

# *The Non-profit Corporations Act, 1995*

*Repealed*

by [Chapter 25](#) of the *Statutes of Saskatchewan, 2022*  
(effective March 12, 2023).

*Formerly*

[Chapter N-4.2](#) of the *Statutes of Saskatchewan, 1995* (effective May 15, 1995) as amended by the *Statutes of Saskatchewan, 1997, c.T-22.2; 1998, c.C-45.2; 2001, c.9; 2003, c.33; 2004, c.16; 2005, c.22; 2006, c.27; 2009, c.4; 2010, c.4; 2013, c.21; 2014, c.20; 2015, c.22; 2018, c.43; and 2019, c.L-10.2.*

## **NOTE:**

**This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.**

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## CHAPTER N-4.2

### An Act respecting Non-profit Corporations

#### PART I Preliminary

##### Short title

1 This Act may be cited as *The Non-profit Corporations Act, 1995*.

##### Interpretation

2(1) In this Act:

“**activities**”, respecting a charitable corporation or a membership corporation, includes:

- (a) any conduct of the corporation to further its charitable or membership purposes; and
- (b) any business carried on by the corporation; (*«activités»*)

“**affairs**” means the relationships between a corporation, its affiliates and the members, directors and officers of those bodies corporate but does not include the activities carried on by those bodies corporate; (*«affaires internes»*)

“**affiliate**” means an affiliated body corporate within the meaning of subsection (2); (*«groupe»*)

“**articles**” means:

- (a) the original or restated articles of incorporation, articles of amendment, articles of amalgamation, articles of continuance, articles of reorganization, articles of arrangement, articles of dissolution or articles of revival; and
- (b) in sections 174 and 250 and in Parts II and III, any Act, statute or ordinance by which a corporation has been incorporated, and any certificate of incorporation, memorandum of association, articles of association, letters patent, application for incorporation and bylaws or other documents evidencing corporate existence;

and includes any amendments; (*«statuts»*)

“**associate**”, when used to indicate a relationship with any person, means:

- (a) a body corporate of which that person beneficially owns or controls, directly or indirectly:
  - (i) shares or securities currently convertible into shares carrying more than 10% of the voting rights under all circumstances or by reason of the occurrence of an event that has occurred and is continuing, or a currently exercisable option or right to purchase those shares or those convertible securities; or

(ii) membership interests carrying more than 10% of the voting rights under all circumstances or by reason of the occurrence of an event that has occurred and is continuing;

(b) a partner of that person acting on behalf of the partnership to which they belong;

(c) a trust or estate in which that person has a substantial beneficial interest or with respect to which he or she serves as a trustee or in a similar capacity;

(d) a spouse or child of that person;

(e) a relative of that person or of his or her spouse if that relative has the same residence as that person; (« *ayant lien* »)

“**auditor**” includes a partnership of auditors; (« *vérificateur* »)

“**beneficial interest**” means an interest arising out of the beneficial ownership of securities; (« *propriété bénéficiaire* »)

“**beneficial ownership**” includes ownership through a trustee, legal representative, agent or other intermediary; (« *propriétaire bénéficiaire* »)

“**body corporate**” includes a corporation, company or other body corporate wherever or however incorporated; (« *personne morale* »)

“**Canada corporation**” means a body corporate incorporated by or pursuant to an Act of the Parliament of Canada; (« *société de régime fédéral* »)

“**charitable corporation**” means a corporation incorporated or continued pursuant to this Act to carry on activities that are primarily for the benefit of the public, and includes a membership corporation that is deemed to be a charitable corporation pursuant to subsection (9); (« *société caritative* »)

“**corporation**” means a body corporate, without share capital, incorporated by or pursuant to an Act, and in Part III “**corporation**” includes an extraprovincial corporation; (« *société* »)

“**court**” means the Court of Queen’s Bench or a judge of that court; (« *tribunal* »)

“**debt obligation**” means a bond, debenture, note or other evidence of indebtedness or guarantee of a corporation, whether secured or unsecured; (« *titre de créance* »)

“**Director**” means the Director of Corporations; (« *directeur* »)

“**director**” means a person occupying the position of director and “**directors**” and “**board of directors**” includes a single director; (« *administrateur* »)

**“extraprovincial corporation”** means a body corporate without share capital incorporated otherwise than by or pursuant to an Act, and includes a Canada corporation; (« *société extraprovinciale* »)

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

**“liability”** includes a debt of a corporation arising pursuant to subsection 181(2) or clause 225(2)(f) or (g); (« *passif* »)

**“meeting of members”** means any meeting of members, a class of members or subdivision of members that does not constitute a separate class of members of a corporation for the purposes of:

- (a) electing or removing directors;
- (b) considering financial statements or any auditor’s report;
- (c) appointing an auditor or reappointing an incumbent auditor;
- (d) making any fundamental change pursuant to Division XIV of Part II;
- (e) determining liquidation and dissolution pursuant to Division XVI of Part II;

and for any purpose where the articles or bylaws of the corporation require the approval of the members; (« *assemblée des sociétaires* »)

**“member”** means a person having a membership interest in a corporation; (« *sociétaires* »)

**“membership corporation”** means, subject to subsections (9) and (10), a corporation incorporated or continued pursuant to this Act to carry on activities that are primarily for the benefit of its members; (« *société de mutualité* »)

**“membership interest”** means the rights, privileges, restrictions and conditions conferred or imposed on a member of each class of members of a corporation in accordance with the provisions of its articles or bylaws; (« *intérêt de mutualité* »)

**“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned; (« *ministre* »)

**“municipality”** means a city, town, village, rural municipality, municipal district or northern municipality; (« *municipalité* »)

**“ordinary resolution”** means a resolution passed by a majority of the votes cast by the members who voted respecting that resolution; (« *résolution ordinaire* »)

**“person”** includes an individual, partnership, association, body corporate, trustee, executor, administrator or legal representative; (« *personne* »)

“**prescribed**” means prescribed by the regulations; (*«préscrit»* or *«réglementaire»*)

“**register**” means any register required by this Act to be maintained by or on behalf of a corporation and, in section 196 and in Parts III and IV, “**register**” means the register of corporations to be maintained in accordance with section 264; (*«registre»*)

“**resident Canadian**” means an individual who is:

- (a) a Canadian citizen ordinarily resident in Canada;
- (b) a Canadian citizen not ordinarily resident in Canada who is a member of a prescribed class of persons; or
- (c) a permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada) and ordinarily resident in Canada, except a permanent resident who has been ordinarily resident in Canada for more than one year after the time at which he or she first became eligible to apply for Canadian citizenship; (*«résident canadien»*)

“**security**” means a debt obligation of or a membership interest in a corporation or a certificate evidencing a debt obligation of or a membership interest in a corporation; (*«valeur mobilière»*)

“**security interest**” means an interest in or charge on the property of a corporation to secure payment of a debt or performance of any other obligation of the corporation; (*«sûreté»*)

“**send**” includes deliver; (*«envoyer»*)

“**special resolution**” means a resolution passed by a majority of not less than two-thirds of the votes cast by the members who voted respecting that resolution or signed by all the members entitled to vote on that resolution; (*«résolution spéciale»*)

“**unanimous member agreement**” means an agreement described in subsection 136(2) or a declaration of a member described in subsection 136(3). (*«convention unanime des sociétaires»*)

- (2) For the purposes of this Act:
  - (a) one body corporate is affiliated with another body corporate 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; and
  - (b) if two bodies corporate are affiliated with the same body corporate at the same time, they are deemed to be affiliated with each other.
- (3) For the purposes of this Act, a body corporate is controlled by a person if:
  - (a) shares or securities of the body corporate to which are attached more than 50% of the votes that may be cast to elect directors of the body corporate are held, other than by way of security only, by or for the benefit of that person; and
  - (b) the votes attached to those shares or securities are sufficient, if exercised, to elect a majority of the directors of the body corporate.

- (4) A body corporate is the holding body corporate of another if that other body corporate is its subsidiary.
- (5) A body corporate is a subsidiary of another body corporate if it is controlled by that other body corporate.
- (6) For the purposes of this Act, securities of a corporation issued on a conversion of other securities or issued in exchange for other securities are deemed to be securities that are part of a distribution to the public if those other securities were part of a distribution to the public.
- (7) Subject to subsection (8), for the purposes of this Act, a security of a body corporate:
- (a) is part of a distribution to the public where, respecting the security, there has been a filing of a prospectus, statement of material facts, registration statement, securities exchange take-over bid circular or similar document pursuant to the laws of Canada, a province or a jurisdiction outside Canada; or
  - (b) is deemed to be part of a distribution to the public where the security has been issued and a filing mentioned in clause (a) would be required if the security were being issued currently.
- (8) On the application of a corporation, the Director may determine that a security of the corporation is not or was not part of a distribution to the public if he or she is satisfied that the determination would not prejudice any security holder of the corporation.
- (9) A corporation other than a corporation mentioned in Division XV of Part II is deemed to be a charitable corporation where, after incorporation or continuance pursuant to this Act, the corporation:
- (a) carries on activities that are not primarily for the benefit of its members;
  - (b) solicits or has solicited donations or gifts of money or property from the public;
  - (c) receives or has received any grant of money or property from a government or government agency in any fiscal year of the corporation that is in excess of 10%, or any greater amount that may be prescribed, of its total income for that fiscal year;
  - (d) is a registered charity within the meaning of the *Income Tax Act* (Canada).
- (10) On the application of a corporation that, if subsection (9) did not apply, would be a membership corporation, the Director, if he or she is satisfied that the order would not be prejudicial to the public interest, may order, subject to any terms or conditions that he may impose, that subsection (9) does not apply to the corporation respecting any solicitation, grant or other activity named in the order.

1995, c.N-4.2, s.2; 2005, c.22, s.3; 2010, c.4, s.4;  
2014, c.20, s.2; 2015, c.22, s.12; 2018, c.43, s.13;  
2019, c.L-10.2, s.6-5.

PART II  
**Provincial Non-profit Corporations**  
 DIVISION I – APPLICATION

**Application**

**3(1)** Subject to subsection (2), this Part applies to every corporation incorporated or continued pursuant to this Act and applies to a body corporate where the context so requires.

(2) This Part does not apply to:

- (a) a corporation incorporated or registered pursuant to *The Business Corporations Act*, *The Co-operatives Act, 1996*, *The New Generation Co-operatives Act* or *The Credit Union Act, 1998*; or
- (b) any prescribed corporation or class of corporations.

1995, c.N-4.2, s.3; 1998, c.C-45.2, s.476; 2001,  
c.9, s.13.

**Certain Acts do not apply**

**4** *The Companies Winding Up Act* does not apply to a corporation incorporated or continued pursuant to this Act.

1995, c.N-4.2, s.4.

DIVISION II – INCORPORATION

**Incorporation**

**5(1)** One or more persons may incorporate a corporation by signing and delivering articles of incorporation to the Director.

(2) None of the following individuals may incorporate a corporation:

- (a) anyone who is less than 18 years of age;
- (b) anyone who has been found to lack capacity by a court in Canada or elsewhere; or
- (c) has the status of a bankrupt.

1995, c.N-4.2, s.5; 2015, c.22, s.10.

**Articles of corporation**

**6(1)** Articles of incorporation must follow the prescribed form and must set out, respecting the proposed corporation:

- (a) the name of the corporation;
- (b) **Repealed.** 2005, c.22, s.4.

- (c) the classes of membership interest and:
    - (i) if there are two or more classes of membership interest, the rights, privileges, restrictions and conditions that constitute the membership interests of each class; and
    - (ii) if a class of membership interest may be issued in subdivisions, the authority given to the directors to determine the designation of and the rights, privileges, restrictions and conditions attaching to the membership interest of each subdivision;
  - (d) if a right to transfer a membership interest of a corporation is to be permitted, a statement that the right to transfer a membership interest is permitted and the conditions relating to that transfer;
  - (e) the number of directors or, subject to clause 94(a), the minimum and maximum number of directors of the corporation;
  - (f) whether the corporation is a membership corporation or a charitable corporation;
  - (g) any restriction on the activities that the corporation may carry on or on the powers that the corporation may exercise; and
  - (h) subject to subsections 209(1) and (2), the persons to whom any remaining property of the corporation is to be distributed in the course of liquidation and dissolution of the corporation.
- (2) The articles may set out any provisions permitted by this Act or by law to be set out in the bylaws of a corporation.
- (3) Subject to subsection (4), if the articles or a unanimous member agreement require a greater number of votes of directors or members than that required by this Act to effect any action, the provisions of the articles or of the unanimous member agreement prevail.
- (4) The articles must not require a greater number of votes of members to remove a director than the number required in section 96.

1995, c.N-4.2, s.6; 2005, c.22, s.4.

**Delivery of articles of incorporation**

**7** An incorporator shall send to the Director:

- (a) articles of incorporation;
- (b) the documents required by sections 19 and 93.

1995, c.N-4.2, s.7.

**Certificate of incorporation**

**8** A certificate of incorporation is to be issued in accordance with section 244.

1995, c.N-4.2, s.8.

**Effect of certificate**

**9** A corporation comes into existence on the date shown in the certificate of incorporation.

1995, c.N-4.2, s.9.

**Name of corporation**

**10(1)** The word “incorporated”, “Incorporée” or “Corporation” or the abbreviation “Inc.” or “Corp.” are to be part of the name of every corporation, but a corporation may use and may be legally designated by either the full or the abbreviated form.

(2) The Director may exempt a body corporate continued as a corporation pursuant to this Act from the provisions of subsection (1).

(3) Subject to subsection 12(1), a corporation may set out its name in its articles in an English form, a French form, an English form and a French form or in a combined English and French form and it may use and may be legally designated by that form.

(4) Subject to subsection 12(1), a corporation may set out its name in its articles in any language form and it may use and be legally designated by that form outside Canada.

(5) A corporation shall set out its name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the corporation.

(6) Subject to *The Business Names Registration Act* and subsections (5) and 12(1) of this Act, a corporation may carry on its activities under or identify itself by a name other than its corporate name.

1995, c.N-4.2, s.10.

**Reserving name**

**11(1)** The Director may, on request, reserve for 90 days a name for an intended corporation or for a corporation about to change its name.

(2) If requested to do so by the incorporators or a corporation, the Director shall assign to the corporation a designating number determined by the Director as its name.

1995, c.N-4.2, s.11.

**Restriction on names**

**12(1)** No corporation shall be incorporated with, have, carry on its activities under or identify itself by a name:

- (a) that is, as prescribed, prohibited or deceptively misdescriptive; or
- (b) that is reserved for another corporation or intended corporation pursuant to section 11.

(2) Where, through inadvertence or otherwise, a corporation comes into existence, is continued with a name or on an application to change its name, is granted a name that contravenes this section, the Director may direct the corporation to change its name in accordance with section 161.

(3) Notwithstanding subsections (1) and (2), a corporation that is continued pursuant to this Act is entitled to be continued with the name it had before that continuance unless that name is identical with or confusingly similar to the name of an existing body corporate.

(4) Where a corporation has a designating number as its name, the Director may direct the corporation to change its name to a name other than a designating number in accordance with section 161.

(5) Where a corporation has been directed pursuant to subsection (2) or (4) to change its name and has not within 60 days from the service of the directive to that effect changed its name to a name that complies with this Act, the Director may revoke the name of the corporation and assign to it a name and, until changed in accordance with section 161, the name of the corporation is the name that the Director assigned.

1995, c.N-4.2, s.12.

#### **Certificate of amendment**

13(1) Where a corporation has had its name revoked and a name assigned to it pursuant to subsection 12(5), the Director shall issue a certificate of amendment showing the new name of the corporation and shall, as soon as possible, give notice of the change of name in the Gazette.

(2) The articles of the corporation are amended accordingly on the date shown in the certificate of amendment.

1995, c.N-4.2, s.13.

#### **Personal liability**

14(1) Except as provided in this section, a person who enters into a written contract in the name of or on behalf of a corporation before it comes into existence is personally bound by the contract and is entitled to the benefits of the contract.

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

(a) the corporation is bound by the contract and is entitled to the benefits of 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 of the contract.

(3) Except as provided in subsection (4), whether or not a written contract made before the coming into existence of a corporation is adopted by the corporation, 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 a person who purported to act in the name of or on behalf of the corporation, and the court may make any order it considers appropriate.

(4) If expressly provided in the written 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 any of its benefits.

1995, c.N-4.2, s.14.

### DIVISION III – CAPACITY AND POWERS

#### Capacity of a corporation

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

(2) A corporation has the capacity to carry on its activities and affairs and to exercise its powers in any jurisdiction outside Saskatchewan to the extent that the laws of that jurisdiction permit.

1995, c.N-4.2, s.15.

#### Powers of a corporation

**16(1)** It is not necessary for a bylaw to be passed in order to confer any particular power on the corporation or its directors.

(2) No corporation shall carry on any activities or exercise any power that, by its articles, it is restricted from carrying on or exercising, and no corporation shall exercise any of its powers in a manner contrary to its articles.

(3) No act of a corporation, including any transfer of property to or by a corporation, is invalid by reason only that the act or transfer is contrary to its articles or this Act.

1995, c.N-4.2, s.16.

#### No constructive notice

**17** 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 by the Director or is available for inspection at an office of the corporation.

1995, c.N-4.2, s.17.

#### Authority of directors, officers and agents

**18** No corporation, or guarantor of an obligation of the corporation, may assert against a person dealing with the corporation or with any person who has acquired rights from the corporation except where the person has or ought to have, by virtue of his or her position with or relationship to the corporation, knowledge to the contrary that:

- (a) the articles, bylaws and any unanimous member agreement have not been complied with;
- (b) the persons named in the most recent notice sent to the Director pursuant to section 93 or 100 are not the directors of the corporation;

- (c) the place named in the most recent notice sent to the Director pursuant to section 19 is not the registered office of the corporation;
- (d) a person held out by the corporation as a director, an officer or an agent of the corporation has not been duly appointed or has no authority to exercise the powers and perform the duties that are customary in the carrying out of the activities of the corporation or usual for that director, officer or agent;
- (e) a document issued by any director, officer or agent of a corporation with actual or usual authority to issue the document is not valid or not genuine; or
- (f) financial assistance mentioned in section 27 or a sale, lease or exchange of property mentioned in subsection 176(3) was not authorized.

1995, c.N-4.2, s.18.

#### DIVISION IV – REGISTERED OFFICE AND RECORDS

##### Registered office

- 19(1)** A corporation, at all times, shall have a registered office within Saskatchewan.
- (2) A notice of registered office in the prescribed form shall be sent to the Director.
- (3) The directors of a corporation may change the address of the registered office.
- (4) A corporation shall send to the Director, within 15 days of any change of address of its registered office, a notice in the prescribed form.
- (4.1) A notice mentioned in subsection (4) is effective when the Director accepts it.
- (5) Where a corporation sends an annual return made pursuant to section 245 to the Director within 15 days after a change is made to the address of its registered office, the annual return is deemed to be the required notice mentioned in subsection (4).
- (6) **Repealed.** 2005, c.22, s.5.

1995, c.N-4.2, s.19; 2005, c.22, s.5.

##### Corporate records

- 20(1)** A corporation shall prepare and maintain, at its registered office or at any other place in Saskatchewan designated by the directors, records containing:
  - (a) the articles and the bylaws, and all amendments to them, and a copy of any unanimous member agreement;
  - (b) minutes of meetings and resolutions of members;
  - (c) copies of all notices required by section 93 or 100;
  - (d) a securities register that complies with Division VI; and
  - (e) a register of members entitled to vote, containing the names, alphabetically or otherwise systematically arranged in a manner capable of producing information about all members in intelligible written form within a reasonable time, and the latest known addresses of each person who is or who, during the previous year, has been a member of the corporation and the date on which each became or ceased to be a member.

- (2) In addition to the records described in subsection (1), a corporation shall prepare and maintain adequate accounting records and records containing minutes of meetings and resolutions of the directors and any committee.
- (3) For the purposes of clause (1)(b) and subsection (2), where a body corporate is continued pursuant to this Act, “**records**” includes similar records required by law to be maintained by the body corporate before it was continued.
- (4) The records described in subsection (2) shall be kept at the registered office of the corporation or at any other place that the directors think fit and shall at all reasonable times be open to inspection by the directors.
- (5) Where accounting records of a corporation are kept at a place outside Saskatchewan, there shall be kept at the registered office or other office in Saskatchewan accounting records adequate to enable the directors to ascertain the financial position of the corporation with reasonable accuracy on a quarterly basis.
- (6) A corporation that, without reasonable cause, fails to comply with this section is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.

1995, c.N-4.2, s.20.

**Access to corporate records**

- 21(1)** Members of a corporation, their agents and legal representatives and the Director may examine the records mentioned in subsection 20(1) during the usual business hours of the corporation, and may make copies free of charge, and, where the corporation is a charitable corporation, any other person may do so on payment of a reasonable fee.
- (2) A member of a corporation is entitled, on request and without charge, to one copy of the articles and bylaws and of any unanimous member agreement.
- (3) On payment of a reasonable fee and on sending to a corporation or its agent the affidavit mentioned in subsection (7), any of the following, on application, may require the corporation or its agent to furnish within 10 days from the receipt of the affidavit a list, in this section referred to as the “basic list”:
- (a) any member of a membership corporation;
  - (b) any person respecting a charitable corporation.
- (4) The basic list is to be made up to a day not more than 10 days before the day of receipt of the affidavit mentioned in subsection (3) setting out the names of the members of the corporation, and the address of each member as shown on the records of the corporation.
- (5) A person requiring a corporation to supply a basic list may, if he or she states in the affidavit mentioned in subsection (3) that he or she requires supplemental lists, require the corporation or its agent, on payment of a reasonable fee, to furnish supplemental lists setting out any changes from the basic list in the names or addresses of the members for each business day following the day to which the basic list is updated.

- (6) The corporation or its agent shall furnish a supplemental list required pursuant to subsection (5):
- (a) on the day the basic list is furnished, where the information relates to changes that took place prior to that day; and
  - (b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the day the basic list is furnished.
- (7) The affidavit required pursuant to subsection (3) is to state:
- (a) the name and address of the applicant;
  - (b) the name and address for service of the body corporate if the applicant is a body corporate; and
  - (c) that the basic list and any supplemental lists obtained pursuant to subsection (5) will not be used except as permitted pursuant to subsection (9).
- (8) If the applicant is a body corporate, the affidavit shall be made by a director or officer of the body corporate.
- (9) No list of members obtained pursuant to this section shall be used by any person except in connection with:
- (a) an effort to influence the voting of members of the corporation; or
  - (b) any other matter relating to the affairs of the corporation.
- (10) A person who, without reasonable cause, contravenes this section is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000, to imprisonment for a term of not more than six months or to both.

1995, c.N-4.2, s.21.

#### **Application for exemption**

**22**(1) A corporation may apply to the Director for an order exempting it from compliance with subsection 21(3) or (5).

(2) Where the Director receives an application from a corporation made pursuant to subsection (1) and, in his or her opinion, the supplying of a basic list or supplemental list is detrimental to the corporation, the Director may grant an order exempting the corporation from compliance with subsection 21(3) or (5) on any terms and conditions that he or she considers appropriate.

1995, c.N-4.2, s.22.

#### **Form of records**

**23**(1) All registers and other records required by this Act to be prepared and maintained may be in a bound or loose-leaf form or in a photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or any other information storage device that is capable of reproducing any required information in intelligible written form within a reasonable time.

(2) A corporation and its agents shall take reasonable precautions to prevent loss or destruction of, prevent falsification of entries in, and facilitate detection and correction of inaccuracies in the registers and other records required by this Act to be prepared and maintained.

(3) A person who, without reasonable cause, contravenes this section is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000, to imprisonment for a term of not more than six months or to both.

1995, c.N-4.2, s.23.

#### Corporate seal

**24** No instrument or agreement executed on behalf of a corporation by a director, an officer or an agent of the corporation is invalid merely because a corporate seal is not affixed.

1995, c.N-4.2, s.24.

## DIVISION V – CORPORATE FINANCE

#### Issue of securities

**25(1)** Subject to the articles, the bylaws and any unanimous member agreement, securities of a corporation may be issued at any time, to any persons and for any consideration that the directors may determine.

(2) No security of a corporation shall be issued until it is fully paid in money or in property or past services that constitute the fair equivalent of the money that the corporation would have received if the security had been issued for money.

(3) In determining whether property or past services constitute the fair equivalent of a money consideration, the directors may take into account reasonable charges and expenses of organization and reorganization and payments for property and past services reasonably expected to benefit the corporation.

(4) For the purposes of this section, “**property**” does not include a promissory note or a promise to pay.

1995, c.N-4.2, s.25.

#### Repayment

**26(1)** No debt obligations issued, pledged, hypothecated or deposited by a corporation are redeemed by reason only that the indebtedness evidenced by the debt obligations or with respect to which the debt obligations are issued, pledged, hypothecated or deposited is repaid.

(2) A debt obligation issued by a corporation and purchased, redeemed or otherwise acquired by it may be cancelled or, subject to any applicable trust indenture or other agreement, may be reissued, pledged or hypothecated to secure any obligation of the corporation then existing or incurred later, and that acquisition and reissue, pledge or hypothecation is not a cancellation of the debt obligation.

1995, c.N-4.2, s.26.

**Prohibited loans and guarantees**

**27(1)** No corporation and no corporation with which it is affiliated shall give, directly or indirectly, financial assistance by means of a loan, guarantee or otherwise:

- (a) to a member, director, officer or employee of the corporation or of an affiliated corporation or to an associate of that person for any purpose; or
- (b) to any person for the purpose of or in connection with a purchase of a security issued or to be issued by the corporation or affiliated corporation.

(2) Subsection (1) only applies where there are reasonable grounds for believing that:

- (a) the corporation is or would be unable to pay its liabilities as they become due after giving the financial assistance; or
- (b) the realizable value of the corporation's assets, excluding the amount of any financial assistance in the form of a loan and in the form of assets pledged or encumbered to secure a guarantee, would, after giving the financial assistance, be less than the aggregate of the corporation's liabilities.

(3) Subsection (1) does not apply to financial assistance given by a corporation:

- (a) to any person in the ordinary course of its activities, if the lending of money is part of the ordinary activities of the corporation;
- (b) to any person on account of expenditures incurred or to be incurred on behalf of the corporation;
- (c) to a holding body corporate, if the corporation is a wholly-owned subsidiary of the holding body corporate;
- (d) to a subsidiary body corporate of the corporation; or
- (e) to employees of the corporation or any of its affiliates:
  - (i) to enable or assist them to purchase or erect living accommodation for their own occupation; or
  - (ii) in accordance with a plan for the purchase of securities of the corporation or any of its affiliates to be held by a trustee.

(4) A contract made by a corporation in contravention of this section may be enforced by the corporation or by a lender for value in good faith without notice of the contravention.

1995, c.N-4.2, s.27.

**Ownership of property of charitable corporation**

**28** A charitable corporation owns absolutely 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.

1995, c.N-4.2, s.28.

**Investments by charitable corporations**

**29(1)** Subject to section 30, the limitations contained in any gift and the articles, a charitable corporation may invest its funds only in shares, debentures, bonds, mortgages or other financial instruments in which trustees are by law permitted to invest.

(2) Subject to the limitations contained in any gift and the articles or bylaws, a membership corporation may invest its funds as its directors think fit.

1995, c.N-4.2, s.29.

**Property to be used to further charitable or membership activities**

**30(1)** Subject to subsection (2), any profits or accretions to the value of the property of a corporation shall be used to further its activities, and no part of the property or profits of the corporation may be distributed, directly or indirectly, to a member, director or officer of the corporation except as permitted pursuant to sections 111, 112, 169, 177, 192, 209, 212, 225 and 227.

(2) Where a member of a corporation is a body corporate or association that is authorized to carry out activities on behalf of the corporation, the corporation may distribute any of its money or property to the member to carry out those activities.

1995, c.N-4.2, s.30.

**Donated memberships**

**31** A corporation may accept from any member a membership in the corporation surrendered to it as a gift, but may not extinguish or reduce a liability respecting an amount unpaid on that membership.

1995, c.N-4.2, s.31.

**Member immunity**

**32** Subject to subsection 211(4), no member of a corporation is liable for any liability, act or default of the corporation.

1995, c.N-4.2, s.32.

