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## Part 1 – Definitions

### Definitions

**1** In this Act:

**"alter"** includes create, add to, vary and delete;

**"auditor's report"**, in relation to financial statements of a society required under section 35 [*financial statements*], means the auditor's report prepared under section 117 [*auditor's report*] on those financial statements;

**"bylaws"** means the bylaws described in section 11 [*bylaws*];

**"consent resolution of directors"** means a directors' resolution passed in accordance with section 54 (2) [*proceedings of directors*];

**"constitution"** means the constitution described in section 10 [*constitution*];

**"court"** means the Supreme Court of British Columbia;

**"deliver"** means deliver in accordance with section 30 [*how record is delivered*];

**"delivery address"**, in relation to the registered office of a society, means the delivery address of the registered office set out in the statement of directors and registered office of the society;

**"director"**, in relation to a society, means an individual who has been designated, elected or appointed, as the case may be, in accordance with section 42 [*designation, election and appointment of directors*], as a member of the board of directors of the society, regardless of the title by which the individual is called;

**"extraprovincial non-share corporation"** means a corporation, without share capital, that is incorporated, amalgamated, continued or otherwise formed by or under the laws of a jurisdiction other than British Columbia;

**"file"**, in relation to a record that must or may be filed with the registrar, means file the record in accordance with section 209 (1) [*filing of records*];

**"former Act"** means the *Society Act*, R.S.B.C. 1996, c. 433;

**"furnish"**, in relation to a record that must or may be furnished by the registrar, means furnish the record in accordance with section 210 [*furnishing of records by registrar*];

**"general meeting"** means a general meeting of the members of a society;

**"home jurisdiction"**, in relation to an extraprovincial non-share corporation, means the jurisdiction in which the extraprovincial non-share corporation is incorporated, amalgamated, continued or otherwise formed;

**"legal proceeding"** includes a civil, criminal, quasi-criminal, administrative or regulatory proceeding;

**"mailing address"**, in relation to the registered office of a society, means the mailing address of the registered office set out in the statement of directors and registered office of the society;

**"member"**, in relation to a society, means

- (a) an applicant for the incorporation of the society who remains a member of the society, and
- (b) a person who becomes, in accordance with the bylaws, a member of the society and who remains a member of the society;

**"ordinary resolution"** means any of the following:

- (a) a resolution passed at a general meeting by a simple majority of the votes cast by the voting members, whether cast in person or by proxy;
- (b) a resolution consented to in writing, after being sent to all of the voting members, by at least 2/3 of the voting members;
- (c) if the bylaws authorize indirect or delegate voting or voting by mail or another means of communication, including by fax, email or other electronic means, a resolution passed by a simple majority of the votes cast, in accordance with the bylaws, on the resolution;

**"pre-existing society"** means a corporation that, immediately before the coming into force of this section, was a society under the former Act;

**"property"** includes rights and interests;

**"publish"**, in relation to notice that must or may be published by the registrar, means publish notice in accordance with section 211 [*publication*];

**"qualified recipient"** means

- (a) a society, other than a member-funded society as defined in section 190 [definitions],
- (b) a community service cooperative as defined in section 1 (1) [definitions and interpretation] of the *Cooperative Association Act*,
- (c) a registered charity as defined in section 248 (1) of the *Income Tax Act* (Canada) or another qualified donee as defined in section 149.1 (1) of that Act,
- (d) trustees on trust for a charitable purpose, or
- (e) a person or other entity that is included in this definition by regulation;

**"register of societies"** means the register of societies and extraprovincial non-share corporations maintained by the registrar;

**"registrar"** means the individual appointed as the Registrar of Companies under section 400 [appointment of registrar and staff] of the *Business Corporations Act*;

**"send"** means send in accordance with section 29 [how record is sent];

**"senior manager"**, in relation to a society, means an individual appointed by the directors of the society under section 61 (1) [senior managers];

**"society"** means

- (a) a society that is incorporated, amalgamated, continued or converted under this Act, or
- (b) a pre-existing society;

**"special resolution"** means any of the following:

- (a) a resolution passed at a general meeting by at least 2/3 of the votes cast by the voting members, whether cast in person or by proxy;
- (b) a resolution consented to in writing by all of the voting members;
- (c) if the bylaws authorize indirect or delegate voting or voting by mail or another means of communication, including by fax, email or other electronic means, a resolution passed by at least 2/3 of the votes cast, in accordance with the bylaws, on the resolution;

**"spouse"** means a person who

(a) is married to another person, or

(b) is living with another person in a marriage-like relationship;

**"statement of directors and registered office"** means the statement of directors and registered office described in section 12 [*statement of directors and registered office*];

**"subsidiary"**, in relation to a society, means a corporation that is controlled by the society, and, for the purposes of this definition, a corporation is controlled by a society if the votes carried by the shares or memberships in the corporation that are held directly or indirectly by the society are sufficient, if exercised, to elect or appoint a majority of the members of the board of directors or other governing body of the corporation;

**"voting member"** means a member of a society who has the right to vote under section 84 (1) [*right to vote*].

## **Part 2 – Fundamental Matters in Relation to Societies**

### **Division 1 – Nature of Societies**

#### **Purposes**

- 2** (1) Subject to subsection (2), a society may be formed under this Act for one or more lawful purposes, including, without limitation, agricultural, artistic, benevolent, charitable, educational, environmental, patriotic, philanthropic, political, professional, recreational, religious, scientific, social or sporting purposes.
- (2) A society must not have, as one of its purposes, the carrying on of a business for profit or gain, but carrying on a business to advance or support the purposes of a society is not prohibited by this subsection.
- (3) The registrar may, in writing and giving reasons, order a society to alter its purposes if the registrar considers one or more of those purposes to be contrary to this Act or otherwise unlawful.

