

Not-for-Profit Corporations Act, 2010

S.O. 2010, CHAPTER 15

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PART I

INTERPRETATION, APPLICATION AND ADMINISTRATION

Definitions

1 (1) In this Act,

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

“affiliate” means an affiliated body corporate within the meaning of subsection 3 (3); (“membre du même groupe”)

“articles” means any instrument that incorporates a corporation or modifies its incorporating instrument, including articles of incorporation, 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 or a special Act; (“statuts”)

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

“body corporate” means any body corporate, with or without share capital and whether or not this Act applies to it; (“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 of the corporation,
- (b) in relation to a document issued by the court, a copy of the document certified to be a true copy under the seal of the court and signed by the registrar of the court,
- (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 a public servant employed under Part III of the *Public Service of Ontario Act, 2006* and designated by the regulations; (“copie certifiée conforme”)

“charitable corporation” means a corporation incorporated for the relief of poverty, the advancement of education, the advancement of religion or other charitable purpose, and “non-charitable corporation” means a corporation that is not a charitable corporation; (“organisation caritative”, “organisation non caritative”)

“corporation” means a body corporate without share capital to which this Act applies; (“organisation”)

“court” means the Superior Court of Justice except where the context requires otherwise; (“tribunal”)

“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 6; (“directeur”)

“director” means an individual occupying the position of director of a corporation by whatever name he or she is called; (“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,
- (a) imprinting a stamp on the face of articles or other document 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 year”, in respect of a corporation, means the annual period that the corporation establishes for accounting purposes; (“exercice”)
- “incorporator” means a person who signs or otherwise authorizes articles of incorporation; (“fondateur”)
- “individual” means a natural person, other than a natural person in his or her capacity as trustee, executor, administrator or other legal representative; (“particulier”)
- “liability” includes a debt of a corporation arising under subsection 187 (25); (“passif”)
- “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”)
- “officer”, in respect of a corporation, means an officer of the corporation appointed under clause 42 (1) (a), including,
- (a) the chair of the board of directors of the corporation and a vice-chair of the board of directors of the corporation,
 - (b) the president, a vice-president, the secretary, an assistant secretary, the treasurer, an assistant treasurer and the general manager of the corporation, and
 - (c) any other individual who performs functions for the corporation similar to those normally performed by an individual listed in clause (a) or (b); (“dirigeant”)
- “ordinary resolution” means a resolution that,
- (a) is submitted to a meeting of the members of a corporation and passed at the meeting, with or without amendment, by at least a majority of the votes cast, or
 - (b) is consented to by each member of the corporation entitled to vote at a meeting of the members of the corporation or the member’s attorney; (“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”)
- “prescribed” means prescribed by the regulations made under this Act; (“prescrit”)
- “public benefit corporation” means,
- (a) a charitable corporation, or
 - (b) a non-charitable corporation that receives more than \$10,000 or other prescribed amount in a financial year,
 - (i) in the form of donations or gifts from persons who are not members, directors, officers or employees of the corporation, or
 - (ii) in the form of grants or similar financial assistance from the federal government or a provincial or municipal government or an agency of any such government; (“organisation d’intérêt public”)
- “registered office” means the registered office of a corporation at the address set out in its articles or as specified in the notice or return most recently filed by the corporation under the *Corporations Information Act*, whichever is more current; (“siège”)
- “regulations” means the regulations made under this Act; (“règlements”)
- “special resolution” means a resolution that,
- (a) is submitted to a special meeting of the members of a corporation duly called for the purpose of considering the resolution and passed at the meeting, with or without amendment, by at least two-thirds of the votes cast, or
 - (b) consented to by each member of the corporation entitled to vote at a meeting of the members of the corporation or the member’s attorney; (“résolution extraordinaire”)
- “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 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, automated touch-tone telephone system, computer or computer networks. (“moyen de communication téléphonique ou électronique”) 2010, c. 15, s. 1 (1); 2016, c. 23, s. 60; 2017, c. 20, Sched. 8, s. 1 (1-8).

Deeming re public benefit corporation

(2) Despite the definition of “public benefit corporation” in subsection (1), if a non-charitable corporation that is not a public benefit corporation at the beginning of a financial year receives donations, gifts, grants or similar financial assistance as described in that definition in that financial year,

- (a) the non-charitable corporation is deemed to not be a public benefit corporation in that financial year; and
- (b) the non-charitable corporation is deemed to be a public benefit corporation in the next financial year, as of the date of the first annual meeting of members in that next financial year. 2010, c. 15, s. 1 (2).

Predecessor Act

(3) In this or any other Act, a reference to a predecessor of the *Not-for-Profit Corporations Act, 2010* is a reference to the *Corporations Act*, and any predecessor of the *Corporations Act*, as they applied to a body corporate without share capital that was not governed by Part V of the *Corporations Act* or any predecessor of Part V of the *Corporations Act*. 2017, c. 20, Sched. 8, s. 1 (9).

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

2016, c. 23, s. 60 (1-3) - 19/10/2021

2017, c. 20, Sched. 8, s. 1 (1-9) - 19/10/2021

Interpretation re period of days

2 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. 2010, c. 15, s. 2.

Interpretation re corporate relationships

Subsidiary body corporate

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

- (a) it is controlled by,
 - (i) that other body corporate,
 - (ii) that other body corporate and one or more bodies corporate each of which is controlled by that other body corporate, or
 - (iii) two or more bodies corporate each of which is controlled by that other body corporate; or
- (b) it is a subsidiary of a body corporate that is that other body corporate’s subsidiary. 2010, c. 15, s. 3 (1).

Holding body corporate

(2) For the purposes of this Act, a body corporate is deemed to be another body corporate’s holding body corporate if, but only if, that other body corporate is its subsidiary. 2010, c. 15, s. 3 (2).

Affiliated body corporate

(3) For the purposes of this Act, one body corporate is 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. 2010, c. 15, s. 3 (3).

Control

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

- (a) shares or memberships of the first-mentioned body corporate to which are attached more than 50 per cent of the votes that may be cast to elect directors of that body corporate 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 attached to those shares or memberships are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate. 2010, c. 15, s. 3 (4).

Application

4 (1) This Act applies, except where it is otherwise expressly provided, to,

- (a) every body corporate without share capital incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) every body corporate without share capital incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its registered office and carries on its activities in Ontario and that was incorporated with purposes that are within the legislative authority of the Province of Ontario; and
- (c) every body corporate without share capital incorporated by or under a general or special Act of the Legislature. 2010, c. 15, s. 4 (1).

Same, corporations sole

(1.1) This Act does not apply, except as is prescribed, to,

- (a) a body corporate incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada as a corporation sole;
- (b) a body corporate incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its registered office and carries on its activities in Ontario and that was incorporated with purposes that are within the legislative authority of the Province of Ontario as a corporation sole; or
- (c) a body corporate incorporated by or under a general or special Act of the Legislature as a corporation sole. 2017, c. 20, Sched. 8, s. 2 (1).

Non-application

(2) This Act does not apply to,

- (a) a body corporate without share capital to which the *Co-operative Corporations Act* or Part V of the *Corporations Act* applies; or
- (b) a body corporate incorporated for the construction and working of a railway, an incline railway or a street railway. 2017, c. 20, Sched. 8, s. 2 (2).

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

2017, c. 20, Sched. 8, s. 2 (1, 2) - 19/10/2021

Execution of documents

4.1 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 persons, and such documents, when duly executed by all persons required or permitted, as the case may be, to do so, are deemed to constitute one document for the purposes of this Act. 2017, c. 20, Sched. 8, s. 3.

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

2017, c. 20, Sched. 8, s. 3 - 19/10/2021

Conflict with other law

5 (1) If there is a conflict between a provision that applies to a body corporate without share capital in this Act or in a regulation and a provision that applies to the body corporate in any other Act or in a regulation made under it, the provision in the other Act or regulation prevails. 2017, c. 20, Sched. 8, s. 4.

Charities law prevails

(2) If a provision in this Act or in a regulation that applies to a charitable corporation conflicts with a law relating to charities, the law relating to charities prevails, regardless of whether it is a provision in another Act, a regulation made under it or a rule or principle of common law or equity. 2017, c. 20, Sched. 8, s. 4.

Inconsistent with intent or purpose

(3) A provision in this Act or in a regulation does not apply to a body corporate without share capital to the extent that it is inconsistent with the intent or purpose of another Act or a regulation made under it that applies to the body corporate without share capital. 2017, c. 20, Sched. 8, s. 4.

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

2017, c. 20, Sched. 8, s. 4 - 19/10/2021

Appointment of Director

6 The Minister shall appoint a Director to carry out the duties and exercise the powers of the Director under this Act. 2017, c. 20, Sched. 8, s. 5.

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

PART II INCORPORATION

Articles of incorporation

7 (1) One or more individuals or bodies corporate, or any combination of them, may incorporate a corporation by filing articles of incorporation and any other required documents and information with the Director. 2017, c. 20, Sched. 8, s. 6.

Limitation

- (2) An individual cannot incorporate a corporation if he or she,
- (a) is under 18 years old;
 - (b) has been found under the *Substitute Decisions Act, 1992* or the *Mental Health Act* to be incapable of managing property;
 - (c) has been found to be incapable by any court in Canada or elsewhere; or
 - (d) has the status of bankrupt. 2010, c. 15, s. 7 (2).

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

2017, c. 20, Sched. 8, s. 6 - 19/10/2021

Form and contents of articles

8 (1) Articles of incorporation must set out the name of the corporation, its purposes and any other information required by this Act or the regulations or by the Director. 2010, c. 15, s. 8 (1).

Purposes of a corporation

(2) Subject to any restrictions in the regulations, the purposes of a corporation may be any purposes within the legislative authority of the Province of Ontario. 2010, c. 15, s. 8 (2).

Same

(3) If any of the purposes of a corporation are of a commercial nature, the articles must state that the commercial purpose is intended only to advance or support one or more of the non-profit purposes of the corporation. 2010, c. 15, s. 8 (3).

Provisions in articles

(4) The articles may set out any provisions permitted by this Act or other law to be set out in the by-laws of the corporation. 2010, c. 15, s. 8 (4).

Articles inconsistent with Act

(5) Subject to subsection (6), if a provision in a corporation's articles that were endorsed under this Act is inconsistent with a provision in this Act or the regulations, the provision in this Act or the regulations prevails and the articles are deemed to be amended accordingly. 2010, c. 15, s. 8 (5); 2017, c. 20, Sched. 8, s. 7.

Where articles prevail over Act

(6) If a corporation's articles require a greater number of votes of directors or members of the corporation to effect any action than are required by this Act, the provisions of the articles prevail, but this subsection does not apply to a provision in the articles that requires a greater number of votes to remove a director than the number required by section 26. 2010, c. 15, s. 8 (6).

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

2017, c. 20, Sched. 8, s. 7 - 19/10/2021

Certificate of incorporation

9 (1) Upon receipt of the articles of incorporation, together with any required documents and information and the required fee, the Director shall issue a certificate of incorporation by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of incorporation. 2017, c. 20, Sched. 8, s. 8.

Same

(2) A certificate of incorporation is conclusive proof that the corporation has been incorporated under this Act on the date set out in the certificate, unless the certificate of incorporation is cancelled under section 169 as of the same date. 2010, c. 15, s. 9 (2).

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

2017, c. 20, Sched. 8, s. 8 - 19/10/2021

Assignment of corporation number

10 (1) The Director shall assign a number to each corporation upon its incorporation and that number shall be specified as the corporation number on the certificate of incorporation and on any other certificate relating to the corporation endorsed or issued by the Director. 2010, c. 15, s. 10 (1); 2017, c. 20, Sched. 8, s. 9 (1).

Changing corporation number

(2) If, through inadvertence or otherwise, the Director has assigned to a corporation a corporation number that is the same as the corporation number of any other corporation previously assigned, the Director may, without holding a hearing, change the corporation number assigned to the corporation, and any certificate subsequently endorsed for the corporation under this Act must bear its new corporation number. 2017, c. 20, Sched. 8, s. 9 (2).

Reissue of certificate of incorporation or amalgamation

(2.1) If a new corporation number is assigned to a corporation under subsection (2), 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. 2017, c. 20, Sched. 8, s. 9 (2).

Same

(3) If the Director issues a certificate that sets out the corporation number incorrectly, the Director may issue a corrected certificate that bears the date of the certificate it replaces. 2010, c. 15, s. 10 (3).

Assignment of corporation numbers to bodies corporate

(4) 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. 8, s. 9 (3).

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

2017, c. 20, Sched. 8, s. 9 (1) - 14/11/2017; 2017, c. 20, Sched. 8, s. 9 (2, 3) - 19/10/2021

Rules re name of corporation

Prohibitions

11 (1) A corporation may not have a name,

- (a) that contains a word or expression prohibited by the regulations;
- (b) that is the same as or similar to,
 - (i) the name of a known body corporate, trust, association, partnership, sole proprietorship or 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 activities or identifies itself,

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

- (c) that does not meet the prescribed requirements. 2010, c. 15, s. 11 (1).

Language

(2) Subject to 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. 15, s. 11 (2).

Same

(3) A corporation that has a name that is described in clause (2) (d) may be legally designated by its English name or its French name. 2010, c. 15, s. 11 (3).

Other restrictions

(4) Only letters from the Roman alphabet or Arabic numerals, or a combination of them, together with punctuation marks and other marks that are permitted by regulation, may form part of the name of a corporation. 2010, c. 15, s. 11 (4).

Exception

(5) A corporation may have a name described in clause (1) (b) upon complying with the prescribed requirements. 2010, c. 15, s. 11 (5).

Use of name

(6) Subject to this Act and the regulations, a corporation may use its name in the form and language permitted by its articles. 2010, c. 15, s. 11 (6).

Change of name if objectionable

12 (1) If a corporation, through inadvertence or otherwise, has acquired a name that contravenes section 11, the Director, after giving the corporation an opportunity to be heard, may issue a certificate of amendment to the articles changing the name of the corporation to the name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly. 2010, c. 15, s. 12 (1).

Written hearing

(2) A hearing referred to in subsection (1) shall be a written hearing in accordance with the rules made by the Director under the *Statutory Powers Procedure Act*. 2010, c. 15, s. 12 (2).

Corporate seal

13 A corporation may have a corporate seal, but is not required to have one. 2010, c. 15, 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). 2010, c. 15, s. 14 (1).

Same

(2) The head office of every corporation incorporated before the day this section comes into force is deemed to be the registered office of the corporation. 2010, c. 15, s. 14 (2).

Change of location

(3) A corporation may change the location of its registered office within a municipality or geographic township by resolution of its directors. 2010, c. 15, s. 14 (3).

Change of municipality, etc.

(4) A corporation may change the municipality or geographic township in which its registered office is located to another place in Ontario by special resolution. 2010, c. 15, s. 14 (4).

PART III CAPACITY AND POWERS

Capacity, etc., of a natural person

15 (1) A corporation has the capacity and, subject to this Act, the rights, powers and privileges of a natural person. 2010, c. 15, s. 15 (1).

Capacity to act outside Ontario

(2) A corporation has the capacity to carry on its activities, conduct its affairs and exercise its powers in a jurisdiction outside Ontario to the extent that the laws of that jurisdiction permit. 2010, c. 15, s. 15 (2).

By-law not required to confer power

16 (1) It is not necessary for a by-law to be passed in order to confer any particular power on a corporation or its directors. 2010, c. 15, s. 16 (1).

Restricted activities and powers

(2) A corporation shall not carry on any activity 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. 2017, c. 20, Sched. 8, s. 10 (1).

Act not invalid if contrary to articles, etc.

(3) No act of a corporation, including any transfer of property to or by a corporation, is invalid by reason only that the act is contrary to its articles, by-laws or this Act. 2010, c. 15, s. 16 (3); 2017, c. 20, Sched. 8, s. 10 (2).

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

2017, c. 20, Sched. 8, s. 10 (1, 2) - 19/10/2021

By-laws

17 (1) Unless the articles or the by-laws otherwise provide, the directors may by resolution make, amend or repeal any by-law that regulates the activities or affairs of the corporation, except in respect of a matter referred to in clause 103 (1) (g), (k) or (l). 2010, c. 15, s. 17 (1); 2017, c. 20, Sched. 8, s. 11.

Member approval

(2) The directors shall submit the by-law, amendment or repeal to the members at the next meeting of the members, and the members may confirm, reject or amend the by-law, amendment or repeal by ordinary resolution. 2010, c. 15, s. 17 (2).

Effective date

(3) Subject to subsection (5), the by-law, amendment or repeal is effective from the date of the resolution of the directors. If the by-law, amendment or repeal is confirmed or confirmed as amended by the members, it remains effective in the form in which it was confirmed. 2010, c. 15, s. 17 (3).

Ceasing to have effect

(4) The by-law, amendment or repeal ceases to have effect if it is not submitted by the directors to the members as required under subsection (2) or if it is rejected by the members. 2010, c. 15, s. 17 (4).

Subsequent resolution

(5) If a by-law, amendment or repeal ceases to have effect, a subsequent resolution of the directors that has substantially the same purpose or effect is not effective until it is confirmed or confirmed as amended by the members. 2010, c. 15, s. 17 (5).

Member proposal

(6) A member entitled to vote at an annual meeting of the members may make a proposal to make, amend or repeal a by-law in accordance with section 56. 2010, c. 15, s. 17 (6).

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

2017, c. 20, Sched. 8, s. 11 - 19/10/2021

Default organizational by-laws

18 (1) If the directors do not pass an organizational by-law within 60 days after the date of incorporation, the corporation is deemed to have passed the standard organizational by-laws approved by the Ministry. 2010, c. 15, s. 18 (1); 2017, c. 20, Sched. 8, s. 12 (1).

Where available

(2) The Ministry shall approve standard organizational by-laws and shall make them publicly available on a website designated by the Ministry, or as prescribed. 2017, c. 20, Sched. 8, s. 12 (2).

Corporation may amend or replace default organizational by-laws

(3) If a corporation is deemed to have passed standard organizational by-laws under subsection (1), it may amend or repeal and replace them at any time. 2010, c. 15, s. 18 (3).

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

2017, c. 20, Sched. 8, s. 12 (1, 2) - 19/10/2021

Indoor management rule

19 (1) 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 or by-laws have not been complied with;
- (b) the persons named as directors in the articles or in the most recent notice or return filed under the *Corporations Information Act*, whichever is more current, are not the directors of the corporation;
- (c) the location named as the registered office in the articles or in the most recent notice or return filed under the *Corporations Information Act*, whichever is more current, is not the registered office of the corporation;
- (d) a person held out by the corporation as a director, officer or 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 activities of the corporation or usual for such director, officer or agent;
- (e) a document issued by any director, officer or agent of the 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 section 118 was not authorized. 2010, c. 15, s. 19 (1).

Exception

(2) Subsection (1) does not apply in respect of a person who has or ought to have knowledge that an assertion described in that subsection is true by virtue of the person's position with or relationship to the corporation. 2010, c. 15, s. 19 (2).

Contract prior to corporate existence

Person who enters contract is bound

20 (1) Except as provided in this section, a person who enters into a 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 under the contract. 2010, c. 15, s. 20 (1).

Adoption of contract by corporation

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

- (a) the corporation is bound by the contract and is entitled to the benefits under the contract as if the corporation had been in existence at the date of the contract and had been a party to it; 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 under the contract. 2010, c. 15, s. 20 (2).

Determination of respective liabilities by court

(3) Except as provided in subsection (4), whether or not a corporation adopts a contract made before the corporation came into existence, a party to the contract may apply to the 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. 2010, c. 15, s. 20 (3).

Exception

(4) If expressly so provided in the contract, 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 under it. 2010, c. 15, s. 20 (4).

Right to amend, assign or terminate contract

(5) Until a corporation adopts a contract made before it came into existence, a 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. 2010, c. 15, s. 20 (5).

Definition

(6) In this section,

“contract” includes an oral contract. 2010, c. 15, s. 20 (6).

PART IV DIRECTORS AND OFFICERS

Directors to manage or supervise management of corporation

21 Subject to this Act, the directors of a corporation shall manage or supervise the management of the activities and affairs of the corporation. 2010, c. 15, s. 21.

Number of directors

22 (1) A corporation must have at least three directors. 2010, c. 15, s. 22 (1).

Minimum and maximum number of directors

(2) If a corporation’s articles provide for a minimum and maximum number of directors, the number of directors of the corporation and the number of directors to be elected at the annual meeting of the members must be the number determined from time to time by special resolution or, if a special resolution empowers the directors to determine the number, by resolution of the directors. A decrease in the number of directors does not shorten the term of an incumbent director. 2010, c. 15, s. 22 (2).

Same

(3) If a corporation’s articles provide for a minimum and maximum number of directors and a special resolution as described in subsection (2) has not been passed, the number of directors of the corporation must be the number of directors named in its articles. 2010, c. 15, s. 22 (3).

Qualifications of directors

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

1. A person who is not an individual.
2. A person who is under 18 years old.

3. A person who has been found under the *Substitute Decisions Act, 1992* or under the *Mental Health Act* to be incapable of managing property.
4. A person who has been found to be incapable by any court in Canada or elsewhere.
5. A person who has the status of bankrupt. 2010, c. 15, s. 23 (1).

Non-member directors

(2) A director of a corporation is not required to be a member of the corporation unless the by-laws provide otherwise. 2010, c. 15, s. 23 (2).

Restriction re public benefit corporation

(3) Not more than one-third of the directors of a public benefit corporation may be employees of the corporation or of any of its affiliates. 2010, c. 15, s. 23 (3).

Directors by virtue of office

(4) The by-laws of a corporation may provide for persons to be directors by virtue of their office. 2010, c. 15, s. 23 (4).

No alternate directors

(5) No person shall act for an absent director at a meeting of directors. 2010, c. 15, s. 23 (5).

Election and appointment of directors

Election and term

24 (1) At the first meeting of the members and at each succeeding annual meeting at which an election of directors is required, the members shall, by ordinary resolution, elect directors to hold office for a term expiring not later than the close of the fourth annual meeting of the members after the election, as provided in the by-laws. 2010, c. 15, s. 24 (1).

Term, first directors

(2) Each first director holds office from the issue of the certificate of incorporation until the close of the first meeting of the members. 2010, c. 15, s. 24 (2).

Different terms of office

(3) It is not necessary that all directors elected at a meeting of the members hold office for the same term. 2010, c. 15, s. 24 (3).

No stated term of office

(4) A director not elected for an expressly stated term ceases to hold office at the close of the next annual meeting of the members. 2010, c. 15, s. 24 (4).

Incumbents remain in office until successors elected

(5) If directors are not elected at a meeting of the members, the incumbent directors continue in office until their successors are elected. 2010, c. 15, s. 24 (5).

Vacancy, quorum

(6) If a meeting of the members fails to elect the number or the minimum number of directors required by the articles, the directors elected at that meeting may exercise all the powers of the directors if the number of directors so elected constitutes a quorum. 2010, c. 15, s. 24 (6).

Appointment of additional directors

(7) The directors may appoint one or more additional directors who shall hold office for a term expiring not later than the close of the next annual meeting of the members, but the total number of directors so appointed may not exceed one-third of the number of directors elected at the previous annual meeting of the members. 2010, c. 15, s. 24 (7).

Director's consent to act

(8) An individual who is elected or appointed to hold office as a director is not a director, and is deemed not to have been elected or appointed to hold office as a director, unless the individual consents in writing to hold office as a director before or within 10 days after the election or appointment. 2010, c. 15, s. 24 (8); 2017, c. 20, Sched. 8, s. 13.