## DIVISION VI – SECURITY CERTIFICATES, REGISTERS AND TRANSFERS INTERPRETATION AND GENERAL

**Interpretation of Division**

**33** In this Division:

“**adverse claim**” includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security; (*«opposition»*)

“**bearer**” means the person in possession of a security payable to bearer or endorsed in blank; (*«détenteur»*)

“**broker**” means a person who is engaged for all or part of his or her time in the business of buying and selling securities and who, in the transaction concerned, acts for or buys a security from or sells a security to a customer; (*«courtier»*)

“**delivery**” means voluntary transfer of possession; (*«livraison»* or *«remise»*)

“**fiduciary**” means a trustee, guardian, property guardian, committee, curator, tutor, executor, administrator or representative of a deceased person, or any other person acting in a fiduciary capacity; (*«représentant»*)

“**fungible**”, in relation to securities, means securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit; (*«fongible»*)

“**genuine**” means free of forgery or counterfeiting; (*«authentique»*)

“**good faith**” means honesty in fact in the conduct of the transaction concerned; (*«bonne foi»*)

“**good faith purchaser**” means a purchaser for value in good faith and without notice of any adverse claim who takes delivery of a security in bearer form or of a security in registered form issued to him or her or endorsed to him or her or endorsed in blank; (*«acheteur de bonne foi»*)

“**holder**” means a person in possession of a security issued or endorsed to him or her or to bearer or in blank; (*«porteur»*)

“**issuer**” includes a corporation:

- (a) that is required by this Act to maintain a securities register;
- (b) that issues securities in bearer form; or
- (c) that directly or indirectly creates fractional interests in its rights or property and that issues securities as evidence of those fractional interests; (*«émetteur»*)

“**overissue**” means the issue of securities in excess of any maximum number of securities that the issuer is authorized by a trust indenture to issue; (*«émission excédentaire»*)

“**purchaser**” means a person who takes by sale, mortgage, hypothec, pledge, issue, reissue, gift or any other voluntary transaction creating an interest in a security; (*«acquéreur»*)

“**security**” or “**security certificate**” means an instrument issued by a corporation that is:

- (a) in bearer, order or registered form;
- (b) of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment;
- (c) one of a class, or by its terms divisible into a class, of instruments; and
- (d) evidence of a membership interest, participation or other interest in or obligation of a corporation; (*«valeur mobilière»* or *«certificat de valeur mobilière»*)

“**transfer**” includes transmission by operation of law; (*«transfert»*)

“**trust indenture**” means a trust indenture as defined in section 69; (*«acte de fiducie»*)

“**unauthorized**”, in relation to a signature or an endorsement, means one made without actual, implied or apparent authority and includes a forgery; (*«non autorisé»*)

“**valid**” means issued in accordance with the applicable law and the articles of the issuer, or validated pursuant to section 39. (*«valide»*)

1995, c.N-4.2, s.33.

#### Application of Division

**34** The transfer or transmission of a security is governed by this Division.

1995, c.N-4.2, s.34.

#### Form of securities

**35(1)** Except where its transfer is restricted and noted on a security in accordance with subsection 36(8), a security is a negotiable instrument.

(2) A security is in registered form where:

- (a) it specifies a person entitled to the security or to the rights it evidences and its transfer is capable of being recorded in a securities register; or
- (b) it bears a statement that it is in registered form.

(3) A debt obligation is in order form where, by its terms, it is payable to the order or assigns of any person specified in it with reasonable certainty.

(4) A security is in bearer form if it is payable to bearer according to its terms and not by reason of any endorsement.

(5) A guarantor for an issuer is deemed to be an issuer to the extent of his or her guarantee, whether or not his or her obligation is noted on the security.

1995, c.N-4.2, s.35.

#### Rights of holder

**36(1)** Every security holder is entitled at his or her option to a security certificate that complies with this Act or a non-transferable written acknowledgement of his or her right to obtain a security certificate from a corporation respecting the securities of that corporation held by the security holder.

(2) A corporation may charge a fee of not more than \$3 for a security certificate issued respecting a transfer.

(3) No corporation is required to issue more than one security certificate with respect to securities held jointly by several persons, and delivery of a certificate to one of several joint holders is sufficient delivery to all.

- (4) A security certificate shall be signed manually by at least one director or officer of the corporation or by or on behalf of a registrar, transfer agent or branch transfer agent of the corporation, or by a trustee who certifies it in accordance with a trust indenture, and any additional signatures required on a security certificate may be printed or otherwise mechanically reproduced.
- (5) Notwithstanding subsection (4), a manual signature is not required on a security certificate representing:
- (a) a promissory note that is not issued under a trust indenture;
  - (b) a fractional security; or
  - (c) an option or right to acquire a security.
- (6) If a security certificate contains a printed or mechanically reproduced signature of a person, the corporation may issue the security certificate, notwithstanding that the person has ceased to be a director or an officer of the corporation, and the security certificate is as valid as if he or she were a director or an officer at the date of its issue.
- (7) The following are to be stated on the face of each security certificate in registered form issued by a corporation:
- (a) the name of the corporation;
  - (b) the words “Incorporated pursuant to *The Non-profit Corporations Act, 1995*”, the words “Incorporated pursuant to the laws of Saskatchewan as a non-profit corporation” or words of like effect;
  - (c) the name of the person to whom it was issued;
  - (d) the number and class of securities that the certificate represents.
- (8) If a security certificate issued by a corporation or by a body corporate before the body corporate was continued pursuant to this Act is or becomes subject to any of the following, that restriction, lien, agreement or endorsement is ineffective against a transferee of the security who has no actual knowledge of it, unless it or a reference to it is noted conspicuously on the security certificate:
- (a) a restriction on its transfer;
  - (b) a lien in favour of the corporation;
  - (c) a unanimous member agreement;
  - (d) an endorsement pursuant to subsection 179(1).
- (9) The following are to be stated legibly on a security certificate issued by a corporation that is authorized to issue securities of more than one class:
- (a) the rights, privileges, restrictions and conditions attached to the securities of each class that exist when the security is issued;

- (b) that the class of securities that it represents has rights, privileges, restrictions or conditions attached to it and that the corporation will furnish to a security holder, on demand and without charge, a full copy of the text of the rights, privileges, restrictions and conditions attached to each class authorized to be issued.
- (10) Where a security certificate issued by a corporation contains the statement mentioned in clause (9)(b), the corporation shall furnish to a security holder, on demand and without charge, a full copy of the text of the rights, privileges, restrictions and conditions attached to each class authorized to be issued.
- (11) A corporation may issue a certificate for a fractional security in bearer form that entitles the holder to receive a certificate for a full security by exchanging scrip certificates aggregating a full security.
- (12) The directors may attach conditions to any scrip certificates issued by a corporation, including conditions that:
- (a) the scrip certificates become void if not exchanged for a security certificate representing a full security before a specified date; and
  - (b) any securities for which the scrip certificates are exchangeable, notwithstanding any pre-emptive right, may be issued by the corporation to any person and the proceeds of them distributed rateably to the holders of the scrip certificates.
- (13) No holder of a fractional security issued by a corporation is entitled to exercise voting rights respecting fractional security, unless:
- (a) the fractional security results from a consolidation of securities; or
  - (b) the articles of the corporation otherwise provide.
- (14) No holder of a scrip certificate is entitled to exercise voting rights respecting the scrip certificate.

1995, c.N-4.2, s.36.

**Securities register**

- 37(1)** A corporation shall maintain a securities register in which it records the securities issued by it in registered form, showing with respect to each class of securities:
- (a) the names, alphabetically arranged, and the latest known address of each person who is or has been a security holder;
  - (b) the number of securities held by each security holder; and
  - (c) the date and particulars of the issue and transfer of each security.
- (2) A corporation may appoint an agent to maintain a central securities register and branch securities registers.
- (3) A central securities register shall be maintained by a corporation at its registered office or at any office in Saskatchewan designated by the directors, and any branch securities registers may be kept at any place in or out of Saskatchewan designated by the directors.

- (4) Registration of the issue or transfer of a security in the central securities register or in a branch securities register is complete and valid registration for all purposes.
- (5) A branch securities register is to contain particulars only of securities issued or transferred at that branch.
- (6) Particulars of each issue or transfer of a security registered in a branch securities register is also to be kept in the corresponding central securities register.
- (7) No corporation, its agent or a trustee as defined in subsection 69(1) is required to produce:
  - (a) a cancelled security certificate in registered form six years after the date of its cancellation; or
  - (b) a cancelled security certificate in bearer form after the date of its cancellation.

1995, c.N-4.2, s.37.

#### **Dealings with registered holder**

- 38(1)** A corporation or a trustee as defined in subsection 69(1), subject to sections 124, 125 and 127, may treat the registered owner of a security as the person exclusively entitled to vote, to receive notices, to receive any interest or other payments in respect of the security, and otherwise to exercise all the rights and powers of an owner.
- (2) Notwithstanding subsection (1), a corporation whose articles restrict the right to transfer its securities shall, and any other corporation may, treat a person as a registered security holder entitled to exercise all the rights of the security holder he or she represents, if that person furnishes evidence as described in subsection 64(4) to the corporation that he or she is:
    - (a) the executor, administrator, heir or legal representative of the heirs of the estate of a deceased security holder;
    - (b) a guardian, property guardian, committee, trustee, curator or tutor representing a registered security holder who is an infant, a dependent adult or a missing person; or
    - (c) a liquidator of, or a trustee in bankruptcy for, a registered security holder.
  - (3) Where a person on whom the ownership of a security devolves by operation of law, other than a person described in subsection (2), furnishes proof of his or her authority to exercise rights or privileges respecting a security of the corporation that is not registered in his name, the corporation shall treat that person as entitled to exercise those rights or privileges.
  - (4) No corporation is required to inquire into the existence of, or see to the performance or observance of, any duty owed to a third person by a registered holder of any of its securities or by anyone whom it treats, as permitted or required by this section, as the owner or registered holder of them.
  - (5) If an infant exercises any rights of ownership in the securities of a corporation, no subsequent repudiation or avoidance is effective against the corporation.

(6) A corporation may treat as owner of a security the survivors of persons to whom the security was issued as joint holders if it receives proof satisfactory to it of the death of that joint holder.

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

- (a) an affidavit or declaration of transmission made by the person mentioned in clause (2)(a), stating the particulars of the transmission;
- (b) the security certificate that was owned by the deceased holder:
  - (i) in the case of a transfer to a person mentioned in clause (2)(a), with or without the endorsement of that person; and
  - (ii) in the case of a transfer to any other person, endorsed in accordance with section 52;
- (c) any assurance the corporation may require pursuant to section 64; and
- (d) either:
  - (i) the original grant of probate or of letters of administration, or a copy certified to be a true copy by:
    - (A) the court that granted the probate or letters of administration;
    - (B) a trust company incorporated pursuant to the laws of Canada or a province; or
    - (C) a lawyer or notary acting on behalf of the person mentioned in clause (2)(a); or
  - (ii) in the case of transmission by notarial will in the Province of Quebec, a copy of the notarial will authenticated pursuant to the laws of that province.

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

- (a) the security certificate that was owned by the deceased holder; and
- (b) reasonable proof of the governing laws, of the deceased holder's interest in the security and of the right of the legal representative or the person he or she designates to become the registered holder.

(9) Deposit of the documents required by subsection (7) or (8) empowers a corporation or its transfer agent to record in a securities register the transmission of a security from the deceased holder to a person mentioned in clause (2)(a) or to any person that the person mentioned in that clause may designate and to treat that person as the owner of those securities.

**Overissue**

**39(1)** The provisions of this Division that validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue, but:

(a) where a valid security, similar in all respects to the security involved in the overissue, is reasonably available for purchase, the person entitled to the validation or issue may compel the issuer to purchase and deliver that security to him or her against surrender of the security that he or she holds; or

(b) where a valid security, similar in all respects to the security involved in the overissue, is not reasonably available for purchase, the person entitled to the validation or issue may recover from the issuer an amount equal to the price the last purchaser for value paid for the invalid security.

(2) Where an issuer subsequently amends its articles or a trust indenture to which it is a party to increase its authorized securities to a number equal to or in excess of the number of securities previously authorized plus the amount of the securities overissued, the securities so overissued are valid from the date of their issue.

1995, c.N-4.2, s.39.

**Burden of proof**

**40** In an action on a security:

(a) unless specifically denied in the pleadings, each signature on the security or in a necessary endorsement is admitted;

(b) a signature on the security is presumed to be genuine and authorized but, if the effectiveness of the signature is put in issue, the burden of establishing that it is genuine and authorized is on the party claiming under the signature;

(c) where a signature is admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defence or a defect going to the validity of the security; and

(d) where the defendant establishes that a defence or defect exists, the plaintiff has the burden of establishing that the defence or defect is ineffective against him or her or some person under whom he or she claims.

1995, c.N-4.2, s.40.

**Securities fungible**

**41** Unless otherwise agreed, and subject to any applicable law, regulation or stock exchange rule, a person required to deliver securities may deliver any security of the specified issue in bearer form or registered in the name of the transferee or endorsed to him or her or in blank.

1995, c.N-4.2, s.41.

**Notice of defect**

42(1) Even against a purchaser for value and without notice of a defect going to the validity of a security, the terms of the security include those stated on the security and those incorporated in it by reference to another instrument, statute, rule, regulation or order to the extent that the terms so referenced do not conflict with the stated terms, but that reference is not of itself notice to a purchaser for value of a defect going to the validity of the security, notwithstanding that the security expressly states that a person accepting it admits notice.

(2) A security is valid in the hands of a purchaser for value without notice of any defect going to its validity.

(3) Except as provided in section 44, the fact that a security is not genuine is a complete defence even against a purchaser for value and without notice.

(4) All other defences of an issuer, including non-delivery and conditional delivery of a security, are ineffective against a purchaser for value without notice of the particular defence.

1995, c.N-4.2, s.42.

**Staleness as notice of defect**

43 After an event that creates a right to immediate performance of the principal obligation evidenced by a security, or that sets a date on or after which a security is to be presented or surrendered for redemption or exchange, a purchaser is deemed to have notice of any defect in its issue or of any defence of the issuer:

(a) where the event requires the payment of money or the delivery of securities, or both, on presentation or surrender of the security, and those funds or securities are available on the date set for payment or exchange, and he or she takes the security more than one year after that date; or

(b) where he or she takes the security more than two years after the date set for surrender or presentation or the date on which that performance became due.

1995, c.N-4.2, s.43.

**Unauthorized signature**

44 An unauthorized signature on a security before or in the course of issue is ineffective, except that the signature is effective in favour of a purchaser for value and without notice of the lack of authority if the signing has been done by:

(a) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security, or of similar securities, or with their immediate preparation for signing; or

(b) an employee of the issuer or of a person mentioned in clause (a) who in the ordinary course of his or her duties handles the security.

1995, c.N-4.2, s.44.

**Completion or alteration of security**

**45(1)** Where a security contains the signatures necessary to its issue or transfer but is incomplete in any other respect:

- (a) any person may complete it by filling in the blanks in accordance with his or her authority; and
- (b) notwithstanding that the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of that incorrectness.

(2) A completed security that has been improperly altered, even if fraudulently altered, remains enforceable but only according to its original terms.

1995, c.N-4.2, s.45.

**Warranties of agents**

**46(1)** A person signing a security as an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security warrants to a purchaser for value without notice that:

- (a) the security is genuine;
- (b) his or her acts in connection with the issue of the security are within his or her authority; and
- (c) he or she has reasonable grounds for believing that the security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person mentioned in subsection (1) does not assume any further liability for the validity of a security.

1995, c.N-4.2, s.46.

**PURCHASE****Title of purchaser**

**47(1)** On delivery of a security, the purchaser acquires the rights in the security that his or her transferor had or had authority to convey, except that a purchaser who has been a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim does not improve his or her position by taking from a later good faith purchaser.

(2) A good faith purchaser, in addition to acquiring the rights of a purchaser, also acquires the security free from any adverse claim.

(3) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

1995, c.N-4.2, s.47.

**Deemed notice of adverse claim**

**48(1)** A purchaser of a security, or any broker for a seller or purchaser, is deemed to have notice of an adverse claim if:

- (a) the security, whether in bearer or registered form, has been endorsed “for collection” or “for surrender” or for some other purpose not involving transfer; or
  - (b) the security is in bearer form and has on it a statement that it is the property of a person other than the transferor, except that the mere writing of a name on a security does not constitute that statement.
- (2) Notwithstanding that a purchaser, or any broker for a seller or purchaser, has notice that a security is held for a third person or is registered in the name of or endorsed by a fiduciary, he or she has no duty to inquire into the rightfulness of the transfer and has no notice of an adverse claim, except that, where a purchaser knows that the consideration is to be used for, or that the transaction is for, the personal benefit of the fiduciary or is otherwise in breach of the fiduciary’s duty, the purchaser is deemed to have notice of an adverse claim.

1995, c.N-4.2, s.48.

**Staleness as notice of adverse claim**

**49** An event that creates a right to immediate performance of the principal obligation evidenced by a security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange is not of itself notice of an adverse claim, except in the case of a purchase:

- (a) after one year from any day set for that presentation or surrender for redemption or exchange; or
- (b) after six months from any day set for payment of money against presentation or surrender of the security if funds are available for payment on that day.

1995, c.N-4.2, s.49.

**Warranties**

**50(1)** A person who presents a security for registration of transfer or for payment or exchange warrants to the issuer that he is entitled to the registration, payment or exchange, except that a purchaser for value without notice of an adverse claim who receives a new, reissued or reregistered security on registration of transfer warrants only that he has no knowledge of any unauthorized signature in a necessary endorsement.

- (2) A person by transferring a security to a purchaser for value warrants only that:
- (a) the transfer is effective and rightful;
  - (b) the security is genuine and has not been materially altered; and
  - (c) he or she knows of nothing that might impair the validity of the security.

(3) Where a security is delivered by an intermediary known by the purchaser to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim to be collected against the delivery, the intermediary by the delivery warrants only his or her own good faith and authority even if he or she has purchased or made advances against the draft or other claim to be collected against the delivery.

(4) A pledgee or other holder for purposes of security who redelivers a security received, or after payment and on order of the debtor delivers that security to a third person, gives only the warranties of an intermediary pursuant to subsection (3).

(5) A broker gives to his or her customer, to the issuer and to a purchaser, as the case may be, the warranties provided in this section and has the rights and privileges of a purchaser pursuant to this section, and those warranties of and in favour of the broker acting as an agent are in addition to warranties given by his customer and warranties given in favour of his or her customer.

1995, c.N-4.2, s.50.

#### **Right to compel endorsement**

**51** Where a security in registered form is delivered to a purchaser without a necessary endorsement, the purchaser may become a good faith purchaser only as of the time the endorsement is supplied, but against the transferor the transfer is complete on delivery and the purchaser has a specifically enforceable right to have any necessary endorsement supplied.

1995, c.N-4.2, s.51.

#### **Appropriate person**

**52(1)** In this section, “**appropriate person**” means:

- (a) the person specified by the security or by special endorsement to be entitled to the security;
- (b) where a person described in clause (a) is described as a fiduciary but is no longer serving in the described capacity, either that person or his or her successor;
- (c) where the security or endorsement mentioned in clause (a) specifies more than one person as fiduciaries and one or more are no longer serving in the described capacity, the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified;
- (d) where a person described in clause (a) is an individual and is without capacity to act for any reason, his or her fiduciary;
- (e) where the security or endorsement mentioned in clause (a) specifies more than one person with right of survivorship and by reason of death all cannot sign, the survivor or survivors;
- (f) a person having power to sign under applicable law or a power of attorney; or
- (g) to the extent that a person described in clauses (a) to (f) may act through an agent, his authorized agent.

- (2) Whether the person signing is an appropriate person is determined as of the time of signing and an endorsement by that a person does not become unauthorized for the purposes of this Division by reason of any subsequent change of circumstances.
- (3) An endorsement of a security in registered form is made when an appropriate person signs, either on the security or on a separate document, an assignment or transfer of the security or a power to assign or transfer it, or when the signature of an appropriate person is written without anything further being written on the back of the security.
- (4) An endorsement may be special or in blank.
- (5) An endorsement in blank includes an endorsement to bearer.
- (6) A special endorsement specifies the person to whom the security is to be transferred, or who has power to transfer it.
- (7) A holder may convert an endorsement in blank into a special endorsement.
- (8) Unless otherwise agreed, the endorser by his or her endorsement assumes no obligation that the security will be honoured by the issuer.
- (9) An endorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement.
- (10) Failure of a fiduciary to comply with a controlling instrument or with the law of the jurisdiction governing the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of a transfer, does not render his or her endorsement unauthorized for the purposes of this Division.

1995, c.N-4.2, s.52.

**Effect of endorsement without delivery**

**53** An endorsement of a security, whether special or in blank, does not constitute a transfer until delivery of the security on which it appears or, if the endorsement is on a separate document, until delivery of both the security and that document.

1995, c.N-4.2, s.53.

**Endorsement to bearer form**

**54** An endorsement of a security in bearer form may give notice of an adverse claim pursuant to section 48 but does not otherwise affect any right to registration that the holder has.

1995, c.N-4.2, s.54.

**Effect of unauthorized endorsement**

**55(1)** The owner of a security may assert the ineffectiveness of an endorsement against the issuer or any purchaser, other than a purchaser for value and without notice of an adverse claim who has in good faith received a new, reissued or reregistered security on registration of transfer, unless the owner:

- (a) has ratified an unauthorized endorsement of the security; or
- (b) is otherwise precluded from impugning the effectiveness of an unauthorized endorsement.

(2) An issuer who registers the transfer of a security on an unauthorized endorsement is liable for improper registration.

1995, c.N-4.2, s.55.

**Warranties of guarantor of signature**

**56(1)** A person who guarantees a signature of an endorser of a security warrants that at the time of signing:

- (a) the signature was genuine;
- (b) the signer was an appropriate person, as defined in section 52, to endorse; and
- (c) the signer had legal capacity to sign.

(2) A person who guarantees a signature of an endorser does not otherwise warrant the rightfulness of the particular transfer.

(3) A person who guarantees an endorsement of a security warrants both the signature and the rightfulness of the transfer in all respects, but an issuer may not require a guarantee of endorsement as a condition to registration of transfer.

(4) The warranties mentioned in this section are made to any person taking or dealing with the security who relies on the guarantee, and the guarantor is liable to that person for any loss resulting from breach of warranty.

1995, c.N-4.2, s.56.

**Constructive delivery of a security**

**57(1)** Delivery to a purchaser occurs when:

- (a) the purchaser or a person designated by the purchaser acquires possession of a security;
- (b) the purchaser's broker acquires possession of a security specially endorsed to or issued in the name of the purchaser;
- (c) the purchaser's broker sends the purchaser confirmation of the purchase and the broker in his or her records identifies a specific security as belonging to the purchaser; or
- (d) with respect to an identified security to be delivered while still in the possession of a third person, that person acknowledges that he or she holds it for the purchaser.

(2) A purchaser is the owner of a security held for the purchaser by his or her broker, but a purchaser is not a holder except in the cases mentioned in clauses (1)(b) and (c).

(3) Where a security is part of a fungible bulk, a purchaser of the security is the owner of a proportionate interest in the fungible bulk.

(4) Notice of an adverse claim received by a broker or by a purchaser after the broker takes delivery as a holder for value is not effective against the broker or the purchaser, except that, as between the broker and the purchaser, the purchaser may demand delivery of an equivalent security with respect to which no notice of an adverse claim has been received.

1995, c.N-4.2, s.57.

#### **Delivery of security**

**58(1)** Unless otherwise agreed, if a sale of a security is made on an exchange or otherwise through brokers:

(a) the selling customer fulfils his or her duty to deliver when he or she delivers the security to the selling broker or to a person designated by the selling broker or causes an acknowledgement to be made to the selling broker that it is held for him or her; and

(b) the selling broker, including a correspondent broker, acting for a selling customer fulfils his or her duty to deliver by delivering the security or a like security to the buying broker or to a person designated by the buying broker or by effecting clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

(2) Except as otherwise provided in this section and unless otherwise agreed, a transferor's duty to deliver a security under a contract of purchase is not fulfilled until he delivers the security in negotiable form to the purchaser or to a person designated by the purchaser, or causes an acknowledgement to be made to the purchaser that the security is held for him or her.

(3) A sale to a broker purchasing for his or her own account is subject to subsection (2) and not subsection (1), unless the sale is made on an exchange.

1995, c.N-4.2, s.58.

#### **Right to reclaim possession**

**59(1)** A person against whom the transfer of a security is wrongful for any reason, including his or her incapacity, may, against anyone except a good faith purchaser, reclaim possession of the security or obtain possession of any new security evidencing all or part of the same rights or claim damages.

(2) If the transfer of a security is wrongful by reason of an unauthorized endorsement, the owner may reclaim possession of the security or a new security even from a good faith purchaser if the ineffectiveness of the purported endorsement may be asserted against the purchaser pursuant to section 55.

(3) The right to reclaim possession of a security may be specifically enforced, its transfer may be restrained and the security may be impounded pending litigation.

1995, c.N-4.2, s.59.

**Right to requisites for registration**

**60(1)** Unless otherwise agreed, a transferor shall, on demand, supply a purchaser with proof of his or her authority to transfer or with any other requisite that is necessary to obtain registration of the transfer of a security, but if the transfer is not for value a transferor need not do so unless the purchaser pays the reasonable and necessary costs of the proof and transfer.

(2) If the transferor fails to comply with a demand pursuant to subsection (1) within a reasonable time, the purchaser may reject or rescind the transfer.

1995, c.N-4.2, s.60.

**Seizure of security**

**61** No seizure of a security or other interest evidenced by a security is effective until the person making the seizure obtains possession of the security.

1995, c.N-4.2, s.61.

**No conversion if delivered by agent in good faith**

**62** An agent or bailee who in good faith, including observance of reasonable commercial standards if he is in the business of buying, selling or otherwise dealing with securities of a corporation, has received those securities and sold, pledged or delivered them according to the instructions of his principal is not liable for conversion or for participation in breach of fiduciary duty, although the principal has no right to dispose of them.

1995, c.N-4.2, s.62.

## REGISTRATION

**Duty to register transfer**

**63(1)** Where a security in registered form is presented for transfer, the issuer shall register the transfer if:

- (a) the security is endorsed by an appropriate person, as defined in section 52;
- (b) reasonable assurance is given that endorsement is genuine and effective;
- (c) the issuer has no duty to inquire into adverse claims or has discharged that duty;
- (d) any applicable law relating to the collection of taxes has been complied with;
- (e) the transfer is rightful or is to a good faith purchaser; and
- (f) any fee mentioned in subsection 36(2) has been paid.

(2) Where an issuer has a duty to register a transfer of a security, the issuer is liable to the person presenting it for registration for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer.

1995, c.N-4.2, s.63.

**Assurance that endorsement effective**

**64(1)** An issuer may require an assurance that each necessary endorsement on a security is genuine and effective by requiring a guarantee of the signature of the person endorsing, and by requiring:

- (a) where the endorsement is by an agent, reasonable assurance of authority to sign;
  - (b) where the endorsement is by a fiduciary, evidence of appointment or incumbency;
  - (c) where there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; or
  - (d) in any other case, assurance that corresponds as closely as practicable to the foregoing.
- (2) For the purposes of subsection (1), a **“guarantee of the signature”** means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible.
- (3) An issuer may adopt reasonable standards to determine responsible persons for the purpose of subsection (2).
- (4) In clause (1)(b), **“evidence of appointment or incumbency”** means:
- (a) in the case of a fiduciary appointed by a court, a copy of the order certified in accordance with subsection 38(7), and dated not earlier than 60 days before the day a security is presented for transfer; or
  - (b) in any other case, a copy of a document showing the appointment or other evidence believed by the issuer to be appropriate.
- (5) An issuer may adopt reasonable standards with respect to evidence for the purposes of clause (4)(b).
- (6) An issuer is deemed not to have notice of the contents of any document obtained pursuant to subsection (4) except to the extent that the contents relate directly to appointment or incumbency.
- (7) If an issuer demands assurance additional to that specified in this section for a purpose other than that specified in subsection (4) and obtains a copy of a will, trust or partnership agreement, bylaw or similar document, the issuer is deemed to have notice of all matters contained in that document affecting the transfer.

1995, c.N-4.2, s.64.

**Limited duty of inquiry**

**65(1)** An issuer to whom a security is presented for registration has a duty to inquire into adverse claims where:

- (a) written notice of an adverse claim is received at a time and in a manner that affords the issuer a reasonable opportunity to act on it before the issue of a new, reissued or reregistered security and the notice discloses the name and address of the claimant, the registered owner and the issue of which the security is a part; or

- (b) the issuer is deemed to have notice of an adverse claim from a document that it obtained pursuant to subsection 64(7).
- (2) An issuer may discharge a duty of inquiry by any reasonable means, including notifying an adverse claimant, by registered or certified mail sent to the address furnished by him or her or, if no address has been furnished, to his or her residence or regular place of business, that a security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within 30 days from the day of mailing the notice either:
- (a) the issuer is served with a restraining order or other order of the court; or
  - (b) the issuer is provided with an indemnity bond sufficient in the issuer's judgment to protect the issuer and any registrar, transfer agent or other agent of the issuer from any loss that may be incurred by any of them as a result of complying with the adverse claim.
- (3) Unless an issuer is deemed to have notice of an adverse claim from a document that it obtained pursuant to subsection 64(7) or has received notice of an adverse claim pursuant to subsection (1), if a security presented for registration is endorsed by the appropriate person as defined in section 52, the issuer has no duty to inquire into adverse claims, and in particular:
- (a) an issuer registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent or correct description of the fiduciary relationship and the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer the fiduciary respecting the particular security;
  - (b) an issuer registering transfer on an endorsement by a fiduciary has no duty to inquire whether the transfer is made in compliance with the document or with the law of the jurisdiction governing the fiduciary relationship; and
  - (c) an issuer is deemed not to have notice of the contents of any court record or any registered document even if the record or document is in the issuer's possession and even if the transfer is made on the endorsement of a fiduciary to the fiduciary himself or to his nominee.
- (4) A written notice of adverse claim received by an issuer is effective for 12 months from the day when it was received unless the notice is renewed in writing.