#### **No share capital**

- 3** A society must not have capital divided into shares.

#### **Restrictions on distributions**

- 4** A society must not distribute any of its money or other property other than

- (a) for full and valuable consideration,
- (b) in furtherance of the purposes of the society,
- (c) to a qualified recipient,
- (d) for a distribution required or authorized by this Act, including, without limitation, a distribution made in accordance with this Act on the society's dissolution, or liquidation and dissolution, or for a distribution otherwise required by law, or
- (e) for a distribution that is
  - (i) of a type authorized by the regulations, and
  - (ii) made in accordance with the regulations.

### **Liability of members**

- 5** A member of a society is not, in that capacity, liable for a debt or other liability of the society.

### **Capacity and powers of society**

- 6** A society has the capacity, rights, powers and privileges of an individual of full capacity.

### **Restricted activities and powers**

- 7** (1) A society must not
- (a) carry on any activity or exercise any power that the society is restricted by its bylaws from carrying on or exercising or that is contrary to its purposes, or
  - (b) exercise any of the society's powers in a manner inconsistent with those restrictions or purposes.
- (2) An act of a society, including a transfer of property to or by the society, is not invalid merely because the act is contrary to subsection (1).

### **Persons may rely on authority of societies and directors, senior managers and agents**

- 8** (1) Subject to subsection (2), a society may not assert against a person dealing with the society that
- (a) the bylaws of the society have not been complied with,
  - (b) the individuals who are shown as directors in the register of societies are not the directors of the society,

- (c) a person held out by the society as a director, senior manager or agent
    - (i) is not, in fact, a director, senior manager or agent, as the case may be, of the society,
    - (ii) has no authority to exercise the powers and perform the duties that are customary in the activities of the society or usual for such director, senior manager or agent, or
    - (iii) has acted contrary to a limitation or restriction on the person's powers or functions,
  - (d) a record issued by a director, senior manager or agent of the society who has actual or usual authority to issue the record is not valid or genuine, or
  - (e) a record the society is required to keep under section 20 [*records to be kept*] is not accurate or complete.
- (2) Subsection (1) does not apply in respect of a person who has knowledge, or, by virtue of the person's relationship to the society, ought to have knowledge, of a situation described in paragraphs (a) to (e) of that subsection.

## **Division 2 – Name and Governing Documents**

### **Name**

- 9** (1) To reserve a name for the purposes of this Act, a person must apply to the registrar.
- (2) After receiving an application to reserve a name under subsection (1), the registrar may reserve the name for a period of 56 days from the date of reservation or for any longer period the registrar considers appropriate.
- (3) The registrar may, on request, extend a reservation of a name for the period the registrar considers appropriate.
- (4) The registrar
  - (a) may not reserve a name under this section unless the name complies with the requirements, if any, prescribed by regulation, and
  - (b) may refuse to reserve a name under this section if the registrar, for good and valid reasons, disapproves of the name.
- (5) The registrar may, in writing and giving reasons, order a society to change its name if

- (a) the name of the society is contrary to the requirements, if any, prescribed by regulation, or
  - (b) the registrar, for good and valid reasons, disapproves of the name.
- (6) If a society has a seal, the society must have its name in legible characters on the seal.

## **Constitution**

- 10** (1) A society must have a constitution that sets out
- (a) the name of the society, and
  - (b) the purposes of the society.
- (2) A society must not have a constitution that contains provisions in addition to the name and purposes of the society.

## **Bylaws**

- 11** (1) A society must have bylaws that contain provisions respecting the internal affairs of the society, including provisions respecting the following:
- (a) membership in the society, including
    - (i) the admission of members and any rights and obligations arising from membership,
    - (ii) if there is more than one class of members, a description of each class and the rights and obligations that apply to each class, and
    - (iii) if members may cease to be in good standing, the conditions under which that may occur;
  - (b) the society's directors, including
    - (i) the manner in which directors must or may be elected or appointed, and
    - (ii) the expiry of directors' terms of office, if other than at the close of the next annual general meeting after a director's designation, election or appointment;
  - (c) general meetings, including
    - (i) the quorum for general meetings, if greater than 3 voting members,
    - (ii) whether proxy voting is permitted, and
    - (iii) if the bylaws authorize indirect or delegate voting or voting by mail or another means of communication, including by fax,

email or other electronic means, the rules respecting how that voting is to occur;

(d) any restrictions on

- (i) the activities that the society may carry on, or
- (ii) the powers that the society may exercise.

