01/2007

**PART VII
SHAREHOLDERS**

Shareholders' liability limited

92 (1) The shareholders of a corporation are not, as shareholders, liable for any act, default, obligation or liability of the corporation except under subsections 34 (5), 108 (5) and 130 (5) and section 243. R.S.O. 1990, c. B.16, s. 92 (1); 2011, c. 1, Sched. 2, s. 1 (6).

Shares subject to call

(2) The provisions of the *Corporations Act* relating to the liability of a holder of shares that are not fully paid and to the enforcement of such liability apply in respect of shares that were not fully paid,

- (a) on the 1st day of January, 1971, in the case of shares of a corporation that then became subject to *The Business Corporations Act*, being chapter 53 of the Revised Statutes of Ontario, 1970; or
- (b) on the day upon which any other body corporate was continued under *The Business Corporations Act*, being chapter 53 of the Revised Statutes of Ontario, 1970, or under this Act, in the case of shares of such other body corporate. R.S.O. 1990, c. B.16, s. 92 (2).

Section Amendments with date in force (d/m/y)

2011, c. 1, Sched. 2, s. 1 (6) - 31/12/2015

Place of meetings

93 (1) Subject to the articles and any unanimous shareholder agreement, a meeting of shareholders of a corporation shall be held at such place in or outside Ontario as the directors determine or, in the absence of such a determination, at the place where the registered office of the corporation is located. R.S.O. 1990, c. B.16, s. 93.

Meeting by electronic means

(2) A meeting held under subsection 94 (2) shall be deemed to be held at the place where the registered office of the corporation is located. 1999, c. 12, Sched. F, s. 4.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. F, s. 4 - 27/03/2000

Shareholders' meetings

94 (1) Subject to subsection 104 (1), the directors of a corporation,

- (a) shall call an annual meeting of shareholders not later than eighteen months after the corporation comes into existence and subsequently not later than fifteen months after holding the last preceding annual meeting; and
- (b) may at any time call a special meeting of shareholders. R.S.O. 1990, c. B.16, s. 94.

Meeting by electronic means

(2) Unless the articles or the by-laws provide otherwise, a meeting of the shareholders may be held by telephonic or electronic means and a shareholder who, through those means, votes at the meeting or establishes a communications link to the meeting shall be deemed for the purposes of this Act to be present at the meeting. 2001, c. 9, Sched. D, s. 2 (3); 2017, c. 20, Sched. 6, s. 7.

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. D, s. 2 (3) - 29/06/2001

2017, c. 20, Sched. 6, s. 7 - 14/11/2017

Date for determining shareholders

95 (1) For the purpose of determining shareholders,

- (a) entitled to receive payment of a dividend;
- (b) entitled to participate in a liquidation or distribution; or
- (c) for any other purpose except the right to receive notice of or to vote at a meeting,

the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days the particular action to be taken. R.S.O. 1990, c. B.16, s. 95 (1).

Same

(2) For the purpose of determining shareholders entitled to receive notice of a meeting of shareholders, the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than 60 days or by less than 30 days the date on which the meeting is to be held. 2006, c. 9, Sched. A, s. 1.

Idem

(3) Where no record date is fixed,

- (a) the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders shall be,
 - (i) at the close of business on the day immediately preceding the day on which the notice is given, or
 - (ii) if no notice is given, the day on which the meeting is held; and
- (b) the record date for the determination of shareholders for any purpose other than to establish a shareholder's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the directors pass the resolution relating thereto. R.S.O. 1990, c. B.16, s. 95 (3).

Notice of date

(4) If a record date is fixed, unless notice of the record date is waived in writing by every holder of a share of the class or series affected whose name is set out in the securities register at the close of business on the day the directors fix the record date, notice thereof shall be given, not less than seven days before the date so fixed,

- (a) by advertisement in a newspaper published or distributed in the place where the corporation has its registered office and in each place in Canada where it has a transfer agent or where a transfer of its shares may be recorded; and
- (b) by written notice to each stock exchange in Canada on which the shares of the corporation are listed for trading. R.S.O. 1990, c. B.16, s. 95 (4).

Section Amendments with date in force (d/m/y)

2006, c. 9, Sched. A, s. 1 - 01/08/2007

Notice of shareholders' meetings

96 (1) Notice of the time and place of a meeting of shareholders shall be sent, in the case of an offering corporation, not less than twenty-one days and, in the case of any other corporation, not less than ten days, but, in either case, not more than fifty days, before the meeting,

- (a) to each shareholder entitled to vote at the meeting;
- (b) to each director; and
- (c) to the auditor of the corporation. R.S.O. 1990, c. B.16, s. 96 (1).

Idem

(2) A notice of a meeting is not required to be sent to shareholders who were not registered on the records of the corporation or its transfer agent on the record date determined under subsection 95 (2) or (3), but failure to receive a notice does not deprive a shareholder of the right to vote at the meeting. R.S.O. 1990, c. B.16, s. 96 (2).

Idem

(3) If a meeting of shareholders is adjourned for less than thirty days, it is not necessary, unless the by-laws otherwise provide, to give notice of the adjourned meeting other than by announcement at the earliest meeting that is adjourned. R.S.O. 1990, c. B.16, s. 96 (3).

Idem

(4) If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of thirty days or more, notice of the adjourned meeting shall be given as for an original meeting but, unless the meeting is adjourned by one or more adjournments for an aggregate of more than ninety days, section 111 does not apply. R.S.O. 1990, c. B.16, s. 96 (4).

Special business

(5) All business transacted at a special meeting of shareholders and all business transacted at an annual meeting of shareholders, except consideration of the minutes of an earlier meeting, the financial statements and auditor's report, election of directors and reappointment of the incumbent auditor, shall be deemed to be special business. R.S.O. 1990, c. B.16, s. 96 (5).

Idem

(6) Notice of a meeting of shareholders at which special business is to be transacted shall state or be accompanied by a statement of,

- (a) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon; and
- (b) the text of any special resolution or by-law to be submitted to the meeting. R.S.O. 1990, c. B.16, s. 96 (6).

Shareholders' meeting

97 Subject to this Act or the articles or by-laws of a corporation or a unanimous shareholder agreement,

- (a) all questions proposed for the consideration of the shareholders shall be determined by the majority of the votes cast and the chair presiding at the meeting shall not have a second or casting vote in case of an equality of votes;
- (b) the chair presiding at a meeting of shareholders may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place subject to subsections 96 (3) and (4); and
- (c) the president or, in his or her absence, a vice-president who is a director shall preside as chair at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting none of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chair. R.S.O. 1990, c. B.16, s. 97.

Waiving notice

98 A shareholder and any other person entitled to attend a meeting of shareholders may in any manner and at any time waive notice of a meeting of shareholders, and attendance of any such person at a meeting of shareholders is a waiver of notice of the meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. R.S.O. 1990, c. B.16, s. 98.

Proposal

99 (1) A registered holder of shares entitled to vote or a beneficial owner of shares that are entitled to be voted at a meeting of shareholders may,

- (a) submit to the corporation notice of a proposal; and
- (b) discuss at the meeting any matter in respect of which the registered holder or beneficial owner would have been entitled to submit a proposal. 2006, c. 34, Sched. B, s. 14 (1).

Proof of status

(1.1) If a person claims to be a beneficial owner of shares of a corporation for the purposes of subsection (1), the corporation may require the person to provide proof that the person is a beneficial owner of shares of the corporation. 2010, c. 16, Sched. 5, s. 1 (1).

Same

(1.2) A written statement by a securities intermediary, as defined in the *Securities Transfer Act, 2006*, that a person is a beneficial owner of shares of the corporation is sufficient proof for the purposes of subsection (1.1). 2010, c. 16, Sched. 5, s. 1 (1).

Circulating proposal

(2) Where a corporation receives notice of a proposal,

- (a) if the corporation provides a management information circular, it shall set out the proposal in the management information circular or attach the proposal to that circular; or
- (b) if the corporation does not provide a management information circular, it shall set out the proposal in the notice of meeting for the shareholders' meeting at which the matter is proposed to be raised or shall attach the proposal to such notice of meeting. 2017, c. 20, Sched. 6, s. 8 (1).

Statement in support of proposal

(3) At the request of a person who submits notice of a proposal, the corporation shall include in the management information circular referred to in clause (2) (a) or the notice of meeting referred to in clause (2) (b), or shall attach to it, the person's statement in support of the proposal and the person's name and address. 2017, c. 20, Sched. 6, s. 8 (1).

Same

(3.1) The proposal referred to in subsection (2) and the statement referred to in subsection (3) shall together not exceed the prescribed maximum number of words. 2006, c. 34, Sched. B, s. 14 (2).

Proposal may include nominations

(4) A proposal may include nominations for the election of directors if the proposal is signed by one or more holders of shares representing in the aggregate not less than 5 per cent of the shares or 5 per cent of the shares of a class or series of shares of the corporation entitled to vote at the meeting to which the proposal is to be presented, but this subsection does not preclude nominations being made at a meeting of shareholders. R.S.O. 1990, c. B.16, s. 99 (4).

Where subss. (2), (3) do not apply

- (5) A corporation is not required to comply with subsections (2) and (3) where,
 - (a) in the case of an offering corporation, notice of the proposal is submitted to the corporation less than 60 days before,
 - (i) the anniversary date of the last annual meeting, if the matter is proposed to be raised at an annual meeting, or
 - (ii) the date of a meeting other than the annual meeting, if the matter is proposed to be raised at a meeting other than the annual meeting;
 - (a.1) in the case of a corporation other than an offering corporation, notice of the proposal is submitted to the corporation less than the minimum number of days determined under subsection (5.1) before,
 - (i) the anniversary date of the last annual meeting, if the matter is proposed to be raised at an annual meeting, or
 - (ii) the date of a meeting other than the annual meeting, if the matter is proposed to be raised at a meeting other than the annual meeting;
 - (b) it clearly appears that the primary purpose of the proposal is to enforce a personal claim or redress a personal grievance against the corporation or its directors, officers or security holders;
 - (b.1) it clearly appears that the proposal does not relate in a significant way to the business or affairs of the corporation;
 - (c) within two years before the receipt by the corporation of a person's notice of proposal, the person failed to present, in person or by proxy, at a meeting of the corporation's shareholders, a proposal which had been submitted by the person and had been included in a management information circular or a notice of meeting relating to that shareholders' meeting; or
 - (d) the following has occurred:
 - (i) substantially the same proposal was submitted to shareholders of the corporation in a management information circular, dissident's information circular, or notice of a meeting relating to a previous meeting of shareholders,
 - (ii) the previous meeting referred to in subclause (i) was held within five years, or such other period as may be prescribed, before the receipt by the corporation of the person's current notice of proposal, and
 - (iii) at that previous meeting, the proposal did not receive the minimum amount of support required under subsection (5.4). R.S.O. 1990, c. B.16, s. 99 (5); 2006, c. 34, Sched. B, s. 14 (3); 2017, c. 20, Sched. 6, s. 8 (2, 3).

Minimum notice for proposal, non-offering corporation

- (5.1) For the purpose of clause (5) (a.1),
 - (a) the minimum number of days is the minimum number of days specified in the articles, the by-laws or a unanimous shareholder agreement, if the number is,

- (i) not greater than 60, and
- (ii) not less than 21 or such other number as may be prescribed;
- (b) if the articles, the by-laws or a unanimous shareholder agreement specify a minimum number of days that is less than 21 or less than such other number as may be prescribed, the minimum number of days is 21 or the prescribed number, as the case may be; or
- (c) if the articles, the by-laws or a unanimous shareholder agreement specify a minimum number of days that is greater than 60 or don't specify a minimum number of days, the minimum number of days is 60. 2017, c. 20, Schedule 6, s. 8 (4).

Non-offering corporation receives proposal after sending notice of meeting

(5.2) If a corporation other than an offering corporation receives notice of a proposal to be raised at a shareholders' meeting and is required to comply with subsections (2) and (3), but the notice of the proposal is received after the corporation has already sent notice of the shareholders' meeting, the corporation shall send the proposal and, at the request of the person who submitted notice of the proposal, shall also send the person's statement in support of the proposal and the person's name and address, to the persons entitled to notice of the shareholders' meeting under section 96, not less than 10 days before the meeting. 2017, c. 20, Schedule 6, s. 8 (4).

Deeming

(5.3) If a corporation sends the document or documents required by subsection (5.2) to the persons and within the time required by that subsection, the document or documents sent by the corporation shall be deemed for all purposes to have been included in the management information circular referred to in clause (2) (a) or the notice of shareholder's meeting referred to in clause (2) (b), as the case may be, as required by subsections (2) and (3). 2017, c. 20, Schedule 6, s. 8 (4).

Minimum support

(5.4) For the purpose of subclause (5) (d) (iii), the minimum amount of support that the proposal must have received at the previous meeting is determined as follows:

1. If the previous meeting was the first time, within the period referred to in subclause (5) (d) (ii), that a substantially similar proposal was made at a meeting of shareholders, the minimum amount of support the proposal must have received at that previous meeting is 3 per cent, or such other percentage as may be prescribed, of the total number of shares voted at that meeting.
2. If the previous meeting was the second time, within the period referred to in subclause (5) (d) (ii), that a substantially similar proposal was made at a meeting of shareholders, the minimum amount of support the proposal must have received at that previous meeting is 6 per cent, or such other percentage as may be prescribed, of the total number of shares voted at that meeting.
3. If the previous meeting was at least the third time, within the period referred to in subclause (5) (d) (ii), that a substantially similar proposal was made at a meeting of shareholders, the minimum amount of support the proposal must have received at that previous meeting is 10 per cent, or such other percentage as may be prescribed, of the total number of shares voted at that meeting. 2017, c. 20, Schedule 6, s. 8 (4).

Where no liability

(6) No corporation or person acting on its behalf incurs any liability by reason only of circulating a proposal or statement in compliance with this section. R.S.O. 1990, c. B.16, s. 99 (6).

Notice of refusal

(7) Within 10 days after receiving notice of a proposal from a person under clause (1) (a), a corporation that refuses to circulate the proposal as required by this section shall send the person notice of the corporation's intention not to circulate the proposal and a statement of the reasons for the refusal. 2017, c. 20, Schedule 6, s. 8 (5).

Application to court

(8) On the application of a person submitting a proposal who claims to be aggrieved by a corporation's refusal under subsection (7), a court may restrain the holding of the meeting to which the proposal is sought to be presented and make any further order it thinks fit. 2006, c. 34, Sched. B, s. 14 (4).

Idem

(9) The corporation or any person aggrieved by a proposal may apply to the court for an order permitting the corporation to omit the proposal from the management information circular, and the court, if it is satisfied that subsection (5) applies, may make such order as it thinks fit. R.S.O. 1990, c. B.16, s. 99 (9).

Idem

(10) An applicant under subsection (8) or (9) shall give the Director notice of the application and the Director is entitled to appear and be heard in person or by counsel. R.S.O. 1990, c. B.16, s. 99 (10).

Definition

(11) In this section,

“proposal” means a matter that a registered holder or beneficial owner of shares entitled to be voted proposes to raise at a meeting of shareholders. 2006, c. 34, Sched. B, s. 14 (5).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 14 (1-5) - 01/08/2007

2010, c. 16, Sched. 5, s. 1 (1) - 31/12/2015

2017, c. 20, Sched. 6, s. 8 (1-5) - 14/11/2017

List of shareholders

100 (1) A corporation shall prepare a list of shareholders entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of shares held by each shareholder, which list shall be prepared,

- (a) if a record date is fixed under subsection 95 (2), not later than ten days after such record date; or
- (b) if no record date is fixed,
 - (i) at the close of business on the day immediately preceding the day on which notice is given, or
 - (ii) where no notice is given, on the day on which the meeting is held. R.S.O. 1990, c. B.16, s. 100 (1).

Entitlement to vote

(2) A shareholder whose name appears on a list prepared under subsection (1) is entitled to vote the shares shown opposite the shareholder’s name at the meeting to which the list relates. 2006, c. 34, Sched. B, s. 15.

(3) REPEALED: 2006, c. 34, Sched. B, s. 15.

Examination of list

(4) A shareholder may examine the list of shareholders,

- (a) during usual business hours at the registered office of the corporation or at the place where its central securities register is maintained; and
- (b) at the meeting of shareholders for which the list was prepared. R.S.O. 1990, c. B.16, s. 100 (4).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 15 - 01/08/2007

Quorum

101 (1) Unless the by-laws provide otherwise, a quorum of shareholders is present at a meeting of shareholders, irrespective of the number of persons actually present at the meeting, if the holders of a majority of the shares entitled to vote at the meeting are present in person or represented by proxy. 2017, c. 2, Sched. 12, s. 1 (4).

Idem

(2) If a quorum is present at the opening of a meeting of shareholders, the shareholders present may, unless the by-laws otherwise provide, proceed with the business of the meeting even if a quorum is not present throughout the meeting. R.S.O. 1990, c. B.16, s. 101 (2).

Idem

(3) If a quorum is not present at the time appointed for a meeting of shareholders, or within such reasonable time thereafter as the shareholders present may determine, the shareholders present may adjourn the meeting to a fixed time and place but may not transact any other business. R.S.O. 1990, c. B.16, s. 101 (3).

Where only one shareholder

(4) If a corporation has only one shareholder, or only one holder of any class or series of shares, the shareholder present in person or by proxy constitutes a meeting. R.S.O. 1990, c. B.16, s. 101 (4).

Section Amendments with date in force (d/m/y)

2017, c. 2, Sched. 12, s. 1 (4) - 22/03/2017

Voting rights

102 (1) Unless the articles otherwise provide, each share of a corporation entitles the holder thereof to one vote at a meeting of shareholders. R.S.O. 1990, c. B.16, s. 102 (1).

Representative

(2) Where a body corporate or association is a shareholder of a corporation, the corporation shall recognize any individual authorized by a resolution of the directors or governing body of the body corporate or association to represent it at meetings of shareholders of the corporation. R.S.O. 1990, c. B.16, s. 102 (2).

Idem

(3) An individual authorized as set out in subsection (2) may exercise on behalf of the body corporate or association he or she represents all the powers it could exercise if it were an individual shareholder. R.S.O. 1990, c. B.16, s. 102 (3).

Joint shareholders

(4) Unless the by-laws otherwise provide, where two or more persons hold shares jointly, one of those holders present at a meeting of shareholders may in the absence of the others vote the shares, but if two or more of those persons are present, in person or by proxy, they shall vote as one on the shares jointly held by them. R.S.O. 1990, c. B.16, s. 102 (4).

Manner of voting

103 (1) Unless the by-laws otherwise provide, voting at a meeting of shareholders shall be by show of hands, except where a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting. R.S.O. 1990, c. B.16, s. 103 (1).

Idem

(2) A shareholder or proxyholder may demand a ballot either before or after any vote by show of hands. R.S.O. 1990, c. B.16, s. 103 (2).

Entry in minutes

(3) Unless a ballot is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chair declared a motion to be carried is admissible in evidence as proof of the fact, in the absence of evidence to the contrary, without proof of the number or proportion of the votes recorded in favour of or against the motion. R.S.O. 1990, c. B.16, s. 103 (3).

Resolution in lieu of meeting

104 (1) Except where a written statement is submitted by a director under subsection 123 (2) or where representations in writing are submitted by an auditor under subsection 149 (6),

- (a) a resolution in writing signed by all the shareholders or their attorney authorized in writing entitled to vote on that resolution at a meeting of shareholders is as valid as if it had been passed at a meeting of the shareholders; and
- (b) a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders, and signed by all the shareholders or their attorney authorized in writing entitled to vote at that meeting, satisfies all the requirements of this Act relating to that meeting of shareholders. R.S.O. 1990, c. B.16, s. 104 (1); 2000, c. 26, Sched. B, s. 3 (5, 6).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 104 (1) of the Act is amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding the following clause: (See: 2020, c. 34, Sched. 1, s. 3 (1))

- (c) in the case of a corporation that is not an offering corporation,
 - (i) a resolution in writing signed by the holders of at least a majority of the shares or their attorney authorized in writing entitled to vote on that resolution at a meeting of the shareholders is as valid as if it had been passed by ordinary resolution at a meeting of the shareholders, and
 - (ii) a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders where all business to be transacted at the meeting is to be passed by an ordinary resolution, and signed by the holders of at least a majority of the shares or their attorney authorized in writing entitled to vote on that resolution at a meeting of the shareholders, satisfies all the requirements of this Act relating to that meeting of shareholders.

Copy of resolution kept with minutes

(2) A copy of every resolution referred to in subsection (1) shall be kept with the minutes of the meetings of shareholders. R.S.O. 1990, c. B.16, s. 104 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 104 of the Act is amended by adding the following subsections: (See: 2020, c. 34, Sched. 1, s. 3 (2))

Notice to shareholders

(3) Within 10 business days after a resolution referred to in clause (1) (c) is signed by the holders of at least a majority of the shares or their attorney authorized in writing entitled to vote on that resolution at a meeting of the shareholders, the corporation shall give written notice of the resolution to the shareholders entitled to vote on the resolution who did not sign it. 2020, c. 34, Sched. 1, s. 3 (2).

Same

(4) Notice under subsection (3) shall include,

- (a) the text of the resolution; and
- (b) a statement that contains a description of and the reasons for the business dealt with by the resolution. 2020, c. 34, Sched. 1, s. 3 (2).

Where articles, etc. require greater number of votes

(5) If the articles or a unanimous shareholder agreement requiring a greater number of votes of shareholders to pass an ordinary resolution prevail over the number required by this Act by reason of subsection 5 (4), the following rules apply:

1. For the purposes of subclause (1) (c) (i), the number specified in the articles or the unanimous shareholder agreement is the minimum number of shareholders or their attorney authorized in writing that are required to sign the resolution.
2. For the purpose of subclause (1) (c) (ii), the resolution referred to in that subclause must be signed by at least the number of shareholders or their attorney authorized in writing specified in the articles or the unanimous shareholder agreement. 2020, c. 34, Sched. 1, s. 3 (2).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. B, s. 3 (5, 6) - 06/12/2000

2020, c. 34, Sched. 1, s. 3 (1, 2) - not in force

Requisition for shareholders meeting

105 (1) The holders of not less than 5 per cent of the issued shares of a corporation that carry the right to vote at a meeting sought to be held may requisition the directors to call a meeting of shareholders for the purposes stated in the requisition. R.S.O. 1990, c. B.16, s. 105 (1).

Idem

(2) The requisition referred to in subsection (1) shall state the business to be transacted at the meeting and shall be sent to the registered office of the corporation. R.S.O. 1990, c. B.16, s. 105 (2).

Duty of directors to call meeting

(3) Upon receiving the requisition referred to in subsection (1), the directors shall call a meeting of shareholders to transact the business stated in the requisition unless,

- (a) a record date has been fixed under subsection 95 (2) and notice thereof has been given under subsection 95 (4);
- (b) the directors have called a meeting of shareholders and have given notice thereof under section 96; or
- (c) the business of the meeting as stated in the requisition includes matters described in clauses 99 (5) (b) to (d). R.S.O. 1990, c. B.16, s. 105 (3).

Where requisitionist may call meeting

(4) Subject to subsection (3), if the directors do not within twenty-one days after receiving the requisition referred to in subsection (1) call a meeting, any shareholder who signed the requisition may call the meeting. R.S.O. 1990, c. B.16, s. 105 (4).

Calling of meeting

(5) A meeting called under this section shall be called as nearly as possible in the manner in which meetings are to be called under the by-laws, this Part and Part VIII. R.S.O. 1990, c. B.16, s. 105 (5).

Repayment of expenses

(6) The corporation shall reimburse the shareholders for the expenses reasonably incurred by them in requisitioning, calling and holding the meeting unless the shareholders have not acted in good faith and in the interest of the shareholders of the corporation generally. R.S.O. 1990, c. B.16, s. 105 (6).

Requisition by court

106 (1) If for any reason it is impracticable to call a meeting of shareholders of a corporation in the manner in which meetings of those shareholders may be called or to conduct the meeting in the manner prescribed by the by-laws, the articles and this Act, or if for any other reason the court thinks fit, the court, upon the application of a director or a shareholder entitled to vote at the meeting, may order a meeting to be called, held and conducted in such manner as the court directs and upon such terms as to security for the costs of holding the meeting or otherwise as the court deems fit. R.S.O. 1990, c. B.16, s. 106 (1).

Power of court

(2) Without restricting the generality of subsection (1), the court may order that the quorum required by the by-laws, the articles or this Act be varied or dispensed with at a meeting called, held and conducted under this section. R.S.O. 1990, c. B.16, s. 106 (2).

Effect of meeting

(3) A meeting called, held and conducted under this section is for all purposes a meeting of shareholders of the corporation duly called, held and conducted. R.S.O. 1990, c. B.16, s. 106 (3).

Determination of controversy

107 (1) A corporation, shareholder or director may apply to the court to determine any controversy with respect to an election or appointment of a director or auditor of the corporation. R.S.O. 1990, c. B.16, s. 107 (1).

Court order

(2) Upon an application under this section, the court may make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order restraining a director or auditor whose election or appointment is challenged from acting pending determination of the dispute;
- (b) an order declaring the result of the disputed election or appointment;
- (c) an order requiring a new election or appointment and including in the order directions for the management of the business and affairs of the corporation until a new election is held or appointment made; and
- (d) an order determining the voting rights of shareholders and of persons claiming to own shares. R.S.O. 1990, c. B.16, s. 107 (2).

Agreement between shareholders

108 (1) A written agreement between two or more shareholders may provide that in exercising voting rights the shares held by them shall be voted as therein provided. R.S.O. 1990, c. B.16, s. 108 (1).

Idem

(2) A written agreement among all the shareholders of a corporation or among all the shareholders and one or more persons who are not shareholders may restrict in whole or in part the powers of the directors to manage or supervise the management of the business and affairs of the corporation. R.S.O. 1990, c. B.16, s. 108 (2).

Unanimous shareholder agreement

(3) Where a person who is the registered holder of all the issued shares of a corporation makes a written declaration that restricts in whole or in part the powers of the directors to manage or supervise the management of the business and affairs of a corporation, the declaration shall be deemed to be a unanimous shareholder agreement. R.S.O. 1990, c. B.16, s. 108 (3); 2006, c. 34, Sched. B, s. 16 (1).

Party to unanimous shareholder agreement

(4) A transferee of shares subject to a unanimous shareholder agreement shall be deemed to be a party to the agreement. R.S.O. 1990, c. B.16, s. 108 (4); 2006, c. 8, s. 119 (1).

Where shareholder has power, etc., of director

(5) A shareholder who is a party to a unanimous shareholder agreement has all the rights, powers, duties and liabilities of a director of a corporation, whether arising under this Act or otherwise, including any defences available to the directors, to which the agreement relates to the extent that the agreement restricts the discretion or powers of the directors to manage or supervise the management of the business and affairs of the corporation and the directors are relieved of their duties and liabilities, including any liabilities under section 131, to the same extent. 2006, c. 34, Sched. B, s. 16 (2).

Unanimous shareholder agreement

(5.1) Nothing in this section prevents shareholders from fettering their discretion when exercising the powers of directors under a unanimous shareholder agreement. 2006, c. 34, Sched. B, s. 16 (2); 2017, c. 2, Sched. 12, s. 1 (5).

Matter that a unanimous shareholder agreement may provide

- (6) A unanimous shareholder agreement may, without restricting the generality of subsection (2), provide that,
- (a) any amendment of the unanimous shareholder agreement may be effected in the manner specified therein; and
 - (b) in the event that shareholders who are parties to the unanimous shareholder agreement are unable to agree on or resolve any matter pertaining to the agreement, the matter may be referred to arbitration under such procedures and conditions as are specified in the unanimous shareholder agreement. R.S.O. 1990, c. B.16, s. 108 (6).

Issuance of shares subject to unanimous shareholder agreement

- (7) If a unanimous shareholder agreement is in effect at the time a share is issued by a corporation to a person other than an existing shareholder,
- (a) that person shall be deemed to be a party to the agreement whether or not that person had actual knowledge of it when the share was issued;
 - (b) the issue of the share does not operate to terminate the agreement; and
 - (c) if that person is a purchaser for value without notice of the agreement, that person may rescind the contract under which the shares were acquired by giving notice to that effect to the corporation within 60 days after the person actually receives a complete copy of the agreement. 2006, c. 8, s. 119 (2).

Transfer of shares subject to unanimous shareholder agreement

- (8) If a unanimous shareholder agreement is in effect when a person who was not otherwise a party to the agreement acquires a share of the corporation, other than under subsection (1),
- (a) the person who acquired the share shall be deemed to be a party to the agreement whether or not that person had actual knowledge of it when he or she acquired the share; and
 - (b) neither the acquisition of the share nor the registration of that person as a shareholder operates to terminate the agreement. 2006, c. 8, s. 119 (2).

Notice of objection

(9) If a person referred to in subsection (8) is a purchaser for value without notice of the unanimous shareholder agreement and the transferor's share certificate, if any, did not contain a reference to the unanimous shareholder agreement, the transferee may, within 60 days after he or she actually receives a complete copy of the agreement, send to the corporation and the transferor a notice of objection. 2006, c. 8, s. 119 (2).

Rights of transferee

- (10) If a person sends a notice of objection under subsection (9), that person is entitled to,
- (a) rescind the contract under which the shares were acquired by giving notice to that effect to the corporation and the transferor within 60 days after the transferee actually receives a complete copy of the unanimous shareholder agreement; or
 - (b) demand that the transferor pay the transferee the fair value of the shares held by the transferee, determined as of the close of business on the day on which the transferee delivers the notice of objection to the corporation, in which case subsections 185 (4), (18) and (19) apply, with the necessary modifications, as if the transferor were the corporation. 2006, c. 8, s. 119 (2); 2011, c. 1, Sched. 2, s. 1 (7).

Deficiency

(11) A transferee who is entitled to be paid the fair value of the transferee's shares under clause (10) (b) also has the right to recover from the transferor the amount by which the value of the consideration paid for those shares exceeds their fair value. 2006, c. 8, s. 119 (2).

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 119 (1, 2) - 01/01/2007; 2006, c. 34, Sched. B, s. 16 (1, 2) - 01/08/2007

2011, c. 1, Sched. 2, s. 1 (7) - 31/12/2015

2017, c. 2, Sched. 12, s. 1 (5) - 22/03/2017

PART VIII PROXIES

Definitions

109 In this Part,

"dissident's information circular" means the circular referred to in clause 112 (1) (b); ("circulaire d'information d'un dissident")

"form of proxy" means a form that is in written or printed format or a format generated by telephonic or electronic means and that becomes a proxy when completed and signed in writing or electronic signature by or on behalf of a shareholder; ("formule de procuration")

"management information circular" means the circular referred to in clause 112 (1) (a); ("circulaire d'information de la direction")

"proxy" means a completed and signed form of proxy by means of which a shareholder has appointed a proxyholder to attend and act on a shareholder's behalf at a meeting of shareholders; ("procuration")

"solicit" and "solicitation" include,

- (a) a request for a proxy whether or not accompanied by or included in a form of proxy,
- (b) a request to execute or not to execute a form of proxy or to revoke a proxy,
- (c) the sending of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and
- (d) the sending of a form of proxy to a shareholder under section 111,

but do not include,

- (e) the sending of a form of proxy in response to an unsolicited request made by or on behalf of a shareholder,
- (f) the performance of administrative acts or professional services on behalf of a person soliciting a proxy,
- (g) the sending of material under section 49 of the *Securities Act*,
- (h) a solicitation by a person in respect of shares of which the person is the beneficial owner,
- (i) a public announcement, as prescribed, by a shareholder of how the shareholder intends to vote and the reasons for that decision,
- (j) a communication, other than a solicitation by or on behalf of the management of the corporation, that is made to shareholders in any circumstances that may be prescribed; ("solicitation", "solliciter")

"solicitation by or on behalf of the management of a corporation" means a solicitation by any person under a resolution or the instructions of the directors of that corporation or a committee of such directors. ("sollicitation effectuée par la direction ou pour son compte") R.S.O. 1990, c. B.16, s. 109; 1999, c. 12, Sched. F, s. 6; 2006, c. 34, Sched. B, s. 17; 2017, c. 20, Sched. 6, s. 9.

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. F, s. 6 - 27/03/2000;

2006, c. 34, Sched. B, s. 17 - 01/08/2007

2017, c. 20, Sched. 6, s. 9 - 14/11/2017

Proxies

110 (1) Every shareholder entitled to vote at a meeting of shareholders may by means of a proxy appoint a proxyholder or one or more alternate proxyholders, who need not be shareholders, as the shareholder's nominee to attend and act at the meeting in the manner, to the extent and with the authority conferred by the proxy. R.S.O. 1990, c. B.16, s. 110 (1).

Signature

- (2) Subject to subsection (4.2), a proxy must be signed,
- (a) in writing or by electronic signature by the shareholder or an attorney who is authorized by a document that is signed in writing or by electronic signature; or
 - (b) if the shareholder is a body corporate, by an officer or attorney of the body corporate duly authorized. 1999, c. 12, Sched. F, s. 7 (1).

Expiry

(2.1) A proxy appointing a proxyholder to attend and act at a meeting or meetings of shareholders of an offering corporation ceases to be valid one year from its date. 1999, c. 12, Sched. F, s. 7 (1).

Form of proxy

(3) Every form of proxy shall comply with the regulations. R.S.O. 1990, c. B.16, s. 110 (3).

Revocation

- (4) A shareholder may revoke a proxy,
- (a) by depositing an instrument in writing that complies with subsection (4.1) and that is signed by the shareholder or by an attorney who is authorized by a document that is signed in writing or by electronic signature;
 - (b) by transmitting, by telephonic or electronic means, a revocation that complies with subsection (4.1) and that, subject to subsection (4.2), is signed by electronic signature; or
 - (c) in any other manner permitted by law. 1999, c. 12, Sched. F, s. 7 (2); 2017, c. 20, Sched. 6, s. 10.

Time of revocation

- (4.1) The instrument or the revocation must be received,
- (a) at the registered office of the corporation at any time up to and including the last business day preceding the day of the meeting, or any adjournment of it, at which the proxy is to be used; or
 - (b) by the chair of the meeting on the day of the meeting or an adjournment of it. 1999, c. 12, Sched. F, s. 7 (2).

Electronic signature

(4.2) A shareholder or an attorney may sign, by electronic signature, a proxy, a revocation of proxy or a power of attorney authorizing the creation of either of them if the means of electronic signature permits a reliable determination that the document was created or communicated by or on behalf of the shareholder or the attorney, as the case may be. 1999, c. 12, Sched. F, s. 7 (2).

Time limit for deposit

(5) The directors may by resolution fix a time not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at that meeting must be deposited with the corporation or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting. R.S.O. 1990, c. B.16, s. 110 (5).

Section Amendments with date in force (d/m/y)

1999, c. 12, Sched. F, s. 7 (1, 2) - 27/03/2000

2017, c. 20, Sched. 6, s. 10 - 14/11/2017

Mandatory solicitation of proxy

111 The management of an offering corporation shall, concurrently with or prior to sending notice of a meeting of shareholders, send a form of proxy to each shareholder who is entitled to receive notice of the meeting. R.S.O. 1990, c. B.16, s. 111.

Information circular

112 (1) No person shall solicit proxies in respect of an offering corporation unless,

- (a) in the case of solicitation by or on behalf of the management of the corporation, a management information circular in prescribed form, either as an appendix to or as a separate document accompanying the notice of the meeting; or
- (b) in the case of any other solicitation, a dissident's information circular in prescribed form,

is sent to the auditor of the corporation, to each shareholder whose proxy is solicited and, if clause (b) applies, to the corporation. R.S.O. 1990, c. B.16, s. 112 (1).

Exception

(1.1) Despite subsection (1), a person may solicit proxies, other than by or on behalf of the management of the corporation, without sending a dissident's information circular, if the total number of shareholders whose proxies are solicited is 15 or fewer, two or more joint holders being counted as one shareholder. 2006, c. 34, Sched. B, s. 18.

Same

(1.2) Despite subsection (1), a person may solicit proxies, other than by or on behalf of the management of the corporation, without sending a dissident's information circular, if the solicitation is, in the prescribed circumstances, conveyed by public broadcast, speech or publication. 2006, c. 34, Sched. B, s. 18.

Filing copy

(2) A person, upon sending a management or dissident's information circular, shall concurrently file with the Commission,

- (a) in the case of a management information circular, a copy thereof together with a copy of the notice of meeting, form of proxy and of any other documents for use in connection with the meeting; and
- (b) in the case of a dissident's information circular, a copy thereof together with a copy of the form of proxy and of any other documents for use in connection with the meeting. R.S.O. 1990, c. B.16, s. 112 (2).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 18 - 01/08/2007

Exemption order re ss. 111, 112

113 Upon the application of any interested person, the Commission may, if satisfied in the circumstances of the particular case that there is adequate justification for so doing, make an order, on such terms and conditions as the Commission may impose, exempting, in whole or in part, any person from the requirements of section 111 or from the requirements of section 112. R.S.O. 1990, c. B.16, s. 113.

Proxyholder

114 (1) A person who solicits a proxy and is appointed proxyholder shall attend in person or cause an alternate proxyholder to attend the meeting in respect of which the proxy is given and comply with the directions of the shareholder who appointed the person. R.S.O. 1990, c. B.16, s. 114 (1).

Rights of proxyholder

(2) A proxyholder or an alternate proxyholder has the same rights as the shareholder who appointed him or her to speak at a meeting of shareholders in respect of any matter, to vote by way of ballot at the meeting and, except where a proxyholder or an alternate proxyholder has conflicting instructions from more than one shareholder, to vote at such a meeting in respect of any matter by way of a show of hands. R.S.O. 1990, c. B.16, s. 114 (2).

Vote

(3) Despite subsections (1) and (2), where the chair of a meeting of shareholders declares to the meeting that, to the best of his or her belief, if a ballot is conducted, the total number of votes attached to the shares represented at the meeting by proxy required to be voted against what will be the decision of the meeting in relation to any matter or group of matters is less than 5 per cent of all the votes that might be cast at the meeting on such ballot, and where a shareholder, proxyholder or alternate proxyholder does not demand a ballot,

- (a) the chair may conduct the vote in respect of that matter or group of matters by a show of hands; and
- (b) a proxyholder or alternate proxyholder may vote in respect of that matter or group of matters by a show of hands. R.S.O. 1990, c. B.16, s. 114 (3).

PART IX DIRECTORS AND OFFICERS

Directors

115 (1) Subject to any unanimous shareholder agreement, the directors shall manage or supervise the management of the business and affairs of a corporation. R.S.O. 1990, c. B.16, s. 115 (1).

Board of directors

(2) A corporation shall have a board of directors which shall consist of,

- (a) in the case of a corporation that is not an offering corporation, at least one individual; and
- (b) in the case of a corporation that is an offering corporation, not fewer than three individuals. R.S.O. 1990, c. B.16, s. 115 (2); 1994, c. 27, s. 71 (11).

Idem

(3) At least one-third of the directors of an offering corporation shall not be officers or employees of the corporation or any of its affiliates. R.S.O. 1990, c. B.16, s. 115 (3).

Deemed directors

(4) Where all of the directors have resigned or have been removed by the shareholders without replacement, any person who manages or supervises the management of the business and affairs of the corporation shall be deemed to be a director for the purposes of this Act. 1994, c. 27, s. 71 (12).