Later consent

(9) Despite subsection (8), if an individual elected or appointed consents in writing after the period mentioned in that subsection, the election or appointment is valid. 2010, c. 15, s. 24 (9).

Exception

(10) Subsection (8) does not apply to a director who is re-elected or reappointed where there is no break in his or her term of office. 2010, c. 15, s. 24 (10).

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

2017, c. 20, Sched. 8, s. 13 - 19/10/2021

Ceasing to hold office

25 (1) A director ceases to hold office when the director dies, resigns, is removed in accordance with section 26 or becomes disqualified under section 23. 2010, c. 15, s. 25 (1).

Effective date of resignation

(2) A resignation of a director becomes effective at the time the resignation is received by the corporation or at the time specified in the resignation, whichever is later. 2010, c. 15, s. 25 (2).

Removal of directors

26 (1) The members of a corporation may, by ordinary resolution at a special meeting, remove from office any director or directors, except persons who are directors by virtue of their office. 2010, c. 15, s. 26 (1).

Director elected by class or group of members

(2) A director elected by a class or group of members that has an exclusive right to elect the director may only be removed by an ordinary resolution of members of that class or group. 2010, c. 15, s. 26 (2).

Filling vacancy

(3) A vacancy created by the removal of a director may be filled at the meeting of the members at which the director is removed or under section 28. 2010, c. 15, s. 26 (3).

Statement of director

27 (1) Subject to the by-laws, a director is entitled to give the corporation a statement giving reasons,

(a) for resigning; or

(b) for opposing his or her removal as a director if a meeting is called for the purpose of removing him or her. 2010, c. 15, s. 27 (1).

Circulating director's statement

(2) A corporation shall immediately give the members a copy of the statement. 2010, c. 15, s. 27 (2).

Immunity from liability

(3) No corporation or person acting on its behalf incurs any liability by reason only of complying with this section. 2010, c. 15, s. 27 (3).

Filling vacancy

28 (1) Except as provided in this section, a quorum of directors may fill a vacancy among the directors. 2010, c. 15, s. 28 (1).

Calling members' meeting

(2) If there is not a quorum of directors or if there has been a failure to elect the number or minimum number of directors provided for in the articles, the directors then in office shall without delay call a special meeting of the members 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 member. 2010, c. 15, s. 28 (2).

Application to court

(3) If a corporation has neither directors nor members, the court may, on the application of an interested party, make an order appointing the required number or minimum number of directors provided for in the articles. 2010, c. 15, s. 28 (3).

Director elected by class or group

(4) If any class or group of members has 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 the class or group may fill the vacancy; or

(b) if there are no remaining directors elected by the class or group, any member of the class or group may call a meeting of the class or group to fill the vacancy. 2010, c. 15, s. 28 (4).

Members filling vacancy

(5) The by-laws may provide that a vacancy among the directors may be filled only by a vote of the members, or by a vote of the members of any class or group having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class or group. 2010, c. 15, s. 28 (5).

Exception

(6) A vacancy among the directors is not required to be filled if the vacancy results from an increase in the number or the minimum number of directors provided for in the articles or from a failure to elect that increased number or minimum number of directors. 2010, c. 15, s. 28 (6).

Term of replacing director

(7) A director appointed or elected to fill a vacancy holds office for the unexpired term of the director's predecessor. 2010, c. 15, s. 28 (7).

Deemed director, if all directors resign or are removed

29 (1) If all of the directors have resigned or have been removed without replacement, a person who manages or supervises the management of the activities or affairs of the corporation is deemed to be a director for the purposes of this Act. 2010, c. 15, s. 29 (1).

Exception

(2) Subsection (1) does not apply to,

- (a) an officer who manages the activities or affairs of the corporation under the direction or control of a member or other person;
- (b) a lawyer, accountant or other professional who participates in the management of the corporation solely by providing professional services;
- (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 purpose of the realization of security or, in the case of bankruptcy, the administration of a bankrupt's estate; or
- (d) the Public Guardian and Trustee managing the activities or property of a charitable corporation. 2010, c. 15, s. 29 (2).

Change in number of directors

30 (1) The members of a corporation may amend its articles to increase or decrease the number of directors, or the minimum or maximum number of directors, but a decrease shall not shorten the term of an incumbent director. 2010, c. 15, s. 30 (1).

Same

(2) If the members at a meeting adopt an amendment to the articles to increase or decrease the number or the minimum or maximum number of directors, the members may, at the meeting, elect the number of directors authorized by the amendment, and, despite subsection 108 (1), on the issue of a certificate of amendment, the articles are deemed to be amended as of the date the members adopt the amendment. 2010, c. 15, s. 30 (2); 2017, c. 20, Sched. 8, s. 14.

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

2017, c. 20, Sched. 8, s. 14 - 19/10/2021

Court review of election or appointment of director

31 (1) A corporation or a director or member of the corporation may apply to the court to determine any controversy with respect to an election or appointment of a director of the corporation. 2010, c. 15, s. 31 (1).

Powers of court

(2) On an application under this section, the court may make any order that it thinks fit, including an order,

- (a) restraining a director whose election or appointment is disputed from acting pending determination of the dispute;
- (b) declaring the result of the disputed election or appointment;
- (c) requiring a new election or appointment, and including in the order directions for the management of the activities and affairs of the corporation until a new election is held or appointment made; and
- (d) determining the voting rights of members and of persons claiming to hold memberships. 2010, c. 15, s. 31 (2).

Organizational meeting

32 (1) After incorporation, a first meeting of the directors of the corporation must be held at which the directors may,

- (a) make by-laws;
- (b) adopt forms of corporate records;
- (c) authorize the issue of debt obligations;
- (d) appoint officers;

- (e) appoint one or more auditors to hold office until the first annual or special meeting of members;
- (f) make banking arrangements;
- (g) issue memberships; and
- (h) transact any other business. 2010, c. 15, s. 32 (1).

Calling first meeting

(2) An incorporator or a director may call the first meeting of the directors by giving not less than five days notice to each director, stating the time and place of the meeting. 2010, c. 15, s. 32 (2).

Exception

(3) Any matter referred to in subsection (1) may be dealt with by the directors by a resolution in accordance with subsection 35 (1) instead of at a meeting. 2010, c. 15, s. 32 (3).

Same

(4) Subsection (1) does not apply to a body corporate that is an amalgamated corporation under section 110 or that is continued under section 114. 2010, c. 15, s. 32 (4).

Directors entitled to attend members' meetings

33 A director is entitled to attend and be heard at every meeting of the members. 2010, c. 15, s. 33.

Directors' meetings

34 (1) Unless the articles or by-laws provide otherwise, the directors may meet at any place and on any notice that the by-laws require. 2010, c. 15, s. 34 (1).

Quorum

(2) Subject to the articles or by-laws, a majority of the number of directors or the minimum number of directors required by the articles constitutes a quorum at any meeting of the directors, and, despite any vacancy among the directors, a quorum of directors may exercise all the powers of the directors. 2010, c. 15, s. 34 (2); 2017, c. 20, Sched. 8, s. 15.

Notice

(3) A notice of a meeting of directors need not specify the purpose of or the business to be transacted at the meeting, unless the meeting is intended to deal with a matter referred to in subsection 36 (2), in which case the notice must specify that matter. 2010, c. 15, s. 34 (3).

Waiver of notice

(4) A director may waive notice of a meeting of the directors, and attendance of a director at a meeting of directors is a waiver of notice of the meeting, except if the director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting was not lawfully called. 2010, c. 15, s. 34 (4).

Adjournment

(5) Notice of a meeting that continues an adjourned meeting of directors is not required to be given if the time and place of the continued meeting is announced at the meeting that is adjourned. 2010, c. 15, s. 34 (5).

Participation by electronic, etc., means

(6) Unless the by-laws provide otherwise, a director may, if all the directors of the corporation consent, participate in a meeting of the directors or of a committee of directors by telephonic or electronic means that permits all participants to communicate adequately with each other during the meeting. A director so participating in a meeting is deemed for the purposes of this Act to be present at the meeting. 2010, c. 15, s. 34 (6).

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

2017, c. 20, Sched. 8, s. 15 - 19/10/2021

Resolutions

35 (1) A resolution, signed by all the directors entitled to vote on that resolution at a meeting of directors or of a committee of directors is as valid as if it had been passed at a meeting of directors or of a committee of directors. 2010, c. 15, s. 35 (1).

Copy to be kept

(2) The corporation shall keep a copy of every resolution referred to in subsection (1) with the minutes of the meetings of the directors or of a committee of directors. 2010, c. 15, s. 35 (2).

Delegation by directors

36 (1) Directors may appoint from their number a managing director or a committee of directors and may delegate to the managing director or committee any of the powers of the directors. 2010, c. 15, s. 36 (1).

Limitation

- (2) Despite subsection (1), directors may not delegate the following powers to a managing director or committee of directors:
1. To submit to the members any question or matter requiring the approval of the members.
 2. To fill a vacancy among the directors or in the position of auditor or of a person appointed to conduct a review engagement of the corporation.
 3. To appoint additional directors.
 4. To issue debt obligations except as authorized by the directors.
 5. To approve any financial statements under section 83.
 6. To adopt, amend or repeal by-laws.
 7. To establish contributions to be made, or dues to be paid, by members under section 86. 2010, c. 15, s. 36 (2).

Validity of acts despite irregularities, etc.

37 An act of a director or an officer is valid despite an irregularity in his or her election or appointment or a defect in his or her qualification. 2010, c. 15, s. 37.

Evidence of resolution

38 Unless a ballot is demanded, an entry in the minutes of a meeting of the directors 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. 2010, c. 15, s. 38.

Directors' liability for money or property distributed or paid

39 (1) Directors who vote for or consent to a resolution authorizing either of the following are jointly and severally liable to restore to the corporation any money or property so paid or distributed and not otherwise recovered by the corporation:

1. A payment or distribution to a member, a director or an officer contrary to this Act.
2. A payment of an indemnity contrary to this Act. 2010, c. 15, s. 39 (1).

Joint liability

(2) A director who has satisfied a judgment is entitled to contribution from the other directors who voted for or consented to the unlawful act upon which the judgment was founded. 2010, c. 15, s. 39 (2).

Application to court

(3) A director liable under subsection (1) is entitled to apply to the court for an order compelling a member, director or other recipient to pay or deliver to the director any money or property that was paid or distributed to the member, director or other recipient contrary to section 46 or 89. 2010, c. 15, s. 39 (3).

Powers of court

- (4) In connection with an application under subsection (3), the court may, if it is satisfied that it is equitable to do so,
- (a) order a member, director or other recipient to pay or deliver to a director any money or property that was paid or distributed to the member, director or other recipient contrary to section 46 or 89; and
 - (b) make any further order it thinks fit. 2010, c. 15, s. 39 (4).

Limitation

(5) An action to enforce a liability imposed by this section may not be commenced after two years from the date of the resolution authorizing the action complained of. 2010, c. 15, s. 39 (5).

Directors' liability to employees for wages, etc.

- 40** (1) The directors are jointly and severally liable to the employees of the corporation for all debts not exceeding,
- (a) six months' wages for services performed for the corporation that become payable while they are directors; and
 - (b) the vacation pay for not more than 12 months under the *Employment Standards Act, 2000* or under any collective agreement entered into by the corporation accrued while they are directors. 2010, c. 15, s. 40 (1).

Limitation

- (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. 2010, c. 15, s. 40 (2).

Same

- (3) If execution referred to in clause (2) (a) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution. 2010, c. 15, s. 40 (3).

Rights of director who pays debt

- (4) If 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 if a judgment has been obtained, the director is entitled to an assignment of the judgment. 2010, c. 15, s. 40 (4).

Same

- (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. 2010, c. 15, s. 40 (5).

Disclosure: conflict of interest

41 (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 to the corporation or request to have entered in the minutes of meetings of the directors the nature and extent of his or her interest. 2010, c. 15, s. 41 (1).

By director

(2) The disclosure required by subsection (1) must 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. 2010, c. 15, s. 41 (2).

By officer

(3) The disclosure required by subsection (1) must 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. 2010, c. 15, s. 41 (3).

Contract or transaction does not require approval

(4) Despite subsections (2) and (3), if 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 members, the director or officer shall disclose to the corporation or request to have entered in the minutes of meetings of the 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. 2010, c. 15, s. 41 (4).

Director not to attend meeting and not to vote

(5) A director referred to in subsection (1) shall not attend any part of a meeting of the 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 46; or

(c) one with an affiliate. 2010, c. 15, s. 41 (5).

Remaining directors deemed quorum

(6) 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 are deemed to constitute a quorum for the purposes of voting on the resolution. 2010, c. 15, s. 41 (6).

Members' approval

(7) If all of the directors are required to make disclosure under subsection (1), the contract or transaction may be approved only by the members unless the contract or transaction is one described in clause (5) (a), (b) or (c). 2010, c. 15, s. 41 (7).

Continuing disclosure

(8) 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 for the purposes of this section. 2010, c. 15, s. 41 (8).

Effect of disclosure

(9) A contract or transaction for which disclosure is required under subsection (1) is not void or voidable, and the director or officer is not accountable to the corporation or its members for any profit or gain realized from the contract or transaction, because of the director's or officer's interest in the contract or transaction or because the director was present or was counted to determine whether a quorum existed at the meeting of directors or of the committee of directors that considered the contract or transaction, if,

- (a) disclosure of the interest was made in accordance with this section;
- (b) the directors approved the contract or transaction; and
- (c) the contract or transaction was reasonable and fair to the corporation when it was approved. 2010, c. 15, s. 41 (9).

Confirmation by members

(10) Despite anything in this section, a director or officer, acting honestly and in good faith, is not accountable to the corporation or to its members for any profit or gain realized from any 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 in it void or voidable if,

- (a) the contract or transaction is confirmed or approved by special resolution at a meeting of the members 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. 2010, c. 15, s. 41 (10).

Court may set aside contract

(11) Subject to subsections (9) and (10), if 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 member of the corporation 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. 2010, c. 15, s. 41 (11).

Officers

42 (1) Subject to the articles or the by-laws,

- (a) the directors may designate the offices of the corporation, appoint officers, specify their duties and delegate to them powers to manage the activities and affairs of the corporation, except powers to do anything referred to in subsection 36 (2);
- (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. 2010, c. 15, s. 42 (1).

Chair

(2) A director shall be appointed chair of the board of directors and shall carry out the duties of the chair in accordance with the by-laws. 2010, c. 15, s. 42 (2).

Duties of directors and officers

Standard of care

43 (1) Every director and officer 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. 2010, c. 15, s. 43 (1).

Duty to comply with Act, etc.

- (2) Every director and officer shall comply with,
- (a) this Act and the regulations; and
 - (b) the corporation's articles and by-laws. 2010, c. 15, s. 43 (2).

Cannot contract out of statutory duty

(3) 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 of this Act or the regulations. 2010, c. 15, s. 43 (3).

Reasonable diligence defence

44 A director is not liable under section 39 and has complied with his or her duties under subsection 43 (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 report of the auditor of the corporation or of a person who conducted a review engagement 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, if 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 them. 2010, c. 15, s. 44.

Consent of director at meeting

45 (1) A director who is present at a meeting of the directors or of a committee of directors is deemed to have consented to any resolution passed or action taken at the meeting, unless,

- (a) the director's dissent is entered in the minutes of the meeting;
- (b) the director requests that his or her dissent be entered in the minutes of the meeting;
- (c) the director gives his or her dissent to the secretary of the meeting before the meeting is terminated; or
- (d) the director submits his or her dissent immediately after the meeting is terminated to the corporation. 2010, c. 15, s. 45 (1).

Same

(2) A director who votes for or consents to a resolution is not entitled to dissent under subsection (1). 2010, c. 15, s. 45 (2).

Same

(3) A director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented to the resolution or action 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) submits his or her dissent to the corporation. 2010, c. 15, s. 45 (3).

Indemnification of directors and officers

46 (1) A corporation may indemnify a director or officer of the corporation, a former director or officer of the corporation or an individual who acts or acted at the corporation's request as a director or officer, or 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 action or proceeding in which the individual is involved because of that association with the corporation or other entity. 2010, c. 15, s. 46 (1).

Advance of costs

(2) A corporation may advance money to a director, officer or other individual referred to in subsection (1) for the costs, charges and expenses of an action or proceeding referred to in that subsection, but the individual shall repay the money if the individual does not fulfil the conditions set out in subsection (3). 2010, c. 15, s. 46 (2).

Limitation

- (3) A corporation shall not indemnify an individual under subsection (1) unless,
- (a) the individual acted honestly and in good faith with a view to the best interests of the corporation or other entity, as the case may be; and
 - (b) if the matter is a criminal or administrative proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that his or her conduct was lawful. 2010, c. 15, s. 46 (3).

Derivative actions

- (4) A corporation may, with the approval of the court, indemnify an individual referred to in subsection (1), or advance money 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). 2010, c. 15, s. 46 (4).

Right to indemnity

- (5) 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 action or 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,
- (a) was not judged by any 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 subsection (3). 2010, c. 15, s. 46 (5).

Insurance

- (6) 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. 2010, c. 15, s. 46 (6).

Exception — charitable corporation

- (7) A charitable corporation may not purchase insurance described in subsection (6) unless,
- (a) the corporation complies with the *Charities Accounting Act* or a regulation made under that Act that permits the purchase; or
 - (b) the corporation or a director or officer of the corporation obtains an order of the court authorizing the purchase. 2010, c. 15, s. 46 (7).

Application to court

- (8) A corporation or an individual 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. 2010, c. 15, s. 46 (8).

Same

- (9) Upon an application under subsection (8), the court may order notice to be given to any interested person and that person is entitled to appear and be heard in person or by counsel. 2010, c. 15, s. 46 (9).

Remuneration of directors, officers and employees

- 47** (1) Subject to the articles or the by-laws, the directors may fix the remuneration of the directors, officers and employees of the corporation. 2010, c. 15, s. 47 (1).

Services performed in other capacity

- (2) Subject to the by-laws, a director, an officer or a member of a corporation may receive reasonable remuneration and expenses for any services to the corporation that he or she performs in any other capacity. 2010, c. 15, s. 47 (2).

PART V MEMBERS

Membership

Conditions in by-laws

48 (1) The by-laws of a corporation must set out the conditions required for being a member of the corporation, including whether a corporation or other entity may be a member. 2010, c. 15, s. 48 (1).

Members by virtue of office

(2) The by-laws may provide for persons to be members by virtue of their office. 2010, c. 15, s. 48 (2).

Classes or groups of members

(3) If the articles provide for two or more classes or groups of members, the by-laws must provide,

- (a) the conditions for membership in each class or group;
- (b) the manner of withdrawing from a class or group or transferring membership to another class or group and any conditions of transfer; and
- (c) the conditions on which membership in a class or group ends. 2010, c. 15, s. 48 (3).

Voting rights — one class or group

(4) The members of a corporation that has only one class or group of members have the right to vote at any meeting of the members. 2010, c. 15, s. 48 (4).

Same — two or more classes or groups

(5) If the articles provide for two or more classes or groups of members, the articles must provide the members of at least one class or group with the right to vote at meetings of the members. 2010, c. 15, s. 48 (5).

One vote per member

(6) Unless the articles provide otherwise, each member is entitled to one vote at a meeting of the members. 2010, c. 15, s. 48 (6).

Representative of non-human member

(7) The corporation shall recognize any individual authorized by a member corporation or other entity to represent the member at meetings and the individual may exercise all the powers of that corporation or entity on its behalf. 2010, c. 15, s. 48 (7).

Transfer of membership

(8) Unless the articles or by-laws provide otherwise, a membership may be transferred only to the corporation. 2010, c. 15, s. 48 (8).

Issuance of memberships

49 The directors may issue memberships in accordance with the articles and any conditions set out in the by-laws. 2010, c. 15, s. 49.

Termination of membership

50 (1) Unless the articles or by-laws of a corporation provide otherwise, a membership is terminated when,

- (a) the member dies or resigns;
- (b) the member is expelled or the person's membership is otherwise terminated in accordance with the articles or by-laws;
- (c) the member's term of membership expires; or
- (d) the corporation is liquidated or dissolved under Part XII. 2010, c. 15, s. 50 (1).

Termination of member's rights

(2) Unless this Act, the articles or by-laws provide otherwise, the rights of a member, including any rights in the property of the corporation, cease to exist on termination of the membership. 2010, c. 15, s. 50 (2).

Power to discipline or terminate a member

51 (1) The articles or by-laws may provide that the directors, the members or any committee of directors or members have power to discipline a member or to terminate their membership. If the articles or by-laws provide for such a power, they must set out the circumstances and the manner in which that power may be exercised. 2010, c. 15, s. 51 (1).

Good faith requirement

(2) Any disciplinary action or termination of membership must be done in good faith and in a fair and reasonable manner. 2010, c. 15, s. 51 (2).

Fair and reasonable procedure

(3) For the purposes of subsection (2), a procedure is fair and reasonable if,

- (a) a member is given at least 15 days notice of a disciplinary action or termination with reasons; and
- (b) the member is given an opportunity to be heard, orally, in writing or in another format permitted by the corporation's articles or by-laws, not less than five days before the disciplinary action or termination of membership becomes effective, by the person with authority to impose or revoke the disciplinary action or termination. 2010, c. 15, s. 51 (3).

Notice

(4) A notice required under this section may be given by any method reasonably intended to give actual notice. 2010, c. 15, s. 51 (4).

Application to court

(5) A member of a corporation who claims to be aggrieved because they were disciplined or because their membership was terminated may apply to the court under section 191. 2010, c. 15, s. 51 (5).

Calling meetings of members**Annual meeting**

52 (1) The directors of a corporation shall call an annual meeting of the members of the corporation,

- (a) within 18 months after the corporation comes into existence; and
- (b) subsequently, not later than 15 months after holding the preceding annual meeting. 2010, c. 15, s. 52 (1).

Special meeting

(2) The directors of a corporation may at any time call a special meeting of the members. 2010, c. 15, s. 52 (2).

Place of members' meetings

53 (1) Meetings of the members of a corporation must be held within Ontario at the place provided in the by-laws or, in the absence of such a provision, at the place within Ontario that the directors determine. 2010, c. 15, s. 53 (1).

Meeting outside Ontario

(2) Despite subsection (1), a meeting of the members of a corporation may be held at a place outside Ontario if the place is specified in the articles or all the members entitled to vote at the meeting agree that the meeting is to be held at that place. 2010, c. 15, s. 53 (2).

Attending member deemed to agree to location

(3) A member who attends a meeting of the members held outside Ontario is deemed to have agreed to it being held outside Ontario except when the member attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully held. 2010, c. 15, s. 53 (3).

Participation in meeting by electronic, etc., means

(4) Unless the by-laws provide otherwise, any person entitled to attend a meeting of the members may participate in the meeting by telephonic or electronic means that permits all participants to communicate adequately with each other during the meeting if the corporation makes such means available. A person so participating in a meeting is deemed for the purposes of this Act to be present at the meeting. 2010, c. 15, s. 53 (4).

Meeting held by electronic, etc., means

(5) If the directors or members of a corporation call a meeting of the members and if the by-laws so provide, the directors or members, as the case may be, may determine that the meeting be held entirely by telephonic or electronic means that permits all participants to communicate adequately with each other during the meeting. 2010, c. 15, s. 53 (5).

Record date

54 (1) The directors may fix a date as the record date for,

- (a) determining members entitled to receive notice of a meeting of the members;
- (b) determining members entitled to vote at a meeting of the members;
- (c) determining members entitled to participate in a liquidation distribution; or

(d) determining members for any other purpose. 2010, c. 15, s. 54 (1).

Limitation

(2) A record date must not be more than 50 days before the day of the event or action to which it relates. 2010, c. 15, s. 54 (2).