- (2) Without limiting subsection (1), a society may, in its bylaws, adopt, with or without alteration, all or any of the set of provisions that are, by regulation, prescribed and designated as the "Model Bylaws".
- (3) A society must not have bylaws that contain a provision that is inconsistent with this Act, the regulations or any other enactment of British Columbia or Canada, and if a provision of the bylaws is inconsistent with this Act, the regulations or any other enactment of British Columbia or Canada, the provision has no effect.
- (4) If the bylaws of a society provide for a higher voting threshold than the threshold set out in the definition of "special resolution" in section 1 [definitions] to effect any action that, under this Act, requires authorization by special resolution, the provisions of the bylaws prevail if they
- (a) set out the higher voting threshold as a fraction or percentage of the votes cast or as a specific number of votes,
  - (b) establish the higher voting threshold by requiring a unanimous decision of all the voting members, or
  - (c) set out a formula for calculating the higher voting threshold.
- (5) For certainty, an action referred to in subsection (4) includes altering all or part of one or more provisions of a society's constitution or bylaws.
- (6) Despite subsection (4), a society must not have a bylaw that provides for a higher voting threshold to remove a director from office under section 50 (1) (a) [removal of directors].

### **Statement of directors and registered office**

- 12** (1) A society must have a statement of directors and registered office that sets out
- (a) the full names and addresses of the directors of the society, and
  - (b) the delivery address and mailing address of the registered office of the society.
- (2) For the purposes of subsection (1) (a), the address of a director may be either of the following:



- (a) the director's residential address;
- (b) another address at which the director can usually be served with records between the hours of 9 a.m. and 4 p.m., local time, from Monday to Friday, inclusive.

## **Division 3 — Incorporation of Societies**

### **Application for incorporation**

- 13** One or more persons may incorporate a society by filing with the registrar an incorporation application that
- (a) sets out the name reserved under section 9 [*name*] for the society and the reservation number given for that name,
  - (b) contains
    - (i) a constitution,
    - (ii) bylaws, and
    - (iii) a statement of directors and registered office, and
  - (c) sets out the full name and contact information of each of the applicants for incorporation.

### **Incorporation**

- 14** (1) A society is incorporated when the incorporation application is filed with the registrar under section 13.
- (2) After a society is incorporated under subsection (1), the registrar must
- (a) issue a certificate of incorporation in which is recorded
    - (i) the name and incorporation number of the society, and
    - (ii) the date and time of the incorporation,
  - (b) furnish to the society
    - (i) the certificate of incorporation, and
    - (ii) a certified copy of the following records contained in the incorporation application filed with the registrar under section 13:
      - (A) the constitution of the society;
      - (B) the bylaws of the society;
      - (C) the statement of directors and registered office of the society;
      - (D) the portion of the incorporation application that sets out the full names and contact information of the applicants

for incorporation, and

(c) publish notice of the society's incorporation.

(3) Whether or not the requirements precedent and incidental to incorporation have been complied with, a notation in the register of societies that a society has been incorporated is conclusive evidence for the purposes of this Act and for all other purposes that the society has been duly incorporated with the name, and on the date and time, shown in the register of societies.

## **Division 4 — Alterations to Constitution and Bylaws**

### **Alterations to constitution**

**15** (1) A society may, by filing with the registrar a constitution alteration application, alter its constitution to

(a) change its name, or

(b) alter its purposes.

(2) A society must not submit a constitution alteration application to the registrar for filing unless

(a) the alteration proposed by the application has been authorized by special resolution, and

(b) in the case of a change of the society's name, the new name is reserved under section 9 [*name*].

(3) An alteration proposed in a constitution alteration application takes effect when the constitution alteration application is filed with the registrar.

(4) After a society alters its constitution under this section, the registrar

(a) must furnish to the society a certified copy of the altered constitution, and

(b) must, if the alteration changes the name of the society,

(i) issue a certificate of change of name that sets out the particulars of the change of name,

(ii) furnish to the society the certificate of change of name, and

(iii) publish notice of the change of name.

(5) Despite subsection (2) (a), authorization by special resolution is not required in respect of an alteration to a society's constitution if the registrar has ordered the alteration under section 2 (3) [*purposes*] or 9 (5) [*name*].

### **Effect of change of name**

- 16** A change of the name of a society does not affect any of its rights or obligations, or render defective any legal proceedings by or against it, and any legal proceedings that may have been continued or commenced by or against the society under its former name may be continued or commenced by or against it under its new name.

### **Alterations to bylaws**

- 17** (1) A society may alter its bylaws by filing with the registrar a bylaw alteration application.
- (2) A society must not submit a bylaw alteration application to the registrar for filing unless the alteration proposed by the application has been authorized by special resolution.
- (3) An alteration proposed in a bylaw alteration application takes effect when the bylaw alteration application is filed with the registrar.
- (4) After a society alters its bylaws under this section, the registrar must furnish to the society a certified copy of the altered bylaws.
- (5) Even if the bylaws of a society identify a provision of the bylaws as being unalterable, the society may alter the provision in accordance with this Act.

## **Part 3 — Registered Office and Records**

### **Division 1 — Registered Office**

#### **Registered office**

- 18** A society must maintain a registered office in British Columbia.

#### **Change of registered office**

- 19** (1) A society may change one or both of the delivery address and mailing address of its registered office by
- (a) filing with the registrar a notice of change of address of registered office, or
  - (b) including the change of address in an annual report filed with the registrar under section 73 [*society must file annual report*].
- (2) A change of address of registered office takes effect on the day after the record referred to in subsection (1) (a) or (b), as the case may be, is filed with the registrar.

- (3) After a society changes an address of its registered office under this section, the registrar must
- (a) alter the society's statement of directors and registered office to reflect the change, and
  - (b) furnish to the society a certified copy of the altered statement of directors and registered office.