Exceptions

(5) Subsection (4) does not apply to,

- (a) an officer who manages the business of the corporation under the direction or control of a shareholder or other person;
- (b) a lawyer, accountant or other professional who participates in the management of the corporation solely for the purposes of providing professional services; or
- (c) a trustee in bankruptcy, receiver, receiver-manager or secured creditor who participates in the management of the corporation or exercises control over its property solely for the purposes of enforcement of a security agreement or administration of a bankrupt's estate, in the case of a trustee in bankruptcy. 1994, c. 27, s. 71 (12).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (11, 12) - 01/03/1995

By-laws by resolution

116 (1) Unless the articles, the by-laws or a unanimous shareholder agreement otherwise provide, the directors may, by resolution, make, amend or repeal any by-laws that regulate the business or affairs of a corporation. R.S.O. 1990, c. B.16, s. 116 (1).

Confirmation by shareholders

(2) Where the directors make, amend or repeal a by-law under subsection (1), they shall submit the by-law, amendment or repeal to the shareholders at the next meeting of shareholders, and the shareholders may confirm, reject or amend the by-law, amendment or repeal. R.S.O. 1990, c. B.16, s. 116 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 116 (2) of the Act is amended by striking out "and the shareholders may confirm" and substituting "and the shareholders may, by ordinary resolution, confirm". (See: 2020, c. 34, Sched. 1, s. 4)

Effective date

(3) Where a by-law is made, amended or repealed under subsection (1), the by-law, amendment or repeal is effective from the date of the resolution of the directors until it is confirmed, confirmed as amended or rejected by the shareholders under subsection (2) or until it ceases to be effective under subsection (4) and, where the by-law is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed. R.S.O. 1990, c. B.16, s. 116 (3).

Rejection, etc.

(4) If a by-law or an amendment or repeal of a by-law is rejected by the shareholders, or if the directors do not submit the by-law, amendment or repeal to the shareholders as required under subsection (2), the by-law, amendment or repeal ceases to be effective on the date of such rejection or on the date of the meeting of shareholders at which it should have been submitted, as the case may be, and no subsequent resolution of the directors to make, amend or repeal a by-law having substantially the

same purpose or effect is effective until it is confirmed or confirmed as amended by the shareholders. R.S.O. 1990, c. B.16, s. 116 (4); 1998, c. 18, Sched. E, s. 21.

By-law re shareholder proposal

(5) If a shareholder proposal to make, amend or repeal a by-law is made in accordance with section 99 and is adopted by shareholders at a meeting, the by-law, amendment or repeal is effective from the date of its adoption and requires no further confirmation. R.S.O. 1990, c. B.16, s. 116 (5).

By-law need not be so described

(6) A by-law need not be described as a by-law in a resolution referred to in this section. R.S.O. 1990, c. B.16, s. 116 (6).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. E, s. 21 - 18/12/1998

2020, c. 34, Sched. 1, s. 4 - not in force

First directors meeting

117 (1) After incorporation, a meeting of the directors of a corporation shall be held at which the directors may,

- (a) make by-laws;
- (b) adopt forms of security certificates and corporate records;
- (c) authorize the issue of securities;
- (d) appoint officers;
- (e) appoint one or more auditors to hold office until the first annual or special meeting of shareholders;
- (f) make banking arrangements; and
- (g) transact any other business. R.S.O. 1990, c. B.16, s. 117 (1).

Resolution in writing

(2) Any matter referred to in subsection (1) may be dealt with by the directors by a resolution in writing in accordance with subsection 129 (1). R.S.O. 1990, c. B.16, s. 117 (2).

Where subs. (1) does not apply

(3) Subsection (1) does not apply to a body corporate that is an amalgamated corporation under section 178 or that is continued under section 180. R.S.O. 1990, c. B.16, s. 117 (3).

Calling meeting

(4) An incorporator or a director may call the meeting of directors referred to in subsection (1) by giving not less than five days notice thereof to each director, stating the time and place of the meeting. R.S.O. 1990, c. B.16, s. 117 (4).

Qualifications of directors

118 (1) The following persons are disqualified from being a director of a corporation:

- 1. A person who is less than eighteen years of age.
- 2. A person who has been found under the *Substitute Decisions Act, 1992* or under the *Mental Health Act* to be incapable of managing property or who has been found to be incapable by a court in Canada or elsewhere.
- 3. A person who is not an individual.
- 4. A person who has the status of bankrupt. R.S.O. 1990, c. B.16, s. 118 (1); 2006, c. 34, Sched. B, s. 19 (1).

Holding shares

(2) Unless the articles otherwise provide, a director of a corporation is not required to hold shares issued by the corporation. R.S.O. 1990, c. B.16, s. 118 (2).

Residency

(3) At least 25 per cent of the directors of a corporation other than a non-resident corporation shall be resident Canadians, but where a corporation has less than four directors, at least one director shall be a resident Canadian. 2006, c. 34, Sched. B, s. 19 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 118 (3) of the Act is repealed. (See: 2020, c. 34, Sched. 1, s. 5)

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 19 (1, 2) - 01/08/2007

2020, c. 34, Sched. 1, s. 5 - not in force

First directors

119 (1) Each director named in the articles shall hold office from the date of endorsement of the certificate of incorporation until the first meeting of shareholders. R.S.O. 1990, c. B.16, s. 119 (1).

Resignation

(2) Until the first meeting of shareholders, the resignation of a director named in the articles shall not be effective unless at the time the resignation is to become effective a successor has been elected or appointed. 1994, c. 27, s. 71 (13).

Powers and duties

(3) The first directors of a corporation named in the articles have all the powers and duties and are subject to all the liabilities of directors. R.S.O. 1990, c. B.16, s. 119 (3).

Election of directors

(4) Subject to clause 120 (a), shareholders of a corporation shall elect, at the first meeting of shareholders and at each succeeding annual meeting at which an election of directors is required, directors to hold office for a term expiring not later than the close of the third annual meeting of shareholders following the election. R.S.O. 1990, c. B.16, s. 119 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 119 (4) of the Act is amended by striking out “shareholders of a corporation shall elect” and substituting “shareholders of a corporation shall, by ordinary resolution, elect”. (See: 2020, c. 34, Sched. 1, s. 6)

Term for directors

(5) It is not necessary that all directors elected at a meeting of shareholders hold office for the same term. R.S.O. 1990, c. B.16, s. 119 (5).

Idem

(6) A director not elected for an expressly stated term ceases to hold office at the close of the first annual meeting of shareholders following his or her election. R.S.O. 1990, c. B.16, s. 119 (6).

Idem

(7) Despite this section, if directors are not elected at a meeting of shareholders the incumbent directors continue in office until their successors are elected. R.S.O. 1990, c. B.16, s. 119 (7).

Failure to elect required number of directors

(8) If a meeting of shareholders fails to elect the number of directors required by the articles or by section 125 by reason of the disqualification, incapacity or death of one or more candidates, the directors elected at that meeting, if they constitute a quorum, may exercise all the powers of the directors of the corporation pending the holding of a meeting of shareholders in accordance with subsection 124 (3). R.S.O. 1990, c. B.16, s. 119 (8).

Consent required

(9) Subject to subsection (10), the election or appointment of a director under this Act is not effective unless the person elected or appointed consents in writing before or within 10 days after the date of the election or appointment. 1999, c. 12, Sched. F, s. 8.

Later consent

(10) If the person elected or appointed consents in writing after the time period mentioned in subsection (9), the election or appointment is valid. 1999, c. 12, Sched. F, s. 8.

Exception

(11) Subsection (9) does not apply to a director who is re-elected or re-appointed where there is no break in the director's term of office. 1999, c. 12, Sched. F, s. 8.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 119 of the Act is amended by adding the following subsection: (See: 2017, c. 20, Sched. 6, s. 11)

Director may require copy of consent

(12) The Director may, at any time by notice, require that a copy of a consent mentioned in subsection (9) or (10) be provided to the Director within the time period set out in the notice. 2017, c. 20, Sched. 6, s. 11.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (13) - 01/03/1995; 1999, c. 12, Sched. F, s. 8 - 27/03/2000

2017, c. 20, Sched. 6, s. 11 - not in force

2020, c. 34, Sched. 1, s. 6 - not in force

Cumulative voting for directors

120 Where the articles provide for cumulative voting,

- (a) each shareholder entitled to vote at an election of directors has the right to cast a number of votes equal to the number of votes attached to the shares held by the shareholder multiplied by the number of directors to be elected, and the shareholder may cast all such votes in favour of one candidate or distribute them among the candidates in any manner;
- (b) a separate vote of shareholders shall be taken with respect to each candidate nominated for director unless a resolution is passed unanimously permitting two or more persons to be elected by a single resolution;
- (c) if a shareholder has voted for more than one candidate without specifying the distribution of the shareholder's votes among the candidates, the shareholder is deemed to have distributed the shareholder's votes equally among the candidates for whom the shareholder voted;
- (d) if the number of candidates nominated for director exceeds the number of positions to be filled, the candidates who receive the least number of votes shall be eliminated until the number of candidates remaining equals the number of positions to be filled;
- (e) each director ceases to hold office at the close of the first annual meeting of shareholders following his or her election;
- (f) a director may not be removed from office if the votes cast against the director's removal would be sufficient to elect him or her and such votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the articles were then being elected;
- (g) the number of directors required by the articles may not be decreased if the votes cast against the motion to decrease would be sufficient to elect a director and such votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the articles were then being elected; and
- (h) the articles shall require a fixed number and not a minimum and maximum number of directors. R.S.O. 1990, c. B.16, s. 120.

When director ceases to hold office

121 (1) A director of a corporation ceases to hold office when he or she,

- (a) dies or, subject to subsection 119 (2), resigns;
- (b) is removed in accordance with section 122; or
- (c) becomes disqualified under subsection 118 (1). R.S.O. 1990, c. B.16, s. 121 (1).

Idem

(2) A resignation of a director becomes effective at the time a written resignation is received by the corporation or at the time specified in the resignation, whichever is later. R.S.O. 1990, c. B.16, s. 121 (2).

Removal of directors

122 (1) Subject to clause 120 (f), the shareholders of a corporation may by ordinary resolution at an annual or special meeting remove any director or directors from office. R.S.O. 1990, c. B.16, s. 122 (1).

Idem

(2) Where the holders of any class or series of shares of a corporation have an exclusive right to elect one or more directors, a director so elected may only be removed by an ordinary resolution at a meeting of the shareholders of that class or series. R.S.O. 1990, c. B.16, s. 122 (2).

Idem

(3) Subject to clauses 120 (a) to (d), a vacancy created by the removal of a director may be filled at the meeting of the shareholders at which the director is removed or, if not so filled, may be filled under section 124. R.S.O. 1990, c. B.16, s. 122 (3).

Entitlement of director

123 (1) A director of a corporation is entitled to receive notice of and to attend and be heard at every meeting of shareholders. R.S.O. 1990, c. B.16, s. 123 (1).

Idem

(2) A director who,

- (a) resigns;
- (b) receives a notice or otherwise learns of a meeting of shareholders called for the purpose of removing him or her from office; or
- (c) receives a notice or otherwise learns of a meeting of directors or shareholders at which another person is to be appointed or elected to fill the office of director, whether because of the resignation or removal of the director or because his or her term of office has expired or is about to expire,

is entitled to submit to the corporation a written statement giving the reasons for the director's resignation or the reasons why he or she opposes any proposed action or resolution, as the case may be. R.S.O. 1990, c. B.16, s. 123 (2).

Distribution of statement

(3) Upon receiving a statement under subsection (2), a corporation shall forthwith send a copy of the statement to every shareholder entitled to receive notice of meetings of shareholders unless the statement is included in or attached to a management information circular required by section 112. R.S.O. 1990, c. B.16, s. 123 (3); 2004, c. 19, s. 3 (3).

No liability

(4) No corporation or person acting on its behalf incurs any liability by reason only of circulating a director's statement in compliance with subsection (3). R.S.O. 1990, c. B.16, s. 123 (4).

Section Amendments with date in force (d/m/y)

2004, c. 19, s. 3 (3) - 01/06/2005

Vacancies

124 (1) Despite subsection 126 (6), but subject to subsections (2), (4) and (5) of this section, a quorum of directors may fill a vacancy among the directors, except a vacancy resulting from,

- (a) an increase in the number of directors otherwise than in accordance with subsection (2), or in the maximum number of directors, as the case may be; or
- (b) a failure to elect the number of directors required to be elected at any meeting of shareholders. R.S.O. 1990, c. B.16, s. 124 (1).

Appointment of directors subsequent to annual meeting

(2) Where a special resolution passed under subsection 125 (3) empowers the directors of a corporation the articles of which provide for a minimum and maximum number of directors to determine the number of directors, the directors may not, between meetings of shareholders, appoint an additional director if, after such appointment, the total number of directors would be greater than one and one-third times the number of directors required to have been elected at the last annual meeting of shareholders. R.S.O. 1990, c. B.16, s. 124 (2).

Election of directors to make quorum

(3) If there is not a quorum of directors, or if there has been a failure to elect the number of directors required by the articles or by section 125, the directors then in office shall forthwith call a special meeting of shareholders to fill the vacancy and, if they fail to call a meeting or if there are no directors then in office, the meeting may be called by any shareholder. R.S.O. 1990, c. B.16, s. 124 (3).

Where elected by class of shareholders

(4) Where the holders of any class or series of shares of a corporation have an exclusive right to elect one or more directors and a vacancy occurs among those directors,

- (a) subject to subsection (5), the remaining directors elected by that class or series may fill the vacancy except a vacancy resulting from an increase in the number of directors for that class or series or from a failure to elect the number of directors for that class or series; or
- (b) if there are no such remaining directors, any holder of shares of that class or series may call a meeting of the holders thereof for the purpose of filling the vacancy. R.S.O. 1990, c. B.16, s. 124 (4).

Idem, where no quorum

(5) The articles may provide that a vacancy among the directors shall only be filled by a vote of the shareholders, or by a vote of the holders of any class or series of shares having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class or series. R.S.O. 1990, c. B.16, s. 124 (5).

Term

(6) A director appointed or elected to fill a vacancy holds office for the unexpired term of the director's predecessor. R.S.O. 1990, c. B.16, s. 124 (6).

Change in number of directors

125 (1) A corporation may increase or decrease the number, or the minimum or maximum number, of its directors in accordance with clause 168 (1) (m), but no decrease in the number of directors shall shorten the term of an incumbent director. R.S.O. 1990, c. B.16, s. 125 (1).

Articles amendment

(2) Where a corporation has increased or decreased the number of directors by special by-law under a predecessor of this Act, the special by-law shall be deemed to constitute an amendment to its articles. R.S.O. 1990, c. B.16, s. 125 (2).

Number of directors

(3) Where a minimum and maximum number of directors of a corporation is provided for in its articles, the number of directors of the corporation and the number of directors to be elected at the annual meeting of the shareholders shall be such number as shall be determined from time to time by special resolution or, if the special resolution empowers the directors to determine the number, by resolution of the directors. R.S.O. 1990, c. B.16, s. 125 (3).

Idem

(4) Where no resolution has been passed under subsection (3), the number of directors of the corporation shall be the number of directors named in its articles. R.S.O. 1990, c. B.16, s. 125 (4).

(5) REPEALED: 1998, c. 18, Sched. E, s. 22 (1).

(6) REPEALED: 1998, c. 18, Sched. E, s. 22 (2).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. E, s. 22 (1, 2) - 01/03/1999

Directors' meetings

126 (1) Unless the articles or by-laws provide otherwise, the directors may meet at any place. 2017, c. 2, Sched. 12, s. 1 (6).

(2) REPEALED: 2017, c. 2, Sched. 12, s. 1 (6).

Quorum

(3) Subject to the articles or by-laws and subsection (4), a majority of the number of directors or minimum number of directors required by the articles constitutes a quorum at any meeting of directors. R.S.O. 1990, c. B.16, s. 126 (3); 2017, c. 2, Sched. 12, s. 1 (7).

Idem

(4) Where a corporation has fewer than three directors, all directors must be present at any meeting of directors to constitute a quorum. R.S.O. 1990, c. B.16, s. 126 (4).

Idem

(5) Subject to the articles or by-laws, where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. R.S.O. 1990, c. B.16, s. 126 (5).

(6), (7) REPEALED: 2006, c. 34, Sched. B, s. 20.

Calling meeting of directors

(8) In addition to any other provision in the articles or by-laws of a corporation for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting. R.S.O. 1990, c. B.16, s. 126 (8).

Notice

(9) In the absence of any other provision in that behalf in the by-laws of the corporation, notice of the time and place for the holding of the meeting called under subsection (8) shall be given to every director of the corporation by sending the notice ten days or more before the date of the meeting to each director's latest address as shown on the records of the corporation. R.S.O. 1990, c. B.16, s. 126 (9).

Waiver of notice

(10) A director may in any manner and at any time waive a notice of a meeting of directors and attendance of a director at a meeting of directors is a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. R.S.O. 1990, c. B.16, s. 126 (10).

Adjourned meeting

(11) Notice of an adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting. R.S.O. 1990, c. B.16, s. 126 (11).

Where one director

(12) Where a corporation has only one director, that director may constitute a meeting. R.S.O. 1990, c. B.16, s. 126 (12).

Meeting by telephone, etc.

(13) Unless the by-laws otherwise provide, if all the directors of a corporation present at or participating in the meeting consent, a meeting of directors or of a committee of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such a meeting by such means is deemed for the purposes of this Act to be present at that meeting. R.S.O. 1990, c. B.16, s. 126 (13).

(14) REPEALED: 2017, c. 2, Sched. 12, s. 1 (8).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 20 - 01/08/2007

2017, c. 2, Sched. 12, s. 1 (6-8) - 22/03/2018

Delegation by directors

127 (1) Subject to the articles or by-laws, directors of a corporation may appoint from their number a managing director or a committee of directors and delegate to such managing director or committee any of the powers of the directors. 2006, c. 34, Sched. B, s. 21 (1).

(2) REPEALED: 2006, c. 34, Sched. B, s. 21 (2).

Limitations on authority

(3) Despite subsection (1), no managing director and no committee of directors has authority to,

- (a) submit to the shareholders any question or matter requiring the approval of the shareholders;
- (b) fill a vacancy among the directors or in the office of auditor or appoint or remove any of the chief executive officers, however designated, the chief financial officer, however designated, the chair or the president of the corporation;
- (c) subject to section 184, issue securities except in the manner and on the terms authorized by the directors;
- (d) declare dividends;
- (e) purchase, redeem or otherwise acquire shares issued by the corporation;
- (f) pay a commission referred to in section 37;
- (g) approve a management information circular referred to in Part VIII;
- (h) approve a take-over bid circular, directors' circular or issuer bid circular referred to in Part XX of the *Securities Act*;

- (i) approve any financial statements referred to in clause 154 (1) (b) of the Act and Part XVIII of the *Securities Act*;
- (i.1) approve an amalgamation under section 177 or an amendment to the articles under subsection 168 (2) or (4); or
- (j) adopt, amend or repeal by-laws. R.S.O. 1990, c. B.16, s. 127 (3); 1994, c. 27, s. 71 (16).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (16) - 01/03/1995

2006, c. 34, Sched. B, s. 21 (1, 2) - 01/08/2007

Validity of acts of directors and officers

128 An act done by a director or by an officer is not invalid by reason only of any defect that is thereafter discovered in his or her appointment, election or qualification. R.S.O. 1990, c. B.16, s. 128.

Resolutions in writing

129 (1) A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors or a committee of directors, is as valid as if it had been passed at a meeting of directors or a committee of directors. R.S.O. 1990, c. B.16, s. 129 (1).

Copy to be kept

(2) A copy of every resolution passed under subsection (1) shall be kept with the minutes of the proceedings of the directors or committee of directors. R.S.O. 1990, c. B.16, s. 129 (2).

Evidence

(3) An entry in the minutes of a meeting to the effect that the chair of the meeting declared a resolution to be carried or defeated is, in the absence of evidence to the contrary, proof of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. 2017, c. 2, Sched. 12, s. 1 (9).

Section Amendments with date in force (d/m/y)

2017, c. 2, Sched. 12, s. 1 (9) - 22/03/2017

Liability of directors

130 (1) Directors of a corporation who vote for or consent to a resolution authorizing the issue of a share for a consideration other than money contrary to section 23 are jointly and severally liable to the corporation to make good any amount by which the consideration received is less than the fair equivalent of the money that the corporation would have received if the share had been issued for money on the date of the resolution. R.S.O. 1990, c. B.16, s. 130 (1).

Idem

(2) Directors of a corporation who vote for or consent to a resolution authorizing,

- (a) REPEALED: 2006, c. 34, Sched. B, s. 22 (1).
- (b) a purchase, redemption or other acquisition of shares contrary to section 30, 31 or 32;
- (c) a commission contrary to section 37;
- (d) a payment of a dividend contrary to section 38;
- (e) a payment of an indemnity contrary to section 136; or
- (f) a payment to a shareholder contrary to section 185 or 248,

are jointly and severally liable to restore to the corporation any amounts so distributed or paid and not otherwise recovered by the corporation. R.S.O. 1990, c. B.16, s. 130 (2); 2006, c. 34, Sched. B, s. 22 (1).

Joint liability

(3) A director who has satisfied a judgment rendered under this section is entitled to contribution from the other directors who voted for or consented to the unlawful act upon which the judgment was founded. R.S.O. 1990, c. B.16, s. 130 (3).

Application to court

(4) A director liable under subsection (2) is entitled to apply to the court for an order compelling a shareholder or other recipient to pay or deliver to the director any money or property that was paid or distributed to the shareholder or other recipient contrary to section 30, 31, 32, 37, 38, 136, 185 or 248. R.S.O. 1990, c. B.16, s. 130 (4); 2006, c. 34, Sched. B, s. 22 (2).

What court may order

- (5) In connection with an application under subsection (4), the court may, if it is satisfied that it is equitable to do so,
- (a) order a shareholder or other recipient to pay or deliver to a director any money or property that was paid or distributed to the shareholder or other recipient contrary to section 30, 31, 32, 37, 38, 136, 185 or 248;
 - (b) order a corporation to return or issue shares to a person from whom the corporation has purchased, redeemed or otherwise acquired shares; or
 - (c) make any further order it thinks fit. R.S.O. 1990, c. B.16, s. 130 (5); 2006, c. 34, Sched. B, s. 22 (3).

Exception to subs. (1)

(6) A director is not liable under subsection (1) if the director proves that he or she did not know and could not reasonably have known that the share was issued for a consideration less than the fair equivalent of the money that the corporation would have received if the share had been issued for money. R.S.O. 1990, c. B.16, s. 130 (6).

(7) REPEALED: 2002, c. 24, Sched. B, s. 25.

Section Amendments with date in force (d/m/y)

2002, c. 24, Sched. B, s. 25 - 01/01/2004

2006, c. 34, Sched. B, s. 22 (1-3) - 01/08/2007

Directors' liability to employees for wages

131 (1) The directors of a corporation are jointly and severally liable to the employees of the corporation for all debts not exceeding six months' wages that become payable while they are directors for services performed for the corporation and for the vacation pay accrued while they are directors for not more than twelve months under the *Employment Standards Act*, and the regulations thereunder, or under any collective agreement made by the corporation. R.S.O. 1990, c. B.16, s. 131 (1).

Limitation of liability

- (2) A director is liable under subsection (1) only if,
- (a) the corporation is sued in the action against the director and execution against the corporation is returned unsatisfied in whole or in part; or
 - (b) before or after the action is commenced, the corporation goes into liquidation, is ordered to be wound up or makes an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada), or a receiving order under that Act is made against it, and, in any such case, the claim for the debt has been proved. 2002, c. 24, Sched. B, s. 27 (1).

Idem

(3) Where execution referred to in clause (2) (b) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution. R.S.O. 1990, c. B.16, s. 131 (3).

Rights of director who pays debt

(4) Where a director pays a debt under subsection (1) that is proved in liquidation and dissolution or bankruptcy proceedings, the director is entitled to any preference that the employee would have been entitled to, and where a judgment has been obtained the director is entitled to an assignment of the judgment. R.S.O. 1990, c. B.16, s. 131 (4).

Idem

(5) A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim. R.S.O. 1990, c. B.16, s. 131 (5).

Section Amendments with date in force (d/m/y)

2002, c. 24, Sched. B, s. 27 (1) - 01/01/2004

Disclosure: conflict of interest

132 (1) A director or officer of a corporation who,

- (a) is a party to a material contract or transaction or proposed material contract or transaction with the corporation; or
- (b) is a director or an officer of, or has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the corporation,

shall disclose in writing to the corporation or request to have entered in the minutes of meetings of directors the nature and extent of his or her interest. R.S.O. 1990, c. B.16, s. 132 (1).

by director

- (2) The disclosure required by subsection (1) shall be made, in the case of a director,
- (a) at the meeting at which a proposed contract or transaction is first considered;
 - (b) if the director was not then interested in a proposed contract or transaction, at the first meeting after he or she becomes so interested;
 - (c) if the director becomes interested after a contract is made or a transaction is entered into, at the first meeting after he or she becomes so interested; or
 - (d) if a person who is interested in a contract or transaction later becomes a director, at the first meeting after he or she becomes a director. R.S.O. 1990, c. B.16, s. 132 (2).

by officer

- (3) The disclosure required by subsection (1) shall be made, in the case of an officer who is not a director,
- (a) forthwith after the officer becomes aware that the contract or transaction or proposed contract or transaction is to be considered or has been considered at a meeting of directors;
 - (b) if the officer becomes interested after a contract is made or a transaction is entered into, forthwith after he or she becomes so interested; or
 - (c) if a person who is interested in a contract or transaction later becomes an officer, forthwith after he or she becomes an officer. R.S.O. 1990, c. B.16, s. 132 (3).

Where contract or transaction does not require approval

(4) Despite subsections (2) and (3), where subsection (1) applies to a director or officer in respect of a material contract or transaction or proposed material contract or transaction that, in the ordinary course of the corporation's business, would not require approval by the directors or shareholders, the director or officer shall disclose in writing to the corporation or request to have entered in the minutes of meetings of directors the nature and extent of his or her interest forthwith after the director or officer becomes aware of the contract or transaction or proposed contract or transaction. R.S.O. 1990, c. B.16, s. 132 (4).

Director not to vote

- (5) A director referred to in subsection (1) shall not attend any part of a meeting of directors during which the contract or transaction is discussed and shall not vote on any resolution to approve the contract or transaction unless the contract or transaction is,
- (a) one relating primarily to his or her remuneration as a director of the corporation or an affiliate;
 - (b) one for indemnity or insurance under section 136; or
 - (c) one with an affiliate. 2006, c. 34, Sched. B, s. 23 (1).

Remaining directors deemed quorum

(5.1) If no quorum exists for the purpose of voting on a resolution to approve a contract or transaction only because a director is not permitted to be present at the meeting by reason of subsection (5), the remaining directors shall be deemed to constitute a quorum for the purposes of voting on the resolution. 2006, c. 34, Sched. B, s. 23 (2).

Shareholder approval

(5.2) Where all of the directors are required to make disclosure under subsection (1), the contract or transaction may be approved only by the shareholders. 2006, c. 34, Sched. B, s. 23 (2).

Continuing disclosure

(6) For the purposes of this section, a general notice to the directors by a director or officer disclosing that he or she is a director or officer of or has a material interest in a person, or that there has been a material change in the director's or officer's interest in the person, and is to be regarded as interested in any contract made or any transaction entered into with that person, is sufficient disclosure of interest in relation to any such contract or transaction. 2006, c. 34, Sched. B, s. 23 (3).

Effect of disclosure

(7) Where a material contract is made or a material transaction is entered into between a corporation and a director or officer of the corporation, or between a corporation and another person of which a director or officer of the corporation is a director or officer or in which he or she has a material interest,

- (a) the director or officer is not accountable to the corporation or its shareholders for any profit or gain realized from the contract or transaction; and
- (b) the contract or transaction is neither void nor voidable,

by reason only of that relationship or by reason only that the director is present at or is counted to determine the presence of a quorum at the meeting of directors that authorized the contract or transaction, if the director or officer disclosed his or her interest in accordance with subsection (2), (3), (4) or (6), as the case may be, and the contract or transaction was reasonable and fair to the corporation at the time it was so approved. R.S.O. 1990, c. B.16, s. 132 (7).

Confirmation by shareholders

(8) Despite anything in this section, a director or officer, acting honestly and in good faith, is not accountable to the corporation or to its shareholders for any profit or gain realized from any such contract or transaction by reason only of his or her holding the office of director or officer, and the contract or transaction, if it was reasonable and fair to the corporation at the time it was approved, is not by reason only of the director's or officer's interest therein void or voidable, where,

- (a) the contract or transaction is confirmed or approved by special resolution at a meeting of the shareholders duly called for that purpose; and
- (b) the nature and extent of the director's or officer's interest in the contract or transaction are disclosed in reasonable detail in the notice calling the meeting or in the information circular required by section 112. R.S.O. 1990, c. B.16, s. 132 (8).

Court setting aside contract

(9) Subject to subsections (7) and (8), where a director or officer of a corporation fails to disclose his or her interest in a material contract or transaction in accordance with this section or otherwise fails to comply with this section, the corporation or a shareholder of the corporation, or, in the case of an offering corporation, the Commission may apply to the court for an order setting aside the contract or transaction and directing that the director or officer account to the corporation for any profit or gain realized and upon such application the court may so order or make such other order as it thinks fit. R.S.O. 1990, c. B.16, s. 132 (9).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 23 (1-3) - 01/08/2007

Officers

133 Subject to the articles, the by-laws or any unanimous shareholder agreement,

- (a) the directors may designate the offices of the corporation, appoint officers, specify their duties and delegate to them powers to manage the business and affairs of the corporation, except, subject to section 184, powers to do anything referred to in subsection 127 (3);
- (b) a director may be appointed to any office of the corporation; and
- (c) two or more offices of the corporation may be held by the same person. R.S.O. 1990, c. B.16, s. 133.

Standards of care, etc., of directors, etc.

134 (1) Every director and officer of a corporation in exercising his or her powers and discharging his or her duties to the corporation shall,

- (a) act honestly and in good faith with a view to the best interests of the corporation; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. R.S.O. 1990, c. B.16, s. 134 (1); 2006, c. 34, Sched. B, s. 24.

Duty to comply with Act, etc.

(2) Every director and officer of a corporation shall comply with this Act, the regulations, articles, by-laws and any unanimous shareholder agreement. R.S.O. 1990, c. B.16, s. 134 (2).

Cannot contract out of liability

(3) Subject to subsection 108 (5), no provision in a contract, the articles, the by-laws or a resolution relieves a director or officer from the duty to act in accordance with this Act and the regulations or relieves him or her from liability for a breach thereof. R.S.O. 1990, c. B.16, s. 134 (3).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 24 - 01/08/2007

Consent of director at meeting

135 (1) A director who is present at a meeting of directors or committee of directors is deemed to have consented to any resolution passed or action taken thereat unless the director,

- (a) requests that his or her dissent be or his or her dissent is entered in the minutes of the meeting;
- (b) sends a written dissent to the secretary of the meeting before the meeting is terminated; or
- (c) sends a dissent by registered mail or delivers it to the registered office of the corporation immediately after the meeting is terminated. R.S.O. 1990, c. B.16, s. 135 (1).

Idem

(2) A director who votes for or consents to a resolution is not entitled to dissent under subsection (1). R.S.O. 1990, c. B.16, s. 135 (2).

Idem

(3) A director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented thereto unless within seven days after becoming aware of the resolution the director,

- (a) causes his or her dissent to be placed with the minutes of the meeting; or
- (b) sends his or her dissent by registered mail or delivers it to the registered office of the corporation. R.S.O. 1990, c. B.16, s. 135 (3).

Reasonable diligence defence

(4) A director is not liable under section 130 and has complied with his or her duties under subsection 134 (2) if the director exercised the care, diligence and skill that a reasonably prudent person would have exercised in comparable circumstances, including reliance in good faith on,

- (a) financial statements of the corporation represented to him or her by an officer of the corporation or in a written report of the auditor of the corporation to present fairly the financial position of the corporation in accordance with generally accepted accounting principles;
- (b) an interim or other financial report of the corporation represented to him or her by an officer of the corporation to present fairly the financial position of the corporation in accordance with generally accepted accounting principles;
- (c) a report or advice of an officer or employee of the corporation, where it is reasonable in the circumstances to rely on the report or advice; or
- (d) a report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to a statement made by any such person. 2006, c. 34, Sched. B, s. 25.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 25 - 01/08/2007

Indemnification

136 (1) A corporation may indemnify a director or officer of the corporation, a former director or officer of the corporation or another individual who acts or acted at the corporation's request as a director or officer, or an individual acting in a similar capacity, of another entity, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of that association with the corporation or other entity. 2006, c. 34, Sched. B, s. 26.

Advance of costs

(2) A corporation may advance money to a director, officer or other individual for the costs, charges and expenses of a proceeding referred to in subsection (1), but the individual shall repay the money if the individual does not fulfil the conditions set out in subsection (3). 2006, c. 34, Sched. B, s. 26.

Limitation

(3) A corporation shall not indemnify an individual under subsection (1) unless the individual acted honestly and in good faith with a view to the best interests of the corporation or, as the case may be, to the best interests of the other entity for which the individual acted as a director or officer or in a similar capacity at the corporation's request. 2006, c. 34, Sched. B, s. 26.

Same

(4) In addition to the conditions set out in subsection (3), if the matter is a criminal or administrative action or proceeding that is enforced by a monetary penalty, the corporation shall not indemnify an individual under subsection (1) unless the individual had reasonable grounds for believing that the individual's conduct was lawful. 2006, c. 34, Sched. B, s. 26.

Derivative actions

(4.1) A corporation may, with the approval of a court, indemnify an individual referred to in subsection (1), or advance moneys under subsection (2), in respect of an action by or on behalf of the corporation or other entity to obtain a judgment in its favour, to which the individual is made a party because of the individual's association with the corporation or other entity as described in subsection (1), against all costs, charges and expenses reasonably incurred by the individual in connection with such action, if the individual fulfils the conditions set out in subsection (3). 2006, c. 34, Sched. B, s. 26.

Right to indemnity

(4.2) Despite subsection (1), an individual referred to in that subsection is entitled to indemnity from the corporation in respect of all costs, charges and expenses reasonably incurred by the individual in connection with the defence of any civil, criminal, administrative, investigative or other proceeding to which the individual is subject because of the individual's association with the corporation or other entity as described in subsection (1), if the individual seeking an indemnity,

- (a) was not judged by a court or other competent authority to have committed any fault or omitted to do anything that the individual ought to have done; and
- (b) fulfils the conditions set out in subsections (3) and (4). 2006, c. 34, Sched. B, s. 26.

Insurance

(4.3) A corporation may purchase and maintain insurance for the benefit of an individual referred to in subsection (1) against any liability incurred by the individual,

- (a) in the individual's capacity as a director or officer of the corporation; or
- (b) in the individual's capacity as a director or officer, or a similar capacity, of another entity, if the individual acts or acted in that capacity at the corporation's request. 2006, c. 34, Sched. B, s. 26.

Application to court

(5) A corporation or a person referred to in subsection (1) may apply to the court for an order approving an indemnity under this section and the court may so order and make any further order it thinks fit. R.S.O. 1990, c. B.16, s. 136 (5).

Idem

(6) Upon an application under subsection (5), the court may order notice to be given to any interested person and such person is entitled to appear and be heard in person or by counsel. R.S.O. 1990, c. B.16, s. 136 (6).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 26 - 01/08/2007

Remuneration of directors

137 Subject to the articles, the by-laws or any unanimous shareholder agreement, the directors of a corporation may fix the remuneration of the directors, officers and employees of the corporation. R.S.O. 1990, c. B.16, s. 137.

PART X INSIDER LIABILITY

Insider liability

138 (1) In this Part,

“corporation” means a corporation that is not an offering corporation; (“société”)

“insider” means, with respect to a corporation,

- (a) the corporation,
- (b) an affiliate of the corporation,
- (c) a director or officer of the corporation,
- (d) a person who beneficially owns, directly or indirectly, more than 10 per cent of the voting securities of the corporation or who exercises control or direction over more than 10 per cent of the votes attached to the voting securities of the corporation,
- (e) a person employed or retained by the corporation, or
- (f) a person who receives specific confidential information from a person described in this definition or in subsection (3), including a person described in this clause, and who has knowledge that the person giving the information is a person described in this definition or in subsection (3), including a person described in this clause; (“initié”)

“security” includes a warrant. (“valeur mobilière”) R.S.O. 1990, c. B.16, s. 138 (1).

Insider

(2) For the purposes of this Part,

- (a) a director or officer of a body corporate that is an insider of a corporation is deemed to be an insider of the corporation;
- (b) a director or officer of a body corporate that is a subsidiary is deemed to be an insider of its holding corporation;
- (c) a person is deemed to own beneficially, voting securities beneficially owned by a body corporate controlled by the person directly or indirectly; and
- (d) a body corporate is deemed to own beneficially, voting securities beneficially owned by its affiliates. R.S.O. 1990, c. B.16, s. 138 (2).

Idem

(3) For the purposes of this Part,

- (a) where a body corporate becomes an insider of a corporation, or enters into a business combination with a corporation, a director or an officer of the body corporate or a shareholder of the body corporate who is a person referred to in clause (d) of the definition of “insider” in subsection (1) is deemed to have been an insider of the corporation for the previous six months or for such shorter period as he or she was a director, an officer or such a shareholder of the body corporate; and
- (b) where a corporation becomes an insider of a body corporate or enters into a business combination with a body corporate, a director or an officer of the body corporate or a shareholder of the body corporate who is a person referred to in clause (d) of the definition of “insider” in subsection (1) is deemed to have been an insider of the corporation for the previous six months or for such shorter period as he or she was a director, an officer or such a shareholder of the body corporate. R.S.O. 1990, c. B.16, s. 138 (3).

Business combination

(4) In subsection (3),

“business combination” means an acquisition of all or substantially all the property of one body corporate by another or an amalgamation of two or more bodies corporate. R.S.O. 1990, c. B.16, s. 138 (4).

Liability of insider

(5) An insider who, in connection with a transaction in a security of the corporation or any of its affiliates, makes use of any specific confidential information for the insider’s own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of the security,

- (a) is liable to compensate any person for any direct loss suffered by that person as a result of the transaction, unless the information was known or in the exercise of reasonable diligence should have been known to that person; and
 - (b) is accountable to the corporation for any direct benefit or advantage received or receivable by the insider as a result of the transaction. R.S.O. 1990, c. B.16, s. 138 (5).
- (6) REPEALED: 2002, c. 24, Sched. B, s. 25.

Section Amendments with date in force (d/m/y)

2002, c. 24, Sched. B, s. 25 - 01/01/2004

PART XI BOOKS AND RECORDS

Records

139 (1) Where this Act requires a record to be kept by a corporation, it may be kept in a bound or looseleaf book or may be entered or recorded by any system of mechanical or electronic data processing or any other information storage device. R.S.O. 1990, c. B.16, s. 139 (1).

Guard against falsification of records

- (2) The corporation shall,
 - (a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded; and
 - (b) provide means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records. R.S.O. 1990, c. B.16, s. 139 (2).

Admissibility of records in evidence

(3) The bound or looseleaf book or, where the record is not kept in a bound or looseleaf book, the information in the form in which it is made available under clause (2) (b) is admissible in evidence as proof, in the absence of evidence to the contrary, of all facts stated therein, before and after dissolution of the corporation. R.S.O. 1990, c. B.16, s. 139 (3).

