

chapter S-28

ACT RESPECTING CORPORATIONS FOR THE DEVELOPMENT OF QUÉBEC BUSINESS FIRMS

Repealed, 1985, c. 36, s. 2.
1985, c. 36, s. 2.

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REPEAL SCHEDULE

DIVISION I

INTERPRETATION

1. *In this act and in the regulations, unless the context indicates a different meaning,*

(a) “corporation” means a corporation for the development of Québec business firms constituted in accordance with this act;

(b) “officer” means the chairman of the board of directors, the president, the vice-president, the secretary, the treasurer, the managing director and the general manager;

(c) “Minister” means the Minister of Industry and Commerce;

(d) “regulation” means a regulation made under this act by the Government.

1976, c. 33, s. 1; 1979, c. 77, s. 27; 1984, c. 36, s. 44.

DIVISION II

APPLICATION OF THE COMPANIES ACT

2. *Unless otherwise provided in this act, Part I of the Companies Act (chapter C-38) applies to the corporations.*

1976, c. 33, s. 2.

DIVISION III

INCORPORATION

3. *The Inspector General of Financial Institutions may, with the consent of the Minister, grant letters patent under his hand and seal to at least ten persons who apply for incorporation.*

If the Minister gives his consent, the Inspector General shall grant the letters patent.

1976, c. 33, s. 3; 1981, c. 9, s. 24; 1982, c. 52, s. 249.

4. *Such letters patent incorporate the persons who have signed the application and the memorandum of agreement, the other subscribers to such memorandum and those who subsequently become shareholders of the corporation.*

1976, c. 33, s. 4.

5. *Unless otherwise provided in this act, the letters patent are obtained in accordance with the formalities and rules provided in Part I of the Companies Act, which applies mutatis mutandis.*

1976, c. 33, s. 5.

6. *The Inspector General of Financial Institutions shall ascertain, before issuing the letters patent, that the subscribers to the memorandum of agreement have undertaken to subscribe an amount of \$1 000 000 to the capital stock of the corporation and, subject to the provisions that follow, that they have actually paid \$350 000 in trust for the account of the proposed corporation; the balance to be paid, on call, during the five years after the date of issue of the letters patent.*

1976, c. 33, s. 6; 1981, c. 9, s. 24; 1982, c. 52, s. 251.

7. *Every subscription to the capital stock of a corporation before it is issued a registration certificate by the Minister in accordance with Division VII, shall be made with the reservation that no sum of money paid for such purpose shall serve to pay any commission or any costs of organization or incorporation beyond a given percentage, which shall not exceed fifteen per cent of the amount paid.*

The sums so paid, less the above mentioned costs, must be deposited in a bank or a trust company in Québec, or in a savings and credit union that is a registered institution under the Deposit Insurance Act (chapter A-26), until the Minister issues the registration certificate.

1976, c. 33, s. 7.

8. *Every subscription before a registration certificate is issued to the corporation is made with the reservation that if the certificate is refused, the amounts paid by the subscribers other than the applicants shall be refunded to them in full.*

1976, c. 33, s. 8.

9. *Except where authorized by the Minister, no person is entitled to solicit or accept any subscription to the capital stock of a corporation, or payments pertaining thereto until such corporation has obtained its registration certificate.*

Every person who solicits subscriptions to the capital stock of a corporation in formation must hold a certificate issued by at least two of the applicants attesting that he is authorized thereto; a certified copy of such certificate must be forwarded to the Minister.

This section does not have the effect of exempting the soliciting of subscriptions to the capital stock from the relevant provisions of the Securities Act (chapter V-1.1).

1976, c. 33, s. 9.

10. *Where the Minister finds that a person has contravened any of sections 7 to 9, he may, after giving him an opportunity to be heard, suspend such person's right to accept subscriptions to the capital stock of the corporation in formation, or payments pertaining thereto.*

1976, c. 33, s. 10.

11. *A corporation must include the sigla "SODEQ" or the words "Corporation for the development of Québec business firms" in its name.*

No other corporation or company may include or use the said sigla or words in its name.

1976, c. 33, s. 11.

12. *The objects of a corporation shall be mainly the investment of capital in small and medium sized manufacturing firms and management assistance for undertakings of that category. Such objects must be set forth in the application.*

The criteria for determining whether a firm is a small or medium sized manufacturing firm are prescribed by regulation.