## **Division 2 — Society Records**

### **Records to be kept**

**20** (1) A society must keep the following records:

- (a) the society's certificate of incorporation;
- (b) each certified copy, furnished to the society by the registrar, of the following records:
  - (i) the constitution of the society;
  - (ii) the bylaws of the society;
  - (iii) the statement of directors and registered office of the society;
- (c) each confirmation, other certificate or certified copy of a record furnished to the society by the registrar, other than in response to a request;
- (d) a copy of each order made in respect of the society by
  - (i) any court or tribunal, in Canada or elsewhere, or
  - (ii) a federal, provincial or municipal government body, agency or official, including the registrar;
- (e) the society's register of directors, including contact information provided by each director;
- (f) each written consent to act as director referred to in section 42 (4) (a) [*designation, election and appointment of directors*] and each written resignation of a director;
- (g) a copy of each record described in section 56 (3) (c) [*disclosure of director's interest*] or 62 (3) (c) [*disclosure of senior manager's interest*] evidencing a disclosure by a director or senior manager;
- (h) the society's register of members, organized by different classes of member if different classes exist, including contact information provided by each member;
- (i) the minutes of each meeting of members, including the text of each resolution voted on at the meeting;

- (j) a copy of each ordinary resolution or special resolution, other than a resolution included in the minutes referred to in paragraph (i), and, in the case of a resolution consented to in writing by the voting members, a copy of each of the consents to that resolution;
  - (k) the financial statements of the society required under section 35 [*financial statements*] and the auditor's report, if any, on those financial statements.
- (2) In addition to the records described in subsection (1), a society must keep the following records:
- (a) the minutes of each meeting of directors, including
    - (i) a list of all of the directors at the meeting, and
    - (ii) the text of each resolution voted on at the meeting;
  - (b) a copy of each consent resolution of directors and a copy of each of the consents to that resolution;
  - (c) adequate accounting records for each of the society's financial years, including a record of each transaction materially affecting the financial position of the society.

### **Old records need not be kept**

**21** For the purposes of this Act, a society is not required to keep a record under section 20 if

- (a) the record is no longer relevant to the activities or internal affairs of the society, and
- (b) 10 years have passed since the record was created or, if the record has been altered, since the record was last altered.

### **Location of records**

**22** (1) A society must ensure that the records it is required to keep under section 20 [*records to be kept*],

- (a) in the case of records that are not in electronic form, are kept at the society's registered office, and
- (b) in the case of records that are in electronic form, are available for inspection at the society's registered office by means of a computer terminal or other electronic technology.

(2) Despite subsection (1), the directors of a society may, by directors' resolution, specify a location in British Columbia, other than the society's registered office, at which the records, or specified records or classes of records, of the society may be kept or made available for inspection, in

accordance with subsection (1), and, if the directors specify a location under this subsection, the records, specified records or classes of records may be kept or made available for inspection, as the case may be, at that location.

- (3) If, under subsection (2), the directors of a society specify a location, other than the society's registered office, at which records of the society may be kept or made available for inspection, the society must make available for inspection at its registered office a written notice
- (a) identifying the specified location, and
  - (b) listing the records or classes of records that are kept or made available for inspection, as the case may be, at that location.

### **Maintenance of records**

**23** (1) A society may keep a record it is required to keep under section 20 [*records to be kept*] in any form that allows the record to be inspected and copied in accordance with sections 24 [*inspection of records*] to 28 [*copies of financial statements*].

- (2) A society must take reasonable precautions in preparing and keeping the records it is required to keep under section 20 so as to
- (a) keep those records in a complete state,
  - (b) avoid loss or destruction of or damage to those records,
  - (c) avoid falsification of entries made in those records, and
  - (d) facilitate simple, reliable and prompt access to those records.

### **Inspection of records**

**24** (1) A member of a society may, without charge, inspect a record the society is required to keep under section 20 (1) [*records to be kept*].

- (2) A member of a society, without charge,
- (a) may inspect the portion of a record the society is required to keep under section 20 (2) (a) or (b) that evidences a disclosure, by a director or senior manager, described in section 56 (3) (a) or (b) [*disclosure of director's interest*] or 62 (3) (a) or (b) [*disclosure of senior manager's interest*], and
  - (b) may, unless the bylaws provide otherwise, inspect any other record the society is required to keep under section 20 (2).

(3) A director of a society may, without charge, inspect a record the society is required to keep under section 20.

- (4) A person, other than a member or director, may, if and to the extent permitted by the bylaws, inspect a record a society is required to keep under section 20, other than the register of members.
- (5) A society may charge a reasonable fee, not to exceed the fee, if any, specified in, or calculated in accordance with, the regulations, for an inspection referred to in subsection (4).
- (6) A society may impose a reasonable period of notice before which, and reasonable restrictions on the times during which, a person, other than a director, may inspect a record.

### **Inspection of register of members may be restricted**

- 25** (1) The directors of a society may, by directors' resolution, restrict, as set out in subsection (2), the members' rights to inspect the society's register of members if the directors are of the opinion that the inspection would be harmful to the society or to the interests of one or more of its members.
- (2) Despite section 24 (1), if the members' rights to inspect a society's register of members are restricted under subsection (1) of this section, members may not inspect the register of members except in accordance with this section.
- (3) A member of a society whose right to inspect the society's register of members has been restricted under subsection (1) may apply in writing to the society to inspect the register of members.
- (4) An application under subsection (3) must include a statement of the applicant that
- (a) sets out the applicant's name, and
  - (b) states that the information obtained from the inspection of the register of members will not be used except as permitted under subsection (7).
- (5) A member who makes an application under this section may, without charge, inspect the register of members.
- (6) A society may impose a reasonable period of notice before which, and reasonable restrictions on the times during which, a member may inspect the register of members under this section.
- (7) A person who has inspected the register of members under this section must not use the information obtained from the inspection except in connection with

- (a) the requisitioning or calling of a general meeting under section 75 [*requisition of general meeting*],
- (b) the submission of a proposal under section 81 [*members' proposals*],
- (c) the calling of a general meeting under section 138 [*filling vacancy in office of liquidator*], or
- (d) an effort to influence the voting of members.