1995, c.N-4.2, s.65.

**Limitation of issuer's liability**

- 66(1)** Except as otherwise provided in any applicable law relating to the collection of taxes, the issuer is not liable to the owner or any other person who incurs a loss as a result of the registration of a transfer of a security if:
- (a) the necessary endorsements were on or with the security; and
  - (b) the issuer had no duty to inquire into adverse claims or had discharged any such duty.

(2) If an issuer has registered a transfer of a security to a person not entitled to it, the issuer shall, on demand, deliver an identical security to the owner unless:

- (a) subsection (1) applies;
- (b) the owner is precluded by subsection 67(1) from asserting any claim; or
- (c) the delivery would result in overissue, and in that case the issuer's liability is governed by section 39.

1995, c.N-4.2, s.66.

**Notice of lost or stolen security**

**67(1)** Where a security has been lost, apparently destroyed or wrongfully taken, and the owner fails to notify the issuer of that fact by giving the issuer written notice of his or her adverse claim within a reasonable time after he or she knows of the loss, destruction or taking and if the issuer has registered a transfer of the security before receiving that notice, the owner is precluded from asserting against the issuer any claim to a new security.

(2) Where the owner of a security claims that the security has been lost, destroyed or wrongfully taken, the issuer shall issue a new security in place of the original security if the owner:

- (a) requests one before the issuer has notice that the security has been acquired by a good faith purchaser;
- (b) furnishes the issuer with a sufficient indemnity bond; and
- (c) satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of a new security pursuant to subsection (2), a good faith purchaser of the original security presents the original security for registration of transfer, the issuer shall register the transfer unless registration would result in overissue, in which case the issuer's liability is governed by section 39.

(4) In addition to any rights on an indemnity bond, the issuer may recover a new security issued pursuant to subsection (2) from the person to whom it was issued or any person taking under him or her other than a good faith purchaser.

1995, c.N-4.2, s.67.

**Agent's duties, rights, etc.**

**68(1)** An authenticating trustee, registrar, transfer agent or other agent of an issuer has, respecting the issue, registration of transfer and cancellation of a security of the issuer:

- (a) a duty to the issuer to exercise good faith and reasonable diligence; and
- (b) the same obligations to the holder or owner of a security and the same rights, privileges and immunities as the issuer.

(2) Notice to an authenticating trustee, registrar, transfer agent or other agent of an issuer is notice to the issuer with respect to the functions performed by the agent.

1995, c.N-4.2, s.68.

## DIVISION VII – TRUST INDENTURES

**Interpretation of Division**

**69(1)** In this Division:

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

- (a) a security interest constituted by the trust indenture becomes enforceable; or
- (b) the principal, interest and other moneys payable pursuant to the trust indenture become or may be declared to be payable before maturity;

but the event is not an event of default until all conditions prescribed by the trust indenture in connection with the event for the giving of notice or the lapse of time or otherwise have been satisfied;

**“trust indenture”** means any deed, indenture or other instrument, including any supplement or amendment made by a corporation after its incorporation or continuance pursuant to this Act, under which the corporation issues debt obligations and in which a person is appointed as trustee for the holders of the debt obligations issued pursuant to the trust indenture;

**“trustee”** means any person appointed as trustee under the terms of a trust indenture to which a corporation is a party and includes any successor trustee.

(2) This Division applies to a trust indenture if the debt obligations issued or to be issued under the trust indenture are part of a distribution to the public.

1995, c.N-4.2, s.69.

**Conflict of interest**

**70(1)** No person shall be appointed as trustee if there is a material conflict of interest between his or her role as trustee and his or her role in any other capacity.

(2) A trustee, within 90 days after becoming aware that a material conflict of interest exists, shall:

- (a) eliminate the conflict of interest; or
- (b) resign from office.

(3) A trust indenture, any debt obligations issued pursuant to the trust indenture and any security interest effected are valid notwithstanding a material conflict of interest of the trustee.

(4) If a trustee contravenes subsection (1) or (2), any interested person may apply to the court for an order that the trustee be replaced, and the court may make an order on any terms it considers appropriate.

1995, c.N-4.2, s.70.

**Qualification of trustee**

**71** A trustee, or at least one of the trustees if more than one is appointed, shall be a trust company licensed pursuant to *The Trust and Loan Corporations Act, 1997*.

1995, c.N-4.2, s.71; 1997, c.T-22.2, s.90.

**List of security holders**

**72(1)** A holder of debt obligations issued pursuant to a trust indenture, on payment to the trustee of a reasonable fee, may require the trustee to furnish within 15 days after delivering to the trustee the statutory declaration mentioned in subsection (4) a list setting out the following as shown on the records maintained by the trustee on the day that the statutory declaration is delivered to that trustee:

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

(2) On the demand of a trustee, the issuer of debt obligations shall furnish the trustee with the information required to enable the trustee to comply with subsection (1).

(3) If the person requiring the trustee to furnish a list pursuant to subsection (1) is a body corporate, the statutory declaration required pursuant to that subsection shall be made by a director or officer of the body corporate.

(4) The statutory declaration required pursuant to subsection (1) shall state:

- (a) the name and address of the person requiring the trustee to furnish the list and, if the person is a body corporate, the address for service; and
- (b) that the list will not be used except as permitted pursuant to subsection (5).

(5) No list obtained pursuant to this section is to be used by any person except in connection with:

- (a) an effort to influence the voting of the holders of debt obligations;
- (b) an offer to acquire debt obligations; or
- (c) any other matter relating to the debt obligations or the affairs of the issuer or guarantor of the debt obligations.

(6) A person who, without reasonable cause, contravenes subsection (5) is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000, to imprisonment for a term of not more than six months or to both.

1995, c.N-4.2, s.72.

**Evidence of compliance**

**73(1)** An issuer or a guarantor of debt obligations issued or to be issued pursuant to a trust indenture, before doing any act pursuant to clause (a), (b) or (c), shall furnish the trustee with evidence of compliance with the conditions in the trust indenture relating to:

- (a) the issue, certification and delivery of debt obligations under the trust indenture;
- (b) the release or release and substitution of property subject to a security interest constituted by the trust indenture; or
- (c) the satisfaction and discharge of the trust indenture.

(2) On the demand of a trustee, the issuer or guarantor of debt obligations issued or to be issued pursuant to a trust indenture shall furnish the trustee with evidence of compliance with the trust indenture by the issuer or guarantor respecting any act to be done by the trustee at the request of the issuer or guarantor.

1995, c.N-4.2, s.73.

**Contents of declaration, etc.**

**74** Evidence of compliance as required by section 73 shall consist of:

- (a) a statutory declaration or certificate made by a director or an officer of the issuer or guarantor stating that the conditions mentioned in that section have been complied with; and
- (b) where the trust indenture requires compliance with conditions that are subject to review:
  - (i) by legal counsel, an opinion of legal counsel that the conditions have been complied with; and
  - (ii) by an auditor or accountant, an opinion or report of the auditor of the issuer or guarantor, or other accountant as the trustee may select, that the conditions have been complied with.

1995, c.N-4.2, s.74.

**Further evidence of compliance**

**75** The evidence of compliance mentioned in section 74 must include a statement by the person giving the evidence:

- (a) declaring that he or she has read and understands the conditions of the trust indenture described in section 73;
- (b) describing the nature and scope of the examination or investigation on which he or she based the certificate, statement or opinion; and
- (c) declaring that he or she has made an examination or investigation that he or she believes necessary to enable him or her to make the statements or give the opinions contained or expressed in it.

1995, c.N-4.2, s.75.

**Trustee may require evidence of compliance**

**76(1)** On the demand of a trustee, the issuer or guarantor of debt obligations issued pursuant to a trust indenture shall furnish the trustee with evidence in any form that the trustee may require as to compliance with any condition to the trust indenture relating to any action required or permitted to be taken by the issuer or guarantor under the trust indenture.

(2) At least once in each 12-month period beginning on the date of the trust indenture and at any other time on the demand of a trustee, the issuer or guarantor of debt obligations issued under a trust indenture shall furnish the trustee with a certificate that the issuer or guarantor has complied with all requirements contained in the trust indenture that, if not complied with, would, with the giving of notice, lapse of time or otherwise, constitute an event of default, or, if there has been failure to comply, giving particulars of that failure.

1995, c.N-4.2, s.76.

**Notice of default**

**77** The trustee shall give to the holders of debt obligations issued under a trust indenture, within 30 days after the trustee becomes aware of the occurrence, notice of every event of default arising under the trust indenture and continuing at the time the notice is given, unless the trustee reasonably believes that it is in the best interests of the holders of the debt obligations to withhold notice and so informs the issuer and guarantor in writing.

1995, c.N-4.2, s.77.

**Duty of care**

**78** A trustee in exercising his or her powers and discharging his or her duties shall:

- (a) act honestly and in good faith with a view to the best interests of the holders of the debt obligations issued under the trust indenture; and
- (b) exercise the care, diligence and skill of a reasonably prudent trustee.

1995, c.N-4.2, s.78.

**Reliance on statements**

**79** Notwithstanding section 78, a trustee is not liable if he or she relies in good faith on statements contained in a statutory declaration, certificate, opinion or report that complies with this Act or the trust indenture.

1995, c.N-4.2, s.79.

**No exculpation**

**80** No term of a trust indenture or of any agreement between a trustee and the holders of debt obligations issued pursuant to the trust indenture or between the trustee and the issuer or guarantor is to operate to relieve a trustee from the duties imposed on him or her by section 78.

1995, c.N-4.2, s.80.

## DIVISION VIII – RECEIVERS AND RECEIVER-MANAGERS

**Functions of receiver**

**81** A receiver of any property of a corporation may receive, subject to the rights of secured creditors, the income from the property and pay the liabilities connected with the property and realize the security interest of those on whose behalf he or she is appointed, but, except to the extent permitted by the court, he or she may not carry on the activities of the corporation.

1995, c.N-4.2, s.81.

**Functions of receiver-manager**

**82** A receiver of a corporation may, if he or she is also appointed receiver-manager of the corporation, carry on any activities of the corporation to protect the security interest of those on whose behalf he or she is appointed.

1995, c.N-4.2, s.82.

**Directors' powers cease**

**83** Where a receiver-manager is appointed by the court or under an instrument, the powers of the directors of the corporation that the receiver-manager is authorized to exercise may not be exercised by the directors until the receiver-manager is discharged.

1995, c.N-4.2, s.83.

**Duty to act**

**84** A receiver or receiver-manager appointed by the court shall act in accordance with the directions of the court.

1995, c.N-4.2, s.84.

**Duty under instrument**

**85(1)** A receiver or receiver-manager of a corporation appointed under an instrument shall:

- (a) act honestly and in good faith; and
- (b) deal with any property of the corporation in his possession or control in a commercially reasonable manner.

(2) A receiver or receiver-manager appointed under an instrument shall act in accordance with that instrument and any direction of the court made pursuant to section 86.

1995, c.N-4.2, s.85.

**Directions given by court**

**86** On an application by a receiver or receiver-manager, whether appointed by the court or under an instrument, or on an application by any interested person, the court may make any order it considers appropriate, including an order:

- (a) appointing, replacing or discharging a receiver or receiver-manager and approving his accounts;

- (b) determining the notice to be given to any person, or dispensing with notice to any person;
- (c) fixing the remuneration of the receiver or receiver-manager;
- (d) requiring the receiver or receiver-manager, or a person by or on behalf of whom he or she is appointed, to make good any default in connection with the receiver's or receiver-manager's custody or management of the property and activities of the corporation, or relieving that person from any default on those terms that the court considers appropriate, and confirming any act of the receiver or receiver-manager; or
- (e) giving directions on any matter relating to the duties of the receiver or receiver-manager.

1995, c.N-4.2, s.86.

**Duties of receiver and receiver-manager**

**87** A receiver or receiver-manager shall:

- (a) immediately notify the Director of his appointment and discharge;
- (b) take into his or her custody and control the property of the corporation in accordance with the court order or instrument under which he or she is appointed;
- (c) open and maintain a bank account in his or her name as receiver or receiver-manager of the corporation for the moneys of the corporation coming under his or her control;
- (d) keep detailed accounts of all transactions carried out by him or her as receiver or receiver-manager;
- (e) keep accounts of his or her administration that shall be available during usual business hours for inspection by the directors of the corporation;
- (f) prepare at least once in every six-month period after the date of his or her appointment financial statements of his or her administration as far as is practicable in the form required by section 142;
- (g) on completion of his or her duties, render a final account of his or her administration in the form adopted for interim accounts pursuant to clause (f); and
- (h) file with the Director a copy of any financial statement mentioned in clause (f) and any final account mentioned in clause (g) within 15 days of the preparation of the financial statement or rendering of the final account, as the case may be.

1995, c.N-4.2, s.87.

## DIVISION IX – DIRECTORS AND OFFICERS

**Power to manage**

**88** Subject to any unanimous member agreement, the directors shall manage the activities and affairs of a corporation.

1995, c.N-4.2, s.88.

**Number of directors**

**89** A membership corporation shall have one or more directors but a charitable corporation or a corporation any of the issued securities of which are or were part of a distribution to the public shall have not fewer than three directors, at least two of whom are not officers or employees of the corporation or its affiliates.

1995, c.N-4.2, s.89.

**Bylaws**

**90(1)** Unless the articles, bylaws or a unanimous member agreement provide otherwise, the directors, by resolution, may make, amend or repeal any bylaws that regulate the activities and affairs of the corporation.

(2) The directors shall submit a bylaw, or an amendment or a repeal of a bylaw, made pursuant to subsection (1) to the members at the next meeting of members, and the members, by ordinary resolution, may confirm, reject or amend the bylaw, amendment or repeal.

(3) A bylaw, or an amendment or a repeal of a bylaw, is effective from the day of the resolution of the directors pursuant to subsection (1) until it is confirmed, confirmed as amended or rejected by the members pursuant to subsection (2) or until it ceases to be effective pursuant to subsection (4) and, where the bylaw is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.

(4) If a bylaw, an amendment or a repeal is rejected by the members, or if the directors do not submit a bylaw, an amendment or a repeal to the members as required pursuant to subsection (2), the bylaw, amendment or repeal ceases to be effective and no subsequent resolution of the directors to make, amend or repeal a bylaw having substantially the same purpose or effect is effective until it is confirmed or confirmed as amended by the members.

(5) A member entitled to vote at a meeting of members may, in accordance with section 127, make a proposal to make, amend or repeal a bylaw.

1995, c.N-4.2, s.90.

**Organization meeting**

**91(1)** After issue of the certificate of incorporation, a meeting of the directors of the corporation is to be held at which the directors may:

- (a) make bylaws;

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- (b) adopt forms of membership cards and certificates and other security certificates and corporate records;
  - (c) authorize the issue of membership cards and certificates;
  - (d) appoint officers;
  - (e) appoint an auditor to hold office until the first annual meeting of members;
  - (f) make banking arrangements; and
  - (g) transact any other business.
- (2) Subsection (1) does not apply to a body corporate to which a certificate of amalgamation has been issued pursuant to subsection 172(4) or to which a certificate of continuance has been issued pursuant to subsection 174(3).
- (3) An incorporator or a director may call the meeting of directors mentioned in subsection (1) by giving not less than five days' notice by mail to each director, stating the time and place of the meeting.

1995, c.N-4.2, s.91.

**Qualifications of directors**

- 92(1)** The following persons are disqualified from being a director of a corporation:
- (a) anyone who is less than 18 years of age;
  - (b) anyone who has been found to lack capacity by a court in Canada or elsewhere;
  - (c) a person who is not an individual;
  - (d) a person who has the status of bankrupt.
- (2) Unless the articles otherwise provide, a director of a corporation is not required to be a member of the corporation.
- (3) At least one director of a corporation must reside in Saskatchewan.
- (4) At least 25% of the directors of a corporation must be resident Canadians, but if a corporation has fewer than four directors, at least one director must be a resident Canadian.

1995, c.N-4.2, s.92; 2005, c.22, s.6; 2015, c.22, s.10.

**Notice of directors**

- 93(1)** At the time of sending articles of incorporation, the incorporators shall send to the Director a notice of directors in the prescribed form, and the Director shall file the notice.
- (2) Each director named in the notice holds office from the issue of the certificate of incorporation until the first meeting of members.
- (3) Subject to clause 94(b), members of a corporation, by ordinary resolution at the first meeting of members and at each succeeding meeting at which an election of directors is required, shall elect directors to hold office for a term not exceeding three years following the election.

- (4) It is not necessary that all directors elected at a meeting of members hold office for the same term.
- (5) A director not elected for an expressly stated term ceases to hold office at the close of the first meeting of members following his or her election at which an election of directors is required.
- (6) Notwithstanding subsections (2), (3) and (5), if directors are not elected at a meeting of members the incumbent directors continue in office until their successors are elected.
- (7) Where a meeting of members fails to elect the number or the minimum number of directors required by the articles by reason of the disqualification, incapacity or death of any candidates, the directors elected at that meeting may exercise all the powers of the directors if the number of directors elected constitutes a quorum.
- (8) A person 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:
- (a) he or she was present at the meeting in which the election or appointment took place and he or she did not refuse to hold office as a director; or
  - (b) if he or she was not present at the meeting in which the election or appointment took place:
    - (i) he or she consented to hold office as a director in writing before the election or appointment or within 30 days after it; or
    - (ii) he or she acted as a director pursuant to the election or appointment.

1995, c.N-4.2, s.93; 2005, c.22, s.7.

#### **Cumulative voting**

**94** Where the articles provide for cumulative voting:

- (a) the articles shall require a fixed number and not a minimum and maximum number of directors;
- (b) each member entitled to vote at an election of directors has the right to cast a number of votes equal to the number of votes attached to his or her membership interest in the corporation multiplied by the number of directors to be elected, and he or she may cast all his or her votes in favour of one candidate or distribute them among the candidates in any manner;
- (c) a separate vote of members is to be taken respecting each candidate nominated for director unless a resolution is passed unanimously permitting two or more persons to be elected by a single resolution;
- (d) if a member has voted for more than one candidate without specifying the distribution of his or her votes among the candidates, the member is deemed to have distributed his or her votes equally among the candidates for whom the member voted;
- (e) if the number of candidates nominated for director exceeds the number of positions to be filled, the candidates who receive the fewest votes shall be eliminated until the number of candidates remaining equals the number of positions to be filled;

(f) each director ceases to hold office at the close of the first meeting of members following his or her election at which an election of directors is required;

(g) a director may not be removed from office if the votes cast against his or her removal would be sufficient to elect him or her and those votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the articles were then being elected; and

(h) the number of directors required by the articles may not be decreased if the votes cast against the motion to decrease would be sufficient to elect a director and those votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the articles were then being elected.

1995, c.N-4.2, s.94.

**Ceasing to hold office**

**95(1)** A director of a corporation ceases to hold office when he or she:

- (a) dies or resigns;
- (b) is removed in accordance with section 96; or
- (c) becomes disqualified pursuant to subsection 92(1).

(2) A resignation of a director becomes effective at the time a written resignation is sent to the corporation, or at the time specified in the resignation, whichever is later.

1995, c.N-4.2, s.95.

**Removal of directors**

**96(1)** Subject to subsection (2) and clause 94(g), the members of a corporation, by ordinary resolution at a special meeting, may remove any director or directors from office.

(2) Where any class of members or subdivision of members that does not constitute a separate class of members has an exclusive right to elect one or more directors, a director so elected may only be removed by an ordinary resolution at a meeting of the members of that class or subdivision.

(3) Subject to clauses 94(b) to (e), 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, if not so filled, may be filled pursuant to section 98.

1995, c.N-4.2, s.96.

**Attendance at meeting**

**97(1)** A director of a corporation is entitled to receive notice of and to attend and be heard at every meeting of members.

(2) A director is entitled to submit to the corporation a written statement giving the reasons for his resignation or the reasons why he opposes any proposed action or resolution where he or she:

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

(3) A corporation shall immediately send a copy of the statement mentioned in subsection (2) to every member entitled to receive notice of any meeting mentioned in subsection (1) and to the Director.

(4) No corporation or person acting on its behalf incurs any liability by reason only of circulating a director's statement in compliance with subsection (3).

1995, c.N-4.2, s.97.

**Filling vacancy**

**98(1)** Notwithstanding subsection 101(3), but subject to subsections (3) and (4) of this section, a quorum of directors may fill a vacancy among the directors, other than a vacancy resulting from an increase in the number or minimum number of directors or from a failure to elect the number or minimum number of directors required by the articles.

(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 required by the articles, the directors then in office shall immediately call a special meeting of 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.

(3) Where the members of any class of members of a corporation have an exclusive right to elect one or more directors and a vacancy occurs among those directors:

- (a) subject to subsection (4), the remaining directors elected by that class may fill the vacancy, other than a vacancy resulting from an increase in the number or minimum number of directors for that class or from a failure to elect the number or minimum number of directors for that class; or
- (b) if there are no remaining directors, any member of that class of members may call a meeting of the members for the purpose of filling the vacancy.

(4) The articles may provide that a vacancy among the directors shall only be filled by a vote of the members, or by a vote of the members of any class of members having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class.

(5) A director appointed or elected to fill a vacancy holds office for the unexpired term of his or her predecessor.

1995, c.N-4.2, s.98.

**Number of directors**

**99(1)** The members of a corporation may amend the articles to increase or, subject to clause 94(h), to decrease the number of directors, or the minimum or maximum number of directors, but no decrease is to shorten the term of an incumbent director.

(2) Where the members adopt an amendment to the articles of a corporation to increase the number or minimum number of directors, the members, at the meeting at which they adopt the amendment, may elect the increased number of directors, and for that purpose, notwithstanding subsections 166(1) and 244(3), on the issue of a certificate of amendment the articles are deemed to be amended as of the day the members adopted the amendment to the articles.

1995, c.N-4.2, s.99.

**Notice of change of directors**

**100(1)** Within 15 days after a change is made among its directors, a corporation shall send to the Director a notice in the prescribed form setting out the change, and the Director shall file the notice.

(2) Where a corporation sends an annual return made pursuant to section 245 to the Director within 15 days after a change is made among its directors, the annual return is deemed to be the required notice mentioned in subsection (1).

(3) Any interested person, or the Director, may apply to the court for an order to require a corporation to comply with subsection (1), and the court may so order and make any further order it considers appropriate.

1995, c.N-4.2, s.100.

**Meeting of directors**

**101(1)** Unless the articles or bylaws provide otherwise, the directors may meet at any place, and on whatever notice the bylaws require.

(2) Subject to the articles or bylaws, a majority of the number of directors or minimum number of directors required by the articles constitutes a quorum at any meeting of directors and, notwithstanding any vacancy among the directors, a quorum of directors may exercise all the powers of the directors.

(3) Directors of a charitable corporation shall not transact business at a meeting of directors unless a majority of directors present are resident Canadians.

(4) Notwithstanding subsection (3), directors of a charitable corporation may transact business at a meeting of directors where a majority of resident Canadian directors is not present if:

(a) a resident Canadian director who is unable to be present approves in writing or by telephone or other communications facilities the business transacted at the meeting; and

(b) a majority of resident Canadian directors would have been present had that director been present at the meeting.

- (5) A notice of a meeting of directors shall specify any matter mentioned in subsection 102(3) that is to be dealt with at the meeting but, unless the bylaws provide otherwise, need not specify the purpose of or the business to be transacted at the meeting.
- (6) A director may waive, in any manner, notice of a meeting of directors, and attendance of a director at a meeting of directors is a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.
- (7) Notice of an adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting.
- (8) Where a corporation has only one director, that director may constitute a meeting.
- (9) Subject to the bylaws, if all the directors of the corporation consent, a director may participate in a meeting of directors or of a committee of directors by means of telephone or other communications facilities that permit all persons participating in the meeting to hear each other, and a director participating in the meeting by these means is deemed for the purposes of this Act to be present at that meeting.

1995, c.N-4.2, s.101.

#### **Delegation**

- 102(1)** Directors of a corporation may appoint from their number a managing director who is a resident Canadian or a committee of directors and delegate to the managing director or committee any of the powers of the directors.
- (2) If the directors of a corporation appoint a committee of directors, a majority of the members of the committee must be resident Canadians.
- (3) Notwithstanding subsection (1), no managing director and no committee of directors has authority to:
- (a) submit to the members any question or matter requiring the approval of the members;
  - (b) fill a vacancy among the directors or in the office of auditor;
  - (c) issue securities except in the manner and on the terms authorized by the directors;
  - (d) purchase, redeem or otherwise acquire securities issued by the corporation;
  - (e) approve any financial statements mentioned in section 142; or
  - (f) adopt, amend or repeal bylaws.

1995, c.N-4.2, s.102.

**Validity of acts of directors and officers**

**103** An act of a director or officer is valid notwithstanding an irregularity in his or her election or appointment or a defect in his or her qualification.

1995, c.N-4.2, s.103.

**Resolution in lieu of meeting**

**104(1)** A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors or committee of directors, is as valid as if it had been passed at a meeting of directors or committee of directors.

(2) A copy of every resolution mentioned in subsection (1) shall be kept with the minutes of the proceedings of the directors or committee of directors.

1995, c.N-4.2, s.104.

**Directors' liability**

**105(1)** Directors of a corporation who vote for or consent to a resolution authorizing the issue of a security pursuant to section 25 for a consideration other than money are jointly and severally liable to the corporation to make good any amount by which the consideration received is less than the fair equivalent of the money that the corporation would have received if the security had been issued for money on the date of the resolution.

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

- (a) a loan, guarantee or other financial assistance contrary to section 27;
- (b) a payment to a member, director or officer contrary to section 30;
- (c) a payment of an indemnity contrary to section 111; or
- (d) a payment contrary to section 177 or 225.

(3) A director who has satisfied a judgment rendered pursuant to this section is entitled to contribution from the other directors who voted for or consented to the unlawful act on which the judgment was founded.

(4) A director liable pursuant to subsection (2) is entitled to apply to the court for an order compelling a member or other recipient to pay or deliver to the director any money or property that was paid or distributed to the member or other recipient contrary to section 27, 30, 111, 177 or 225.

(5) In connection with an application pursuant to subsection (4) the court, if it is satisfied that it is equitable to do so, may:

- (a) order a member or other recipient to pay or deliver to a director any money or property that was paid or distributed to the member or other recipient contrary to section 27, 30, 111, 177 or 225; and
- (b) make any further order it considers appropriate.

(6) A director is not liable pursuant to subsection (1) if he or she proves that he or she did not know and could not reasonably have known that the security was issued for a consideration less than the fair equivalent of the money that the corporation would have received if the security had been issued for money.

(7) For the purpose of applying *The Limitations Act* to a claim pursuant to this section, the day on which the act or omission on which the claim is based takes place is the date of the resolution authorizing the action complained of.

1995, c.N-4.2, s.105; 2004, c.16, s.6.

**Liability of directors for wages**

**106** Directors of a corporation are jointly and severally liable, in accordance with *The Labour Standards Act*, to employees of the corporation for all debts payable to each of those employees for services performed for the corporation while those directors are directors.

1995, c.N-4.2, s.106.

**Disclosure of interested director contract**

**107(1)** A director or officer of a corporation shall disclose in writing to the corporation or request to have entered in the minutes of meetings of directors the nature and extent of the director's or officer's interest where he or she:

- (a) is a party to a material contract or proposed material contract with the corporation; or
  - (b) is a director or officer of or has a material interest in any person who is a party to a material contract or proposed material contract with the corporation.
- (2) The disclosure required by subsection (1) shall be made, in the case of a director:
- (a) at the meeting at which a proposed contract is first considered;
  - (b) if the director was not then interested in a proposed contract, at the first meeting after he or she becomes interested;
  - (c) if the director becomes interested after a contract is made, at the first meeting after he or she becomes interested; or
  - (d) if a person who is interested in a contract later becomes a director, at the first meeting after he or she becomes a director.
- (3) The disclosure required by subsection (1) shall be made, in the case of an officer who is not a director:
- (a) immediately after he or she becomes aware that the contract or proposed contract is to be considered or has been considered at a meeting of directors;
  - (b) if the officer becomes interested after a contract is made, immediately after he or she becomes interested; or
  - (c) if a person who is interested in a contract later becomes an officer, immediately after he or she becomes an officer.

(4) Where a material contract or proposed material contract is one that, in the ordinary course of carrying on the corporation's activities, would not require approval by the directors or members, a director or officer shall disclose in writing to the corporation or request to have entered in the minutes of meetings of directors the nature and extent of his interest immediately after the director or officer becomes aware of the contract or proposed contract.