Exception

(3.1) Subsection (3) does not apply to the register described in clause 140 (1) (e). 2015, c. 38, Sched. 7, s. 44 (1).

False information

- (4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or,
 - (a) record or assist in recording any information in a record; or
 - (b) make information purporting to be accurate available in a form referred to in clause (2) (b),
 knowing it to be untrue. R.S.O. 1990, c. B.16, s. 139 (4).

Section Amendments with date in force (d/m/y)

2015, c. 38, Sched. 7, s. 44 (1) - 10/12/2016

Records, duties of corporation

140 (1) A corporation shall prepare and maintain, at its registered office or at such other place in Ontario designated by the directors,

- (a) the articles and the by-laws and all amendments thereto, and a copy of any unanimous shareholder agreement known to the directors;
- (b) minutes of meetings and resolutions of shareholders;
- (c) a register of directors in which are set out the names and residence addresses, while directors, including the street and number, if any, and an e-mail address if one is provided, of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director;
- (d) a securities register complying with section 141; and
- (e) a register of ownership interests in land complying with section 140.1. R.S.O. 1990, c. B.16, s. 140 (1); 2015, c. 38, Sched. 7, s. 44 (2); 2019, c. 7, Sched. 6, s. 1.

Idem

(2) In addition to the records described in subsection (1), a corporation shall prepare and maintain,

(a) adequate accounting records; and

(b) records containing minutes of meetings and resolutions of the directors and any committee thereof,

but, provided the retention requirements of any taxing authority of Ontario, the government of Canada or any other jurisdiction to which the corporation is subject have been satisfied, the accounting records mentioned in clause (a) need only be retained by the corporation for six years from the end of the last fiscal period to which they relate. R.S.O. 1990, c. B.16, s. 140 (2).

Interpretation

(3) For the purposes of clause (1) (b) and subsection (2), where a body corporate is continued under this Act, “records” includes similar records required by law to be maintained by the body corporate before it was so continued. R.S.O. 1990, c. B.16, s. 140 (3).

Transition

(4) If a corporation is incorporated or continued under this Act or a predecessor of it before the day section 2 of the *Forfeited Corporate Property Act, 2015* comes into force, clause (1) (e) applies to the corporation on and after the second anniversary of the coming into force of that section, in respect of its ownership interests in land on and after that second anniversary. 2015, c. 38, Sched. 7, s. 44 (3).

Same

(5) If a corporation is incorporated or continued under this Act on or after the day section 2 of the *Forfeited Corporate Property Act, 2015* comes into force, clause (1) (e) applies to the corporation on and after the day it is incorporated or continued, in respect of its ownership interests in land on and after the day it is incorporated or continued. 2015, c. 38, Sched. 7, s. 44 (3).

Section Amendments with date in force (d/m/y)

2015, c. 38, Sched. 7, s. 44 (2, 3) - 10/12/2016

2019, c. 7, Sched. 6, s. 1 - 29/05/2019

Register of interests in land in Ontario

140.1 (1) A corporation shall prepare and maintain at its registered office a register of its ownership interests in land in Ontario. 2015, c. 38, Sched. 7, s. 44 (4).

Same

(2) The register shall,

(a) identify each property; and

(b) show the date the corporation acquired the property and, if applicable, the date the corporation disposed of it. 2015, c. 38, Sched. 7, s. 44 (4).

Supporting documents

(3) The corporation shall cause to be kept with the register a copy of any deeds, transfers or similar documents that contain any of the following with respect to each property listed in the register:

1. The municipal address, if any.

2. The registry or land titles division and the property identifier number.

3. The legal description.

4. The assessment roll number, if any. 2015, c. 38, Sched. 7, s. 44 (4).

Section Amendments with date in force (d/m/y)

2015, c. 38, Sched. 7, s. 44 (4) - 10/12/2016

Securities register

141 (1) A corporation shall prepare and maintain at its registered office, or at any other place in Ontario designated by the directors, a securities register in which it records the securities issued by it in registered form, showing with respect to each class or series of securities,

- (a) the names, alphabetically arranged of persons who,
 - (i) are or have been within six years registered as shareholders of the corporation, the address including the street and number, if any, and an e-mail address if one is provided, of every such person while a holder, and the number and class of shares registered in the name of such holder,
 - (ii) are or have been within six years registered as holders of debt obligations of the corporation, the address including the street and number, if any, and an e-mail address if one is provided, of every such person while a holder, and the class or series and principal amount of the debt obligations registered in the name of such holder, or
 - (iii) are or have been within six years registered as holders of warrants of the corporation, other than warrants exercisable within one year from the date of issue, the address including the street and number, if any, and an e-mail address if one is provided, of every such person while a registered holder, and the class or series and number of warrants registered in the name of such holder; and
- (b) the date and particulars of the issue of each security and warrant. R.S.O. 1990, c. B.16, s. 141 (1); 2017, c. 2, Sched. 12, s. 1 (10).

Register of transfers

(2) A corporation shall cause to be kept a register of transfers in which all transfers of securities issued by the corporation in registered form and the date and other particulars of each transfer shall be set out. R.S.O. 1990, c. B.16, s. 141 (2).

(3) REPEALED: 2006, c. 8, s. 120.

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 120 - 01/01/2007

2017, c. 2, Sched. 12, s. 1 (10) - 22/03/2017

Transfer agents

142 For each class of securities and warrants issued by it, a corporation may appoint,

- (a) a trustee, transfer agent or other agent to keep the securities register and the register of transfers and one or more persons or agents to keep branch registers; and
- (b) a registrar, trustee or agent to maintain a record of issued security certificates and warrants,

and, subject to section 48, one person may be appointed for the purposes of both clauses (a) and (b) in respect of all securities and warrants of the corporation or any class or classes thereof. R.S.O. 1990, c. B.16, s. 142.

Registers, general

143 (1) The securities register and the register of transfers shall be kept at the registered office of a corporation or at such other places in Ontario designated by the directors, and the branch register or registers of transfers may be kept at such offices of the corporation or other places, either within or outside Ontario, designated by the directors. R.S.O. 1990, c. B.16, s. 143 (1).

Valid registration

(2) Registration of the transfer of a security or warrant of a corporation in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes. R.S.O. 1990, c. B.16, s. 143 (2).

Entry in branch transfer register

(3) In each branch register of transfers there shall be recorded only the particulars of the transfers of securities or warrants registered in that branch register of transfers. R.S.O. 1990, c. B.16, s. 143 (3).

Entry in register of transfers

(4) Particulars of every transfer of securities and warrants registered in every branch register of transfers shall be recorded in the register of transfers. R.S.O. 1990, c. B.16, s. 143 (4).

Documents not required to be produced

- (5) A corporation or a person appointed under section 142 is not required to produce,
- (a) any security certificate or warrant that is not in registered form; or
 - (b) any security certificate or warrant that is in registered form after six years,
 - (i) in the case of a share certificate, from the date of its cancellation,
 - (ii) in the case of a warrant, from the date of its transfer or exercise, whichever occurs first, or
 - (iii) in the case of a certificate representing a debt obligation, from the date of cancellation of such certificate. R.S.O. 1990, c. B.16, s. 143 (5).

Records open to examination by directors

144 (1) The records mentioned in sections 140 and 141 shall, during normal business hours of a corporation, be open to examination by any director and shall, except as provided in sections 140 and 143 and in subsections (2) and (3) of this section, be kept at the registered office of the corporation. R.S.O. 1990, c. B.16, s. 144 (1).

Records of account at branch

(2) A corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations, business and assets and liabilities of the corporation carried on, supervised or accounted for at such place, but there shall be kept at the registered office of the corporation or such other place as is authorized under this section such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the corporation. R.S.O. 1990, c. B.16, s. 144 (2).

Off-site records

(3) A corporation may keep all or any of the records mentioned in subsection (1) at a place other than the registered office of the corporation if the records are available for inspection during regular office hours at the registered office by means of a computer terminal or other electronic technology. 1994, c. 27, s. 71 (17).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 144 (3) of the Act is amended by striking out “any of the records mentioned in subsection (1)” and substituting “any of the records mentioned in subsection (1), except the register mentioned in clause 140 (1) (e)”. (See: 2015, c. 38, Sched. 7, s. 44 (5))

Rescission of orders made under subs. (3)

(4) The Director may by order upon such terms as the Director thinks fit rescind any order made under subsection (3) or any order made by the Lieutenant Governor in Council or the Minister under a predecessor of that subsection. R.S.O. 1990, c. B.16, s. 144 (4).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (17) - 01/03/1995

2015, c. 38, Sched. 7, s. 44 (5) - not in force

Examination of records by shareholders and creditors

145 (1) Registered holders of shares, beneficial owners of shares and creditors of a corporation, their agents and legal representatives may examine the records referred to in subsection 140 (1) during the usual business hours of the corporation, and may take extracts from those records, free of charge, and, if the corporation is an offering corporation, any other person may do so upon payment of a reasonable fee. 2006, c. 34, Sched. B, s. 27.

Copy

(2) A registered holder or beneficial owner of shares of a corporation is entitled upon request and without charge to one copy of the articles and by-laws and of any unanimous shareholder agreement. 2006, c. 34, Sched. B, s. 27.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 27 - 01/08/2007

List of shareholders

146 (1) Registered holders, beneficial owners of shares and creditors of a corporation, their agents and legal representatives and, if the corporation is an offering corporation, any other person, upon payment of a reasonable fee and upon sending to the corporation or its transfer agent the statutory declaration referred to in subsection (6), may require the corporation or its transfer agent to furnish a basic list setting out the names of the registered holders of shares of the corporation, the number of

shares of each class and series owned by each registered holder and the address of each of them, all as shown on the records of the corporation. 2006, c. 34, Sched. B, s. 28 (1).

Idem

(2) The basic list referred to in subsection (1) shall be furnished to the applicant as soon as is practicable and, when furnished, shall be as current as is practicable having regard to the form in which the securities register of the corporation is maintained, but, in any case, shall be furnished not more than ten days following the receipt by the corporation or its transfer agent of the statutory declaration referred to in subsection (1) and shall be made up to a date not more than ten days before the date on which it is actually furnished. R.S.O. 1990, c. B.16, s. 146 (2).

Supplemental lists

(3) A person requiring a corporation to supply a basic list may, if the person states in the statutory declaration referred to in subsection (1) that the person requires supplemental lists, require the corporation or its agent upon payment of a reasonable fee to furnish supplemental lists setting out any changes from the basic list in the names or addresses of the registered holders of the corporation's shares and the number of shares owned by each registered holder for each business day following the date to which the basic list is made up. 2006, c. 34, Sched. B, s. 28 (2).

Idem

- (4) The corporation or its agent shall furnish a supplemental list required under subsection (3),
- (a) on the date the basic list is furnished, where the information relates to changes that took place prior to that date; and
 - (b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the date the basic list is furnished. R.S.O. 1990, c. B.16, s. 146 (4).

List of option holders

(5) A person requiring a corporation to supply a basic or supplemental list may also require the corporation to include in that list the name and address of any known holder of an option or right to acquire shares of the corporation. R.S.O. 1990, c. B.16, s. 146 (5).

Statutory declaration

- (6) The statutory declaration required under subsection (1) shall state,
- (a) the name and address including the street and number, if any, of the applicant and whether the applicant is a registered holder, beneficial owner, creditor or any other person referred to in the subsection;
 - (b) the name and address including street and number, if any, for service of the body corporate if the applicant is a body corporate; and
 - (c) that the basic list and any supplemental lists shall be used only as permitted under subsection (8). R.S.O. 1990, c. B.16, s. 146 (6); 2006, c. 34, Sched. B, s. 28 (3).

Idem

(7) If the applicant is a body corporate, the statutory declaration shall be made by a director or officer of the body corporate. R.S.O. 1990, c. B.16, s. 146 (7).

Use of list

- (8) A list of registered holders obtained under this section shall not be used by any person except in connection with,
- (a) an effort to influence the voting by registered holders of the corporation;
 - (b) an offer to acquire shares of the corporation; or
 - (c) any other matter relating to the affairs of the corporation. 2006, c. 34, Sched. B, s. 28 (4).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 28 (1-4) - 01/08/2007

Proof of status

146.1 (1) Before providing a document referred to in sections 145 or 146 to a person who claims to be a beneficial owner of shares of the corporation, a corporation may require the person to provide proof that the person is a beneficial owner. 2006, c. 34, Sched. B, s. 29.

Same

(2) A written statement by a securities intermediary, as defined in the *Securities Transfer Act, 2006*, that a person is a beneficial owner is sufficient proof for the purposes of subsection (1). 2006, c. 34, Sched. B, s. 29.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 29 - 01/08/2007

Trafficking in lists

147 No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the holders of securities or warrants of a corporation. R.S.O. 1990, c. B.16, s. 147.

PART XII AUDITORS AND FINANCIAL STATEMENTS

Exemption from audit requirements

148 In respect of a financial year of a corporation, the corporation is exempt from the requirements of this Part regarding the appointment and duties of an auditor if,

- (a) the corporation is not an offering corporation; and
- (b) all of the shareholders consent in writing to the exemption in respect of that year. 1998, c. 18, Sched. E, s. 23.

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. E, s. 23 - 01/03/1999

Auditors

149 (1) The shareholders of a corporation at their first annual or special meeting shall appoint one or more auditors to hold office until the close of the first or next annual meeting, as the case may be, and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments. R.S.O. 1990, c. B.16, s. 149 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 149 (1) of the Act is amended by striking out “at their first annual or special meeting shall appoint” and substituting “at their first annual or special meeting shall, by ordinary resolution, appoint”. (See: 2020, c. 34, Sched. 1, s. 7 (1))

Idem

(2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed. R.S.O. 1990, c. B.16, s. 149 (2).

Casual vacancy

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act. R.S.O. 1990, c. B.16, s. 149 (3).

Removal of auditor

(4) The shareholders may, except where the auditor has been appointed by order of the court under subsection (8), by resolution passed by a majority of the votes cast at a special meeting duly called for the purpose, remove an auditor before the expiration of the auditor’s term of office, and shall by a majority of the votes cast at that meeting appoint a replacement for the remainder of the auditor’s term. R.S.O. 1990, c. B.16, s. 149 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 149 (4) of the Act is repealed and the following substituted: (See: 2020, c. 34, Sched. 1, s. 7 (2))

Removal of auditor

(4) The shareholders may, except where the auditor has been appointed by order of the court under subsection (8), by ordinary resolution passed at a special meeting duly called for the purpose, remove an auditor before the expiration of the auditor’s term of office, and shall, by ordinary resolution passed at that meeting, appoint a replacement for the remainder of the auditor’s term. 2020, c. 34, Sched. 1, s. 7 (2).

Notice to auditor

(5) Before calling a special meeting for the purpose specified in subsection (4) or an annual or special meeting where the board is not recommending the reappointment of the incumbent auditor, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

- (a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and
- (b) a copy of all material proposed to be sent to shareholders in connection with the meeting. R.S.O. 1990, c. B.16, s. 149 (5).

Right of auditor to make representations

(6) An auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing, concerning,

- (a) the auditor's proposed removal as auditor;
- (b) the appointment or election of another person to fill the office of auditor; or
- (c) the auditor's resignation as auditor,

and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting. R.S.O. 1990, c. B.16, s. 149 (6).

Remuneration

(7) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors. R.S.O. 1990, c. B.16, s. 149 (7).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 149 (7) of the Act is amended by striking out "shall be fixed by the shareholders" and substituting "shall be fixed by ordinary resolution of the shareholders". (See: 2020, c. 34, Sched. 1, s. 7 (3))

Appointment by court

(8) If a corporation does not have an auditor, the court may, upon the application of a shareholder or the Director, appoint and fix the remuneration of an auditor to hold office until an auditor is appointed by the shareholders. R.S.O. 1990, c. B.16, s. 149 (8).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 149 (8) of the Act is amended by striking out "or the Director". (See: 2017, c. 20, Sched. 6, s. 12)

Notice of appointment

(9) The corporation shall give notice in writing to an auditor of the auditor's appointment forthwith after the appointment is made. R.S.O. 1990, c. B.16, s. 149 (9).

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 12 - not in force

2020, c. 34, Sched. 1, s. 7 (1-3) - not in force

Resignation of auditor

150 A resignation of an auditor becomes effective at the time a written resignation is sent to the corporation or at the time specified in the resignation, whichever is later. R.S.O. 1990, c. B.16, s. 150.

Auditor's attendance at shareholders' meetings

151 (1) The auditor of a corporation is entitled to receive notice of every meeting of shareholders and, at the expense of the corporation, to attend and be heard thereat on matters relating to the auditor's duties. R.S.O. 1990, c. B.16, s. 151 (1).

Auditor's attendance may be required

(2) If any director or shareholder of a corporation, whether or not the shareholder is entitled to vote at the meeting, gives written notice, not less than five days or more before a meeting of shareholders, to the auditor or a former auditor of the corporation, the auditor or former auditor shall attend the meeting at the expense of the corporation and answer questions relating to the auditor's duties. R.S.O. 1990, c. B.16, s. 151 (2).

Notice to corporation

(3) A director or shareholder who sends a notice referred to in subsection (2) shall send concurrently a copy of the notice to the corporation. R.S.O. 1990, c. B.16, s. 151 (3).

Replacing auditor

(4) No person shall accept appointment or consent to be appointed as auditor of a corporation if the person is replacing an auditor who has resigned, been removed or whose term of office has expired or is about to expire until the person has requested and received from that auditor a written statement of the circumstances and the reasons why, in that auditor's opinion, that auditor is to be replaced. R.S.O. 1990, c. B.16, s. 151 (4).

Idem

(5) Despite subsection (4), a person otherwise qualified may accept appointment or consent to be appointed as auditor of a corporation if, within fifteen days after making the request referred to in that subsection, the person does not receive a reply. R.S.O. 1990, c. B.16, s. 151 (5).

Idem

(6) Any interested person may apply to the court for an order declaring an auditor to be disqualified and the office of auditor to be vacant if the auditor has not complied with subsection (4), unless subsection (5) applies with respect to the appointment of the auditor. R.S.O. 1990, c. B.16, s. 151 (6).

Statement by auditor privileged

(7) Any oral or written statement or report made under this Act by the auditor or former auditor of the corporation has qualified privilege. R.S.O. 1990, c. B.16, s. 151 (7).

Disqualification as auditor

152 (1) Subject to subsection (5), a person is disqualified from being an auditor of a corporation if the person is not independent of the corporation, all of its affiliates, or of the directors or officers of the corporation and its affiliates. R.S.O. 1990, c. B.16, s. 152 (1).

Independence

(2) For the purposes of this section,

- (a) independence is a question of fact; and
- (b) a person is deemed not to be independent if the person or the person's business partner,
 - (i) is a business partner, director, officer or employee of the corporation or any of its affiliates, or a business partner of any director, officer or employee of the corporation or any of its affiliates,
 - (ii) beneficially owns directly or indirectly or exercises control or direction over a material interest in the securities of the corporation or any of its affiliates, or
 - (iii) has been a receiver, receiver and manager, liquidator or trustee in bankruptcy of the corporation or any of its affiliates within two years of the person's proposed appointment as auditor of the corporation. R.S.O. 1990, c. B.16, s. 152 (2).

Business partners

(2.1) For the purposes of subsection (2), a person's business partner includes a shareholder of the person. 2011, c. 1, Sched. 2, s. 1 (8).

Resignation by auditor

(3) An auditor who becomes disqualified under this section shall, subject to subsection (5), resign forthwith upon becoming aware of such disqualification. R.S.O. 1990, c. B.16, s. 152 (3).

Application to court

(4) An interested person may apply to the court for an order declaring an auditor to be disqualified under this section and the office of auditor to be vacant. R.S.O. 1990, c. B.16, s. 152 (4).

(5) REPEALED: 2004, c. 19, s. 3 (4).

(6) REPEALED: 2004, c. 19, s. 3 (4).

Section Amendments with date in force (d/m/y)

2004, c. 19, s. 3 (4) - 01/06/2005

2011, c. 1, Sched. 2, s. 1 (8) - 31/12/2015

Examination by auditor

153 (1) An auditor of a corporation shall make such examination of the financial statements required by this Act to be placed before shareholders as is necessary to enable the auditor to report thereon and the auditor shall report as prescribed and in accordance with generally accepted auditing standards. R.S.O. 1990, c. B.16, s. 153 (1).

Reporting error

(2) A director or an officer of a corporation shall forthwith notify the audit committee and the auditor or the former auditor of any error or misstatement of which he or she becomes aware in a financial statement that the auditor or the former auditor has reported upon if the error or misstatement in all the circumstances appears to be significant. R.S.O. 1990, c. B.16, s. 153 (2).

Idem

(3) If the auditor or former auditor of a corporation is notified or becomes aware of an error or misstatement in a financial statement upon which he or she has reported, and if in his or her opinion the error or misstatement is material, the auditor or former auditor shall inform each director accordingly. R.S.O. 1990, c. B.16, s. 153 (3).

Amendment of auditor's report

(4) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a financial statement, the directors shall within a reasonable time,

- (a) prepare and issue revised financial statements; or
- (b) otherwise inform the shareholders. R.S.O. 1990, c. B.16, s. 153 (4).

Right of access

(5) Upon the demand of an auditor of a corporation, the present or former directors, officers, employees or agents of the corporation shall furnish such,

- (a) information and explanations; and
- (b) access to records, documents, books, accounts and vouchers of the corporation or any of its subsidiaries,

as are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report required under this section and that the directors, officers, employees or agents are reasonably able to furnish. R.S.O. 1990, c. B.16, s. 153 (5).

Furnishing information

(6) Upon the demand of the auditor of a corporation, the directors of the corporation shall,

- (a) obtain from the present or former directors, officers, employees and agents of any subsidiary of the corporation the information and explanations that the present or former directors, officers, employees and agents are reasonably able to furnish and that are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report required under this section; and
- (b) furnish the information and explanations so obtained to the auditor. R.S.O. 1990, c. B.16, s. 153 (6).

Idem

(7) Any oral or written communication under this section between the auditor or former auditor of a corporation and its present or former directors, officers, employees or agents or those of any subsidiary of the corporation, has qualified privilege. R.S.O. 1990, c. B.16, s. 153 (7).

Information to be laid before annual meeting

154 (1) The directors shall place before each annual meeting of shareholders,

- (a) in the case of a corporation that is not an offering corporation, financial statements for the period that began on the date the corporation came into existence and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than six months before the annual meeting;
- (b) in the case of a corporation that is an offering corporation, the financial statements required to be filed under the *Securities Act* and the regulations thereunder relating separately to,
 - (i) the period that began on the date the corporation came into existence and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than six months before the annual meeting, and

- (ii) the immediately preceding financial year, if any;
- (c) the report of the auditor, if any, to the shareholders; and
- (d) any further information respecting the financial position of the corporation and the results of its operations required by the articles, the by-laws or any unanimous shareholder agreement. R.S.O. 1990, c. B.16, s. 154 (1).

Auditor's report

(2) Except as provided in subsection 104 (1), the report of the auditor to the shareholders shall be open to inspection at the annual meeting by any shareholder. R.S.O. 1990, c. B.16, s. 154 (2).

Copy of documents to shareholders, offering corporations

(3) Not less than 21 days before each annual meeting of shareholders or before the signing of a resolution under clause 104 (1) (b) in lieu of the annual meeting, an offering corporation shall send a copy of the documents referred to in this section to all shareholders who have informed the corporation that they wish to receive a copy of those documents. 2006, c. 34, Sched. B, s. 30.

Non-offering corporations

(4) Not less than 10 days before each annual meeting of shareholders or before the signing of a resolution under clause 104 (1) (b) in lieu of the annual meeting, a corporation that is not an offering corporation shall send a copy of the documents referred to in this section to all shareholders other than those who have informed the corporation in writing that they do not wish to receive a copy of those documents. 2006, c. 34, Sched. B, s. 30.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 154 (4) of the Act is amended by striking out "clause 104 (1) (b) in lieu of the annual meeting" and substituting "clause 104 (1) (b) or subclause 104 (1) (c) (ii) in lieu of the annual meeting". (See: 2020, c. 34, Sched. 1, s. 8)

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 30 - 01/08/2007

2020, c. 34, Sched. 1, s. 8 - not in force

Preparation of financial statements

155 The financial statements required under this Act shall be prepared as prescribed by regulation and in accordance with generally accepted accounting principles. R.S.O. 1990, c. B.16, s. 155.

Filing by offering corporation

156 An offering corporation shall prepare and file with the Commission the financial statements required under Part XVIII of the *Securities Act*. R.S.O. 1990, c. B.16, s. 156.

Financial statements of subsidiaries

157 (1) True copies of the latest financial statements of each subsidiary of a holding corporation shall be kept on hand by the holding corporation at its registered office and shall be open to examination by the shareholders of the holding corporation and their agents and legal representatives who may make extracts therefrom free of charge on request during the normal business hours of the holding corporation. R.S.O. 1990, c. B.16, s. 157 (1).

Application to court

(2) A corporation may, within fifteen days after a request to examine under subsection (1), apply to the court for an order barring the right of any person to so examine, and the court may, if satisfied that such examination would be detrimental to the corporation or a subsidiary body corporate, bar such right and make any further order it thinks fit. R.S.O. 1990, c. B.16, s. 157 (2).

Audit committee

158 (1) A corporation that is an offering corporation shall, and any other corporation may, have an audit committee composed of not fewer than three directors of the corporation, a majority of whom are not officers or employees of the corporation or any of its affiliates, to hold office until the next annual meeting of the shareholders. R.S.O. 1990, c. B.16, s. 158 (1).

Exemption

(1.1) The Commission may, on the application of a corporation, authorize the corporation to dispense with an audit committee, and the Commission may, if satisfied that the shareholders will not be prejudiced, permit the corporation to dispense with an audit committee on any reasonable conditions that the Commission thinks fit. 2006, c. 34, Sched. B, s. 31.

Idem

(2) An audit committee shall review the financial statements of the corporation and shall report thereon to the board of directors of the corporation before such financial statements are approved under section 159. R.S.O. 1990, c. B.16, s. 158 (2).

Auditor may attend committee meetings

(3) The auditor of a corporation is entitled to receive notice of every meeting of the audit committee and, at the expense of the corporation, to attend and be heard thereat, and, if so requested by a member of the audit committee, shall attend every meeting of the committee held during the term of office of the auditor. R.S.O. 1990, c. B.16, s. 158 (3).

Calling meetings of committee

(4) The auditor of a corporation or a member of the audit committee may call a meeting of the committee. R.S.O. 1990, c. B.16, s. 158 (4).

Right of auditor to be heard

(5) The auditor of a corporation shall be entitled to attend at the expense of the corporation and be heard at meetings of the board of directors of the corporation on matters relating to the auditor's duties. R.S.O. 1990, c. B.16, s. 158 (5).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 31 - 01/08/2007

Approval by directors

159 (1) The financial statements shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet of any director authorized to sign and the auditor's report, unless the corporation is exempt under section 148, shall be attached to or accompany the financial statements. R.S.O. 1990, c. B.16, s. 159 (1); 2010, c. 16, Sched. 5, s. 1 (2).

Publishing, etc., copies of financial statements

(2) A corporation shall not issue, publish or circulate copies of the financial statements, referred to in section 154 unless the financial statements are,

- (a) approved and signed in accordance with subsection (1); and
- (b) accompanied by the report of the auditor of the corporation, if any. R.S.O. 1990, c. B.16, s. 159 (2).

Section Amendments with date in force (d/m/y)

2010, c. 16, Sched. 5, s. 1 (2) - 31/12/2015

Interim financial statement

160 (1) Within 60 days after the date that an interim financial statement required to be filed under the *Securities Act* and the regulations made under that Act is prepared, an offering corporation shall send a copy of the interim financial statement to all shareholders who have informed the corporation that they wish to receive a copy. 2006, c. 34, Sched. B, s. 32.

Address

(2) The interim financial statement referred to in subsection (1) shall be sent to a shareholder's latest address as shown on the records of the corporation. 2006, c. 34, Sched. B, s. 32.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 32 - 01/08/2007

PART XIII INVESTIGATION

Investigation

161 (1) A registered holder or a beneficial owner of a security or, in the case of an offering corporation, the Commission may apply, without notice or on such notice as the court may require, to the court for an order directing an investigation to be made of the corporation or any of its affiliates. 2006, c. 34, Sched. B, s. 33 (1).

Idem

(2) Where, upon an application under subsection (1), it appears to the court that,

- (a) the business of the corporation or any of its affiliates is or has been carried on with intent to defraud any person;
- (b) the business or affairs of the corporation or any of its affiliates are or have been carried on or conducted, or the powers of the directors are or have been exercised, in a manner that is oppressive or unfairly prejudicial to, or that unfairly disregards, the interests of a security holder;
- (c) the corporation or any of its affiliates was formed for a fraudulent or unlawful purpose or is to be dissolved for a fraudulent or unlawful purpose; or
- (d) persons concerned with the formation, business or affairs of the corporation or any of its affiliates have in connection therewith acted fraudulently or dishonestly,

the court may order an investigation to be made of the corporation and any of its affiliates. R.S.O. 1990, c. B.16, s. 161 (2).

Notice

(3) If a registered holder or a beneficial owner of a security makes an application under subsection (1) and the corporation is an offering corporation, the applicant shall give the Commission reasonable notice of the application and the Commission is entitled to appear and be heard in person or by counsel. 2006, c. 34, Sched. B, s. 33 (2).

Security for costs not required

(4) An applicant under this section is not required to give security for costs. R.S.O. 1990, c. B.16, s. 161 (4).

Closed hearing

(5) The hearing of an application made without notice under this section shall be closed to the public. R.S.O. 1990, c. B.16, s. 161 (5).

No publication without consent

(6) No person may publish anything relating to an application under this section except with the authorization of the court or the written consent of the corporation being investigated. R.S.O. 1990, c. B.16, s. 161 (6).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (19) - 01/03/1995

2006, c. 34, Sched. B, s. 33 (1, 2) - 01/08/2007

Matters that may be covered by court order

162 (1) In connection with an investigation under this Part, the court may make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order to investigate;
- (b) an order appointing and fixing the remuneration of an inspector or replacing an inspector;
- (c) an order determining the notice to be given to any interested person, or dispensing with notice to any person;
- (d) an order authorizing an inspector to enter any premises in which the court is satisfied there might be relevant information, and to examine anything and make copies of any document or record found on the premises;
- (e) an order requiring any person to produce documents or records to the inspector;
- (f) an order authorizing an inspector to conduct a hearing, administer oaths and examine any person upon oath, and prescribing rules for the conduct of the hearing;
- (g) an order requiring any person to attend a hearing conducted by an inspector and to give evidence upon oath;
- (h) an order giving directions to an inspector or any interested person on any matter arising in the investigation;
- (i) an order requiring an inspector to make an interim or final report to the court;
- (j) an order determining whether a report of an inspector should be made available for public inspection and ordering that copies be sent to any person the court designates;
- (k) an order requiring an inspector to discontinue an investigation;
- (l) an order requiring the corporation to pay the costs of the investigation. R.S.O. 1990, c. B.16, s. 162 (1).

Inspector's report

(2) An inspector shall send to the Director and, where an offering corporation is involved, the Commission, a copy of every report made by the inspector under this Part which, subject to clause (1) (j), shall be placed on the corporation file for public inspection. R.S.O. 1990, c. B.16, s. 162 (2).

Powers of inspector

163 (1) An inspector under this Part has the powers set out in the order appointing the inspector. R.S.O. 1990, c. B.16, s. 163 (1).

Idem

(2) In addition to the powers set out in the order referred to in subsection (1), an inspector appointed to investigate a corporation may furnish to, or exchange information and otherwise co-operate with, any public official in Canada or elsewhere who is authorized to exercise investigatory powers and who is investigating, in respect of the corporation, any allegation of improper conduct that is the same as, or similar to, the conduct described in subsection 161 (2). R.S.O. 1990, c. B.16, s. 163 (2).

Production of order

(3) An inspector shall produce upon request to an interested person a copy of any order made under subsection 162 (1). R.S.O. 1990, c. B.16, s. 163 (3).

Rights at hearing

164 (1) Any interested person may apply to the court for an order that a hearing conducted under this Part be closed to the public and for directions on any matter arising in the investigation. R.S.O. 1990, c. B.16, s. 164 (1).

Right to counsel

(2) A person whose conduct is being investigated or who is being examined at a hearing conducted by an inspector under this Part has a right to be represented by counsel. R.S.O. 1990, c. B.16, s. 164 (2).

Privileged statements

165 Any oral or written statement or report made by an inspector or any other person in an investigation under this Part has absolute privilege. R.S.O. 1990, c. B.16, s. 165.

Solicitor-client privilege

166 Nothing in this Part shall be construed to affect the privilege that exists in respect of communications between a solicitor and his or her client. R.S.O. 1990, c. B.16, s. 166.

Inquiries by Director

167 The Director may make inquiries of any person relating to compliance with this Act. R.S.O. 1990, c. B.16, s. 167.

PART XIV FUNDAMENTAL CHANGES

Amendments

168 (1) Subject to sections 170 and 171, a corporation may from time to time amend its articles to add, change or remove any provision that is permitted by this Act to be, or that is, set out in its articles, including without limiting the generality of the foregoing, to,

- (a) change its name;
- (b) REPEALED: 1994, c. 27, s. 71 (20).
- (c) add, change or remove any restriction upon the business or businesses that the corporation may carry on or upon the powers that the corporation may exercise;
- (d) add, change or remove any maximum number of shares that the corporation is authorized to issue or any maximum consideration for which any shares of the corporation are authorized to be issued;
- (e) create new classes of shares;
- (f) REPEALED: 1994, c. 27, s. 71 (20).
- (g) change the designation of all or any of its shares, and add, change or remove any rights, privileges, restrictions and conditions, including rights to accrued dividends, in respect of all or any of its shares, whether issued or unissued;

- (h) change the shares of any class or series, whether issued or unissued, into a different number of shares of the same class or series or into the same or a different number of shares of other classes or series;
- (i) divide a class of shares, whether issued or unissued, into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (j) authorize the directors to divide any class of unissued shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (k) authorize the directors to change the rights, privileges, restrictions and conditions attached to unissued shares of any series;
- (l) revoke, diminish or enlarge any authority conferred under clauses (j) and (k);
- (m) subject to sections 120 and 125, increase or decrease the number, or minimum or maximum number, of directors; and
- (n) add, change or remove restrictions on the issue, transfer or ownership of shares of any class or series. R.S.O. 1990, c. B.16, s. 168 (1); 1994, c. 27, s. 71 (20).

Idem

(2) Where the directors are authorized by the articles to divide any class of unissued shares into series and determine the designation, rights, privileges, restrictions and conditions thereof, they may authorize the amendment of the articles to so provide. R.S.O. 1990, c. B.16, s. 168 (2).

Revocation of resolution

(3) The directors of a corporation may, if so authorized by a special resolution effecting an amendment under this section, revoke the resolution without further approval of the shareholders at any time prior to the endorsement by the Director of a certificate of amendment of articles in respect of such amendment. R.S.O. 1990, c. B.16, s. 168 (3).

Change of number name

(4) Despite subsection (1), where a corporation has a number name, the directors may amend its articles to change that name to a name that is not a number name. R.S.O. 1990, c. B.16, s. 168 (4).

Authorization

(5) An amendment under subsection (1) shall be authorized by a special resolution and an amendment under subsection (2) or (4) may be authorized by a resolution of the directors. R.S.O. 1990, c. B.16, s. 168 (5).

Special Act corporations excepted

(6) This section does not apply to a corporation incorporated by special Act, except that a corporation incorporated by special Act, including a corporation to which *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, applies, may under this section amend its articles to change its name. R.S.O. 1990, c. B.16, s. 168 (6).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (20) - 01/03/1995

Proposal to amend articles

169 (1) A registered holder of shares entitled to vote, or a beneficial owner of shares that are entitled to be voted, at an annual meeting of shareholders may, in accordance with section 99, make a proposal to amend the articles. 2010, c. 16, Sched. 5, s. 1 (3).

Idem

(2) Notice of a meeting of shareholders at which a proposal to amend the articles is to be considered shall set out the proposed amendment and, where applicable, shall state that a dissenting shareholder is entitled to be paid the fair value of the shares in accordance with section 185, but failure to make that statement does not invalidate an amendment. R.S.O. 1990, c. B.16, s. 169 (2).

Section Amendments with date in force (d/m/y)

2010, c. 16, Sched. 5, s. 1 (3) - 31/12/2015

Authorization for variation of rights of special shareholders

170 (1) The holders of shares of a class or, subject to subsection (2), of a series are, unless the articles otherwise provide in the case of an amendment referred to in clause (a), (b) or (e), entitled to vote separately as a class or series upon a proposal to amend the articles to,

- (a) increase or decrease any maximum number of authorized shares of such class or series, or increase any maximum number of authorized shares of a class or series having rights or privileges equal or superior to the shares of such class or series;
- (b) effect an exchange, reclassification or cancellation of the shares of such class or series;
- (c) add to, remove or change the rights, privileges, restrictions or conditions attached to the shares of such class or series and, without limiting the generality of the foregoing,
 - (i) remove or change prejudicially rights to accrued dividends or rights to cumulative dividends,
 - (ii) add, remove or change prejudicially redemption rights or sinking fund provisions,
 - (iii) reduce or remove a dividend preference or a liquidation preference, or
 - (iv) add, remove or change prejudicially conversion privileges, options, voting, transfer or pre-emptive rights, or rights to acquire securities of a corporation;
- (d) add to the rights or privileges of any class or series of shares having rights or privileges equal or superior to the shares of such class or series;
- (e) create a new class or series of shares equal or superior to the shares of such class or series, except in the case of a series under section 25;
- (f) make a class or series of shares having rights or privileges inferior to the shares of such class or series equal or superior to the shares of such class or series;
- (g) effect an exchange or create a right of exchange of the shares of another class or series into the shares of such class or series; or
- (h) add, remove or change restrictions on the issue, transfer or ownership of the shares of such class or series. R.S.O. 1990, c. B.16, s. 170 (1).

Idem

(2) The holders of a series of shares of a class are entitled to vote separately as a series under subsection (1) only if such series is affected by an amendment in a manner different from other shares of the same class. R.S.O. 1990, c. B.16, s. 170 (2).

Idem

(3) Subsection (1) applies whether or not shares of a class or series otherwise carry the right to vote. R.S.O. 1990, c. B.16, s. 170 (3).

Idem

(4) A proposed amendment to the articles referred to in subsection (1) is adopted when the shareholders have approved the amendment by a special resolution of the holders of the shares of each class or series entitled to vote thereon. R.S.O. 1990, c. B.16, s. 170 (4).

Exception

(5) Subsection (1) does not apply in respect of a proposal to amend the articles to add a right or privilege for a holder to convert shares of a class or series into shares of another class or series that is subject to restrictions described in clause 42 (2) (d) but is otherwise equal to the class or series first mentioned. R.S.O. 1990, c. B.16, s. 170 (5).

Deeming provision

(6) For the purpose of clause (1) (e), a new class of shares, the issue, transfer or ownership of which is to be restricted by an amendment to the articles for the purpose of clause 42 (2) (d) that is otherwise equal to an existing class of shares shall be deemed not to be equal or superior to the existing class of shares. R.S.O. 1990, c. B.16, s. 170 (6).