### **Inspection of register of directors**

- 26** A person must not use contact information that the person obtains from an inspection of a society's register of directors referred to in section 20 (1) (e) [*records to be kept*] except in connection with matters related to the activities or internal affairs of the society.

### **Copies of records**

- 27** (1) If a person who is entitled under section 24 [*inspection of records*] or 25 [*inspection of register of members may be restricted*] to inspect a record of a society requests a copy of the record and pays the fee, if any, charged under subsection (3) of this section for the copy, the society must provide the person with a copy of that record.
- (2) A society must provide a copy referred to in subsection (1) to the person seeking to obtain the copy by sending the copy to that person promptly, but in no case later than 14 days, after receipt of the request and payment of the fee, if any.
- (3) A society may charge a reasonable fee, not to exceed the fee, if any, specified in, or calculated in accordance with, the regulations, for a copy provided under subsection (1).
- (4) Despite subsection (3),
- (a) a director of a society is entitled to receive, without charge, a copy of a record the society is required to keep under section 20 [*records to be kept*], and
  - (b) a member of a society is entitled to receive, without charge, one copy of
    - (i) the current constitution and bylaws of the society, and
    - (ii) the most recent financial statements, as defined in section 28 (1), of the society.

### **Copies of financial statements**



- 28** (1) In this section, "**financial statements**", in relation to a society, means the financial statements of the society required under section 35 [*financial statements*] and the auditor's report, if any, on those financial statements.
- (2) If a person, other than a person who is entitled under section 24 [*inspection of records*] to inspect the financial statements of a society, requests a copy of the financial statements and pays the fee, if any, charged under subsection (4) of this section for the copy, the society must provide the person with a copy of those financial statements.
- (3) A society must provide a copy referred to in subsection (2) to the person seeking to obtain the copy by sending the copy to that person promptly, but in no case later than 14 days, after receipt of the request and payment of the fee, if any.
- (4) A society may charge a reasonable fee, not to exceed the fee, if any, specified in, or calculated in accordance with, the regulations, for a copy provided under subsection (2).

### **Division 3 – Distribution of Records**

#### **How record is sent**

- 29** A record is sent by or to a person for the purposes of this Act if the record is sent as follows:
- (a) in the manner, if any, agreed to by the sender and the intended recipient;
  - (b) in a manner specified in the bylaws, including, without limitation, by making the record available for pick-up at the society's registered office, if
    - (i) there is no agreement under paragraph (a), and
    - (ii) the record is being sent by one of the following to any of the following:
      - (A) the society;
      - (B) a member of the society;
      - (C) a director of the society;
      - (D) a senior manager of the society;
  - (c) if there is no agreement under paragraph (a), and paragraph (b) does not apply, by any of the following methods:
    - (i) by mail to the intended recipient's most recent mailing address known to the sender;

- (ii) by delivery to the intended recipient in accordance with section 30;
- (iii) if the intended recipient has provided an email address or fax number for that purpose, by email or fax to that email address or fax number.

### **How record is delivered**

**30** A record is delivered to a person for the purposes of this Act if the record is delivered as follows:

- (a) by leaving the record with the person or an agent of the person;
- (b) in respect of a record that is being delivered to a person other than an individual,
  - (i) if the record is being delivered to a society at the delivery address of the registered office of the society, by leaving the record in a mailbox or mail slot for that delivery address, or
  - (ii) in any other case, by leaving the record in a mailbox or mail slot for the address at which the person carries on activities or business.

### **When society receives record**

**31** A record is deemed to be received by a society for the purposes of this Act on the first to occur of the following:

- (a) the delivery of the record to a director or senior manager of the society;
- (b) the beginning of the day on
  - (i) the 3rd day after the record is delivered to the delivery address of the registered office of the society,
  - (ii) the 5th day after the record is mailed to the mailing address of the registered office of the society, and
  - (iii) if the society has provided an email address or fax number to which records may be sent to the society, the 3rd day after the record is emailed or faxed to that email address or fax number.

### **How record is served on society**

**32** Without limiting any other enactment, a record may be served on a society by

- (a) delivering the record to the delivery address, or mailing the record by registered mail to the mailing address, of the registered office of

- the society, or
- (b) delivering the record to a director, senior manager, receiver, receiver manager or liquidator of the society.

## **Part 4 — Finance**

### **Division 1 — Investment and Borrowing**

#### **Investment of society's funds**

- 33** A society may invest its funds only
- (a) in accordance with its bylaws, or
- (b) in an investment in which a prudent investor might invest, unless the bylaws prohibit that investment.