No fixed record date

(3) If no record date is fixed,

- (a) the record date for the determination of members entitled to receive notice of a meeting of members or to vote shall be,
 - (i) at the close of business on the day immediately before 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 members for any purpose other than to establish a member'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 relevant resolution. 2010, c. 15, s. 54 (3).

Notice of members' meetings

55 (1) The corporation shall give notice of the time and place of a meeting of the members in accordance with the by-laws, but in any event not less than 10 days and not more than 50 days before the meeting, to,

- (a) each member entitled to receive notice of the meeting;
- (b) each director; and
- (c) the auditor of the corporation or the person appointed to conduct a review engagement of the corporation. 2010, c. 15, s. 55 (1).

Exception — members not registered

(2) The corporation is not required to give notice to members who were not registered on the records of the corporation on the record date determined under clause 54 (1) (a) or subsection 54 (3), but failure to receive a notice does not deprive a member of the right to vote at the meeting. 2010, c. 15, s. 55 (2).

Waiver of notice

(3) Any person who is entitled to notice of a meeting of the members may waive notice, and attendance of the person at the meeting is a waiver of notice of the meeting, unless the person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting was not lawfully called. 2010, c. 15, s. 55 (3).

Court-ordered notice

(4) On application of the corporation, the court may authorize the corporation, on any terms that the court thinks fit, to give notice of the meeting to members in any manner if the court determines that members will not be prejudiced. 2010, c. 15, s. 55 (4).

Adjournment

(5) If a meeting of the members is adjourned for less than 30 days, it is not necessary, unless the by-laws provide otherwise, that any person be notified of the meeting that continues the adjourned meeting, other than by announcement at the meeting that is adjourned. 2010, c. 15, s. 55 (5).

Notice of continuation of adjourned meeting

(6) If a meeting of the members is adjourned by one or more adjournments for an aggregate of 30 days or more, the corporation shall give notice of the meeting that continues the adjourned meeting in accordance with subsection (1). 2010, c. 15, s. 55 (6).

Special business

(7) All business transacted at a special meeting of the members and all business transacted at an annual meeting of the members is special business except for the following:

1. Consideration of the financial statements.
2. Consideration of the audit or review engagement report, if any.
3. An extraordinary resolution to have a review engagement instead of an audit or to not have an audit or a review engagement.
4. Election of directors.
5. Reappointment of the incumbent auditor or person appointed to conduct a review engagement. 2010, c. 15, s. 55 (7).

Notice of meeting, special business

- (8) Notice of a meeting of the members at which special business is to be transacted must,
- (a) state the nature of that business in sufficient detail to permit a member to form a reasoned judgment on the business; and
 - (b) state the text of any special resolution to be submitted to the meeting. 2010, c. 15, s. 55 (8).

Member's right to submit and discuss proposals

- 56** (1) A member entitled to vote at an annual meeting of the members may,
- (a) give the corporation notice of any matter that the member proposes to raise at the meeting, referred to as a "proposal"; and
 - (b) discuss at the meeting any matter with respect to which the member would have been entitled to submit a proposal. 2010, c. 15, s. 56 (1).

Proposal set out in notice

- (2) A corporation shall include the proposal in the notice of meeting required under section 55. 2010, c. 15, s. 56 (2).

Supporting statement included in notice

- (3) Upon the request of the member who submits a proposal, the corporation shall include in the notice of meeting a statement in support of the proposal by the member and the name and address of the member. The statement and the proposal must together not exceed the prescribed maximum number of words or characters. 2010, c. 15, s. 56 (3).

Member to pay cost of including proposal, etc., in notice

- (4) The member who submitted the proposal shall pay any cost of including the proposal and any statement in the notice of the meeting at which the proposal is to be presented, unless the by-laws or an ordinary resolution of the members present at the meeting provide otherwise. 2010, c. 15, s. 56 (4).

Proposal nominating directors

- (5) A proposal may include nominations for the election of directors if the proposal is signed by not less than 5 per cent of the members of a class or group of members of the corporation entitled to vote at the meeting at which the proposal is to be presented or a lower percentage that is set out in the by-laws, but this subsection does not preclude nominations being made at a meeting of the members. 2010, c. 15, s. 56 (5).

Exception

- (6) A corporation is not required to comply with subsections (2) and (3) if,
- (a) the proposal is not submitted to the corporation at least 60 days before the date of the 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, members or debt obligation holders;
 - (c) it clearly appears that the proposal does not relate in a significant way to the activities or affairs of the corporation;
 - (d) not more than two years before the receipt of the proposal, the member failed to present in person or by proxy, if authorized by the by-laws, at a meeting of the members, a proposal that had been included in a notice of meeting at the member's request;
 - (e) substantially the same proposal was submitted to members in a notice of a meeting of the members held not more than two years before the receipt of the proposal and the proposal was defeated; or
 - (f) the rights conferred by this section are being abused to secure publicity. 2010, c. 15, s. 56 (6).

Immunity

- (7) No corporation or person acting on its behalf incurs any liability by reason only of complying with this section. 2010, c. 15, s. 56 (7).

Notice of refusal

- (8) If a corporation refuses to include a proposal in a notice of meeting, it shall, within 10 days after the day on which it receives the proposal, notify the member submitting the proposal of its intention to omit it from the notice of meeting and of the reasons for the refusal. 2010, c. 15, s. 56 (8).

Application to court, by member

- (9) On the application of a member submitting a proposal who is aggrieved by the refusal, the court may restrain the holding of the meeting at which the proposal is sought to be presented and may make any further order that it thinks fit. 2010, c. 15, s. 56 (9).

Same, by corporation

(10) On the application of the corporation or any other person aggrieved by a proposal, the court may, if it is satisfied that subsection (6) applies, make an order permitting the corporation to omit the proposal from the notice of meeting and may make any further order that it thinks fit. 2010, c. 15, s. 56 (10).

Quorum for a members' meeting

57 (1) Unless the by-laws provide otherwise, the quorum for a meeting of the members is a majority of the members entitled to vote at the meeting, whether present in person or by proxy. 2010, c. 15, s. 57 (1).

Opening quorum sufficient

(2) If a quorum is present at the opening of a meeting of the members, the members present may proceed with the business of the meeting, even if a quorum is not present throughout the meeting, unless the by-laws provide otherwise. 2010, c. 15, s. 57 (2).

If no opening quorum

(3) If a quorum is not present at the opening of a meeting of the members, the members present may adjourn the meeting to a fixed time and place, but may not transact any other business. 2010, c. 15, s. 57 (3).

One member meeting

(4) If a corporation has only one member in any class or group of members, the member present in person constitutes a meeting. 2010, c. 15, s. 57 (4).

Voting

58 (1) Subject to the by-laws, voting at a meeting of the members shall be by show of hands unless a ballot is demanded by a member entitled to vote at the meeting. 2010, c. 15, s. 58 (1).

Ballot

(2) A member may demand a ballot either before or after any vote. 2010, c. 15, s. 58 (2).

Resolution in lieu of meeting

59 (1) A resolution signed by all the members entitled to vote on that resolution at a meeting of the members is as valid as if it had been passed at a meeting of the members. 2010, c. 15, s. 59 (1).

Same

(2) A resolution dealing with a matter required by this Act to be dealt with at a meeting of the members, and signed by all the members entitled to vote at that meeting, satisfies all the requirements of this Act relating to meetings of the members. 2010, c. 15, s. 59 (2).

Resolutions kept with minutes

(3) The corporation shall keep a copy of every resolution described in subsection (1) or (2) with the minutes of the meetings of members. 2010, c. 15, s. 59 (3).

Evidence

(4) Unless a ballot is demanded, 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. 2010, c. 15, s. 59 (4).

Exception

(5) Subsections (1) and (2) do not apply in respect of a meeting at which a statement is given by a director under subsection 27 (1) or by an auditor under subsection 75 (4). 2010, c. 15, s. 59 (5).

Members may requisition meeting of members

60 (1) The members of a corporation who hold at least 10 per cent of votes that may be cast at a meeting of the members sought to be held, or a lower percentage that is set out in the by-laws, may requisition the directors to call the meeting for the purposes stated in the requisition. 2010, c. 15, s. 60 (1).

Form

(2) The requisition, which may consist of several documents of similar form each signed by one or more members, must state the business to be transacted at the meeting and must be sent to each director and to the registered office of the corporation. 2010, c. 15, s. 60 (2).

Directors to call requisitioned meeting

(3) On receiving a requisition, the directors shall call a meeting of the members to transact the business stated in the requisition unless,

- (a) a record date has been fixed under clause 54 (1) (a);
- (b) the directors have called a meeting of the members and have given notice of the meeting under section 55; or
- (c) the business of the meeting as stated in the requisition includes a matter described in clause 56 (6) (b), (c), (d), (e) or (f). 2010, c. 15, s. 60 (3).

Member may call meeting

(4) If the directors do not call a meeting within 21 days after receiving the requisition, any member who signed the requisition may call the meeting. 2010, c. 15, s. 60 (4).

Procedure

(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 and this Part. 2010, c. 15, s. 60 (5).

Reimbursement

(6) Unless the members resolve otherwise at a meeting called under subsection (4), the corporation shall reimburse the members for the expenses reasonably incurred by them in requisitioning, calling and holding the meeting. 2010, c. 15, s. 60 (6).

Members' meeting called by court

61 (1) The court, on the application of a director or a member who is entitled to vote at a meeting of the members, may order a meeting of the members of a corporation to be called, held and conducted in the manner that the court directs, if,

- (a) it is not practical to call the meeting within the time or in the manner in which it is otherwise to be called;
- (b) it is not practical to conduct the meeting in the manner required by this Act or the by-laws; or
- (c) the court thinks that the meeting should be called, held and conducted within the time or in the manner that it directs for any other reason. 2010, c. 15, s. 61 (1).

Varying quorum

(2) Without restricting the generality of subsection (1), the court may order that the quorum required by the by-laws or this Act be varied or dispensed with at a meeting called, held and conducted under this section. 2010, c. 15, s. 61 (2).

Valid meeting

(3) A meeting called, held and conducted under this section is for all purposes a meeting of members of the corporation duly called, held and conducted. 2010, c. 15, s. 61 (3).

No waiver of members' rights

62 No waiver of the rights of a member is valid unless otherwise provided for in this Act. 2010, c. 15, s. 62.

PART VI PROXIES

Definition

63 In this Part,

“proxy” means an authorization by means of which a member has appointed a proxyholder to attend and act on the member’s behalf at a meeting of the members. 2010, c. 15, s. 63.

Proxies

64 (1) Subject to subsection (1.1), every member entitled to vote at a meeting of the members may by means of a proxy appoint a proxyholder or one or more alternate proxyholders as the member’s nominee to attend and act at the meeting in the manner, to the extent and with the authority conferred by the proxy. 2017, c. 20, Sched. 8, s. 16.

Limitation

(1.1) A member may appoint a proxyholder only if the articles or by-laws of the corporation permit it. 2017, c. 20, Sched. 8, s. 16.

Who may be proxyholder

(1.2) A proxyholder need not be a member of the corporation unless so required by the articles or by-laws of the corporation. 2017, c. 20, Sched. 8, s. 16.

Signature

- (2) A proxy must be signed,
 - (a) by the member or the member’s attorney; or

- (b) if the member is a body corporate, by an officer or attorney of the body corporate duly authorized. 2010, c. 15, s. 64 (2).

Form of proxy

- (3) Every proxy must be in a form that complies with the regulations. 2010, c. 15, s. 64 (3).

Time limit for deposit

- (4) The directors may by resolution fix a time not exceeding 48 hours, excluding Saturdays and holidays, before any meeting or continuance of an adjourned meeting of the members before which time proxies to be used at that meeting must be deposited with the corporation or an agent of the corporation, and any period of time so fixed must be specified in the notice calling the meeting. 2010, c. 15, s. 64 (4).

Validity

- (5) A proxy is valid only at the meeting for which it is given or, if that meeting is adjourned, at the meeting that continues the adjourned meeting. 2010, c. 15, s. 64 (5).

Revocation

- (6) A member may revoke a proxy,
- (a) by depositing in accordance with subsection (7) a revocation that is signed by the member or by the member's attorney; or
 - (b) in any other manner permitted by law. 2010, c. 15, s. 64 (6).

Time of revocation

- (7) The revocation must be received,
- (a) at the registered office of the corporation at any time up to and including the last business day before the day of the meeting or, if the meeting is adjourned, of the continued meeting, at which the proxy is to be used; or
 - (b) by the chair of the meeting on the day of the meeting or, if it is adjourned, of the continued meeting. 2010, c. 15, s. 64 (7).

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

2017, c. 20, Sched. 8, s. 16 - 19/10/2021

65 REPEALED: 2017, c. 20, Sched. 8, s. 17.

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

2017, c. 20, Sched. 8, s. 17 - 19/10/2021

Proxyholder

- 66** (1) A person who is appointed a proxyholder shall attend in person, or cause an alternate proxyholder to attend, the meeting in respect of which the proxy is given and shall comply with the directions of the member who appointed the person. 2010, c. 15, s. 66 (1).

Rights of proxyholder

- (2) A proxyholder or an alternate proxyholder has the same rights as the member who appointed him or her to speak at a meeting of the members 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 member, to vote at the meeting in respect of any matter by way of a show of hands. 2010, c. 15, s. 66 (2).

Vote by show of hands

- (3) (1) Despite subsections (1) and (2), if the chair of a meeting of the members declares to the meeting that, to the best of his or her belief, if a ballot is conducted, the total number of votes of members represented at the meeting by proxy required to be voted against a matter or group of matters to be decided at the meeting is less than 5 per cent of all the votes that might be cast at the meeting on such ballot, and if a member, 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. 2010, c. 15, s. 66 (3).

Voting by mail or by telephonic or electronic means

- 67** (1) A corporation may provide in its by-laws for voting by mail or by telephonic or electronic means, in addition to or instead of voting by proxy. 2010, c. 15, s. 67 (1).

Same

- (2) Voting by mail or by telephonic or electronic means may be used only if,
- (a) the votes may be verified as having been made by members entitled to vote; and
 - (b) the corporation is not able to identify how each member voted. 2010, c. 15, s. 67 (2).

PART VII AUDITORS

Appointment of auditor

- 68** (1) Subject to section 76, at each annual meeting, members of a corporation shall by ordinary resolution appoint,
- (a) an auditor to hold office until the close of the next annual meeting; or
 - (b) a person to conduct a review engagement of the corporation. 2010, c. 15, s. 68 (1).

Eligibility of director-appointed auditor

- (2) An auditor appointed at the first meeting of the directors held under subsection 32 (1) is eligible for appointment under subsection (1). 2010, c. 15, s. 68 (2).

Incumbent auditor

- (3) If an auditor is not appointed at a meeting of the members and if no resolution is passed under section 76, the incumbent auditor continues in office until a successor is appointed. 2010, c. 15, s. 68 (3).

Remuneration

- (4) The remuneration of an auditor or person appointed to conduct a review engagement may be fixed by ordinary resolution of the members or, if not so fixed, shall be fixed by the directors. 2010, c. 15, s. 68 (4).

Qualifications

- 69** (1) In order to be an auditor of a corporation or to conduct a review engagement of a corporation, a person must be permitted to conduct an audit or review engagement of the corporation under the *Public Accounting Act, 2004* and be independent of the corporation, any of its affiliates, and the directors and officers of the corporation and its affiliates. 2010, c. 15, s. 69 (1).

Independence

- (2) For the purpose of this section,
- (a) independence is a question of fact; and
 - (b) a person is deemed not to be independent if that person or their business partner,
 - (i) is a business partner, a director, an officer or an employee of the corporation or any of its affiliates, or is a business partner of any director, officer or employee of the corporation or any of its affiliates,
 - (ii) beneficially owns or controls, directly or indirectly, a material interest in the debt obligations of the corporation or any of its affiliates, or
 - (iii) has been a receiver, receiver-manager, liquidator or trustee in bankruptcy of the corporation or any of its affiliates within two years before the person is proposed to be appointed as auditor of the corporation or to conduct a review engagement of the corporation. 2010, c. 15, s. 69 (2).

Business partners

- (3) For the purpose of subclause (2) (b) (i), a body corporate's business partner includes a shareholder or member of the body corporate. 2010, c. 15, s. 69 (3).

Duty to resign

- (4) An auditor or person appointed to conduct a review engagement who is disqualified under this section shall resign immediately after becoming aware of the disqualification. 2010, c. 15, s. 69 (4).

Disqualification order

- (5) On the application of an interested person, the court may make an order declaring a person to be disqualified under this section and the position of auditor or of a person appointed to conduct a review engagement to be vacant. 2010, c. 15, s. 69 (5).

Auditor, person conducting review engagement ceasing to hold position

- 70** (1) An auditor of a corporation or a person appointed to conduct a review engagement of a corporation ceases to hold that position when the auditor or person,

- (a) dies or resigns;
- (b) is declared disqualified under subsection 69 (5); or
- (c) is removed under section 71. 2010, c. 15, s. 70 (1).

Effective date of resignation

(2) A resignation of an auditor or person appointed to conduct a review engagement becomes effective at the time the resignation is given to the corporation or at the time specified in the resignation, whichever is later. 2010, c. 15, s. 70 (2).

Removal of auditor, person appointed to conduct review engagement

71 (1) The members of a corporation may remove an auditor, other than an auditor appointed by a court under section 73, or a person appointed to conduct a review engagement from their position by ordinary resolution at a special meeting. 2010, c. 15, s. 71 (1).

Vacancy

(2) A vacancy created by the removal of an auditor or person appointed to conduct a review engagement may be filled at the meeting at which the auditor or person is removed or, if not so filled, may be filled under section 72. 2010, c. 15, s. 71 (2).

Filling vacancy

By directors

72 (1) Subject to subsection (3), the directors shall immediately fill a vacancy in the position of auditor or of a person appointed to conduct a review engagement. 2010, c. 15, s. 72 (1).

By members

(2) If there is not a quorum of directors, the directors then in office shall, within 30 days after the vacancy occurs, call a special meeting of the members to fill the vacancy and, if they fail to call a meeting or if there are no directors, any member may call the meeting. 2010, c. 15, s. 72 (2).

Same

(3) The articles of a corporation may provide that a vacancy in the position of auditor or of a person appointed to conduct a review engagement shall only be filled by vote of the members. 2010, c. 15, s. 72 (3).

Unexpired term

(4) An auditor or other person appointed to fill a vacancy may act for the unexpired term of the auditor's or other person's predecessor. 2010, c. 15, s. 72 (4).

Court-appointed auditor

73 (1) If a corporation does not have an auditor, the court may, on the application of a member of the corporation, appoint and fix the remuneration of an auditor. 2010, c. 15, s. 73 (1); 2017, c. 20, Sched. 8, s. 18.

Term

(2) An auditor appointed under subsection (1) holds office until an auditor is appointed by the members of the corporation. 2010, c. 15, s. 73 (2).

Exception

(3) Subsection (1) does not apply if the members have resolved under section 76 to not appoint an auditor. 2010, c. 15, s. 73 (3).

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

2017, c. 20, Sched. 8, s. 18 - 19/10/2021

Court review of appointment of auditor

74 (1) A corporation or a director or member of the corporation may apply to the court to determine any controversy with respect to an appointment of an auditor of the corporation. 2010, c. 15, s. 74 (1).

Powers of court

- (2) On an application under this section, the court may make any order that it thinks fit, including an order,
 - (a) restraining an auditor whose appointment is disputed from acting pending determination of the dispute; and
 - (b) declaring the result of the disputed appointment. 2010, c. 15, s. 74 (2).

Auditor's right to attend meetings

75 (1) An auditor is entitled to attend every meeting of the members at the expense of the corporation and to be heard on matters relating to the auditor's duties. 2010, c. 15, s. 75 (1).

Duty to attend and answer questions

(2) If a director or member, whether or not the member is entitled to vote at the meeting, gives notice not less than 21 days before a meeting of the members 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 their duties. 2010, c. 15, s. 75 (2).

Notice to corporation

(3) A director or member who gives the notice under subsection (2) shall give a copy of the notice to the corporation at the same time. 2010, c. 15, s. 75 (3).

Statement of auditor

(4) Subject to the by-laws, an auditor is entitled to give the corporation a statement giving reasons,

(a) for resigning; or

(b) for opposing the auditor's removal if a meeting of the members is called for the purpose of removing the auditor. 2010, c. 15, s. 75 (4).

Other statements

(5) If a meeting is called to replace the auditor, the corporation shall make a statement respecting the reasons for the replacement and the proposed replacement auditor may make a statement respecting the corporation's reasons. 2010, c. 15, s. 75 (5).

Circulating statement

(6) The corporation shall immediately give the members a copy of the statements referred to in subsections (4) and (5). 2010, c. 15, s. 75 (6).

Statement from previous auditor

(7) No person shall accept an appointment or consent to be appointed as an auditor of a corporation to replace an auditor who has resigned, been removed or whose term of office has expired or is about to expire or whose office has been declared vacant until the person has requested and received from that auditor a statement of the circumstances and the reasons, in that auditor's opinion, for the auditor's replacement. 2010, c. 15, s. 75 (7).

Exception

(8) A person otherwise qualified may accept an appointment or consent to be appointed as an auditor if, within 10 days after making a request under subsection (7), the person does not receive a reply from the previous auditor. 2010, c. 15, s. 75 (8).

Effect of non-compliance

(9) The appointment of a person who does not make a request under subsection (7) is void. 2010, c. 15, s. 75 (9).

Dispensing with audits, etc.**Public benefit corporations**

76 (1) Members of a public benefit corporation may pass an extraordinary resolution,

(a) to have a review engagement instead of an audit in respect of the corporation's financial year if the corporation had annual revenue in that financial year of more than \$100,000 or such other prescribed amount and less than \$500,000 or such other prescribed amount; or

(b) to not appoint an auditor and to not have an audit or a review engagement in respect of the corporation's financial year if the corporation had annual revenue in that financial year of \$100,000 or less or such other prescribed amount. 2010, c. 15, s. 76 (1).

Other corporations

(2) Members of a corporation other than a public benefit corporation may pass an extraordinary resolution,

(a) to have a review engagement instead of an audit in respect of the corporation's financial year if the corporation had annual revenue in that financial year of more than \$500,000 or such other prescribed amount; or

(b) to not appoint an auditor and to not have an audit or a review engagement in respect of the corporation's financial year if the corporation had annual revenue in that financial year of \$500,000 or less or such other prescribed amount. 2010, c. 15, s. 76 (2).

Validity of resolution

(3) An extraordinary resolution passed under this section is valid until the next annual meeting of the members. 2010, c. 15, s. 76 (3).

Definition

(4) In this section,

“extraordinary resolution” means a resolution that is,

- (a) submitted to a special meeting of the members of a corporation duly called for the purpose of considering the resolution and passed at the meeting, with or without amendment, by at least 80 per cent of the votes cast, or
- (b) consented to by each member of the corporation entitled to vote at a meeting of the members or the member’s attorney. 2010, c. 15, s. 76 (4).

Annual financial review

77 (1) An auditor of a corporation or a person appointed to conduct a review engagement of a corporation shall examine the financial statements that are required by section 84 to be placed before the members as is necessary to enable the auditor or other person to report on the financial statements. 2010, c. 15, s. 77 (1).

Same

(2) The auditor or other person shall report on the financial statements in accordance with the regulations and with generally accepted auditing or review engagement standards, as the case may be. 2010, c. 15, s. 77 (2).

Report on financial statements

78 (1) After conducting an audit or a review engagement, the auditor or other person shall report on the financial statements required by section 84 to be placed before the members. 2010, c. 15, s. 78 (1).