Articles of amendment

171 (1) Articles of amendment in prescribed form shall be sent to the Director. R.S.O. 1990, c. B.16, s. 171 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 171 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 13)

Articles of amendment

(1) Articles of amendment and any other required documents and information shall be sent to the Director. 2017, c. 20, Sched. 6, s. 13.

Application of s. 34 (4, 5)

(2) If an amendment effects or requires a reduction of stated capital, subsections 34 (4) and (5) apply. R.S.O. 1990, c. B.16, s. 171 (2).

Change of name

(3) No corporation shall change its name if,

- (a) the corporation is unable to pay its liabilities as they become due; or
- (b) the realizable value of the corporation's assets is less than the aggregate of its liabilities. R.S.O. 1990, c. B.16, s. 171 (3).

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 13 - not in force

Certificate of amendment

172 Upon receipt of articles of amendment, the Director shall endorse thereon in accordance with section 273 a certificate of amendment. R.S.O. 1990, c. B.16, s. 172.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 172 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 14)

Certificate of amendment

172 Upon receipt of articles of amendment and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of amendment. 2017, c. 20, Sched. 6, s. 14.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 14 - not in force

Restated articles of incorporation

173 (1) The directors may at any time restate the articles of incorporation as amended. R.S.O. 1990, c. B.16, s. 173 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 173 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 15)

Restated articles of incorporation

(1) The directors may, at any time, restate the articles of incorporation as amended and shall do so when directed by the Director. 2017, c. 20, Sched. 6, s. 15.

Idem

(2) Restated articles of incorporation in prescribed form shall be sent to the Director. R.S.O. 1990, c. B.16, s. 173 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 173 (2) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 15)

Same

(2) Restated articles of incorporation and any other required documents and information shall be sent to the Director. 2017, c. 20, Sched. 6, s. 15.

Restated certificate of incorporation

(3) Upon receipt of restated articles of incorporation, the Director shall endorse thereon in accordance with section 273 a certificate which shall constitute the restated certificate of incorporation. R.S.O. 1990, c. B.16, s. 173 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 173 (3) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 15)

Restated certificate of incorporation

(3) Upon receipt of restated articles of incorporation and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the restated certificate of incorporation. 2017, c. 20, Sched. 6, s. 15.

Idem

(4) Restated articles of incorporation supersede the original articles of incorporation and all amendments thereto. R.S.O. 1990, c. B.16, s. 173 (4).

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 15 - not in force

Amalgamation

174 Two or more corporations, including holding or subsidiary corporations, may amalgamate and continue as one corporation. R.S.O. 1990, c. B.16, s. 174.

Amalgamation agreement

175 (1) Where corporations propose to amalgamate, each such corporation shall enter into an agreement setting out the terms and means of effecting the amalgamation and, in particular, setting out,

- (a) the provisions that are required to be included in articles of incorporation under section 5;
- (b) subject to subsection (2), the basis upon which and manner in which the holders of the issued shares of each amalgamating corporation are to receive,
 - (i) securities of the amalgamated corporation,
 - (ii) money, or
 - (iii) securities of any body corporate other than the amalgamated corporation,

in the amalgamation;

- (c) the manner of payment of money instead of the issue of fractional shares of the amalgamated corporation or of any other body corporate the securities of which are to be received in the amalgamation;
- (d) whether the by-laws of the amalgamated corporation are to be those of one of the amalgamating corporations and the address where a copy of the proposed by-laws may be examined; and
- (e) such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated corporation. R.S.O. 1990, c. B.16, s. 175 (1).

Shares of amalgamating corporation held by another

(2) Where shares of one of the amalgamating corporations are held by or on behalf of another of the amalgamating corporations, the amalgamation agreement shall provide for the cancellation of such shares upon the amalgamation becoming effective without any repayment of capital in respect thereof, and no provision shall be made in the agreement for the conversion of such shares into shares of the amalgamated corporation. R.S.O. 1990, c. B.16, s. 175 (2).

Submission of amalgamation agreement

176 (1) The directors of each amalgamating corporation shall submit the amalgamation agreement for approval at a meeting of the shareholders of the amalgamating corporation of which they are directors and, subject to subsection (3), of the holders of shares of each class or series entitled to vote thereon. R.S.O. 1990, c. B.16, s. 176 (1).

Notice of meeting

(2) The notice of the meeting of shareholders of each amalgamating corporation shall include or be accompanied by,

- (a) a copy or summary of the amalgamation agreement; and
- (b) a statement that a dissenting shareholder is entitled to be paid the fair value of the shares in accordance with section 185, but failure to make that statement does not invalidate an amalgamation. R.S.O. 1990, c. B.16, s. 176 (2).

Voting by class, etc.

(3) The holders of a class or series of shares of an amalgamating corporation, whether or not they are otherwise entitled to vote, are entitled to vote separately as a class or series in respect of an amalgamation if the amalgamation agreement contains a provision that, if contained in a proposed amendment to the articles, would entitle such holders to vote separately as a class or series under section 170. R.S.O. 1990, c. B.16, s. 176 (3).

Adoption of amalgamation agreement

(4) An amalgamation agreement is adopted when the shareholders of each amalgamating corporation have approved of the amalgamation by a special resolution of the holders of the shares of each class or series entitled to vote thereon. R.S.O. 1990, c. B.16, s. 176 (4).

Termination of agreement

(5) An amalgamation agreement may provide that at any time before the endorsement of a certificate of amalgamation the agreement may be terminated by the directors of an amalgamating corporation, despite approval of the agreement by the shareholders of all or any of the amalgamating corporations. R.S.O. 1990, c. B.16, s. 176 (5); 2017, c. 20, Sched. 6, s. 16.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 16 - 14/11/2017

Amalgamations involving holding corporation

177 (1) A holding corporation and one or more of its subsidiary corporations may amalgamate and continue as one corporation without complying with sections 175 and 176 if,

- (a) the amalgamation is approved by a resolution of the directors of each amalgamating corporation;
- (a.1) all of the issued shares of each amalgamating subsidiary corporation are held by one or more of the other amalgamating corporations; and
- (b) the resolutions provide that,
 - (i) the shares of each amalgamating subsidiary corporation shall be cancelled without any repayment of capital in respect thereof,
 - (i.1) the by-laws of the amalgamated corporation shall be the same as the by-laws of the amalgamating holding corporation,
 - (ii) except as may be prescribed, the articles of amalgamation shall be the same as the articles of the amalgamating holding corporation, and
 - (iii) no securities shall be issued and no assets shall be distributed by the amalgamated corporation in connection with the amalgamation. R.S.O. 1990, c. B.16, s. 177 (1); 1994, c. 27, s. 71 (21); 1998, c. 18, Sched. E, s. 24.

Amalgamation of subsidiaries

(2) Two or more wholly-owned subsidiary corporations of the same holding body corporate may amalgamate and continue as one corporation without complying with sections 175 and 176 if,

- (a) the amalgamation is approved by a resolution of the directors of each amalgamating corporation; and
- (b) the resolutions provide that,
 - (i) the shares of all but one of the amalgamating subsidiary corporations shall be cancelled without any repayment of capital in respect thereof,
 - (i.1) the by-laws of the amalgamated corporation shall be the same as the by-laws of the amalgamating subsidiary corporation whose shares are not cancelled,
 - (ii) except as may be prescribed, the articles of amalgamation shall be the same as the articles of the amalgamating subsidiary corporation whose shares are not cancelled, and
 - (iii) the stated capital of the amalgamating subsidiary corporations whose shares are cancelled shall be added to the stated capital of the amalgamating subsidiary corporation whose shares are not cancelled. R.S.O. 1990, c. B.16, s. 177 (2); 1994, c. 27, s. 71 (22).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (21, 22) - 01/03/1995

1998, c. 18, Sched. E, s. 24 - 01/03/1999

Articles of amalgamation

178 (1) Subject to subsection 176 (5), after an amalgamation has been adopted under section 176 or approved under section 177, articles of amalgamation in prescribed form shall be sent to the Director. R.S.O. 1990, c. B.16, s. 178 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 178 (1) of the Act is repealed and the following substituted:
(See: 2017, c. 20, Sched. 6, s. 17)

Articles of amalgamation

(1) Subject to subsection 176 (5), after an amalgamation has been adopted under section 176 or approved under section 177, articles of amalgamation and any other required documents and information shall be sent to the Director. 2017, c. 20, Sched. 6, s. 17.

Director's statement

(2) The articles of amalgamation shall have attached thereto a statement of a director or an officer of each amalgamating corporation stating that,

- (a) there are reasonable grounds for believing that,
 - (i) each amalgamating corporation is and the amalgamated corporation will be able to pay its liabilities as they become due, and
 - (ii) the realizable value of the amalgamated corporation's assets will not be less than the aggregate of its liabilities and stated capital of all classes;
- (b) there are reasonable grounds for believing that,
 - (i) no creditor will be prejudiced by the amalgamation, or
 - (ii) adequate notice has been given to all known creditors of the amalgamating corporations;
- (c) the grounds upon which the objections of all creditors who have notified the corporation that they object to the amalgamation, setting forth with reasonable particularity the grounds for such objections, are either frivolous or vexatious; and
- (d) the corporation has given notice to each person who has, in the manner referred to in clause (c), notified the corporation of an objection to the amalgamation, that,
 - (i) the grounds upon which the person's objection is based are considered to be frivolous or vexatious, and
 - (ii) a creditor of a corporation who objects to an amalgamation has the status of a complainant under section 248. R.S.O. 1990, c. B.16, s. 178 (2).

Notice

(3) For the purposes of subsection (2), adequate notice is given if,

- (a) a notice in writing is sent to each known creditor having a claim against the corporation that exceeds \$2,500, at the last address of the creditor known to the corporation;
- (b) a notice is published once in a newspaper published or distributed in the place where the corporation has its registered office; and
- (c) each notice states that the corporation intends to amalgamate with one or more specified corporations in accordance with this Act unless a creditor of the corporation objects to the amalgamation within thirty days from the date of the notice. R.S.O. 1990, c. B.16, s. 178 (3).

Certificate of amalgamation

(4) Upon receipt of articles of amalgamation, the Director shall endorse thereon in accordance with section 273 a certificate which shall constitute the certificate of amalgamation. R.S.O. 1990, c. B.16, s. 178 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 178 (4) of the Act is repealed and the following substituted:
(See: 2017, c. 20, Sched. 6, s. 17)

Certificate of amalgamation

(4) Upon receipt of articles of amalgamation and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of amalgamation. 2017, c. 20, Sched. 6, s. 17.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 17 - not in force

Effect of certificate

179 Upon the articles of amalgamation becoming effective,

- (a) the amalgamating corporations are amalgamated and continue as one corporation under the terms and conditions prescribed in the amalgamation agreement;
- (a.1) the amalgamating corporations cease to exist as entities separate from the amalgamated corporation;
- (b) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, including civil, criminal and quasi-criminal, and all contracts, disabilities and debts of each of the amalgamating corporations;
- (c) a conviction against, or ruling, order or judgment in favour or against an amalgamating corporation may be enforced by or against the amalgamated corporation;
- (d) the articles of amalgamation are deemed to be the articles of incorporation of the amalgamated corporation and, except for the purposes of subsection 117 (1), the certificate of amalgamation is deemed to be the certificate of incorporation of the amalgamated corporation; and
- (e) the amalgamated corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil action commenced by or against an amalgamating corporation before the amalgamation has become effective. R.S.O. 1990, c. B.16, s. 179; 2004, c. 19, s. 3 (5).

Section Amendments with date in force (d/m/y)

2004, c. 19, s. 3 (5) - 01/06/2005

Articles of continuance

180 (1) A body corporate incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Director to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Director for a certificate of continuance. R.S.O. 1990, c. B.16, s. 180 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 180 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 18 (1))

Articles of continuance

- (1) A body corporate may apply to the Director for a certificate of continuance if,
 - (a) it is incorporated or continued under the laws of any jurisdiction other than Ontario and the laws of the jurisdiction under which it was incorporated or continued authorize it to make the application; or
 - (b) it is a body corporate that is a social company within the meaning of the *Corporations Act* and,
 - (i) the shareholders, by special resolution, authorize the directors of the body corporate to apply to the Director for a certificate of continuance under this Act, or
 - (ii) the body corporate has obtained a court order described in subsection 2.1 (7) of the *Corporations Act*. 2017, c. 20, Sched. 6, s. 18 (1).

Note: On the 25th anniversary of the day subsection 3 (1) of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017* comes into force, clause 180 (1) (b) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 18 (2))

- (b) it is a body corporate that is a social company within the meaning of the *Corporations Act* and the shareholders, by special resolution, authorize the directors of the body corporate to apply to the Director for a certificate of continuance under this Act.

Idem

(2) Articles of continuance in prescribed form shall be sent to the Director together with any other prescribed documents. R.S.O. 1990, c. B.16, s. 180 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 180 (2) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 18 (1))

Same

(2) Articles of continuance and any other required documents and information shall be sent to the Director. 2017, c. 20, Sched. 6, s. 18 (1).

Amendments to original articles

(3) The articles of continuance shall make any amendments to the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which the body corporate was incorporated and any amendments thereto necessary to make the articles of continuance conform to the laws of Ontario, and may make such other amendments as would be permitted under this Act if the body corporate were incorporated under the laws of Ontario, provided that at least the same shareholder approval has been obtained for such other amendments as would have been required under this Part if the body corporate were incorporated under the laws of Ontario. R.S.O. 1990, c. B.16, s. 180 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 180 (3) of the Act is amended by striking out “the laws of Ontario” wherever that expression appears and substituting in each case “this Act”. (See: 2017, c. 20, Sched. 6, s. 18 (3))

Endorsement of certificate of continuance

(4) Upon receipt of articles of continuance and any other prescribed documents, the Director may, on such terms and subject to such limitations and conditions as the Director considers proper, endorse thereon in accordance with section 273 a certificate which shall constitute the certificate of continuance. R.S.O. 1990, c. B.16, s. 180 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 180 (4) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 18 (4))

Endorsement of certificate of continuance

(4) Upon receipt of articles of continuance and any other required documents and information, the Director may, on the terms and subject to the limitations and conditions that the Director considers proper, endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of continuance. 2017, c. 20, Sched. 6, s. 18 (4).

Effect of certificate

(5) Upon the articles of continuance becoming effective,

- (a) the body corporate becomes a corporation to which this Act applies as if it had been incorporated under this Act;
- (b) the articles of continuance are deemed to be the articles of incorporation of the continued corporation; and
- (c) except for the purposes of subsection 117 (1), the certificate of continuance is deemed to be the certificate of incorporation of the continued corporation. R.S.O. 1990, c. B.16, s. 180 (5).

Copy of certificate of continuance

(6) The Director shall send a copy of the certificate of continuance to the appropriate official or public body in the jurisdiction in which continuance under the Act was authorized. R.S.O. 1990, c. B.16, s. 180 (6).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 180 (6) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 18 (4))

Notification of continuance

(6) In the case of a body corporate described in clause (1) (a), the Director may notify the appropriate official or public body, in the jurisdiction in which continuance under this Act was authorized, that the certificate of continuance has been issued. 2017, c. 20, Sched. 6, s. 18 (4).

Rights, liabilities, etc., preserved

(7) When a body corporate is continued as a corporation under this Act,

- (a) the corporation possesses all the property, rights, privileges and franchises and is subject to all the liabilities, including civil, criminal and quasi-criminal, and all contracts, disabilities and debts of the body corporate;
- (b) a conviction against, or ruling, order or judgment in favour of or against, the body corporate may be enforced by or against the corporation; and
- (c) the corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil action commenced by or against the body corporate. R.S.O. 1990, c. B.16, s. 180 (7).

Shares issued before body corporate continued under this Act

(8) A share of a body corporate issued before the body corporate was continued under this Act shall be deemed to have been issued in compliance with this Act and with the provisions of the articles of continuance, irrespective that the share is not fully paid and of any designation, rights, privileges, restrictions or conditions set out on or referred to in the certificate representing the share, and continuance under this section does not deprive a holder of any right or privilege that the holder

claims under, or relieve the holder of any liability in respect of, an issued share. R.S.O. 1990, c. B.16, s. 180 (8); 2006, c. 8, s. 121.

Section Amendments with date in force (d/m/y)

2006, c. 8, s. 121 - 01/01/2007

2017, c. 20, Sched. 6, s. 18 (1-4) - not in force

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Transfer of Ontario corporations

181 (1) Subject to subsection (9), a corporation may, if it is authorized by the shareholders and the Director in accordance with this section, apply to the appropriate official or public body of another jurisdiction requesting that the corporation be continued as if it had been incorporated under the laws of that other jurisdiction. R.S.O. 1990, c. B.16, s. 181 (1).

Notice to shareholders

(2) The notice of the meeting of shareholders shall include or be accompanied by a statement that a dissenting shareholder is entitled to be paid the fair value of the shares in accordance with section 185, but failure to make that statement does not invalidate an authorization under clause (3) (a). R.S.O. 1990, c. B.16, s. 181 (2).

Application for continuance

(3) An application for continuance becomes authorized,

- (a) by the shareholders when the shareholders voting thereon have approved of the continuance by a special resolution; and
- (b) by the Director when, following receipt from the corporation of an application in prescribed form, the Director endorses an authorization on the application. R.S.O. 1990, c. B.16, s. 181 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 181 (3) (b) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 19 (1))

- (b) by the Director when, following receipt from the corporation of an application and any other required documents and information, the Director endorses the application with an authorization.

Authorization by Director

(4) The Director may endorse the authorization if he or she is satisfied that the application is not prohibited by subsection (9). R.S.O. 1990, c. B.16, s. 181 (4); 2017, c. 20, Sched. 6, s. 19 (2).

Abandoning application

(5) The directors of a corporation may, if authorized by the shareholders, abandon an application without further approval of the shareholders. R.S.O. 1990, c. B.16, s. 181 (5).

Time limit to Director's authorization

(6) The authorization of the Director for an application for continuance expires six months after the date of endorsement of the authorization unless, within the six-month period, the corporation is continued under the laws of the other jurisdiction. 2000, c. 26, Sched. B, s. 3 (7); 2017, c. 20, Sched. 6, s. 19 (3).

Filing instrument of continuance

(7) The corporation shall file with the Director a copy of the instrument of continuance issued to it by the other jurisdiction within sixty days after the date of issuance. R.S.O. 1990, c. B.16, s. 181 (7).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 181 of the Act is amended by adding the following subsection: (See: 2017, c. 20, Sched. 6, s. 19 (4))

Equivalent of filing

(7.1) If the appropriate official or public body of the other jurisdiction notifies the Director that it has issued an instrument of continuance to the corporation, the Director may, if the Director is of the opinion that it is appropriate to do so and is satisfied that the corporation has satisfied the requirements of this section, notify the corporation that it is deemed to have complied with subsection (7). 2017, c. 20, Sched. 6, s. 19 (4).

Effective date

(8) This Act ceases to apply to the corporation on the date upon which the corporation is continued under the laws of the other jurisdiction. R.S.O. 1990, c. B.16, s. 181 (8).

Continuance in outside jurisdiction

(9) A corporation shall not apply under subsection (1) to be continued as a body corporate under the laws of another jurisdiction unless those laws provide in effect that,

- (a) the property of the corporation continues to be the property of the body corporate;
- (b) the body corporate continues to be liable for the obligations of the corporation;
- (c) an existing cause of action, claim or liability to prosecution is unaffected;
- (d) a civil, criminal or administrative action or proceeding pending by or against the corporation may be continued to be prosecuted by or against the body corporate; and
- (e) a conviction against the corporation may be enforced against the body corporate or a ruling, order or judgment in favour of or against the corporation may be enforced by or against the body corporate. R.S.O. 1990, c. B.16, s. 181 (9).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. B, s. 3 (7) - 06/12/2000

2017, c. 20, Sched. 6, s. 19 (1, 4) - not in force; 2017, c. 20, Sched. 6, s. 19 (2, 3) - 14/11/2017

Continuation as co-operative corporation

181.1 (1) A corporation may, if it is authorized by the shareholders and the Director in accordance with this section, apply under the *Co-operative Corporations Act* to be continued as a co-operative corporation. 1994, c. 17, s. 30.

Notice to shareholders

(2) The notice of the meeting of shareholders to authorize an application under subsection (1) must include or be accompanied by a statement that a dissenting shareholder is entitled to be paid the fair value of the shares in accordance with section 185 but failure to make that statement does not invalidate an authorization under clause (3) (a). 1994, c. 17, s. 30.

Authorization

(3) An application for continuance is authorized,

- (a) by the shareholders, when the shareholders voting thereon have approved of the continuance by a special resolution; and
- (b) by the Director, when, following receipt from the corporation of an application in the prescribed form, the Director endorses an authorization on the application. 1994, c. 17, s. 30.

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 181.1 (3) (b) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 20 (1))

- (b) by the Director when, following receipt from the corporation of an application and any other required documents and information, the Director endorses the application with an authorization.

Abandoning application

(4) The directors of a corporation may, if authorized by the shareholders, abandon an application without further approval of the shareholders. 1994, c. 17, s. 30.

Time limit to Director's authorization

(5) The authorization of the Director for an application for continuance expires six months after the date of endorsement of the authorization unless, within the six-month period, the corporation is continued under the *Co-operative Corporations Act*. 2000, c. 26, Sched. B, s. 3 (8); 2017, c. 20, Sched. 6, s. 20 (2).

Certificate to be filed

(6) The corporation shall file with the Director a copy of the certificate of continuance issued to it under the *Co-operative Corporations Act* within 60 days after the date of issuance. 1994, c. 17, s. 30.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 181.1 (6) of the Act is repealed. (See: 2017, c. 20, Sched. 6, s. 20 (3))

Act ceases to apply

(7) This Act ceases to apply to the corporation on the date upon which the corporation is continued under the *Co-operative Corporations Act*. 1994, c. 17, s. 30.

Section Amendments with date in force (d/m/y)

1994, c. 17, s. 30 - 23/06/1994

2000, c. 26, Sched. B, s. 3 (8) - 06/12/2000

2017, c. 20, Sched. 6, s. 20 (1, 3) - not in force; 2017, c. 20, Sched. 6, s. 20 (2) - 14/11/2017

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2017, c. 20, Sched. 6, s. 21)

Continuance as corporation without share capital

181.2 (1) A corporation may, if it is authorized by the shareholders in accordance with this section, apply under the *Not-for-Profit Corporations Act, 2010* to be continued as a corporation without share capital. 2017, c. 20, Sched. 6, s. 21.

Notice to shareholders

(2) The notice of the meeting of shareholders to authorize an application under subsection (1) must include or be accompanied by a statement that a dissenting shareholder is entitled to be paid the fair value of the shares in accordance with section 185, but failure to make that statement does not invalidate an authorization under subsection (3). 2017, c. 20, Sched. 6, s. 21.

Authorization

(3) An application for continuance is authorized by the shareholders when the shareholders voting on it have approved of the continuance by a special resolution in accordance with section 115 of the *Not-for-Profit Corporations Act, 2010*. 2017, c. 20, Sched. 6, s. 21.

Abandoning application

(4) The directors of a corporation may, if authorized by the shareholders, abandon an application without further approval of the shareholders. 2017, c. 20, Sched. 6, s. 21.

Act ceases to apply

(5) This Act ceases to apply to the corporation on the date upon which the corporation is continued under the *Not-for-Profit Corporations Act, 2010*. 2017, c. 20, Sched. 6, s. 21.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 21 - not in force

Arrangement

182 (1) In this section,

“arrangement”, with respect to a corporation, includes,

- (a) a reorganization of the shares of any class or series of the corporation or of the stated capital of any such class or series,
- (b) the addition to or removal from the articles of the corporation of any provision that is permitted by this Act to be, or that is, set out in the articles or the change of any such provision,
- (c) an amalgamation of the corporation with another corporation,
- (d) an amalgamation of a body corporate with a corporation that results in an amalgamated corporation subject to this Act,
- (e) a transfer of all or substantially all the property of the corporation to another body corporate in exchange for securities, money or other property of the body corporate,
- (f) an exchange of securities of the corporation held by security holders for other securities, money or other property of the corporation or securities, money or other property of another body corporate that is not a take-over bid as defined in Part XX of the *Securities Act*,
- (g) a liquidation or dissolution of the corporation,
- (h) any other reorganization or scheme involving the business or affairs of the corporation or of any or all of the holders of its securities or of any options or rights to acquire any of its securities that is, at law, an arrangement, and
- (i) any combination of the foregoing. R.S.O. 1990, c. B.16, s. 182 (1).

Scheme of arrangement

(2) A corporation proposing an arrangement shall prepare, for the approval of the shareholders, a statement thereof setting out in detail what is proposed to be done and the manner in which it is proposed to be done. R.S.O. 1990, c. B.16, s. 182 (2).

Adoption of arrangement

(3) Subject to any order of the court made under subsection (5), where an arrangement has been approved by shareholders of a corporation and by holders of shares of each class or series entitled to vote separately thereon, in each case by special resolution, the arrangement shall have been adopted by the shareholders of the corporation and the corporation may apply to the court for an order approving the arrangement. R.S.O. 1990, c. B.16, s. 182 (3).

Separate votes

(4) The holders of shares of a class or series of shares of a corporation are not entitled to vote separately as a class or series in respect of an arrangement unless the statement of the arrangement referred to in subsection (2) contains a provision that, if contained in a proposed amendment to the articles, would entitle such holders to vote separately as a class or series under section 170 and, if the statement of the arrangement contains such a provision, such holders are entitled to vote separately on the arrangement whether or not such shares otherwise carry the right to vote. R.S.O. 1990, c. B.16, s. 182 (4).

Application to court

(5) The corporation may, at any time, apply to the court for advice and directions in connection with an arrangement or proposed arrangement and the court may make such order as it considers appropriate, including, without limiting the generality of the foregoing,

- (a) an order determining the notice to be given to any interested person or dispensing with notice to any person;
- (b) an order requiring a corporation to call, hold and conduct an additional meeting of, or to hold a separate vote of, all or any particular group of holders of any securities or warrants of the corporation in such manner as the court directs;
- (c) an order permitting a shareholder to dissent under section 185 if the arrangement is adopted;
- (d) an order appointing counsel, at the expense of the corporation, to represent the interests of shareholders;
- (e) an order that the arrangement or proposed arrangement shall be deemed not to have been adopted by the shareholders of the corporation unless it has been approved by a specified majority that is greater than two-thirds of the votes cast at a meeting of the holders, or any particular group of holders, of securities or warrants of the corporation; and
- (f) an order approving the arrangement as proposed by the corporation or as amended in any manner the court may direct, subject to compliance with such terms and conditions, if any, as the court thinks fit,

and to the extent that any such order is inconsistent with this section such order shall prevail. R.S.O. 1990, c. B.16, s. 182 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 182 of the Act is amended by adding the following subsection: (See: 2017, c. 20, Sched. 6, s. 22)

Same

(5.1) A corporation that applies to the court under subsection (5) shall give the Director notice of the application, and the Director is entitled to appear before the court and be heard in person or by counsel. 2017, c. 20, Sched. 6, s. 22.

Procedure

(6) Where a reorganization or scheme is proposed as an arrangement and involves an amendment of the articles of a corporation or the taking of any other steps that could be made or taken under any other provision of this Act, the procedure provided for in this section, and not the procedure provided for in such other provision, applies to such reorganization or scheme. R.S.O. 1990, c. B.16, s. 182 (6).

(7) REPEALED: 1994, c. 27, s. 71 (23).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (23) - 01/03/1995

2017, c. 20, Sched. 6, s. 22 - not in force

Articles of arrangement sent to Director

183 (1) After an order referred to in clause 182 (5) (f) has been made, articles of arrangement in prescribed form shall be sent to the Director. R.S.O. 1990, c. B.16, s. 183 (1).

Certificate of arrangement

(2) Upon receipt of articles of arrangement the Director shall endorse thereon in accordance with section 273 a certificate which shall constitute the certificate of arrangement. R.S.O. 1990, c. B.16, s. 183 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 183 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 23)

Articles of arrangement sent to Director

183 (1) After an order referred to in clause 182 (5) (f) has been made, articles of arrangement and any other required documents and information shall be sent to the Director. 2017, c. 20, Sched. 6, s. 23.

Certificate of arrangement

(2) Upon receipt of articles of arrangement and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of arrangement. 2017, c. 20, Sched. 6, s. 23.

Effective date of articles of arrangement

(3) Articles of arrangement are effective on the date shown in the certificate of arrangement. 2017, c. 20, Sched. 6, s. 23.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 23 - not in force

Borrowing powers

184 (1) Unless the articles or by-laws of or a unanimous shareholder agreement otherwise provide, the articles of a corporation shall be deemed to state that the directors of a corporation may, without authorization of the shareholders,

- (a) borrow money upon the credit of the corporation;
- (b) issue, reissue, sell or pledge debt obligations of the corporation;
- (c) give a guarantee on behalf of the corporation to secure performance of an obligation of any person; and
- (d) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the corporation, owned or subsequently acquired, to secure any obligation of the corporation. R.S.O. 1990, c. B.16, s. 184 (1); 2006, c. 34, Sched. B, s. 34.

Delegation of powers

(2) Unless the articles or by-laws of or a unanimous shareholder agreement relating to a corporation otherwise provide, the directors may by resolution delegate any or all of the powers referred to in subsection (1) to a director, a committee of directors or an officer. R.S.O. 1990, c. B.16, s. 184 (2).

Sale, etc., requires approval of shareholders

(3) A sale, lease or exchange of all or substantially all the property of a corporation other than in the ordinary course of business of the corporation requires the approval of the shareholders in accordance with subsections (4) to (8). R.S.O. 1990, c. B.16, s. 184 (3).

Notice

(4) The notice of a meeting of shareholders to approve a transaction referred to in subsection (3) shall be sent to all shareholders and shall include or be accompanied by,

- (a) a copy or summary of the agreement of sale, lease or exchange; and
- (b) a statement that a dissenting shareholder is entitled to be paid the fair value of the shares in accordance with section 185, but failure to make that statement does not invalidate a sale, lease or exchange referred to in subsection (3). R.S.O. 1990, c. B.16, s. 184 (4); 1998, c. 18, Sched. E, s. 25.

Shareholders may authorize sale, etc.

(5) At the meeting referred to in subsection (4), the shareholders may authorize the sale, lease or exchange and may fix or authorize the directors to fix any of the terms and conditions thereof. R.S.O. 1990, c. B.16, s. 184 (5).

Right to vote separately

(6) If a sale, lease or exchange by a corporation referred to in subsection (3) would affect a particular class or series of shares of the corporation in a manner different from the shares of another class or series of the corporation entitled to vote on the

sale, lease or exchange at the meeting referred to in subsection (4), the holders of such first mentioned class or series of shares, whether or not they are otherwise entitled to vote, are entitled to vote separately as a class or series in respect to such sale, lease or exchange. R.S.O. 1990, c. B.16, s. 184 (6).

When approval effective

(7) The approval of a sale, lease or exchange referred to in subsection (3) is effective when the shareholders have approved the sale, lease or exchange by a special resolution of the holders of the shares of each class or series entitled to vote thereon. R.S.O. 1990, c. B.16, s. 184 (7).

Approval by directors

(8) The directors of a corporation may, if authorized by the shareholders approving a proposed sale, lease or exchange, and subject to the rights of third parties, abandon the sale, lease or exchange without further approval of the shareholders. R.S.O. 1990, c. B.16, s. 184 (8).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. E, s. 25 - 01/03/1999

2006, c. 34, Sched. B, s. 34 - 01/08/2007

Rights of dissenting shareholders

185 (1) Subject to subsection (3) and to sections 186 and 248, if a corporation resolves to,

- (a) amend its articles under section 168 to add, remove or change restrictions on the issue, transfer or ownership of shares of a class or series of the shares of the corporation;
- (b) amend its articles under section 168 to add, remove or change any restriction upon the business or businesses that the corporation may carry on or upon the powers that the corporation may exercise;
- (c) amalgamate with another corporation under sections 175 and 176;
- (d) be continued under the laws of another jurisdiction under section 181; or

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 185 (1) of the Act is amended by striking out “or” at the end of clause (d) and by adding the following clauses: (See: 2017, c. 20, Sched. 6, s. 24)

(d.1) be continued under the *Co-operative Corporations Act* under section 181.1;

(d.2) be continued under the *Not-for-Profit Corporations Act, 2010* under section 181.2; or

- (e) sell, lease or exchange all or substantially all its property under subsection 184 (3),

a holder of shares of any class or series entitled to vote on the resolution may dissent. R.S.O. 1990, c. B.16, s. 185 (1).

Idem

(2) If a corporation resolves to amend its articles in a manner referred to in subsection 170 (1), a holder of shares of any class or series entitled to vote on the amendment under section 168 or 170 may dissent, except in respect of an amendment referred to in,

- (a) clause 170 (1) (a), (b) or (e) where the articles provide that the holders of shares of such class or series are not entitled to dissent; or
- (b) subsection 170 (5) or (6). R.S.O. 1990, c. B.16, s. 185 (2).

One class of shares

(2.1) The right to dissent described in subsection (2) applies even if there is only one class of shares. 2006, c. 34, Sched. B, s. 35.

Exception

(3) A shareholder of a corporation incorporated before the 29th day of July, 1983 is not entitled to dissent under this section in respect of an amendment of the articles of the corporation to the extent that the amendment,

- (a) amends the express terms of any provision of the articles of the corporation to conform to the terms of the provision as deemed to be amended by section 277; or
- (b) deletes from the articles of the corporation all of the objects of the corporation set out in its articles, provided that the deletion is made by the 29th day of July, 1986. R.S.O. 1990, c. B.16, s. 185 (3).

Shareholder's right to be paid fair value

(4) In addition to any other right the shareholder may have, but subject to subsection (30), a shareholder who complies with this section is entitled, when the action approved by the resolution from which the shareholder dissents becomes effective, to be paid by the corporation the fair value of the shares held by the shareholder in respect of which the shareholder dissents, determined as of the close of business on the day before the resolution was adopted. R.S.O. 1990, c. B.16, s. 185 (4).

No partial dissent

(5) A dissenting shareholder may only claim under this section with respect to all the shares of a class held by the dissenting shareholder on behalf of any one beneficial owner and registered in the name of the dissenting shareholder. R.S.O. 1990, c. B.16, s. 185 (5).

Objection

(6) A dissenting shareholder shall send to the corporation, at or before any meeting of shareholders at which a resolution referred to in subsection (1) or (2) is to be voted on, a written objection to the resolution, unless the corporation did not give notice to the shareholder of the purpose of the meeting or of the shareholder's right to dissent. R.S.O. 1990, c. B.16, s. 185 (6).

Idem

(7) The execution or exercise of a proxy does not constitute a written objection for purposes of subsection (6). R.S.O. 1990, c. B.16, s. 185 (7).

Notice of adoption of resolution

(8) The corporation shall, within ten days after the shareholders adopt the resolution, send to each shareholder who has filed the objection referred to in subsection (6) notice that the resolution has been adopted, but such notice is not required to be sent to any shareholder who voted for the resolution or who has withdrawn the objection. R.S.O. 1990, c. B.16, s. 185 (8).

Idem

(9) A notice sent under subsection (8) shall set out the rights of the dissenting shareholder and the procedures to be followed to exercise those rights. R.S.O. 1990, c. B.16, s. 185 (9).

Demand for payment of fair value

(10) A dissenting shareholder entitled to receive notice under subsection (8) shall, within twenty days after receiving such notice, or, if the shareholder does not receive such notice, within twenty days after learning that the resolution has been adopted, send to the corporation a written notice containing,

- (a) the shareholder's name and address;
- (b) the number and class of shares in respect of which the shareholder dissents; and
- (c) a demand for payment of the fair value of such shares. R.S.O. 1990, c. B.16, s. 185 (10).

Certificates to be sent in

(11) Not later than the thirtieth day after the sending of a notice under subsection (10), a dissenting shareholder shall send the certificates, if any, representing the shares in respect of which the shareholder dissents to the corporation or its transfer agent. R.S.O. 1990, c. B.16, s. 185 (11); 2011, c. 1, Sched. 2, s. 1 (9).

Idem

(12) A dissenting shareholder who fails to comply with subsections (6), (10) and (11) has no right to make a claim under this section. R.S.O. 1990, c. B.16, s. 185 (12).

Endorsement on certificate

(13) A corporation or its transfer agent shall endorse on any share certificate received under subsection (11) a notice that the holder is a dissenting shareholder under this section and shall return forthwith the share certificates to the dissenting shareholder. R.S.O. 1990, c. B.16, s. 185 (13).

Rights of dissenting shareholder

(14) On sending a notice under subsection (10), a dissenting shareholder ceases to have any rights as a shareholder other than the right to be paid the fair value of the shares as determined under this section except where,

- (a) the dissenting shareholder withdraws notice before the corporation makes an offer under subsection (15);

- (b) the corporation fails to make an offer in accordance with subsection (15) and the dissenting shareholder withdraws notice; or
- (c) the directors revoke a resolution to amend the articles under subsection 168 (3), terminate an amalgamation agreement under subsection 176 (5) or an application for continuance under subsection 181 (5), or abandon a sale, lease or exchange under subsection 184 (8),

in which case the dissenting shareholder's rights are reinstated as of the date the dissenting shareholder sent the notice referred to in subsection (10). R.S.O. 1990, c. B.16, s. 185 (14); 2011, c. 1, Sched. 2, s. 1 (10).

Same

(14.1) A dissenting shareholder whose rights are reinstated under subsection (14) is entitled, upon presentation and surrender to the corporation or its transfer agent of any share certificate that has been endorsed in accordance with subsection (13),

- (a) to be issued, without payment of any fee, a new certificate representing the same number, class and series of shares as the certificate so surrendered; or
- (b) if a resolution is passed by the directors under subsection 54 (2) with respect to that class and series of shares,
 - (i) to be issued the same number, class and series of uncertificated shares as represented by the certificate so surrendered, and
 - (ii) to be sent the notice referred to in subsection 54 (3). 2011, c. 1, Sched. 2, s. 1 (11).

Same

(14.2) A dissenting shareholder whose rights are reinstated under subsection (14) and who held uncertificated shares at the time of sending a notice to the corporation under subsection (10) is entitled,

- (a) to be issued the same number, class and series of uncertificated shares as those held by the dissenting shareholder at the time of sending the notice under subsection (10); and
- (b) to be sent the notice referred to in subsection 54 (3). 2011, c. 1, Sched. 2, s. 1 (11).

Offer to pay

(15) A corporation shall, not later than seven days after the later of the day on which the action approved by the resolution is effective or the day the corporation received the notice referred to in subsection (10), send to each dissenting shareholder who has sent such notice,

- (a) a written offer to pay for the dissenting shareholder's shares in an amount considered by the directors of the corporation to be the fair value thereof, accompanied by a statement showing how the fair value was determined; or
- (b) if subsection (30) applies, a notification that it is unable lawfully to pay dissenting shareholders for their shares. R.S.O. 1990, c. B.16, s. 185 (15).

Idem

(16) Every offer made under subsection (15) for shares of the same class or series shall be on the same terms. R.S.O. 1990, c. B.16, s. 185 (16).

Idem

(17) Subject to subsection (30), a corporation shall pay for the shares of a dissenting shareholder within ten days after an offer made under subsection (15) has been accepted, but any such offer lapses if the corporation does not receive an acceptance thereof within thirty days after the offer has been made. R.S.O. 1990, c. B.16, s. 185 (17).