#### **Borrowing and issuance of securities**

- 34** (1) Subject to subsection (2), a society may
- (a) borrow money, and
- (b) issue bonds, debentures, notes or other evidences of debt obligations
- (i) at any time,
- (ii) to any person, and
- (iii) for any consideration
- that the directors may determine.
- (2) The bylaws of a society may restrict or prohibit the society's ability to borrow money or to issue bonds, debentures, notes or other evidences of debt obligations.

### **Division 2 — Financial Statements**

#### **Financial statements**

- 35** (1) The directors of a society must present the following to the members at each annual general meeting:
- (a) financial statements prepared in accordance with this section;
- (b) the auditor's report, if any, on those financial statements.
- (2) The financial statements referred to in subsection (1) (a) must be prepared in relation to the period

- (a) beginning,
    - (i) if the society has not yet completed a financial year, on the date the society was incorporated under this Act, or
    - (ii) if the society has completed a financial year, immediately after the end of the preceding financial year, and
  - (b) ending not more than 6 months before the annual general meeting at which the financial statements are to be presented.
- (3) The financial statements referred to in subsection (1) (a) must be prepared in accordance with the requirements, if any, set out in the regulations.

### **Reporting on remuneration of directors, employees and contractors**

- 36** (1) The financial statements of a society required under section 35 must include a note providing the information required by the regulations in respect of
- (a) the remuneration, if any, paid by the society to the directors in the period in relation to which the financial statements are prepared, and
  - (b) the remuneration paid by the society in that period,
    - (i) unless subparagraph (ii) applies, to the employees of the society, and to persons under a contract for services with the society, whose remuneration was at least the amount specified in the regulations, or
    - (ii) if there are more than 10 persons described in subparagraph (i) whose remuneration was at least the amount specified in the regulations, to the 10 most highly remunerated persons.
- (2) A note in the financial statements referred to in subsection (1) need not identify directors, employees or other persons referred to in that subsection by name.

### **Reporting on financial assistance**

- 37** (1) In this section, "**financial assistance**" means financial assistance by means of a loan, a guarantee, an indemnity, the provision of security or another transaction that is included in this definition by regulation.
- (2) The financial statements of a society required under section 35 [*financial statements*] must include a note that sets out the nature and amount of any financial assistance given by the society in the period in relation to which the financial statements are prepared, but the note need not identify the recipient by name.

- (3) Subsection (2) does not apply in relation to financial assistance given by a society if the financial assistance is given in the ordinary course of the society's activities in furtherance of the purposes of the society.

### **Issuance of financial statements**

- 38** (1) A society must not issue, publish or distribute financial statements of the society required under section 35 [*financial statements*] unless the financial statements
- (a) have been approved by the directors and signed by one or more directors to confirm that the approval was obtained, and
  - (b) have attached to them the auditor's report, if any, on those financial statements.
- (2) A society must not issue, publish or distribute financial statements of the society that purport to be audited financial statements unless the financial statements have, in fact, been audited and an auditor's report has been prepared in relation to them.

### **Copies of financial statements of subsidiary**

- 39** (1) In this section, "**security holder**" means the holder of a bond, debenture, note or other evidence of debt obligation, whether secured or unsecured, of a society.
- (2) If a member or security holder of a society that has a subsidiary requests a copy of the subsidiary's most recent financial statements and pays the fee, if any, charged under subsection (4) for the copy, the society must provide the member or security holder with a copy of those financial statements, if any, along with any report of the subsidiary's auditor prepared on those financial statements.
- (3) A society must provide a copy referred to in subsection (2) to the person seeking to obtain the copy by sending the copy to that person promptly, but in no case later than 14 days, after receipt of the request and payment of the fee, if any.
- (4) A society may charge a reasonable fee, not to exceed the fee, if any, specified in, or calculated in accordance with, the regulations, for a copy provided under subsection (2).

## **Part 5 — Management**

### **Division 1 — Directors**

## **Number and residency of directors**

- 40** A society must have at least 3 directors and at least one of the directors must be ordinarily resident in British Columbia.

## **Employment of directors**

- 41** A majority of the directors of a society must not receive or be entitled to receive remuneration from the society under contracts of employment or contracts for services, other than remuneration for being a director.

## **Designation, election and appointment of directors**

- 42** (1) The first directors of a society incorporated under this Act are the individuals who are designated as the society's directors on the first statement of directors and registered office filed with the registrar under this Act in respect of the society.
- (2) To become a director of a society, other than a first director, an individual must be elected or appointed to that office in accordance with the bylaws.
- (3) The bylaws of a society may provide that an individual who holds a particular office or who has a specified attribute is, by virtue of holding that office or having that attribute, appointed as a director of the society.
- (4) A designation, election or appointment of an individual as a director is invalid unless
- (a) the individual consents in writing to be a director of the society, or
  - (b) the designation, election or appointment is made at a meeting at which the individual is present and the individual does not refuse, at the meeting, to be a director.

## **Directors must be qualified**

- 43** (1) A person must not be a director of a society if the person is not qualified under either section 44 or the bylaws to be a director.
- (2) A director of a society who is not, or who ceases to be, qualified under either section 44 or the bylaws to be a director must promptly resign.

## **Persons qualified to be directors**

- 44** (1) A person is qualified to be a director of a society only if the person is an individual who is at least 18 years of age.
- (2) Despite subsection (1), an individual who is 16 or 17 years of age is qualified to be a director of a society if provided for in the regulations.