Holding corporation auditor may rely on other auditor

(2) Despite section 79, an auditor of a holding corporation or person appointed to conduct a review engagement of a holding corporation may reasonably rely on the audit or review engagement report of a body corporate or an unincorporated business the accounts of which are included in whole or in part in the financial statements of the holding corporation. 2010, c. 15, s. 78 (2).

Reasonableness

(3) For the purpose of subsection (2), reasonableness is a question of fact. 2010, c. 15, s. 78 (3).

Application

(4) Subsection (2) applies whether or not the financial statements of the holding corporation reported on by the auditor or person who conducted a review engagement are in consolidated form. 2010, c. 15, s. 78 (4).

Obligation of directors, etc., to give information

79 (1) The auditor of a corporation or other person who is conducting a review engagement may, if they are of the opinion that it is necessary in order to conduct the audit or review engagement of the corporation and to make the report required under section 78,

- (a) demand that the present or former directors, officers, employees or agents of the corporation give the auditor or other person any information and explanations and access to records, documents, books, accounts and vouchers of the corporation or of any of its subsidiaries; and
- (b) demand that the directors of the corporation obtain from the former directors, officers, employees or agents of any subsidiary of the corporation information and explanations that they are reasonably able to give. 2010, c. 15, s. 79 (1).

Same

(2) A person to whom a demand is made under subsection (1) shall give the auditor or other person the requested information, explanations and access if they are reasonably able to do so. 2010, c. 15, s. 79 (2).

No civil liability

(3) A person who in good faith makes an oral, written or other form of communication under subsection (1) or (2) is not liable in any civil proceeding arising from having made the communication. 2010, c. 15, s. 79 (3).

Audit committee

80 (1) A corporation may have an audit committee and, if it does, the majority of the committee must not be officers or employees of the corporation or of any of its affiliates. 2010, c. 15, s. 80 (1).

Auditor’s attendance

(2) The corporation shall give the auditor or person appointed to conduct a review engagement notice of the time and place of any meeting of the audit committee. The auditor or person appointed to conduct a review engagement is entitled to attend the meeting at the expense of the corporation and be heard, and shall attend every meeting of the committee if requested to do so by one of its members. 2010, c. 15, s. 80 (2).

Calling meeting

(3) The auditor, the person appointed to conduct a review engagement or a member of the audit committee may call a meeting of the committee. 2010, c. 15, s. 80 (3).

Notice of errors in financial statements

81 (1) A director or an officer shall immediately notify the audit committee, if the corporation has one, and the auditor or person who conducted a review engagement of the corporation of any error or misstatement of which the director or officer becomes aware in a financial statement prepared as part of an audit or review engagement. 2010, c. 15, s. 81 (1).

Directors to be informed

(2) An auditor or former auditor of a corporation or another person who conducted a review engagement of a corporation who is notified or becomes aware of an error or misstatement in a financial statement prepared as part of an audit or review engagement shall, if in the opinion of the auditor, former auditor or other person, the error or misstatement is material, inform each director accordingly. 2010, c. 15, s. 81 (2).

Duty of directors

(3) When the auditor, former auditor or other person informs the directors of an error or misstatement in a financial statement, the directors shall prepare and issue revised financial statements or otherwise inform the members. 2010, c. 15, s. 81 (3).

Qualified privilege — defamation

82 Any statement or report made under this Act orally, in writing or in another format by the auditor or former auditor of a corporation has qualified privilege. 2010, c. 15, s. 82.

PART VIII FINANCIAL DISCLOSURE

Approval of annual financial statements

83 (1) The directors shall approve annual financial statements of the corporation that relate to 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 or, if the corporation has not completed a financial year, that began on the date the corporation came into existence and ended not more than six months before the annual meeting. 2010, c. 15, s. 83 (1).

Same

(2) The approval of the directors must be evidenced by the signature of one or more directors. 2010, c. 15, s. 83 (2).

Duty of committee

(3) If the corporation has an audit committee, the audit committee shall review the financial statements of the corporation before they are approved by the directors. 2010, c. 15, s. 83 (3).

Same

(4) A corporation shall not issue, publish or circulate copies of the annual financial statements unless they are,

- (a) approved and signed in accordance with subsections (1) and (2); and
- (b) accompanied by the audit or review engagement report, if any. 2010, c. 15, s. 83 (4).

Presentation of annual financial statements to members

84 (1) The directors of a corporation shall place before the members at every annual meeting,

- (a) the financial statements approved by the directors under subsection 83 (1);
- (b) the report of the auditor or of the person who conducted a review engagement, as the case may be; and
- (c) any further information respecting the financial position of the corporation and the results of its operations required by the articles or the by-laws. 2010, c. 15, s. 84 (1).

Copy to members

(2) Not less than 21 days, or a prescribed number of days, before each annual meeting of the members or before the signing of a resolution under section 59 in lieu of the annual meeting, a corporation shall give a copy of the documents referred to in subsection (1) to all members who have informed the corporation that they wish to receive a copy of those documents. 2010, c. 15, s. 84 (2); 2017, c. 20, Sched. 8, s. 19.

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

2017, c. 20, Sched. 8, s. 19 - 19/10/2021

PART IX CORPORATE FINANCE

Borrowing powers

85 (1) Unless the articles or the by-laws provide otherwise, the directors of a corporation may, without authorization of the members,

- (a) borrow money on 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, 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. 2010, c. 15, s. 85 (1).

Delegation of borrowing powers

(2) Despite subsection 36 (2) and clause 42 (1) (a), unless the articles or the by-laws provide otherwise, the directors may by resolution delegate the powers referred to in subsection (1) to a director, a committee of directors or an officer. 2010, c. 15, s. 85 (2).

Members' annual contribution or dues

86 Subject to the articles and the by-laws, the directors may require members to make an annual contribution or pay annual dues and may determine the manner in which the contribution is to be made or the dues are to be paid. 2010, c. 15, s. 86.

Ownership of property

87 A corporation owns any property of any kind that is transferred to or otherwise vested in the corporation and does not hold any property in trust unless that property was transferred to the corporation expressly in trust for a specific purpose or purposes. 2010, c. 15, s. 87.

Investments by corporation

88 A corporation may invest its funds as its directors think fit, subject to its articles or by-laws or any limitations accompanying a gift. 2010, c. 15, s. 88.

Distribution of property, etc.

89 (1) No part of a corporation's profits or of its property or accretions to the value of the property may be distributed, directly or indirectly, to a member, a director or an officer of the corporation except in furtherance of its activities or as otherwise permitted by this Act. 2010, c. 15, s. 89 (1).

Distribution to a member upon termination of membership

(2) Despite subsection (1) and subject to the articles and the by-laws, a corporation that is not a public benefit corporation may distribute the fair value of a membership to a member upon termination of that member's membership. 2010, c. 15, s. 89 (2).

Surrendered memberships

90 A corporation may accept a membership in the corporation surrendered to it as a gift and may extinguish or reduce a liability respecting an amount unpaid on that membership. 2010, c. 15, s. 90.

Non-liability of members

91 (1) The members of a corporation are not, in that capacity, liable for any liability of the corporation, or any act or default of the corporation, except as otherwise provided by this Act. 2010, c. 15, s. 91 (1).

Lien on membership

(2) The articles may provide that the corporation has a lien on a membership registered in the name of a member or the member's legal representative for a debt of that member to the corporation, including an amount unpaid in respect of a membership issued by a body corporate. 2010, c. 15, s. 91 (2).

Enforcement of lien

(3) A corporation may enforce a lien referred to in subsection (2) in accordance with its by-laws. 2010, c. 15, s. 91 (3).

PART X RECORDS

Corporate records to be kept

92 (1) A corporation shall prepare and maintain records containing,

- (a) the corporation's articles and by-laws, and amendments to them;

- (b) the minutes of meetings of the members and of any committee of members;
- (c) the resolutions of the members and of any committee of members;
- (d) the minutes of meetings of the directors and of any committee of directors;
- (e) the resolutions of the directors and of any committee of directors;
- (f) a register of directors;
- (g) a register of officers;
- (h) a register of members;
- (i) accounting records adequate to enable the directors to ascertain the financial position of the corporation with reasonable accuracy on a quarterly basis; and
- (j) a register of ownership interests in land complying with section 92.1. 2010, c. 15, s. 92 (1); 2015, c. 38, Sched. 7, s. 55 (1).

Content of registers of officers and members

(2) The registers referred to in clauses (1) (f), (g) and (h) must contain prescribed information. 2010, c. 15, s. 92 (2).

Retention of accounting records

(3) Subject to any other Act or rule of a taxing authority that requires a longer retention period, a corporation shall retain the accounting records referred to in clause (1) (i) for six years. 2010, c. 15, s. 92 (3).

Transition

(4) If a corporation is incorporated or continued under this Act or a predecessor of it, clause (1) (j) applies to the corporation in respect of its ownership interests in land in accordance with the following rules:

1. If the corporation is incorporated or continued before the day section 2 of the *Forfeited Corporate Property Act, 2015* comes into force, clause (1) (j) applies on and after the later of the following days:
 - i. The second anniversary of the day section 2 of the *Forfeited Corporate Property Act, 2015* comes into force.
 - ii. The day subsection 4 (1) of this Act comes into force.
2. If the corporation is incorporated or continued on or after the day section 2 of the *Forfeited Corporate Property Act, 2015* comes into force, clause (1) (j) applies on and after the later of the following days:
 - i. The day the corporation is incorporated or continued.
 - ii. The day subsection 4 (1) of this Act comes into force. 2015, c. 38, Sched. 7, s. 55 (2).

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

2015, c. 38, Sched. 7, s. 55 (1, 2) - 19/10/2021

Register of interests in land in Ontario

92.1 (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. 55 (3).

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. 55 (3).

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. 55 (3).

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

2015, c. 38, Sched. 7, s. 55 (3) - 19/10/2021

Location of corporate records

93 (1) A corporation shall keep the records described in clauses 92 (1) (a), (b), (c), (f), (g) and (h) at the corporation's registered office or another place in Ontario designated by the directors. 2010, c. 15, s. 93 (1).

Same

(2) A corporation shall keep the records described in clauses 92 (1) (d), (e) and (i) at the corporation's registered office or another place designated by the directors. 2010, c. 15, s. 93 (2).

Same

(2.1) A corporation shall keep the register described in clause 92 (1) (j) at the corporation's registered office. 2015, c. 38, Sched. 7, s. 55 (4).

When records or registers are kept outside Ontario

(3) Despite subsections (1) and (2), but subject to federal and Ontario tax statutes or any other Act, a corporation may keep all or any of its records described in subsection 92 (1) at a place outside Ontario if,

(a) the records are available for inspection, by means of any technology, during regular office hours at the registered office; and

(b) the corporation provides the technical assistance to facilitate an inspection of the records. 2010, c. 15, s. 93 (3).

Exception

(4) Subsection (3) does not apply to records in respect of the register described in clause 92 (1) (j). 2015, c. 38, Sched. 7, s. 55 (5).

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

2015, c. 38, Sched. 7, s. 55 (4, 5) - 19/10/2021

Directors' access to records

94 (1) The records described in subsection 92 (1) must be open to inspection by the directors during the corporation's regular office hours. 2010, c. 15, s. 94 (1).

Same

(2) The corporation shall, at the request of any director, provide the director with any extract of the records free of charge. 2010, c. 15, s. 94 (2).

Members', creditors' access to records

95 (1) A member, a member's attorney or legal representative and a creditor of a corporation may examine and, on payment of a reasonable fee, take extracts from the records referred to in clauses 92 (1) (a), (b), (c), (f), (g), (h) and (j) during the corporation's regular office hours. 2010, c. 15, s. 95 (1); 2015, c. 38, Sched. 7, s. 55 (6).

Members entitled to free copy of articles and by-laws

(2) A member of a corporation is entitled on request and free of charge to one copy of the articles and by-laws, including any amendments to them. 2010, c. 15, s. 95 (2).

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

2015, c. 38, Sched. 7, s. 55 (6) - 19/10/2021

Members' access to register of members

96 (1) A member or a member's attorney or legal representative who wishes to examine the register of members of a corporation shall first make a request to the corporation or its agent accompanied by a statutory declaration described in subsection (3). As soon as is practical, the corporation or its agent shall allow the applicant access to the register during the corporation's regular office hours and, on payment of a reasonable fee, provide the applicant with an extract from the register. 2010, c. 15, s. 96 (1).

Corporation to provide list of members

(2) Any person described in subsection (1), on payment of a reasonable fee and on giving a corporation or its agent the statutory declaration described in subsection (3), may on application require the corporation or its agent to give the person a current list of members setting out the names and addresses of each member and such additional information as is required by the by-laws as soon as is practical. 2010, c. 15, s. 96 (2).

Contents of statutory declaration

(3) The statutory declaration required under subsection (1) or (2) must,

- (a) state the name and address of the applicant and, if the applicant is a body corporate, its address for service; and
- (b) state that the list of members or the information contained in the register of members obtained under subsection (1) will not be used except as permitted under subsection (5). 2010, c. 15, s. 96 (3).

Same

(4) If the applicant is a body corporate, the statutory declaration must be made by a director or officer of the body corporate. 2010, c. 15, s. 96 (4).

Use of information or list

(5) A member or a member's attorney or legal representative who obtains a list of members or information from a register of members under this section shall not use the list or information except in connection with,

- (a) an effort to influence the voting of members;
- (b) requisitioning a meeting of the members; or
- (c) another matter relating to the affairs of the corporation. 2010, c. 15, s. 96 (5).

Consents of directors to be kept

97 (1) A corporation shall keep at its registered office,

- (a) the consents to act as a director, in the approved form,
 - (i) of each individual who is named in the articles as a first director and who is not an incorporator, and
 - (ii) of each individual who is named in the articles as a first director and who is an incorporator, if the articles are filed with the Director in an electronic format and the consent is required by the regulations; and
- (b) the consents to act as a director of each individual who is elected or appointed a director of the corporation. 2017, c. 20, Sched. 8, s. 20 (1).

Inspection of consent

(2) Upon request and without charge, the corporation shall permit a director, member or creditor to inspect a consent kept under subsection (1) during the corporation's regular office hours and to make a copy of it. 2010, c. 15, s. 97 (2).

Director may require copy of consent

(3) The Director may, at any time by notice, require that a copy of a consent kept under subsection (1) be provided to the Director within the time period set out in the notice. 2017, c. 20, Sched. 8, s. 20 (2).

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

2017, c. 20, Sched. 8, s. 20 (1, 2) - 19/10/2021

Financial statements to be kept

98 (1) A corporation shall keep at its registered office a copy of the financial statements of each of its subsidiaries and of each body corporate the accounts of which are consolidated in the financial statements of the corporation. 2010, c. 15, s. 98 (1).

Members' right to examine

(2) Members of a corporation and their attorneys or legal representatives may on request and free of charge examine the financial statements referred to in subsection (1) during the corporation's regular office hours and make copies or take extracts of them. 2010, c. 15, s. 98 (2).

Court order barring examination

(3) On the application of a corporation made within 15 days after receiving a request to examine the financial statements, the court may bar the right to examine the statements and may make any further order that it thinks fit if it is satisfied that the examination would be detrimental to the corporation or a subsidiary. 2010, c. 15, s. 98 (3).

Notice of court application

(4) A corporation shall give the person asking to examine the financial statements notice of an application under subsection (3), and the person may appear and be heard in person or by counsel. 2010, c. 15, s. 98 (4).

Subsidiary corporation exception

(5) A subsidiary corporation is not required to comply with this section if the financial statements of its holding corporation are in consolidated or combined form and include the accounts of the subsidiary. 2010, c. 15, s. 98 (5).

Access to records refused — court authorization

99 (1) On the application of a corporation, the court may authorize the corporation to refuse to allow access to any records the corporation is required to keep under this Part or to give any information that the corporation is obligated to allow access to or to give under this Part, in whole or in part and on any terms that the court thinks fit, if the court decides that allowing the access or giving the information would be detrimental to any member or the corporation. 2010, c. 15, s. 99 (1).

Same

(2) On the application of any member of a corporation, the court may direct the corporation not to allow access to any records the corporation is required to keep under this Part or not to give information that the corporation is obligated to allow access to or to give under this Part, in whole or in part and on any terms that the court thinks fit, if the court decides that allowing the access or giving the information would be detrimental to any member or the corporation. 2010, c. 15, s. 99 (2).

Form of records

100 (1) All registers and other records required by or under this Act to be prepared and maintained by a corporation may be in any form, provided that the records are capable of being reproduced in intelligible written form within a reasonable time. 2010, c. 15, s. 100 (1).

Protection of records

(2) A corporation and its agents shall take reasonable precautions to prevent the loss or destruction of the registers and other records required by or under this Act, to prevent the falsification of entries in those registers and records and to facilitate the detection and correction of inaccuracies in them. 2010, c. 15, s. 100 (2).

Validity of unsealed documents

101 A document executed on behalf of a corporation is not invalid merely because a corporate seal is not affixed to it. 2010, c. 15, s. 101.

No deemed notice of contents

102 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. 2010, c. 15, s. 102.

PART XI FUNDAMENTAL CHANGES

Amendment of articles

103 (1) A special resolution of the members is required to make any amendment to the articles of a corporation to,

- (a) change the corporation's name;
- (b) add, remove or change any restriction upon the activity or activities that the corporation may carry on or upon the powers that the corporation may exercise;
- (c) create a new class or group of members;
- (d) change a condition required for being a member;
- (e) change the designation of any class or group of members or add, change or remove any rights or conditions of any such class or group;
- (f) divide any class or group of members into two or more classes or groups and fix the rights and conditions of each class or group;
- (g) add, change or remove a provision respecting the transfer of a membership;
- (h) subject to section 30, increase or decrease the number of, or the minimum or maximum number of, directors fixed by the articles;
- (i) change the purposes of the corporation;
- (j) change to whom the property remaining on liquidation after the discharge of any liabilities of the corporation is to be distributed;
- (k) change the manner of giving notice to members entitled to vote at a meeting of members;
- (l) change the method of voting by members not in attendance at a meeting of the members; or
- (m) add, change or remove any other provision that is permitted by this Act to be set out in the articles. 2010, c. 15, s. 103 (1); 2017, c. 20, Sched. 8, s. 21 (1); 2021, c. 25, Sched. 17, s. 1.

Directors may revoke amending resolution

(2) The directors may revoke the resolution before it is acted on without further approval of the members, if authorized to do so by the members in the resolution effecting an amendment under this section. 2010, c. 15, s. 103 (2).

Limitation

(3) This section does not apply to a corporation incorporated by a special Act, except that such a corporation may amend its articles to change its name. 2017, c. 20, Sched. 8, s. 21 (2).

Change of name prohibited

(4) A corporation may not 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. 2010, c. 15, s. 103 (4); 2017, c. 20, Sched. 8, s. 21 (3).

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

2017, c. 20, Sched. 8, s. 21 (1-3) - 19/10/2021

2021, c. 25, Sched. 17, s. 1 - 19/10/2021

Proposal to amend

104 (1) A director, or a member who is entitled to vote at an annual meeting of the members, may, in accordance with section 56, propose to make an amendment referred to in subsection 103 (1). 2010, c. 15, s. 104 (1).

Notice of amendment

(2) Notice of a meeting of the members at which a proposal to make an amendment referred to in subsection 103 (1) is to be considered must set out the proposed amendment. 2010, c. 15, s. 104 (2).

105 REPEALED: See Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*.

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

Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2020

Articles of amendment to be sent to Director

106 Subject to a revocation under subsection 103 (2), after an amendment to the articles has been adopted under section 103, the corporation shall file articles of amendment and any required documents and information with the Director. 2017, c. 20, Sched. 8, s. 22.

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

2017, c. 20, Sched. 8, s. 22 - 19/10/2021

Certificate of amendment

107 Upon receipt of the articles of amendment, together with any required documents and information and the required fee, the Director shall issue a certificate of amendment by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of amendment. 2017, c. 20, Sched. 8, s. 23.

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

2017, c. 20, Sched. 8, s. 23 - 19/10/2021

Effect of certificate

108 (1) An amendment to the articles becomes effective on the date shown in the certificate of amendment and the articles are amended accordingly. 2010, c. 15, s. 108 (1).

Rights preserved

(2) No amendment to the articles affects an existing cause of action or claim or liability to prosecution in favour of or against the corporation or its directors or officers, or any civil, criminal, administrative, investigative or other action or proceeding to which a corporation or its directors or officers is a party. 2010, c. 15, s. 108 (2).

Restated articles

109 (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. 8, s. 24 (1).

Filing with Director

(2) The corporation shall file its restated articles of incorporation and any required documents and information with the Director. 2017, c. 20, Sched. 8, s. 24 (1).

Restated certificate

(3) Upon receipt of the restated articles of incorporation, together with any required documents and information and the required fee, the Director shall issue a restated certificate of incorporation by endorsing the articles in accordance with section 201, and the endorsed articles constitute the restated certificate of incorporation. 2017, c. 20, Sched. 8, s. 24 (1).

Effect of certificate

(4) The endorsed restated articles of incorporation supersede the original articles of incorporation and all amendments to those articles. 2010, c. 15, s. 109 (4).

Exception

(5) This section does not apply to a corporation incorporated by special Act. 2017, c. 20, Sched. 8, s. 24 (2).

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

2017, c. 20, Sched. 8, s. 24 (1, 2) - 19/10/2021

Amalgamation

110 (1) Two or more corporations may amalgamate and continue as one corporation. 2010, c. 15, s. 110 (1).

Amalgamation agreement

(2) Each corporation proposing to amalgamate 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 the articles of incorporation under section 8 or, if applicable, in the by-laws under section 48;
- (b) the name and address for service of each proposed director of the amalgamated corporation;
- (c) the manner in which the memberships of each amalgamating corporation are to be converted into memberships of the amalgamated corporation;
- (d) whether the by-laws of the amalgamated corporation are to be those of one of the amalgamating corporations and, if not, the address where a copy of the proposed by-laws may be examined; and
- (e) details of any arrangements necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated corporation. 2010, c. 15, s. 110 (2).

Cancellation of memberships

(3) If a membership in an amalgamating corporation is held by another amalgamating corporation, the amalgamation agreement must provide for the cancellation, without any repayment of capital, of the membership when the amalgamation becomes effective. No provision shall be made in the agreement for the conversion of the membership into membership of the amalgamated corporation. 2010, c. 15, s. 110 (3).

Exception

(4) This section does not apply to a corporation incorporated by special Act. 2017, c. 20, Sched. 8, s. 25.

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

2017, c. 20, Sched. 8, s. 25 - 19/10/2021

Member approval of amalgamation agreement

111 (1) The directors of each amalgamating corporation shall submit the amalgamation agreement for approval to a meeting of the members of the amalgamating corporation of which they are directors. 2010, c. 15, s. 111 (1); 2021, c. 25, Sched. 17, s. 2 (1).

Notice of meeting

(2) Each amalgamating corporation shall give notice to its members of a meeting of the members in accordance with section 55 and shall include in the notice a copy or summary of the amalgamation agreement. 2010, c. 15, s. 111 (2).

(3), (4) REPEALED: See Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*.

Adoption of agreement

(5) An amalgamation agreement is adopted when the members of each amalgamating corporation have approved the amalgamation by special resolution. 2010, c. 15, s. 111 (5); 2021, c. 25, Sched. 17, s. 2 (2).

Termination of agreement

(6) An amalgamation agreement may provide that the agreement may be terminated by the directors of an amalgamating corporation at any time before the issue of a certificate of amalgamation, despite approval of the agreement by the members of all or any of the amalgamating corporations. 2010, c. 15, s. 111 (6).