(5) No director mentioned in subsection (1) shall vote on any resolution to approve the contract unless the contract is:

- (a) an arrangement by way of security for money lent to or obligations undertaken by him for the benefit of the corporation or an affiliate;
- (b) one relating primarily to his or her remuneration as a director, officer, employee or agent of the corporation or an affiliate;
- (c) one for indemnity or insurance pursuant to section 111; or
- (d) one with an affiliate.

(6) For the purposes of this section, a general notice to the directors by a director or officer declaring that he or she is a director or officer of or has a material interest in a person and is to be regarded as interested in any contract made with that person is a sufficient declaration of interest in relation to any contract so made.

(7) If the director or officer disclosed his or her interest in accordance with subsection (2), (3), (4) or (6), as the case may be, and the contract was approved by the directors or the members and it was reasonable and fair to the corporation at the time it was approved, a material contract between a corporation and one or more of its directors or officers, or between a corporation and another person of which a director or officer of the corporation is a director or officer or in which he or she has a material interest, is neither void nor voidable:

- (a) by reason only of that relationship; or
- (b) by reason only that a director with an interest in the contract is present at or is counted to determine the presence of a quorum at a meeting of directors or committee of directors that authorized the contract.

(8) Where a director or an officer of a corporation fails to disclose his or her interest in a material contract in accordance with this section, the court, on the application of the corporation or a member of the corporation, may set aside the contract on any terms that it considers appropriate.

1995, c.N-4.2, s.107.

#### Officers

**108(1)** Subject to the articles, the bylaws or any unanimous member agreement:

- (a) the directors may designate the offices of the corporation, appoint as officers persons of full capacity, specify their duties and delegate to them any powers that the directors may lawfully delegate except powers to do anything mentioned in subsection 102(3);
- (b) a director or member 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.

- (2) The articles or bylaws of a corporation may provide that:
  - (a) an officer of the corporation is, by virtue of his or her office, a director of the corporation; and
  - (b) a representative of a specific organization is a director of the corporation.
- (3) The number of directors mentioned in subsection (2) is not to exceed one-third of the total number of directors.

1995, c.N-4.2, s.108.

**Duty of care of directors and officers**

**109(1)** Every director and officer of a corporation, in exercising his or her powers and discharging his or her duties, 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.
- (2) Every director and officer of a corporation shall comply with this Act, the regulations, articles, bylaws and any unanimous member agreement.
  - (3) Subject to subsection 136(5), no provision in a contract, the articles, the bylaws or a resolution relieves a director or officer from the duty to act in accordance with this Act or the regulations or relieves him or her from the liability for a contravention of this Act or the regulations.
  - (4) An officer or director has complied with his or her duty set out in subsection (1) if he or she relies in good faith on:
    - (a) financial statements of the corporation represented to him or her by an officer of the corporation or in a written report of the auditor of the corporation to reflect the financial condition of the corporation fairly; or
    - (b) a report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to a statement made by him or her.

1995, c.N-4.2, s.109; 2006, c.27, s.3.

**Dissent**

**110(1)** A director who is present at a meeting of directors or committee of directors is deemed to have consented to any resolution passed or action taken at that meeting unless he or she:

- (a) requests that his or her dissent be entered in the minutes of the meeting;
- (b) sends a written dissent to the secretary of the meeting before the meeting is adjourned; or
- (c) sends a dissent by registered or certified mail or delivers it to the registered office of the corporation immediately after the meeting is adjourned.

- (2) A director who votes for or consents to a resolution is not entitled to dissent pursuant to subsection (1).
- (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 unless, within seven days of becoming aware of the resolution, he or she:
- (a) causes his or her dissent to be placed with the minutes of the meeting; or
  - (b) sends dissent by registered or certified mail or delivers it to the registered office of the corporation.
- (4) A director is not liable pursuant to section 105, 106 or 109 if he or she relies in good faith on:
- (a) financial statements of the corporation represented to him or her by an officer of the corporation or in a written report of the auditor of the corporation to reflect the financial condition of the corporation fairly; or
  - (b) a report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to a statement made by him or her.

1995, c.N-4.2, s.110.

#### **Indemnification and insurance**

- 111(1)** A corporation may indemnify a director or officer of the corporation, a former director or officer of the corporation, or another individual who acts or acted at the corporation's request as a director or officer of or in a similar capacity for another entity, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, that the individual reasonably incurs with respect to any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of that association with the corporation or other entity, if:
- (a) the individual acted honestly and in good faith with a view to the best interests of, as the case may be:
    - (i) the corporation; or
    - (ii) the other entity for which, at the corporation's request, the individual acted as a director or officer or in a similar capacity; and
  - (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that the individual's conduct was lawful.
- (2) A corporation may advance moneys to a director, officer or other individual for the costs, charges and expenses of a proceeding mentioned in subsection (1), but the individual must repay the moneys to the corporation if the individual does not fulfil the conditions set out in clauses (1)(a) and (b).

(3) With respect to an action by or on behalf of a corporation or other entity to procure a judgment in its favour, the corporation or other entity, with the approval of the court, may indemnify an individual mentioned in subsection (1) against all costs, charges and expenses reasonably incurred by the individual in connection with that action, or advance moneys to that individual pursuant to subsection (2) for the costs, charges and expenses reasonably incurred by the individual in connection with that action, if the individual:

(a) is made a party to the action because of the individual's association with the corporation or other entity as described in subsection (1); and

(b) fulfils the conditions set out in clauses (1)(a) and (b).

(4) Notwithstanding subsection (1), an individual mentioned in that subsection is entitled to indemnity from the corporation against all costs, charges and expenses reasonably incurred by the individual in connection with the defence of any civil, criminal, administrative, investigative or other proceeding to which the individual is subject because of the individual's association with the corporation or other entity as described in subsection (1), if the individual seeking indemnity:

(a) was not judged by the court or other competent authority to have committed any fault or to have omitted to do anything that the individual ought to have done; and

(b) fulfils the conditions set out in clauses (1)(a) and (b).

(5) A corporation may purchase and maintain insurance for the benefit of an individual mentioned in subsection (1) against any liability incurred by the individual in the individual's capacity:

(a) as a director or officer of the corporation; or

(b) as a director or officer of another entity, or in a similar capacity, if the individual acts or acted in that capacity at the corporation's request.

(6) A corporation, an individual or an entity mentioned in subsection (1) may apply to the court for an order approving an indemnity pursuant to this section, and the court may so order and make any further order that it sees fit.

(7) An applicant pursuant to subsection (6) shall give the Director notice of the application, and the Director is entitled to appear and be heard in person or by counsel.

(8) On an application pursuant to subsection (6), 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.

2006, c.27, s.3.

#### **Remuneration of directors and members**

**112(1)** Unless the articles of the corporation otherwise provide, a director or officer may receive reasonable remuneration for his or her services to the corporation and indemnification for his or her expenses incurred on behalf of the corporation as a director or officer, and a director or member may receive reasonable remuneration and expenses for his or her services to the corporation in any other capacity.

(2) Subject to the articles, the bylaws or any unanimous member agreement, the directors of a corporation may fix the remuneration of the directors, officers and employees of the corporation.

1995, c.N-4.2, s.112.

**Directors' and officers' liability limited**

**112.1(1)** In this section, “**loss**” means any pecuniary or non-pecuniary loss respecting, arising out of or stemming from any act or omission of:

- (a) the corporation; or
- (b) any director, officer, employee or agent of the corporation in the exercise or supposed exercise of any of his or her powers or in the carrying out or supposed carrying out of any of his or her duties.

(2) Unless another Act expressly provides otherwise, no director or officer of a corporation is liable in a civil action for any loss suffered by any person.

(3) The limitation on liability mentioned in subsection (2) applies only if the director or officer was acting in good faith at the time of the act or omission giving rise to the loss.

(4) The limitation on liability mentioned in subsection (2) does not apply if:

- (a) the loss was caused by fraudulent or criminal misconduct by the director or officer; or
- (b) the act or omission of the director or officer that caused the loss constituted an offence against this Act, any other Act or any Act of the Parliament of Canada.

(5) This section is to be interpreted as not affecting the liability of the corporation for loss suffered by any person.

(6) Without restricting the generality of subsection (2), if damages are awarded against, or any amount is paid by, a corporation with respect to loss for which the director or officer is not liable pursuant to subsection (2), the corporation has no right of action to recover those damages or that amount against the director or officer.

(7) This section applies to any claim for damages for loss that is filed on or after the coming into force of this section.

2003, c.33, s.2.

## DIVISION X – MEMBERS' ASSOCIATIONAL INTERESTS

**Classes of membership**

**113(1)** The articles of a corporation may provide for more than one class of membership and, if they do, they are to include the rights, privileges, restrictions and conditions that constitute the membership interest of a member of each class.

(2) The articles are to provide for at least one class of membership that entitles the members of that class to vote at all meetings of members.

(3) The articles or bylaws of a corporation may authorize indirect voting at any meeting of members and, where the articles or bylaws authorize voting in that manner, the members may vote through a representative of any subdivision of members of the corporation notwithstanding that the members of the subdivision do not constitute a separate class.

1995, c.N-4.2, s.113.

#### **Memberships and subdivisions**

**114**(1) The articles may authorize the issue of any class of membership interests in one or more subdivisions and may authorize the directors to determine the designation, rights, privileges, restrictions and conditions attaching to the membership interests of each subdivision, subject to the limitations set out in the articles.

(2) If any cumulative return on capital payable with respect to a subdivision of membership interests is not paid in full, the membership interests of all subdivisions of the same class participate rateably with respect to accumulated return on capital.

(3) No rights, privileges, restrictions or conditions attached to a subdivision of membership interests authorized pursuant to this section confer on a subdivision a priority respecting a return on capital over any other subdivision of membership interests of the same class that are then outstanding.

(4) Before the issue of membership interests of a subdivision authorized pursuant to this section, the directors shall send to the Director articles of amendment in the prescribed form to designate a subdivision of membership interests.

(5) On receipt of articles of amendment designating a subdivision of membership interests, the Director shall issue a certificate of amendment in accordance with section 244.

(6) The articles of the corporation are amended accordingly on the date shown in the certificate of amendment.

1995, c.N-4.2, s.114.

#### **Admission to membership**

**115**(1) Subject to subsection (3), the directors may, by resolution, admit any person as a member or honorary member of the corporation.

(2) Unless a resolution mentioned in subsection (1) expressly confers voting rights on an honorary member or on honorary members as a class, an honorary member is not entitled to vote respecting a fundamental change pursuant to subsection 163(2), 170(3), 175(3) or 176(7) or a dissolution pursuant to subsection 192(2) or 193(3).

(3) The articles or bylaws may provide that a resolution mentioned in subsection (1) is not effective until it has been confirmed by the members in a general meeting.

- (4) A corporation may issue membership cards or certificates as evidence of membership in the corporation.
- (5) The following shall be stated legibly on a membership card or certificate issued by a corporation that has more than one class of members:
- (a) the rights, privileges, restrictions and conditions that constitute the membership interest of a member of each class;
  - (b) that the class of membership it represents has rights, privileges, restrictions or conditions attached to it and that the corporation will furnish to a member, on demand and without charge, a full copy of the text of those rights, privileges, restrictions or conditions.
- (6) A membership card or certificate issued by a body corporate before the body corporate was continued pursuant to this Act is deemed to have been issued in compliance with this Act and with the provisions of the articles of continuance of the body corporate.

1995, c.N-4.2, s.115.

**Transfer of a membership interest**

**116** Unless the articles or bylaws of a corporation provide otherwise, a membership interest of a member in the corporation is not transferable and is terminated when:

- (a) the member dies or resigns;
- (b) the member is expelled or his or her membership is otherwise terminated in accordance with the articles or bylaws of the corporation;
- (c) the member's term of membership expires; or
- (d) the corporation is liquidated and dissolved pursuant to Division XVI.

1995, c.N-4.2, s.116.

**Entry in register**

**117** Where a membership interest in a corporation is terminated, the termination and the date shall be recorded in the register of members maintained pursuant to subsection 20(1).

1995, c.N-4.2, s.117.

**Termination of member's rights**

**118** Unless the articles or bylaws provide otherwise, the rights and privileges of a member in a corporation, including any rights in the property of the corporation, cease to exist when his or her membership interest in the corporation is terminated.

1995, c.N-4.2, s.118.

**Power to discipline a member**

**119** The articles or bylaws may provide that the directors, members or any committee of directors or members of a corporation have power to discipline a member or to terminate the membership interest of a member and, where the articles or bylaws do, the circumstances in which that power may be exercised and the manner of its exercise is to be set out in the articles or bylaws of the corporation.

1995, c.N-4.2, s.119.

**Right to a fair hearing**

**120** A member of a corporation is entitled to a fair hearing before he or she is disciplined or before his or her membership interest in the corporation is terminated pursuant to section 119.

1995, c.N-4.2, s.120.

**Application to court**

**121** A member of a corporation who claims to be aggrieved because he or she was disciplined or because his or her membership interest in the corporation was terminated may apply to the court pursuant to section 225.

1995, c.N-4.2, s.121.

**DIVISION XI – MEMBERS****Place of meetings**

**122(1)** Meetings of members of a corporation shall be held at the place within Saskatchewan provided in the bylaws or, in the absence of that provision, at the place within Saskatchewan that the directors determine.

(2) Notwithstanding subsection (1), a meeting of members of a corporation may be held outside Saskatchewan if all the members entitled to vote at that meeting agree, and a member who attends a meeting of members held outside Saskatchewan is deemed to have agreed except where he or she 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.

1995, c.N-4.2, s.122.

**Calling meetings**

**123(1)** The directors of a corporation:

- (a) shall call an annual meeting of members not later than 18 months after the corporation comes into existence and subsequently not later than 15 months after holding the preceding annual meeting; and
- (b) may at any time call a special meeting of members.

(2) Notwithstanding subsection (1) but subject to section 146, the articles of a membership corporation may provide that the directors of a corporation are required to call a meeting of members only in each second or third year following the preceding general meeting.

1995, c.N-4.2, s.123.

**Fixing record date**

**124(1)** For the purpose of determining members entitled to receive notice of a meeting of members, the directors may fix in advance a date as the record date for the determination of members, but the record date shall not be more than 50 nor less than 15 days before the day on which the meeting is to be held.

(2) If no record date is fixed:

(a) the record date for the determination of members entitled to receive notice of a meeting of members shall be:

(i) at the close of business on the day preceding the day on which the notice is given; or

(ii) if no notice is given, the day on which the meeting is held; and

(b) the record date for the determination of members entitled to vote at a meeting of members is the time of taking the vote.

(3) If a record date is fixed, notice of the date shall be given by advertisement in a newspaper published or distributed in the place where the corporation has its registered office not less than seven days before the date fixed.

1995, c.N-4.2, s.124.

**Notice of meeting**

**125(1)** Notice of the time and place of a meeting of members shall be sent, not more than 50 nor less than 15 days before the meeting:

(a) to each member entitled to vote at the meeting;

(b) to each director; and

(c) to the auditor of the corporation.

(2) A notice of meeting is not required to be sent to members who were not registered on the records of the corporation or its transfer agent on the record date determined pursuant to subsection 124(1) or (2), but failure to receive a notice does not deprive a member of the right to vote at the meeting.

(3) Notwithstanding subsection (1), in the case of a corporation that has more than 250 members, unless the articles or bylaws provide otherwise, it is sufficient notice of any meeting of the members of the corporation if notice is given by publication:

(a) at least once in each of the three consecutive weeks preceding the meeting in a newspaper or newspapers circulated in the municipalities in which the majority of the members of the corporation reside as shown by their addresses on the books of the corporation; or

- (b) not more than 50 nor less than 15 days before the meeting at least once in a publication of the corporation that is sent to all its members.
- (4) If a meeting of members is adjourned for less than 30 days, it is not necessary, unless the bylaws otherwise provide, to give notice of the adjourned meeting, other than by announcement at the earliest meeting that is adjourned.
- (5) If a meeting of members is adjourned by one or more adjournments for an aggregate of 30 days or more, notice of the adjourned meeting shall be given as for an original meeting.
- (6) All business transacted at a special meeting of members or at an annual meeting of members, other than the following, is deemed to be special business:
  - (a) consideration of financial statements;
  - (b) consideration of an auditor's report;
  - (c) the election of directors;
  - (d) the reappointment of an incumbent auditor; and
  - (e) the consideration of bylaws submitted by the directors pursuant to subsection 90(2).
- (7) Notice of a meeting of members at which special business is to be transacted is to:
  - (a) state the nature of that business in sufficient detail to permit the member to form a reasoned judgment concerning that business; and
  - (b) include the text of any special resolution to be submitted to the meeting.

1995, c.N-4.2, s.125.

#### **Waiver of notice**

**126** A member and any other person entitled to attend a meeting of members, may waive in any manner, notice of a meeting of members, and attendance of that person at a meeting of members is a waiver of notice of the meeting, except where he or she attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

1995, c.N-4.2, s.126.

#### **Member proposal**

**127(1)** A member entitled to vote at a meeting of members may:

- (a) submit to the corporation notice of any matter that he or she proposes to raise at the meeting, referred to in this section as a "proposal"; and
- (b) discuss at the meeting any matter with respect to which he or she would have been entitled to submit a proposal.

- (2) A corporation that sends to members the notice required by subsection 125(1) or publishes a notice of meeting in accordance with subsection 125(3) shall set out the proposal in the notice or publication or, where the proposal is sent, attach the proposal to the notice.
- (3) If requested by the member, the corporation that sends to members any notice required by section 125 shall include in the notice or attach to it a statement by the member of not more than 200 words in support of the proposal, and the name and address of the member.
- (4) The member who submitted the proposal shall pay the cost of sending the proposal and any statement with the notice of the meeting at which the proposal is to be presented, unless the members present at the meeting provide otherwise by a majority vote.
- (5) A proposal may include nominations for the election of directors if the proposal is signed by not less than 5% of the members of a class of members of the corporation entitled to vote at the meeting at which the proposal is to be presented or any lesser number of members as provided in the bylaws, but this subsection does not preclude nominations made at a meeting of members.
- (6) A corporation is not required to comply with subsections (2) and (3) where:
  - (a) the proposal is not submitted to the corporation at least 90 days before the anniversary of the previous annual meeting of members;
  - (b) it clearly appears that the proposal is submitted by the member primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or its directors, officers or security holders, or primarily for the purpose of promoting general economic, political, racial, religious, social or similar causes unrelated to the activities of the corporation;
  - (c) the corporation, at the member's request, included a proposal in a notice relating to a meeting of members held within two years preceding the receipt of the request, and the member failed to present the proposal, in person or by proxy, at the meeting;
  - (d) substantially the same proposal was submitted to members in a notice relating to a meeting of members held within two years preceding the receipt of the member's request, and the proposal was defeated; or
  - (e) the rights conferred by this section are being abused to secure publicity.
- (7) No corporation or person acting on its behalf incurs any liability by reason only of circulating a proposal or statement in compliance with this section.
- (8) If a corporation refuses to include a proposal in a notice of a meeting, the corporation, within 10 days after receiving the proposal, shall notify the member submitting the proposal of its intention to omit the proposal from the notice of meeting and send to him or her a statement of the reasons for the refusal.

(9) On the application of a member claiming to be aggrieved by a corporation's refusal pursuant to subsection (8), the court may restrain the holding of the meeting to which the proposal is sought to be presented and make any further order it considers appropriate.

(10) The corporation or any person claiming to be aggrieved by a proposal may apply to the court for an order permitting the corporation to omit the proposal from the notice of meeting, and the court, if it is satisfied that subsection (6) applies, may make any order it considers appropriate.

(11) An applicant pursuant to subsection (9) or (10) shall give the Director notice of the application, and the Director is entitled to appear and be heard in person or by counsel.

1995, c.N-4.2, s.127.

#### **List of members**

**128(1)** A corporation shall prepare a list of members entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of membership interests held by each member:

(a) if a record date is fixed pursuant to subsection 124(1), as of a day not later than 10 days after that date; or

(b) if no record date is fixed:

(i) at the close of business on the day preceding the day on which the notice is given; or

(ii) where no notice is given, on the day on which the meeting is held.

(2) Where a corporation fixes a record date pursuant to subsection 124(1), a person named in the list prepared pursuant to clause (1)(a) is entitled to vote the membership interest shown opposite his or her name at the meeting to which the list relates.

(3) Notwithstanding subsection (2), where a person named in the list has transferred the ownership of any membership interest after the record date, the transferee of the membership interest is entitled to vote his or her membership interest at the meeting if the transferee:

(a) produces properly endorsed security certificates; or

(b) otherwise establishes that he or she owns the membership interest and demands, not later than 10 days before the meeting, that his or her name be included in the list before the meeting.

(4) Where a corporation does not fix a record date pursuant to subsection 124(1), a person named in a list prepared pursuant to clause (1)(b) is entitled to vote the membership interest shown opposite his or her name at the meeting to which the list relates.

- (5) A member may examine the list of members:
- (a) during usual business hours at the registered office of the corporation; and
  - (b) at the meeting of members for which the list was prepared.

1995, c.N-4.2, s.128.

**Quorum**

**129(1)** Unless the bylaws provide otherwise, a quorum of members is present at a meeting of members, regardless of the number of persons actually present at the meeting, if the members entitled to cast a majority of the total number of votes at a meeting of members are present in person or represented by proxy.

(2) If a quorum is present at the opening of a meeting of members, the members present may, unless the bylaws otherwise provide, proceed with the business of the meeting, notwithstanding that a quorum is not present throughout the meeting.

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

(4) If a corporation has only one member, or only one member of any class of members, that member present in person or by proxy constitutes a meeting.

1995, c.N-4.2, s.129.

**Right to vote**

**130(1)** Unless the articles otherwise provide, each member of a corporation is entitled to one vote at a meeting of members.

(2) If a body corporate or association is a member of a corporation, the corporation shall recognize any individual authorized by a resolution of the directors or governing body of the body corporate or association to represent it at meetings of members of the corporation.

(3) An individual authorized pursuant to subsection (2) may exercise on behalf of the body corporate or association that he or she represents all the powers it could exercise if it were an individual member.

(4) Unless the bylaws provide otherwise, if two or more persons hold a membership interest jointly, one of those holders present at a meeting of members, in the absence of the others, may vote the membership interest, but, if two or more of those persons who are present, in person or by proxy, vote, they shall vote as one on the membership interest jointly held by them.

1995, c.N-4.2, s.130; 2005, c.22, s.8.

**Voting**

**131(1)** Unless the bylaws provide otherwise, voting at a meeting of members shall be by show of hands except where a ballot is demanded by a member or proxyholder entitled to vote at the meeting.

(2) A member or proxyholder may demand a ballot either before or after any vote by show of hands.

1995, c.N-4.2, s.131.

**Resolution in lieu of meeting**

**132(1)** Except where a written statement is submitted by a director pursuant to subsection 97(2) or by an auditor pursuant to subsection 156(5):

(a) a resolution in writing signed by all the members entitled to vote on that resolution at a meeting of members is as valid as if it had been passed at a meeting of the members; and

(b) a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of members, and signed by all the members entitled to vote at that meeting, satisfies all the requirements of this Act relating to meetings of members.

(2) A copy of every resolution mentioned in subsection (1) shall be kept with the minutes of the meetings of members.

1995, c.N-4.2, s.132.

**Requisition of meeting**

**133(1)** The members of a corporation whose membership interests carry not less than 5% of the rights to vote at a meeting of members sought to be held may requisition the directors to call a meeting of members for the purposes stated in the requisition.

(2) The requisition mentioned in subsection (1), which may consist of several documents of like form each signed by one or more members, is to state the business to be transacted at the meeting and shall be sent to each director and to the registered office of the corporation.

(3) On receiving the requisition mentioned in subsection (1), the directors shall immediately call a meeting of members to transact the business stated in the requisition, unless:

(a) a record date has been fixed pursuant to subsection 124(1) and notice has been given pursuant to subsection 124(3);

(b) the directors have called a meeting of members and have given notice pursuant to section 125; or

(c) the business of the meeting as stated in the requisition includes matters described in clauses 127(6)(b) to (e).

(4) If the directors do not call a meeting within 21 days after receiving the requisition mentioned in subsection (1), any member who signed the requisition may call the meeting.

(5) A meeting called pursuant to this section is to be called as nearly as possible in the manner in which meetings are to be called pursuant to the bylaws, this Division and Division XII.

(6) Unless the members otherwise resolve at a meeting called pursuant to subsection (4), the corporation shall reimburse the members the expenses reasonably incurred by them in requisitioning, calling and holding the meeting.

1995, c.N-4.2, s.133.

**Meeting called by court**

**134(1)** If for any reason it is impracticable to call a meeting of members of a corporation in the manner in which meetings of those members may be called, or to conduct the meeting in the manner prescribed by the bylaws and this Act, or if for any other reason the court considers appropriate, the court, on the application of a director, a member entitled to vote at the meeting or the Director, may order a meeting to be called, held and conducted in any manner that the court directs.

(2) The court may order that the quorum required by the bylaws or this Act be varied or dispensed with at a meeting called, held and conducted pursuant to this section.

(3) A meeting called, held and conducted pursuant to this section is for all purposes a meeting of members of the corporation duly called, held and conducted.

1995, c.N-4.2, s.134.

**Court review of election**

**135(1)** A corporation or a member or director may apply to the court to determine any controversy respecting an election or the appointment of a director or an auditor of the corporation.

(2) On an application pursuant to this section, the court may make any order it considers appropriate, including:

(a) an order restraining a director or auditor whose election or appointment is challenged from acting pending determination of the dispute;

(b) an order declaring the result of the disputed election or appointment;

(c) an order requiring a new election or appointment and including directions for the management of the activities and affairs of the corporation until a new election is held or appointment made;

(d) an order determining the voting rights of members and of persons claiming to have membership interests.

1995, c.N-4.2, s.135.

**Pooling agreement**

**136(1)** A written agreement between two or more members may provide that the voting rights attached to the membership interests held by them are to be exercised as provided in the agreement.

(2) An otherwise lawful written agreement among all the members of a corporation, or among all the members and a person who is not a member, that restricts, in whole or in part, the powers of the directors to manage the activities and affairs of the corporation is valid.

(3) Where a person who is the beneficial owner of all the issued membership interests of a corporation makes a written declaration that restricts, in whole or in part, the powers of the directors to manage the activities and affairs of the corporation, the declaration is deemed to be a unanimous member agreement.

(4) Subject to subsection 36(8), a transferee of a membership interest subject to a unanimous member agreement is deemed to be a party to the agreement.

(5) A member who is a party to a unanimous member agreement has all the rights, powers and duties of a director of the corporation to which the agreement relates to the extent that the agreement restricts the powers of the directors to manage the activities and affairs of the corporation, and the directors are relieved of their duties and liabilities, including any liabilities pursuant to section 106, to the same extent.

1995, c.N-4.2, s.136.

**DIVISION XII – PROXIES****Interpretation**

**137** In this Division:

“**form of proxy**” means a written or printed form that, on completion and execution by or on behalf of a member, becomes a proxy;

“**proxy**” means a completed and executed form of proxy by which a member appoints a proxyholder to attend and act on his or her behalf at a meeting of members.

1995, c.N-4.2, s.137.

**Appointing proxyholder**

**138(1)** Subject to subsections (6) and (7), a member entitled to vote at a meeting of members may, by means of a proxy, appoint a proxyholder or one or more alternate proxyholders to attend and act at the meeting in the manner and to the extent authorized by the proxy and with the authority conferred by the proxy.

(2) A proxy shall be executed by the member or by his attorney authorized in writing.

(3) A proxy is valid only at the meeting for which it is given or any adjournment of that meeting.

- (4) A member may revoke a proxy:
- (a) by depositing an instrument in writing executed by the member or by his or her attorney authorized in writing:
    - (i) at the registered office of the corporation at any time up to and including the last business day preceding the day of the meeting, or an adjournment of the meeting, at which the proxy is to be used; or
    - (ii) with the chairperson of the meeting on the day of the meeting or an adjournment of the meeting; or
  - (b) in any other manner permitted by law.
- (5) The directors may specify in a notice calling a meeting of members a time not exceeding 48 hours, excluding Saturdays and holidays, preceding the meeting or an adjournment of the meeting before which proxies to be used at the meeting must be deposited with the corporation or its agent.
- (6) No member is entitled to appoint a proxyholder unless the articles so provide.
- (7) A proxyholder is required to be a member of the corporation unless the articles provide otherwise.

1995, c.N-4.2, s.138.

**Form of proxy**

**139** A form of proxy is to be in prescribed form.

1995, c.N-4.2, s.139.

**Attendance at meeting**

**140(1)** A person who solicits a proxy and is appointed proxyholder shall attend in person, or cause an alternate proxyholder to attend the meeting for which the proxy is given, and comply with the directions of the member who appointed him.

(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 members respecting 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 respecting any matter by way of a show of hands.