1976, c. 33, s. 12.

13. *Letters patent or supplementary letters patent shall not contain any provision limiting the number of shareholders.*

1976, c. 33, s. 13.

14. *Subject to the Companies Act, no by-law of the corporation changing the name, head office or number of directors of the corporation shall come into force unless approved by the Minister.*

1976, c. 33, s. 14.

DIVISION IV

CAPITAL STOCK

15. *The authorized capital stock shall consist only of common shares without par value; all shares must entail the same rights for each holder.*

1976, c. 33, s. 15.

16. *Shares must be paid in cash and only fully paid shares shall be issued.*

1976, c. 33, s. 16.

17. *The letters patent must indicate the maximum total price for which shares may be issued.*

1976, c. 33, s. 17.

18. *The directors may, by resolution, increase the maximum total price for which the shares may be issued; such resolution shall come into force only on approval by the Minister and payment of the exigible duties to the Inspector General of Financial Institutions.*

1976, c. 33, s. 18; 1981, c. 9, s. 24; 1982, c. 52, s. 251.

19. *The Government may, by regulation, determine the maximum total price of each issue of the shares of a corporation.*

1976, c. 33, s. 19.

DIVISION V

SHARE CERTIFICATES

20. *Every share certificate must mention that if a certain number of the issued shares are cancelled or fully or partly repaid by supplementary letters patent or its registration certificate is revoked or cancelled, the corporation is bound to pay immediately to the Minister of Revenue a sum corresponding to the whole or part of the tax credit granted the shareholders of the corporation in accordance with section 1163 of the Taxation Act.*

1976, c. 33, s. 20.

21. *The issue of bearer share certificates is prohibited.*

1976, c. 33, s. 21.

DIVISION VI

BOARD OF DIRECTORS

22. *A board of directors shall be composed of not less than five members.*

1976, c. 33, s. 22.

23. *A director may be dismissed by a resolution passed by a two-thirds majority of the shares represented by the persons attending a special general meeting of the shareholders called for that purpose.*

1976, c. 33, s. 23.

DIVISION VII

REGISTRATION

24. *No corporation may commence operations unless it is registered with the Minister in accordance with this act.*

1976, c. 33, s. 24.

25. *The Minister may issue a registration certificate to the corporation if, in his opinion, it has complied with the law and the regulations. For such purpose, the Minister may require the filing of any document if he believes it might enlighten him on the advisability of issuing a certificate.*

1976, c. 33, s. 25.

26. *A register called the “SODEQ register” shall be kept in the Minister’s office for the registry of all corporations obtaining a registration certificate.*

The entry for each corporation shall indicate:

- (a) the name;*
- (b) the date of registration;*
- (c) the location of the head office;*
- (d) any other details the Minister deems useful.*

1976, c. 33, s. 26.

27. *The registration certificate must be in the form determined by the Minister and must be issued over his signature to the registered corporation.*

The certificate shall indicate in particular:

- (a) the name of the corporation;*
- (b) the date of registration.*

1976, c. 33, s. 27.

28. *The Minister may cancel the certificate of the corporation if he is satisfied that:*

- (a) it obtained the certificate fraudulently or by furnishing false information or documents;*
- (b) it was incorporated for an unlawful object, or it is insolvent;*
- (c) it is neglectful of its obligations or fails to comply with the acts and regulations applicable to it;*
- (d) it no longer meets the objects corporations must pursue generally or the requirements for obtaining a registration certificate; or*
- (e) it did not comply within thirty days with a request of the Minister to rectify an irregularity.*

The corporation shall be advised of the cancellation of its registration certificate by registered or certified mail addressed to its head office.

1976, c. 33, s. 28.

29. *Upon its registration certificate's being cancelled, the corporation shall cease operations until supplementary letters patent are issued to it pursuant to section 43 or section 44.*

1976, c. 33, s. 29.

30. *The registration certificate of the corporation becomes null plenejure upon:*

(a) its dissolution;

(b) the passing of a resolution ordering its own winding-up or the distribution of its assets to its shareholders in any manner;

(c) the rendering of an order of liquidation against it by a competent court;

(d) the obtaining of supplementary letters patent pursuant to section 43.