Application to court to fix fair value

(18) Where a corporation fails to make an offer under subsection (15) or if a dissenting shareholder fails to accept an offer, the corporation may, within fifty days after the action approved by the resolution is effective or within such further period as the court may allow, apply to the court to fix a fair value for the shares of any dissenting shareholder. R.S.O. 1990, c. B.16, s. 185 (18).

Idem

(19) If a corporation fails to apply to the court under subsection (18), a dissenting shareholder may apply to the court for the same purpose within a further period of twenty days or within such further period as the court may allow. R.S.O. 1990, c. B.16, s. 185 (19).

Idem

(20) A dissenting shareholder is not required to give security for costs in an application made under subsection (18) or (19). R.S.O. 1990, c. B.16, s. 185 (20).

Costs

(21) If a corporation fails to comply with subsection (15), then the costs of a shareholder application under subsection (19) are to be borne by the corporation unless the court otherwise orders. R.S.O. 1990, c. B.16, s. 185 (21).

Notice to shareholders

(22) Before making application to the court under subsection (18) or not later than seven days after receiving notice of an application to the court under subsection (19), as the case may be, a corporation shall give notice to each dissenting shareholder who, at the date upon which the notice is given,

(a) has sent to the corporation the notice referred to in subsection (10); and

(b) has not accepted an offer made by the corporation under subsection (15), if such an offer was made,

of the date, place and consequences of the application and of the dissenting shareholder's right to appear and be heard in person or by counsel, and a similar notice shall be given to each dissenting shareholder who, after the date of such first mentioned notice and before termination of the proceedings commenced by the application, satisfies the conditions set out in clauses (a) and (b) within three days after the dissenting shareholder satisfies such conditions. R.S.O. 1990, c. B.16, s. 185 (22).

Parties joined

(23) All dissenting shareholders who satisfy the conditions set out in clauses (22) (a) and (b) shall be deemed to be joined as parties to an application under subsection (18) or (19) on the later of the date upon which the application is brought and the date upon which they satisfy the conditions, and shall be bound by the decision rendered by the court in the proceedings commenced by the application. R.S.O. 1990, c. B.16, s. 185 (23).

Idem

(24) Upon an application to the court under subsection (18) or (19), the court may determine whether any other person is a dissenting shareholder who should be joined as a party, and the court shall fix a fair value for the shares of all dissenting shareholders. R.S.O. 1990, c. B.16, s. 185 (24).

Appraisers

(25) The court may in its discretion appoint one or more appraisers to assist the court to fix a fair value for the shares of the dissenting shareholders. R.S.O. 1990, c. B.16, s. 185 (25).

Final order

(26) The final order of the court in the proceedings commenced by an application under subsection (18) or (19) shall be rendered against the corporation and in favour of each dissenting shareholder who, whether before or after the date of the order, complies with the conditions set out in clauses (22) (a) and (b). R.S.O. 1990, c. B.16, s. 185 (26).

Interest

(27) The court may in its discretion allow a reasonable rate of interest on the amount payable to each dissenting shareholder from the date the action approved by the resolution is effective until the date of payment. R.S.O. 1990, c. B.16, s. 185 (27).

Where corporation unable to pay

(28) Where subsection (30) applies, the corporation shall, within ten days after the pronouncement of an order under subsection (26), notify each dissenting shareholder that it is unable lawfully to pay dissenting shareholders for their shares. R.S.O. 1990, c. B.16, s. 185 (28).

Idem

(29) Where subsection (30) applies, a dissenting shareholder, by written notice sent to the corporation within thirty days after receiving a notice under subsection (28), may,

(a) withdraw a notice of dissent, in which case the corporation is deemed to consent to the withdrawal and the shareholder's full rights are reinstated; or

(b) retain a status as a claimant against the corporation, to be paid as soon as the corporation is lawfully able to do so or, in a liquidation, to be ranked subordinate to the rights of creditors of the corporation but in priority to its shareholders. R.S.O. 1990, c. B.16, s. 185 (29).

Idem

(30) A corporation shall not make a payment to a dissenting shareholder under this section if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or
- (b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities. R.S.O. 1990, c. B.16, s. 185 (30).

Court order

(31) Upon application by a corporation that proposes to take any of the actions referred to in subsection (1) or (2), the court may, if satisfied that the proposed action is not in all the circumstances one that should give rise to the rights arising under subsection (4), by order declare that those rights will not arise upon the taking of the proposed action, and the order may be subject to compliance upon such terms and conditions as the court thinks fit and, if the corporation is an offering corporation, notice of any such application and a copy of any order made by the court upon such application shall be served upon the Commission. 1994, c. 27, s. 71 (24).

Commission may appear

(32) The Commission may appoint counsel to assist the court upon the hearing of an application under subsection (31), if the corporation is an offering corporation. 1994, c. 27, s. 71 (24).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (24) - 01/03/1995

2006, c. 34, Sched. B, s. 35 - 01/08/2007

2011, c. 1, Sched. 2, s. 1 (9-11) - 31/12/2015

2017, c. 20, Sched. 6, s. 24 - not in force

Reorganization

186 (1) In this section,

“reorganization” means a court order made under section 248, an order made under the *Bankruptcy and Insolvency Act* (Canada) or an order made under the *Companies Creditors Arrangement Act* (Canada) approving a proposal. 2000, c. 26, Sched. B, s. 3 (9).

Articles amended

(2) If a corporation is subject to a reorganization, its articles may be amended by the order to effect any change that might lawfully be made by an amendment under section 168. R.S.O. 1990, c. B.16, s. 186 (2).

Auxiliary powers of court

(3) Where a reorganization is made, the court making the order may also,

- (a) authorize the issue of debt obligations of the corporation, whether or not convertible into shares of any class or having attached any rights or options to acquire shares of any class, and fix the terms thereof; and
- (b) appoint directors in place of or in addition to all or any of the directors then in office. R.S.O. 1990, c. B.16, s. 186 (3).

Articles of reorganization

(4) After a reorganization has been made, articles of reorganization in prescribed form shall be sent to the Director. R.S.O. 1990, c. B.16, s. 186 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 186 (4) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 25)

Articles of reorganization

(4) After a reorganization has been made, articles of reorganization and any other required documents and information shall be sent to the Director. 2017, c. 20, Sched. 6, s. 25.

Certificate

(5) Upon receipt of articles of reorganization, the Director shall endorse thereon in accordance with section 273 a certificate which shall constitute the certificate of amendment and the articles are amended accordingly. R.S.O. 1990, c. B.16, s. 186 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 186 (5) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 25)

Certificate

(5) Upon receipt of articles of reorganization and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of amendment, and the articles are amended accordingly. 2017, c. 20, Sched. 6, s. 25.

No dissent

(6) A shareholder is not entitled to dissent under section 185 if an amendment to the articles is effected under this section. R.S.O. 1990, c. B.16, s. 186 (6).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. B, s. 3 (9) - 06/12/2000

2017, c. 20, Sched. 6, s. 25 - not in force

PART XV COMPULSORY ACQUISITIONS

Application and definitions

187 (1) This Part applies only to an offering corporation. R.S.O. 1990, c. B.16, s. 187 (1).

Definitions

(2) In this Part,

“dissenting offeree” means a person to whom a take-over bid or issuer bid is made who does not accept the take-over bid or issuer bid and includes a person who subsequently acquires a security that is the subject of the bid; (“pollicité dissident”)

“equity security” means any security other than a debt obligation of a corporation; (“titre de participation”)

“issuer bid” means an offer made by a corporation to security holders to purchase, redeem or otherwise acquire any or all of a class of the securities of the corporation, other than where,

- (a) the securities to be purchased, redeemed or otherwise acquired are debt securities that are not convertible into equity securities,
- (b) the securities are to be purchased, redeemed or otherwise acquired in accordance with the terms and conditions thereof or otherwise agreed to at the time they were issued or subsequently varied by amendment of the documents setting out those terms and conditions, or are acquired to meet sinking fund requirements or from an employee or a former employee of the issuer or of an affiliate, or
- (c) the purchases, redemptions or other acquisitions to be made are required by the instrument creating or governing the class of securities or by this Act; (“offre de l’émetteur”)

“offeree” means a person to whom a take-over bid or an issuer bid is made; (“pollicité”)

“offeree corporation” means a corporation whose securities are the subject of a take-over bid; (“société pollicitée”)

“offeror” means a person, other than an agent, who makes a take-over bid or an issuer bid; (“pollicitant”)

“take-over bid” means an offer made to security holders of an offeree corporation to purchase directly or indirectly voting securities of the offeree corporation, where the voting securities that are the subject of the offer to purchase, the acceptance of the offer to sell or the combination thereof, as the case may be, together with the securities currently owned by the offeror, its affiliates and associates will carry, in the aggregate, 10 per cent or more of the voting rights attached to the voting securities of the offeree corporation that would be outstanding on exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities of the offeree corporation; (“offre d’achat visant à la mainmise”)

“voting security” includes,

- (a) a security currently convertible into a voting security or into another security that is convertible into a voting security,
- (b) a currently exercisable option or right to acquire a voting security or another security that is convertible into a voting security, or

- (c) a security carrying an option or right referred to in clause (b). (“valeur mobilière avec droit de vote”) R.S.O. 1990, c. B.16, s. 187 (2).

Section Amendments with date in force (d/m/y)

2011, c. 1, Sched. 2, s. 1 (12) - no effect - see 2017, c. 2, Sched. 12, s. 9 - 22/ 03/2017

Take-over or issuer bid

188 (1) If within 120 days after the date of a take-over bid or an issuer bid, the bid is accepted by the holders of not less than 90 per cent of the securities of any class of securities to which the bid relates, other than securities held at the date of the bid by or on behalf of the offeror, or an affiliate or associate of the offeror, the offeror is entitled, upon complying with this section, to acquire the securities held by dissenting offerees. R.S.O. 1990, c. B.16, s. 188 (1).

Shares of dissenting offeree

(2) An offeror may acquire the securities of any class to which the bid relates that are held by a dissenting offeree by sending, on or before the earlier of the sixtieth day following the termination of the bid and the one hundred and eightieth day following the date of the bid, an offeror’s notice to each dissenting offeree stating in substance that,

- (a) offerees holding more than 90 per cent of the securities to which the bid relates other than securities held at the date of the bid by or on behalf of the offeror or an affiliate or associate of the offeror have accepted the bid;
- (b) the offeror is bound to take up and pay for or has taken up and paid for the securities of the offerees who accepted the bid;
- (c) a dissenting offeree is required to elect,
 - (i) to transfer his, her or its securities to the offeror on the terms on which the offeror acquired the securities of the offerees who accepted the bid, or
 - (ii) to demand payment of the fair value of his, her or its securities in accordance with subsections (13) to (21) by notifying the offeror within twenty days after receipt of the offeror’s notice;
- (d) a dissenting offeree who does not notify the offeror in accordance with subclause (c) (ii) is deemed to have elected to transfer his, her or its securities to the offeror on the same terms that the offeror acquired the securities from the offerees who accepted the bid; and
- (e) a dissenting offeree must send the certificates, if any, representing his, her or its securities to which the bid relates to the offeree corporation or, in the case of an issuer bid, to the offeror within twenty days after the dissenting offeree receives the offeror’s notice. R.S.O. 1990, c. B.16, s. 188 (2); 2000, c. 26, Sched. B, s. 3 (10); 2011, c. 1, Sched. 2, s. 1 (14).

Notice

(3) In the case of a take-over bid, concurrently with sending the offeror’s notice under subsection (2), the offeror shall send or deliver to the offeree corporation a copy of the offeror’s notice, which constitutes a demand under subsection 88 (1) of the *Securities Transfer Act, 2006*, that the offeree corporation not register a transfer with respect to each share held by a dissenting offeree. 2006, c. 8, s. 122.

Sending in share certificates

(4) A dissenting offeree to whom an offeror’s notice is sent under subsection (2) shall, within twenty days after receiving that notice,

- (a) send the certificates, if any, representing his, her or its securities to which the take-over bid relates to the offeree corporation; or
- (b) send the certificates, if any, representing his, her or its securities to which the issuer bid relates to the offeror. R.S.O. 1990, c. B.16, s. 188 (4); 2011, c. 1, Sched. 2, s. 1 (15, 16).

Payment by offeror

(5) Within twenty days after the offeror sends an offeror’s notice under subsection (2), the offeror shall pay or transfer to the offeree corporation the amount of money or other consideration that the offeror would have had to pay or transfer to all dissenting offerees if they had elected to accept the take-over bid under subclause (2) (c) (i). R.S.O. 1990, c. B.16, s. 188 (5).

Trust funds

(6) An offeree corporation is deemed to hold in trust for dissenting offerees the money or other consideration it receives under subsection (5), and the offeree corporation shall deposit the money in a separate account in a financial institution

described in subsection (7.1) and shall place the other consideration in the custody of such a financial institution. 2007, c. 7, Sched. 7, s. 181 (1).

Same

(7) The offeror making an issuer bid is deemed to hold in trust for dissenting offerees the money or other consideration that the offeror would have had to pay or transfer to all dissenting offerees if they had elected to accept the issuer bid under subclause (2) (c) (i) and, within 20 days after the issuer sends an offeror's notice under subsection (2), the issuer shall deposit any such money in a separate account in a financial institution described in subsection (7.1) and shall place the other consideration in the custody of such a financial institution within 20 days after the offeror sends an offeror's notice under subsection (2). 2007, c. 7, Sched. 7, s. 181 (1).

Same

(7.1) A financial institution referred to in subsection (6) or (7) is,

- (a) a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada);
- (b) a corporation registered under the *Loan and Trust Corporations Act*;
- (c) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*; or

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 188 (7.1) (c) of the Act is amended by striking out “Credit Unions and Caisses Populaires Act, 1994” at the end and substituting “Credit Unions and Caisses Populaires Act, 2020”. (See: 2020, c. 36, Sched. 7, s. 296 (2))

- (d) a retail association as defined under the *Cooperative Credit Associations Act* (Canada). 2007, c. 7, Sched. 7, s. 181 (1).

Notice of compliance

(8) Within ten days after the offeror complies with subsection (5) or subsection (7), as the case may be, the offeror shall give notice of the date of such compliance to all dissenting offerees. R.S.O. 1990, c. B.16, s. 188 (8).

Application to court

(9) At any time prior to the thirtieth day following the day upon which the offeror's notice referred to in subsection (2) is sent to dissenting offerees, a dissenting offeree who has demanded payment of the fair value of his, her or its securities in accordance with subclause (2) (c) (ii) may apply to the court for an order requiring the person who has sent the offeror's notice to provide, in such form as the court considers appropriate, such additional security for payment to dissenting offerees of the fair value of their securities as the court may determine to be necessary, pending the determination of such fair value. R.S.O. 1990, c. B.16, s. 188 (9).

Where shares deemed acquired

(10) The securities of all dissenting offerees shall be deemed to have been acquired by the offeror,

- (a) where an application under subsection (9) has not been made within the time set out in subsection (9), upon the expiration of that time; or
- (b) where an application has been made under subsection (9), upon compliance with the order made in respect of the application. R.S.O. 1990, c. B.16, s. 188 (10).

Duties of offeree corporation

(11) Within 10 days after the acquisition of the securities of dissenting offerees under subsection (10) by an offeror who has made a take-over bid, the offeree corporation,

- (a) shall,
 - (i) issue to the offeror one or more security certificates in respect of the securities so acquired, or
 - (ii) if a resolution is passed by the directors under subsection 54 (2) with respect to any class and series of securities so acquired, issue to the offeror uncertificated securities in respect of the securities of such class and series so acquired and send the offeror the notice referred to in subsection 54 (3); and
- (b) shall send to each dissenting offeree who elects to accept the take-over bid terms under subclause (2) (c) (i),
 - (i) the money or other consideration to which the dissenting offeree is entitled as payment for or in exchange for his, her or its securities, if,
 - (A) the dissenting offeree's securities were uncertificated, or

- (B) the dissenting offeree's securities were represented by security certificates and the dissenting offeree has sent the certificates to the offeree corporation, or
- (ii) if the dissenting offeree's securities were represented by security certificates and the dissenting offeree has not sent the certificates to the offeree corporation, a notice stating in substance that,
 - (A) the certificates representing the dissenting offeree's securities have been cancelled,
 - (B) the offeree corporation or a designated person holds in trust for the dissenting offeree the money or other consideration to which the dissenting offeree is entitled as payment for or in exchange for his, her or its securities, and
 - (C) the offeree corporation will, subject to subsections (13) to (21), send that money or other consideration to the dissenting offeree forthwith after receiving the certificates representing the dissenting offeree's securities. 2011, c. 1, Sched. 2, s. 1 (17).

Payment by offeror

(12) Within 10 days after the acquisition of the securities of dissenting offerees under subsection (10) by an offeror who has made an issuer bid, the offeror shall send to each dissenting offeree who elects to accept the issuer bid terms under subclause (2) (c) (i),

- (a) the money or other consideration to which the dissenting offeree is entitled as payment for or in exchange for his, her or its securities, if,
 - (i) the dissenting offeree's securities were uncertificated, or
 - (ii) the dissenting offeree's securities were represented by security certificates and the dissenting offeree has sent the certificates to the offeror; or
- (b) if the dissenting offeree's securities were represented by security certificates and the dissenting offeree has not sent the certificates to the offeror, a notice stating in substance that,
 - (i) the certificates representing the dissenting offeree's securities have been cancelled,
 - (ii) the offeror or a designated person holds in trust for the dissenting offeree the money or other consideration to which the dissenting offeree is entitled as payment for or in exchange for his, her or its securities, and
 - (iii) the offeror will, subject to subsections (13) to (21), send that money or other consideration to the dissenting offeree forthwith after receiving the certificates representing the dissenting offeree's securities. 2011, c. 1, Sched. 2, s. 1 (17).

Application to fix fair value

(13) If a dissenting offeree has elected to demand payment of the fair value of his, her or its securities under subclause (2) (c) (ii), the offeror may, in the case of a take-over bid, within twenty days after it has complied with subsection (5) or, in the case of an issuer bid, within twenty days after it has complied with subsection (7), apply to the court to fix the fair value of the securities of that dissenting offeree. R.S.O. 1990, c. B.16, s. 188 (13).

Idem

(14) If an offeror fails to apply to the court under subsection (13), a dissenting offeree may apply to the court for the same purpose within a further period of twenty days. R.S.O. 1990, c. B.16, s. 188 (14).

Where no application

(15) If no application is made to the court under subsection (13) or (14) within the periods set out in those subsections, a dissenting offeree is deemed to have elected to transfer his, her or its securities to the offeror on the same terms that the offeror acquired the securities from offerees who accepted the take-over or issuer bid and, provided that the dissenting offeree has complied with subsection (4), the issuer or the offeree corporation, as the case may be, shall pay or transfer to the dissenting offeree the money or other consideration to which the dissenting offeree is entitled. R.S.O. 1990, c. B.16, s. 188 (15).

Security for costs not required

(16) A dissenting offeree is not required to give security for costs in an application made under subsection (13) or (14). R.S.O. 1990, c. B.16, s. 188 (16).

Parties

(17) Upon an application under subsection (13) or (14),

- (a) all dissenting offerees referred to in subclause (2) (c) (ii) whose securities have not been acquired by the offeror shall be joined as parties and are bound by the decision of the court; and
- (b) the offeror shall notify each such dissenting offeree of the date, place and consequences of the application and of the dissenting offeree's right to appear and be heard in person or by counsel. R.S.O. 1990, c. B.16, s. 188 (17).

Idem

(18) Upon an application to the court under subsection (13) or (14), the court may determine whether any other person is a dissenting offeree who should be joined as a party, and the court shall then fix a fair value for the securities of all dissenting offerees. R.S.O. 1990, c. B.16, s. 188 (18).

Appointment of appraisers

(19) The court may appoint one or more appraisers to assist the court in fixing a fair value for the securities of each dissenting offeree. R.S.O. 1990, c. B.16, s. 188 (19).

Final order

(20) The final order of the court shall be made against the offeror in favour of each dissenting offeree. R.S.O. 1990, c. B.16, s. 188 (20).

What court may order

(21) In connection with proceedings under this section, the court may make any order it thinks fit and, without limiting the generality of the foregoing, it may,

- (a) fix the amount of money or other consideration that is required to be held in trust under subsection (6) or (7);
- (b) order that the money or other consideration be held in trust by a person other than,
 - (i) the offeree corporation, or
 - (ii) in the case of an issuer bid, the offeror corporation;
- (c) allow a reasonable rate of interest on the amount payable to each dissenting offeree from the date the dissenting offeree sends his, her or its security certificates under subsection (4) until the date of payment; or
- (d) order that any money payable to a dissenting offeree who cannot be found be paid to the Public Guardian and Trustee. R.S.O. 1990, c. B.16, s. 188 (21).

Section Amendments with date in force (d/m/y)

2000, c. 26, Sched. B, s. 3 (10) - 06/12/2000

2006, c. 8, s. 122 - 01/01/2007

2007, c. 7, Sched. 7, s. 181 (1) - 01/10/2009

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2011, c. 1, Sched. 2, s. 1 (13) - no effect - see 2017, c. 2, Sched. 12, s. 9 - 22/03/2017; 2011, c. 1, Sched. 2, s. 1 (14-17) - 31/12/2015

2020, c. 36, Sched. 7, s. 296 (2) - not in force

Where corporation required to acquire securities

189 (1) Where 90 per cent or more of a class of securities of a corporation, other than debt obligations, are acquired by or on behalf of a person, the person's affiliates and the person's associates, then the holder of any securities of that class not counted for the purposes of calculating such percentage shall be entitled in accordance with this section to require the corporation to acquire the holder's securities of that class. R.S.O. 1990, c. B.16, s. 189 (1).

Notice

(2) Every corporation, within thirty days after it becomes aware that security holders are entitled to require it to acquire their securities under subsection (1), shall send a written notice to each such security holder that the security holder may within sixty days after the date of such notice require the corporation to acquire his, her or its securities. R.S.O. 1990, c. B.16, s. 189 (2).

Idem

(3) The notice sent by the corporation under subsection (2) shall,

- (a) set out a price that the corporation is willing to pay for the securities;

- (b) give the basis for arriving at the price;
- (c) state the location where any supporting material used for arriving at the price may be examined and extracts taken therefrom by the security holder or a duly authorized agent; and
- (d) state that if the security holder is not satisfied with the price offered by the corporation in the notice, the security holder is entitled to have the fair value of his, her or its securities fixed by the court. R.S.O. 1990, c. B.16, s. 189 (3).

Election by security holder

(4) Where a security holder receives a notice under subsection (2) and wishes the corporation to acquire his, her or its securities, the security holder may, within sixty days after the date of the notice,

- (a) elect to accept the price offered by the corporation by giving notice of acceptance to the corporation and by forthwith sending his, her or its security certificates to the corporation; or
- (b) notify the corporation that the security holder wishes to have the fair value of his, her or its securities fixed by the court. R.S.O. 1990, c. B.16, s. 189 (4).

Application to fix fair value

(5) Where a security holder wishes to have the fair value of his, her or its securities fixed by the court, the corporation shall make an application to the court within ninety days after the date of the notice under subsection (2). R.S.O. 1990, c. B.16, s. 189 (5).

Idem

(6) If a corporation fails to send notice under subsection (2), a security holder, after giving the corporation thirty days notice of intention so to do, may apply to the court to have the fair value of his, her or its securities fixed. R.S.O. 1990, c. B.16, s. 189 (6).

Idem

(7) If a corporation fails to make an application to the court as required under subsection (5), a security holder may make the application. R.S.O. 1990, c. B.16, s. 189 (7).

Parties

(8) Upon an application to the court under subsection (5), (6) or (7),

- (a) all security holders who have notified the corporation under clause (4) (b) may be joined as parties as the court thinks fit and, if so joined, are bound by the decision of the court; and
- (b) the corporation shall notify each security holder entitled to notice under subsection (2) of the date, place and purpose of the application and of the security holder's right to appear and be heard in person or by counsel. R.S.O. 1990, c. B.16, s. 189 (8).

Idem

(9) Upon an application to the court under subsection (5), (6) or (7), the court may determine whether any security holders should properly be sent or have been sent notice and whether such security holders should be joined as parties. R.S.O. 1990, c. B.16, s. 189 (9).

Appointment of appraiser

(10) The court may appoint one or more appraisers to assist the court in fixing a fair value for the securities. R.S.O. 1990, c. B.16, s. 189 (10).

Final order

(11) The final order of the court shall be made against the corporation in favour of each entitled security holder. R.S.O. 1990, c. B.16, s. 189 (11).

Security not required

(12) A security holder requesting the court to fix the fair value of his, her or its securities is not required to give security for costs on the application. R.S.O. 1990, c. B.16, s. 189 (12).

Costs

(13) The costs under this section shall be on a substantial indemnity basis. 2011, c. 1, Sched. 2, s. 1 (18).

Section Amendments with date in force (d/m/y)

Going private transaction

190 (1) In this section,

“affected security” means a participating security of a corporation in which the interest of the holder would be terminated by reason of a going private transaction; (“valeur mobilière visée”)

“going private transaction” means an amalgamation, arrangement, consolidation or other transaction carried out under this Act by a corporation that would cause the interest of a holder of a participating security of the corporation to be terminated without the consent of the holder and without the substitution therefor of an interest of equivalent value in a participating security that,

- (a) is issued by the corporation, an affiliate of the corporation or a successor body corporate, and
- (b) is not limited in the extent of its participation in earnings to any greater extent than the participating security for which it is substituted,

but does not include,

- (c) an acquisition under section 188,
- (d) a redemption of, or other compulsory termination of the interest of the holder in, a security if the security is redeemed or otherwise acquired in accordance with the terms and conditions attaching thereto or under a requirement of the articles relating to the class of securities or of this Act, or
- (e) a proceeding under Part XVI; (“transformation en société fermée”)

“participating security” means a security issued by a body corporate other than a security that is, in all circumstances, limited in the extent of its participation in earnings and includes,

- (a) a security currently convertible into such a security, and
- (b) currently exercisable warrants entitling the holder to acquire such a security or such a convertible security. (“valeur mobilière participante”) R.S.O. 1990, c. B.16, s. 190 (1).

Valuation

(2) A corporation that proposes to carry out a going private transaction shall have prepared by an independent, qualified valuer a written valuation indicating a per security value or range of values for each class of affected securities, and,

- (a) the valuation shall be prepared or revised as of a date not more than 120 days before the announcement of the going private transaction, with appropriate adjustments for subsequent events other than the going private transaction;
- (b) the valuation shall not contain a downward adjustment to reflect the fact that the affected securities do not form part of a controlling interest; and
- (c) if the consideration to be received by the holders of the affected securities is wholly or partly other than cash, or a right to receive cash within ninety days after the approval by security holders of the going private transaction, the valuation shall include the valuer’s opinion whether the value of each affected security to be surrendered is equal to or greater than the total value of the consideration to be received therefor. R.S.O. 1990, c. B.16, s. 190 (2).

Information circular

(3) The corporation shall send a management information circular to the holders of the affected securities not less than forty days prior to the date of a meeting which shall be called by it to consider that transaction, and the information circular shall contain, in addition to any other required information and subject to any exemption granted under subsection (6),

- (a) a summary of the valuation prepared in compliance with subsection (2) and a statement that a holder of an affected security may inspect a copy of the valuation at the registered office of the corporation or may obtain a copy of the valuation upon request and payment of a specified amount sufficient to cover reasonable costs of reproduction and mailing;
- (b) a statement of the approval or approvals of holders of affected securities required to be obtained in accordance with this section;
- (c) a certificate signed by a senior officer or a director of the corporation certifying that he or she and, to his or her knowledge, the corporation are unaware of any material fact relevant to the valuation prepared in compliance with subsection (2) that was not disclosed to the valuer; and

- (d) a statement of the class or classes of affected securities and of the number of securities of each class and, if any securities of any such class are, under paragraph 3 of subsection (4), not to be taken into account in the vote required by subsection (4), a statement of the number thereof and why they are not to be taken into account,

but if all or any portion of a class of affected securities is represented by certificates that are not in registered form, it shall be sufficient to make the information circular available to the holders of such affected securities in the manner provided for in the terms of the securities for sending notice to such holders or otherwise in such manner as may be prescribed. R.S.O. 1990, c. B.16, s. 190 (3).

Idem

(4) A corporation shall not carry out a going private transaction unless, in addition to any other required security holder approval, the transaction is approved by the holders of each class of affected securities by a vote in accordance with the following provisions:

1. If the consideration to be received by a holder of an affected security of the particular class is,
 - i. payable wholly or partly other than in cash or a right to receive cash within ninety days after the approval of the going private transaction, or
 - ii. payable entirely in cash and is less in amount than the per security value or the mid-point of the range of per security values, arrived at by the valuation prepared in compliance with subsection (2),

then the approval shall be given by a special resolution.

2. In cases other than those referred to in paragraph 1, the approval shall be given by an ordinary resolution.
3. In determining whether the transaction has been approved by the requisite majority, the votes of,
 - i. securities held by affiliates of the corporation,
 - ii. securities the beneficial owners of which will, consequent upon the going private transaction, be entitled to a per security consideration greater than that available to other holders of affected securities of the same class,
 - iii. securities the beneficial owners of which, alone or in concert with others, effectively control the corporation and who, prior to distribution of the information circular, entered into an understanding that they would support the going private transaction,

shall be disregarded both in determining the total number of votes cast and in determining the number of votes cast in favour of or against the transaction. R.S.O. 1990, c. B.16, s. 190 (4).

Effect of section

(5) The rights provided by this section are in addition to any other rights of a holder of affected securities. R.S.O. 1990, c. B.16, s. 190 (5).

Powers of Commission

(6) Upon an application by an interested person, the Commission may, subject to such terms and conditions as it may impose, exempt any person from any requirement of this section where in its opinion to do so would not be prejudicial to the public interest, and the Commission may publish guidelines as to the manner and circumstances in which it will exercise this discretion. R.S.O. 1990, c. B.16, s. 190 (6).

Rights of security holder

(7) A holder of an affected security that is a share of any class of a corporation may dissent from a going private transaction upon compliance with the procedures set out in section 185, in which case the holder shall be entitled to the rights and remedies provided by that section. R.S.O. 1990, c. B.16, s. 190 (7).

PART XVI LIQUIDATION AND DISSOLUTION

Definition

191 In sections 193 to 236,

“contributory” means a person who is liable to contribute to the property of a corporation in the event of the corporation being wound up under this Act. R.S.O. 1990, c. B.16, s. 191.

Application of ss. 193-205

192 Sections 193 to 205 apply to corporations being wound up voluntarily. R.S.O. 1990, c. B.16, s. 192.

Voluntary winding up

193 (1) The shareholders of a corporation may, by special resolution, require the corporation to be wound up voluntarily. R.S.O. 1990, c. B.16, s. 193 (1).

Appointment of liquidator

(2) At such meeting, the shareholders shall appoint one or more persons, who may be directors, officers or employees of the corporation, as liquidator of the estate and effects of the corporation for the purpose of winding up its business and affairs and distributing its property, and may at that or any subsequent meeting fix the liquidator's remuneration and the costs, charges and expenses of the winding up. R.S.O. 1990, c. B.16, s. 193 (2).

Review of remuneration by court

(3) On the application of any shareholder or creditor of the corporation or of the liquidator, the court may review the remuneration of the liquidator and, whether or not the remuneration has been fixed in accordance with subsection (2), the court may fix and determine the remuneration at such amount as it thinks proper. R.S.O. 1990, c. B.16, s. 193 (3).

Publication of notice

(4) A corporation shall file notice, in the prescribed form, of a resolution requiring the voluntary winding up of the corporation with the Director within ten days after the resolution has been passed and shall publish the notice in *The Ontario Gazette* within twenty days after the resolution has been passed. R.S.O. 1990, c. B.16, s. 193 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 193 (4) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 26)

Notice of resolution

(4) A corporation shall file notice, in the approved form, of a resolution requiring the voluntary winding up of the corporation with the Director within 10 days after the resolution has been passed. 2017, c. 20, Sched. 6, s. 26.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 26 - not in force

Inspectors

194 The shareholders of a corporation being wound up voluntarily may delegate to any committee of shareholders, contributories or creditors, hereinafter referred to as inspectors, the power of appointing the liquidator and filling any vacancy in the office of liquidator, or may enter into any arrangement with creditors of the corporation with respect to the powers to be exercised by the liquidator and the manner in which they are to be exercised. R.S.O. 1990, c. B.16, s. 194.

Vacancy in office of liquidator

195 If a vacancy occurs in the office of liquidator by death, resignation or otherwise, the shareholders may, subject to any arrangement the corporation may have entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a meeting for that purpose may be called by the continuing liquidator, if any, or by any shareholder or contributory, and shall be deemed to have been duly held if called in the manner prescribed by the articles or by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling meetings of the shareholders of the corporation. R.S.O. 1990, c. B.16, s. 195.

Removal of liquidator

196 The shareholders of a corporation may by ordinary resolution passed at a meeting called for that purpose remove a liquidator appointed under section 193, 194 or 195, and in such case shall appoint a replacement. R.S.O. 1990, c. B.16, s. 196.

Commencement of winding up

197 A voluntary winding up commences at the time of the passing of the resolution requiring the winding up or at such later time as may be specified in the resolution. R.S.O. 1990, c. B.16, s. 197.

Corporation to cease business

198 A corporation being wound up voluntarily shall, from the commencement of its winding up, cease to carry on its undertaking, except in so far as may be required as beneficial for the winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidator taking place after the commencement of its winding up, are void, but its corporate existence and all its corporate powers, even if it is otherwise provided by its articles or by-laws, continue until its affairs are wound up. R.S.O. 1990, c. B.16, s. 198.

No proceedings against corporation after voluntary winding up except by leave

199 After the commencement of a voluntary winding up,

- (a) no action or other proceeding shall be commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation, except by leave of the court and subject to such terms as the court imposes. R.S.O. 1990, c. B.16, s. 199.

List of contributories and calls

200 (1) Upon a voluntary winding up, the liquidator,

- (a) shall settle the list of contributories; and
- (b) may, before the liquidator has ascertained the sufficiency of the property of the corporation, call on all or any of the contributories for the time being settled on the list of contributories to the extent of their liability to pay any sum that the liquidator considers necessary for satisfying the liabilities of the corporation and the costs, charges and expenses of winding up and for adjusting the rights of the contributories among themselves. R.S.O. 1990, c. B.16, s. 200 (1).

List is proof

(2) A list settled by the liquidator under clause (1) (a) is, in the absence of evidence to the contrary, proof of the liability of the persons named therein to be contributories. R.S.O. 1990, c. B.16, s. 200 (2).

Default on calls

(3) The liquidator in making a call under clause (1) (b) may take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the call. R.S.O. 1990, c. B.16, s. 200 (3).

Meetings of corporation during winding up

201 (1) The liquidator may, during the continuance of the voluntary winding up, call meetings of the shareholders of the corporation for any purpose the liquidator thinks fit. R.S.O. 1990, c. B.16, s. 201 (1).

Where winding up continues more than one year

(2) Where a voluntary winding up continues for more than one year, the liquidator shall call a meeting of the shareholders of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and the liquidator shall lay before the meeting an account showing the liquidator's acts and dealings and the manner in which the winding up has been conducted during the immediately preceding year. R.S.O. 1990, c. B.16, s. 201 (2).

Arrangements with creditors

202 The liquidator, with the approval of the shareholders of the corporation or the inspectors, may make such compromise or other arrangement as the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he, she or it has a claim, present or future, certain or contingent, liquidated or unliquidated, against the corporation or whereby the corporation may be rendered liable. R.S.O. 1990, c. B.16, s. 202.

Power to compromise with debtors and contributories

203 The liquidator may, with the approval referred to in section 202, compromise all debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person who may be liable to the corporation and all questions in any way relating to or affecting the property of the corporation, or the winding up of the corporation, upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof. R.S.O. 1990, c. B.16, s. 203.

Power to accept shares, etc., as consideration for sale of property to another body corporate

204 (1) Where a corporation is proposed to be or is in the course of being wound up voluntarily and it is proposed to transfer the whole or a portion of its business or property to another body corporate, the liquidator, with the approval of a resolution of the shareholders of the corporation conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, may receive, in compensation or in part-compensation for the transfer, cash or shares or other like interest in the purchasing body corporate or any other body corporate for the purpose of distribution among the creditors or shareholders of the corporation that is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash or shares or other like interest, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing body corporate or any other body corporate. R.S.O. 1990, c. B.16, s. 204 (1).

Confirmation of sale or arrangement

(2) A transfer made or arrangement entered into by the liquidator under this section is not binding on the shareholders of the corporation that is being wound up unless the transfer or arrangement is approved in accordance with subsections 184 (3), (6) and (7). R.S.O. 1990, c. B.16, s. 204 (2).

Where resolution not invalid

(3) No resolution is invalid for the purposes of this section because it was passed before or concurrently with a resolution for winding up the corporation or for appointing the liquidator. R.S.O. 1990, c. B.16, s. 204 (3).

Account of voluntary winding up to be made by liquidator to a meeting

205 (1) The liquidator shall make up an account showing the manner in which the winding up has been conducted and the property of the corporation disposed of, and thereupon shall call a meeting of the shareholders of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner prescribed by the articles or by-laws or, in default thereof, in the manner prescribed by this Act for the calling of meetings of shareholders. R.S.O. 1990, c. B.16, s. 205 (1).

Notice of holding of meeting

(2) The liquidator shall within ten days after the meeting is held file a notice in the prescribed form with the Director stating that the meeting was held and the date thereof and shall forthwith publish the notice in *The Ontario Gazette*. R.S.O. 1990, c. B.16, s. 205 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 205 (2) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 27)

Notice that meeting was held

(2) The liquidator shall, within 10 days after the meeting is held, file a notice in the approved form with the Director stating that the meeting was held and the date of the meeting. 2017, c. 20, Sched. 6, s. 27.

Dissolution

(3) Subject to subsection (4), on the expiration of three months after the date of the filing of the notice, the corporation is dissolved. R.S.O. 1990, c. B.16, s. 205 (3).

Extension

(4) At any time during the three-month period mentioned in subsection (3), the court may, on the application of the liquidator or any other person interested, make an order deferring the date on which the dissolution of the corporation is to take effect to a date fixed in the order, and in such event the corporation is dissolved on the date so fixed. R.S.O. 1990, c. B.16, s. 205 (4).

Dissolution by court order

(5) Despite anything in this Act, the court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order. R.S.O. 1990, c. B.16, s. 205 (5).