(3) Notwithstanding subsections (1) and (2), where the chairperson of a meeting of members declares to the meeting that, if a ballot is conducted, the total number of votes attached to securities represented at the meeting by proxy required to be voted against what to his or her knowledge will be the decision of the meeting in relation to any matter or group of matters is less than five per cent of all the votes that might be cast at the meeting on the ballot:

- (a) the chairperson, unless a member or proxy demands a ballot, may conduct the vote respecting that matter or group of matters by a show of hands; and
- (b) a proxyholder or an alternate proxyholder may vote respecting that matter or group of matters by a show of hands.

(4) A proxyholder or alternate proxyholder who without reasonable cause fails to comply with the directions of a member pursuant to this section is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000, to imprisonment for a term of not more than six months or to both.

1995, c.N-4.2, s.140.

**Mail ballot**

**141** The articles or bylaws of a corporation may provide that members of the corporation may cast a ballot by mail to decide any issue respecting which the members are entitled to vote and, where the articles or bylaws so provide, the procedures that relate to collecting, counting and reporting the results of any mail ballot are to be set out in the articles or bylaws of the corporation.

1995, c.N-4.2, s.141.

**DIVISION XIII – FINANCIAL DISCLOSURE**

**Interpretation re sections 148 and 156 to 158**

**141.1** In sections 148 and 156 to 158, “**auditor**” includes a person conducting a review of the financial statements of the corporation pursuant to subsection 150(4) or 151(2).

2005, c.22, s.9.

**Annual financial statements**

**142** Subject to section 143 and subsection 151(3), the directors of a corporation shall place before the members at every annual meeting:

- (a) financial statements as prescribed relating to the period that began on the day the corporation came into existence and ended not more than four months before the annual meeting or, if the corporation has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than four months before the annual meeting;
- (b) the report of the auditor, if any;
- (b.1) the report of the person conducting a review of the financial statements of the corporation pursuant to subsection 150(4) or 151(2), if any; and
- (c) any further information respecting the financial position of the corporation and the results of its activities required by the articles, the bylaws or any unanimous member agreement.

1995, c.N-4.2, s.142; 2005, c.22, s.10.

**Exemption**

**143** A corporation may apply to the Director for an order authorizing the corporation to omit from its financial statements any item prescribed, or to dispense with the publication of any particular financial statement prescribed, and the Director may, if he or she reasonably believes that disclosure of the information would be detrimental to the corporation, permit that omission with any reasonable conditions that he or she considers appropriate.

1995, c.N-4.2, s.143.

**Consolidated statements**

**144(1)** A corporation shall keep at its registered office a copy of the financial statements of each of its subsidiary bodies corporate and of each body corporate whose accounts are consolidated in the financial statements of the corporation.

(2) Where a holding corporation is a membership corporation, members of the corporation and their agents and legal representatives may examine the statements mentioned in subsection (1) on request during the usual business hours of the corporation and may make copies free of charge.

(3) Where a holding corporation is a charitable corporation, any person may examine the statements mentioned in subsection (1) on request during the usual business hours of the corporation and may make copies free of charge.

(4) A corporation, within 15 days of a request to examine pursuant to subsection (2) or (3), may apply to the court for an order barring the right of any person to so examine, and the court may, if it is satisfied that examination would be detrimental to the corporation or a subsidiary body corporate, bar that right and make any further order it considers appropriate.

(5) A corporation shall give the Director and the person asking to examine pursuant to subsection (2) or (3) notice of an application pursuant to subsection (4) and the Director and that person may appear and be heard in person or by counsel.

1995, c.N-4.2, s.144.

**Approval of financial statements**

**145(1)** The directors of a corporation shall approve the financial statements mentioned in section 142 and the approval shall be evidenced by the signature of one or more directors.

(2) A corporation shall not issue, publish or circulate copies of the financial statements mentioned in section 142 unless the financial statements are:

- (a) approved and signed in accordance with subsection (1); and
- (b) accompanied by the report of the auditor of the corporation, if any.

1995, c.N-4.2, s.145.

**Copies to members**

**146(1)** Subject to subsection (3), a corporation, not less than 15 days before each annual meeting or before the signing of a resolution pursuant to clause 132(1)(b) in lieu of the annual meeting, shall send a copy of the documents mentioned in section 142 or a copy of a publication of the corporation that sets out the information required to be set out in the documents mentioned in that section to each member, except a member who has informed the corporation in writing that he or she does not want a copy of those documents.

(2) Where, pursuant to section 123, a corporation is not required to hold an annual meeting, the corporation shall send a copy of the documents mentioned in section 142 or a copy of a publication of the corporation that sets out the information required to be set out in the documents mentioned in that section to each member not later than:

- (a) 15 months after the anniversary of the last annual meeting; or
- (b) if the documents or publication were last sent in accordance with clause (a), 12 months after the anniversary of the day on which the documents or publication were sent in accordance with that clause.

(3) A membership corporation may, in lieu of sending copies of documents in accordance with subsection (1):

- (a) publish a notice that includes the information required to be set out in the documents mentioned in section 142 at least once a week for two consecutive weeks immediately preceding the annual meeting of members in a newspaper circulated in the communities or regions in which the majority of the members of the corporation reside; or
- (b) where the articles or bylaws so provide, publish a notice stating that the documents mentioned in section 142 are available at the registered office of the corporation and that any member may obtain a free copy, on request, by prepaid mail to his or her address, or by calling at the registered office of the corporation during the usual business hours of the corporation.

(4) Notwithstanding subsection (1), a charitable corporation shall:

- (a) publish a notice that includes the information required to be set out in the documents mentioned in section 142 at least once a week for two consecutive weeks immediately preceding the annual meeting of members in a newspaper circulated in the communities or regions in which the majority of the members of the corporation reside; or
- (b) where the articles or bylaws so permit, publish a notice stating that the documents mentioned in section 142 are available at the registered office of the corporation to be examined during the usual business hours of the corporation by any person and that person may make copies free of charge.

**Copies to Director**

**147(1)** Every corporation shall send a copy of the documents mentioned in section 142 to the Director not more than 30 days after the date that financial statements must be placed before members of a corporation pursuant to clause 142(c) or immediately after the signing of a resolution pursuant to clause 132(1)(b) in lieu of an annual meeting.

(2) If a charitable corporation sends to its members or security holders interim financial statements or related documents, the corporation shall immediately send copies to the Director.

(3) A corporation that fails to comply with this section is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.

1995, c.N-4.2, s.147; 2005, c.22, s.12.

**Disqualification of auditor**

**148(1)** Subject to subsection (5), a person is disqualified from being an auditor of a corporation if:

- (a) he or she does not meet the qualifications prescribed in the regulations; or
  - (b) he or she is not independent of the corporation, any of its affiliates or the directors or officers of the corporation or its affiliates.
- (2) For the purposes of this section:
- (a) independence is a question of fact; and
  - (b) a person is deemed not to be independent if the person or his or her business partner:
    - (i) is a business partner, a director, an officer or an employee of the corporation or any of its affiliates, or a business partner of any director, officer or employee of that corporation or any of its affiliates;
    - (ii) beneficially owns or controls, directly or indirectly, a material interest in any security 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 of his or her proposed appointment as auditor of the corporation.
- (3) An auditor who becomes disqualified pursuant to this section shall, subject to subsection (5), resign immediately after becoming aware of his or her disqualification.
- (4) An interested person may apply to the court for an order declaring an auditor to be disqualified pursuant to this section and the office of auditor to be vacant.
- (5) An interested person may apply to the court for an order exempting an auditor from disqualification pursuant to this section and the court may, if it is satisfied that an exemption would not unfairly prejudice the members, make an exemption order on any terms it considers appropriate, and that order may have retrospective effect.

1995, c.N-4.2, s.148.

**Appointment of auditor**

**149(1)** Subject to sections 150 and 151, members of a corporation, by ordinary resolution, at the first annual meeting of members and at each succeeding annual meeting or meeting mentioned in subsection 123(2), shall appoint an auditor to hold office until the close of the next annual meeting.

(2) An auditor appointed pursuant to section 91 is eligible for appointment pursuant to subsection (1).

(3) Notwithstanding subsection (1), if an auditor is not appointed at a meeting of members, the incumbent auditor continues in office until his or her successor is appointed.

(4) The remuneration of the auditor may be fixed by ordinary resolution of the members or, if not so fixed, may be fixed by the directors.

1995, c.N-4.2, s.149.

**Dispensing with auditor – membership corporation**

**150(1)** The members of a membership corporation may resolve not to appoint an auditor.

(2) A resolution pursuant to subsection (1) is valid only until the next annual meeting of members.

(3) **Repealed.** 2005, c.22, s.13.

(4) Where the members of a membership corporation pass a resolution pursuant to subsection (1), they shall appoint a person who meets the qualifications prescribed in the regulations to conduct a review of the financial statements of the corporation.

(4.1) The members of a membership corporation may resolve not to appoint a person to conduct a review of the financial statements of the corporation.

(4.2) A resolution pursuant to subsection (1) or (4.1) is not valid unless it is consented to by a majority of not less than two-thirds of the members, including those not otherwise entitled to vote, who vote on the resolution.

(5) Notice of a resolution to be passed pursuant to this section is to be sent to all members, including members not otherwise entitled to vote, in accordance with section 125.

1995, c.N-4.2, s.150; 2005, c.22, s.13.

**Dispensing with auditor – charitable corporation**

**151(1)** Subject to subsection (2), the members of a charitable corporation whose revenues are less than \$250,000 in the previous fiscal year, or any greater amount that may be prescribed by regulation, may resolve not to appoint an auditor.

(2) Where the members of a charitable corporation that is described in subsection (1) resolve not to appoint an auditor pursuant to this section, they shall resolve to appoint a person who meets the qualifications prescribed in the regulations to conduct a review of the financial statements of the corporation.

- (3) Notwithstanding subsections (1) and (2), the members of a charitable corporation whose revenues are less than \$25,000 in the previous fiscal year, or any greater amount that may be prescribed in the regulations, may resolve not to appoint an auditor or a person to conduct a review of the financial statements of the corporation.
- (4) A resolution pursuant to this section is valid only until the next annual meeting of members.
- (5) A resolution pursuant to subsection (1) or (3) is not valid unless it is consented to by not less than 80% of the members, including those not otherwise entitled to vote, who vote on the resolution.
- (6) Notice of a resolution to be passed pursuant to this section shall be sent to all members, including members not otherwise entitled to vote, in accordance with section 125.

1995, c.N-4.2, s.151; 2005, c.22, s.14.

**Ceasing to hold office**

**152(1)** An auditor of a corporation ceases to hold office when he or she:

- (a) dies or resigns; or
  - (b) is removed pursuant to section 153.
- (2) A resignation of an auditor becomes effective at the time a written resignation is sent to the corporation, or at the time specified in the resignation, whichever is later.

1995, c.N-4.2, s.152.

**Removal of auditor**

**153(1)** The members of a corporation may, by ordinary resolution at a special meeting, remove from office the auditor other than an auditor appointed by the court pursuant to section 155.

(2) A vacancy created by the removal of an auditor may be filled at the meeting at which the auditor is removed or, if not so filled, may be filled pursuant to section 154.

1995, c.N-4.2, s.153.

**Filling vacancy**

**154(1)** Subject to subsection (3), the directors shall immediately fill a vacancy in the office of auditor.

(2) If there is not a quorum of directors, the directors then in office, within 21 days after a vacancy in the office of auditor occurs, shall call a special meeting of members to fill the vacancy and, if they fail to call a meeting or if there are no directors, the meeting may be called by any member.

(3) The articles of a corporation may provide that a vacancy in the office of auditor shall only be filled by vote of the members.

(4) An auditor appointed to fill a vacancy holds office for the unexpired term of his or her predecessor.

1995, c.N-4.2, s.154.

**Court appointed auditor**

**155(1)** If a corporation does not have an auditor, the court, on the application of a member or the Director, may appoint and fix the remuneration of an auditor who holds office until an auditor is appointed by the members.

(2) Subsection (1) does not apply if the members have resolved pursuant to section 150 not to appoint an auditor.

1995, c.N-4.2, s.155.

**Right to attend meeting**

**156(1)** The auditor of a corporation is entitled to receive notice of every meeting of members and, at the expense of the corporation, to attend and be heard on matters relating to his or her duties as auditor.

(2) If a director or member of a corporation, whether or not the member is entitled to vote at the meeting, gives written notice not less than 10 days before a meeting of 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 his or her duties as auditor.

(3) A director or member who sends a notice mentioned in subsection (2) shall send a copy of the notice to the corporation at the same time.

(4) An auditor or former auditor of a corporation who fails without reasonable cause to comply with subsection (2) is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000, to imprisonment for a term of not more than six months or to both.

(5) Where an auditor resigns or receives a notice or otherwise learns of any of the following, he or she is entitled to submit to the corporation a written statement giving the reasons for his or her resignation or the reasons why he or she opposes the proposed action or resolution:

(a) a meeting of members called for the purpose of removing him or her from office;

(b) a meeting of directors or members at which another person is to be appointed to fill the office of auditor, whether because of the resignation or removal of the incumbent auditor or because his or her term of office has expired or is about to expire;

(c) a meeting of members at which a resolution mentioned in section 150 is to be proposed.

(6) The corporation shall immediately send a copy of the statement mentioned in subsection (5) to every member entitled to receive notice of any meeting mentioned in subsection (1) and to the Director.

(7) No person shall accept appointment or consent to be appointed as auditor of a corporation if he or she is replacing an auditor who has resigned, been removed or whose term of office has expired or is about to expire until he or she has requested and received from that auditor a written statement of the circumstances and the reasons why, in that auditor's opinion, that auditor is to be replaced.

(8) Notwithstanding subsection (7), a person otherwise qualified may accept appointment or consent to be appointed as auditor of a corporation if, within 15 days after making the request mentioned in that subsection, he or she does not receive a reply.

(9) Unless subsection (8) applies, an appointment as auditor of a corporation of a person who has not complied with subsection (7) is void.

1995, c.N-4.2, s.156.

#### **Examination**

**157(1)** An auditor of a corporation shall make the examination that is, in the auditor's opinion, necessary to enable him or her to report in the prescribed manner on the financial statements required by this Act to be placed before the members, except those financial statements or part of those statements that relate to the period mentioned in clause 142(a).

(2) Notwithstanding section 158, an auditor of a corporation may reasonably rely on the report of an auditor of a body corporate or an unincorporated business whose accounts are included in whole or in part in the financial statements of the corporation.

(3) For the purposes of subsection (2), reasonableness is a question of fact.

(4) Subsection (2) applies whether or not the financial statements of the holding corporation reported on by the auditor are in consolidated form.

1995, c.N-4.2, s.157.

#### **Right to information**

**158(1)** On the demand of an auditor of a corporation, the present or former directors, officers, employees or agents of the corporation shall furnish any of the following that are, in the opinion of the auditor, necessary to enable him or her to make the examination and report required pursuant to section 157 and that the directors, officers, employees or agents are reasonably able to furnish:

(a) information and explanations;

(b) access to records, documents, books, accounts and vouchers of the corporation or any of its subsidiaries.

(2) On the demand of the auditor of a corporation, the directors of the corporation shall:

(a) obtain from the present or former directors, officers, employees and agents of any subsidiary of the corporation the information and explanations that the present or former directors, officers, employees and agents are reasonably able to furnish and that are, in the opinion of the auditor, necessary to enable him or her to make the examination and report required pursuant to section 157; and

(b) furnish the obtained information and explanations to the auditor.

1995, c.N-4.2, s.158.

**Audit committee**

**159(1)** A charitable corporation that solicits money or property from the public shall, and any other corporation may, have an audit committee composed of not less than three directors of the corporation, a majority of whom are not officers or employees of the corporation or any of its affiliates.

(2) A corporation may apply to the Director for an order authorizing the corporation to dispense with an audit committee, and the Director, if satisfied that the members or the public will not be prejudiced by that an order, may permit the corporation to dispense with an audit committee on any reasonable conditions that he or she considers appropriate.

(3) An audit committee shall review the financial statements of the corporation before the financial statements are approved pursuant to section 145.

(4) The auditor of a corporation is entitled to receive notice of every meeting of the audit committee and, at the expense of the corporation, to attend and be heard and, if requested by a member of the audit committee, shall attend every meeting of the committee held during the term of office of the auditor.

(5) The auditor of a corporation or a member of the audit committee may call a meeting of the committee.

(6) A director or an officer of a corporation shall immediately notify the audit committee and the auditor of any error or misstatement of which he or she becomes aware in a financial statement that the auditor or a former auditor has reported on.

(7) Where the auditor or former auditor of a corporation is notified or becomes aware of an error or misstatement in a financial statement on which he or she has reported, and where in his or her opinion the error or misstatement is material, the auditor or former auditor shall inform each director accordingly.

(8) Where, pursuant to subsection (7), the auditor or former auditor informs the directors of an error or misstatement in a financial statement, the directors shall:

(a) prepare and issue revised financial statements; or

(b) otherwise inform the members and, if the corporation is a charitable corporation, it shall inform the Director of the error or misstatement in the same manner as it informs the members.

(9) Every director or officer of a corporation who knowingly fails to comply with subsection (6) or (8) is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000, to imprisonment for a term of not more than six months or to both.

1995, c.N-4.2, s.159.

**Qualified privilege (defamation)**

**160** Any oral or written statement or report made pursuant to this Act by the auditor or former auditor of a corporation has qualified privilege.

1995, c.N-4.2, s.160.

## DIVISION XIV – FUNDAMENTAL CHANGES

**Amendment of articles**

**161(1)** Subject to subsections (2) and (4) and sections 163 and 164, the articles of a corporation may, by special resolution, be amended to:

- (a) change its name;
  - (b) **Repealed.** 2005, c.22, s.15.
  - (c) add any activities that are not prohibited by law, change any activities to activities that are not prohibited by law or add, change or remove any restriction on the activities that the corporation may carry on;
  - (d) change any maximum number of membership interests that the corporation is authorized to issue;
  - (e) create new classes of membership interests;
  - (f) change the designation of all or any of its membership interests and add, change or remove any rights, privileges, restrictions and conditions attached to all or any of its membership interests;
  - (g) increase or decrease the number of directors or the minimum or maximum number of directors, subject to sections 94 and 99;
  - (h) allow for the transferability of membership interests or add, change or remove restrictions on the transferability of membership interests;
  - (i) subject to clause 6(1)(h) and subsections 209(1) and (2), add, change or remove any provision relating to the disposal of the property of the corporation in the course of liquidation or dissolution; or
  - (j) add, change or remove any other provision that is permitted by this Act to be set out in the articles.
- (2) A charitable corporation may amend its articles only in a way consistent with its continuing to be a charitable corporation.
- (3) Notwithstanding subsection (2), a charitable corporation may amend its articles to become a membership corporation where it:
- (a) is not a corporation described in subsection 2(9); and
  - (b) is a charitable corporation by reason only of the fact that its incorporators designated it as a charitable corporation in the articles of incorporation or articles of continuance sent to the Director pursuant to section 7 or 250, as the case may be.
- (4) A charitable corporation that solicits money or property from the public may amend its articles, with the prior approval of the court, to add, change or remove any restriction on the activities that the corporation may carry on.

(5) Where a charitable corporation makes an application to the court pursuant to subsection (4), the corporation shall give the Director notice, and the Director is entitled to appear in person or by counsel and to be heard.

(6) In connection with an application to the court pursuant to subsection (4), the court may make any order it considers appropriate, including an order that the corporation use any of its moneys or other property to carry on specific activities.

(7) The directors of a corporation, if authorized by the members in the special resolution effecting an amendment pursuant to this section, may revoke the resolution before it is acted on without further approval of the members.

(8) Notwithstanding subsection (1), the directors may amend the articles of a corporation:

(a) where the corporation has a designating number as a name, to change the name to a name other than a designating number;

(b) **Repealed.** 2005, c.22, s.15.

1995, c.N-4.2, s.161; 2005, c.22, s.15.

**Proposal to amend**

**162(1)** Subject to subsection (2), a director or a member who is entitled to vote at an annual meeting of members or a meeting mentioned in subsection 123(2) may make a proposal, in accordance with section 127, to amend the articles.

(2) Notice of a meeting of members at which a proposal to amend the articles is to be considered is to set out the proposed amendment and, where the corporation is a membership corporation and where a member is entitled to dissent pursuant to section 177, is to state that a member is entitled to be paid the fair value of his or her membership interest in accordance with section 177, but failure to make that statement does not invalidate an amendment.

1995, c.N-4.2, s.162.

**Class vote**

**163(1)** Unless, in the case of an amendment mentioned in clause (a), (b) or (e), the articles otherwise provide, members of a class are entitled to vote separately as a class on a proposal to amend the articles to:

(a) increase or decrease any maximum number of authorized membership interests of the class;

(b) effect an exchange, reclassification or cancellation of all or part of the membership interests of the class;

(c) add to, change or remove any rights, privileges, restrictions or conditions attached to the membership interests of the class, and:

(i) reduce or remove a liquidation preference;

(ii) remove or change prejudicially voting or transfer rights;

- (d) increase the rights or privileges of any class of membership interests having rights or privileges equal or superior to the membership interests of the class;
  - (e) create a new class of membership interests equal or superior to the membership interests of the class;
  - (f) make any class of membership interests having rights or privileges inferior to the membership interests of that class equal or superior to the membership interests of the class; or
  - (g) effect an exchange or create a right of exchange of all or part of the membership interests of another class into the membership interests of the class.
- (2) Subsection (1) applies whether or not a membership interest of a class otherwise carries the right to vote.
- (3) A proposed amendment to the articles mentioned in subsection (1) is adopted when the members of each class entitled to vote separately as a class have approved the amendment by a special resolution.

1995, c.N-4.2, s.163.

#### **Delivery of articles**

**164** Subject to any revocation pursuant to subsection 161(7), after an amendment has been adopted pursuant to section 161 or 163, articles of amendment in the prescribed form shall be sent to the Director.

1995, c.N-4.2, s.164.

#### **Certificate of amendment**

**165** On receipt of articles of amendment, the Director shall issue a certificate of amendment in accordance with section 244.

1995, c.N-4.2, s.165.

#### **Effective of certificate**

**166(1)** An amendment becomes effective on the day shown in the certificate of amendment and the articles are amended accordingly.

(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 or administrative action or proceeding to which a corporation or any of its directors or officers is a party.

1995, c.N-4.2, s.166.

**Restated articles**

**167(1)** The directors may, at any time, and shall when reasonably so directed by the Director, restate the articles of incorporation as amended.

(2) Restated articles of incorporation in the prescribed form shall be sent to the Director.

(3) On receipt of restated articles of incorporation, the Director shall issue a certificate of restated articles of incorporation in accordance with section 244.

(4) Restated articles of incorporation are effective on the date shown in the certificate and supersede the original articles of incorporation and all amendments.

1995, c.N-4.2, s.167.

**Amalgamation**

**168(1)** Two or more corporations, including holding and subsidiary corporations, may amalgamate and continue as one corporation.

(2) If one of the amalgamating corporations is a charitable corporation, the continuing corporation, on amalgamation, is a charitable corporation.

1995, c.N-4.2, s.168.

**Amalgamation agreement**

**169(1)** 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 articles of incorporation pursuant to section 6;

(b) the name and address of each proposed director of the amalgamated corporation;

(c) the manner in which the membership interests of each amalgamating corporation are to be converted into membership interests of the amalgamated corporation;

(d) if any membership interests of an amalgamating membership corporation are not to be converted into membership interests of the amalgamated corporation and if a member is entitled to dissent pursuant to section 177, that the members are to be paid the fair value of each membership interest in accordance with section 177;

(e) whether the bylaws of the amalgamated corporation are to be those of one of the amalgamating corporations and, if not, a copy of the proposed bylaws; and

(f) details of any arrangements necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated corporation.

(2) If a membership interest of one of the amalgamating corporations is held by another of the amalgamating corporations, that membership interest is extinguished when the amalgamation becomes effective.

1995, c.N-4.2, s.169.

**Members' approval**

**170(1)** The directors of each amalgamating corporation shall submit the amalgamation agreement for approval to a meeting of each class of members of the amalgamating corporation of which they are directors.

(2) Subject to subsection (4), a notice of a meeting of members shall be sent to each member of each amalgamating corporation, and shall:

(a) include or be accompanied by a copy or summary of the amalgamation agreement; and

(b) where one or more of the corporations is a membership corporation and where a member is entitled to dissent pursuant to section 177, state that a dissenting member of a membership corporation is entitled to be paid the fair value of his membership interest in accordance with section 177, but failure to make that statement does not invalidate an amalgamation.

(3) Each membership interest of an amalgamating corporation carries the right to vote in respect of an amalgamation whether or not it otherwise carries the right to vote.

(4) If an amalgamating corporation is a charitable corporation with more than 500 members, a notice of a meeting that complies with subsection 125(3) and includes a copy or summary of the amalgamation agreement may be published instead of complying with subsection (2).

(5) The members of a class of an amalgamating corporation are entitled to vote separately as a class respecting an amalgamation if the amalgamation agreement contains a provision that, if contained in a proposed amendment to the articles, would entitle those members to vote as a class pursuant to section 163.

(6) An amalgamation agreement is adopted when the members of each amalgamating corporation have approved of the amalgamation by special resolutions of each class of members entitled to vote on that resolution.

(7) An amalgamation agreement may provide that at any time before the issue of a certificate of amalgamation the agreement may be terminated by the directors of an amalgamating corporation, notwithstanding approval of the agreement by the members of all or any of the amalgamating corporations.

1995, c.N-4.2, s.170.

**Vertical short-form amalgamation**

**171(1)** A holding corporation and one or more of its wholly-owned subsidiary corporations may amalgamate and continue as one corporation without complying with sections 169 and 170 where:

(a) the amalgamation is approved by a resolution of the directors of each amalgamating corporation; and

- (b) the resolutions provide that:
  - (i) the membership interests of each amalgamating subsidiary corporation shall be cancelled without any repayment of capital; and
  - (ii) the articles of amalgamation shall be the same as the articles of incorporation of the amalgamating holding corporation.
- (2) Two or more wholly-owned subsidiary corporations of the same holding corporation may amalgamate and continue as one corporation without complying with sections 169 and 170 where:
  - (a) the amalgamation is approved by a resolution of the directors of each amalgamating corporation; and
  - (b) the resolutions provide that:
    - (i) the membership interests of all but one of the amalgamating subsidiary corporations shall be cancelled; and
    - (ii) the articles of amalgamation shall be the same as the articles of incorporation of the amalgamating subsidiary corporation the membership interests of which are not cancelled.

1995, c.N-4.2, s.171.

#### **Sending of articles**

- 172(1)** Subject to subsection 170(7), after an amalgamation agreement has been adopted pursuant to section 170 or approved pursuant to section 171, articles of amalgamation in the prescribed form shall be sent to the Director together with the documents required by sections 19 and 93.
- (2) The articles of amalgamation are to include a statutory declaration of a director or an officer of each amalgamating corporation that establishes to the satisfaction of the Director 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.

- (3) For the purposes of subsection (2), adequate notice is given if:
- (a) a notice in writing is sent to each known creditor having a claim against the corporation that exceeds \$1,000;
  - (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 in Canada where the corporation carries on its 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 from the day of the notice.
- (4) On receipt of articles of amalgamation, the Director shall issue a certificate of amalgamation in accordance with section 244.

1995, c.N-4.2, s.172.

**Effect of certificate**

**173** On the date shown in a certificate of amalgamation:

- (a) the amalgamation of the amalgamating corporations and their continuance as one corporation become effective;
- (b) the property of each amalgamating corporation continues to be the property of the amalgamated corporation;
- (c) the amalgamated corporation continues to be liable for the obligations of each amalgamating corporation;
- (d) an existing cause of action, claim or liability to prosecution is unaffected;
- (e) a civil, criminal or administrative action or proceeding pending by or against an amalgamating corporation may be continued to be prosecuted by or against the amalgamated corporation;
- (f) a conviction against, or a ruling, order or judgment in favour of or against, an amalgamating corporation may be enforced by or against the amalgamated corporation; and
- (g) the articles of amalgamation are deemed to be the articles of incorporation of the amalgamated corporation and the certificate of amalgamation is deemed to be the certificate of incorporation of the amalgamated corporation.

1995, c.N-4.2, s.173.

**Continuance in Saskatchewan**

**174(1)** A body corporate may apply to the Director for a certificate of continuance:

- (a) where, in the case of an extraprovincial corporation, it is authorized to do so by the laws of the jurisdiction where it is incorporated;
- (b) in the case of a corporation, subject to section 250.