In addition to the stipulations of the Winding-up Act, every corporation having decided to wind-up must give notice thereof to the Minister and send him a certified copy of the resolution passed for that purpose by the general meeting of its shareholders.

1976, c. 33, s. 30.

31. *The Minister shall inform the Minister of Revenue on issuing or cancelling the registration certificate of any corporation.*

1976, c. 33, s. 31.

32. *Notice of the issue or cancellation of a registration certificate must be published in the Gazette officielle du Québec.*

1976, c. 33, s. 32.

DIVISION VIII

INVESTMENTS

33. *The corporation shall not invest in a small or medium sized firm unless it conforms to the following standards at the time the investment is made:*

(a) it must be a manufacturing firm whose production is mainly carried on in Québec;

(b) if it is owned by a single owner, he must reside in Québec;

(c) if it is owned by a civil or commercial partnership, the partners holding the major interest in the firm must reside in Québec;

(d) if it is a company, the majority of its voting shares must be held by persons residing in Québec;

(e) if it is a cooperative association or cooperative syndicate, the majority of its members must reside in Québec;

(f) it must conform to the criteria prescribed by regulation for determining whether a firm is a small or medium sized manufacturing firm.

The corporation may invest in a small or medium sized firm which does not conform to the standards provided in paragraph a, b, c or d if the immediate effect of the investment is to put the majority control of the firm in the hands of one or a number of residents of Québec.

1976, c. 33, s. 33.

34. *Any investment in a small or medium sized firm is also subject to the following restrictions:*

(a) subject to a corporation's right to require assignment to it of the sums insured under a life insurance policy, no property of the small or medium sized firm or of its owners or shareholders shall be encumbered by any charge or hypothec to guarantee repayment of the debt to the corporation;

(b) a corporation shall not invest in an unincorporated small or medium sized firm except by way of an unsecured loan.

1976, c. 33, s. 34.

35. *The assets of the corporation shall consist of investments for manufacturing purposes in small or medium sized firms in such proportions as may be determined by regulation. Such investments shall be in the form of an acquisition of shares by way of subscription or in the form of unsecured loans for a minimum term of five years, with a reservation allowing the borrower to repay the debt in advance, or in the form of shares.*

The corporation may, however, acquire part or all of the shares of another corporation, and that investment is not subject to any restrictions.

The corporation acquiring shares of the other corporation may make full or partial payment of them by means of shares issued by it.

1976, c. 33, s. 35; 1983, c. 28, s. 62.

36. *Subject to its obligation to conform to the standards on investment in small or medium sized firms as provided in the preceding sections, the corporation may invest the balance of its assets in any manner.*

1976, c. 33, s. 36; 1983, c. 28, s. 63.

37. *A corporation is forbidden to make an investment:*

(a) with a director, officer or employee of the corporation or with his spouse or one of his children;

(b) with an individual, his spouse or one of his children if that individual or a group including him, his spouse, or at least one of his children, is a major shareholder of the corporation;

(c) in an incorporated company which is a major shareholder of the corporation, unless that company is a bank, a savings and credit union or a trust company;

(d) in an incorporated company in which a major shareholder is:

i. an individual referred to in paragraph a;

ii. an individual who is a major shareholder of the corporation;

iii. an incorporated company that is a major shareholder of the corporation; or

iv. a group of individuals which includes an individual referred to in paragraph a.

1976, c. 33, s. 37.

38. *For the application of section 37:*

(a) a person or group of persons is deemed a major shareholder of a corporation or company if he or it controls, directly or indirectly, more than twenty per cent of the voting shares in that corporation or company, not counting shares acquired by anyone as outright subscriber on a distribution of shares to the public;

(b) a person or group of persons is deemed a major shareholder of a company if he or it holds, directly or indirectly, more than twenty per cent of the capital stock of the company;

(c) the word “investment” means any investment within the meaning of section 35, any investment in a company in the form of shares, bonds or other evidences of indebtedness of the company, and any loan;

(d) the words “voting share” mean a share conferring an absolute or a contingent right to vote.

1976, c. 33, s. 38.

39. *Every investment in contravention to section 37 is void; the directors and officers of a corporation who have made or consented to such an investment are jointly and severally liable to the corporation for any resultant loss.*

1976, c. 33, s. 39.