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

Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2020

2021, c. 25, Sched. 17, s. 2 (1, 2) - 19/10/2021

Articles of amalgamation

112 (1) Subject to subsection 111 (6), after an amalgamation agreement has been adopted under section 111, articles of amalgamation and any required documents and information shall be filed with the Director. 2017, c. 20, Sched. 8, s. 26 (1).

Attached statements

(2) The articles of amalgamation must have attached to them 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
- (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 and no creditor objects to the amalgamation otherwise than on grounds that are frivolous or vexatious. 2010, c. 15, s. 112 (2); 2017, c. 20, Sched. 8, s. 26 (2).

Interpretation — adequate notice

(3) For the purpose of subclause (2) (b) (ii), adequate notice is given if,

- (a) a notice is given to each known creditor having a claim against the corporation that exceeds \$2,500;
- (b) a notice is published once in a newspaper published or distributed in the place where the corporation has its registered office and reasonable notice is given in each province where the corporation carries on activities; and
- (c) each notice states that the corporation intends to amalgamate with one or more specified corporations in accordance with this Act and that a creditor of the corporation may object to the amalgamation within 30 days after the date of the notice. 2010, c. 15, s. 112 (3).

Certificate of amalgamation

(4) Upon receipt of articles of amalgamation, together with the statements required by subsection (2), any other required documents and information and the required fee, the Director shall issue a certificate of amalgamation by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of amalgamation. 2017, c. 20, Sched. 8, s. 26 (3).

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

2017, c. 20, Sched. 8, s. 26 (1-3) - 19/10/2021

Effect of amalgamation

113 On the date shown in the certificate of amalgamation, the amalgamation of the amalgamating corporations and their continuance as one corporation under the terms and conditions set out in the amalgamation agreement become effective and from that date,

- (a) the amalgamating corporations are amalgamated and continue as one corporation under the terms and conditions set out in the amalgamation agreement;
- (b) the amalgamating corporations cease to exist as entities separate from the amalgamated corporation;
- (c) 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;

- (d) a conviction against, or ruling, order or judgment in favour or against an amalgamating corporation may be enforced by or against the amalgamated corporation;
- (e) the articles of amalgamation are deemed to be the articles of incorporation of the amalgamated corporation and, except for the purposes of subsection 32 (1), the certificate of amalgamation is deemed to be the certificate of incorporation of the amalgamated corporation; and
- (f) the amalgamated corporation is 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 becomes effective. 2010, c. 15, s. 113.

Continuance from other jurisdictions

114 (1) A body corporate incorporated or continued under the laws of any jurisdiction other than Ontario may apply to the Director for a certificate of continuance if,

- (a) so authorized by the statute that governs its corporate status; and
- (b) the body corporate satisfies, or by its articles of continuance would satisfy, the requirements for incorporation under this Act. 2010, c. 15, s. 114 (1).

Amendments in articles of continuance

(2) A body corporate that applies for a certificate under subsection (1) may effect by its articles of continuance any amendment to its Act of incorporation, articles, letters patent or memorandum or articles of association that a corporation incorporated under this Act may make to its articles. 2010, c. 15, s. 114 (2).

Conversion from share capital to non-share capital

(3) If the body corporate is a body corporate with share capital, it shall establish the terms and conditions on which it is converted to a corporation. 2010, c. 15, s. 114 (3).

Articles of continuance

(4) If a body corporate wishes to apply for a certificate under subsection (1), the body corporate shall file articles of continuance and any required documents and information with the Director. 2017, c. 20, Sched. 8, s. 27 (1).

Certificate of continuance

(5) Upon receipt of articles of continuance, together with any required documents and information and the required fee, the Director may, on the terms and subject to the limitations and conditions that the Director considers fit, issue a certificate of continuance by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of continuance. 2017, c. 20, Sched. 8, s. 27 (1).

Effect of certificate of continuance

- (6) From the date shown in the certificate of continuance,
 - (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;
 - (c) the certificate of continuance is deemed to be the certificate of incorporation of the continued corporation, except for the purposes of subsection 32 (1); and
 - (d) any shareholders or members of the body corporate cease to be shareholders or members of the body corporate and become members of the continued corporation. 2010, c. 15, s. 114 (6).

Notification of continuance

(7) The Director may notify the appropriate official or public body in the jurisdiction in which continuance under this Act is authorized that a certificate of continuance has been issued. 2017, c. 20, Sched. 8, s. 27 (2).

Rights preserved

- (8) From the date of continuance of a body corporate as a corporation under this Act,
 - (a) the property of the body corporate continues to be the property of the corporation;
 - (b) the corporation continues to be liable for the obligations of the body corporate;
 - (c) an existing cause of action, claim or liability to prosecution is unaffected;
 - (d) any civil, criminal, administrative, investigative or other action or proceeding pending by or against the body corporate may be continued by or against the corporation; and
 - (e) any conviction against, or ruling, order or judgment in favour of or against the body corporate may be enforced by or against the corporation. 2010, c. 15, s. 114 (8).

Deemed compliance

(9) A membership in a body corporate issued before the body corporate was continued under this Act is deemed to have been issued in compliance with this Act and the articles of continuance. 2010, c. 15, s. 114 (9).

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

2017, c. 20, Sched. 8, s. 27 (1, 2) - 19/10/2021

Continuance of other Ontario bodies corporate

115 (1) In this section,

“charter” includes,

- (a) the text of an Act of incorporation and of any amendments to that Act, and
- (b) any letters patent, supplementary letters patent, certificate of incorporation and certificate of amendment issued under an Act other than this Act or a predecessor of this Act; (“charte”)

“special resolution” has the same meaning as in subsection 1 (1), except references in the definition to a corporation shall be read as references to a body corporate and, when applied to a body corporate with share capital, references in the definition to a member or members of a corporation shall be read as references to a shareholder or shareholders of the body corporate. (“résolution extraordinaire”) 2017, c. 20, Sched. 8, s. 28 (1).

Special resolution

(2) The shareholders or members of a body corporate incorporated or continued by or under an Act other than this Act or a predecessor of this Act who are entitled to vote at annual meetings of shareholders or members may, by special resolution, authorize the directors of the body corporate to apply to the Director for a certificate of continuance under this Act. 2017, c. 20, Sched. 8, s. 28 (1).

Amendment of charter

(3) A resolution referred to in subsection (2) must also,

- (a) if the body corporate has authorized share capital provisions and related provisions set out in its charter, provide for the deletion of those provisions; and
- (b) if the body corporate has issued shares, provide for the cancellation of all those shares upon the issuance of a certificate of continuance under subsection (9). 2017, c. 20, Sched. 8, s. 28 (1).

Same, permissive provision

(4) A resolution referred to in subsection (2) may also make any amendment to the charter of the body corporate that a corporation incorporated under this Act may make to its articles. 2017, c. 20, Sched. 8, s. 28 (1).

(5) REPEALED: 2021, c. 25, Sched. 17, s. 3.

Additional authorization, body corporate with share capital

(6) In the case of a body corporate with share capital, a resolution referred to in subsection (2) must also be authorized,

- (a) in accordance with any applicable requirements of the Act which governs the body corporate; or
- (b) if there are no applicable requirements in the Act which governs the body corporate, unanimously by shareholders entitled to vote, instead of being approved by at least two-thirds of the votes cast at a special meeting. 2017, c. 20, Sched. 8, s. 28 (1).

Corporation must be able to pay liabilities

(7) Despite subsection (2) and clause 2.1 (1) (a) of the *Corporations Act*, the shareholders of a body corporate with share capital may not authorize the body corporate to apply to the Director for a certificate of continuance under this Act if, upon continuance, the body corporate will be unable to pay its liabilities as they become due. 2017, c. 20, Sched. 8, s. 28 (1).

Note: On October 19, 2046, the 25th anniversary of the day subsection 3 (1) of Schedule 7 to the *Cutting Unnecessary Red Tape Act, 2017* comes into force, subsection 115 (7) of the Act is amended by striking out “and clause 2.1 (1) (a) of the *Corporations Act*”. (See: 2017, c. 20, Sched. 8, s. 28 (2))

Articles of continuance

(8) If a body corporate wishes to apply for a certificate under subsection (2), the body corporate shall file articles of continuance and any required documents and information with the Director. 2017, c. 20, Sched. 8, s. 28 (1).

Certificate of continuance

(9) Upon receipt of articles of continuance, together with any required documents and information and the required fee, the Director may, on the terms and subject to the limitations and conditions that the Director considers fit, issue a certificate of

continuance by endorsing the articles of continuance in accordance with section 201, and the endorsed articles constitute the certificate of continuance. 2017, c. 20, Sched. 8, s. 28 (1).

Rights preserved

- (10) From the date of continuance of a body corporate as a corporation under this Act,
- (a) the property of the body corporate continues to be the property of the corporation;
 - (b) the corporation continues to be liable for the obligations of the body corporate;
 - (c) an existing cause of action, claim or liability to prosecution is unaffected;
 - (d) any civil, criminal, administrative, investigative or other action or proceeding pending by or against the body corporate may be continued by or against the corporation; and
 - (e) any conviction against, or ruling, order or judgment in favour of or against the body corporate may be enforced by or against the corporation. 2017, c. 20, Sched. 8, s. 28 (1).

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

2017, c. 20, Sched. 8, s. 28 (1) - 19/10/2021; 2017, c. 20, Sched. 8, s. 28 (2) - 19/10/2046

2021, c. 25, Sched. 17, s. 3 - 03/06/2021

Continuance to other jurisdictions

116 (1) Subject to subsection (10), a corporation may 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 if the corporation is authorized by the members and the Director in accordance with subsections (2) and (4) to make the application. 2010, c. 15, s. 116 (1); 2021, c. 25, Sched. 17, s. 4.

Notice of meeting

(2) The corporation shall give members notice of a meeting of members in accordance with section 55. 2010, c. 15, s. 116 (2).

(3) REPEALED: See Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*.

Filing application with Director

(4) If the members approve of the continuance by special resolution, the corporation may file with the Director its application for authorization of the continuance and any required documents and information. 2017, c. 20, Sched. 8, s. 29 (1).

Director's authorization

(5) Upon receipt of the application, together with any required documents and information and the required fee, the Director may endorse an authorization in respect of the application if the Director is satisfied that the application is not prohibited by subsection (10) in accordance with any applicable regulations and Director's requirements, and the endorsed application constitutes the Director's authorization of the application for continuance. 2017, c. 20, Sched. 8, s. 29 (1).

Time limit to Director's authorization

(6) The Director's authorization of an application for continuance expires six months after the date of endorsement of the application unless, within the six-month period, the corporation is continued under the laws of the other jurisdiction. 2010, c. 15, s. 116 (6); 2017, c. 20, Sched. 8, s. 29 (2).

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 60 days after its issuance. 2010, c. 15, s. 116 (7).

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. 8, s. 29 (3).

Effective date

(8) This Act, except subsection (7) of this section, ceases to apply to the corporation on the date on which the corporation is continued under the laws of the other jurisdiction. 2010, c. 15, s. 116 (8).

Termination of application

(9) The directors of a corporation may, if authorized by the members at the time of approving an application for continuance, abandon the application without further approval of the members. 2010, c. 15, s. 116 (9).

Limitation — rights preserved

(10) 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) any civil, criminal or administrative, investigative or other action or proceeding pending by or against the corporation may be continued by or against the body corporate; and
- (e) any conviction against, or ruling, order or judgment in favour of or against the corporation may be enforced by or against the body corporate. 2010, c. 15, s. 116 (10).

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

2017, c. 20, Sched. 8, s. 29 (1, 3) - 19/10/2021; 2017, c. 20, Sched. 8, s. 29 (2) - 14/11/2017

Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2020

2021, c. 25, Sched. 17, s. 4 - 19/10/2021

Continuance as co-operative corporation

117 (1) A corporation incorporated under this Act or a predecessor of this Act, other than a charitable corporation, may, if authorized by a special resolution and by the Director, apply under the *Co-operative Corporations Act* to be continued as a co-operative corporation. 2010, c. 15, s. 117 (1); 2017, c. 20, Sched. 8, s. 30 (1).

Filing application with Director

(2) If a corporation wishes to apply for the Director's authorization to be continued under subsection (1), the corporation shall file the application and any required documents and information with the Director. 2017, c. 20, Sched. 8, s. 30 (2).

Director's authorization

(3) Upon receipt of the application, together with any required documents and information and the required fee, the Director may endorse an authorization in respect of the application in accordance with any applicable regulations and Director's requirements. The endorsed application constitutes the Director's authorization of the application for continuance. 2017, c. 20, Sched. 8, s. 30 (2).

Time limit to Director's authorization

(4) The Director's authorization of an application for continuance expires six months after the date of endorsement of the application unless, within the six-month period, the corporation is continued under the *Co-operative Corporations Act*. 2010, c. 15, s. 117 (4); 2017, c. 20, Sched. 8, s. 30 (3).

Act ceases to apply

(5) This Act ceases to apply to the corporation on the date on which the corporation is continued under the *Co-operative Corporations Act*. 2010, c. 15, s. 117 (5); 2021, c. 25, Sched. 17, s. 5.

Termination of application

(6) The directors of the corporation may, if authorized by the members at the time of approving an application for continuance, abandon the application without further approval of the members. 2010, c. 15, s. 117 (6).

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

2017, c. 20, Sched. 8, s. 30 (1, 2) - 19/10/2021; 2017, c. 20, Sched. 8, s. 30 (3) - 14/11/2017

2021, c. 25, Sched. 17, s. 5 - 19/10/2021

Extraordinary sale, lease or exchange

118 (1) A sale, lease or exchange of all or substantially all of the property of a corporation other than in the ordinary course of its activities requires the authorization of the members in accordance with subsections (2), (3) and (6). 2010, c. 15, s. 118 (1); 2021, c. 25, Sched. 17, s. 6 (1).

Notice of meeting

(2) The corporation shall give members notice of a meeting of the members in accordance with section 55 and shall include a copy or summary of the proposed agreement of sale, lease or exchange. 2010, c. 15, s. 118 (2).

Member approval

(3) At the meeting of the members, the members may authorize the sale, lease or exchange and may fix, or authorize the directors to fix, any of the terms and conditions of the sale, lease or exchange. 2010, c. 15, s. 118 (3).

(4), (5) REPEALED: See Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*.

Same

(6) The sale, lease or exchange is authorized when the members have approved it by a special resolution. 2010, c. 15, s. 118 (6); 2021, c. 25, Sched. 17, s. 6 (2).

Abandonment

(7) The directors of a corporation may, if authorized by the members 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 members. 2010, c. 15, s. 118 (7).

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

Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2020

2021, c. 25, Sched. 17, s. 6 (1, 2) - 19/10/2021

Reorganization

Definition

119 (1) In this section,

“reorganization” means a reorganization pursuant to a court order made under the *Bankruptcy and Insolvency Act* (Canada) or the *Companies’ Creditors Arrangement Act* (Canada) approving a proposal. 2010, c. 15, s. 119 (1).

Powers of court

(2) If a corporation is subject to an order referred to in subsection (1), the order may also require an amendment of the articles or by-laws to effect any change that might be made under section 103. 2010, c. 15, s. 119 (2).

Further powers

(3) If a court makes an order referred to in subsection (1), the court may also,

- (a) authorize the issue of debt obligations of the corporation and fix their terms; and
- (b) appoint directors in place of or in addition to all or any of the directors then in office. 2010, c. 15, s. 119 (3).

Articles of reorganization

(4) After an order referred to in subsection (1) has been made, the corporation shall file articles of reorganization and any required documents and information with the Director. 2017, c. 20, Sched. 8, s. 31 (1).

Certificate of amendment

(5) Upon receipt of articles of reorganization, together with any required documents and information and the required fee, the Director shall issue a certificate of amendment by endorsing the articles of reorganization in accordance with section 201, and the articles of incorporation are amended accordingly, and the endorsed articles constitute the certificate of amendment. 2017, c. 20, Sched. 8, s. 31 (1).

No dissent

(6) A member is not entitled to dissent under section 187 if an amendment to the articles is effected under this section. 2010, c. 15, s. 119 (6).

Exception

(7) This section does not apply to a corporation incorporated by special Act. 2017, c. 20, Sched. 8, s. 31 (2).

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

2017, c. 20, Sched. 8, s. 31 (1, 2) - 19/10/2021

Arrangement

Definition

120 (1) In this section,

“arrangement” includes,

- (a) an amendment to the articles of a corporation,

- (b) an amalgamation of two or more corporations,
- (c) an amalgamation of a body corporate with a corporation that results in an amalgamated corporation to which this Act applies,
- (d) a transfer of all or substantially all of the property of a corporation to another body corporate in exchange for money or other property, shares, memberships or debt obligations of the body corporate,
- (e) an exchange of debt obligations or memberships of a corporation for money or other property or other memberships or debt obligations of the corporation or money or other property, shares, memberships or debt obligations of another body corporate,
- (f) a liquidation and dissolution of a corporation,
- (g) any other reorganization or scheme involving the affairs of the corporation that is, at law, an arrangement, and
- (h) any combination of operations referred to in clauses (a) to (g). 2010, c. 15, s. 120 (1).

Scheme of arrangement

(2) A corporation proposing an arrangement shall prepare a statement for the approval of the members setting out in detail what is proposed to be done and the manner in which it is proposed to be done. 2010, c. 15, s. 120 (2).

Adoption of arrangement

(3) Subject to any order of the court made under subsection (5), where an arrangement is approved by members of a corporation by special resolution, the arrangement is considered to be adopted by the members of the corporation and the corporation may apply to the court for an order approving the arrangement. 2010, c. 15, s. 120 (3); 2021, c. 25, Sched. 17, s. 7 (1).

Application to court for approval of arrangement

(4) A corporation, if authorized by special resolution of the members, may apply to the court for an order approving an arrangement proposed by the corporation. 2010, c. 15, s. 120 (4); 2021, c. 25, Sched. 17, s. 7 (2).

Same

(4.1) A corporation that applies to the court under subsection (4) 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. 8, s. 32 (1).

Powers of court

(5) On an application by a corporation under this section, the court may make any interim or final order that it thinks fit, including an order,

- (a) determining the notice to be given to any interested person or dispensing with notice to any person;
- (b) appointing counsel, at the expense of the corporation, to represent the interests of the members;
- (c) requiring the corporation to call, hold and conduct a meeting of the members or holders of debt obligations issued by the corporation in any manner that the court directs; and
- (d) approving an arrangement as proposed by the corporation or as amended in any manner that the court directs. 2010, c. 15, s. 120 (5).

Articles of arrangement

(6) After an order referred to in clause (5) (d) has been made, the corporation shall file articles of arrangement and any required documents and information with the Director. 2017, c. 20, Sched. 8, s. 32 (2).

Certificate of arrangement

(7) Upon receipt of articles of arrangement, together with any required documents and information and the required fee, the Director shall issue a certificate of arrangement by endorsing the articles of arrangement in accordance with section 201, and the endorsed articles constitute the certificate of arrangement. 2017, c. 20, Sched. 8, s. 32 (2).

Effective date of articles of arrangement

(8) Articles of arrangement are effective on the date shown in the certificate of arrangement. 2017, c. 20, Sched. 8, s. 32 (2).

Exception

(9) This section does not apply to a corporation incorporated by special Act. 2017, c. 20, Sched. 8, s. 32 (2).

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

2017, c. 20, Sched. 8, s. 32 (1, 2) - 19/10/2021

2021, c. 25, Sched. 17, s. 7 (1, 2) - 19/10/2021

PART XII
LIQUIDATION AND DISSOLUTION

Definition

121 In this Part,

“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. 2010, c. 15, s. 121.

Application of ss. 123 to 134 to voluntary windings up

122 Sections 123 to 134 apply to corporations being wound up voluntarily. 2010, c. 15, s. 122.

Voluntary winding up

123 (1) The members of a corporation may, by special resolution at a meeting of the members, require the corporation to be wound up voluntarily. 2010, c. 15, s. 123 (1).

Appointment of liquidator

(2) At the meeting of the members, the members 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 activities 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. 2010, c. 15, s. 123 (2).

Review of remuneration by court

(3) On the application of any member 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 the amount that it thinks proper. 2010, c. 15, s. 123 (3).

Publication of notice

(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. 8, s. 33.

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

2017, c. 20, Sched. 8, s. 33 - 19/10/2021

Inspectors

124 (1) The members of a corporation being wound up voluntarily may delegate to any committee of members, contributories or creditors the power to appoint the liquidator and fill 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. 2010, c. 15, s. 124 (1).

Same

(2) A committee of members, contributories or creditors to whom power is delegated under subsection (1) may be referred to as inspectors. 2010, c. 15, s. 124 (2).

Vacancy in office of liquidator

125 If a vacancy occurs in the office of liquidator by death, resignation or otherwise, the members may, subject to any arrangement the corporation may have entered into with its creditors upon the appointment of inspectors, fill the vacancy, and a meeting for that purpose may be called by the continuing liquidator, if any, or by any member or contributory, and is deemed to have been duly held if called in the manner required by the articles or by-laws of the corporation, or, if it is not called in that manner, in the manner required by this Act for calling meetings of the members of the corporation. 2010, c. 15, s. 125.

Removal of liquidator

126 The members of a corporation may by ordinary resolution passed at a meeting called for that purpose remove a liquidator appointed under section 123, 124 or 125, and in such case shall appoint a replacement. 2010, c. 15, s. 126.

Commencement of winding up

127 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. 2010, c. 15, s. 127.

Corporation to cease activities

128 A corporation being wound up voluntarily shall, from the commencement of its winding up, cease to carry on its activities, except in so far as may be required as beneficial for the winding up, but its corporate existence and all its corporate powers, even if it is otherwise provided by its articles or by-laws, continue until the corporation is wound up. 2010, c. 15, s. 128.

Proceedings against corporation after voluntary winding up

129 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. 2010, c. 15, s. 129.

List of contributories and calls

130 (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. 2010, c. 15, s. 130 (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 on the list as contributories. 2010, c. 15, s. 130 (2).

Default on calls

(3) In making a call under clause (1) (b), the liquidator 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. 2010, c. 15, s. 130 (3).

Meetings of members during winding up

131 (1) The liquidator may, during the continuance of the voluntary winding up, call meetings of the members for any purpose the liquidator thinks fit. 2010, c. 15, s. 131 (1).

Winding up continues more than one year

(2) If a voluntary winding up continues for more than one year, the liquidator shall call a meeting of the members at the end of the first year after the commencement of the winding up and of each succeeding year, 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 preceding year. 2010, c. 15, s. 131 (2).

Arrangements with creditors

132 The liquidator, with the approval of the members or the inspectors, may make any compromise or other arrangement that the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that they have a claim, present or future, certain or contingent, liquidated or unliquidated, against the corporation or by which the corporation may be rendered liable. 2010, c. 15, s. 132.

Power to compromise with debtors and contributories

133 The liquidator may, with the approval referred to in section 132, 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 of them. 2010, c. 15, s. 133.

Account of voluntary winding up to be made by liquidator

134 (1) The liquidator shall make up an account showing the manner in which the winding up was conducted and the property of the corporation disposed of, and then shall call a meeting of the members 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 required by the articles or by-laws or, in default of being called in that manner, in the manner required by this Act for the calling of meetings of the members. 2010, c. 15, s. 134 (1).

Notice of holding of meeting

(2) The liquidator shall, within 10 days after the meeting is held, file with the Director a notice stating that the meeting was held and the date of the meeting. 2010, c. 15, s. 134 (2); 2017, c. 20, Sched. 8, s. 34 (1).

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. 2010, c. 15, s. 134 (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 interested person, 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 fixed date. 2010, c. 15, s. 134 (4).