- (2) A body corporate that applies for a certificate of continuance pursuant to subsection (1), without so stating in its articles of continuance, may effect by those articles any change or amendment to its articles, if:
- (a) the change or amendment is a change or amendment a corporation incorporated pursuant to this Act may make to its articles; and
  - (b) in the case of a change or amendment mentioned in section 163, the change or amendment is approved in accordance with that section.
- (3) Articles of continuance in the prescribed form shall be sent to the Director together with the documents required by sections 19 and 93 and where, in the opinion of the Director, all conditions precedent to continuance have been complied with, the Director shall issue a certificate of continuance in accordance with section 244.
- (4) On 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 pursuant to 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;
  - (d) in the case of a body corporate mentioned in subsection 250(2), the name of the body corporate shall be removed from the register referred to in section 282 of *The Business Corporations Act*;
  - (e) subject to clause (f), the articles of the body corporate in effect prior to the day shown in the certificate no longer apply; and
  - (f) in the case of a corporation incorporated by an Act, the provisions of that Act, subject to subsection 250(5), no longer apply.
- (5) In the case of an extraprovincial corporation, the Director shall immediately send a copy of the certificate of continuance to the appropriate official or public body in the jurisdiction in which continuance pursuant to this Act was authorized.
- (6) Where the articles of continuance effect a change or amendment of a kind mentioned in subsection 161(1), a member or a former shareholder who is dissatisfied with the change or amendment may apply to the court for an order pursuant to section 225, within two years of the date shown in the certificate of continuance, but is not entitled at any time to dissent pursuant to section 177, respecting that change or amendment or respecting a change or amendment pursuant to this section.
- (7) Where a body corporate is continued as a corporation pursuant to 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) a civil, criminal or administrative action or proceeding pending by or against the body corporate may be continued to be prosecuted by or against the corporation; and
  - (e) a conviction against, or a ruling, order or judgment in favour of or against, the body corporate may be enforced by or against the corporation.
- (8) Subject to subsection 36(8), a membership interest of a body corporate issued before the body corporate was continued pursuant to this Act is deemed to have been issued in compliance with this Act and with the provisions of the articles of continuance regardless of whether the membership interest is fully paid and regardless of any designation, rights, privileges, restrictions or conditions set out on or referred to in the certificate representing the membership interest, and continuance pursuant to this section does not deprive a holder of any right or privilege that he or she claims under, or relieve him or her of any liability respecting, an issued membership interest.

1995, c.N-4.2, s.174; 2015, c.22, s.12; 2018, c 43, s.13.

**Continuance (export)**

- 175(1)** Subject to subsection (9), 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 it:
- (a) is authorized by the members in accordance with this section; and
  - (b) establishes to the satisfaction of the Director that its proposed continuance in another jurisdiction will not adversely affect creditors or members of the corporation or, if the corporation is a charitable corporation, the public interest.
- (2) A notice of a meeting of members complying with section 125 shall be sent in accordance with that section to each member and, where the corporation is a membership corporation and where a member is entitled to dissent pursuant to section 177, shall state that a dissenting member is entitled to be paid the fair value of his or her membership interest in accordance with section 177, but failure to make that statement does not invalidate a discontinuance pursuant to this Act.
- (3) Each membership interest of the corporation carries the right to vote respecting a continuance whether or not it otherwise carries the right to vote.
- (4) An application for continuance becomes authorized when the members voting have approved of the continuance by a special resolution.
- (5) The directors of a corporation, if authorized by the members at the time of approving an application for continuance pursuant to this section, may abandon the application without further approval of the members.

- (6) On receipt of notice satisfactory to the Director that the corporation has been continued under the laws of another jurisdiction, the Director shall file the notice and issue a certificate of discontinuance in accordance with section 244.
- (7) For the purposes of section 244, a notice mentioned in subsection (6) is deemed to be articles that conform to law.
- (8) This Act ceases to apply to the corporation on the date shown in the certificate of discontinuance.
- (9) No corporation shall be continued as a body corporate pursuant to the laws of another jurisdiction unless those laws provide, in effect, that:
- (a) the property of the corporation continues to be the property of the body corporate;
  - (b) the body corporate continues to be liable for the obligations of the corporation;
  - (c) an existing cause of action, claim or liability to prosecution is unaffected;
  - (d) a civil, criminal or administrative action or proceeding pending by or against the corporation may be continued to be prosecuted by or against the body corporate; and
  - (e) a conviction against or a ruling, order or judgment in favour of or against, the corporation may be enforced by or against the body corporate.
- (10) A charitable corporation may only be continued as a body corporate under the laws of Canada or of a province.

1995, c.N-4.2, s.175.

#### **Borrowing powers**

- 176(1)** Unless the articles or bylaws of or a unanimous member agreement relating to a corporation otherwise provide, the articles of a corporation are deemed to state that 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) subject to section 27, give a guarantee on behalf of the corporation to secure performance of an obligation of any person; and
  - (d) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the corporation, owned or subsequently acquired, to secure any obligation of the corporation.
- (2) Notwithstanding subsection 102(3) and clause 108(1)(a), unless the articles or bylaws of or a unanimous member agreement relating to a corporation provide otherwise, the directors, by resolution, may delegate the powers mentioned in subsection (1) to a director, a committee of directors or an officer.

- (3) A sale, lease or exchange of all or substantially all the property of a corporation other than in the ordinary course of carrying on the activities of the corporation requires the approval of the members in accordance with subsections (4) to (9).
- (4) Subject to subsection (5), a notice of a meeting of members complying with section 125 shall be sent in accordance with that section to each member and shall:
- (a) include or be accompanied by a copy or summary of the agreement of sale, lease or exchange; and
  - (b) where the corporation is a membership corporation and where a member is entitled to dissent pursuant to section 177, state that a dissenting member is entitled to be paid the fair value of his or her membership interest in accordance with section 177, but failure to make that statement does not invalidate a sale, lease or exchange mentioned in subsection (3).
- (5) A charitable corporation with more than 500 members may comply with this section by complying with subsection 125(3), as long as the published notice of meeting includes the agreement of sale, lease or exchange, or a summary thereof.
- (6) At the meeting mentioned in subsection (4), 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 it.
- (7) Each membership interest of the corporation carries the right to vote respecting a sale, lease or exchange mentioned in subsection (3) whether or not it otherwise carries the right to vote.
- (8) The members of a class of members of the corporation are entitled to vote separately as a class respecting a sale, lease or exchange mentioned in subsection (3) only if that class is affected by the sale, lease or exchange in a manner different from another class.
- (9) A sale, lease or exchange referred to in subsection (3) is adopted when the members of each class of members entitled to vote on that matter have approved of the sale, lease or exchange by a special resolution.
- (10) The directors of a corporation, if authorized by the members approving a proposed sale, lease or exchange, and subject to the rights of third parties, may abandon the sale, lease or exchange without further approval of the members.

1995, c.N-4.2, s.176; 2005, c.22, s.16.

**Right to dissent**

**177(1)** Subject to sections 182 and 225, a member of any class of members of a membership corporation who is entitled pursuant to subsection 209(3) or (4) to receive a share of any remaining property of the corporation on its liquidation and dissolution may dissent if the corporation is subject to an order pursuant to clause 183(4)(c) that affects the member or if the corporation resolves to:

- (a) amend its articles pursuant to section 161 to allow for the transferability of membership interests of that class, or add, change or remove restrictions on the transferability of membership interests of that class;

- (b) amend its articles pursuant to section 161 to add, change or remove any provisions restricting the activities that the corporation may carry on;
  - (c) amalgamate with another corporation, otherwise than pursuant to section 171;
  - (d) be continued pursuant to the laws of another jurisdiction pursuant to section 175; or
  - (e) sell, lease or exchange all or substantially all its property pursuant to subsection 176(3).
- (2) A member of any class of members of a membership corporation who is entitled pursuant to subsection 209(3) or (4) to receive a share of any remaining property of the corporation on its liquidation or dissolution may dissent from an amendment to the articles effecting any change mentioned in subsection 163(1).
- (3) In addition to any other right he or she may have, but subject to subsection 181(3), a member who complies with this section and sections 178 to 181 is entitled, when the action approved by the resolution from which he or she dissents or an order made pursuant to subsection 183(4) becomes effective, to be paid by the corporation the fair value of the membership interest held by the member with respect to which he or she dissents, determined as of the close of business on the day before the resolution was adopted or the order was made.
- (4) A dissenting member may only claim pursuant to this section and sections 178 to 181 respecting all the membership interests of a class held by him or her on behalf of any one beneficial owner and registered in the name of the dissenting member.

1995, c.N-4.2, s.177.

#### **Objection**

- 178(1)** A dissenting member shall send to the corporation, at or before any meeting of members at which a resolution mentioned in subsection 177(1) is to be voted on, a written objection to the resolution, unless the corporation did not give notice to the member of the purpose of the meeting and of his or her right to dissent.
- (2) The corporation, within 10 days after the members adopt the resolution, shall send to each member who has filed the objection mentioned in subsection (1) notice that the resolution has been adopted, but the notice is not required to be sent to any member who voted for the resolution or who has withdrawn his objection.
- (3) A dissenting member, within 20 days after he or she receives a notice pursuant to subsection (2) or, if he or she does not receive the notice, within 20 days after he or she learns that the resolution has been adopted, shall send to the corporation a written notice containing:
- (a) his or her name and address;
  - (b) the number and class of membership interests with respect to which he or she dissents; and
  - (c) a demand for payment of the fair value of his or her membership interest.

(4) A dissenting member shall send his or her membership card or certificate to the corporation or its transfer agent within 30 days after sending a notice pursuant to subsection (3).

(5) A dissenting member who fails to comply with subsection (4) has no right to make a claim pursuant to section 177, this section or sections 179 to 181.

1995, c.N-4.2, s.178.

**Endorsing certificate**

**179(1)** A corporation shall endorse on any transferable membership certificate received pursuant to subsection 178(4) a notice that the holder is a dissenting member pursuant to section 177 and shall immediately return the certificate to the dissenting member.

(2) On sending a notice pursuant to subsection 178(3), a dissenting member ceases to have any rights as a member other than the right to be paid the fair value of his or her membership interest as determined pursuant to this section, except that his or her rights as a member are reinstated as of the day he or she sent the notice mentioned in subsection 178(3) where:

(a) the dissenting member withdraws his or her notice before the corporation makes an offer pursuant to subsection (3);

(b) the corporation fails to make an offer in accordance with subsection (3) and the dissenting member withdraws his or her notice; or

(c) the directors revoke a resolution to amend the articles pursuant to subsection 161(7), terminate an amalgamation agreement pursuant to subsection 170(7) or abandon an application for continuance pursuant to subsection 175(5), or abandon a sale, lease or exchange pursuant to subsection 176(10).

(3) A corporation, not later than the later of seven days after the day on which the action approved by the resolution is effective or the day the corporation receives the notice mentioned in subsection 178(3), shall send to each dissenting member who has sent the notice:

(a) a written offer to pay for his or her membership interest in an amount considered by the directors of the corporation to be the fair value of the interest, accompanied by a statement showing how the fair value was determined; or

(b) if subsection 181(3) applies, a notification that it is unable lawfully to pay dissenting members for their membership interests.

(4) Every offer made pursuant to subsection (3) for membership interests of the same class is to be on the same terms.

(5) Subject to subsection 181(3), a corporation shall pay for the membership interest of a dissenting member within 10 days after an offer made pursuant to subsection (3) has been accepted, but any offer lapses if the corporation does not receive an acceptance within 30 days after the offer has been made.

1995, c.N-4.2, s.179.

**Corporation application to court**

**180(1)** Where a corporation fails to make an offer pursuant to subsection 179(3), or if a dissenting member fails to accept an offer, the corporation, within 50 days after the action approved by the resolution is effective or within any further period that the court may allow, may apply to the court to fix a fair value for the membership interest of any dissenting member.

(2) If a corporation fails to apply to a court pursuant to subsection (1), a dissenting member may apply to the court for the same purpose within a further period of 20 days or within any further period that the court may allow.

(3) An application pursuant to subsection (1) or (2) shall be made to the court having jurisdiction in the place where the corporation has its registered office, or in the province where the dissenting member resides if the corporation carries on its activities in that province.

(4) A dissenting member is not required to give security for costs in an application made pursuant to subsection (1) or (2).

(5) On an application to the court pursuant to subsection (1) or (2):

(a) all dissenting members whose membership interests have not been purchased by the corporation shall be joined as parties and are bound by the decision of the court; and

(b) the corporation shall notify each affected dissenting member of the date, place and consequences of the application and of his or her right to appear and be heard in person or by counsel.

(6) On an application pursuant to subsection (1) or (2), the court may determine whether any other person is a dissenting member who should be joined as a party, and the court shall then fix a fair value for the membership interests of all dissenting members.

(7) The court, in its discretion, may appoint one or more appraisers to assist the court to fix a fair value for the membership interests of the dissenting members.

(8) The final order of the court shall be rendered against the corporation in favour of each dissenting member and for the amount of his or her membership interest as fixed by the court.

(9) The court, in its discretion, may allow a reasonable rate of interest on the amount payable to each dissenting member from the day the action approved by the resolution is effective until the day of payment.

1995, c.N-4.2, s.180.

**Notice that subsection (3) applies**

**181(1)** If subsection (3) applies, the corporation, within 10 days after the pronouncement of an order pursuant to subsection 180(8), shall notify each dissenting member that it is unable lawfully to pay dissenting members for their membership interests.

- (2) If subsection (3) applies, a dissenting member, by written notice delivered to the corporation within 30 days after receiving a notice pursuant to subsection (1), may:
- (a) withdraw his or her notice of dissent, in which case the corporation is deemed to consent to the withdrawal and the member is reinstated to his or her full rights as a member; 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.
- (3) No corporation shall make a payment to a dissenting member pursuant to this section or sections 177 to 180 if there are reasonable grounds for believing that:
- (a) the corporation is or would after payment 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 if payment were made.

1995, c.N-4.2, s.182.

**Interpretation of section**

- 182(1)** In this section, “**reorganization**” means a court order made pursuant to:
- (a) section 225;
  - (b) the *Bankruptcy and Insolvency Act* (Canada) approving a proposal; or
  - (c) any other Act of the Parliament of Canada or any other Act that affects rights between a corporation, its members and creditors.
- (2) If a corporation is subject to an order mentioned in subsection (1), its articles may be amended by the order to effect any change that might lawfully be made by an amendment pursuant to section 161.
- (3) If a court makes an order mentioned in subsection (1), the court may also:
- (a) authorize the issue of debt obligations of the corporation, and fix the terms; and
  - (b) appoint directors in place of or in addition to all or any of the directors then in office.
- (4) After an order mentioned in subsection (1) has been made, articles of reorganization in the prescribed form shall be sent to the Director together with the documents required by sections 19 and 100, if applicable.
- (5) On receipt of articles of reorganization, the Director shall issue a certificate of amendment in accordance with section 244.
- (6) A reorganization becomes effective on the date shown in the certificate of amendment, and the articles of incorporation are amended accordingly.
- (7) A member is not entitled to dissent pursuant to sections 177 to 181 if an amendment to the articles of incorporation is made pursuant to this section.

1995, c.N-4.2, s.182; 2018, c 43, s.13.

**Application to court for approval of arrangement**

**183(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 subject to this Act;
  - (d) a division of the business carried on by a corporation;
  - (e) a transfer of all or substantially all the property of a corporation to another body corporate in exchange for property, money or securities of the body corporate;
  - (f) an exchange of securities of a corporation held by security holders for property, money or other securities of the corporation or property, money or securities of another body corporate;
  - (g) a liquidation and dissolution of a corporation.
- (2) For the purposes of this section, a corporation is insolvent where:
- (a) it is unable to pay its liabilities as they become due; or
  - (b) the realizable value of the assets of the corporation is less than the aggregate of its liabilities.
- (3) Where it is not practicable for a corporation that is not insolvent to effect a fundamental change in the nature of an arrangement pursuant to any other provision of this Act, the corporation may apply to the court for an order approving an arrangement proposed by the corporation.
- (4) In connection with an application pursuant to this section, the court may make any interim or final order it considers appropriate, including an order:
- (a) determining the notice to be given to any interested person or dispensing with notice to any person other than the Director;
  - (b) appointing counsel, at the expense of a corporation, to represent the interests of the members;
  - (c) requiring a corporation to call, hold and conduct a meeting of holders of securities or options or rights to acquire securities in any manner that the court directs;
  - (d) permitting a member to dissent pursuant to sections 177 to 181; or
  - (e) approving an arrangement as proposed by the corporation or as amended in any manner the court may direct.
- (5) An applicant pursuant to this section shall give the Director notice of the application and the Director is entitled to appear and be heard in person or by counsel.
- (6) After an order mentioned in clause (4)(e) has been made, articles of arrangement in the prescribed form shall be sent to the Director together with the documents required by sections 19 and 100, if applicable.

(7) On receipt of articles of arrangement, the Director shall issue a certificate of amendment in accordance with section 244.

(8) An arrangement becomes effective on the date shown in the certificate of amendment.

1995, c.N-4.2, s.183.

## DIVISION XV – BOARDS OF TRADE AND CHAMBERS OF COMMERCE

### Interpretation of Division

**184** In this Division:

“**board of trade**” or “**chamber of commerce**” means a corporation incorporated or continued pursuant to this Act as a membership corporation to carry on the activities of promoting and improving trade and commerce and as a result promoting and improving the economic, civic and social welfare of a district;

“**district**” means the appropriate geographical area designated by the Director with respect to which a corporation may have a name containing the expression “board of trade” or “chamber of commerce”.

1995, c.N-4.2, s.184.

### Application of Division

**185** This Division applies to every board of trade or chamber of commerce.

1995, c.N-4.2, s.185.

### Name

**186(1)** Respecting any district, a proposed name containing the words “board of trade” or “chamber of commerce” is deemed to be confusingly similar to the name of an existing corporation that contains those words regardless of any other distinguishing word in the proposed name.

(2) Notwithstanding subsection (1), the Director, respecting a district, may issue a certificate of incorporation in accordance with section 244 respecting a corporation with a name containing the words “chambre de commerce” notwithstanding the existence, respecting that district, of a corporation with a name containing the words “board of trade” or “chamber of commerce”.

(3) Notwithstanding subsection (1), the Director, respecting a district, may issue a certificate of incorporation in accordance with section 244 in respect of a corporation with a name containing the words “board of trade” or “chamber of commerce” where, respecting that district, each existing “board of trade” or “chamber of commerce” consents to the incorporation.

1995, c.N-4.2, s.186.

### Powers of Director

**187(1)** The Director, on incorporating a board of trade or chamber of commerce or at any other time, may designate or change the district in which that board of trade or chamber of commerce is entitled to the exclusive use of its name.

(2) When determining whether a district is an appropriate geographical area, the Director shall consider:

- (a) the size of the area;
- (b) the number of inhabitants of the area;
- (c) the degree of political autonomy of the area;
- (d) the support of those inhabitants for a proposed corporation, and evidence for that support is to be a petition in the prescribed form signed by not less than 30 inhabitants of the area;
- (e) the availability of services of an existing board of trade or chamber of commerce in or in an area contiguous to that area; and
- (f) any objections to an existing board of trade or chamber of commerce in or in an area contiguous to that area.

1995, c.N-4.2, s.187.

**No right to dissent**

**188** Sections 177 to 181 do not apply to members of a membership corporation that is a board of trade or a chamber of commerce.

1995, c.N-4.2, s.188.

## DIVISION XVI – LIQUIDATION AND DISSOLUTION

**Interpretation of Division**

**189** In this Division, “**court**” means a court having jurisdiction in the place where the corporation has its registered office.

1995, c.N-4.2, s.189.

**Application of Division**

**190(1)** This Division does not apply to a corporation that is insolvent within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or that is a bankrupt within the meaning of that Act.

(2) Any proceedings taken pursuant to this Division to dissolve or to liquidate and dissolve a corporation shall be stayed if the corporation is at any time found, in a proceeding pursuant to the *Bankruptcy and Insolvency Act* (Canada), to be insolvent within the meaning of that Act.

1995, c.N-4.2, s.190; 2018, c 43, s.13.

**Revival**

**191(1)** Where a body corporate is dissolved pursuant to this Division, pursuant to section 250 or where the incorporation of a body corporate was cancelled pursuant to *The Societies Act*, any interested person may apply to the Director to have the body corporate revived as a corporation pursuant to this Act.

- (2) Articles of revival in the prescribed form shall be sent to the Director.
- (3) On receipt of articles of revival, the Director may issue a certificate of revival in accordance with section 244.
- (4) A body corporate is revived as a corporation on the date shown in the certificate of revival, and the corporation, subject to any reasonable terms that may be imposed by the Director and to the rights acquired by any person after its dissolution, or after the cancellation of its incorporation, has all the rights and privileges and is liable for the obligations that it would have had if it had not been dissolved or if its incorporation had not been cancelled.

1995, c.N-4.2, s.191.

**Effecting dissolution in certain circumstances**

- 192**(1) A corporation that has not issued securities may be dissolved at any time by resolution of all the directors.
- (2) A corporation that has no property and no liabilities may be dissolved by special resolution of the members or, where it has more than one class of members, by special resolution of the members of each class whether or not they are otherwise entitled to vote.
- (3) A corporation that has property or liabilities may be dissolved by special resolution of the members or, where it has more than one class of members, by special resolution of the members of each class whether or not they are otherwise entitled to vote, where:
  - (a) by the special resolution or resolutions the members authorize the directors to cause the corporation to distribute any property or discharge any liabilities; and
  - (b) the corporation has distributed any property or discharged any liabilities before it sends articles of dissolution to the Director pursuant to subsection (5).
- (4) On the dissolution of a corporation pursuant to this section, no part of its property may be distributed or transferred by the corporation to any person except as permitted pursuant to section 209.
- (5) Articles of dissolution in prescribed form shall be sent to the Director.
- (6) On receipt of articles of dissolution, the Director shall issue a certificate of dissolution in accordance with section 244.
- (7) The corporation ceases to exist on the date shown in the certificate of dissolution.

1995, c.N-4.2, s.192.

**Proposing liquidation and dissolution**

**193(1)** The directors may propose, or a member who is entitled to vote at an annual meeting of members or a meeting of members mentioned in subsection 123(2), in accordance with section 127, may make a proposal for, the voluntary liquidation and dissolution of a corporation.

(2) Notice of any meeting of members at which voluntary liquidation and dissolution is to be proposed is to set out the terms of the proposal.

(3) A corporation may liquidate and dissolve by special resolution of the members or, where the corporation has more than one class of members, by special resolution of the members of each class whether or not they are otherwise entitled to vote.

(4) A statement of intent to dissolve in the prescribed form shall be sent to the Director.

(5) On receipt of a statement of intent to dissolve, the Director shall issue a certificate of intent to dissolve in accordance with section 244.

(6) On issue of a certificate of intent to dissolve, the corporation shall cease to carry on its activities except to the extent necessary for the liquidation, but its corporate existence continues until the Director issues a certificate of dissolution.

(7) On issue of a certificate of intent to dissolve, the corporation shall:

(a) immediately cause a notice to be sent to each known creditor of the corporation;

(b) immediately publish a notice once a week for four consecutive weeks in a newspaper published or distributed in the place where the corporation has its registered office and take reasonable steps to give notice in each province in Canada where the corporation was carrying on its activities at the time it sent the statement of intent to dissolve to the Director;

(c) proceed to collect its property, to dispose of properties that are not to be distributed in accordance with section 209, to discharge all its obligations and to do all other acts required to conclude its activities; and

(d) after giving the notice required pursuant to clauses (a) and (b) and adequately providing for the payment or discharge of all its obligations, distribute its remaining property, either in money or in kind, in accordance with section 209.

1995, c.N-4.2, s.193.

**Supervision by court**

**194(1)** The Director or any interested person, at any time during the liquidation of a corporation, may apply to the court for an order that the liquidation be continued under the supervision of the court as provided in this Division and, on the application, the court may so order and make any further order it considers appropriate.

(2) An applicant pursuant to this section shall give the Director notice of the application, and the Director is entitled to appear and be heard in person or by counsel.

(3) At any time after the issue of a certificate of intent to dissolve and before the issue of a certificate of dissolution, a certificate of intent to dissolve may be revoked by sending to the Director a statement of revocation of intent to dissolve in the prescribed form, if the revocation is approved in the same manner as the resolution pursuant to subsection 193(3).

(4) On receipt of a statement of revocation of intent to dissolve, the Director shall issue a certificate of revocation of intent to dissolve in accordance with section 244.

(5) On the date shown in the certificate of revocation of intent to dissolve, the revocation is effective and the corporation may continue to carry on its activities.

1995, c.N-4.2, s.194.

#### **Right to dissolve**

**195(1)** If a certificate of intent to dissolve has not been revoked and the corporation has complied with subsection 193(7), the corporation shall prepare articles of dissolution.

(2) Articles of dissolution in the prescribed form shall be sent to the Director.

(3) On receipt of articles of dissolution, the Director shall issue a certificate of dissolution in accordance with section 244.

(4) The corporation ceases to exist on the date shown in the certificate of dissolution.

1995, c.N-4.2, s.195.

#### **Dissolution by Director**

**196(1)** Subject to subsections (2) and (3), the Director may dissolve a corporation by issuing a certificate of dissolution pursuant to this section or apply to the court for an order dissolving the corporation, in which case section 201 applies, where a corporation:

(a) has not commenced to carry on its activities within three years after the date shown in its certificate of incorporation;

(b) has not carried on its activities for three consecutive years; or

(c) has not had its name restored to the register within two years after the date on which it was struck off pursuant to section 272.

(2) The Director shall not dissolve a corporation pursuant to this section until he or she has:

(a) given 120 days' notice of his or her decision to dissolve the corporation to the corporation and to each director; and

(b) published in the Gazette notice of his or her decision to dissolve the corporation.

(3) Unless cause to the contrary has been shown or an order has been made by the court pursuant to section 230, the Director, on the expiry of the period mentioned in subsection (2), may issue a certificate of dissolution in prescribed form.

(4) The corporation ceases to exist on the date shown in the certificate of dissolution.

1995, c.N-4.2, s.196.

#### **Grounds for dissolution**

**197(1)** The Director or any interested person may apply to the court for an order dissolving a corporation where the corporation has:

- (a) failed for two or more consecutive years to comply with the requirements of this Act with respect to the holding of meetings of members;
- (b) failed to comply with subsection 16(2) or section 21, 144, or 146; or
- (c) obtained any certificate pursuant to this Act by misrepresentation.

(2) An applicant pursuant to this section shall give the Director notice of the application, and the Director is entitled to appear and be heard in person or by counsel.

(3) On an application pursuant to this section or section 196, the court may order that the corporation be dissolved or that the corporation be liquidated and dissolved under the supervision of the court, and the court may make any other order it considers appropriate.

(4) On receipt of an order pursuant to this section, section 196 or section 198, the Director shall:

- (a) if the order is to dissolve the corporation, issue a certificate of dissolution in the prescribed form; or
- (b) if the order is to liquidate and dissolve the corporation under the supervision of the court, issue a certificate of intent to dissolve in the prescribed form and publish notice of the order in the Gazette.

(5) The corporation ceases to exist on the date shown in the certificate of dissolution.

1995, c.N-4.2, s.197.

#### **Further grounds for liquidation and dissolution of membership corporation**

**198(1)** The court may order the liquidation and dissolution of a membership corporation or any of its affiliated corporations on the application of a member:

(a) where the court is satisfied that the result of any act or omission of a corporation or any of its affiliates, the manner in which any of the activities or affairs of the corporation or any of its affiliates are or have been carried on or conducted, or the manner in which the powers of the corporation or any of its affiliates are or have been exercised:

- (i) is oppressive or unfairly prejudicial to the interests of any security holder, creditor, member, director or officer; or
- (ii) unfairly disregards the interests of any security holder, creditor, member, director or officer; or

- (b) where the court is satisfied that:
  - (i) a unanimous member agreement entitles a complaining member to demand dissolution of the corporation after the occurrence of a specified event and that event has occurred; or
  - (ii) it is just and equitable that the corporation should be liquidated and dissolved.
- (2) The court may order the liquidation and dissolution of a charitable corporation or any of its affiliated corporations on the application of the Director, a member or any other person:
  - (a) where the court is satisfied that the result of any act or omission of the corporation or any of its affiliates, the manner in which any of the activities or affairs of the corporation or any of its affiliates are or have been carried on or conducted, or the manner in which the powers of the directors of the corporation or any of its affiliates are or have been exercised:
    - (i) is oppressive or unfairly prejudicial to the interests of any security holder, creditor, member, director or officer or the public generally; or
    - (ii) unfairly disregards the interests of any security holder, creditor, member, director or officer or the public generally; or
  - (b) where the court is satisfied that:
    - (i) a unanimous member agreement entitles a complaining member to demand dissolution of the corporation after the occurrence of a specified event and that event has occurred; or
    - (ii) it is just and equitable that the corporation should be liquidated and dissolved.
- (3) On an application pursuant to this section, a court may make any order pursuant to this section or section 225 that it considers appropriate.
- (4) Section 226 applies to an application pursuant to this section.

1995, c.N-4.2, s.198.

#### **Application for supervision**

- 199(1)** An application to a court for an order to supervise a voluntary liquidation and dissolution pursuant to subsection 194(1) is to state the reasons, verified by an affidavit of the applicant, why the court should supervise the liquidation and dissolution.
- (2) Where a court makes an order mentioned in subsection 194(1), the liquidation and dissolution of the corporation is to continue under the supervision of the court in accordance with this Act.

1995, c.N-4.2, s.199.

**Application to court**

**200(1)** An application pursuant to subsection 198(1) or (2) is to state the reasons, verified by an affidavit of the applicant, why the corporation should be liquidated and dissolved.