- (3) Despite subsections (1) and (2), an individual is not qualified to be a director of a society if the individual is
- (a) found by any court, in Canada or elsewhere, to be incapable of managing the individual's own affairs,
  - (b) an undischarged bankrupt, or
  - (c) convicted in or out of British Columbia of an offence in connection with the promotion, formation or management of a corporation or unincorporated entity, or of an offence involving fraud, unless
    - (i) the court orders otherwise,
    - (ii) 5 years have elapsed since the last to occur of
      - (A) the expiration of the period set for suspension of the passing of sentence without a sentence having been passed,
      - (B) the imposition of a fine,
      - (C) the conclusion of the term of any imprisonment, and
      - (D) the conclusion of the term of any probation imposed, or
    - (iii) a pardon was granted or issued, or a record suspension was ordered, under the *Criminal Records Act*(Canada) and the pardon or record suspension, as the case may be, has not been revoked or ceased to have effect.

### **Additional qualifications of directors**

- 45** Without limiting section 44, the bylaws of a society may set out requirements that an individual must meet in order to be qualified to be a director.

### **Remuneration and reimbursement of directors**

- 46** (1) Unless permitted by the bylaws, a society must not pay to a director of the society remuneration for being a director.
- (2) Subject to subsection (3), a society may reimburse a director for reasonable expenses necessarily incurred by the director in performing his or her duties as a director.
- (3) The bylaws of a society may restrict the reimbursement of a director under subsection (2) by doing one or more of the following:
- (a) imposing conditions on the payment of reimbursement;
  - (b) limiting the amount of reimbursement payable;
  - (c) prohibiting reimbursement.

- (4) Despite subsections (1) to (3), payment to a director by a society of remuneration or reimbursement authorized by the bylaws or this section is subject to any condition, limitation or prohibition on the payment provided for in the regulations.

### **Validity of acts of directors**

- 47** (1) An act of a director is not invalid merely because of a defect in the director's designation, election or appointment or in the qualifications of that director.
- (2) An act of a society is not invalid merely because
- (a) fewer than the required number of directors have been designated, elected or appointed,
  - (b) the residency requirements for the directors have not been met, or
  - (c) a majority of the directors, contrary to section 41 [*employment of directors*], receive or are entitled to receive remuneration from the society under contracts of employment or contracts for services.

## **Division 2 – Changes Respecting Directors**

### **When director ceases to hold office**

- 48** (1) A director of a society ceases to hold office when
- (a) the director's term of office, if any, expires,
  - (b) the director ceases, in accordance with the bylaws, to hold office,
  - (c) the director resigns or dies, or
  - (d) the director is removed from office in accordance with section 50 (1) [*removal of directors*].
- (2) Unless the bylaws provide otherwise, for the purposes of subsection (1) (a), a director's term of office expires at the close of the next annual general meeting after the director's designation, election or appointment.

### **Resignation of directors**

- 49** A director of a society who intends to resign must give his or her resignation to the society in writing, and the resignation takes effect on the later to occur of the following:
- (a) the receipt by the society of the written resignation;
  - (b) if the written resignation specifies that the resignation is to take effect on a specified date, on a specified date and time or on the occurrence of a specified event,



- (i) if a date is specified, the beginning of the day on the specified date,
- (ii) if a date and time are specified, the date and time specified, or
- (iii) if an event is specified, the occurrence of the event.

## **Removal of directors**

**50** (1) A director of a society may be removed from office

- (a) by special resolution, despite any provision of the bylaws, or
- (b) without limiting paragraph (a), by the method, if any, provided for in the bylaws.

(2) Unless the bylaws provide otherwise, if a director is removed from office under subsection (1), an individual may be elected or appointed, by ordinary resolution, to serve as director for the balance of the term of the removed director.

## **Registry filings respecting directors**

**51** (1) Subject to subsection (2), a society must, promptly after a change in its directors or in the address of any of its directors, file with the registrar a notice of change of directors.

(2) If a change of directors occurs at an annual general meeting, the society may, instead of complying with subsection (1), provide notice of the change in the annual report the society files with the registrar under section 73 [*society must file annual report*].

(3) After a society files a notice of change of directors under subsection (1) or an annual report under subsection (2) providing notice of a change of directors, the registrar must

- (a) alter the society's statement of directors and registered office to reflect the change, and
- (b) furnish to the society a certified copy of the altered statement of directors and registered office.

## **Division 3 — Role of Directors**

### **Functions of directors**

**52** Subject to this Act, the regulations and the bylaws, the directors of a society must manage, or supervise the management of, the activities and internal affairs of the society.

## **Duties of directors**

- 53** (1) A director of a society must, when exercising the powers and performing the functions of a director of the society,
- (a) act honestly and in good faith with a view to the best interests of the society,
  - (b) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances,
  - (c) act in accordance with this Act and the regulations, and
  - (d) subject to paragraphs (a) to (c), act in accordance with the bylaws of the society.
- (2) Without limiting subsection (1), a director of a society, when exercising the powers and performing the functions of a director of the society, must act with a view to the purposes of the society.
- (3) This section is in addition to, and not in derogation of, any enactment or rule of law or equity relating to the duties or liabilities of directors of a society.
- (4) Nothing in a contract or the bylaws of a society relieves a director from
- (a) the duty to act in accordance with this Act and the regulations, or
  - (b) liability that, by any enactment or rule of law or equity, would otherwise attach to the director in respect of negligence, default, breach of duty or breach of trust of which the director may be guilty in relation to the society.