Dissolution by court order

(5) Despite anything in this Act, the court may, at any time after the corporation has been fully wound up and upon the application of the liquidator or any other interested person, make an order dissolving the corporation, and the corporation is dissolved on the date fixed in the order. 2010, c. 15, s. 134 (5).

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. 8, s. 34 (2).

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

2017, c. 20, Sched. 8, s. 34 (1, 2) - 19/10/2021

Application of ss. 136 to 147 to court-ordered windings up

135 Sections 136 to 147 apply to corporations being wound up by order of the court. 2010, c. 15, s. 135.

Winding up by court

136 A corporation may be wound up by order of the court if,

(a) the court is satisfied that,

(i) any act or omission of the corporation or any of its affiliates effects a result,

(ii) the activities or affairs of the corporation or of 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 of any of its affiliates are or have been exercised in a manner,

that is unfairly prejudicial to or that unfairly disregards the interests of any member, creditor, director or officer; or

(b) the court is satisfied that,

(i) proceedings to wind up voluntarily have begun and it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court,

(ii) the corporation, though it may not be insolvent, cannot by reason of its liabilities continue its activities and it is advisable to wind it up, or

(iii) 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) the members by special resolution authorize an application to be made to the court to wind up the corporation. 2010, c. 15, s. 136.

Who may apply

137 (1) A winding-up order may be made under section 136 upon the application of the corporation or of a member or, if 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. 2010, c. 15, s. 137 (1).

Notice

(2) Except where the application is made by the corporation, the applicant shall give four days' notice of the application to the corporation before making the application. 2010, c. 15, s. 137 (2).

Powers of court

138 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 it considers 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 any powers of the court that are necessary for the reference. 2010, c. 15, s. 138.

Appointment of liquidator

139 (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 activities and affairs and distributing its property. 2010, c. 15, s. 139 (1).

Remuneration

(2) The court may at any time fix the remuneration of the liquidator. 2010, c. 15, s. 139 (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. 2010, c. 15, s. 139 (3).

Notice of appointment

(4) A liquidator appointed by the court under this section shall forthwith give to the Director notice of the liquidator's appointment. 2010, c. 15, s. 139 (4); 2017, c. 20, Sched. 8, s. 35.

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

2017, c. 20, Sched. 8, s. 35 - 19/10/2021

Removal of liquidator

140 The court may by order remove for cause a liquidator appointed by it, and in such case shall appoint a replacement. 2010, c. 15, s. 140.

Assessment of costs, etc.

141 The costs, charges and expenses of a winding up by order of the court shall be assessed by an assessment officer of the court. 2010, c. 15, s. 141.

Commencement of winding up

142 If a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up is deemed, unless the court orders otherwise, to commence at the time of the service of notice of the application or, if the application is made by the corporation, at the time the application is made. 2010, c. 15, s. 142.

Proceedings in winding up after order

143 If 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,

- (a) the list of contributories shall be settled by the court if it has not already been settled by the liquidator before the winding-up order;
- (b) the list of contributories shall be subject to review by the court if it has already been settled by the liquidator before the winding-up order; and
- (c) all proceedings in the winding up are subject to the order and direction of the court. 2010, c. 15, s. 143.

Orders following winding-up order

144 If a winding-up order has been made by the court, the court may make the following orders:

1. Directing meetings of the members of the corporation to be called, held and conducted in the manner that the court thinks fit for the purpose of ascertaining their wishes, and appointing a person to act as chair of any such meeting and to report the result of it to the court.
2. Requiring 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 to the liquidator forthwith, or within the time that the court directs, any sum or balance, documents, records, estate or effects that are in their hands and to which the corporation is apparently entitled.
3. 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 accordance with the order. 2010, c. 15, s. 144.

Proceedings against corporation after court winding up

145 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 any terms that the court imposes. 2010, c. 15, s. 145.

Provision for discharge and distribution by the court

146 (1) If 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 the person that the court directs, of that property, and it shall be realized and distributed by or under the direction of the court among the persons entitled to it in the same way as nearly as may be as if the distribution were being made by the liquidator. 2010, c. 15, s. 146 (1).

Disposal of documents and records

(2) If the court makes an order under subsection (1), 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. 2010, c. 15, s. 146 (2).

Order for dissolution

147 (1) At any time after the activities and affairs of the corporation have been fully wound up, the court may, upon the application of the liquidator or any other interested person, make an order dissolving the corporation, and the corporation is dissolved on the date fixed in the order. 2010, c. 15, s. 147 (1).

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. 8, s. 36.

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

2017, c. 20, Sched. 8, s. 36 - 19/10/2021

Application of ss. 149 to 165 to all windings up

148 Sections 149 to 165 apply to corporations being wound up either voluntarily or by order of the court. 2010, c. 15, s. 148.

No liquidator

149 If there is no liquidator,

- (a) the court may, on the application of a member, by order 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. 2010, c. 15, s. 149.

Consequences of winding up

150 (1) Upon a winding up,

- (a) the liquidator shall apply the property of the corporation in satisfaction of all its debts, obligations and liabilities;
- (b) after satisfying the interests of the corporation's creditors in all its debts, obligations and liabilities, if any, the liquidator shall distribute the remaining property,
 - (i) if the corporation is a public benefit corporation,
 - (A) if it is a charitable corporation, to a Canadian body corporate that is a registered charity under the *Income Tax Act* (Canada) with similar purposes to its own, the Crown in right of Ontario, the Crown in right of Canada, an agent of either of those Crowns or a municipality in Canada,
 - (B) if it is a non-charitable corporation, to another public benefit corporation with similar purposes to its own, a Canadian body corporate that is a registered charity under the *Income Tax Act* (Canada) with similar purposes to its own, the Crown in right of Ontario, the Crown in right of Canada, an agent of either of those Crowns or a municipality in Canada, or
 - (ii) if the corporation is not a public benefit corporation,
 - (A) in accordance with its articles, or
 - (B) if there is no provision in its articles for distribution of property, rateably to its members according to their rights and interests in the corporation;
- (c) 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 12 months, shall be paid in priority to the claims of the ordinary creditors, and the employees of the corporation are entitled to rank as ordinary creditors for the residue of their claims; and

- (d) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may authorize the continuance of such powers. 2010, c. 15, s. 150 (1); 2017, c. 20, Sched. 8, s. 37 (1).

Deemed distribution in accordance with Act

(1.1) If the remaining property of a corporation that is not a public benefit corporation is distributed on winding up in accordance with a by-law described in paragraph 5 of subsection 207 (3), the property is deemed to have been distributed in accordance with the corporation's articles for the purposes of sub-subclause (1) (b) (ii) (A). 2017, c. 20, Sched. 8, s. 37 (2).

Distribution of property

(2) Section 53 of the *Trustee Act* applies with necessary modifications to liquidators. 2010, c. 15, s. 150 (2).

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

2017, c. 20, Sched. 8, s. 37 (1, 2) - 19/10/2021

Costs, etc., of winding up

151 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. 2010, c. 15, s. 151.

Powers of liquidators

152 (1) A liquidator may,

- (a) bring or defend any action, prosecution or other civil, criminal, administrative, investigative or other proceedings in the name and on behalf of the corporation;
- (b) carry on the activities 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 all documents, in the name and on behalf of the corporation, and for that purpose use the seal of the corporation, if it has one;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;
- (f) raise any requisite money upon the security of the property of the corporation;
- (g) take out in the liquidator's name as liquidator of the corporation letters of administration of the estate of any deceased contributory and in the liquidator's name as liquidator of the corporation do any other act that is necessary for obtaining payment of any money due from a contributory or from a contributory's estate and which act cannot be done conveniently in the name of the corporation; and
- (h) do and execute all other things that are necessary for winding up the activities and affairs of the corporation and distributing its property. 2010, c. 15, s. 152 (1).

Bills of exchange, etc., drawn, etc., by liquidator

(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 the bill or note had been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of carrying on its activities. 2010, c. 15, s. 152 (2).

Money deemed to be due to liquidator

(3) If the liquidator takes out letters of administration or otherwise uses the liquidator's name as liquidator of the corporation for obtaining payment of any money due from a contributory, that money is deemed, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, to be due to the liquidator rather than to the corporation. 2010, c. 15, s. 152 (3).

Reliance on financial statements, etc.

(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 an audit or review engagement report to present fairly the financial position of the corporation in accordance with generally accepted accounting principles; or
- (b) an opinion, report or statement of a lawyer, an accountant, an engineer, an appraiser or other professional adviser retained by the liquidator. 2010, c. 15, s. 152 (4).

Acts by more than one liquidator

153 If more than one person is appointed as liquidator, any power conferred by sections 123 to 165 on a liquidator may be exercised by any one or more of the liquidators as may be determined by the resolution or order appointing them or, in default of such determination, by any two or more of them. 2010, c. 15, s. 153.

Nature of liability of contributory

154 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 that liability. 2010, c. 15, s. 154.

Liability in case of contributory's death

155 If a contributory dies before or after having been placed on the list of contributories, the contributory's trustee, executor, administrator or other legal 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. 2010, c. 15, s. 155.

Deposit of money

156 (1) The liquidator shall deposit all money that the liquidator has belonging to the corporation and amounting to \$100 or more in,

- (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 the later of the day section 291 of *Credit Unions and Caisses Populaires Act, 2020* comes into force and the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, clause 156 (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. 327)

- (d) a retail association as defined under the *Cooperative Credit Associations Act* (Canada). 2010, c. 15, s. 156 (1).

Separate deposit account

(2) The deposit must not be made in the name of the liquidator individually, but a separate deposit account must 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 the money may be withdrawn only by order for payment signed by the liquidator and one of the inspectors, if any. 2010, c. 15, s. 156 (2).

Liquidator to produce bank statements

(3) At every meeting of the members, the liquidator shall produce a statement of account showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and the dates of withdrawal. 2010, c. 15, s. 156 (3).

Same

(4) Mention of the production of the statement of account must be made in the minutes of the meeting and, if it is not mentioned, that fact is admissible in evidence as proof, in the absence of evidence to the contrary, that the statement of account was not produced at the meeting. 2010, c. 15, s. 156 (4).

Same

(5) The liquidator shall also produce the statement of account whenever ordered to do so by the court upon the application of the inspectors, if any, or of a member. 2010, c. 15, s. 156 (5).

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

2020, c. 36, Sched. 7, s. 327 - not in force

Proving claim

157 For the purpose of proving claims, sections 23, 24 and 25 of the *Assignments and Preferences Act* apply with necessary modifications, including by changing references to "judge" in those sections to "court". 2010, c. 15, s. 157.

Application for direction

158 Upon the application of the liquidator or of the inspectors, if any, or of any creditors, the court, after hearing the parties that it directs to be notified or after any steps that the court directs have been taken, may by order give its direction in any matter arising in the winding up. 2010, c. 15, s. 158.

Examination of persons as to estate

159 (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 property of the corporation, or alleged to be indebted to it, or any person whom the court thinks capable of giving information concerning its property or activities. 2010, c. 15, s. 159 (1).

Damages against delinquent directors, etc.

(2) If 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 present or former 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, member 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 a sum to the property of the corporation by way of compensation in respect of the misapplication, retention, misfeasance or breach of trust, or both, as the court thinks just. 2010, c. 15, s. 159 (2).

Proceedings by members

160 (1) If a member of the corporation desires to cause any proceeding to be taken that, in the member's opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the members or of the inspectors, if any, refuses or neglects to take the proceeding after being required to do so, the member may obtain an order of the court authorizing the member to take the proceeding in the name of the liquidator or corporation, but at the member's own expense and risk, upon the terms and conditions as to indemnity to the liquidator or corporation as may be specified by the court. 2010, c. 15, s. 160 (1).

Benefits: when for members

(2) Any benefit derived from a proceeding under subsection (1) belongs exclusively to the member causing the institution of the proceeding for the member's benefit and that of any other member who has joined together in causing the institution of the proceeding. 2010, c. 15, s. 160 (2).

Benefits: when for corporation

(3) If, before the order is granted, the liquidator notifies the court of the liquidator's readiness to institute the proceeding for the benefit of the corporation, the court shall make an order specifying the time within which the liquidator is to institute the proceeding, and in that case the advantage derived from the proceeding, if instituted within that time, belongs to the corporation. 2010, c. 15, s. 160 (3).

Rights conferred under Act are in addition to other powers

161 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 the contributory or debtor or their estate. 2010, c. 15, s. 161.

Stay of winding-up proceedings

162 At any time during a winding up, the court, upon the application of a member, 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 the terms and subject to the conditions that the court thinks fit. 2010, c. 15, s. 162.

Creditor unknown

163 (1) If 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 subsections 167 (4) and (5) apply to the payment to the Public Guardian and Trustee. 2010, c. 15, s. 163 (1).

Same

(2) A payment under subsection (1) is deemed to be in satisfaction of the debt for the purposes of winding up. 2010, c. 15, s. 163 (2).

Member's whereabouts unknown

164 (1) If the liquidator is unable to distribute rateably the property of the corporation among the members of a corporation that is not a public benefit corporation because a member's whereabouts is unknown, the share of the property of the corporation of that member 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 member. 2010, c. 15, s. 164 (1).

Same

(2) Subsections 167 (4) and (5) apply to the property delivered or conveyed to the Public Guardian and Trustee under subsection (1). 2010, c. 15, s. 164 (2).

Same

(3) A delivery or conveyance under subsection (1) is deemed to be a distribution to that member of their rateable share for the purposes of the winding up. 2010, c. 15, s. 164 (3).

Disposal of records, etc., after winding up

165 (1) If a corporation has been wound up under sections 123 to 164 and is about to be dissolved, its documents and records and those of the liquidator may be disposed of,

- (a) as it by resolution directs in the case of a voluntary winding up; or
- (b) as the court directs in the case of a winding up under an order. 2010, c. 15, s. 165 (1).

Same

(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 documents or records or any of them are not forthcoming to any person claiming to be interested in them. 2010, c. 15, s. 165 (2).

Voluntary dissolution

166 A corporation may be dissolved if it is authorized to do so by,

- (a) a special resolution passed at a meeting of the members duly called for the purpose; or
- (b) the consent of all the members entitled to vote at a meeting of the members. 2010, c. 15, s. 166.

Articles of dissolution

167 (1) For the purpose of bringing the dissolution authorized under clause 166 (a) or (b) into effect, articles of dissolution must set out,

- (a) the name of the corporation;
- (b) that its dissolution has been duly authorized under clause 166 (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 (2) 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 its creditors in all its debts, obligations and liabilities, if any,
 - (i) if it is a public benefit corporation, it has no property to distribute or it has distributed its remaining property in accordance with its articles,
 - (A) if it is a charitable corporation, to a Canadian body corporate that is a registered charity under the *Income Tax Act* (Canada) with similar purposes to its own, the Crown in right of Ontario, the Crown in right of Canada, an agent of either of those Crowns or a municipality in Canada,
 - (B) if it is a non-charitable corporation, to another public benefit corporation with similar purposes to its own, a Canadian body corporate that is a registered charity under the *Income Tax Act* (Canada) with similar purposes to its own, the Crown in right of Ontario, the Crown in right of Canada, an agent of either of those Crowns or a municipality in Canada, or
 - (ii) if it is not a public benefit corporation, it has no property to distribute among its members or it has distributed its remaining property,
 - (A) in accordance with its articles, or
 - (B) if there is no provision in its articles for distribution of property, rateably to its members according to their rights and interests in the corporation;
- (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. 2010, c. 15, s. 167 (1); 2015, c. 38, Sched. 7, s. 55 (7); 2017, c. 20, Sched. 8, s. 38 (1).

Creditor unknown

(2) If 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 that payment is deemed to be due provision for the debt for the purposes of clause (1) (c). 2010, c. 15, s. 167 (2).

Member unknown

(3) If a corporation authorizes its dissolution and a member is unknown or a member's whereabouts is unknown, it may, by agreement with the Public Guardian and Trustee, deliver or convey the member's share of the property to the Public Guardian and Trustee to be held in trust for the member, and that delivery or conveyance is deemed to be a distribution to that member of their rateable share for the purposes of subclause (1) (d) (ii). 2010, c. 15, s. 167 (3).

Power to convert

(4) If the share of the property delivered or conveyed to the Public Guardian and Trustee under subsection (3) is in a form other than cash, the Public Guardian and Trustee may at any time, and within 10 years after the delivery or conveyance shall, convert it into cash. 2010, c. 15, s. 167 (4).

Payment to person entitled

(5) If the amount paid under subsection (2) or the share of the property delivered or conveyed under subsection (3) or its equivalent in cash, as the case may be, is claimed by the person beneficially entitled to it within 10 years after it was so paid, delivered or conveyed, it shall be paid, delivered or conveyed 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 to it at any time after the 10 years establishes a right to it 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. 2010, c. 15, s. 167 (5).

Deemed amendment of articles, charitable corporations

(5.1) If, on the day this section comes into force, a charitable corporation does not have a valid provision in its articles respecting the distribution of the corporation's remaining property on dissolution that is in conformity with sub-subclause (1) (d) (i) (A), the corporation is deemed, on that day, to have filed articles of amendment adding such a provision to its articles. 2017, c. 20, Sched. 8, s. 38 (2).

Same, public benefit non-charitable corporations

(5.2) If, on the day that a non-charitable corporation that is a public benefit corporation for the purposes of this section files articles of dissolution, the corporation does not have a valid provision in its articles respecting the distribution of the corporation's remaining property on dissolution that is in conformity with sub-subclause (1) (d) (i) (B), the corporation is deemed, on that day, to have filed articles of amendment adding such a provision to its articles. 2017, c. 20, Sched. 8, s. 38 (2).

Deemed distribution in accordance with Act

(5.3) If the remaining property of a corporation that is not a public benefit corporation is distributed on dissolution in accordance with a by-law described in paragraph 5 of subsection 207 (3), the property is deemed to have been distributed in accordance with the corporation's articles for the purposes of sub-subclause (1) (d) (ii) (A). 2017, c. 20, Sched. 8, s. 38 (2).

Definition of "public benefit corporation"

(6) For the purposes of subsection (1), a corporation that does not come within the definition of a public benefit corporation during the financial year in which it files articles of dissolution is deemed to be a public benefit corporation if it came within the definition during any of its three financial years preceding the financial year in which it files its articles of dissolution. 2010, c. 15, s. 167 (6).

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

2015, c. 38, Sched. 7, s. 55 (7) - 19/10/2021

2017, c. 20, Sched. 8, s. 38 (1, 2) - 19/10/2021

Certificate of dissolution

168 (1) Upon receipt of the articles of dissolution, together with any required documents and information and the required fee, the Director shall issue a certificate of dissolution by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of dissolution. 2017, c. 20, Sched. 8, s. 39.

Exception, registered owner of land

(2) 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. 2017, c. 20, Sched. 8, s. 39.

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

2015, c. 38, Sched. 7, s. 55 (8) - no effect - see 2017, c. 20, Sched. 8, s. 145 - 14/11/2017

2017, c. 20, Sched. 8, s. 39 - 19/10/2021

Cancellation of certificate, etc., by Director

169 (1) If sufficient cause is shown to the Director, the Director may, after giving the corporation an opportunity to be heard, make an order upon the terms and conditions that the Director thinks fit cancelling the corporation's certificate of incorporation, any other certificate issued to the corporation under this Act or a predecessor of this Act, its letters patent, supplementary letters patent, any other instrument by which the corporation was incorporated under a predecessor of this Act, or any amendments to such instrument, or an order issued under a predecessor of this Act accepting the surrender of its charter, accepting its application for termination of existence or reviving the corporation. 2017, c. 20, Sched. 8, s. 40.

Same

(2) The Director may make an order under subsection (1) despite the imposition of any other penalty for the same cause and in addition to any rights the Director may have under this or any other Act. 2017, c. 20, Sched. 8, s. 40.

Written hearing

(3) 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*. 2017, c. 20, Sched. 8, s. 40.

Date of dissolution

(4) In the case of the cancellation, under subsection (1), of a certificate of incorporation, letters patent or other instrument by which the corporation was incorporated under a predecessor of this Act, the corporation is dissolved on the date fixed in the order made under this section. 2017, c. 20, Sched. 8, s. 40.

Effective date

(5) In the case of the cancellation, under subsection (1), of any other certificate, supplementary letters patent, amendments to the instrument by which the corporation was incorporated under a predecessor of this Act or any order, the matter that became effective upon the issuance of the certificate, supplementary letters patent, amendment or order ceases to be in effect from the date fixed in the order made under this section. 2017, c. 20, Sched. 8, s. 40.

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

2015, c. 38, Sched. 7, s. 55 (9) - no effect - see 2017, c. 20, Sched. 8, s. 60 - 14/11/2017

2017, c. 20, Sched. 8, s. 40 - 19/10/2021

Notice of dissolution, non-filing

170 (1) 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 197 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. 2010, c. 15, s. 170 (1); 2017, c. 20, Sched. 8, s. 41 (1).

Dissolution order

(2) Upon default in compliance with the notice given under subsection (1), the Director may by order cancel the certificate of incorporation and, subject to subsections (2.1) and (3), the corporation is dissolved on the date fixed in the order. 2015, c. 38, Sched. 7, s. 55 (10).

Same

(2.0.1) The Director may make an order revoking a dissolution order made under subsection (2) 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. 8, s. 41 (2).

Order revoking dissolution order

(2.1) The Director shall make an order revoking a dissolution order made under subsection (2) if,

- (a) the corporation was dissolved under subsection (2) or a predecessor of it and has not been revived under subsection (3); and
- (b) the Director receives from the Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015* 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. 55 (10).

Objections

(2.2) The Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015* or the Public Guardian and Trustee shall not give a notice under clause (2.1) (b) if the Minister as defined in subsection 1 (1) objects to the giving of the notice. 2015, c. 38, Sched. 7, s. 55 (10).

Effect of order under subs. (2.1)

(2.3) If an order is made under subsection (2.1),

- (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 (2.4), the Director may give the corporation a new notice of dissolution under subsection (1) if the corporation does not remedy the default identified in the original notice or for any other default. 2015, c. 38, Sched. 7, s. 55 (10).

Effect of order under subs. (2.0.1)

(2.3.1) If an order is made under subsection (2.0.1),

- (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. 8, s. 41 (2).

Consultation before issuing new notice

(2.4) Within the 10-year period after a dissolution order is revoked under subsection (2.1), the Director shall not give a new notice to the corporation under clause (2.3) (c) without first consulting with the Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015* or the Public Guardian and Trustee, whichever one gave the notice described in clause (2.1) (b). 2015, c. 38, Sched. 7, s. 55 (10).

Revival

(3) Where a corporation is dissolved under subsection (2) or a predecessor of it, the Director may, in his or her discretion, on the application of any interested person, revive the corporation; upon revival, the corporation shall be deemed for all purposes never to have been dissolved, subject to,

- (a) subsection (3.1) or (3.2), 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. 55 (11).

Effect of revival on forfeited corporate property

(3.1) If a corporation that was dissolved under subsection (2) or a predecessor of it before the day section 2 of the *Forfeited Corporate Property Act, 2015* comes into force is revived under subsection (3) 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. 55 (11).

Same

(3.2) If a corporation that was dissolved under subsection (2) 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 (3) 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. 55 (11).

Time limit for application

(4) Subsection (3) does not apply to an application made more than 20 years after the date of the corporation's dissolution. 2010, c. 15, s. 170 (4).

Certificate of revival

(5) Upon receipt of articles of revival, together with any required documents and information and the required fee, the Director shall, subject to subsection (3), issue a certificate of revival by endorsing the articles in accordance with section 201, and the endorsed articles constitute the certificate of revival. 2017, c. 20, Sched. 8, s. 41 (3).