Copy of extension order to be filed

(6) The person on whose application an order was made under subsection (4) or (5) shall within ten days after it was made file with the Director a certified copy of the order and forthwith publish notice of the order in *The Ontario Gazette*. R.S.O. 1990, c. B.16, s. 205 (6).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 205 (6) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 27)

Copy of extension order to be filed

(6) The person on whose application an order was made under subsection (4) or (5) shall file with the Director, within 10 days after the order was made, a certified copy of the order, a notarial copy of the certified copy or any other type of copy of the order permitted by the Director. 2017, c. 20, Sched. 6, s. 27.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 27 - not in force

Application of ss. 207-218

206 Sections 207 to 218 apply to corporations being wound up by order of the court. R.S.O. 1990, c. B.16, s. 206.

Winding up by court

207 (1) A corporation may be wound up by order of the court,

- (a) where the court is satisfied that in respect of the corporation or any of its affiliates,
 - (i) any act or omission of the corporation or any of its affiliates effects a result,
 - (ii) the business or affairs of the corporation or any of its affiliates are or have been carried on or conducted in a manner, or
 - (iii) the powers of the directors of the corporation or any of its affiliates are or have been exercised in a manner, that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any security holder, creditor, director or officer; or
- (b) where the court is satisfied that,
 - (i) a unanimous shareholder agreement entitled a complaining shareholder to demand dissolution of the corporation after the occurrence of a specified event and that event has occurred,
 - (ii) proceedings have been begun to wind up voluntarily and it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court,
 - (iii) the corporation, though it may not be insolvent, cannot by reason of its liabilities continue its business and it is advisable to wind it up, or
 - (iv) it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up; or
- (c) where the shareholders by special resolution authorize an application to be made to the court to wind up the corporation. R.S.O. 1990, c. B.16, s. 207 (1).

Court order

(2) Upon an application under this section, the court may make such order under this section or section 248 as it thinks fit. R.S.O. 1990, c. B.16, s. 207 (2).

Who may apply

208 (1) A winding-up order may be made upon the application of the corporation or of a shareholder or, where the corporation is being wound up voluntarily, of the liquidator or of a contributory or of a creditor having a claim of \$2,500 or more. R.S.O. 1990, c. B.16, s. 208 (1).

Notice

(2) Except where the application is made by the corporation, four days' notice of the application shall be given to the corporation before the making of the application. R.S.O. 1990, c. B.16, s. 208 (2).

Power of court

209 The court may make the order applied for, may dismiss the application with or without costs, may adjourn the hearing conditionally or unconditionally or may make any interim or other order as is considered just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up to an officer of the court for inquiry and report and may authorize the officer to exercise such powers of the court as are necessary for the reference. R.S.O. 1990, c. B.16, s. 209.

Appointment of liquidator

210 (1) The court in making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the corporation for the purpose of winding up its business and affairs and distributing its property. R.S.O. 1990, c. B.16, s. 210 (1).

Remuneration

(2) The court may at any time fix the remuneration of the liquidator. R.S.O. 1990, c. B.16, s. 210 (2).

Vacancy

(3) If a liquidator appointed by the court dies or resigns or the office becomes vacant for any reason, the court may by order fill the vacancy. R.S.O. 1990, c. B.16, s. 210 (3).

Notice of appointment

(4) A liquidator appointed by the court under this section shall forthwith give to the Director notice in the prescribed form of the liquidator's appointment and shall, within twenty days after being appointed publish the notice in *The Ontario Gazette*. R.S.O. 1990, c. B.16, s. 210 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 210 (4) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 28)

Notice of appointment

(4) A liquidator appointed by the court under this section shall forthwith give to the Director notice in the approved form of the liquidator's appointment. 2017, c. 20, Sched. 6, s. 28.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 28 - not in force

Removal of liquidator

211 The court may by order remove for cause a liquidator appointed by it, and in such case shall appoint a replacement. R.S.O. 1990, c. B.16, s. 211.

Costs and expenses

212 The costs, charges and expenses of a winding up by order of the court shall be assessed by an assessment officer of the Superior Court of Justice. R.S.O. 1990, c. B.16, s. 212; 2001, c. 9, Sched. D, s. 2 (4).

Section Amendments with date in force (d/m/y)

2001, c. 9, Sched. D, s. 2 (4) - 29/06/2001

Commencement of winding up

213 Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall, unless a court otherwise orders, be deemed to commence at the time of the service of notice of the application, and, where the application is made by the corporation, at the time the application is made. R.S.O. 1990, c. B.16, s. 213.

Proceedings in winding up after order

214 Where a winding-up order has been made by the court, proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator before the winding-up order, in which case the list is subject to review by the court, and except that all proceedings in the winding up are subject to the order and direction of the court. R.S.O. 1990, c. B.16, s. 214.

Orders following winding-up order

Meetings of shareholders

215 (1) Where a winding-up order has been made by the court, the court may direct meetings of the shareholders of the corporation to be called, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes, and may appoint a person to act as chair of any such meeting and to report the result of it to the court. R.S.O. 1990, c. B.16, s. 215 (1).

Order for delivery by contributories and others of property, etc.

(2) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any director, officer, employee, trustee, banker or agent of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, documents, records, estate or effects that are in his, her or its hands and to which the corporation is apparently entitled. R.S.O. 1990, c. B.16, s. 215 (2).

Inspection of documents and records

(3) Where a winding-up order has been made by the court, the court may make an order for the inspection of the documents and records of the corporation by its creditors and contributories, and any documents and records in the possession of the corporation may be inspected in conformity with the order. R.S.O. 1990, c. B.16, s. 215 (3).

Proceedings against corporation after court winding up

216 After the commencement of a winding up by order of the court,

- (a) no action or other proceeding shall be proceeded with or commenced against the corporation; and
 - (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,
- except by leave of the court and subject to such terms as the court imposes. R.S.O. 1990, c. B.16, s. 216.

Provision for discharge and distribution by the court

217 (1) Where the realization and distribution of the property of a corporation being wound up under an order of the court has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the corporation remaining in the liquidator's hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator. R.S.O. 1990, c. B.16, s. 217 (1).

Disposal of documents and records

(2) In such case, the court may make an order directing how the documents and records of the corporation and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as the court thinks fit. R.S.O. 1990, c. B.16, s. 217 (2).

Order for dissolution

218 (1) The court at any time after the business and affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order. R.S.O. 1990, c. B.16, s. 218 (1).

Copy of dissolution order to be filed

(2) The person on whose application the order was made shall within ten days after it was made file with the Director a certified copy of the order and shall forthwith publish notice of the order in *The Ontario Gazette*. R.S.O. 1990, c. B.16, s. 218 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 218 (2) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 29)

Copy of dissolution order to be filed

(2) The person on whose application the order was made shall file with the Director, within 10 days after the order was made, a certified copy of the order, a notarial copy of the certified copy or any other type of copy of the order permitted by the Director. 2017, c. 20, Sched. 6, s. 29.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 29 - not in force

Application of ss. 220-236

219 Sections 220 to 236 apply to corporations being wound up voluntarily or by order of the court. R.S.O. 1990, c. B.16, s. 219.

Where no liquidator

220 Where there is no liquidator,

- (a) the court may by order on the application of a shareholder of the corporation appoint one or more persons as liquidator; and
- (b) the estate and effects of the corporation shall be under the control of the court until the appointment of a liquidator. R.S.O. 1990, c. B.16, s. 220.

Consequences of winding up

221 (1) Upon a winding up,

- (a) the liquidator shall apply the property of the corporation in satisfaction of all its debts, obligations and liabilities and, subject thereto, shall distribute the property rateably among the shareholders according to their rights and interests in the corporation;
- (b) in distributing the property of the corporation, debts to employees of the corporation for services performed for it due at the commencement of the winding up or within one month before, not exceeding three months' wages and vacation

pay accrued for not more than twelve months, shall be paid in priority to the claims of the ordinary creditors, and such persons are entitled to rank as ordinary creditors for the residue of their claims;

- (c) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may sanction the continuance of such powers. R.S.O. 1990, c. B.16, s. 221 (1).

Distribution of property

- (2) Section 53 of the *Trustee Act* applies with necessary modifications to liquidators. R.S.O. 1990, c. B.16, s. 221 (2).

Payment of costs and expenses

222 The costs, charges and expenses of a winding up, including the remuneration of the liquidator, are payable out of the property of the corporation in priority to all other claims. R.S.O. 1990, c. B.16, s. 222.

Powers of liquidators

223 (1) A liquidator may,

- (a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the corporation;
- (b) carry on the business of the corporation so far as may be required as beneficial for the winding up of the corporation;
- (c) sell the property of the corporation by public auction or private sale and receive payment of the purchase price either in cash or otherwise;
- (d) do all acts and execute, in the name and on behalf of the corporation, all documents, and for that purpose use the seal of the corporation, if any;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;
- (f) raise upon the security of the property of the corporation any requisite money;
- (g) take out in the liquidator's official name letters of administration of the estate of any deceased contributory and do in the liquidator's official name any other act that is necessary for obtaining payment of any money due from a contributory or from the contributory's estate and which act cannot be done conveniently in the name of the corporation; and
- (h) do and execute all such other things as are necessary for winding up the business and affairs of the corporation and distributing its property. R.S.O. 1990, c. B.16, s. 223 (1).

Bills of exchange, etc., to be deemed drawn in the course of business

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note by the liquidator on behalf of a corporation has the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of carrying on its business. R.S.O. 1990, c. B.16, s. 223 (2).

Where money deemed to be due to liquidator

(3) Where the liquidator takes out letters of administration or otherwise uses the liquidator's official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling the liquidator to take out such letters or recover such money, to be due to the liquidator rather than to the corporation. R.S.O. 1990, c. B.16, s. 223 (3).

What liquidator may rely upon

(4) A liquidator who acts in good faith is entitled to rely upon,

- (a) financial statements of the corporation represented to the liquidator by an officer of the corporation or in a written report of the auditor of the corporation to present fairly the financial position of the corporation in accordance with generally accepted accounting principles; or
- (b) an opinion, a report or a statement of a lawyer, an accountant, an engineer, an appraiser or other professional adviser retained by the liquidator. R.S.O. 1990, c. B.16, s. 223 (4).

Acts by more than one liquidator

224 Where more than one person is appointed as liquidator, any power conferred by sections 193 to 236 on a liquidator may be exercised by such one or more of such persons as may be determined by the resolution or order appointing them or, in default of such determination, by any number of them not fewer than two. R.S.O. 1990, c. B.16, s. 224.

Nature of liability of contributory

225 The liability of a contributory creates a debt accruing due from the contributory at the time the contributory's liability commenced, but payable at the time or respective times when calls are made for enforcing such liability. R.S.O. 1990, c. B.16, s. 225.

Liability in case of contributory's death

226 If a contributory dies before or after having been placed on the list of contributories, the contributory's personal representative is liable in due course of administration to contribute to the property of the corporation in discharge of the liability of the deceased contributory and shall be a contributory accordingly. R.S.O. 1990, c. B.16, s. 226.

Deposit of money

227 (1) The liquidator shall deposit all money that the liquidator has belonging to the corporation and amounting to \$100 or more in a financial institution described in subsection (2). 2007, c. 7, Sched. 7, s. 181 (2).

Financial institutions

(2) A financial institution referred to in subsection (1) is,

- (a) a bank or authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada);
- (b) a corporation registered under the *Loan and Trust Corporations Act*;
- (c) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*; or

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 227 (2) (c) of the Act is amended by striking out "*Credit Unions and Caisses Populaires Act, 1994*" at the end and substituting "*Credit Unions and Caisses Populaires Act, 2020*". (See: 2020, c. 36, Sched. 7, s. 296 (3))

- (d) a retail association as defined under the *Cooperative Credit Associations Act* (Canada). 2007, c. 7, Sched. 7, s. 181 (2).

Separate deposit account to be kept; withdrawal from account

(3) Such deposit shall not be made in the name of the liquidator individually, but a separate deposit account shall be kept of the money belonging to the corporation in the liquidator's name as liquidator of the corporation and in the name of the inspectors, if any, and such money shall be withdrawn only by order for payment signed by the liquidator and one of the inspectors, if any. R.S.O. 1990, c. B.16, s. 227 (3).

Liquidator to produce bank pass-book

(4) At every meeting of the shareholders of the corporation, the liquidator shall produce a pass-book, or statement of account showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and the dates of withdrawal, and mention of such production shall be made in the minutes of the meeting, and the absence of such mention is admissible in evidence as proof, in the absence of evidence to the contrary, that the pass-book or statement of account was not produced at the meeting. R.S.O. 1990, c. B.16, s. 227 (4).

Idem

(5) The liquidator shall also produce the pass-book or statement of account whenever so ordered by the court upon the application of the inspectors, if any, or of a shareholder of the corporation. R.S.O. 1990, c. B.16, s. 227 (5).

Section Amendments with date in force (d/m/y)

2002, c. 8, Sched. I, s. 2 - 05/01/2005

2007, c. 7, Sched. 7, s. 181 (2) - 01/10/2009

2020, c. 36, Sched. 7, s. 296 (3) - not in force

Proving claim

228 For the purpose of proving claims, sections 23, 24 and 25 of the *Assignments and Preferences Act* apply with necessary modifications, except that where the word "judge" is used therein, the word "court" as used in this Act shall be substituted. R.S.O. 1990, c. B.16, s. 228.

Application for direction

229 Upon the application of the liquidator or of the inspectors, if any, or of any creditors, the court, after hearing such parties as it directs to be notified or after such steps as the court prescribes have been taken, may by order give its direction in any matter arising in the winding up. R.S.O. 1990, c. B.16, s. 229.

Examination of persons as to estate

230 (1) The court may at any time after the commencement of the winding up summon to appear before the court or liquidator any director, officer or employee of the corporation or any other person known or suspected of having possession of any of the estate or effects of the corporation, or alleged to be indebted to it, or any person whom the court thinks capable of giving information concerning its trade, dealings, estate or effects. R.S.O. 1990, c. B.16, s. 230 (1).

Damages against delinquent directors, etc.

(2) Where in the course of the winding up it appears that a person who has taken part in the formation or promotion of the corporation or that a past or present director, officer, employee, liquidator or receiver of the corporation has misapplied or retained in that person's own hands, or become liable or accountable for, property of the corporation, or has committed any misfeasance or breach of trust in relation to it, the court may, on the application of the liquidator or of any creditor, shareholder or contributory, examine the conduct of that person and order that person to restore the property so misapplied or retained, or for which that person has become liable or accountable, or to contribute such sum to the property of the corporation by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust, or both, as the court thinks just. R.S.O. 1990, c. B.16, s. 230 (2).

Proceedings by shareholders

231 (1) Where a shareholder of the corporation desires to cause any proceeding to be taken that, in the shareholder's opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or of the inspectors, if any, refuses or neglects to take such proceeding after being required so to do, the shareholder may obtain an order of the court authorizing the shareholder to take such proceeding in the name of the liquidator or corporation, but at the shareholder's own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court prescribes. R.S.O. 1990, c. B.16, s. 231 (1).

Benefits: when for shareholders

(2) Any benefit derived from a proceeding under subsection (1) belongs exclusively to the shareholder causing the institution of the proceeding for the shareholder's benefit and that of any other shareholder who has joined together in causing the institution of the proceeding. R.S.O. 1990, c. B.16, s. 231 (2).

when for corporation

(3) If, before the order is granted, the liquidator signifies to the court the liquidator's readiness to institute the proceeding for the benefit of the corporation, the court shall make an order prescribing the time within which the liquidator is to do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the corporation. R.S.O. 1990, c. B.16, s. 231 (3).

Rights conferred by Act to be in addition to other powers

232 The rights conferred by this Act are in addition to any other right to institute a proceeding against any contributory, or against any debtor of the corporation, for the recovery of any sum due from such contributory or debtor or an estate thereof. R.S.O. 1990, c. B.16, s. 232.

Stay of winding up proceedings

233 At any time during a winding up, the court, upon the application of a shareholder, creditor or contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings altogether or for a limited time on such terms and subject to such conditions as the court thinks fit. R.S.O. 1990, c. B.16, s. 233.

Where creditor unknown

234 (1) Where the liquidator is unable to pay all the debts of the corporation because a creditor is unknown or a creditor's whereabouts is unknown, the liquidator may, by agreement with the Public Guardian and Trustee, pay to the Public Guardian and Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and thereupon subsections 238 (5) and (6) apply thereto. R.S.O. 1990, c. B.16, s. 234 (1).

Idem

(2) A payment under subsection (1) shall be deemed to be in satisfaction of the debt for the purposes of winding up. R.S.O. 1990, c. B.16, s. 234 (2).

Section Amendments with date in force (d/m/y)

CTS 30 AU 10 - 1

Where shareholder unknown

235 (1) Where the liquidator is unable to distribute rateably the property of the corporation among the shareholders because a shareholder is unknown or a shareholder's whereabouts is unknown, the share of the property of the corporation of such shareholder may, by agreement with the Public Guardian and Trustee, be delivered or conveyed by the liquidator to the Public Guardian and Trustee to be held in trust for the shareholder, and thereupon subsections 238 (5) and (6) apply thereto. R.S.O. 1990, c. B.16, s. 235 (1).

Idem

(2) A delivery or conveyance under subsection (1) shall be deemed to be a distribution to that shareholder of his, her or its rateable share for the purposes of the winding up. R.S.O. 1990, c. B.16, s. 235 (2).

Section Amendments with date in force (d/m/y)

CTS 30 AU 10 - 1

Disposal of records, etc., after winding up

236 (1) Where a corporation has been wound up under sections 192 to 235 and is about to be dissolved, its documents and records and those of the liquidator may be disposed of as it by resolution directs in case of voluntary winding up, or as the court directs in case of winding up under an order. R.S.O. 1990, c. B.16, s. 236 (1).

When responsibility as to custody of records, etc., to cease

(2) After the expiration of five years after the date of the dissolution of the corporation, no responsibility rests on it or the liquidator, or anyone to whom the custody of the documents and records has been committed, by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. R.S.O. 1990, c. B.16, s. 236 (2).

Voluntary dissolution

237 A corporation may be dissolved upon the authorization of,

- (a) a special resolution passed at a meeting of the shareholders of the corporation duly called for the purpose or, in the case of a corporation that is not an offering corporation, by such other proportion of the votes cast as the articles provide, but such other proportion shall not be less than 50 per cent of the votes of all the shareholders entitled to vote at the meeting;
- (b) the consent in writing of all the shareholders entitled to vote at such meeting; or
- (c) all its incorporators or their personal representatives if the corporation has not commenced business and has not issued any shares. R.S.O. 1990, c. B.16, s. 237; 2006, c. 34, Sched. B, s. 36.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 36 - 01/08/2007

Articles of dissolution where corporation active

238 (1) For the purpose of bringing the dissolution authorized under clause 237 (a) or (b) into effect, articles of dissolution shall follow the prescribed form and shall set out,

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 238 (1) of the Act is amended by striking out "shall follow the prescribed form and shall set out" in the portion before clause (a) and substituting "must set out". (See: 2017, c. 20, Sched. 6, s. 30 (1))

- (a) the name of the corporation;
- (b) that its dissolution has been duly authorized under clause 237 (a) or (b);
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for in accordance with subsection (3) or its creditors or other persons having interests in its debts, obligations or liabilities consent to its dissolution;
- (d) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute among its shareholders or that it has distributed its remaining property rateably among its shareholders according to their rights and interests in the corporation or in accordance with subsection (4) where applicable; and

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 238 (1) of the Act is amended by striking out "and" at the end of clause (d) and by adding the following clause: (See: 2015, c. 38, Sched. 7, s. 44 (6))

- (d.1) if it was at any time a registered owner of land in Ontario, that it is no longer a registered owner of land in Ontario; and
- (e) that there are no proceedings pending in any court against it.

(f) REPEALED: 1994, c. 27, s. 71 (25).

R.S.O. 1990, c. B.16, s. 238 (1); 1994, c. 27, s. 71 (25).

Articles of dissolution where corporation never active

(2) For the purpose of bringing a dissolution authorized under clause 237 (c) into effect, articles of dissolution shall follow the prescribed form and shall set out,

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 238 (2) of the Act is amended by striking out “shall follow the prescribed form and shall set out” in the portion before clause (a) and substituting “must set out”. (See: 2017, c. 20, Sched. 6, s. 30 (2))

- (a) the name of the corporation;
- (b) the date set out in its certificate of incorporation;
- (c) that the corporation has not commenced business;
- (d) that none of its shares has been issued;
- (e) that dissolution has been duly authorized under clause 237 (c);
- (f) that it has no debts, obligations or liabilities;
- (g) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute or that it has distributed its remaining property to the persons entitled thereto; and

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 238 (2) of the Act is amended by striking out “and” at the end of clause (g) and by adding the following clause: (See: 2015, c. 38, Sched. 7, s. 44 (7))

- (g.1) if it was at any time a registered owner of land in Ontario, that it is no longer a registered owner of land in Ontario; and
- (h) that there are no proceedings pending in any court against it.
- (i) REPEALED: 1994, c. 27, s. 71 (26).

R.S.O. 1990, c. B.16, s. 238 (2); 1994, c. 27, s. 71 (26).

Where creditor unknown

(3) Where a corporation authorizes its dissolution and a creditor is unknown or a creditor’s whereabouts is unknown, the corporation may, by agreement with the Public Guardian and Trustee, pay to the Public Guardian and Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due provision for the debt for the purposes of clause (1) (c). R.S.O. 1990, c. B.16, s. 238 (3).

Where shareholder unknown

(4) Where a corporation authorizes its dissolution and a shareholder is unknown or a shareholder’s whereabouts is unknown, it may, by agreement with the Public Guardian and Trustee, deliver or convey the shareholder’s share of the property to the Public Guardian and Trustee to be held in trust for the shareholder, and such delivery or conveyance shall be deemed to be a distribution to that shareholder of his, her or its rateable share for the purposes of the dissolution. R.S.O. 1990, c. B.16, s. 238 (4).

Power to convert

(5) If the share of the property so delivered or conveyed to the Public Guardian and Trustee under subsection (4) is in a form other than cash, the Public Guardian and Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into cash. R.S.O. 1990, c. B.16, s. 238 (5).

Payment to person entitled

(6) If the amount paid under subsection (3) or the share of the property delivered or conveyed under subsection (4) or its equivalent in cash, as the case may be, is claimed by the person beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to the person, but, if not so claimed, it vests in the Public Guardian and Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes a right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Guardian and Trustee shall be paid to the person. R.S.O. 1990, c. B.16, s. 238 (6).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (25, 26) - 01/03/1995

CTS 30 AU 10 - 1

2015, c. 38, Sched. 7, s. 44 (6, 7) - not in force

2017, c. 20, Sched. 6, s. 30 (1, 2) - not in force

Certificate of dissolution

239 (1) Upon receipt of the articles of dissolution, the Director shall endorse thereon in accordance with section 273 a certificate which shall constitute the certificate of dissolution. R.S.O. 1990, c. B.16, s. 239 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 239 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 31 (1))

Certificate of dissolution

(1) Upon receipt of the articles of dissolution and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of dissolution. 2017, c. 20, Sched. 6, s. 31 (1).

Exception, registered owner of land

(1.1) Despite subsection (1), the Director may refuse to endorse the articles of dissolution if the Director learns that the corporation is a registered owner of land in Ontario. 2015, c. 38, Sched. 7, s. 44 (8).

Incorporators to sign articles of dissolution

(2) Despite clause 273 (1) (a), articles of dissolution for the purposes of subsection 238 (2) shall be signed by all its incorporators or their personal representatives. R.S.O. 1990, c. B.16, s. 239 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 239 (2) of the Act is amended by striking out “Despite clause 273 (1) (a)” at the beginning and substituting “Despite subsection 273 (1)”. (See: 2017, c. 20, Sched. 6, s. 31 (2))

Section Amendments with date in force (d/m/y)

2015, c. 38, Sched. 7, s. 44 (8) - 10/12/2016

2017, c. 20, Sched. 6, s. 31 (1, 2) - not in force

Cancellation of certificate, etc., by Director

240 (1) Where sufficient cause is shown to the Director, despite the imposition of any other penalty in respect thereof and in addition to any rights the Director may have under this or any other Act, the Director may, after having given the corporation an opportunity to be heard, by order, upon such terms and conditions as the Director thinks fit, cancel a certificate of incorporation or any other certificate issued or endorsed under this Act or a predecessor of this Act, and,

- (a) in the case of the cancellation of a certificate of incorporation, the corporation is dissolved on the date fixed in the order; and
- (b) in the case of the cancellation of any other certificate, the matter that became effective upon the issuance of the certificate ceases to be in effect from the date fixed in the order. R.S.O. 1990, c. B.16, s. 240 (1); 2017, c. 20, Sched. 6, s. 32.

Written hearing

(1.1) A hearing referred to in subsection (1) shall be in writing in accordance with the rules made by the Director under the *Statutory Powers Procedure Act*. 2015, c. 38, Sched. 7, s. 44 (9).

Transition

(1.2) Subsection (1.1) does not apply to a hearing if the notice specifying a date for the hearing is issued before the day subsection 44 (9) of the *Forfeited Corporate Property Act, 2015* comes into force. 2015, c. 38, Sched. 7, s. 44 (9).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 240 of the Act is amended by adding the following subsection: (See: 2020, c. 34, Sched. 1, s. 9 (1))

Termination of proceedings re director residency

(1.3) Any proceeding under this section commenced but not decided by order of the Director before the day subsection 9 (2) of Schedule 1 to the *Better for People, Smarter for Business Act, 2020* comes into force, related to a corporation’s failure to comply with subsection 118 (3) of this Act as it read immediately before that day, is terminated. 2020, c. 34, Sched. 1, s. 9 (1).

Definition

(2) In this section,

“sufficient cause”, with respect to cancellation of a certificate of incorporation, includes,

- (a) REPEALED: 1994, c. 27, s. 71 (27).
- (b) failure to comply with subsection 115 (2) or subsection 118 (3),

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) of the definition of “sufficient cause” in subsection 240 (2) of the Act is amended by striking out “or subsection 118 (3)” at the end. (See: 2020, c. 34, Sched. 1, s. 9 (2))

- (c) REPEALED: 1994, c. 27, s. 71 (27).
- (d) a conviction of the corporation for an offence under the *Criminal Code* (Canada) or any other federal statute or an offence as defined in the *Provincial Offences Act*, in circumstances where cancellation of the certificate is in the public interest, or
- (e) conduct described in subsection 248 (2). R.S.O. 1990, c. B.16, s. 240 (2); 1994, c. 27, s. 71 (27, 28).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (27, 28) - 01/03/1995

2015, c. 38, Sched. 7, s. 44 (9) - 10/12/2016

2017, c. 20, Sched. 6, s. 32 - 14/11/2017

2020, c. 34, Sched. 1, s. 9 (1, 2) - not in force

Notice of dissolution

241 (1) Where the Director is notified by the Minister of Finance that a corporation is in default of complying with any of the following Acts, the Director may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation remedies its default within 90 days after the notice is given:

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 241 (1) of the Act is amended by striking out the portion before paragraph 0.1 and substituting the following: (See: 2017, c. 20, Sched. 6, s. 33 (1))

Notice of dissolution by order

(1) If the Director is notified by the Minister of Finance that a corporation is in default of complying with any of the following Acts, the Director may give notice to the corporation in accordance with section 263, or by publication in accordance with the regulations, that an order dissolving the corporation will be issued unless the corporation remedies its default within 90 days after the notice is given:

0.1 *Alcohol, Cannabis and Gaming Regulation and Public Protection Act, 1996.*

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 0.1 of subsection 241 (1) of the Act is repealed and the following substituted: (See: 2019, c. 15, Sched. 2, s. 29)

0.1 *Liquor Tax Act, 1996.*

1. *Corporations Tax Act.*
2. *Employer Health Tax Act.*
3. *Fuel Tax Act.*
4. *Gasoline Tax Act.*
5. *Land Transfer Tax Act.*
6. *Retail Sales Tax Act.*

6.1 *Taxation Act, 2007.*

7. *Tobacco Tax Act.* 2004, c. 31, Sched. 4, s. 1; 2008, c. 19, Sched. V, s. 1; 2010, c. 1, Sched. 1, s. 12; 2018, c. 12, Sched. 2, s. 51.

Idem

(2) Where the Director is notified by the Commission that a corporation has not complied with sections 77 and 78 of the *Securities Act*, the Director may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation complies with sections 77 and 78 of the *Securities Act* within ninety days after the giving of the notice. R.S.O. 1990, c. B.16, s. 241 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 241 (2) of the Act is repealed and the following substituted:
(See: 2017, c. 20, Sched. 6, s. 33 (2))

Same

(2) If the Director is notified by the Commission that a corporation has not complied with sections 77 and 78 of the *Securities Act*, the Director may give notice to the corporation in accordance with section 263, or by publication in accordance with the regulations, that an order dissolving the corporation will be issued unless the corporation complies with sections 77 and 78 of the *Securities Act* within 90 days after the giving of the notice. 2017, c. 20, Sched. 6, s. 33 (2).

Same, non-filing

(3) Where a corporation fails to comply with a filing requirement under the *Corporations Information Act* or fails to pay a fee required under this Act, the Director may give notice in accordance with section 263 to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation, within 90 days after the notice is given, complies with the requirement or pays the fee. 1998, c. 18, Sched. E, s. 26 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 241 (3) of the Act is repealed and the following substituted:
(See: 2017, c. 20, Sched. 6, s. 33 (2))

Same, non-filing

(3) If a corporation fails to comply with a filing requirement under the *Corporations Information Act* or fails to pay a fee required under this Act, the Director may give notice to the corporation in accordance with section 263, or by publication in accordance with the regulations, that an order dissolving the corporation will be issued unless the corporation, within 90 days after the notice is given, complies with the requirement or pays the fee. 2017, c. 20, Sched. 6, s. 33 (2).

Dissolution order

(4) Upon default in compliance with the notice given under subsection (1), (2) or (3), the Director may by order cancel the certificate of incorporation and, subject to subsections (5) and (9), the corporation is dissolved on the date fixed in the order. 2015, c. 38, Sched. 7, s. 44 (10).

Order revoking dissolution order

- (5) The Director shall make an order revoking a dissolution order made under subsection (4) if,
- (a) the corporation was dissolved under subsection (4) or a predecessor of it and has not been revived under subsection (9); and
 - (b) the Director receives from the Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015*, the Minister of Northern Development and Mines or the Public Guardian and Trustee notice that, in his or her opinion, the revocation would be in the public interest. 2015, c. 38, Sched. 7, s. 44 (10).

(5.1) REPEALED: 2015, c. 38, Sched. 7, s. 44 (10).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 241 of the Act is amended by adding the following subsection:
(See: 2017, c. 20, Sched. 6, s. 33 (3))

Same

- (5.1) The Director may make an order revoking a dissolution order made under subsection (4) if,
- (a) there was no authority to make the dissolution order;
 - (b) there was an error in respect of the dissolution order; or
 - (c) the prescribed circumstances exist. 2017, c. 20, Sched. 6, s. 33 (3).

Objections

(6) The Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015*, the Minister of Northern Development and Mines or the Public Guardian and Trustee shall not give notice under clause (5) (b) if any of the following circumstances applies:

1. The Minister of Finance objects to the giving of the notice.
2. The corporation was dissolved upon default in compliance with a notice described in subsection (2) and the Commission objects to the giving of the notice.
3. The corporation was dissolved upon default in compliance with a notice described in subsection (3) and the Minister, as defined in subsection 1 (1), objects to the giving of the notice. 2015, c. 38, Sched. 7, s. 44 (10).

Effect of order under subs. (5)

- (7) If an order is made under subsection (5),
- (a) the order is effective on the date fixed in the order and the corporation is revived on that date;
 - (b) the corporation is deemed for all purposes never to have been dissolved, subject to the rights, if any, acquired by any person during the period of dissolution; and
 - (c) subject to subsection (8), the Director may give the corporation a new notice under subsection (1), (2) or (3) if the corporation does not remedy the default identified in the original notice of default or for any other default described in subsection (1), (2) or (3). 2015, c. 38, Sched. 7, s. 44 (10).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 241 of the Act is amended by adding the following subsection: (See: 2017, c. 20, Sched. 6, s. 33 (3))

Effect of order under subs. (5.1)

- (7.1) If an order is made under subsection (5.1),
- (a) the order is effective as of the date of the dissolution order; and
 - (b) the corporation is deemed for all purposes never to have been dissolved, subject to the rights, if any, acquired by any person during the period of dissolution. 2017, c. 20, Sched. 6, s. 33 (3).

Consultation before giving new notice

- (8) Within the 10-year period after a dissolution order is revoked under subsection (5),
- (a) the Minister of Finance shall not give a new notice to the Director under subsection (1) without first consulting with the Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015*, the Minister of Northern Development and Mines or the Public Guardian and Trustee, whichever one gave the notice described in clause (5) (b);
 - (b) the Commission shall not give a new notice to the Director under subsection (2) without first consulting with the Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015*, the Minister of Northern Development and Mines or the Public Guardian and Trustee, whichever one gave the notice described in clause (5) (b); and
 - (c) the Director shall not give a new notice to the corporation under subsection (3) without first consulting with the Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015*, the Minister of Northern Development and Mines or the Public Guardian and Trustee, whichever one gave the notice described in clause (5) (b). 2015, c. 38, Sched. 7, s. 44 (10).

Revival

(9) Where a corporation is dissolved under subsection (4) or a predecessor of it, the Director may, in his or her discretion, on the application of any interested person, revive the corporation and upon revival, the corporation shall be deemed for all purposes never to have been dissolved, subject to,

- (a) subsection (10) or (11), as the case may be;
- (b) any terms and conditions the Director sees fit to impose in respect of the revival; and
- (c) the rights, if any, acquired by any person during the period of dissolution. 2015, c. 38, Sched. 7, s. 44 (10).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 241 of the Act is amended by adding the following subsection: (See: 2017, c. 20, Sched. 6, s. 33 (3))

Definition

(9.1) In subsection (9),

“interested person” includes a director, officer and shareholder of the corporation. 2017, c. 20, Sched. 6, s. 33 (3).

Effect of revival on forfeited corporate property

(10) If a corporation that was dissolved under subsection (4) or a predecessor of it before the day section 2 of the *Forfeited Corporate Property Act, 2015* comes into force is revived under subsection (9) on or after the third anniversary of the coming into force of that section, any property that forfeited to and vested in the Crown when the corporation dissolved remains forfeited to and vested in the Crown and shall not be returned to the corporation except in the manner provided in the *Forfeited Corporate Property Act, 2015* or in the *Escheats Act, 2015*. 2015, c. 38, Sched. 7, s. 44 (10).

Same

(11) If a corporation that was dissolved under subsection (4) or a predecessor of it on or after the day section 2 of the *Forfeited Corporate Property Act, 2015* comes into force is revived under subsection (9) on or after the third anniversary of the corporation's dissolution, any property that forfeited to and vested in the Crown when the corporation dissolved remains forfeited to and vested in the Crown and shall not be returned to the corporation except in the manner provided in the *Forfeited Corporate Property Act, 2015* or in the *Escheats Act, 2015*. 2015, c. 38, Sched. 7, s. 44 (10).

Time limit for application

(12) The application referred to in subsection (9) shall not be made more than 20 years after the date of dissolution. 2015, c. 38, Sched. 7, s. 44 (10).

Articles of revival

(13) The application referred to in subsection (9) shall be in the form of articles of revival which shall be in the prescribed form. 2015, c. 38, Sched. 7, s. 44 (10).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 241 (13) of the Act is amended by striking out "which shall be in the prescribed form" at the end. (See: 2017, c. 20, Sched. 6, s. 33 (4))

Certificate of revival

(14) Subject to subsection (9), upon receipt of articles of revival and any other prescribed documents, the Director shall endorse thereon in accordance with section 273 a certificate which shall constitute the certificate of revival. 2015, c. 38, Sched. 7, s. 44 (10).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 241 (14) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 33 (5))

Certificate of revival

(14) Subject to subsection (9), upon receipt of articles of revival and any other required documents and information, the Director shall endorse the articles, in accordance with section 273, with a certificate which shall constitute the certificate of revival. 2017, c. 20, Sched. 6, s. 33 (5).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. E, s. 26 (1) - 01/03/1999; 1999, c. 12, Sched. F, s. 9 - 27/03/2000

2004, c. 31, Sched. 4, s. 1 - 01/05/2006

2006, c. 34, Sched. B, s. 37 - 01/08/2007

2008, c. 19, Sched. V, s. 1 - 01/01/2009

2010, c. 1, Sched. 1, s. 12 - 01/07/2010

2015, c. 38, Sched. 7, s. 44 (10) - 10/12/2016

2017, c. 20, Sched. 6, s. 33 (1-5) - not in force

2018, c. 12, Sched. 2, s. 51 - 16/11/2018

2019, c. 15, Sched. 2, s. 29 - not in force

Proceedings after dissolution

242 (1) Despite the dissolution of a corporation under this Act,

- (a) a civil, criminal, administrative, investigative or other action or proceeding commenced by or against the corporation before its dissolution may be continued as if it had not been dissolved;
- (b) a civil, criminal, administrative, investigative or other action or proceeding may be brought against the corporation as if it had not been dissolved;
- (c) property that would have been available to satisfy a judgment, order or decision if the corporation had not been dissolved remains available for that purpose, subject to subsections (1.1) and (1.2); and
- (d) land belonging to the corporation immediately before the dissolution remains available to be sold in power of sale proceedings, subject to subsection (1.1). 2015, c. 38, Sched. 7, s. 44 (11).

Exception, forfeited corporate property

(1.1) Property that is forfeited corporate property is no longer available to satisfy a judgment, order or decision against the corporation or to be sold in power of sale proceedings after the earliest of,

- (a) the day the Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015* disposes of the Crown's interest in the property;
- (b) the day an order cancelling encumbrances against the property under section 18 of the *Forfeited Corporate Property Act, 2015* takes effect;
- (c) in the case of real property, the day a notice is registered on title to the property under section 24 of the *Forfeited Corporate Property Act, 2015*, indicating that the Crown intends to use the property for Crown purposes; and
- (d) in the case of personal property, the day the Crown begins to use the property for Crown purposes. 2015, c. 38, Sched. 7, s. 44 (11).

Exception, *Escheats Act, 2015*

(1.2) Property to which the *Escheats Act, 2015* applies is no longer available to satisfy a judgment, order or decision against the corporation or to be sold in power of sale proceedings after the earliest of,

- (a) the day the Public Guardian and Trustee takes possession of the property;
- (b) the day the Public Guardian and Trustee disposes of the Crown's interest in the property; and
- (c) the day the Crown begins to use the property for Crown purposes. 2015, c. 38, Sched. 7, s. 44 (11).

Service after dissolution

(2) For the purposes of this section, the service of any process on a corporation after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the records of the Ministry as being a director or officer of the corporation before the dissolution. R.S.O. 1990, c. B.16, s. 242 (2).

Notice of proceeding

(3) A person who commences an action, suit or other proceeding against a corporation after its dissolution shall,

- (a) serve the writ or other document by which the action, suit or other proceeding was commenced on the Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015* and the Public Guardian and Trustee in accordance with the rules that apply generally to service on a party to an action, suit or other proceeding; and
- (b) deliver to the Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015* and the Public Guardian and Trustee, along with the document served under clause (a), a notice that,
 - (i) sets out the name of the dissolved corporation,
 - (ii) explains why the action, suit or other proceeding is being commenced against the dissolved corporation, and
 - (iii) identifies any property that is referred to in the proceeding and was owned by the corporation at the time of its dissolution. 2015, c. 38, Sched. 7, s. 44 (12).

Exception, proceeding in respect of land

(4) A person who commences any of the following proceedings is not required to serve the writ or other document described in clause (3) (a) on or deliver the notice described in clause (3) (b) to the Public Guardian and Trustee:

1. A proceeding for power of sale or foreclosure of land that is forfeited corporate real property.
2. An application under the *Land Titles Act* in respect of land that is forfeited corporate real property or land that is adjacent to forfeited corporate real property.
3. A proceeding claiming an interest in land that is forfeited corporate real property, if the proceeding relates solely to claiming the interest in land. 2015, c. 38, Sched. 7, s. 44 (12).