(2) On an application pursuant to subsection 198(1) or (2), the court may make an order requiring the corporation and any person having an interest in, or claim against, the corporation to show cause, at a specified time and place not less than four weeks after the date of the order, why the corporation should not be liquidated and dissolved.

(3) On an application pursuant to subsection 198(1) or (2), the court may order the directors and officers of the corporation to furnish to the court all material information known to or reasonably ascertainable by them, including:

- (a) financial statements of the corporation;
- (b) the name and address of each member of the corporation; and
- (c) the name and address of each known creditor or claimant, including any creditor or claimant with unliquidated, future or contingent claims, and any person with whom the corporation has a contract.

(4) A copy of an order made pursuant to subsection (2) shall be:

- (a) published as directed in the order, at least once in each week before the time appointed for the hearing, in a newspaper published or distributed in the place where the corporation has its registered office; and
- (b) served on the Director and each person named in the order.

(5) The corporation or other person shall publish and serve an order pursuant to this section in any manner that the court may order.

1995, c.N-4.2, s.200.

**Powers of court**

**201** In connection with the dissolution or the liquidation and dissolution of a corporation, the court, if it is satisfied that the corporation is able to pay or adequately provide for the discharge of all its obligations, may make any order it considers appropriate, including an order:

- (a) instructing the corporation to liquidate;
- (b) appointing a liquidator, with or without security, fixing his or her remuneration and replacing a liquidator;
- (c) appointing inspectors or referees, specifying their powers and fixing their remuneration, and replacing inspectors or referees;
- (d) determining the notice to be given to any interested person, or dispensing with notice to any person;

- (e) determining the validity of any claims made against the corporation;
- (f) at any stage of the proceedings, restraining the directors and officers from:
  - (i) exercising any of their powers; or
  - (ii) collecting or receiving any debt or other property of the corporation, and from paying out or transferring any property of the corporation, except as permitted by the court;
- (g) determining and enforcing the duty or liability of any present or former director, officer or member:
  - (i) to the corporation; or
  - (ii) for an obligation of the corporation;
- (h) approving the payment, satisfaction or compromise of claims against the corporation and the retention of assets for that purpose, and determining the adequacy of provisions for the payment or discharge of obligations of the corporation, whether liquidated, unliquidated, future or contingent;
- (i) disposing of or destroying the documents and records of the corporation;
- (j) on the application of a creditor, the inspectors or the liquidator, giving directions on any matter arising in the liquidation;
- (k) after notice has been given to all interested parties, relieving a liquidator from any omission or default on any terms the court considers appropriate and confirming any act of the liquidator;
- (l) subject to section 208, approving any proposed distribution of the corporation's remaining property, in money or in kind, in accordance with section 209;
- (m) disposing of any property belonging to creditors or members who cannot be found;
- (n) on the application of a director, officer, member, security holder, creditor or the liquidator:
  - (i) staying the liquidation on any terms and conditions that the court considers appropriate;
  - (ii) continuing or discontinuing the liquidation proceedings; or
  - (iii) instructing the liquidator to restore to the corporation all its remaining property; or
- (o) after the liquidator has rendered his or her final account to the court, dissolving the corporation.

**Effect of order**

**202** The liquidation of a corporation commences when a court makes an order for liquidation.

1995, c.N-4.2, s.202.

**Cessation of activities and powers**

**203(1)** Where a court makes an order for liquidation of a corporation:

- (a) the corporation continues in existence but shall cease to carry on its activities except to the extent that the activity, in the opinion of the liquidator, is required for an orderly liquidation; and
- (b) the powers of the directors and members cease and vest in the liquidator, except as specifically otherwise authorized by the court.

(2) The liquidator may delegate any of the powers vested in him or her by clause (1)(b) to the directors or members.

1995, c.N-4.2, s.203.

**Appointment of liquidator**

**204** When making an order for the liquidation of a corporation or at any time after making the order, the court may appoint any person, including a director, an officer or a member of the corporation or any other body corporate, as liquidator of the corporation.

1995, c.N-4.2, s.204.

**Vacancy**

**205** Where an order for the liquidation of a corporation has been made and the office of liquidator is or becomes vacant, the property of the corporation is under the control of the court until the office of liquidator is filled.

1995, c.N-4.2, s.205.

**Duties of liquidator**

**206** A liquidator shall:

- (a) immediately after his or her appointment give notice of that appointment to the Director and to each claimant and creditor known to the liquidator;
- (b) immediately publish notice in the Gazette and by insertion once a week for two consecutive weeks in a newspaper published or distributed in the place where the corporation has its registered office, and take reasonable steps to give notice in every province where the corporation carries on its activities, requiring any person:
  - (i) indebted to the corporation, to render an account and pay to the liquidator at the time and place specified any amount owing;

- (ii) possessing property of the corporation, to deliver it to the liquidator at the time and place specified; and
- (iii) having a claim against the corporation, whether liquidated, unliquidated, future or contingent, to present particulars of the claim in writing to the liquidator not later than two months after the first publication of the notice;
- (c) take into his or her custody and control the property of the corporation;
- (d) open and maintain a trust account for the moneys of the corporation;
- (e) keep accounts of the moneys of the corporation received and paid out by him or her;
- (f) maintain separate lists of the members, creditors and other persons having claims against the corporation;
- (g) if at any time he or she determines that the corporation is unable to pay or adequately provide for the discharge of its obligations, apply to the court for directions;
- (h) deliver to the court and to the Director, at least once in every 12-month period after his or her appointment or more often as the court may require, financial statements of the corporation in the form required by section 142 or in any other form that the liquidator considers appropriate or that the court may require; and
- (i) after his or her final accounts are approved by the court, distribute any remaining property of the corporation in accordance with section 209.

1995, c.N-4.2, s.206.

**Powers of liquidator**

**207(1)** A liquidator may:

- (a) retain lawyers, accountants, engineers, appraisers and other professional advisers;
- (b) bring, defend or take part in any civil, criminal or administrative action or proceeding in the name and on behalf of the corporation;
- (c) carry on the activities of the corporation as required for an orderly liquidation;
- (d) sell by public auction or private sale any property of the corporation;
- (e) do all acts and execute any documents in the name and on behalf of the corporation;
- (f) borrow money on the security of the property of the corporation;
- (g) settle or compromise any claims by or against the corporation; and
- (h) do all other things necessary for the liquidation of the corporation and distribution of its property.

- (2) No liquidator is liable if he or she relies in good faith on:
  - (a) financial statements of the corporation represented to him or her by an officer of the corporation or in a written report of the auditor of the corporation to reflect fairly the financial condition of the corporation; or
  - (b) an opinion, a report or a statement of a lawyer, an accountant, an engineer, an appraiser or other professional adviser retained by the liquidator.
- (3) If a liquidator has reason to believe that any person has in his or her possession or under his or her control, or has concealed, withheld or misappropriated any property of the corporation, the liquidator may apply to the court for an order requiring that person to appear before the court at the time and place designated in the order and to be examined.
- (4) If the examination mentioned in subsection (3) discloses that a person has concealed, withheld or misappropriated property of the corporation, the court may order that person to restore it or pay compensation to the liquidator.

1995, c.N-4.2, s.207.

#### **Costs of liquidation**

- 208(1)** A liquidator shall pay the costs of liquidation out of the property of the corporation and shall pay or make adequate provision for all claims against the corporation.
- (2) Within one year after his or her appointment, and after paying or making adequate provision for all claims against the corporation, the liquidator shall apply to the court:
    - (a) for approval of his or her final accounts and for an order permitting him to distribute, in money or in kind, the remaining property of the corporation in accordance with section 209; or
    - (b) for an extension of time, setting out the reasons.
  - (3) If a liquidator fails to make the application, a member of the corporation may apply to the court for an order requiring the liquidator to show cause why a final accounting and distribution should not be made.
  - (4) A liquidator shall:
    - (a) give notice of his or her intention to make an application pursuant to subsection (2) to the Director, each inspector appointed pursuant to section 201, each member and any person who provided a security or fidelity bond for the liquidation; and
    - (b) publish the notice in a newspaper published or distributed in the place where the corporation has its registered office or as otherwise directed by the court.

- (5) If the court approves the final accounts rendered by the liquidator, the court shall make an order:
- (a) directing the Director to issue a certificate of dissolution;
  - (b) directing the custody or disposal of the documents and records of the corporation; and
  - (c) subject to subsection (6), discharging the liquidator.
- (6) The liquidator shall immediately send a certified copy of the court order to the Director.
- (7) On receipt of the order the Director shall issue a certificate of dissolution in accordance with section 244.
- (8) The corporation ceases to exist on the date shown in the certificate of dissolution.

1995, c.N-4.2, s.208.

**Distribution of remaining property**

- 209(1)** After paying all claims or after making adequate provision to pay all claims against a corporation, the liquidator shall transfer any remaining property of the corporation in accordance with this section.
- (2) Where a person has transferred property to a corporation subject to the condition that it be returned to him or her on the dissolution of the corporation, the liquidator shall transfer that property to that person.
- (3) The liquidator shall transfer any remaining property of a membership corporation other than property mentioned in subsection (2) in accordance with the articles of the corporation.
- (4) Where the articles of a membership corporation do not provide for the transfer of any remaining property of the corporation, on the dissolution of the corporation, the liquidator shall:
- (a) divide any remaining property of the corporation in equal shares according to the number of membership interests in the corporation on that day; and
  - (b) distribute the shares rateably among the persons having the membership interests.
- (5) Where the articles of a charitable corporation provide for the transfer of the property of the corporation on dissolution to any of the following, the liquidator shall transfer any remaining property of the corporation, other than the property mentioned in subsection (2), in accordance with the articles:
- (a) a charitable corporation;
  - (b) a registered charity within the meaning of the *Income Tax Act* (Canada);
  - (c) a municipality;
  - (d) the Government of Canada or a government of any province or an agency of any of those governments;
  - (e) any combination of the bodies described in clauses (a) to (d).

(6) Where the articles of a charitable corporation do not provide for the transfer of the property of the corporation on dissolution in accordance with subsection (5), the liquidator shall, subject to subsection (7), transfer any remaining property of the corporation, other than the property mentioned in subsection (2), to:

- (a) a corporation carrying on the same or similar activities;
- (b) a registered charity within the meaning of the *Income Tax Act* (Canada);
- (c) a municipality;
- (d) the Government of Canada or a government of any province; or
- (e) any combination of the bodies described in clauses (a) to (d).

(7) A liquidator shall not transfer property of a charitable corporation pursuant to subsection (6) except in accordance with an order from the court obtained pursuant to section 201.

(8) Where a liquidator applies to a court pursuant to subsection (7), he or she shall give notice to the Director of the application, and the Director may appear and be heard in person or by counsel.

1995, c.N-4.2, s.209.

#### **Custody of records**

**210(1)** A person who has been granted custody of the documents and records of a dissolved corporation remains liable to produce those documents and records for six years following the day of its dissolution or until the expiry of any other shorter period that may be ordered pursuant to subsection 208(5).

(2) A person who, without reasonable cause, contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000, to imprisonment for a term of not more than six months or to both.

1995, c.N-4.2, s.210.

#### **Interpretation of section**

**211(1)** In this section, “**member**” includes the heirs and legal representatives of a member. («sociétaire»)

(2) Notwithstanding the dissolution of a body corporate pursuant to this Act:

- (a) a civil, criminal or administrative action or proceeding commenced by or against the body corporate before its dissolution may be continued as if the body corporate had not been dissolved;
- (b) subject to *The Limitations Act*, a civil, criminal or administrative action or proceeding may be brought against the body corporate within two years after its dissolution as if the body corporate had not been dissolved; and
- (c) any property that would have been available to satisfy any judgment or order if the body corporate had not been dissolved remains available for that purpose.

(3) Service of a document on a corporation after its dissolution may be effected by serving the document on a person shown in the last notice filed pursuant to section 93 or 100.

(4) Notwithstanding the dissolution of a body corporate pursuant to this Act, a member of a membership corporation to whom any of its property has been distributed is liable to any person claiming pursuant to subsection (2) to the extent of the amount received by that member on the distribution and, subject to *The Limitations Act*, an action to enforce the liability may be brought within two years after the day of the dissolution of the body corporate.

(5) A court may order an action mentioned in subsection (4) to be brought against the persons who were members as a class, subject to any conditions that the court considers appropriate and, where the plaintiff establishes his or her 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 (4), 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 determined.

1995, c.N-4.2, s.211; 2004, c.16, s.6.

#### Unknown claimants

**212(1)** On the dissolution of a body corporate pursuant to this Act, the portion of the property distributable to a creditor or member who cannot be found shall be converted into money and paid to the Minister of Finance.

(2) A payment pursuant to subsection (1) is deemed to be in satisfaction of the debt or claim of the creditor or member.

(3) If at any time a person establishes that he or she is entitled to any moneys paid to the Minister of Finance pursuant to this Act, the Minister of Finance shall pay an equivalent amount to him or her out of the general revenue fund.

1995, c.N-4.2, s.212.

#### Vesting in Crown

**213(1)** Subject to subsection 211(2) and section 212, property of a body corporate that has not been disposed of at the date of its dissolution pursuant to this Act vests in the Crown in right of Saskatchewan.

(2) If a body corporate is revived as a corporation pursuant to section 191, any property, other than money, that vested in the Crown pursuant to subsection (1) and that has not been disposed of shall be returned to the corporation, and the following is to be paid to the corporation out of the general revenue fund:

- (a) an amount equal to any money received by the Crown pursuant to subsection (1);

(b) where property other than money vested in the Crown pursuant to subsection (1) and that property has been disposed of, an amount equal to the lesser of:

- (i) the value of the property on the day it vested in the Crown; and
- (ii) the amount realized by the Crown from the disposition of that property.

1995, c.N-4.2, s.213.

## DIVISION XVII – INVESTIGATION

### Investigation

**214(1)** By application without notice or on any notice that the court may require, a member, a security holder or the Director may apply to the court having jurisdiction in the place where the corporation has its registered office for an order directing an investigation to be made of the corporation and any of its affiliated corporations.

(2) Where, on an application pursuant to subsection (1), it appears to the court that any of the following have taken place, the court may order an investigation to be made of the corporation and any of its affiliated corporations:

- (a) the activities or affairs of the corporation or any of its affiliates are or have been carried on or conducted with intent to defraud any person;
- (b) the activities or affairs of the corporation or any of its affiliates are or have been carried on or conducted, or the powers of the directors are or have been exercised, in a manner that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of a member or security holder;
- (c) the corporation or any of its affiliates was formed for a fraudulent or unlawful purpose or is to be dissolved for a fraudulent or unlawful purpose;
- (d) persons concerned with the formation or activities or affairs of the corporation or any of its affiliates have acted fraudulently or dishonestly.

(3) Where a member or a security holder makes an application pursuant to subsection (1), he or she shall give the Director reasonable notice of the application, and the Director is entitled to appear and be heard in person or by counsel.

(4) An applicant pursuant to this section is not required to give security for costs.

(5) An application without notice pursuant to this section is to be heard in private.

(6) No person may publish anything relating to proceedings without notice pursuant to this section except with the authorization of the court or the written consent of the corporation being investigated.

1995, c.N-4.2, s.214; 2018, c 43, s.13.

**Powers of court**

**215(1)** In connection with an investigation pursuant to this Division, the court may make any order it considers appropriate, including an order:

- (a) to investigate;
  - (b) appointing an inspector, who may be the Director, fixing the remuneration of an inspector, and replacing an inspector;
  - (c) determining the notice to be given to any interested person, or dispensing with notice to any person;
  - (d) authorizing an inspector to enter any premises in which the court is satisfied there might be information relevant to the investigation, and to examine any thing and make copies of any document or record found on the premises;
  - (e) requiring any person to produce documents or records to the inspector;
  - (f) authorizing an inspector to conduct a hearing, administer oaths and examine any person on oath, and prescribing rules for the conduct of the hearing;
  - (g) requiring any person to attend a hearing conducted by an inspector and to give evidence on oath;
  - (h) giving directions to the inspector or any interested person on any matter arising in the investigation;
  - (i) requiring an inspector to make an interim or final report to the court;
  - (j) determining whether a report of an inspector should be published and, if so, ordering the Director to publish the report in whole or in part or to send copies to any person the court designates;
  - (k) requiring an inspector to discontinue an investigation;
  - (l) requiring the corporation to pay the costs of the investigation.
- (2) An inspector shall send to the Director a copy of every report made by the inspector pursuant to this Division.

1995, c.N-4.2, s.215.

**Powers of inspector**

**216(1)** An inspector pursuant to this Division has the powers set out in the order appointing him or her.

- (2) In addition to the powers set out in the order appointing him or her, an inspector appointed to investigate a corporation may furnish to, or exchange information and otherwise co-operate with, any public official in Canada or elsewhere who is authorized to exercise investigatory powers and who is investigating, respecting the corporation, any allegation of improper conduct that is the same as or similar to the conduct described in subsection 214(2).
- (3) On request an inspector shall produce to an interested person a copy of any order made pursuant to subsection 215(1).

1995, c.N-4.2, s.216.

**Hearing in private and right to counsel**

**217(1)** Any interested person may apply to the court for:

- (a) an order that a hearing conducted by an inspector pursuant to this Division be heard in private; and
  - (b) directions on any matter arising in the investigation.
- (2) A person whose conduct is being investigated or who is being examined at a hearing conducted by an inspector pursuant to this Division has a right to be represented by counsel.

1995, c.N-4.2, s.217.

**Incriminating statements**

**218** No person is excused from attending and giving evidence and producing documents and records to an inspector pursuant to this Division by reason only that the evidence tends to incriminate him or her or subject him or her to any proceeding or penalty, but none of that evidence shall be used or is receivable against him or her in any proceeding instituted against him or her other than a prosecution for perjury in giving the evidence or a prosecution pursuant to section 133 or 136 of the *Criminal Code* respecting that evidence.

1995, c.N-4.2, s.218.

**Absolute privilege**

**219** Any oral or written statement or report made by an inspector or any other person in an investigation pursuant to this Division has absolute privilege.

1995, c.N-4.2, s.219.

**Solicitor-client privilege**

**220** Nothing in this Division is to be construed to affect the privilege that exists respecting a solicitor and his or her client.

1995, c.N-4.2, s.220.

**Inquiries**

**221** The Director may make inquiries of any person relating to compliance with this Act.

1995, c.N-4.2, s.221.

## DIVISION XVIII – REMEDIES, OFFENCES AND PENALTIES

**Interpretation of Division**

**222** In this Division:

“**action**” means an action pursuant to this Act;

“**complainant**” means:

- (a) a member or a registered holder or beneficial owner, and a former registered holder or beneficial owner, of a security of a corporation or any of its affiliates;

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- (b) a director or an officer or a former director or officer of a corporation or of any of its affiliates;
- (c) the Director; or
- (d) any other person who, in the discretion of the court, is a proper person to make an application pursuant to this Division.

1995, c.N-4.2, s.222.

**Commencing derivative action**

**223**(1) Subject to subsection (2), a complainant may apply to the court for leave to bring an action in the name and on behalf of a corporation or any of its subsidiaries, or intervene in an action to which that body corporate is a party, for the purpose of prosecuting, defending or discontinuing the action on behalf of the body corporate.

(2) No action may be brought and no intervention in an action may be made pursuant to subsection (1) unless the court is satisfied that:

- (a) the complainant has given reasonable notice to the directors of the corporation or its subsidiary of his or her intention to apply to the court pursuant to subsection (1) if the directors of the corporation or its subsidiary do not bring, diligently prosecute or defend or discontinue the action;
- (b) the complainant is acting in good faith; and
- (c) it appears to be in the interests of the corporation or its subsidiary that the action be brought, prosecuted, defended or discontinued.

1995, c.N-4.2, s.223.

**Powers of court**

**224** In connection with an action brought or intervened in pursuant to section 223, the court, at any time, may make any order it considers appropriate 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 and present security holders of the corporation or its subsidiary instead of to the corporation or its subsidiary; or
- (d) requiring the corporation or its subsidiary to pay reasonable legal fees incurred by the complainant in connection with the action.

1995, c.N-4.2, s.224.

**Application to court re oppression**

**225(1)** A complainant may apply to the court for an order pursuant to this section and the court may make an order to rectify the matters complained of where the court is satisfied that the result of any act or omission of the corporation or any of its affiliates, the manner in which any of the activities or affairs of the corporation or any of its affiliates are or have been carried on or conducted, or the manner in which the powers of the directors of the corporation or any of its affiliates are or have been exercised:

- (a) is oppressive or unfairly prejudicial to any member, security holder, creditor, director or officer or, where the corporation is a charitable corporation, the public generally; or
  - (b) unfairly disregards the interests of any member, security holder, creditor, director or officer or, where the corporation is a charitable corporation, the public generally.
- (2) In connection with an application pursuant to this section, the court may make any interim or final order it considers appropriate, including an order:
- (a) restraining the conduct complained of;
  - (b) appointing a receiver or receiver-manager;
  - (c) amending the articles or bylaws or creating or amending a unanimous member agreement to regulate a corporation's affairs;
  - (d) directing an issue or exchange of securities;
  - (e) appointing directors in place of or in addition to all or any of the directors then in office;
  - (f) directing a corporation, subject to subsection (5), or any other person, to purchase securities of a security holder;
  - (g) directing a corporation, subject to subsection (5), or any other person:
    - (i) to pay to a member any part of the moneys paid by the member for a membership interest; and
    - (ii) to pay to a security holder any part of the moneys paid by the security holder for securities;
  - (h) varying or setting aside a transaction or contract to which a corporation is a party and compensating the corporation or any other party to the transaction or contract;
  - (i) requiring a corporation, within a time specified by the court, to produce to the court or an interested person financial statements in the form required by section 142 or an accounting in whatever form the court may determine;
  - (j) compensating an aggrieved person;

- (k) directing rectification of the registers or other records of a corporation pursuant to section 227;
  - (l) liquidating and dissolving the corporation;
  - (m) directing an investigation pursuant to Division XVII to be made;
  - (n) directing a corporation as to the future investment, disposition and application of its property or property under its control;
  - (o) upholding, modifying or setting aside a decision made pursuant to section 119; or
  - (p) requiring the trial of any issue.
- (3) Where an order made pursuant to this section directs amendment of the articles or bylaws of a corporation:
- (a) the directors shall immediately comply with subsection 182(4); and
  - (b) no other amendment to the articles or bylaws shall be made without the consent of the court, until the court otherwise orders.
- (4) A member is not entitled to dissent pursuant to sections 177 to 181 if an amendment to the articles is effected pursuant to this section.
- (5) No corporation shall make a payment to a member pursuant to clause (2)(f) or (g) where there are reasonable grounds to believe that:
- (a) the corporation is or would after that payment 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 if the payment were made.
- (6) An applicant pursuant to this section may apply in the alternative for an order pursuant to section 198.

1995, c.N-4.2, s.225.

**Evidence of member approval not decisive**

**226(1)** No application made and no action brought or intervened in pursuant to this Division shall 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 may be approved by the members of the body corporate, but evidence of approval by the members may be taken into account by the court in making an order pursuant to section 198, 224 or 225.

(2) No application made and no action brought or intervened in pursuant to this Division shall be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the court given on those terms the court considers appropriate 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.

(3) No complainant is required to give security for costs in any application made or action brought or intervened in pursuant to this Division.

(4) In an application made or an action brought or intervened in pursuant to this Division, the court, at any time, may order the corporation or its subsidiary to pay to the complainant interim costs, including legal fees and disbursements, but the complainant may be held accountable for those interim costs on final disposition of the application or action.

1995, c.N-4.2, s.226.

**Application to court to rectify records**

**227(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 member or security holder of the corporation, or any aggrieved person may apply to a court for an order that the registers or records be rectified.

(2) An applicant pursuant to this section shall give the Director notice of the application and the Director is entitled to appear and be heard in person or by counsel.

(3) In connection with the application, the court may make any order it considers appropriate, 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 members before the rectification;
- (c) determining the right of a party to the proceedings to have his or her name entered or retained in, or deleted or omitted from, the registers or other records of the corporation, whether the issue arises between two or more members, alleged members, security holders or alleged security holders or between the corporation and any members, alleged members, security holders or alleged security holders; or
- (d) compensating a party who has incurred a loss.

1995, c.N-4.2, s.227.

**Application for directions**

**228** The Director may apply to a court for directions respecting any matter concerning his or her duties pursuant to this Act and, on the application, the court may give those directions and make any further order that it considers appropriate.

1995, c.N-4.2, s.228.

**Notice of refusal by Director**

**229(1)** Where the Director refuses to file any articles or other documents required by this Act to be filed by the Director before the articles or other document becomes effective, he or she, within the later of 20 days after the receipt of the document or 20 days after he or she receives any approval that may be required pursuant to any other Act, shall give written notice of the refusal to the person who sent the articles or document, giving reasons for that refusal.

(2) Where the Director does not file or give written notice of his or her refusal to file any articles or document within the time mentioned in subsection (1), the director is deemed for the purposes of section 230 to have refused to file the articles or document.

1995, c.N-4.2, s.229.

**Appeal from decision of Director**

**230** A person who feels aggrieved by a decision of the Director to do any of the following may apply to a court for an order requiring the Director to change that decision and, on the application, the court may so order and make any further order it considers appropriate:

- (a) refuse to file in the form submitted to the Director any articles or other document required by this Act to be filed by the Director;
- (b) give a name, to change or revoke a name, or to refuse to reserve, accept, change or revoke a name pursuant to section 12;
- (c) refuse to grant an exemption pursuant to subsection 2(8), (10) or 10(2), section 143, or subsection 159(2);
- (d) refuse to issue a certificate of discontinuance pursuant to section 175;
- (e) designate or change pursuant to section 187 the district in which a board of trade or chamber of commerce is entitled to the exclusive use of its name;
- (f) refuse to revive a corporation pursuant to section 191;
- (g) dissolve a corporation pursuant to section 196.

1995, c.N-4.2, s.230.

**Restraining or compliance order**

**231** If a corporation or any director, officer, employee, agent, auditor, trustee, receiver, receiver-manager or liquidator of a corporation does not comply with this Act, or with any regulations made pursuant to this Act, articles, bylaws, or a unanimous member agreement, a complainant or a creditor of the corporation, in addition to any other right he or she has, may apply to the court for an order directing that person to comply with, or restraining that person from acting in breach of, any of those provisions and, on the application, the court may so order and make any further order it considers appropriate.

1995, c.N-4.2, s.231.

**Summary application to court**

**232** Where this Act states that a person may apply to the court, the application may be made in a summary manner by petition, originating notice of motion, or otherwise as the rules of court provide, and subject to any order respecting notice to interested parties or costs, or any other order the court considers appropriate.

1995, c.N-4.2, s.232.

**Appeal**

**233** An appeal lies to the Court of Appeal from any order made by the court pursuant to this Act.

1995, c.N-4.2, s.233.

## DIVISION XIX – GENERAL

**Approval of Superintendent of Insurance**

**234** None of the following corporations shall be incorporated or continued pursuant to this Part without the written approval of the Superintendent of Insurance:

- (a) an insurer within the meaning of *The Saskatchewan Insurance Act*;
- (b) a trust company as defined in any regulations made pursuant to this Act;
- (c) a loan company as defined in any regulations made pursuant to this Act; or
- (d) an issuer within the meaning of *The Investment Contracts Act*.

1995, c.N-4.2, s.234.

**Notice of intention**

**235** An applicant for incorporation, or a corporation applying for continuance, that is mentioned in section 234 shall advise the Superintendent of Insurance of its intention to make an application for the written approval required pursuant to that section at least one month before the application is made.

1995, c.N-4.2, s.235.

**Restrictions on business of the corporation**

**236(1)** The articles of incorporation or continuance of a corporation mentioned in clause 234(b),(c) or (d) shall set out any restrictions on the business or powers of the corporation that the Superintendent of Insurance may require by his or her approval pursuant to that section.

(2) No articles sent to the Director by a corporation, mentioned in subsection (1) may be accepted by the Director unless the articles are first approved by the Superintendent of Insurance.

1995, c.N-4.2, s.236.

**237 Repealed.** 2013, c.21, s.3.

**Notice to directors and members**

**238(1)** A notice or document required by this Act, any regulations made pursuant to this Act, the articles or the bylaws to be sent to a member or director of a corporation may be sent by prepaid mail addressed to, or may be delivered personally to:

- (a) the member at his or her latest address as shown in the records of the corporation;
  - (b) the director at his or her latest address as shown in the records of the corporation or in the last notice filed pursuant to section 93 or 100.
- (2) A director named in a notice sent by a corporation to the Director pursuant to section 93 or 100 and filed by the Director is presumed for the purposes of this Act to be a director of the corporation referred to in the notice.
- (3) A notice or document sent in accordance with subsection (1) to a member or director of a corporation is deemed to be received by him or her at the time it would be delivered in the ordinary course of mail unless there are reasonable grounds for believing that the member or director did not receive the notice or document at that time or at all.
- (4) If a corporation sends a notice or 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 send any further notices or documents to the member until he or she informs the corporation in writing of his or her new address.