Definition

(6) In this section,

“interested person” includes a director, officer and member of the corporation. 2017, c. 20, Sched. 8, s. 41 (3).

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

2015, c. 38, Sched. 7, s. 55 (10, 11) - 19/10/2021

2017, c. 20, Sched. 8, s. 41 (1-3) - 19/10/2021

Proceedings after dissolution

171 (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. 55 (12).

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. 55 (12).

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. 55 (12).

Service after dissolution

(2) For the purposes of this section, the service of any process on a corporation after its dissolution is deemed to be sufficiently made if it is made upon any person last shown on the most recent notice or return filed under the *Corporations Information Act* as being a director or officer of the corporation before the dissolution. 2010, c. 15, s. 171 (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. 55 (13).

Exception, proceedings 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. 55 (13).

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. 55 (13).

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. 55 (13).

Definition

(7) In this section and section 173,

“proceeding” includes a power of sale proceeding relating to land commenced pursuant to a charge or mortgage. 2015, c. 38, Sched. 7, s. 55 (13).

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

2015, c. 38, Sched. 7, s. 55 (12, 13) - 19/10/2021

Liability of members to creditors

172 (1) Despite the dissolution of a corporation, each member to whom any of its property has been distributed is liable to any person claiming under section 171 to the extent of the amount received by that member upon the distribution, and an action to enforce such liability may be brought. 2010, c. 15, s. 172 (1).

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 members as a class, subject to the conditions that the court thinks fit and, if the plaintiff establishes their 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 member found by the plaintiff;
- (b) determine, subject to subsection (1), the amount that each person who was a member shall contribute towards satisfaction of the plaintiff’s claim; and
- (c) direct payment of the amounts so determined. 2010, c. 15, s. 172 (2).

Definition

(3) In this section,

“member” includes the heirs and the trustees, executors, administrators or other legal representatives of a member. 2010, c. 15, s. 172 (3).

Forfeiture of undisposed property

173 (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. 55 (14).

Exception

(2) Despite subsection (1) and subject to subsections 171 (1.1) and (1.2), if a judgment is given or an order or decision is made or land is sold in an action or proceeding commenced in accordance with section 171 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 171 (3) or (5),

- (a) the property shall be available to satisfy the judgment, order or other decision; and
- (b) in the case of a power of sale proceeding, title to the land shall be transferred to a purchaser free of the Crown’s interest. 2010, c. 15, s. 173 (2); 2015, c. 38, Sched. 7, s. 55 (15).

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. 2010, c. 15, s. 173 (3).

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 171 (3) (a) or deliver the notice described in clause 171 (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. 55 (16).

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

2015, c. 38, Sched. 7, s. 55 (14-16) - 19/10/2021

PART XIII INVESTIGATION

Investigation

174 (1) On the application of a member or debt obligation holder of a corporation, without notice or on any notice that the court requires, the court may direct an investigation to be made of the corporation and any of its affiliated corporations and may,

- (a) appoint an inspector to conduct the investigation or replace an inspector and fix the remuneration of the inspector or the inspector's replacement;
- (b) determine the notice to be given to any interested person or dispense with notice to any person;
- (c) authorize an inspector to enter any place if the court is satisfied that there are reasonable grounds to suspect that there is relevant information in that place and to examine any thing and make copies of any document or record found there;
- (d) require any person to produce documents or records to an inspector;
- (e) authorize an inspector to conduct a hearing, administer oaths and affirmations and examine any person under oath or affirmation, and make rules for the conduct of the hearing;
- (f) require any person to attend a hearing conducted by an inspector and to give evidence under oath or affirmation;
- (g) give directions to an inspector or any interested person on any matter arising in the investigation;
- (h) require an inspector to make an interim or final report to the court;
- (i) determine whether a report of an inspector should or should not be made available for public inspection and, if it should be made public, order that copies be given to any person designated by the court;
- (j) require an inspector to discontinue an investigation;
- (k) require the corporation to pay the costs of the investigation; and
- (l) make any other order that it thinks fit. 2010, c. 15, s. 174 (1).

Grounds

- (2) The court may make an order on an application under subsection (1) only if it appears to the court that,
- (a) the activities of the corporation or of any of its affiliates are or have been carried on with intent to defraud any person;
 - (b) the activities or affairs of the corporation or of 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 member or debt obligation 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, activities or affairs of the corporation or of any of its affiliates have acted fraudulently or dishonestly. 2010, c. 15, s. 174 (2).

No security for costs

(3) An applicant under this section is not required to give security for costs. 2010, c. 15, s. 174 (3).

Hearings without notice

(4) The hearing of an application under this section without notice shall be closed to the public. 2010, c. 15, s. 174 (4).

Consent to publish proceedings required

(5) No person shall publish anything relating to proceedings held without notice under this section except with the authorization of the court or the consent of the corporation being investigated. 2010, c. 15, s. 174 (5).

Inspector's report

(6) An inspector shall give the Director a copy of every report made by the inspector under this Part which, subject to an order made under clause (1) (i) that the report not be made available for public inspection, shall be placed on the corporation file for public inspection. 2010, c. 15, s. 174 (6).

Order to enter a dwelling

175 (1) If the place referred to in clause 174 (1) (c) is a dwelling, the court shall not make an order under that clause unless it is satisfied that,

- (a) entry to the dwelling is necessary to practically obtain the information; and
- (b) entry to the dwelling has been refused or there are reasonable grounds for believing that entry will be refused. 2010, c. 15, s. 175 (1).

Use of force

(2) In acting under the authority of an order that authorizes entry to a dwelling, the inspector named in it shall not use force unless the inspector is accompanied by a peace officer and the use of force has been specifically authorized in the order. 2010, c. 15, s. 175 (2).

Powers of inspector

176 (1) An inspector under this Part has the powers set out in the order appointing the inspector. 2010, c. 15, s. 176 (1).

Production of court order

(2) On the request of any interested person, an inspector shall produce a copy of an order made under subsection 174 (1). 2010, c. 15, s. 176 (2).

Court directions on investigation

177 On the application of an interested person, the court may make an order,

- (a) directing that a hearing conducted by an inspector under this Part shall be closed to the public; or
- (b) giving directions on any matter arising in the investigation. 2010, c. 15, s. 177.

Right to counsel

178 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. 2010, c. 15, s. 178.

Exchange of information

179 (1) In addition to the powers set out in the order appointing the inspector, an inspector appointed to investigate a corporation may give information 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 174 (2). 2010, c. 15, s. 179 (1).

Restriction

(2) An inspector shall not give information that was obtained from any person in the course of an investigation under this Part to a public official outside Canada unless the inspector is satisfied that the information will not be used against that person in any proceeding instituted against that person for an offence. 2010, c. 15, s. 179 (2).

Privilege

Absolute privilege — defamation

180 (1) Any statement or report made orally, in writing or in another format by an inspector or any other person in an investigation under this Part has absolute privilege. 2010, c. 15, s. 180 (1).

Solicitor-client privilege

(2) Nothing in this Part shall be construed as affecting solicitor-client privilege. 2010, c. 15, s. 180 (2).

**PART XIV
REMEDIES, OFFENCES AND PENALTIES**

Definition

181 In this Part,

“action” means an action under this Act. 2010, c. 15, s. 181.

Complainant

182 The following persons may bring an action under section 183 or make an application under section 191 in respect of a corporation and if they do so, are referred to in this Part as a “complainant”:

1. A member, officer or director of the corporation or of any of its affiliates.
2. A person who not more than two years previous ceased to be a member, director or officer of the corporation or of any of its affiliates.
3. Any other person who, in the discretion of the court, is a proper person to make an application under this Part. 2010, c. 15, s. 182.

Derivative actions

183 (1) On the application of a complainant, the court may make an order granting the complainant leave to bring an action in the name of 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 its behalf. 2010, c. 15, s. 183 (1).

Grounds

- (2) The court may not make an order under subsection (1) unless the court is satisfied that,
 - (a) the complainant has given notice to the directors of the corporation or its subsidiary, as the case may be, of the complainant’s intention to apply to the court under subsection (1) within 14 days before bringing the application, or as otherwise ordered by the court, if the directors of the corporation or its subsidiary do not bring the action, prosecute or defend it diligently or discontinue it;
 - (b) the complainant is acting in good faith; and
 - (c) it appears to be in the interests of the corporation or its subsidiary, as the case may be, that the action be brought, prosecuted, defended or discontinued. 2010, c. 15, s. 183 (2).

Exception for a religious corporation

(3) The court shall not make an order under subsection (1) if the court is satisfied that the corporation is a religious corporation. 2010, c. 15, s. 183 (3).

Powers of court in derivative actions

184 In connection with an action brought or intervened in as a result of an application under subsection 183 (1), the court may at any time make any order that it thinks fit, including an order,

- (a) authorizing the complainant or any other person to control the conduct of the action;
- (b) giving directions for the conduct of the action;
- (c) directing that any amount adjudged payable by a defendant in the action shall be paid, in whole or in part, directly to former or present members and debt obligation holders of the corporation or its subsidiary instead of to the corporation or its subsidiary; and
- (d) requiring the corporation or its subsidiary to pay reasonable legal costs incurred by the complainant in connection with the action. 2010, c. 15, s. 184.

Stay, dismissal, etc., of derivative action

Members’ approval of breach not determinative

185 (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 subsidiary has been or might be approved by the members of that body corporate, but evidence of approval by the members may be taken into account by the court in making an order under section 184. 2010, c. 15, s. 185 (1).

Court approval required

(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 on any terms that the court thinks fit and, if the

court determines that the interests of any complainant may be substantially affected by the stay, discontinuance, settlement or dismissal, the court may order any party to the application or action to give notice to the complainant. 2010, c. 15, s. 185 (2).

No security for 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. 2010, c. 15, s. 185 (3).

Interim costs

(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 subsidiary to pay to the complainant interim costs, including legal costs and disbursements, but the complainant may be held accountable for those interim costs on final disposition of the application or action. 2010, c. 15, s. 185 (4).

Application to court to rectify records

186 (1) If the name of a person is alleged to be or to have been wrongly entered or retained in, or wrongly deleted or omitted from, the registers or other records of a corporation, the corporation, a debt obligation holder, director, officer or member of the corporation or any aggrieved person may apply to the court for an order that the registers or records be rectified. 2010, c. 15, s. 186 (1).

Powers of court

- (2) On an application under this section, the court may make any order that it thinks fit, including an order,
- (a) requiring the registers or other records of the corporation to be rectified;
 - (b) restraining the corporation from calling or holding a meeting of the members before that rectification;
 - (c) determining the right of a party to the proceedings to have their name entered or retained in, or deleted or omitted from, the registers or records of the corporation; and
 - (d) compensating a party who has incurred a loss. 2010, c. 15, s. 186 (2).

Rights of dissenting members

- 187** (1) Subject to subsection (8) and to section 119, if a corporation that is not a public benefit corporation resolves to,
- (a) amend its articles to add, remove or change any restriction upon the activity or activities that the corporation may carry on or upon the powers that the corporation may exercise;
 - (b) amalgamate with another corporation;
 - (c) be continued under the laws of another jurisdiction;
 - (d) be continued under the *Co-operative Corporations Act*; or
 - (e) sell, lease or exchange all or substantially all its property,
- a member entitled to vote on the resolution may dissent. 2010, c. 15, s. 187 (1).

Exception

(2) A member of a corporation incorporated before the day this section comes into force is not entitled to dissent under this section in respect of an amendment of a provision in the articles of the corporation to bring the provision into conformity with this Act. 2010, c. 15, s. 187 (2).

Objection

(3) A dissenting member shall give the corporation, at or before any meeting at which a resolution referred to in subsection (1) is to be voted on, an objection to the resolution, unless the corporation did not give notice to the member of the purpose of the meeting or of the member's right to dissent. 2010, c. 15, s. 187 (3).

Same

(4) The execution or exercise of a proxy does not constitute an objection for purposes of subsection (3). 2010, c. 15, s. 187 (4).

Notice of adoption of resolution

(5) Within 10 days after the members adopt the resolution, the corporation shall give notice that the resolution has been adopted to each member who has filed an objection, but such notice is not required to be given to any member who voted for the resolution or who has withdrawn the objection. 2010, c. 15, s. 187 (5).

Same

(6) The notice must set out the rights of the dissenting member and the procedures to be followed to exercise those rights. 2010, c. 15, s. 187 (6).

Demand for payment of fair value

(7) A dissenting member entitled to receive notice under subsection (5) shall, within 20 days after receiving the notice, or, if the member does not receive notice, within 20 days after learning that the resolution has been adopted, give the corporation a notice containing,

- (a) the member's name and address; and
- (b) a demand for payment of the fair value of the member's membership interest. 2010, c. 15, s. 187 (7).

Member's right to be paid fair value

(8) In addition to any other right the member may have, but subject to subsection (26), a member who complies with this section is entitled, when the action approved by the resolution from which the member dissents becomes effective, to be paid by the corporation the fair value of the membership interest, including any capital contribution, held by the member in respect of which the member dissents, determined as of the close of business on the day before the resolution was adopted. 2010, c. 15, s. 187 (8).

Limitation

(9) A dissenting member who fails to comply with subsections (3) and (7) has no right to make a claim under this section. 2010, c. 15, s. 187 (9).

Termination of rights of dissenting member as member

(10) On giving a notice under subsection (7), a dissenting member ceases to have any rights as a member other than the right to be paid the fair value of the member's membership interest as determined under this section except where,

- (a) the dissenting member withdraws notice before the corporation makes an offer under subsection (11);
- (b) the corporation fails to make an offer in accordance with subsection (11) and the dissenting member withdraws notice; or
- (c) the directors revoke the resolution dissented to or take action to undo any action taken under the resolution,

in which case the dissenting member's rights are reinstated as of the date the dissenting member gave the notice referred to in subsection (7). 2010, c. 15, s. 187 (10).

Offer to pay

(11) A corporation shall, not later than seven days after the later of the day on which the action approved by the resolution is effective and the day the corporation received the notice referred to in subsection (7), give each dissenting member who has given notice under subsection (7),

- (a) an offer to pay for the dissenting member's membership interest in an amount considered by the directors of the corporation to be its fair value, accompanied by a statement showing how the fair value was determined; or
- (b) if subsection (26) applies, a notification that it is unable lawfully to pay dissenting members for their membership interest. 2010, c. 15, s. 187 (11).

Same

(12) Every offer made under subsection (11) for the membership interests of members of the same class must be on the same terms. 2010, c. 15, s. 187 (12).

Same

(13) Subject to subsection (26), a corporation shall pay for the membership interest of a dissenting member within 10 days after an offer made under subsection (11) has been accepted, but any such offer lapses if the corporation does not receive an acceptance of it within 30 days after the offer has been made. 2010, c. 15, s. 187 (13).

Application to court to fix fair value

(14) If a corporation fails to make an offer under subsection (11) or if a dissenting member fails to accept such an offer, the corporation may, within 50 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 membership interest of any dissenting member. 2010, c. 15, s. 187 (14).

Same

(15) If a corporation fails to apply to the court under subsection (14), a dissenting member may apply to the court for the same purpose within a further period of 20 days or such other period as the court may allow. 2010, c. 15, s. 187 (15).

Costs

(16) If a corporation fails to comply with subsection (11), then the costs of a member's application under subsection (15) are to be borne by the corporation unless the court orders otherwise. 2010, c. 15, s. 187 (16).

Same

(17) A dissenting member is not required to give security for costs in an application made under subsection (14) or (15). 2010, c. 15, s. 187 (17).

Notice of hearing to members

(18) Before making application to the court under subsection (14) or not later than seven days after receiving notice of an application to the court under subsection (15), as the case may be, a corporation shall give notice to each dissenting member who, at the date on which the notice is given,

(a) has given the corporation the notice referred to in subsection (7); and

(b) has not accepted an offer made by the corporation under subsection (11), if such an offer was made,

of the date, place and consequences of the application and of the dissenting member's right to appear and be heard in person or by counsel, and the corporation shall give a similar notice to each dissenting member who, after the date of the 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 member satisfies those conditions. 2010, c. 15, s. 187 (18).

Parties joined

(19) All dissenting members who satisfy the conditions set out in subsection (18) are deemed to be joined as parties to an application under subsection (14) or (15) on the later of the date on which the application is brought and the date on which they satisfy the conditions, and are bound by the decision made by the court in the proceedings commenced by the application. 2010, c. 15, s. 187 (19).

Same

(20) Upon an application to the court under subsection (14) or (15), the court may determine whether any other person is a dissenting member who should be joined as a party, and the court shall fix a fair value for the membership interests of all dissenting members. 2010, c. 15, s. 187 (20).

Appraisers

(21) The court may in its discretion appoint one or more appraisers to assist the court in fixing a fair value for the membership interests of the dissenting members. 2010, c. 15, s. 187 (21).

Final order

(22) The final order of the court in the proceedings commenced by an application under subsection (14) or (15) must be rendered against the corporation and in favour of each dissenting member who, whether before or after the date of the order, complies with the conditions set out in clauses (18) (a) and (b). 2010, c. 15, s. 187 (22).

Interest

(23) The court may in its discretion allow a reasonable rate of interest on the amount payable to each dissenting member from the date the action approved by the resolution is effective until the date of payment. 2010, c. 15, s. 187 (23).

Corporation unable to pay

(24) If subsection (26) applies, the corporation shall, within 10 days after an order is made under subsection (22), notify each dissenting member that it is unable lawfully to pay dissenting members for their membership interests. 2010, c. 15, s. 187 (24).

Same

(25) If subsection (26) applies, a dissenting member, by notice sent to the corporation within 30 days after receiving a notice under subsection (24), may,

(a) withdraw a notice of dissent, in which case the corporation is deemed to consent to the withdrawal and the member'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 members. 2010, c. 15, s. 187 (25).

Same

(26) A corporation shall not make a payment to a dissenting member 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 be less than the aggregate of its liabilities as a result of the payment to the dissenting member. 2010, c. 15, s. 187 (26).

Members not entitled

(27) Upon application by a corporation that proposes to take any of the actions referred to in subsection (1), 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 (8), 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 the terms and conditions that the court thinks fit. 2010, c. 15, s. 187 (27).

Directions by court to Director

188 The Director may apply to the court for directions in respect of any matter concerning the Director's duties under this Act and on such application, the court may give any directions and make any further order that it thinks fit. 2010, c. 15, s. 188.

Refusal to endorse if corporation in default

188.1 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. 8, s. 42.

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

2017, c. 20, Sched. 8, s. 42 - 19/10/2021

Notice of refusal by Director

189 (1) If the Director refuses to accept any document that takes effect under this Act on its acceptance or on the issuance of a certificate or other document, the Director shall give notice of the refusal to the person who sent the document, giving reasons. 2010, c. 15, s. 189 (1).

Deemed refusal

(2) If the Director does not, within six months after receiving a document, accept the document, issue a certificate or other document or give a notice of refusal, the Director is deemed for the purposes of section 190 to have refused to accept the document. 2010, c. 15, s. 189 (2).

Appeal from Director's decision

190 (1) A person aggrieved by any of the following decisions of the Director may appeal the decision to the Divisional Court by notice of appeal:

1. To refuse to issue a certificate by endorsing any articles or other document required by this Act to be filed with the Director.
2. To issue, or to refuse to issue, a certificate of amendment under section 12.
3. To refuse to endorse an authorization under section 116 or 117.
4. To issue an order under section 169. 2010, c. 15, s. 190 (1); 2017, c. 20, Sched. 8, s. 43.

Notice to Director

(2) The aggrieved person shall also give the notice of appeal to the Director within 30 days after the date of the Director's decision. 2010, c. 15, s. 190 (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 for the decision;
- (b) the record of any hearing; and
- (c) all written submissions to the Director or other material that is relevant to the appeal. 2010, c. 15, s. 190 (3).

Representation

(4) The Director is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. 2010, c. 15, s. 190 (4).

Court order

(5) Where an appeal is taken under this section, the Divisional 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. 2010, c. 15, s. 190 (5).

Director may make further decision

(6) Despite an order of the Divisional 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. 2010, c. 15, s. 190 (6).

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

2017, c. 20, Sched. 8, s. 43 - 14/11/2017

Compliance or restraining order

191 On the application of a complainant or a creditor of a corporation, the court may make an order directing the corporation or any director, officer, employee, agent, auditor, trustee, receiver, receiver-manager or liquidator of the corporation to comply with this Act, the regulations or the articles or by-laws of the corporation or restraining any such person from acting in breach of them and may make any further order that it thinks fit. 2010, c. 15, s. 191.

Appeals

192 An appeal lies to the Divisional Court from any order made by the court under this Act. 2010, c. 15, s. 192.

Offence

193 (1) Every person who contravenes a provision of this Act, other than clause 43 (2) (b), or the regulations is guilty of an offence and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both. 2010, c. 15, s. 193 (1).

Offences — false or misleading statements

(2) A person who makes, or assists in making, a false or misleading statement in a document required under this Act to be filed with the Director or given to any other person is guilty of an offence and liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both. 2010, c. 15, s. 193 (2).

Offence — use of information

(3) A person who uses information obtained from a register of members or a list of members required under this Act for a purpose other than those specified in subsection 96 (5) without the permission of the member about whom information is being used is guilty of an offence and liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than six months, or to both. 2010, c. 15, s. 193 (3).

Directors and officers

(4) If a body corporate commits an offence under this section, any director or officer of the body corporate who authorized, permitted or acquiesced in the commission of the offence is a party to and guilty of the offence and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both, whether or not the body corporate has been prosecuted or convicted. 2010, c. 15, s. 193 (4).

Due diligence

(5) No person shall be convicted of an offence under this section if the person establishes that they exercised due diligence to prevent the commission of the offence. 2010, c. 15, s. 193 (5).

Order to comply

194 (1) If a person is guilty of an offence under this Act, any court in which proceedings in respect of the offence are taken may, in addition to any punishment it may impose, order that person to comply with the provisions of this Act or the regulations for the contravention of which the person has been convicted. 2010, c. 15, s. 194 (1).

Limitation period

(2) A prosecution for an offence under this Act may be instituted at any time within but not later than two years after the time when the offence was committed. 2010, c. 15, s. 194 (2).

Civil remedy not affected

(3) 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. 2010, c. 15, s. 194 (3).

PART XV GENERAL

Definitions

195 In this Part,

“document” includes any communication required or permitted by this Act, including consents and permissions, reasons, notices and notifications, disclosures, statements by directors under subsection 27 (1) or by auditors under subsection 75 (1), dissents, objections, resolutions, an offer under section 187 and a delegation under section 206; (“document”)

“electronic”, in respect of a document, includes a document created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means. (“électronique”) 2010, c. 15, s. 195.

Notice, etc., given to members and directors

196 (1) A notice or other document required or permitted by this Act, the regulations, the articles or the by-laws to be given to a member or director of a corporation may be given to,

- (a) a member at the member’s latest address as shown in the records of the corporation;
- (b) a director at his or her latest address as shown in the records of the corporation or in the most recent notice or return filed under the *Corporations Information Act*, whichever is the more current. 2010, c. 15, s. 196 (1).

Named director presumed to be director

(2) A director named in the articles or the most recent return or notice filed under the *Corporations Information Act* is presumed for the purposes of this Act to be a director of the corporation. 2010, c. 15, s. 196 (2).

Notice to member is returned

(3) If a corporation gives a notice or other document to a member in accordance with subsection (1) and the notice or document is returned on three consecutive occasions because the member cannot be found, the corporation is not required to give any further notices or other documents to the member until the member provides the corporation with a document setting out the member’s address. 2010, c. 15, s. 196 (3).