Same, proceedings for power of sale

(5) A person who is required to serve a writ or other document under clause (3) (a) in connection with a proceeding for power of sale shall do so in accordance with the notice requirements under the *Mortgages Act*. 2015, c. 38, Sched. 7, s. 44 (12).

Definition

(6) In this section,

“forfeited corporate property”, “forfeited corporate personal property” and “forfeited corporate real property” have the same meaning as in the *Forfeited Corporate Property Act, 2015*. 2015, c. 38, Sched. 7, s. 44 (12).

Definition

(7) In this section and section 244,

“proceeding” includes a power of sale proceeding relating to land commenced pursuant to a charge or mortgage. 2015, c. 38, Sched. 7, s. 44 (12).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. E, s. 27 (1-4) - 01/03/1999

2015, c. 38, Sched. 7, s. 44 (11, 12) - 10/12/2016

Liability of shareholders to creditors

243 (1) Despite the dissolution of a corporation, each shareholder to whom any of its property has been distributed is liable to any person claiming under section 242 to the extent of the amount received by that shareholder upon the distribution, and an action to enforce such liability may be brought. R.S.O. 1990, c. B.16, s. 243 (1); 2002, c. 24, Sched. B, s. 27 (2).

Parties to action and amount of contribution

(2) The court may order an action referred to in subsection (1) to be brought against the persons who were shareholders as a class, subject to such conditions as the court thinks fit and, if the plaintiff establishes his, her or its claim, the court may refer the proceedings to a referee or other officer of the court who may,

- (a) add as a party to the proceedings before him or her each person who was a shareholder found by the plaintiff;
- (b) determine, subject to subsection (1), the amount that each person who was a shareholder shall contribute towards satisfaction of the plaintiff’s claim; and
- (c) direct payment of the amounts so determined. R.S.O. 1990, c. B.16, s. 243 (2).

Definition

(3) In this section,

“shareholder” includes the heirs and legal representatives of a shareholder. R.S.O. 1990, c. B.16, s. 243 (3).

Section Amendments with date in force (d/m/y)

2002, c. 24, Sched. B, s. 27 (2) - 01/01/2004

Forfeiture of undisposed property

244 (1) If a corporation is dissolved, any of its property that has not been disposed of on the date of dissolution immediately forfeits to and vests in the Crown. 2015, c. 38, Sched. 7, s. 44 (13).

Exception

(2) Despite subsection (1) and subject to subsections 242 (1.1) and (1.2), if a judgment is given or an order or decision is made or land is sold in an action, suit or proceeding commenced in accordance with section 242 and the judgment, order, decision or sale affects property belonging to the corporation before the dissolution, unless the plaintiff, applicant or mortgagee has not complied with subsection 242 (3) or (5),

- (a) the property shall be available to satisfy the judgment, order or other decision; and
- (b) title to the land shall be transferred to a purchaser free of the Crown’s interest, in the case of a power of sale proceeding. 1998, c. 18, Sched. E, s. 28 (1); 2015, c. 38, Sched. 7, s. 44 (14).

Further exception

(3) A forfeiture of land under subsection (1) or a predecessor of subsection (1) is not effective against a purchaser for value of the land if the forfeiture occurred more than 20 years before the deed or transfer of the purchaser is registered in the proper land registry office. 1994, c. 27, s. 71 (32).

Power of sale proceeding completed after dissolution

(4) Despite subsection (2), if a person commences a power of sale proceeding relating to land before the dissolution of a corporation but the sale of the land is not completed until after the dissolution,

- (a) title to the land may be transferred to a purchaser free of the interest acquired by the Crown under subsection (1); and
- (b) the person is not required to serve the writ or other document described in clause 242 (3) (a) or deliver the notice described in clause 242 (3) (b) but shall serve a notice of the proceeding on the Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015* promptly after learning of the corporation's dissolution, and in any event within 15 days after the day the land is transferred. 2015, c. 38, Sched. 7, s. 44 (15).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (31, 32) - 01/03/1995; 1998, c. 18, Sched. E, s. 28 (1, 2) - 01/03/1999

2015, c. 38, Sched. 7, s. 44 (13-15) - 10/12/2016

PART XVII REMEDIES, OFFENCES AND PENALTIES

Definitions

245 In this Part,

“action” means an action under this Act; (“action”)

“complainant” means,

- (a) a registered holder or beneficial owner, and a former registered holder or beneficial owner, of a security of a corporation or any of its affiliates,
- (b) a director or an officer or a former director or officer of a corporation or of any of its affiliates,
- (c) any other person who, in the discretion of the court, is a proper person to make an application under this Part. (“plaignant”) R.S.O. 1990, c. B.16, s. 245.

Derivative actions

246 (1) Subject to subsection (2), a complainant may apply to the court for leave to bring an action in the name and on behalf of a corporation or any of its subsidiaries, or intervene in an action to which any such body corporate is a party, for the purpose of prosecuting, defending or discontinuing the action on behalf of the body corporate. R.S.O. 1990, c. B.16, s. 246 (1).

Idem

(2) No action may be brought and no intervention in an action may be made under subsection (1) unless the complainant has given fourteen days' notice to the directors of the corporation or its subsidiary of the complainant's intention to apply to the court under subsection (1) and the court is satisfied that,

- (a) the directors of the corporation or its subsidiary will not bring, diligently prosecute or defend or discontinue the action;
- (b) the complainant is acting in good faith; and
- (c) it appears to be in the interests of the corporation or its subsidiary that the action be brought, prosecuted, defended or discontinued. R.S.O. 1990, c. B.16, s. 246 (2).

Notice not required

(2.1) A complainant is not required to give the notice referred to in subsection (2) if all of the directors of the corporation or its subsidiary are defendants in the action. 2006, c. 34, Sched. B, s. 38.

Application

(3) Where a complainant on an application made without notice can establish to the satisfaction of the court that it is not expedient to give notice as required under subsection (2), the court may make such interim order as it thinks fit pending the complainant giving notice as required. R.S.O. 1990, c. B.16, s. 246 (3).

Interim order

(4) Where a complainant on an application can establish to the satisfaction of the court that an interim order for relief should be made, the court may make such order as it thinks fit. R.S.O. 1990, c. B.16, s. 246 (4).

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 38 - 01/08/2007

Court order

247 In connection with an action brought or intervened in under section 246, the court may at any time make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order authorizing the complainant or any other person to control the conduct of the action;
- (b) an order giving directions for the conduct of the action;
- (c) an order directing that any amount adjudged payable by a defendant in the action shall be paid, in whole or in part, directly to former and present security holders of the corporation or its subsidiary instead of to the corporation or its subsidiary; and
- (d) an order requiring the corporation or its subsidiary to pay reasonable legal fees and any other costs reasonably incurred by the complainant in connection with the action. R.S.O. 1990, c. B.16, s. 247.

Oppression remedy

248 (1) A complainant and, in the case of an offering corporation, the Commission may apply to the court for an order under this section. 1994, c. 27, s. 71 (33).

Idem

(2) Where, upon an application under subsection (1), the court is satisfied that in respect of a corporation or any of its affiliates,

- (a) any act or omission of the corporation or any of its affiliates effects or threatens to effect a result;
- (b) the business or affairs of the corporation or any of its affiliates are, have been or are threatened to be carried on or conducted in a manner; or
- (c) the powers of the directors of the corporation or any of its affiliates are, have been or are threatened to be exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any security holder, creditor, director or officer of the corporation, the court may make an order to rectify the matters complained of. R.S.O. 1990, c. B.16, s. 248 (2).

Court order

(3) In connection with an application under this section, the court may make any interim or final order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order restraining the conduct complained of;
- (b) an order appointing a receiver or receiver-manager;
- (c) an order to regulate a corporation's affairs by amending the articles or by-laws or creating or amending a unanimous shareholder agreement;
- (d) an order directing an issue or exchange of securities;
- (e) an order appointing directors in place of or in addition to all or any of the directors then in office;
- (f) an order directing a corporation, subject to subsection (6), or any other person, to purchase securities of a security holder;
- (g) an order directing a corporation, subject to subsection (6), or any other person, to pay to a security holder any part of the money paid by the security holder for securities;
- (h) an order varying or setting aside a transaction or contract to which a corporation is a party and compensating the corporation or any other party to the transaction or contract;
- (i) an order requiring a corporation, within a time specified by the court, to produce to the court or an interested person financial statements in the form required by section 154 or an accounting in such other form as the court may determine;
- (j) an order compensating an aggrieved person;
- (k) an order directing rectification of the registers or other records of a corporation under section 250;

- (l) an order winding up the corporation under section 207;
- (m) an order directing an investigation under Part XIII be made; and
- (n) an order requiring the trial of any issue. R.S.O. 1990, c. B.16, s. 248 (3).

Idem

- (4) Where an order made under this section directs amendment of the articles or by-laws of a corporation,
 - (a) the directors shall forthwith comply with subsection 186 (4); and
 - (b) no other amendment to the articles or by-laws shall be made without the consent of the court, until the court otherwise orders. R.S.O. 1990, c. B.16, s. 248 (4).

Shareholder may not dissent

- (5) A shareholder is not entitled to dissent under section 185 if an amendment to the articles is effected under this section. R.S.O. 1990, c. B.16, s. 248 (5).

Where corporation prohibited from paying shareholder

- (6) A corporation shall not make a payment to a shareholder under clause (3) (f) or (g) if there are reasonable grounds for believing that,
 - (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or
 - (b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities. R.S.O. 1990, c. B.16, s. 248 (6).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (33) - 01/03/1995

Discontinuance and settlement

249 (1) An application made or an action brought or intervened in under this Part shall not be stayed or dismissed by reason only that it is shown that an alleged breach of a right or duty owed to the corporation or its affiliate has been or may be approved by the shareholders of such body corporate, but evidence of approval by the shareholders may be taken into account by the court in making an order under section 207, 247 or 248. R.S.O. 1990, c. B.16, s. 249 (1).

Idem

- (2) An application made or an action brought or intervened in under this Part shall not be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the court given upon such terms as the court thinks fit and, if the court determines that the interests of any complainant may be substantially affected by such stay, discontinuance, settlement or dismissal, the court may order any party to the application or action to give notice to the complainant. R.S.O. 1990, c. B.16, s. 249 (2).

Costs

- (3) A complainant is not required to give security for costs in any application made or action brought or intervened in under this Part. R.S.O. 1990, c. B.16, s. 249 (3).

Idem

- (4) In an application made or an action brought or intervened in under this Part, the court may at any time order the corporation or its affiliate to pay to the complainant interim costs, including reasonable legal fees and disbursements, for which interim costs the complainant may be held accountable to the corporation or its affiliate upon final disposition of the application or action. R.S.O. 1990, c. B.16, s. 249 (4).

Rectifying error in entering, etc., name

250 (1) Where the name of a person is alleged to be or have been wrongly entered or retained in, or wrongly deleted or wrongly omitted from, the registers or other records of a corporation, the corporation, a security holder of the corporation or any aggrieved person may apply to the court for an order that the registers or records be rectified. R.S.O. 1990, c. B.16, s. 250 (1).

Idem

- (2) In connection with an application under this section, the court may make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order requiring the registers or other records of the corporation to be rectified;
- (b) an order restraining the corporation from calling or holding a meeting of shareholders or paying a dividend or making any other distribution or payment to shareholders before the rectification;
- (c) an order determining the right of a party to the proceedings to have the party's name entered or retained in, or deleted or omitted from, the registers or records of the corporation, whether the issue arises between two or more security holders, or between the corporation and any security holders or alleged security holders;
- (d) an order compensating a party who has incurred a loss. R.S.O. 1990, c. B.16, s. 250 (2).

Notice of refusal to file

251 (1) Where the Director refuses to endorse a certificate on articles or any other document required by this Act to be endorsed with a certificate by the Director before it becomes effective, the Director shall give written notice to the person who delivered the articles or other document of the Director's refusal, specifying the reasons therefor. R.S.O. 1990, c. B.16, s. 251 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 251 (1) of the Act is amended by striking out "Where the Director refuses to endorse a certificate on articles or any other document" at the beginning and substituting "Where the Director refuses to endorse a certificate in respect of articles or any other document". (See: 2017, c. 20, Sched. 6, s. 34 (1))

Failure to act deemed refusal

(2) Where, within six months after the delivery to the Director of articles or other documents referred to in subsection (1), the Director has not endorsed a certificate on such articles or other document, the Director shall be deemed for the purposes of section 252 to have refused to endorse it. R.S.O. 1990, c. B.16, s. 251 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 251 (2) of the Act is amended by striking out "the Director has not endorsed a certificate on such articles or other document" and substituting "the Director has not endorsed a certificate in respect of the articles or other document". (See: 2017, c. 20, Sched. 6, s. 34 (2))

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 34 (1, 2) - not in force

Appeal from Director

252 (1) A person aggrieved by a decision of the Director,

- (a) to refuse to endorse a certificate on articles or on any other document;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 252 (1) (a) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 35 (1))

- (a) to refuse to endorse a certificate in respect of articles or any other document;
- (b) to issue or to refuse to issue a certificate of amendment under section 12;
- (c) to refuse to grant an order under section 144;
- (d) to grant or refuse to grant exemption under section 148;
- (e) to refuse to endorse an authorization under section 181; or
- (f) to issue an order under section 240,

may appeal to the Divisional Court. R.S.O. 1990, c. B.16, s. 252 (1); 2017, c. 20, Sched. 6, s. 35 (2).

Form of appeal

(2) Every appeal shall be by notice of appeal sent by registered mail to the Director within thirty days after the mailing of the notice of the decision. R.S.O. 1990, c. B.16, s. 252 (2).

Certificate of Director

(3) The Director shall certify to the Divisional Court,

- (a) the decision of the Director together with a statement of the reasons therefor;
- (b) the record of any hearing; and
- (c) all written submissions to the Director or other material that is relevant to the appeal. R.S.O. 1990, c. B.16, s. 252 (3).

Representation

(4) The Director is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. R.S.O. 1990, c. B.16, s. 252 (4).

Court order

(5) Where an appeal is taken under this section, the court may by its order direct the Director to make such decision or to do such other act as the Director is authorized and empowered to do under this Act and as the court thinks proper, having regard to the material and submissions before it and to this Act, and the Director shall make such decision or do such act accordingly. R.S.O. 1990, c. B.16, s. 252 (5).

Director may make further decision

(6) Despite an order of the court under subsection (5), the Director has power to make any further decision upon new material or where there is a material change in the circumstances, and every such decision is subject to this section. R.S.O. 1990, c. B.16, s. 252 (6).

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 35 (1) - not in force; 2017, c. 20, Sched. 6, s. 35 (2) - 14/11/2017

Orders for compliance

253 (1) Where a corporation or any shareholder, director, officer, employee, agent, auditor, trustee, receiver and manager, receiver, or liquidator of a corporation does not comply with this Act, the regulations, articles, by-laws, or a unanimous shareholder agreement, a complainant or a creditor of the corporation may, despite the imposition of any penalty in respect of such non-compliance and in addition to any other right the complainant or creditor has, apply to the court for an order directing the corporation or any person to comply with, or restraining the corporation or any person from acting in breach of, any provisions thereof, and upon such application the court may so order and make any further order it thinks fit. R.S.O. 1990, c. B.16, s. 253 (1).

Idem

(2) Where it appears to the Commission that any person to whom section 111 or subsection 112 (1) applies has failed to comply with or is contravening either or both of such provisions, despite the imposition of any penalty in respect of such non-compliance or contravention, the Commission may apply to the court and the court may, upon such application, make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order restraining a solicitation, the holding of a meeting or any person from implementing or acting upon any resolution passed at a meeting, to which such non-compliance with or contravention of section 111 or subsection 112 (1) relates;
- (b) an order requiring correction of any form of proxy or information circular and a further solicitation; or
- (c) an order adjourning the meeting to which such non-compliance with or contravention of section 111 or subsection 112 (1) relates. R.S.O. 1990, c. B.16, s. 253 (2).

Application made without notice

254 Where this Act states that a person may apply to the court, that person may apply for injunctive relief without notice as the rules of the court provide. R.S.O. 1990, c. B.16, s. 254.

Appeal

255 An appeal lies to the Divisional Court from any order made by the court under this Act. R.S.O. 1990, c. B.16, s. 255.

Offences

256 (1) In this section,

“misrepresentation” means,

- (a) an untrue statement of material fact, or
- (b) an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made. R.S.O. 1990, c. B.16, s. 256 (1).

Offence, false statements, etc.

(2) Every person who,

- (a) makes or assists in making a statement in any material, evidence or information submitted or given under this Act or the regulations to the Director, the Director's delegate or the Commission or any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (b) makes or assists in making a statement in any application, articles, consent, financial statement, information circular, notice, report or other document required to be filed with, furnished or sent to the Director or the Commission under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (c) fails to file with the Director or the Commission any document required by this Act to be filed with the Director or the Commission; or
- (d) fails to observe or to comply with any direction, decision, ruling, order or other requirement made by the Director or the Commission under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both, or, if such person is a body corporate, to a fine of not more than \$25,000. R.S.O. 1990, c. B.16, s. 256 (2).

Idem

(3) Where a body corporate is guilty of an offence under subsection (2), every director or officer of such body corporate who, without reasonable cause, authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1990, c. B.16, s. 256 (3).

Defence

(4) No person is guilty of an offence under clause (2) (a) or (b) if the person did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation. R.S.O. 1990, c. B.16, s. 256 (4).

Consent

257 No proceeding under section 256 shall be commenced except with the consent or under the direction of the Minister. R.S.O. 1990, c. B.16, s. 257.

Offence

258 (1) Every person who,

- (a) fails without reasonable cause to comply with subsection 29 (5);
- (b) without reasonable cause uses a list of holders of securities in contravention of subsection 52 (5) or subsection 146 (8);
- (c) fails without reasonable cause to send a prescribed form of proxy to each shareholder of an offering corporation with notice of a meeting of shareholders in contravention of section 111;
- (d) fails without reasonable cause to send an information circular in connection with a proxy solicitation in contravention of subsection 112 (1);
- (e) being a proxyholder or alternate proxyholder, fails, without reasonable cause, to comply with the directions of the shareholder who appointed him or her in contravention of subsection 114 (1);
- (f) without reasonable cause contravenes section 145;
- (g) being a director of a corporation, fails, without reasonable cause, to appoint an auditor or auditors, as the case may be, under subsection 149 (1);
- (h) being an auditor or former auditor of a corporation fails without reasonable cause to comply with subsection 151 (2);
- (i) fails without reasonable cause to comply with subsection 154 (1); or
- (j) otherwise without reasonable cause commits an act contrary to or fails or neglects to comply with any provision of this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both, or if such person is a body corporate, to a fine of not more than \$25,000. R.S.O. 1990, c. B.16, s. 258 (1).

Idem

(2) Where a body corporate is guilty of an offence under subsection (1), every director or officer of such body corporate who, without reasonable cause, authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1990, c. B.16, s. 258 (2).

Limitation

259 (1) No proceeding under section 256 or under clause 258 (1) (j) for a contravention of section 144 shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Director as certified by him or her. R.S.O. 1990, c. B.16, s. 259 (1).

Idem

(2) Subject to subsection (1), no proceeding for an offence under this Act or the regulations shall be commenced more than two years after the time when the subject-matter of the offence arose. R.S.O. 1990, c. B.16, s. 259 (2).

Information containing more than one offence

260 An information in respect of any contravention of this Act may be for one or more offences and no information, summons, warrant, conviction or other proceeding in any prosecution is objectionable as insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1990, c. B.16, s. 260.

Civil remedy not affected

261 No civil remedy for an act or omission is suspended or affected by reason that the act or omission is an offence under this Act. R.S.O. 1990, c. B.16, s. 261.

**PART XVIII
GENERAL**

Notice to directors or shareholders

262 (1) A notice or document required by this Act, the regulations, the articles or the by-laws to be sent to a shareholder or director of a corporation may be sent by prepaid mail addressed to, or may be delivered personally to,

- (a) a shareholder at the shareholder's latest address as shown in the records of the corporation or its transfer agent; and
- (b) a director at his or her latest address as shown in the records of the corporation or in the most recent notice filed under the *Corporations Information Act*, whichever is the more current. R.S.O. 1990, c. B.16, s. 262 (1).

Idem

(2) A notice or document sent in accordance with subsection (1) to a shareholder or director of a corporation is deemed to be received by the addressee on the fifth day after mailing. R.S.O. 1990, c. B.16, s. 262 (2).

Director

(3) A director named in the articles or the most recent return or notice filed under the *Corporations Information Act*, or a predecessor thereof, is presumed for the purposes of this Act to be a director of the corporation referred to in the articles, return or notice. R.S.O. 1990, c. B.16, s. 262 (3).

Where notice returned

(4) Where a corporation sends a notice or document to a shareholder in accordance with subsection (1) and the notice or document is returned on three consecutive occasions because the shareholder cannot be found, the corporation is not required to send any further notices or documents to the shareholder until the shareholder informs the corporation in writing of the shareholder's new address. R.S.O. 1990, c. B.16, s. 262 (4).

Application to court

(5) Where it is impracticable or impossible to comply with subsection (1), a person may apply to the court for such order as the court thinks fit. R.S.O. 1990, c. B.16, s. 262 (5).

Electronic communications

(6) A notice or document required or permitted to be sent under this section or section 263 may be sent by electronic means in accordance with the *Electronic Commerce Act, 2000*. 2006, c. 34, Sched. B, s. 39.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 39 - 01/08/2007

Notice to corporation

263 (1) Except where otherwise provided in this Act, a notice or document required to be sent to a corporation may be sent to the corporation by prepaid mail at its registered office as shown on the records of the Director or may be delivered personally to the corporation at such office and shall be deemed to be received by the corporation on the fifth day after mailing. R.S.O. 1990, c. B.16, s. 263.

Exception

(2) A notice or other document that is required or permitted by this Act or the regulations to be sent by the Director may be sent by ordinary mail or by any other method, including registered mail, certified mail or prepaid courier, to an address referred to in section 262 or 263 if there is a record by the person who has delivered it that the notice or document has been sent. 1994, c. 27, s. 71 (34).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 263 (2) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 36)

Exception

(2) A notice or other document that is required or permitted by this Act or the regulations to be sent by the Director may be sent by ordinary mail or by any other method, including registered mail, certified mail or prepaid courier, to an address referred to in this section or section 262 if there is a record that the notice or document has been sent. 2017, c. 20, Sched. 6, s. 36.

Same

(3) A notice or other document referred to in subsection (2) may be sent by telephone transmission of a facsimile of the notice or other document or by any other form of electronic transmission if there is a record that the notice or other document has been sent. 1994, c. 27, s. 71 (34).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 263 (3) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 36)

Same

(3) A notice or other document referred to in subsection (2) may be sent by telephonic or electronic means if there is a record that the notice or other document has been sent and, for greater certainty, the sending of a notice or other document by telephonic or electronic means does not require the consent of the intended recipient. 2017, c. 20, Sched. 6, s. 36.

Deemed delivery

(4) A notice or other document sent by mail by the Director shall be deemed to have been received by the intended recipient on the earlier of,

- (a) the day the intended recipient actually receives it; or
- (b) the fifth business day after the day it is mailed. 1994, c. 27, s. 71 (34).

Same

(5) A notice or other document sent by a method referred to in subsection (3) shall be deemed to have been received by the intended recipient on the earlier of,

- (a) the day the intended recipient actually receives it; or
- (b) the first business day after the day the transmission is sent by the Director. 1994, c. 27, s. 71 (34).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (34) - 01/03/1995

2017, c. 20, Sched. 6, s. 36 - not in force

Waiver of notice and abridgement of times

264 (1) Where a notice or document is required by this Act or the regulations to be sent, the notice may be waived or the time for the sending of the notice or document may be waived or abridged at any time with the consent in writing of the person entitled thereto. R.S.O. 1990, c. B.16, s. 264.

Electronic communications

(2) The consent of a person entitled to waive the requirement for the sending of a notice or document or to waive or abridge the time for the sending of the notice or the document under subsection (1) may be sent by electronic means in accordance with the *Electronic Commerce Act, 2000*. 2006, c. 34, Sched. B, s. 40.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. B, s. 40 - 01/08/2007

Delegation of powers and duties

265 (1) The Director may delegate in writing any of the Director's duties or powers under this Act to any public servant employed under Part III of the *Public Service of Ontario Act, 2006*. 2011, c. 1, Sched. 5, s. 1 (1).

Execution of certificate of Director

(2) Where this Act requires or authorizes the Director to endorse or issue a certificate or to certify any fact, the certificate shall be signed by the Director or any other person designated by the regulations. R.S.O. 1990, c. B.16, s. 265 (2).

Certificate as evidence

(3) A certificate referred to in subsection (2) or a certified copy thereof, when introduced as evidence in any civil, criminal, or administrative action or proceeding, is, in the absence of evidence to the contrary, proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the certificate. R.S.O. 1990, c. B.16, s. 265 (3).

Mechanical reproduction of signature

(4) For the purposes of subsections (2) and (3), any signature of the Director or any signature of an officer of the Ministry designated by the regulations may be printed or otherwise mechanically reproduced. R.S.O. 1990, c. B.16, s. 265 (4).

Non-application

(5) Subsections (2), (3) and (4) do not apply to certificates which are in electronic form. 1994, c. 27, s. 71 (35).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 265 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 37)

Delegation of Director's duties and powers

265 The Director may delegate in writing any or all of the Director's duties and powers under this Act to any person, subject to any restrictions set out in the delegation. 2017, c. 20, Sched. 6, s. 37.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (35) - 05/05/2000

2011, c. 1, Sched. 5, s. 1 (1) - 30/03/2011

2017, c. 20, Sched. 6, s. 37 - not in force

Agreements with authorized persons

265.1 (1) In this section,

"business filing services" includes any of the duties and powers of the Director and related services. 2017, c. 20, Sched. 6, s. 37.

Agreements to provide business filing services

(2) The Minister or a person designated by the Minister may, on behalf of the Crown in right of Ontario, enter into one or more agreements authorizing a person or entity to provide business filing services on behalf of the Crown, the government, the Minister, the Director or other government official. 2017, c. 20, Sched. 6, s. 37.

Not Crown agent

(3) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services is not an agent of the Crown for any purpose despite the *Crown Agency Act*, unless a regulation provides otherwise. 2017, c. 20, Sched. 6, s. 37.

Use, etc., of records and information

(4) An agreement entered into under subsection (2) may also include provisions respecting the use, disclosure, sale or licensing of records and information required under this Act. 2017, c. 20, Sched. 6, s. 37.

Discretion to delegate unaffected by agreement

(5) An agreement entered into under subsection (2) does not affect the Director's power to delegate any duties or powers under section 265. 2017, c. 20, Sched. 6, s. 37.

No power to waive or refund fees for services

(6) A person or entity that has entered into an agreement under subsection (2) for the provision of business filing services may not waive or refund all or part of any fee for such a service that is payable to the Province of Ontario, but the person or entity may pay all or part of the fee on behalf of the person or entity to whom the service was provided. 2017, c. 20, Sched. 6, s. 37.

Deemed date of receipt by Director

(7) Articles, applications and other documents and information sent to a person or entity that has entered into an agreement under subsection (2), that authorizes the person or entity to receive articles, applications and other documents and information on behalf of the Director, are deemed to be received by the Director on the date that they are received by the authorized person or entity. 2017, c. 20, Sched. 6, s. 37.

Agreements for use, etc., of records and information

(8) The Minister or the Director, or a person designated by the Minister or the Director, may enter into an agreement with any person or entity respecting the use, disclosure, sale or licensing of records and information required under this Act. 2017, c. 20, Sched. 6, s. 37.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 37 - not in force

Property of Crown

265.2 The records and information filed with and maintained by the Director under this Act are the property of the Crown. 2017, c. 20, Sched. 6, s. 37.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 37 - not in force

Director's certificate

265.3 (1) If this Act requires or authorizes the Director to endorse a certificate or issue a certificate, including a certificate as to any fact, the certificate must be signed by the Director or by a public servant employed under Part III of the *Public Service of Ontario Act, 2006* and designated by the regulations. 2017, c. 20, Sched. 6, s. 37.

Evidence

(2) A certificate referred to in subsection (1), or a certified copy of it, when introduced as evidence in any civil, criminal, administrative, investigative or other action or proceeding, is, in the absence of evidence to the contrary, proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the certificate or certified copy. 2017, c. 20, Sched. 6, s. 37.

Reproduction of signature

(3) For the purposes of this section, any signature of the Director or of a person designated by the regulations may be printed or otherwise mechanically or electronically reproduced. 2017, c. 20, Sched. 6, s. 37.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 37 - not in force

Certificate that may be signed by directors, etc.

266 (1) A certificate issued on behalf of a corporation stating any fact that is set out in the articles, the by-laws, a unanimous shareholder agreement, the minutes of the meetings of the directors, a committee of directors or the shareholders, or a trust indenture or other contract to which the corporation is a party, may be signed by a director, an officer or a transfer agent of the corporation. R.S.O. 1990, c. B.16, s. 266 (1).

Evidence being proof

(2) When introduced as evidence in any civil, criminal or administrative action or proceeding,

- (a) a fact stated in a certificate referred to in subsection (1);

- (b) a certified extract from a register of a corporation required to be maintained by this Act; or
- (c) a certified copy of minutes or extract from minutes of a meeting of shareholders, directors or a committee of directors of a corporation,

is, in the absence of evidence to the contrary, proof of the facts so certified without proof of the signature or official character of the person appearing to have signed the certificate. R.S.O. 1990, c. B.16, s. 266 (2).

Idem

(3) An entry in a securities register of, or a security certificate issued by, a corporation is, in the absence of evidence to the contrary, proof that the person in whose name the security is registered or whose name appears on the certificate is the owner of the securities described in the register or in the certificate, as the case may be. R.S.O. 1990, c. B.16, s. 266 (3).

Accepting copy of notice or other document

267 (1) If a notice or other document is required to be sent to the Director under this Act, the Director may accept a copy of it if it meets the Director's requirements established under this Act. 2020, c. 7, Sched 2, s. 1.

Articles and applications

(2) Subsection (1) does not apply to articles or applications filed by in-person delivery or mail unless, under this Act, the Director permits a copy of such articles or applications to be filed instead of the original. 2020, c. 7, Sched 2, s. 1.

Copy deemed original

(3) A copy referred to in subsection (1) is deemed to satisfy any requirements under this Act for an original to be sent to the Director. 2020, c. 7, Sched 2, s. 1.

Endorsement or issuance by Director

(4) An endorsement or issuance by the Director under this Act in respect of a notice or other document, including articles and applications, is deemed to comply with requirements under this Act for endorsement or issuance if it complies, with necessary modifications, with all the requirements of this Act other than any requirements respecting originals, duplicates and number of documents. 2020, c. 7, Sched 2, s. 1.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 38 - no effect - see 2020, c. 7, Sched. 2, s. 9 (1) - 12/05/2020

2020, c. 7, Sched. 2, s. 1 - 12/05/2020

Signatures

267.1 For greater certainty, in respect of requirements under this Act respecting the signing of articles, applications and other documents filed with the Director, any articles, applications and other documents that meet the Director's requirements established under this Act are deemed to satisfy any requirements for a signature under this Act. 2020, c. 7, Sched 2, s. 1.

Section Amendments with date in force (d/m/y)

2020, c. 7, Sched. 2, s. 1 - 12/05/2020

Note: On the day section 9 of Schedule 1 (*Alternative Filing Methods for Business Act, 2020*) to the *COVID-19 Response and Reforms to Modernize Ontario Act, 2020* comes into force, the Act is amended by adding the following section: (See: 2020, c. 7, Sched. 2, s. 2)

Documents filed under *Alternative Filing Methods for Business Act, 2020*

267.2 Documents filed by a method specified under the *Alternative Filing Methods for Business Act, 2020*, as it read immediately before it was repealed, are deemed to have been filed by in-person delivery or mail for the purposes of this Act. 2020, c. 7, Sched. 2, s. 2.

Section Amendments with date in force (d/m/y)

2020, c. 7, Sched. 2, s. 2 - not in force

Proof by affidavit

268 (1) The Director may require any fact relevant to the performance of the Director's duties under this Act or the regulations to be verified by affidavit or otherwise. R.S.O. 1990, c. B.16, s. 268 (1).

Oaths and affirmations at hearings

(2) For the purpose of holding a hearing under this Act, the Director may administer oaths and affirmations to witnesses and require them to give evidence under oath or affirmation. R.S.O. 1990, c. B.16, s. 268 (2).

269 REPEALED: 1994, c. 27, s. 71 (36).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (36) - 05/05/2000

Examination, etc., of documents

270 (1) A person who has paid the required fee is entitled during usual business hours to examine and to make copies of or extracts from any document required by this Act or the regulations to be sent to the Director or the Commission, except a report sent to the Director under subsection 162 (2) that the court has ordered not to be made available to the public. R.S.O. 1990, c. B.16, s. 270 (1); 1998, c. 18, Sched. E, s. 29.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 270 (1) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 39 (1))

Examination, etc., of documents

(1) A person who has paid the required fee is entitled during usual business hours to examine and to make copies of or extracts from any document required by this Act or the regulations to be sent to the Commission. 2017, c. 20, Sched. 6, s. 39 (1).

Search

(1.1) A person who has paid the required fee is entitled, using any search method approved by the Director, to search and obtain copies of any document required by this Act, the regulations or the Director to be sent to the Director. 2017, c. 20, Sched. 6, s. 39 (1).

Copies to be furnished

(2) Subject to clause 162 (1) (j), the Director or the Commission shall furnish any person with a copy or a certified copy of a document required by this Act or the regulations to be sent to the Director or the Commission. R.S.O. 1990, c. B.16, s. 270 (2).

Privileged documents

(3) Subsections (1) and (2) do not apply in respect of documents and financial statements required, by this Act or the regulations, to be filed with the Director with an application for exemption from the requirements of Part XII of this Act. R.S.O. 1990, c. B.16, s. 270 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 270 (3) of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 39 (2))

Privileged documents

(3) Subsections (1), (1.1) and (2) do not apply in respect of,

- (a) a report described in subsection 162 (2) that the court has ordered not to be made available to the public; or
- (b) documents and financial statements that were required, by this Act or the regulations, to be filed with the Director with an application for exemption from the requirements of Part XII of this Act. 2017, c. 20, Sched. 6, s. 39 (2).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. E, s. 29 - 01/03/1999

2017, c. 20, Sched. 6, s. 39 (1, 2) - not in force

Appeal from Commission

271 Any person aggrieved by a decision of the Commission under this Act may appeal the decision to the Divisional Court and subsections 9 (2) to (6) of the *Securities Act* apply to the appeal. R.S.O. 1990, c. B.16, s. 271.

Powers of Minister

Minister's regulations

271.1 (1) The Minister may make regulations,

- (a) designating officers of the Ministry for the purposes of endorsing certificates, issuing certificates as to any fact or certifying true copies of documents required or authorized under this Act;
- (b) prescribing the punctuation marks and other marks that may form part of a corporate name under subsection 10 (3);
- (c) respecting the content of a special language provision under subsection 10 (4);

- (d) prescribing exceptions under section 177;
- (e) providing for and governing the filing of documents sent by electronic format, including the manner of determining the date of receipt and the form of electronic signatures;
- (f) providing for the waiver of signature requirements, and for requirements for the execution of articles, applications or statements filed with the Director requiring the signature of one or more persons;
- (g) providing for the exclusion of any class or classes of documents from being filed in electronic format or by telephone transmission of a facsimile;
- (h) prescribing documents that are required to accompany articles and applications made under this Act;
- (i) prescribing the form and content of any notices or documents that this Act requires to be filed. 2011, c. 1, Sched. 5, s. 1 (2).

Fees

(2) The Minister may by order require the payment of fees for search reports, copies of documents or information, filing of documents or other services under this Act and may approve the amount of those fees. 1998, c. 18, Sched. E, s. 30.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 271.1 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 40 (1))

Minister's regulations and orders

Regulations

271.1 (1) The Minister may make regulations,

- (a) respecting and governing the content, form, format and filing of articles, applications and other documents and information filed with or issued by the Director and the form, format and payment of fees;
- (b) respecting and governing the manner of completion, submission and acceptance of articles, applications and other documents and information filed with the Director, the payment of fees and the determination of the date of receipt;
- (c) designating articles, applications and other documents and information to be filed with the Director,
 - (i) in paper or electronic format,
 - (ii) in electronic format alone, or
 - (iii) in paper format alone;
- (d) respecting names of corporations, or classes of corporations, including prohibiting the use of any words or expressions in a corporate name, prescribing requirements for the purposes of clause 9 (1) (c), prescribing conditions for the purposes of subsection 9 (2), prescribing the documents relating to a corporation's name that must be filed with the Director under subsection 9 (3), respecting the name of a corporation under subsection 10 (2), prescribing the punctuation marks and other marks that may form part of a corporation's name under subsection 10 (3) and respecting the content of a special language provision under subsection 10 (4);
- (e) subject to any terms and conditions specified in the regulation, prescribing and governing documents and information that are required to support articles, applications and other forms approved under section 272.2 and specifying, for each of the formats designated under clause (c),
 - (i) the documents and information that must be filed with the Director, together with articles, applications and other forms approved under section 272.2, and
 - (ii) the documents and information that must be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, and subject to any terms and conditions imposed by the Director, that must be filed with the Director or given to any other person specified in the notice;
- (f) permitting the Director, subject to any terms and conditions imposed by the Director, for each of the formats designated under clause (c),
 - (i) to require that a document or information prescribed under subclause (e) (i) be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, be filed with the Director or given to any other person specified in the notice,
 - (ii) to require that a document or information prescribed under subclause (e) (ii) be filed with the Director, together with articles, applications and other forms approved under section 272.2, and

- (iii) to require that a document required by this Act to be filed with the Director be retained by the corporation and, upon receipt of and in accordance with written notice from the Director, be filed with the Director or given to any other person specified in the notice;
- (g) governing the terms and conditions that the Director may impose pursuant to a regulation made under subclause (e) (ii) or clause (f);
- (h) respecting and governing the endorsement of articles and applications with a certificate or authorization and the issuance of certificates and authorizations by the Director, including rules respecting the endorsement and issuance by electronic means;
- (i) governing the assignment of corporation numbers and number names under section 8;
- (j) governing the retention and destruction of articles, applications and other documents and information filed with the Director, including the form and format in which they must be retained;
- (k) prescribing exceptions under section 177;
- (l) prescribing circumstances for the purpose of clause 241 (5.1) (c);
- (m) prescribing documents for the purposes of subsection 273.4 (2);
- (n) governing the publication of notices to corporations for the purposes of subsections 241 (1), (2) and (3);
- (o) prescribing duties and powers of the Director in addition to those set out in this Act;
- (p) providing that a person or entity that enters into an agreement under subsection 265.1 (2) is an agent of the Crown and specifying the services and purposes for which the person or entity is considered to be an agent of the Crown;
- (q) designating public servants employed under Part III of the *Public Service of Ontario Act, 2006* or classes of them for the purposes of endorsing and issuing certificates, including certificates as to any fact, and certifying true copies of documents required or authorized under this Act;
- (r) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (s) prescribing any matter that the Minister considers necessary or advisable for the purposes of this Act;
- (t) REPEALED: 2017, c. 20, Sched. 6, s. 40 (2).