DIVISION IX

RETURNS

40. *At the time fixed by the regulations, every corporation shall file a detailed return with the Minister, which shall contain a description of its investments, the names and addresses of its shareholders, the number of shares they hold in the corporation, the price they paid to the corporation for their shares, and the other information and documents required by the regulations; the return and the documents to be filed with it must be in the form prescribed by regulation.*

1976, c. 33, s. 40.

41. *The fiscal year of a corporation ends on 30 June each year.*

1976, c. 33, s. 41; 1983, c. 28, s. 64.

DIVISION X

SUPPLEMENTARY LETTERS PATENT

42. *A corporation shall not obtain supplementary letters patent or surrender its charter without previous authorization by the Minister.*

1976, c. 33, s. 42.

43. *A corporation may apply to the Inspector General of Financial Institutions for supplementary letters patent so as to be governed thereafter by Part I of the Companies Act (chapter C-38).*

Such application must have the prior approval of a two-thirds majority of the persons representing at least two-thirds of the shareholders and of the issued shares of the corporation, attending a special general meeting of the shareholders called for that purpose.

The application shall be accompanied with a by-law setting out, where such is the case, the new objects of the corporation; any amendment that may be granted by supplementary letters patent to a company governed by Part I of the Companies Act may also be requested therein.

The by-law must also propose a new name, which shall not use the sigla “SODEQ” or the words “Corporation for the development of Québec business firms”.

1976, c. 33, s. 43; 1981, c. 9, s. 24; 1982, c. 52, s. 251.

44. *Within thirty days after cancellation of its registration certificate, a corporation must submit to the Inspector General of Financial Institutions the application referred to in section 43.*

On the corporation’s failure to comply with the above provisions, the Inspector General of Financial Institutions shall, ex officio, issue supplementary letters patent changing the name of the corporation and converting it into a company governed by Part I of the Companies Act (chapter C-38).

1976, c. 33, s. 44; 1981, c. 9, s. 24; 1982, c. 52, s. 250, s. 251.

45. *The Inspector General of Financial Institutions, on issuing the supplementary letters patent referred to in sections 43 and 44, shall give notice thereof in the Gazette officielle du Québec in such form as he may prescribe. Subject to such publication, but from the date of the supplementary letters patent, the corporation shall cease to be governed by this act and become subject to Part I of the Companies Act (chapter C-38).*

1976, c. 33, s. 45; 1981, c. 9, s. 24; 1982, c. 52, s. 251.

DIVISION XI

REGULATIONS

46. *In addition to its other regulative powers under this act, the Government may make regulations to:*

(a) determine the qualifications required of any corporation applying for a registration certificate, the conditions it must fulfil and the information it must supply;

(b) determine the maximum percentage of the portfolio which may be invested in the same firm and the maximum percentage of the capital stock of a firm which may be held by a corporation;

(c) determine or alter classes of allowable investments and standards governing size and characteristics applicable to each class, in particular, the maximum number of employees and the maximum value of the assets of a small or medium sized firm in which a corporation may invest;

(d) prescribe the form of the returns to be filed by a corporation, the information to be supplied in them, the time when they are to be filed and the penalties applicable in case of default;

(e) determine the number of corporations that may be established in each region of Québec and make an adequate distribution of them across Québec;

(f) determine the maximum percentage of shares that a person and persons related to him may hold in a corporation;

(g) adopt criteria for determining whether a firm is a small or medium sized manufacturing firm;

(h) fix the fees and duties payable to the Minister on his doing anything under this act, and establish a graduated scale of fees corresponding to the various kinds of corporations, the amount of their capital stock and their other characteristics.

1976, c. 33, s. 46.

47. *Every regulation made by the Government under this act shall come into force on the date of its publication in the Gazette officielle du Québec or on any later date fixed therein.*

1976, c. 33, s. 47.

48. *The Minister has charge of the application of this Act.*

1976, c. 33, s. 48.

DIVISION XII

SPECIAL PROVISION

49. *This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).*

1982, c. 21, s. 1.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 33 of the statutes of 1976, in force on 31 December 1977, is repealed, except section 51, effective from the coming into force of chapter S-28 of the Revised Statutes.