Application to court

(4) If it is impractical or impossible to comply with subsection (1), a person may apply to the court for such order as the court thinks fit. 2010, c. 15, s. 196 (4).

Notice, etc., given to corporation

197 (1) Except where otherwise provided in this Act or the regulations, a notice or other document required or permitted by this Act or the regulations to be given to a corporation may be given to the corporation at its registered office as shown on the records of the Director. 2010, c. 15, s. 197.

Notice, etc., sent by Director

(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 196 if there is a record that the notice or document has been sent. 2017, c. 20, Sched. 8, s. 44.

Same

(3) A notice or other document referred to in subsection (2) may be sent by any 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. 8, s. 44.

Deemed receipt

(4) A notice or other document sent by the Director by a method described in subsection (2) is 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 sent. 2017, c. 20, Sched. 8, s. 44.

Same

(5) A notice or other document sent by the Director by a method described in subsection (3) is 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. 2017, c. 20, Sched. 8, s. 44.

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

2017, c. 20, Sched. 8, s. 44 - 19/10/2021

Waiver of notice and abridgement of times

198 If a notice or other document is required by this Act or the regulations to be given, the person entitled to the notice or other document may waive that entitlement or may consent to abridge the time for the giving of the notice or other document at any time in the manner set out in the regulations. 2010, c. 15, s. 198.

Corporate certificate

Who may sign

199 (1) A certificate issued on behalf of a corporation stating any fact that is set out in the articles, the by-laws, the minutes of the meetings of the directors, of a committee of directors, of the members or of a committee of members, or a contract to which the corporation is a party may be signed by a director or an officer. 2010, c. 15, s. 199 (1).

Evidence

(2) When introduced as evidence in any civil, criminal, administrative, investigative or other action or proceeding,

- (a) 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 the members or a committee of members or directors or a committee of directors,

is, in the absence of evidence to the contrary, proof of the facts so certified without proof of the signature or official position of the person appearing to have signed the certificate. 2010, c. 15, s. 199 (2).

Exception

(2.1) Subsection (2) does not apply to the register described in clause 92 (1) (j). 2015, c. 38, Sched. 7, s. 55 (17).

Register as evidence

(3) An entry in a register of members is, in the absence of evidence to the contrary, proof that the person is a member of the corporation. 2010, c. 15, s. 199 (3).

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

2015, c. 38, Sched. 7, s. 55 (17) - 19/10/2021

Search, etc., of documents kept by Director

200 (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 or the regulations to be filed with or given to the Director. 2017, c. 20, Sched. 8, s. 45.

Copies

(2) The Director shall, upon receipt of the required fee, give any person a copy or a certified copy of a document required by this Act or the regulations to be filed with or given to the Director. 2017, c. 20, Sched. 8, s. 45.

Privileged documents

(3) Subsections (1) and (2) do not apply in respect of an inspector's report filed with or given to the Director under subsection 174 (6) that the court has ordered not to be made available to the public. 2017, c. 20, Sched. 8, s. 45.

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

2017, c. 20, Sched. 8, s. 45 - 19/10/2021

Requirements re articles filed with the Director

201 (1) If this Act permits or requires articles to be filed with the Director, unless otherwise provided in this Act, the regulations or the Director's requirements,

- (a) if the articles are filed with the Director in paper format,
 - (i) one set of the original articles must be filed in the approved form, and
 - (ii) the set of original articles referred to in subclause (i) must be signed by two directors or officers of the corporation or, in the case of articles of incorporation, by all its incorporators;
- (b) if the articles are filed with the Director in an electronic format,
 - (i) the articles must be filed 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 210.2 (1). 2017, c. 20, Sched. 8, s. 46.

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 under this Act and to subsection (1),

- (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 203; 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. 8, s. 46.

Date of certificates

(3) A certificate issued under subsection (2), other than a certificate of arrangement, must be dated as of,

- (a) the day the Director receives,
 - (i) the articles completed in accordance with clause (1) (a) or (b),
 - (ii) all other required documents executed in accordance with this Act, the regulations and the Director's requirements,
 - (iii) all other required information, and
 - (iv) 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. 8, s. 46.

Effective date

(4) A certificate issued under this section is 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 issuance of the certificate is taken at a later date. 2017, c. 20, Sched. 8, s. 46.

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

2017, c. 20, Sched. 8, s. 46 - 19/10/2021

Errors in certificates, etc.

202 (1) If a certificate or other document issued or endorsed under this Act, or letters patent, supplementary letters patent or any other document issued or endorsed under a predecessor of this Act, contains an error, or if a certificate or other document has been endorsed or issued in respect of articles or any other documents that contain an error,

- (a) the corporation or its directors or members 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 the related articles or documents to the Director within the time period specified by the Director; or
- (b) the Director may notify the corporation that a corrected certificate or other document may be required and the corporation shall, if requested by the Director, surrender the certificate or other document and the related articles or documents to the Director within the time period specified by the Director. 2017, c. 20, Sched. 8, s. 47 (1).

(2) REPEALED: 2017, c. 20, Sched. 8, s. 47 (1).

Director to endorse corrected certificate, etc.

(3) After giving the corporation an opportunity to be heard in respect of an error described in subsection (1) and if the Director is of the opinion that it is appropriate to do so and is satisfied that any steps required by the Director have been taken by the corporation, the Director shall endorse a corrected certificate or other document. 2017, c. 20, Sched. 8, s. 47 (2).

Date on certificate

(4) A corrected certificate or other document endorsed under subsection (3) may bear the date of the certificate it replaces. 2010, c. 15, s. 202 (4); 2017, c. 20, Sched. 8, s. 47 (3).

Same

(4.1) If a correction is made with respect to the date of the certificate, the corrected certificate shall bear the corrected date. 2017, c. 20, Sched. 8, s. 47 (4).

Appeal

(5) A decision of the Director under subsection (3) may be appealed to the Divisional Court, which may order the Director to change his or her decision and may make any further order that it thinks fit. 2010, c. 15, s. 202 (5).

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

2017, c. 20, Sched. 8, s. 47 (1, 4) - 19/10/2021; 2017, c. 20, Sched. 8, s. 47 (2, 3) - 14/11/2017

Form of Director's records

203 (1) Records required by this Act to be prepared and maintained by the Director may be in paper form, in electronic form or in photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or information storage that is capable of reproducing required information in an accurate and intelligible form within a reasonable time. 2010, c. 15, s. 203 (1).

Admission as evidence

- (2) If records maintained by the Director are prepared and maintained other than in written form,
- (a) the Director shall give any copy required to be given under subsection 200 (2) in intelligible written or other form; and
 - (b) a report reproduced from those records, if it is certified by the Director is, without proof of the office or signature of the Director, admissible in evidence. 2010, c. 15, s. 203 (2).

Copy in lieu of document

- (3) The Director is not required to produce any document if a copy of the document is given in compliance with clause (2)
- (a). 2010, c. 15, s. 203 (3).

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 174 (6) that the court has ordered not be available to the public. 2017, c. 20, Sched. 8, s. 48.

Inability to receive filings in electronic system

(5) Despite any regulation made under paragraph 4 of subsection 208 (1), 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 subsection (1) of this section, 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. 8, s. 48.

Same, retaining filings and requests until system is operational

(6) 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 subsection (1), 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. 8, s. 48.

Same, searches

(7) 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 subsection (1), the Director may retain search requests that have been filed until it is possible for searches to be made. 2017, c. 20, Sched. 8, s. 48.

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

2017, c. 20, Sched. 8, s. 48 - 19/10/2021

Accepting copy of notice or other document

204 (1) If a notice or other document is required to be filed with or given 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. 14, 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. 14, 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. 14, 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. 14, s. 1.

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

2017, c. 20, Sched. 8, s. 49 (1, 2) - no effect - see 2020, c. 7, Sched. 14, s. 4 - 12/05/2020

2020, c. 7, Sched. 14, s. 1 - 19/10/2021

Signatures

204.0.1 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. 14, s. 1.

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

2020, c. 7, Sched. 14, s. 1 - 19/10/2021

Note: On the later of 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 and the day that subsection 4 (1) of this Act comes into force, the Act is amended by adding the following section: (See: 2020, c. 7, Sched. 14, s. 2)

Documents filed under *Alternative Filing Methods for Business Act, 2020*

204.0.2 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. 14, s. 2.

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

2020, c. 7, Sched. 14, s. 2 - not in force

Filing by fax

204.1 Despite any regulation made under section 208, articles, applications and other documents may be filed by fax only with the Director's consent. 2017, c. 20, Sched. 8, s. 50.

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

2017, c. 20, Sched. 8, s. 50 - 19/10/2021

Electronic version prevails

204.2 (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 203 or the electronic version of the application endorsed with an authorization under section 116 or 117 and recorded in an electronic system maintained under section 203, 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. 8, s. 50.

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 203, 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. 8, s. 50.

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

2017, c. 20, Sched. 8, s. 50 - 19/10/2021

Affidavits, etc., required by Director

205 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. 2010, c. 15, s. 205.

Delegation of Director's duties and powers

206 The Director may delegate 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. 8, s. 51.

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

2017, c. 20, Sched. 8, s. 51 - 19/10/2021

Director's certificates, etc.

206.1 (1) If this Act requires or authorizes the Director to endorse or issue a certificate, including a certificate as to any fact, or a certified copy of a document, the certificate or certified copy 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. 8, s. 51.

Evidence

(2) A certificate or certified copy referred to in subsection (1), 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. 2017, c. 20, Sched. 8, s. 51.

Reproduction of signature

(3) For the purposes of this section, any signature of the Director or of a public servant may be printed or otherwise mechanically or electronically reproduced. 2017, c. 20, Sched. 8, s. 51.

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

2017, c. 20, Sched. 8, s. 51 - 19/10/2021

Agreements with authorized persons

206.2 (1) In this section,

“business filing services” includes any of the duties and powers of the Director and related services. 2017, c. 20, Sched. 8, s. 51.

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. 8, s. 51.

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. 8, s. 51.

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. 8, s. 51.

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 206. 2017, c. 20, Sched. 8, s. 51.

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. 8, s. 51.

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. 8, s. 51.

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. 8, s. 51.

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

2017, c. 20, Sched. 8, s. 51 - 19/10/2021

Property of Crown

206.3 The records and information filed with and maintained by the Director under this Act are the property of the Crown. 2017, c. 20, Sched. 8, s. 51.

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

2017, c. 20, Sched. 8, s. 51 - 19/10/2021

Transition

207 (1) Except as provided in subsection (3), any provision in letters patent, supplementary letters patent, by-laws or any special resolution of a corporation that was valid immediately before the day this section comes into force and that is not in conformity with this Act continues to be valid and in effect until the third anniversary of the day this section comes into force. 2017, c. 20, Sched. 8, s. 52.

Deemed amendment after three years

(2) Except as provided in subsection (3), a provision described in subsection (1) that has not been amended to bring it into conformity with this Act is deemed to be amended to the extent necessary to bring it into conformity with this Act on the third anniversary of the day this section comes into force. 2017, c. 20, Sched. 8, s. 52.

Extended period of validity, certain by-laws and special resolutions

(3) The following provisions contained in a corporation's by-laws or a special resolution that were valid immediately before the day this section comes into force and that are not, on or after the day this section comes into force, removed and added to its articles to bring them into conformity with this Act, continue to be valid and in effect until the day articles of amendment are endorsed, whether before, on or after the third anniversary of the day this section comes into force, to add the provision to the articles with any amendments necessary to bring it into conformity with this Act:

1. A provision respecting the number of directors of the corporation.
2. A provision providing for two or more classes or groups of members.
3. A provision respecting voting rights of members.
4. A provision respecting delegates made pursuant to section 130 of the *Corporations Act*.
5. A provision respecting the distribution of the remaining property of a corporation that is not a public benefit corporation on winding up or dissolution. 2017, c. 20, Sched. 8, s. 52.

Amendment of letters patent, etc.

- (4) For greater certainty, a corporation may, to come into conformity with this Act,
- (a) amend, by articles of amendment, a provision in its letters patent or supplementary letters patent; and
 - (b) amend, remove or replace, under this Act, a provision in its by-laws or a special resolution, including the revocation of a provision required by this Act to be contained in the articles and not in the by-laws or special resolution. 2017, c. 20, Sched. 8, s. 52.

Restated articles

- (5) A corporation shall not restate its articles under section 109 unless,
- (a) the articles of the corporation are in conformity with this Act and the regulations; and
 - (b) if the articles have been deemed to be amended under subsection (2) or under subsection 167 (5.1), the corporation has amended its articles to bring them into conformity with this Act and the regulations in accordance with this section. 2017, c. 20, Sched. 8, s. 52.

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

2017, c. 20, Sched. 8, s. 52 - 19/10/2021

LG in C regulations

207.1 The Lieutenant Governor in Council may make regulations prescribing provisions of this Act and the regulations that are to apply to corporations sole with the modifications, if any, that the regulations specify. 2017, c. 20, Sched. 8, s. 52.

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

2017, c. 20, Sched. 8, s. 52 - 19/10/2021

Minister's regulations

208 (1) The Minister may make regulations,

1. prescribing or governing any matter referred to in this Act as prescribed or that is required or permitted to be done in accordance with or as provided in the regulations for which a specific power is not otherwise provided;
2. 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;
3. 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;
4. 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;
5. 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 210 and specifying, for each of the formats designated under paragraph 4 of this subsection,
 - i. the documents and information that must be filed with the Director, together with articles, applications and other forms approved under section 210, 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;
6. permitting the Director, subject to any terms and conditions imposed by the Director, for each of the formats designated under paragraph 4,
 - i. to require that a document or information prescribed under subparagraph 5 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 subparagraph 5 ii be filed with the Director, together with articles, applications and other forms approved under section 210, 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;
7. governing the terms and conditions that the Director may impose pursuant to a regulation made under subparagraph 5 ii or paragraph 6;
8. 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;
9. governing the assignment of corporation numbers under section 10;
10. prescribing restrictions in respect of corporations' purposes;
11. governing corporations' names, including prescribing rules and requirements respecting their form and language, prescribing permitted words, expressions, punctuation and other marks and prescribing prohibited words, expressions, punctuation and other marks;
12. prescribing the documents relating to names that must be filed with the Director;
13. 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;
14. governing the form, method and manner in which any notice or other document required or permitted to be made or given under this Act is to be made or given, including rules respecting deemed receipt;
15. governing the publication of notices to corporations for the purposes of subsection 170 (1);
16. governing the form of documents and information required or permitted to be made, given, filed, kept or retrieved under this Act, including prescribing rules respecting the making, giving, filing, keeping and retrieval of electronic documents;
17. prescribing technology standards and requirements for filing electronic documents with and giving electronic documents to a corporation, the members, directors and officers of a corporation or any other person;

18. prescribing and governing the form, manner and methods of giving notice and giving or filing other documents to or with a corporation, the members, directors and officers of a corporation or any other person, including prescribing rules respecting deemed receipt;
19. governing the publication of the Ministry's standard organizational by-laws under subsection 18 (2);
20. respecting the authorization of any individual by a member corporation or other entity to represent the member at meetings for the purpose of subsection 48 (7);
21. governing the report to be made by auditors and other persons under section 78, including prescribing the standards, as they exist from time to time, of a prescribed accounting body that must be used for the purposes of Part VII;
22. governing the financial statements to be approved by the directors under Part VIII, including prescribing the standards, as they exist from time to time, of a prescribed accounting body that must be used for their preparation;
23. prescribing information to be contained in the registers of directors, officers and members kept by a corporation under subsection 92 (1);
24. prescribing circumstances for the purpose of clause 170 (2.0.1) (c);
25. governing waivers and abridgments of time under section 198, including prescribing the manner in which waivers and abridgements of time may be made;
26. prescribing documents for the purposes of subsection 204.2 (2);
27. prescribing duties and powers of the Director in addition to those set out in this Act;
28. 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;
29. providing that a person or entity that enters into an agreement under subsection 206.2 (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;
30. defining any word or expression used in this Act that has not already been expressly defined in this Act;
31. prescribing any matter that the Minister considers necessary or advisable for the purposes of this Act;
32. REPEALED: 2017, c. 20, Sched. 8, s. 53 (2).

2017, c. 20, Sched. 8, s. 53 (1, 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. 8, s. 53 (1).

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

2017, c. 20, Sched. 8, s. 53 (1) - 19/10/2021; 2017, c. 20, Sched. 8, s. 53 (2) - 14/11/2020

Regulations, transition

208.1 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 55 of the *Forfeited Corporate Property Act, 2015*. 2015, c. 38, Sched. 7, s. 55 (18).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 208.1 of the Act is repealed. (See: 2015, c. 38, Sched. 7, s. 55 (19))

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

2015, c. 38, Sched. 7, s. 55 (18) - 19/10/2021; 2015, c. 38, Sched. 7, s. 55 (19) - not in force

Fees

209 (1) 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. 8, s. 54.

Same

(2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made under subsection (1). 2010, c. 15, s. 209 (2).

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

2017, c. 20, Sched. 8, s. 54 - 19/10/2021

Forms

210 (1) The Director may require that forms approved by the Director be used for any purpose under this Act. 2010, c. 15, s. 210.

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. 8, s. 55.

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

2017, c. 20, Sched. 8, s. 55 - 19/10/2021

Methods of endorsing and issuing

210.1 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. 8, s. 56.

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

2017, c. 20, Sched. 8, s. 56 - 19/10/2021

Requirements established by Director

210.2 (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 and other forms approved under section 210 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 210, supporting documents and statements, other than by signing them, and establishing rules respecting those methods;
- (g) specifying requirements for corporations filing articles, applications and other forms approved under section 210, 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;
- (h) 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;
- (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 paying fees in electronic format;
- (k) specifying 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 endorsement and the issuance of certificates by electronic means;
- (m) governing the assignment of corporation numbers under section 10;
- (n) governing searches and search methods of records for the purpose of subsection 200 (1). 2017, c. 20, Sched. 8, s. 56; 2020, c. 7, Sched. 14, s. 3.

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. 8, s. 56.

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. 8, s. 56.

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. 8, s. 56.

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

2017, c. 20, Sched. 8, s. 56 - 19/10/2021
 2020, c. 7, Sched. 14, s. 3 (1, 2) - 19/10/2021

**PART XVI
 SPECIAL RULES DURING TEMPORARY SUSPENSION PERIOD**

Application of Schedule

- 211** (1) The sections of Schedule 1 to this Act apply during the temporary suspension period, as described in subsection (2) for each section. 2021, c. 25, Sched. 17, s. 8 (1).

Temporary suspension period

- (2) The temporary suspension period, as referred to in each section of Schedule 1 to this Act, is the period that begins on the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force and ends on December 31, 2021 and, if the regulations so provide for the section, a further prescribed period of time immediately following December 31, 2021. 2021, c. 25, Sched. 17, s. 8 (1).

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

2017, c. 20, Sched. 8, s. 57 - 14/11/2017
 2021, c. 25, Sched. 17, s. 8 (1) - 19/10/2021; 2021, c. 25, Sched. 17, s. 8 (2) - not in force

Regulations

- 212** (1) The Lieutenant Governor in Council may make regulations prescribing further periods of time for the purposes of subsection 211 (2). 2021, c. 25, Sched. 17, s. 8 (1).

Same

- (2) A regulation under subsection (1) may prescribe a different period of time for different sections of Schedule 1 to this Act and may provide for one or more extensions of a previously prescribed period. 2021, c. 25, Sched. 17, s. 8 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, Part XVI of the Act is repealed. (See: 2021, c. 25, Sched. 17, s. 8 (2))

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

2017, c. 20, Sched. 8, s. 58 - 14/11/2017
 2021, c. 25, Sched. 17, s. 8 (1) - 19/10/2021; 2021, c. 25, Sched. 17, s. 8 (2) - not in force

**PART XVII
 TEMPORARY SUSPENSION PERIOD — TRANSITION**

Minister’s regulations re transitional matters

- 213** (1) The Minister may make regulations providing for such transitional matters as the Minister considers necessary or advisable in connection with the application of Schedule 1 to this Act. 2021, c. 25, Sched. 17, s. 8 (1).

Retroactive

(2) A regulation under subsection (1) may be retroactive to a date no earlier than the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force. 2021, c. 25, Sched. 17, s. 8 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, Part XVII of the Act is repealed. (See: 2021, c. 25, Sched. 17, s. 8 (3))

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

2021, c. 25, Sched. 17, s. 8 (1) - 19/10/2021; 2021, c. 25, Sched. 17, s. 8 (3) - not in force

214-248 OMITTED (AMENDS, REPEALS OR REVOKES OTHER LEGISLATION). 2010, c. 15, ss. 214-248; 2017, c. 11, Sched. 6, s. 13; 2017, c. 20, Sched. 8, s. 58; 2021, c. 4, Sched. 7, s. 15.

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

2017, c. 11, Sched. 6, s. 13 - 01/10/2017; 2017, c. 20, Sched. 8, s. 58 - 14/11/2017

Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2020

2021, c. 4, Sched. 7, s. 15 - 30/04/2021

PART XVIII (OMITTED)

249 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2017, c. 20, Sched. 8, s. 59.

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

2017, c. 20, Sched. 8, s. 59 - 14/11/2017

250 OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2010, c. 15, s. 250.

SCHEDULE 1 SPECIAL RULES DURING TEMPORARY SUSPENSION PERIOD

MEETING BY ELECTRONIC MEANS, DIRECTORS' MEETINGS

1 The operation of subsection 34 (6) of the Act is temporarily suspended and the following replacement provision is in effect during the temporary suspension period only:

Meeting by electronic means

(6) Despite any provision in the articles or by-laws of a corporation that provides otherwise, a meeting of directors or of a committee of directors may be held by such telephonic or electronic means as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in the meeting by those means is deemed for the purposes of this Act to be present at the meeting.

MEETING BY ELECTRONIC MEANS, MEMBERS' MEETINGS

2 (1) The operation of subsection 53 (4) of the Act is temporarily suspended and the following replacement provision is in effect during the temporary suspension period only:

Meeting by electronic means

(4) Despite any provision in the articles or by-laws of a corporation that provides otherwise, a meeting of the members of a corporation may be held by telephonic or electronic means and a member who, through those means, votes at the meeting or establishes a communications link to the meeting is deemed for the purposes of this Act to be present at the meeting.

(2) The operation of subsection 53 (5) of the Act is temporarily suspended.

VOTING, MEMBERS' MEETINGS

3 The operation of subsections 58 (1) and (2) of the Act are temporarily suspended and the following replacement provisions are in effect during the temporary suspension period only:

Voting

(1) Subject to subsection (3) and the articles or by-laws, voting at a meeting of members shall be by show of hands unless a ballot is demanded by a member or proxyholder entitled to vote at the meeting.

Ballot

(2) Subject to subsection (3), a member or proxyholder may demand a ballot either before or after any vote.

Voting by alternate means

(3) Despite any provision of this Act and the regulations, where a meeting of members is held by telephonic or electronic means in accordance with subsection 53 (4), 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.

4 (1) The operation of subsection 67 (1) of the Act is temporarily suspended and the following replacement provision is in effect during the temporary suspension period only:

Voting by mail or by telephonic or electronic means

(1) Whether or not the articles or by-laws so provide, voting by mail or by telephonic or electronic means, in addition to or instead of voting by proxy, is permitted.

(2) The operation of subsection 67 (2) of the Act is temporarily suspended.

2021, c. 25, Sched. 17, s. 9 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, Schedule 1 to the Act is repealed. (See: 2021, c. 25, Sched. 17, s. 9 (2))

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

2021, c. 25, Sched. 17, s. 9 (1) - 19/10/2021; 2021, c. 25, Sched. 17, s. 9 (2) - not in force

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