2017, c. 20, Sched. 6, s. 40 (1); 2017, c. 20, Sched. 6, s. 40 (2).

Rolling incorporation by reference

(2) A regulation made under subsection (1) that incorporates another document by reference may provide that the reference to the document includes amendments made to the document from time to time after the regulation is made. 2017, c. 20, Sched. 6, s. 40 (1).

Fees

(3) The Minister may, by order, require the payment of fees for search reports, copies of documents or information, filing of documents or other services under this Act, approve the amount of those fees and provide for the waiver or refund of all or any part of any of those fees. 2017, c. 20, Sched. 6, s. 40 (1).

Non-application of *Legislation Act, 2006*

(4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made by the Minister under subsection (3). 2017, c. 20, Sched. 6, s. 40 (1).

Section Amendments with date in force (d/m/y)

1998, c. 18, Sched. E, s. 30 - 01/03/1999

2011, c. 1, Sched. 5, s. 1 (2) - 30/03/2011

2017, c. 20, Sched. 6, s. 40 (1) - not in force; 2017, c. 20, Sched. 6, s. 40 (2) - 14/11/2020

Director's regulations

271.2 The Director may make regulations prescribing forms and providing for their use. 2011, c. 1, Sched. 5, s. 1 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 271.2 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 40 (1))

Requirements established by Director

271.2 (1) The Director may establish requirements,

- (a) respecting and governing the content, form, format and filing of articles, applications and other documents and information filed with or issued by the Director and the form, format and payment of fees;
- (b) respecting and governing the manner of completion, submission and acceptance of articles, applications and other documents and information filed with the Director, the payment of fees and the determination of the date of receipt;
- (c) specifying that articles, applications and other documents and information may be filed with the Director and fees may be paid only by a person authorized by the Director or who belongs to a class of persons authorized by the Director;
- (d) governing the authorization of persons described in clause (c), including,
 - (i) establishing conditions and requirements to be an authorized person,
 - (ii) imposing terms and conditions on an authorization, including terms and conditions governing the filing of articles, applications and other documents and information and the payment of fees, and
 - (iii) requiring any person who applies for an authorization to enter into an agreement with the Director, or a person designated by the Director, governing the filing of articles, applications and other documents and information;
- (e) specifying whether and which articles, applications, other forms approved under section 272.2 and supporting documents must be signed, specifying requirements respecting their signing, and governing the form and format of signatures, including establishing rules respecting electronic signatures;
- (f) specifying and governing methods of executing articles, applications, other forms approved under section 272.2, supporting documents and statements, other than by signing them, and establishing rules respecting those methods;
- (g) if this Act specifies requirements respecting the signing of articles, applications and other documents filed with the Director, specifying and governing alternative requirements for their signing or providing that signing is not required;
- (h) specifying requirements for corporations filing articles, applications and other forms approved under section 272.2 electronically to keep a properly executed version of them at the registered office in paper or electronic format and, if required by notice from the Director, to provide a copy of the executed version to the Director within the time period set out in the notice;

Note: On the day subsection 40 (1) of Schedule 6 to the *Cutting Unnecessary Red Tape Act, 2017* comes into force, clause 271.2 (1) (h) of the Act is repealed and the following substituted: (See: 2020, c. 7, Sched. 2, s. 3 (1))

- (h) specifying requirements for corporations filing articles, applications or other forms approved under section 272.2, whether electronically or by another method, to keep a properly executed version of them, including records related to an electronic signature if signed by electronic signature, at the registered office in paper or electronic format and, if required by notice from the Director, to provide a copy of the executed version, including records related to an electronic signature, to the Director within the time period set out in the notice;
- (i) establishing the time and circumstances when articles, applications and other documents and information are considered to be sent to or received by the Director, and the place where they are considered to have been sent or received;
- (j) establishing technology standards and requirements for filing articles, applications and other documents and information in electronic format with the Director and for paying fees in electronic format;
- (k) specifying a type of copy of a court order or other document issued by the court that may be filed with the Director;

Note: On the day subsection 40 (1) of Schedule 6 to the *Cutting Unnecessary Red Tape Act, 2017* comes into force, clause 271.2 (1) (k) of the Act is repealed and the following substituted: (See: 2020, c. 7, Sched. 2, s. 3 (2))

- (k) specifying and governing a type of copy, including a type of copy of a court order or other document issued by the court that may be filed with the Director, and if this Act specifies requirements respecting original articles, applications and other documents filed with the Director, specifying and governing a type of copy that may be filed with the Director instead of an original;
- (l) respecting and governing the endorsement of articles and applications with a certificate or authorization and the issuance of certificates and authorizations by the Director, including rules respecting the endorsement and issuance by electronic means;
- (m) governing the assignment of corporation numbers and number names under section 8;

- (n) governing searches and search methods of records for the purpose of subsection 270 (1.1). 2017, c. 20, Sched. 6, s. 40 (1).

Classes

- (2) For the purposes of clause (1) (c), a class may be defined,
- (a) in terms of any attribute or combination of attributes; or
 - (b) as consisting of, including or excluding a specified member. 2017, c. 20, Sched. 6, s. 40 (1).

Non-application of *Legislation Act, 2006*

- (3) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1). 2017, c. 20, Sched. 6, s. 40 (1).

Conflict

- (4) If there is a conflict between a requirement established under this section and a regulation made under this Act, the regulation prevails to the extent of the conflict. 2017, c. 20, Sched. 6, s. 40 (1).

Section Amendments with date in force (d/m/y)

2011, c. 1, Sched. 5, s. 1 (3) - 30/03/2011

2017, c. 20, Sched. 6, s. 40 (1) - not in force

2020, c. 7, Sched. 2, s. 3 (1, 2) - not in force

Requirements established by the Director

271.2.1 (1) The Director may establish requirements in respect of filings made by in-person delivery, mail or by a method specified under the *Alternative Filing Methods for Business Act, 2020*,

- (a) specifying whether and which articles, applications, other forms prescribed under section 271.1 or 271.2 and supporting documents must be signed, specifying requirements respecting their signing, and governing the form and format of signatures, including establishing rules respecting electronic signatures;
- (b) specifying and governing methods of executing articles, applications, other forms prescribed under section 271.1 or 271.2, supporting documents and statements, other than by signing them, and establishing rules respecting those methods;
- (c) if this Act specifies requirements respecting the signing of articles, applications and other documents filed with the Director, specifying and governing alternative requirements for their signing or providing that signing is not required;
- (d) specifying requirements for corporations filing articles, applications and other forms prescribed under section 271.1 or 271.2, whether electronically or by another method, to keep a properly executed version of them, including records related to an electronic signature if signed by electronic signature, at the registered office in paper or electronic format and, if required by notice from the Director, to provide a copy of the executed version, including records related to an electronic signature, to the Director within the time period set out in the notice;
- (e) specifying and governing a type of copy, including a type of copy of a court order or other document issued by the court, that may be filed with the Director, and if this Act specifies requirements respecting original articles, applications and other documents filed with the Director, specifying and governing a type of copy that may be filed with the Director instead of an original. 2020, c. 7, Sched. 2, s. 4.

Non-application of *Legislation Act, 2006*

- (2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1). 2020, c. 7, Sched. 2, s. 4.

Conflict

- (3) If there is a conflict between a requirement established under this section and a regulation made under this Act, including any requirement required by a form that is prescribed or required under this Act, the requirement established under this section prevails to the extent of the conflict. 2020, c. 7, Sched. 2, s. 4.

Repeal

- (4) This section is repealed on the day subsection 40 (1) of Schedule 6 to the *Cutting Unnecessary Red Tape Act, 2017* comes into force. 2020, c. 7, Sched. 2, s. 4.

Section Amendments with date in force (d/m/y)

2020, c. 7, Sched. 2, s. 4 - 12/05/2020

Lieutenant Governor in Council regulations

272 The Lieutenant Governor in Council may make regulations respecting any matter the Lieutenant Governor in Council considers necessary for the purposes of this Act including, without limiting the generality of the foregoing, regulations,

1. respecting names of corporations or classes thereof, the designation, rights, privileges, restrictions or conditions attaching to shares or classes of shares of corporations, or any other matter pertaining to articles or the filing thereof;

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 1 of section 272 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 41 (1))

1. respecting the designation, rights, privileges, restrictions or conditions attaching to shares or classes of shares of corporations, or any other matter pertaining to articles or the filing of them;
2. REPEALED: 1998, c. 18, Sched. E, s. 31 (1).
3. REPEALED: 1998, c. 18, Sched. E, s. 31 (1).
4. REPEALED: 1998, c. 18, Sched. E, s. 31 (1).

Note: Despite the repeal of paragraph 2, regulations made under paragraph 2, as that paragraph read immediately before March 1, 1999, continue until the Minister makes an order under subsection 271.1 (2), as enacted by the Statutes of Ontario, 1998, chapter 18, Schedule E, section 30, that is inconsistent with those regulations. See: 1998, c. 18, Sched. E, s. 31 (2).

Note: Despite the repeal of paragraph 2, the Lieutenant Governor in Council may by regulation revoke regulations made under paragraph 2, as that paragraph read immediately before March 1, 1999, if the Minister makes an order under subsection 271.1 (2), as enacted by the Statutes of Ontario, 1998, chapter 18, Schedule E, section 30, that is inconsistent with those regulations. See: 1998, c. 18, Sched. E, s. 31 (3).

Note: Despite the repeal of paragraphs 3 and 4, the Lieutenant Governor in Council may by regulation revoke regulations made under paragraph 3 or 4, as those paragraphs read immediately before March 1, 1999, if the Minister makes a regulation under subsection 271.1 (1), as enacted by the Statutes of Ontario, 1998, chapter 18, Schedule E, section 30, that is inconsistent with those regulations. See: 1998, c. 18, Sched. E, s. 31 (4).

5. REPEALED: 2011, c. 1, Sched. 5, s. 1 (4).
6. prescribing the form and content of information circulars and proxies required by Part VIII and the discretionary authority that may be conferred in proxies;
7. prescribing requirements with respect to applications to the Director or the Commission for exemptions permitted by this Act and the practice and procedure thereon;
8. prohibiting the use of any words or expressions in a corporate name;

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 8 of section 272 of the Act is repealed. (See: 2017, c. 20, Sched. 6, s. 41 (2))

9. defining any word or expression used in clause 9 (1) (b);

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 9 of section 272 of the Act is repealed. (See: 2017, c. 20, Sched. 6, s. 41 (2))

10. prescribing requirements for the purposes of clause 9 (1) (c);

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 10 of section 272 of the Act is repealed. (See: 2017, c. 20, Sched. 6, s. 41 (2))

11. prescribing conditions for the purposes of subsection 9 (2);

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 11 of section 272 of the Act is repealed. (See: 2017, c. 20, Sched. 6, s. 41 (2))

12. prescribing the documents relating to names that shall be filed with the Director under subsection 9 (3);

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 12 of section 272 of the Act is repealed. (See: 2017, c. 20, Sched. 6, s. 41 (2))

13. respecting the name of a corporation under subsection 10 (2);

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 13 of section 272 of the Act is repealed. (See: 2017, c. 20, Sched. 6, s. 41 (2))

- 14., 15. REPEALED: 2011, c. 1, Sched. 5, s. 1 (4).

- 15.1 prescribing conditions for the purposes of subsections 29 (9) and (10);

- 15.2 prescribing consequences for the purposes of subsection 29 (11);
- 15.3 prescribing conditions, notices, the manner for making determinations and laws for the purposes of subsection 45 (1);
- 15.4 prescribing the maximum number of words for the purposes of subsection 99 (3.1);
- 15.4.1 prescribing a different period for the purpose of subclause 99 (5) (d) (ii);
- 15.4.2 prescribing a different number of days for the purpose of clauses 99 (5.1) (a) and (b);
- 15.4.3 prescribing a different percentage for the purpose of paragraph 1 of subsection 99 (5.4), a different percentage for the purpose of paragraph 2 of subsection 99 (5.4) and a different percentage for the purpose of paragraph 3 of subsection 99 (5.4);
- 15.5 prescribing public announcements and circumstances for the purposes of clauses (i) and (j) of the definition of ““solicit” and “solicitation”” in section 109;
- 15.6 prescribing circumstances for the purpose of clause 112 (1.2);
- 16. prescribing the form of the statutory declarations under subsection 52 (1) and subsection 146 (1);
- 16.1 REPEALED: 2011, c. 1, Sched. 2, s. 1 (19).
- 17. prescribing the form and content of financial statements and interim financial statements required under this Act;
- 18. prescribing that, for the purposes of Part XII of this Act, the standards, as they exist from time to time, of a prescribed accounting body shall be followed;
- 19. prescribing standards to be used by an auditor in making an examination of financial statements required under this Act and the manner in which the auditor shall report thereon;
- 20. REPEALED: 2011, c. 1, Sched. 5, s. 1 (4).
- 21. prescribing the manner in which notice may be sent under subsection 190 (3);
- 22. REPEALED: 2009, c. 33, Sched. 17, s. 1 (1).
- 23. prescribing Acts of Canada or a province or ordinances of a territory for purposes of sections 29, 42, 45 and 56 and prescribing the notice required under subsection 45 (1);
- 24. prescribing the manner in which the directors of corporations may determine that restricted shares are owned contrary to restrictions under subsection 45 (1);
- 25. prescribing the manner in which funds may be invested under subsection 45 (5);
- 26. prescribing, with respect to a corporation that has imposed restrictions on the issue, transfer or ownership of its shares for a purpose under subsection 42 (2),
 - i. the disclosure required of the restrictions in documents issued or published by the corporation,
 - ii. the duties and powers of the directors to refuse to issue or register transfers of shares in accordance with the articles of the corporation,
 - iii. the limitations on voting rights of any shares held contrary to the articles of the corporation, and
 - iv. the powers of the directors to require disclosure of beneficial ownership of shares of the corporation and the rights of the corporation and its directors, employees or agents to rely on the disclosure and the effects of the reliance;
- 27. prescribing persons or classes of persons for the purpose of clause 42 (2) (c) and prescribing the manner of computing the ownership of shares of a corporation by persons for such purpose;
- 28. REPEALED: 2009, c. 33, Sched. 17, s. 1 (1).
- 29. prescribing classes of persons for the purposes of clause (b) of the definition of “resident Canadian” in subsection 1 (1);

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 29 of section 272 of the Act is repealed. (See: 2020, c. 34, Sched. 1, s. 10)

29.1-29.3 REPEALED: 2011, c. 1, Sched. 5, s. 1 (4).

29.4 authorizing the Director to enter into an agreement with any person respecting the use, disclosure, sale or licensing of records required under this Act and prescribing terms and conditions for any such agreement;

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 29.4 of section 272 of the Act is repealed. (See: 2017, c. 20, Sched. 6, s. 41 (2))

30. prescribing any matter referred to in this Act as prescribed by the regulations for which a specific power is not otherwise provided. R.S.O. 1990, c. B.16, s. 272; 1994, c. 27, s. 71 (37); 1998, c. 18, Sched. E, s. 31 (1); 2006, c. 34, Sched. B, s. 41; 2009, c. 33, Sched. 17, s. 1 (1); 2011, c. 1, Sched. 2, s. 1 (19); 2011, c. 1, Sched. 5, s. 1 (4, 5); 2017, c. 20, Sched. 6, s. 41 (3).

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (37) - 01/03/1995; 1998, c. 18, Sched. E, s. 31 (1) - 01/03/1999

2006, c. 34, Sched. B, s. 41 - 01/08/2007

2009, c. 33, Sched. 17, s. 1 (1) - 15/12/2009

2011, c. 1, Sched. 2, s. 1 (19) - 31/12/2015; 2011, c. 1, Sched. 5, s. 1 (4, 5) - 30/03/2011

2017, c. 20, Sched. 6, s. 41 (1, 2) - not in force; 2017, c. 20, Sched. 6, s. 41 (3) - 14/11/2017

2020, c. 34, Sched. 1, s. 10 - not in force

Lieutenant Governor in Council regulations, transition

272.1 The Lieutenant Governor in Council may make regulations providing for such transitional matters as the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of section 44 of the *Forfeited Corporate Property Act, 2015*. 2015, c. 38, Sched. 7, s. 44 (16).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 272.1 of the Act is repealed. (See: 2015, c. 38, Sched. 7, s. 44 (17))

Section Amendments with date in force (d/m/y)

2015, c. 38, Sched. 7, s. 44 (16) - 10/12/2016; 2015, c. 38, Sched. 7, s. 44 (17) - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2017, c. 20, Sched. 6, s. 42)

Forms

272.2 (1) The Director may require that forms approved by the Director be used for any purpose under this Act. 2017, c. 20, Sched. 6, s. 42.

Non-application of *Legislation Act, 2006*

(2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement established by the Director under subsection (1). 2017, c. 20, Sched. 6, s. 42.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 42 - not in force

Where articles to be sent to Director

273 (1) Where this Act requires that articles relating to a corporation be sent to the Director, unless otherwise specifically provided,

- (a) two duplicate originals of the articles shall be signed by a director or an officer of the corporation or, in the case of articles of incorporation, by all incorporators; and
- (b) upon receiving duplicate originals of any articles in the prescribed form that have been executed in accordance with this Act, any other required documents and the prescribed fees, the Director shall, subject to his or her discretion as provided in subsection 180 (4) and subsection 241 (9), and, subject to subsection (2),
 - (i) endorse on each duplicate original a certificate, setting out the day, month and year of endorsement and the corporation number,
 - (ii) file a copy of the articles with the endorsement of the certificate thereon, and
 - (iii) send to the corporation or its representative one duplicate original of the articles with the endorsement of the certificate thereon.

(iv) REPEALED: 1994, c. 27, s. 71 (38).

R.S.O. 1990, c. B.16, s. 273 (1); 1994, c. 27, s. 71 (38); 2009, c. 33, Sched. 17, s. 1 (2); 2015, c. 38, Sched. 7, s. 44 (18).

Date on certificate

(2) A certificate referred to in subsection (1) shall be dated as of the day the Director receives the duplicate originals of any articles together with all other required documents executed in accordance with this Act and the required fee, or as of any later date acceptable to the Director and specified by the person who submitted the articles or by the court. R.S.O. 1990, c. B.16, s. 273 (2); 1998, c. 18, Sched. E, s. 32 (1).

Effective date of articles

(3) Articles endorsed with a certificate under subsection (1), are effective on the date shown in the certificate even if any action required to be taken by the Director under this Act with respect to the endorsement of the certificate and filing by the Director is taken at a later date. R.S.O. 1990, c. B.16, s. 273 (3).

Electronic filing

(4) Despite subsections (1) and (2), if articles relating to a corporation are sent to the Director in a prescribed electronic format,

- (a) the articles shall set out an electronic signature of a director or officer of the corporation or, in the case of articles of incorporation, the electronic signature of all incorporators, unless the regulations otherwise provide; and
- (b) upon receipt of the articles in the prescribed electronic format completed in accordance with this Act and the required fee, the Director shall, subject to his or her discretion as provided in subsections 180 (4) and 241 (9), and subject to subsection (5) of this section,
 - (i) endorse a certificate by making an appropriate entry in an electronic database maintained under section 276, and
 - (ii) send to the corporation or its representative a copy of the certificate in a form prescribed by the regulations. 1994, c. 27, s. 71 (39); 1998, c. 18, Sched. E, s. 32 (2); 2009, c. 33, Sched. 17, s. 1 (3); 2015, c. 38, Sched. 7, s. 44 (19).

Date of certificate

(5) A certificate referred to in subsection (4) shall be dated as of the day the Director received the articles in a prescribed electronic format completed in accordance with this Act and the required fee or as of any later date acceptable to the Director and specified by the person who submitted the articles or by the court. 1994, c. 27, s. 71 (39); 1998, c. 18, Sched. E, s. 32 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 273 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 43)

Endorsement of articles

273 (1) If this Act requires that articles be sent to the Director, unless otherwise provided in this Act, the regulations or the Director's requirements,

- (a) if the articles are sent to the Director in paper format,
 - (i) one set of the original articles must be sent in the approved form, and
 - (ii) the set of original articles referred to in subclause (i) must be signed by a director or an officer of the corporation or, in the case of articles of incorporation, by all its incorporators;
- (b) if the articles are sent to the Director in an electronic format,
 - (i) the articles must be sent in a format that is prescribed by the Minister or required by the Director, and
 - (ii) the articles referred to in subclause (i) must meet any signature or authorization requirements established by the Director under subsection 271.2 (1). 2017, c. 20, Sched. 6, s. 43.

Director's duties

(2) Upon receiving articles completed in accordance with clause (1) (a) or (b), any other required documents and information and the required fee, the Director shall, unless otherwise provided in this Act, the regulations or the Director's requirements and subject to his or her discretion provided in subsections 180 (4) and 241 (9) and to subsection (3) of this section,

- (a) endorse the articles with a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file the articles endorsed with the certificate in the records maintained under section 276; and

- (c) send or otherwise make available to the corporation or its representative a copy of the articles endorsed with the certificate. 2017, c. 20, Sched. 6, s. 43.

Date of certificate

- (3) A certificate referred to in subsection (2), other than a certificate of arrangement, must be dated as of,
- (a) the day the Director receives the articles completed in accordance with clause (1) (a) or (b), together with all other required documents executed in accordance with this Act, the regulations and the Director's requirements, all other required information and the required fee; or
 - (b) any later date that is acceptable to the Director and specified by the person who submitted the articles or by the court. 2017, c. 20, Sched. 6, s. 43.

Effective date of articles

- (4) Articles endorsed with a certificate under this section are effective on the date shown in the certificate even if any action required to be taken by the Director under this Act with respect to the endorsement and filing or recording of the certificate by the Director is taken at a later date. 2017, c. 20, Sched. 6, s. 43.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (38) - 01/03/1995; 1994, c. 27, s. 71 (39) - 05/05/2000; 1998, c. 18, Sched. E, s. 32 (1-3) - 01/03/1999
2009, c. 33, Sched. 17, s. 1 (2, 3) - 15/12/2009
2015, c. 38, Sched. 7, s. 44 (18, 19) - 10/12/2016
2017, c. 20, Sched. 6, s. 43 - not in force

Electronic filers

273.1 (1) Information that is filed in an electronic format may be filed by a person who is authorized to do so by the Director or by a person who is a member of a class of persons that is authorized to do so. 1994, c. 27, s. 71 (40).

Condition

- (2) The Director may attach terms and conditions to an authorization given under subsection (1) and may require any person who applies for an authorization to enter into an agreement governing the making of filings in an electronic format. 1994, c. 27, s. 71 (40).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 273.1 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 43)

Methods of endorsing and issuing

273.1 The Director may endorse articles and applications with a certificate or authorization and issue certificates, authorizations, certified copies and other documents by any method, and may use or issue validation codes or other systems or methods of validation in respect of the endorsements and issuance. 2017, c. 20, Sched. 6, s. 43.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (40) - 05/05/2000
2017, c. 20, Sched. 6, s. 43 - not in force

Fax filing

273.2 (1) Despite section 273 and subject to the regulations, articles or other documents may be sent in duplicate to the Director by telephone transmission of a facsimile. 1994, c. 27, s. 71 (40).

Same

- (2) Where articles or another document are sent to the Director under subsection (1), a required signature may be a facsimile. 1994, c. 27, s. 71 (40).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 273.2 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 43)

Refusal to endorse if corporation in default

273.2 Despite any provision of this Act requiring the Director to endorse a certificate or an authorization, the Director may refuse to do so if a corporation is in default of a filing requirement under the *Corporations Information Act* or of a

registration requirement under the *Business Names Act* or has any unpaid fees or penalties outstanding under this Act, the *Corporations Information Act* or the *Business Names Act*. 2017, c. 20, Sched. 6, s. 43.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (40) - 05/05/2000

2017, c. 20, Sched. 6, s. 43 - not in force

Filing by fax

273.3 Despite any regulation made under section 271.1, articles, applications and other documents may be filed by fax only with the Director's consent. 2017, c. 20, Sched. 6, s. 43.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 43 - not in force

Electronic version prevails

273.4 (1) If articles or an application are filed with the Director in an electronic format and there is a conflict between the electronic version and any other version of the articles or application, the electronic version of the articles endorsed with a certificate under this Act and recorded in an electronic system maintained under section 276 or the electronic version of the application endorsed with an authorization under section 181, 181.1 or 181.2 and recorded in an electronic system maintained under section 276, or a printed copy of the applicable electronic version, prevails over any other version of the articles or application that may exist, regardless of whether the other version of the articles or application has been executed in accordance with this Act, the regulations and the Director's requirements. 2017, c. 20, Sched. 6, s. 43.

Same, prescribed documents

(2) If a prescribed document is filed in an electronic format and there is a conflict between the electronic version and any other version of the document, the electronic version of the document recorded in an electronic system maintained under section 276, or a printed copy of the electronic version, prevails over any other version of the document that may exist, regardless of whether the other version of the document has been executed in accordance with this Act, the regulations and the Director's requirements. 2017, c. 20, Sched. 6, s. 43.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 43 - not in force

Inability to receive filings in electronic system

273.5 (1) Despite any regulation made under clause 271.1 (1) (c), if the Director is of the opinion that it is not possible, for any reason, to receive articles, applications and other documents and information in an electronic format in an electronic system maintained under section 276, the Director may require that they be filed in paper format alone in accordance with the Director's requirements, if any, or in another electronic format approved by the Director. 2017, c. 20, Sched. 6, s. 43.

Same, retaining filings and requests until system is operational

(2) If the Director is of the opinion that it is not possible, for any reason, to endorse or issue articles, applications or other documents using an electronic system maintained under section 276, the Director may retain articles, applications and other documents that have been filed until it is possible for the Director to endorse or issue them in accordance with this Act, the regulations and the Director's requirements, if any. 2017, c. 20, Sched. 6, s. 43.

Same, searches

(3) If the Director is of the opinion that it is not possible, for any reason, for searches to be made of an electronic system maintained under section 276, the Director may retain search requests that have been filed until it is possible for searches to be made. 2017, c. 20, Sched. 6, s. 43.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 43 - not in force

274 REPEALED. See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* – December 31, 2011.

Section Amendments with date in force (d/m/y)

R.S.O. 1990, c. B16, s. 274 - See Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2011

Where error in respect of certificate

275 (1) Where a certificate endorsed or issued under this Act or a predecessor of this Act contains an error or where a certificate has been endorsed or issued on articles or any other documents that contain an error,

- (a) the corporation, its directors or shareholders may apply to the Director for a corrected certificate and shall surrender the certificate and related articles or documents; or
- (b) the corporation shall upon the request of the Director surrender the certificate and related articles or documents,

and, after giving the corporation an opportunity to be heard, where the Director is of the opinion that it is appropriate to so do and is satisfied that such steps have been taken by the corporation as the Director required, the Director shall endorse a corrected certificate. R.S.O. 1990, c. B.16, s. 275 (1).

Date on certificate

(2) A corrected certificate endorsed under subsection (1) may bear the date of the certificate it replaces. R.S.O. 1990, c. B.16, s. 275 (2).

(3) REPEALED: 2004, c. 19, s. 3 (6).

Appeal

(4) A decision of the Director under subsection (1) may be appealed to the Divisional Court which may order the Director to change his or her decision and make such further order as it thinks fit. R.S.O. 1990, c. B.16, s. 275 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 275 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 6, s. 44)

Errors in certificates, etc.

275 (1) If a certificate or other document issued or endorsed under this Act, or a predecessor of this Act, contains an error or if a certificate or other document has been issued or endorsed in respect of articles or any other documents that contain an error,

- (a) the corporation or its directors or shareholders may apply to the Director for a corrected certificate or other document and, if requested by the Director, shall surrender the certificate or other document and related articles or other documents to the Director within the time period specified by the Director; or
- (b) the Director may notify the corporation that a corrected certificate may be required and the corporation shall, if requested by the Director, surrender the certificate and related articles or documents to the Director within the time period specified by the Director. 2017, c. 20, Sched. 6, s. 44.

Corrected certificate, etc.

(2) After giving the corporation an opportunity to be heard in respect of an error under subsection (1), if the Director is of the opinion that it is appropriate to do so and is satisfied that the corporation has taken any steps required by the Director, the Director shall endorse a corrected certificate or other document. 2017, c. 20, Sched. 6, s. 44.

Date on certificate, etc.

(3) A corrected certificate or other document endorsed under subsection (2) may bear the date of the certificate or other document it replaces. 2017, c. 20, Sched. 6, s. 44.

Same

(4) If a correction is made with respect to the date of the certificate, the corrected certificate endorsed under subsection (2) shall bear the corrected date. 2017, c. 20, Sched. 6, s. 44.

Appeal

(5) A decision of the Director under subsection (2) may be appealed to the Divisional Court which may order the Director to change his or her decision and may make such further order that it thinks fit. 2017, c. 20, Sched. 6, s. 44.

Section Amendments with date in force (d/m/y)

2004, c. 19, s. 3 (6) - 01/06/2005

2017, c. 20, Sched. 6, s. 44 - not in force

Records

276 (1) Records required by this Act to be prepared and maintained by the Director or Commission may be in bound or loose-leaf or electronic form or in photographic film form, or may be entered or recorded by any system of mechanical or

electronic data processing or by any other information storage device that is capable of reproducing any required information in an accurate and intelligible form within a reasonable time. R.S.O. 1990, c. B.16, s. 276 (1); 1994, c. 27, s. 71 (41).

Admission as evidence

- (2) When records maintained by the Director or the Commission are prepared and maintained other than in written form,
- (a) the Director or the Commission shall furnish any copy required to be furnished under subsection 270 (2) in intelligible written or other form; and
 - (b) a report reproduced from those records, if it is certified by the Director or the Commission or a member thereof, as the case may be, is, without proof of the office or signature thereof, admissible in evidence. R.S.O. 1990, c. B.16, s. 276 (2); 1994, c. 27, s. 71 (42, 43).

Copy in lieu of document

- (3) The Director or Commission, as the case may be, is not required to produce any document where a copy of the document is furnished in compliance with clause (2) (a). R.S.O. 1990, c. B.16, s. 276 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 276 of the Act is amended by adding the following subsection: (See: 2017, c. 20, Sched. 6, s. 45)

Documents may be publicly available

- (4) The Director may publish or otherwise make available to the public,
- (a) any notices or other documents sent by the Director under this Act; and
 - (b) any documents required by this Act, the regulations or the Director to be sent to the Director under this Act, except the documents referred to in subsection 270 (3). 2017, c. 20, Sched. 6, s. 45.

Section Amendments with date in force (d/m/y)

1994, c. 27, s. 71 (41-43) - 05/05/2000

2017, c. 20, Sched. 6, s. 45 - not in force

Deemed amendment

277 (1) Any provision in articles, by-laws or any special resolution of a corporation that was valid immediately before the 29th day of July, 1983 and that has not been amended in accordance with this Act is deemed to be amended to the extent necessary to bring the terms of the provision into conformity with this Act. R.S.O. 1990, c. B.16, s. 277 (1).

Amendments

(2) A corporation may, by articles of amendment, change the express terms of any provision in its articles to which subsection (1) applies to conform to the terms of the provision as deemed to be amended by that subsection. R.S.O. 1990, c. B.16, s. 277 (2).

Idem

(3) A corporation shall not restate its articles under section 173 unless the articles of the corporation are in conformity with this Act and, where the articles have been deemed to be amended under subsection (1), the corporation has amended the express terms of the provisions in its articles in accordance with subsection (2). R.S.O. 1990, c. B.16, s. 277 (3).

Where s. 185 does not apply

(4) A shareholder is not entitled to dissent under section 185 in respect of any amendment made for the purpose only of bringing the provisions of articles into conformity with this Act. R.S.O. 1990, c. B.16, s. 277 (4).

Appointment of Director

278 The Minister shall appoint a Director to exercise the powers and perform duties of the Director under this or any other Act. 2020, c. 7, Sched. 2, s. 5.

Section Amendments with date in force (d/m/y)

2017, c. 20, Sched. 6, s. 46 - no effect - see 2020, c. 7, Sched. 2, s. 9 (2) - 12/05/2020

2020, c. 7, Sched. 2, s. 5 - 12/05/2020

PART XIX SPECIAL RULES DURING EMERGENCY

Interpretation

279 In this Part and the Schedule to this Act, references to the “emergency” and “declared emergency” are references to the emergency declared pursuant to Order in Council 518/2020 (Ontario Regulation 50/20) on March 17, 2020 pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act* and, for clarity, those references include any extension of the emergency under section 7.0.7 of that Act. 2020, c. 7, Sched. 2, s. 6.

Section Amendments with date in force (d/m/y)

2020, c. 7, Sched. 2, s. 6 - 17/03/2020; 2020, c. 7, Sched. 2, s. 8 - not in force

Application of Schedule

280 (1) The sections of the Schedule to this Act apply during the temporary suspension period, as described in subsection (2) for each section. 2020, c. 7, Sched. 2, s. 6.

Temporary suspension period

(2) The temporary suspension period, as referred to in each section of the Schedule to this Act, is the period of the emergency and a further period that ends on the 120th day after the day the declared emergency is terminated and, if the regulations so provide for the section, a further prescribed period of time immediately following the end of the 120-day period. 2020, c. 7, Sched. 2, s. 6.

Section Amendments with date in force (d/m/y)

2020, c. 7, Sched. 2, s. 6 - 17/03/2020; 2020, c. 7, Sched. 2, s. 8 - not in force

Regulations

281 (1) The Lieutenant Governor in Council may make regulations prescribing further periods of time for the purposes of subsection 280 (2). 2020, c. 7, Sched. 2, s. 6.

Same

(2) A regulation under subsection (1) may prescribe a different period of time for different sections of the Schedule to this Act and may provide for one or more extensions of a previously prescribed period. 2020, c. 7, Sched. 2, s. 6.

Section Amendments with date in force (d/m/y)

2020, c. 7, Sched. 2, s. 6 - 17/03/2020; 2020, c. 7, Sched. 2, s. 8 - not in force

Note: On a day to be named by proclamation of the Lieutenant Governor, Part XIX of the Act is repealed. (See: 2020, c. 7, Sched. 2, s. 8)

SCHEDULE

SHAREHOLDERS’ MEETINGS, TIME EXTENSION AND MEANS OF MEETING

1 The operation of section 94 of the Act is temporarily suspended and the following replacement provision is in effect during the temporary suspension period only:

Shareholders’ meetings

94 (1) Subject to subsection 104 (1), the directors of a corporation,

- (a) shall call an annual meeting of shareholders not later than eighteen months after the corporation comes into existence and subsequently not later than fifteen months after holding the last preceding annual meeting; and
- (b) may at any time call a special meeting of shareholders.

Shareholders’ meetings, time extension

(1.1) If the last day on which a meeting referred to in clause (1) (a) is required to be held is a day that falls within the period of the declared emergency, the last day on which the meeting is required to be held is no later than the 90th day after the day the emergency is terminated.

Same

(1.2) If the last day on which a meeting referred to in clause (1) (a) is required to be held is a day that falls within the 30-day period that begins on the day after the day the emergency is terminated, the last day on which the meeting is required to be held is no later than the 120th day after the day the emergency is terminated.

Same

(1.3) Despite clause (1) (a), the directors of a corporation may call a meeting that is to be held on a day contemplated by subsection (1.1) or (1.2) at a time that enables the corporation to comply with subsections (1.1) or (1.2), as applicable, and that is reasonable in the circumstances.

Same

(1.4) For the purposes of subsections (1.1) to (1.3), the day on which a meeting referred to in clause (1) (a) is required to be held shall be determined in accordance with subsection 154 (1) as it read immediately before March 17, 2020.

Meeting by electronic means

(2) Despite any provision in the articles, by-laws or a unanimous shareholder agreement that provides otherwise, a meeting of the shareholders may be held by telephonic or electronic means and a shareholder who, through those means, votes at the meeting or establishes a communications link to the meeting shall be deemed for the purposes of this Act to be present at the meeting.

2 The operation of subsection 96 (1) of the Act is temporarily suspended and the following replacement provisions are in effect during the temporary suspension period only:

Notice of shareholders' meetings

(1) Notice of the time and place of a meeting of shareholders shall be sent, in the case of an offering corporation, not less than twenty-one days and, in the case of any other corporation, not less than ten days, but, in either case, not more than fifty days, before the meeting,

- (a) to each shareholder entitled to vote at the meeting;
- (b) to each director; and
- (c) to the auditor of the corporation.

Changes re meeting after notice sent

(1.1) If a notice of a meeting of shareholders has been sent for a meeting to be held on a day that falls within the period of the declared emergency and, after the notice is sent, the date, time or place of the meeting is changed in order to hold the meeting by telephonic or electronic means, another notice of meeting is not required to be sent but the persons entitled to receive the notice must be informed of the change in a manner and within a time that is reasonable in the circumstances.

3 The operation of subsections 103 (1) and (2) of the Act is temporarily suspended and the following replacement provisions are in effect during the temporary suspension period only:

Manner of voting

(1) Subject to subsection (2.1) and unless the by-laws otherwise provide, voting at a meeting of shareholders shall be by show of hands, except where a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting.

Same

(2) Subject to subsection (2.1), a shareholder or proxyholder may demand a ballot either before or after any vote by show of hands.

Same

(2.1) Despite any provision of this Act and the regulations, where a meeting of shareholders is held by telephonic or electronic means in accordance with subsection 94 (2), the chair shall conduct the vote by a show of hands or by a ballot in accordance with subsections (1) and (2), if feasible, otherwise the chair may direct voting by alternate means.

MEETINGS BY ELECTRONIC MEANS, DIRECTORS' MEETINGS

4 The operation of subsection 126 (13) of the Act is temporarily suspended and the following replacement provision is in effect during the temporary suspension period only:

Meeting by electronic means

(13) Despite any provision in the articles, by-laws or a unanimous shareholder agreement that provides otherwise, a meeting of directors or of a committee of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such a meeting by such means is deemed for the purposes of this Act to be present at that meeting.

5 The operation of subsection 154 (1) of the Act is temporarily suspended and the following replacement provision is in effect during the temporary suspension period only:

Information to be laid before annual meeting

(1) For an annual meeting of shareholders held on a date that is in the period that begins on March 17, 2020 and ends on the 120th day after the day the declared emergency is terminated, the directors shall place before the meeting,

- (a) in the case of a corporation that is not an offering corporation, financial statements for the period that began on the date the corporation came into existence and ended before the annual meeting or, if the corporation has completed a financial year, the period that began immediately after the end of the last completed financial year and ended before the annual meeting;
- (b) in the case of a corporation that is an offering corporation, the financial statements required to be filed under the *Securities Act* and the regulations thereunder relating separately to,
 - (i) the period that began on the date the corporation came into existence and ended before the annual meeting or, if the corporation has completed a financial year, the period that began immediately after the end of the last completed financial year and ended before the annual meeting, and
 - (ii) the immediately preceding financial year, if any;
- (c) the report of the auditor, if any, to the shareholders; and
- (d) any further information respecting the financial position of the corporation and the results of its operations required by the articles, the by-laws or any unanimous shareholder agreement.

2020, c. 7, Sched. 2, s. 7.

Note: On a day to be named by proclamation of the Lieutenant Governor, the Schedule to the Act is repealed. (See: 2020, c. 7, Sched. 2, s. 8)

Section Amendments with date in force (d/m/y)

2020, c. 7, Sched. 2, s. 7 - 17/03/2020; 2020, c. 7, Sched. 2, s. 8 - not in force

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