1995, c.N-4.2, s.238.

**Waiver of notice**

**239** Where a notice or document is required by this Act or the regulations to be sent, the sending of the notice or document may be waived or the time for the notice or document may be waived or abridged at any time with the consent in writing of the person entitled to the notice or document.

1995, c.N-4.2, s.239.

**Certificate of corporation**

**240(1)** A director or an officer of a corporation may sign a certificate stating any fact set out in, or certify a copy of the whole or any part of, any of the following:

- (a) the articles;
- (b) the bylaws;
- (c) a unanimous member agreement;
- (d) the securities register;
- (e) a trust indenture;
- (f) any other contract to which the corporation is a party;
- (g) the minutes of the meetings of the directors, a committee of directors or the members.

(2) A certificate or certified copy described in subsection (1) is admissible in evidence, in the absence of evidence to the contrary, as proof of the facts contained in the certificate or certified copy without proof of the signature or official character of the person appearing to have signed the certificate or certification.

1995, c.N-4.2, s.240.

#### Security certificate

**241** An entry in a securities register of, or a security certificate issued by, a corporation is, in the absence of evidence to the contrary, proof that the person in whose name the security is registered is owner of the securities described in the register or in the certificate.

1995, c.N-4.2, s.241.

#### Membership certificate

**242** An entry in a membership register of a corporation or a membership certificate issued by a corporation is, in the absence of evidence to the contrary, proof that the registered owner is the owner of the membership certificate or card described in the register or in the certificate.

1995, c.N-4.2, s.242.

#### Copies

**243** Where a notice or document is required to be sent to the Director pursuant to this Act, the Director may accept a photostatic or photographic copy.

1995, c.N-4.2, s.243.

#### Execution and filing

**244(1)** In this section:

“**duplicate originals**” means two copies of the articles or statement mentioned in subsection (2); (*«version anglaise seulement»*)

“**statement**” means a statement of intent to dissolve mentioned in section 193 and a statement of revocation of intent to dissolve mentioned in section 194. (*«déclaration»*)

(2) Where this Act requires that a statement or articles relating to a corporation be sent to the Director, unless otherwise specifically provided:

(a) duplicate originals of the statement or articles shall be signed by a director or an officer of the corporation or, in the case of articles of incorporation, by an incorporator; and

(b) on receiving duplicate originals of any statement or articles that are in the prescribed form and any other required documents, the Director shall:

(i) endorse on each of the duplicate originals the word “Registered” and the date of the registration;

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- (ii) issue in duplicate the appropriate certificate and attach to each certificate one of the duplicate originals of the articles or statement;
  - (iii) file a copy of the certificate and attached articles or statement;
  - (iv) send to the corporation or its representative the original certificate and attached articles or statement; and
  - (v) publish, in the Gazette, notice of the issue of the certificate.
- (3) A certificate mentioned in subsection (2) issued by the Director may be dated as of the day he or she receives the articles, statement or court order pursuant to which the certificate is issued or as of any later day specified by the court or person who signed the articles or statement.
- (4) A signature required on a certificate mentioned in subsection (2) may be printed or otherwise mechanically reproduced.
- (5) Notwithstanding subsection (3), a certificate of discontinuance may be dated as of the day a corporation is continued pursuant to the laws of another jurisdiction.

1995, c.N-4.2, s.244; 2013, c.21, s.3.

**Annual return**

**245** Every corporation, on the prescribed date, shall send to the Director an annual return in the prescribed form.

1995, c.N-4.2, s.245.

**Alteration**

**246** The Director may alter a notice or document, other than an affidavit or statutory declaration, if so authorized by the person who sent the document or by his or her representative.

1995, c.N-4.2, s.246.

**Corrections**

**247** If a certificate containing an error is issued to a corporation by the Director, the directors or members of the corporation, on the request of the Director, shall pass the resolutions and send to the Director the documents required to comply with this Act, and take any other steps that the Director may reasonably require, and the Director may demand the surrender of the certificate and issue a corrected certificate.

1995, c.N-4.2, s.247.

**Date of corrected certificate**

**248** A certificate corrected pursuant to section 247 is to bear the date of the certificate it replaces.

1995, c.N-4.2, s.248.

**Notice**

**249** If a corrected certificate issued pursuant to section 247 materially amends the terms of the original certificate, the Director shall immediately give notice of the correction in the Gazette.

1995, c.N-4.2, s.249.

**Authorizing continuance**

**250(1)** Subject to subsections (2) to (6), a body corporate, other than an extraprovincial corporation, by special resolution pursuant to section 174, may:

- (a) authorize the directors of the body corporate to apply for a certificate of continuance; and
- (b) approve the articles of continuance that shall be sent to the Director.

(2) Where a body corporate mentioned in subsection (1) is a body corporate with share capital, the articles of continuance to be sent to the Director shall be accompanied by a special resolution containing the formula, terms and conditions on which:

- (a) the body corporate is converted from a body corporate with shares to a body corporate without shares; and
- (b) the shareholders cease to be shareholders of the body corporate and become members of the corporation.

(3) The Lieutenant Governor in Council, by order or regulation, may permit a body corporate incorporated by or pursuant to an Act to apply pursuant to section 174 for a certificate of continuance but no permission is required by a body corporate incorporated pursuant to *The Companies Act*, *The Business Corporations Act* or any other Act that may be specified in any regulations made pursuant to this Act.

(4) A mutual insurance company incorporated pursuant to *The Companies Act* or *The Saskatchewan Insurance Act* may apply pursuant to section 174 for a certificate of continuance and, on issuance of the certificate, this Act applies to the company except where any provision of this Act is inconsistent with the express provisions of *The Saskatchewan Insurance Act*.

(5) An order of the Lieutenant Governor in Council pursuant to subsection (3) may contain any terms, conditions and restrictions that are considered appropriate.

(6) A body corporate incorporated or deemed to have been incorporated pursuant to *The Societies Act* that was not continued pursuant to this Act by March 31, 1983 is deemed to have been dissolved on April 1, 1983.

(7) Sections 211, 212 and 213 apply to a body corporate deemed to be dissolved pursuant to subsection (6) or dissolved pursuant to *The Societies Act* or whose incorporation was cancelled pursuant to *The Societies Act* except where those sections are inconsistent with this section.

(8) A notice or document may be served on a body corporate mentioned in subsection (7) by personally serving it on a person shown as a director or officer of the body corporate in the last document or notice filed with or sent to the Director.

(9) Where a body corporate is deemed to be dissolved pursuant to subsection (6), or is dissolved pursuant to *The Companies Act* or *The Business Corporations Act* or has had its incorporation cancelled pursuant to *The Societies Act*, it may apply to the Director for a certificate of continuance pursuant to section 174 as if it had not been dissolved or had not had its incorporation cancelled.

(10) A body corporate mentioned in subsection (9) is revived on the date shown on the certificate of continuance issued pursuant to subsection 174(3) and after that, subject to the rights acquired by any person after its dissolution or cancellation of its incorporation, the body corporate is fixed with all rights, privileges and obligations as though it had not been dissolved or had not had its incorporation cancelled.

1995, c.N-4.2, s.250; 2015, c.22, s.12.

**References to *The Societies Act***

**251** Where there is a reference to *The Societies Act* or any provision of that Act in any Act incorporating or continuing a corporation, that reference is deemed to be a reference to this Act or to the corresponding provision of this Act, as the case may be.

1995, c.N-4.2, s.251.

PART III  
**Registration of Extraprovincial Corporations**  
DIVISION I – REGISTRATION

**Extraprovincial corporation may register**

**252** An extraprovincial corporation may apply for registration pursuant to this Part.

1995, c.N-4.2, s.252; 2015, c.22, s.12.

**Refusal of registration**

**253** The Director may refuse registration of an extraprovincial corporation where:

- (a) pursuant to the laws of the jurisdiction where it is incorporated, the extraprovincial corporation may pay dividends to its members;
- (b) the activities of the corporation are not of a benevolent, religious, charitable, philanthropic, educational, agricultural, scientific, artistic, social, professional, fraternal, sporting, athletic or similar purpose; or
- (c) the name of the corporation is for any reason objectionable.

1995, c.N-4.2, s.253; 2015, c.22, s.12.

**Application for registration**

**254** Every application for registration of an extraprovincial corporation shall be made to the Director in the prescribed form and is to be accompanied by:

- (a) **Repealed.** 2013, c.21, s.3.
- (b) a copy of the articles of the corporation verified in a manner acceptable to the Director;

- (c) a power of attorney in accordance with section 260; and
- (d) any other material or information that the Director may require.

1995, c.N-4.2, s.254; 2013, c.21, s.3; 2015, c.22, s.12.

#### **Registration**

**255(1)** On receipt of the application together with the material required pursuant to section 254, and subject to any other provisions of this Act, the Director shall register the extraprovincial corporation and enter the name on the register.

(2) An extraprovincial corporation is registered pursuant to this Act on the day the Director issues a certificate stating the corporation is registered.

(3) Notice of registration shall be published in the Gazette.

1995, c.N-4.2, s.255; 2013, c.21, s.3; 2015, c.22, s.12.

#### **Effect of registration**

**256(1)** Subject to this Act and the laws of Saskatchewan, an extraprovincial corporation may carry on its activities in Saskatchewan while registered pursuant to this Act, subject to the provisions of its articles and certificate of registration.

(2) Registration or renewal of registration of an extraprovincial corporation pursuant to this Act is deemed to authorize all previous acts of the corporation as if the corporation had been registered at the time of those acts, except for the purposes of a prosecution of an offence against this Act.

1995, c.N-4.2, s.256; 2015, c.22, s.12.

#### **Objectionable name**

**257** Where through inadvertence or otherwise an extraprovincial corporation, other than a Canada corporation, is granted, on registration or on a change of name, a name that is, in the Director's opinion, objectionable, the Director may direct the corporation to change its name and the corporation, within 90 days of the day of direction, shall change its name to a name that, in the Director's opinion, is not objectionable.

1995, c.N-4.2, s.257; 2015, c.22, s.12.

#### **Effect of change of name of extraprovincial corporation**

**258** Where an extraprovincial corporation changes its name, the change of name does not affect any rights or obligations of the corporation, or render defective any legal proceedings by or against it, and proceedings that might have been continued or commenced by or against it under the former name may be continued or commenced by or against it under the new name.

1995, c.N-4.2, s.258; 2015, c.22, s.12.

## DIVISION II – DUTIES AND OBLIGATIONS

**Publication of name**

**259(1)** An extraprovincial corporation shall set out its name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the corporation.

(2) Subject to subsection (1), an extraprovincial corporation may carry on business under or identify itself by a name other than its corporate name where that other name has been registered pursuant to *The Business Names Registration Act*.

1995, c.N-4.2, s.259; 2015, c.22, s.12.

**Power of attorney**

**260(1)** Every extraprovincial corporation shall, before registration, file with the Director a duly executed power of attorney in the prescribed form appointing the person named and residing in Saskatchewan to act as its attorney for the purpose of receiving service of process in all suits and proceedings by or against the corporation within Saskatchewan, and for the purpose of receiving all lawful notices, and declaring that service of process respecting those suits and proceedings, and of those notices, on the attorney is legal and binding.

(2) An extraprovincial corporation, by a new or other power of attorney executed and deposited in the manner mentioned in subsection (1), may appoint another attorney within Saskatchewan to replace the attorney formerly appointed.

(3) An extraprovincial corporation, within 15 days after the date of the occurrence of either of the following, shall file another power of attorney with the Director:

(a) the attorney named in a power of attorney filed pursuant to this section ceases to reside in Saskatchewan, dies or resigns;

(b) the power of attorney filed becomes invalid or ineffectual for any reason.

(4) A resignation of an attorney is effective at the later of:

(a) the time a written resignation is sent to the extraprovincial corporation; or

(b) the time specified in the written resignation.

(5) The attorney shall send to the Director a copy of a written resignation sent pursuant to subsection (4).

(6) Every attorney, in the presence of a witness, shall sign the power of attorney form in which that attorney is so appointed declaring that he or she has consented to act as attorney.

1995, c.N-4.2, s.260; 2005, c.22, s.17; 2015, c.22, s.12.

**Notices of change**

**261(1)** An extraprovincial corporation shall send to the Director notice of any change:

- (a) in the address of its head office, whether within or outside Saskatchewan;
- (b) in the address of its attorney; and
- (c) of its directors.

(2) Every notice of change shall be sent in duplicate to the Director who shall return one copy endorsed by him or her to show that the notice has been filed.

(3) A notice of change pursuant to this section shall be sent to the Director not later than 15 days after the change is made.

1995, c.N-4.2, s.261; 2015, c.22, s.12.

**Amendment to articles**

**262(1)** An extraprovincial corporation shall send to the Director a copy of any amendment to its articles within 30 days of the day of the amendment.

(2) The Director may issue a certificate, respecting an amendment mentioned in subsection (1), in a form adapted to the circumstances and may publish a notice of it in the Gazette.

1995, c.N-4.2, s.262; 2013, c.21, s.3; 2015, c.22, s.12.

**Annual return**

**263** Every extraprovincial corporation, on the prescribed date, shall send to the Director an annual return in the prescribed form.

1995, c.N-4.2, s.263; 2015, c.22, s.12.

PART IV  
**Administration**  
DIVISION I – RECORDS

**Register of corporations**

**264(1)** The Director shall maintain a register of corporations containing the name of every corporation that has not been subsequently struck off the register pursuant to section 272 and that is:

- (a) incorporated pursuant to this Act;
- (b) registered pursuant to this Act;
- (c) incorporated or deemed to be incorporated pursuant to *The Societies Act* and whose incorporation has not been cancelled pursuant to that Act;

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- (d) continued as a corporation in accordance with section 174;
  - (e) revived in accordance with section 191 or 250; or
  - (f) restored to the register pursuant to section 272.
- (2) A corporation whose name appears on the register maintained by the Director pursuant to subsection (1) is deemed to be registered pursuant to this Act and any corporation whose name does not appear on the register is deemed not to be registered pursuant to this Act.
- (3) Subject to subsection 244(3), a corporation is registered pursuant to this Act on the day the Director issues:
- (a) the appropriate certificate mentioned in subsection 244(2); or
  - (b) in the case of an extraprovincial corporation, the certificate mentioned in subsection 255(2).
- (4) The register of corporations mentioned in subsection (1) is a public registry of the people of Saskatchewan.
- (5) All information in the register of corporations mentioned in subsection (1) is the property of the Government of Saskatchewan.

1995, c.N-4.2, s.264; 2013, c.21, s.3; 2015, c.22, s.12; 2018, c.43, s.13.

**Documents pursuant to *The Societies Act* are documents pursuant to this Act**

**265** Every document kept, filed or registered by or with the Registrar of Companies pursuant to *The Societies Act* is deemed to be a document sent to the Director as required by this Act.

1995, c.N-4.2, s.265.

**Right to inspect and obtain copies**

**266** A person may:

- (a) examine any document required by this Act or any regulations made pursuant to this Act to be sent to the Director, except a report pursuant to subsection 215(2);
- (b) examine any document issued by the Director pursuant to section 244;
- (c) require a copy or extract of any document mentioned in clause (a) or (b) to be made;
- (d) require the copy or extract made pursuant to clause (c) to be certified by the Director as a true copy.

1995, c.N-4.2, s.266; 2013, c.21, s.3.

**Form of copies**

**267(1)** Where records maintained by the Director are prepared and maintained in a form mentioned in subsection 23(1), the Director may furnish, in written form or in photographic film form, any copy required to be furnished pursuant to section 266.

(2) The Director is not required to produce any document, other than a certificate and attached articles or statement filed pursuant to section 244, after six years from the day he or she received it.

(3) In the case of an extraprovincial corporation, the Director is not required to produce any document filed pursuant to this Act after six years from the day on which the name of the corporation was last on the register.

1995, c.N-4.2, s.267; 2015, c.22, s.12; 2018, c.43, s.13.

**Certificate of Director**

**268(1)** The Director may furnish any person with a certificate stating that:

(a) a document required to be sent to the Director pursuant to this Act has or has not been received by him or her;

(b) a name, whether that of a corporation or not, is or is not on the register;

(c) a name, whether that of a corporation or not, was or was not on the register on a stated date.

(2) Where this Act required or authorizes the Director to issue a certificate or to certify any fact, the certificate or the certification shall be signed by the Director or by a Deputy Director.

(3) Except in a proceeding pursuant to section 197 to dissolve a corporation:

(a) a certificate or certification mentioned in subsection (2) is admissible in evidence as conclusive proof of the facts stated in the certificate or certification without proof of the office or signature of the person purporting to have signed the certificate or certification; and

(b) where this Act requires or authorized the Director to issue a certified copy of any document or extract from a document, the certified copy is admissible in evidence, in the absence of evidence to the contrary, as proof of its contents without proof of the office or signature of the person purporting to have signed the certificate or certification.

1995, c.N-4.2, s.268.

**Director may refuse certain documents**

**269(1)** The Director may refuse to receive, file or register a document where he or she is of the opinion that the document submitted:

(a) contains matter contrary to law;

(b) by reason of any omission or error in description, has not been duly completed;

- (c) does not comply with the requirements of this Act;
  - (d) contains any error, alteration or erasure;
  - (e) is not sufficiently legible;
  - (f) is not sufficiently permanent for the Director's records.
- (2) The Director may request that a document refused pursuant to subsection (1) be amended or completed and resubmitted, or that a new document be submitted in its place.
- (3) **Repealed.** 2013, c.21, s.3.
- (4) **Repealed.** 2013, c.21, s.3.
- (5) No cancellation affects the rights of a creditor of the corporation.
- (6) Notice of any cancellation or reinstatement of a certificate is to be published by the Director in the Gazette.
- (7) On the reinstatement of a certificate, the name of the corporation is to be restored to the register.

1995, c.N-4.2, s.269; 2013, c.21, s.3.

**Form of documents filed**

- 270(1)** Every document sent to the Director is to be in typed or printed form.
- (2) Where any document required pursuant to this Act is not in the English language, the Director may require a notarially certified translation.

1995, c.N-4.2, s.270.

**Service of documents on the Director**

- 270.1** A document may be served on the Director by leaving it at the office of the Director in Regina or by mailing it by registered mail addressed to the Director at that office.

2005, c.22, s.18.

**Proof required by Director**

- 271** The Director may require that a document or information contained in a document required by this Act or the regulations to be sent to the Director be verified by affidavit or otherwise.

1995, c.N-4.2, s.271.

**Striking name of corporation off register**

- 272(1)** The Director may strike the name of a corporation off the register where:
- (a) the Director does not receive any return, notice or other document or fee required by this Act or the regulations to be sent to the Director;
  - (b) the corporation gives notice to the Director that it has ceased to carry on activities in Saskatchewan;

- (c) the corporation is not entitled to carry on activities pursuant to the Act of incorporation of the jurisdiction in which it was incorporated;
  - (d) the corporation is issued a certificate of discontinuance pursuant to section 175;
  - (e) the corporation is dissolved;
  - (f) the corporation does not comply with a direction of the Director pursuant to section 257;
  - (g) the corporation is amalgamated with one or more other corporations;
  - (h) the corporation does not carry out an undertaking given pursuant to this Act or the regulations;
  - (i) **Repealed.** 2013, c.21, s.3.
  - (j) the membership of the corporation is a number that is less than the minimum number prescribed for incorporation by the regulations.
- (2) Where the Director is of the opinion that a corporation is in default pursuant to clause (1)(a), he or she shall send to the corporation a notice advising the corporation of the default and stating that, unless the default is remedied within 30 days of the date of the notice, the name of the corporation will be struck off the register.
- (3) The notice mentioned in subsection (2) shall be served in accordance with section 273 but, in the case of an extraprovincial corporation, the notice may be sent by registered or certified mail to the head office of the corporation within or outside Saskatchewan or to the attorney appointed pursuant to section 260.
- (4) After the expiry of the time mentioned in the notice, the Director may strike the name of the corporation off the register and he or she shall publish notice to that effect in the Gazette.
- (5) Where the name of a corporation is struck off the register pursuant to this Act, the Director, on receipt of an application in the prescribed form, may restore the name of the corporation to the register and may issue a certificate in a form adapted to the circumstances.

1995, c.N-4.2, s.272; 2013, c.21, s.3; 2015, c.22, s.12.

#### **Service on corporation**

**273** A notice or document may be served on a corporation:

- (a) by leaving it at, or mailing it by registered or certified mail addressed to, the registered office of the corporation;
- (b) by personally serving any director, officer, receiver-manager or liquidator of the corporation; or
- (c) by leaving it at the office of, by mailing it by registered mail or certified mail addressed to, or by personally serving any attorney of the corporation appointed pursuant to section 260.

1995, c.N-4.2, s.273.

**Receivers, liquidators, etc.**

**274** Every receiver, receiver-manager or liquidator shall notify the Director immediately of his or her appointment and discharge.

1995, c.N-4.2, s.274.

**Liability of corporation continues**

**275** Where the name of a corporation is struck off the register, the liability of the corporation and of every director, officer or member of the corporation continues and may be enforced as if the name of the corporation had not been struck off the register.

1995, c.N-4.2, s.275.

## DIVISION II – DISABILITIES, OFFENCES AND PENALTIES

**Unregistered corporation incapable of maintaining actions**

**276(1)** A corporation that is not registered pursuant to this Act is not capable of commencing or maintaining any action or other proceeding in a court respecting a contract made in whole or in part in Saskatchewan in the course of, or in connection with, its activities.

(2) In any action or proceeding, the onus is on the extraprovincial corporation to prove that it was registered.

(3) No provision of this section applies to a Canada corporation or to a corporation registered pursuant to *The Business Corporations Act*.

(4) In this section, “**court**” means any court.

1995, c.N-4.2, s.276; 2015, c.22, s.12.

**Action may be maintained if corporation becomes registered**

**277** Where a corporation was not registered but becomes registered pursuant to this Act, any action or proceeding mentioned in subsection 276(1) may be maintained as if the extraprovincial corporation had been registered before the institution of the action or proceeding.

1995, c.N-4.2, s.277; 2015, c.22, s.12.

**Resumption of action**

**278** Where an action or other proceeding has been dismissed or otherwise decided against a corporation on the ground that an act or transaction of the corporation was invalid or prohibited by reason of the corporation not having been registered pursuant to this Act, the corporation, on becoming registered pursuant to this Act and on obtaining leave of the court, may maintain a new action or other proceeding as if no judgment had been rendered or entered.

1995, c.N-4.2, s.278.

**Acts of unregistered corporation not invalid**

**279** No act of a corporation, including the holding of title to land or of any interest in land by a corporation, is invalid by reason only that the corporation was not registered pursuant to this Act.

1995, c.N-4.2, s.279.

**Offence respecting reports**

**280(1)** A person who makes or assists in making a report, return, notice or other document required by this Act or the regulations to be sent to the Director or to any other person that contains an untrue statement of a material fact or omits to state a material fact required or necessary to make a statement in the document not misleading in the light of the circumstances in which it was made is guilty of an offence.

(2) A person who is guilty of an offence pursuant to subsection (1) is liable on summary conviction to a fine of not more than \$5,000, to imprisonment for a term of not more than six months or to both.

(3) If the person guilty of an offence pursuant to subsection (1) is a body corporate, then, whether or not the body corporate has been prosecuted or convicted, any director or officer of the body corporate who knowingly authorizes, permits or acquiesces in that failure is also guilty of an offence and liable on summary conviction to a fine of not more than \$5,000, to imprisonment for a term of not more than six months or to both.

(4) No person is guilty of an offence pursuant to subsection (1) or (3) if the untrue statement or omission was unknown to him or her and in the exercise of reasonable diligence could not have been known to him or her.

1995, c.N-4.2, s.280.

**Offence**

**281** Any person who, without reasonable cause, contravenes a provision of this Act or the regulations for which no punishment is provided is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

1995, c.N-4.2, s.281.

**Order to comply**

**282(1)** Where a person is guilty of an offence pursuant to this Act or the regulations, any court in which proceedings respecting the offence are taken, in addition to any punishment it may impose, may order that person to comply with the provisions of this Act or the regulations for the contravention of which he or she has been convicted.

(2) A prosecution for an offence pursuant to this Act may be commenced at any time within two years from the time when the subject-matter of the complaint arose.

(3) No civil remedy for an act or omission is suspended or affected by reason that the act or omission is an offence pursuant to this Act.

1995, c.N-4.2, s.282.

## DIVISION III – REGULATIONS

**Regulations**

**283** For the purpose of carrying out the provisions of this Act, the Lieutenant Governor in Council may make regulations:

- (a) defining any word or expression used in this Act but not defined in this Act;
- (b) prescribing any matter or thing required or authorized by this Act to be prescribed;
- (c) **Repealed.** 2013, c.21, s.3.
- (d) classifying membership corporations or charitable corporations;
- (e) prescribing, notwithstanding section 5, the minimum number of individuals or corporate bodies required to incorporate a membership corporation or a charitable corporation or any class of a membership corporation or a charitable corporation;
- (f) prescribing the format and contents of annual returns, notices and other documents required to be sent to the Director or to be issued by him or her;
  - (f.1) prescribing the format and contents of any notice or other document sent to or by the Director by fax, email or other method of electronic transmission;
  - (f.2) respecting the sending or filing of notices or other documents, including:
    - (i) respecting the notices or other documents that may be sent or filed by fax, email or other method of electronic transmission;
    - (ii) respecting the persons or classes of persons who may send or file notices or other documents by fax, email or other method of electronic transmission;
    - (iii) respecting signatures and attestation in notices or other documents sent or filed by fax, email or other method of electronic transmission and the execution, adoption or authorization of notices or other documents sent or filed by fax, email or other method of electronic transmission; and
    - (iv) respecting the time and day or date when a notice or other document sent to or filed with the Director is deemed to be received;
  - (f.3) prescribing the qualifications of persons eligible to be appointed as an auditor of a corporation;
  - (f.4) prescribing, for the purposes of subsections 150(4) and 151(2), the qualifications of persons eligible to be appointed to conduct a review of the financial statements of a corporation;
- (g) prescribing rules with respect to exemptions permitted by this Act;
- (h) prescribing the bylaws of corporations;
- (i) prescribing that, for the purposes of clause 142(a), the standards, as they exist from time to time, of an accounting body named in the regulations shall be followed;

- (j) exempting any corporation or class of corporations from any provision of this Act;
- (k) respecting any matter required for the efficient administration of this Act;
- (l) respecting any matter considered necessary for carrying out the purposes of this Act.

1995, c.N-4.2, s.283; 2005, c.22, s.19; 2013, c.21, s.3; 2015, c.22, s.10.

#### **Fees and charges of Director**

**283.1(1)** The minister may, by order, establish:

- (a) the fees, charges and taxes payable with respect to all services provided pursuant to this Act; and
  - (b) the method of payment of those fees, charges and taxes.
- (2) The minister shall cause notice of the fees, charges and taxes established pursuant to subsection (1) to be published in the Gazette.
- (3) Notwithstanding subsection (1), the Director may enter into an agreement with a person to provide a special service to that person if, in the opinion of the Director, a fee, charge, or tax mentioned in subsection (1) is not adequate to allow the Director to provide that service to the person.
- (4) If the Director considers it appropriate or necessary, the Director may:
- (a) waive any fees, charges or taxes, in whole or in part; or
  - (b) refund any fees, charges or taxes, in whole or in part.
- (5) The Director is not required to perform any function pursuant to this Act or the regulations until the appropriate fee, charge or tax is paid or arrangements for its payment are made.
- (6) All revenues derived from fees, charges or taxes imposed or collected pursuant to this Act are to be paid to and are the property of the Crown, unless the Lieutenant Governor in Council directs otherwise.

2013, c.21, s.3.

#### **Transitional – activities**

**283.2(1)** In this section, “**former Director**” means the person who was the Director before the coming into force of this section and includes any person who was appointed as a Deputy Director before the coming into force of this section.

(2) Any activity undertaken by the former Director and not completed before the coming into force of this section may be continued by the Director or any Deputy Director after the coming into force of this section as if it had been undertaken by the Director after the coming into force of this section.

(3) Every number, certificate, order, approval, notice and other document that was issued by the former Director, and every registration, decision or other action made or taken by the former Director, pursuant to this Act or any other Act that imposes or confers a duty, power or function on the former Director before the coming into force of this section that is valid on the day before the coming into force of this section is continued and may be dealt with as if it were issued, made or taken by the Director.

2013, c.21, s.3.

#### **Immunity**

**283.3** Except as otherwise provided in this Act, no action or proceeding lies or shall be instituted against the Crown, the minister, the Director, any Deputy Director, any other person authorized to act on behalf of the Director or any employee of the Crown if that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any responsibility imposed by this Act, the regulations or any other Act.

2013, c.21, s.3.

## **PART V Repeal and Coming into Force**

#### **S.S. 1979, c.N-4.1 repealed**

**284** *The Non-profit Corporations Act* is repealed.

1995, c.N-4.2, s.284.

#### **Coming into force**

**285** This Act comes into force on assent.

1995, c.N-4.2, s.285.