## **Proceedings of directors**

- 54** (1) Unless the bylaws of a society provide otherwise, the directors may meet at any location, on any notice and in any manner convenient to the directors.
- (2) The directors of a society may pass a directors' resolution without a meeting if all of the directors, or, if provided for in the bylaws, a lesser number of those directors, consent to the resolution in writing or in any other manner provided for in the bylaws.

## **Application of this Act to persons performing functions of director**

- 55** (1) Subject to the regulations, if a person who is not a director of a society performs functions of a director, the following provisions of this Act apply to the person as if that person were a director of the society:
- (a) section 36 [*reporting on remuneration of directors, employees and contractors*];
  - (b) section 41 [*employment of directors*];

- (c) section 46 [*remuneration and reimbursement of directors*];
- (d) section 53 [*duties of directors*];
- (e) Division 4 [*Directors' Conflicts of Interest*] of this Part;
- (f) Division 5 [*Directors' Liability*] of this Part;
- (g) Division 7 [*Indemnification of Directors and Senior Managers and Payment of Expenses*] of this Part;
- (h) section 106 [*relief in legal proceedings*];
- (i) section 116 (2) [*examination and access*];
- (j) section 147 [*duty to assist liquidator*];
- (k) section 157 [*liabilities survive*];
- (l) section 213 (4) [*investigation of society*];
- (m) a provision prescribed by regulation.

(2) Subsection (1) does not apply to a person who performs the functions of a director of a society if the person is a senior manager or performs those functions under the direction or control of a director or senior manager.

## **Division 4 — Directors' Conflicts of Interest**

### **Disclosure of director's interest**

- 56** (1) This section applies to a director of a society who has a direct or indirect material interest in
- (a) a contract or transaction, or a proposed contract or transaction, of the society, or
  - (b) a matter that is or is to be the subject of consideration by the directors, if that interest could result in the creation of a duty or interest that materially conflicts with that director's duty or interest as a director of the society.
- (2) A director to whom this section applies must
- (a) disclose fully and promptly to the other directors the nature and extent of the director's interest,
  - (b) abstain from voting on a directors' resolution or consenting to a consent resolution of directors in respect of the contract, transaction or matter referred to in subsection (1),
  - (c) leave the directors' meeting, if any,

- (i) when the contract, transaction or matter is discussed, unless asked by the other directors to be present to provide information, and
    - (ii) when the other directors vote on the contract, transaction or matter, and
  - (d) refrain from any action intended to influence the discussion or vote.
- (3) A disclosure under subsection (2) (a) must be evidenced in at least one of the following records:
- (a) the minutes of a meeting of directors;
  - (b) a consent resolution of directors;
  - (c) a record addressed to the directors that is delivered to the delivery address, or mailed by registered mail to the mailing address, of the registered office of the society.
- (4) If all of the directors of a society have disclosed under subsection (2) (a) a direct or indirect material interest, described in subsection (1), in a contract, transaction or matter,
- (a) any or all of the directors may, despite subsection (2) (b), vote on a directors' resolution or consent to a consent resolution of directors in respect of the contract, transaction or matter, and
  - (b) subsection (2) (c) and (d) does not apply.
- (5) Despite subsection (1), this section does not apply to a director of a society in respect of a contract, transaction or matter that relates to any of the following:
- (a) payment to the director by the society of remuneration for being a director or reimbursement to the director by the society of the director's expenses as described in section 46 [*remuneration and reimbursement of directors*];
  - (b) indemnification of or payment to the director under section 64 (1), (2) or (4) [*indemnification and payment of expenses*];
  - (c) the purchase or maintenance of insurance, referred to in section 66 [*insurance*], for the benefit of the director.

## **Accountability**

- 57** A director of a society to whom section 56 applies must pay to the society an amount equal to any profit made by the director as a consequence of the society entering into or performing a contract or transaction unless

- (a) the director discloses the director's interest in the contract or transaction in accordance with, and otherwise complies with, section 56, and, after the disclosure, the contract or transaction is approved by a directors' resolution, or
- (b) the contract or transaction is approved by special resolution after the nature and extent of the director's interest in the contract or transaction has been fully disclosed to the members.

### **Validity of contracts**

**58** The fact that a director is in any way, directly or indirectly, materially interested in a contract or transaction that a society has entered into or proposes to enter into does not make the contract or transaction void, but, if neither of the approvals referred to in section 57 (a) and (b) has occurred, the court may, on the application of the society or another person whom the court considers to be an appropriate person to make an application under this section, do one or more of the following:

- (a) if the society has not yet entered into the contract or transaction, prohibit the society from entering into the proposed contract or transaction;
- (b) if the society has entered into the contract or transaction and the contract or transaction was not reasonable and fair to the society at the time it was entered into, set aside the contract or transaction;
- (c) make any other order the court considers appropriate.

## **Division 5 – Directors' Liability**

### **Directors' liability for money or other property distributed**

**59** (1) Directors of a society who

- (a) vote for a resolution passed at a meeting of directors, or
- (b) consent to a consent resolution of directors

authorizing a distribution, contrary to this Act or the bylaws, of money or other property are jointly and severally liable to restore to the society any money or other property that is so distributed and not otherwise recovered by the society.

(2) The liability imposed under subsection (1) is in addition to, and not in derogation of, any liability imposed on a director by any enactment or rule of law or equity.

- (3) A legal proceeding to enforce a liability imposed by this section may not be commenced more than 2 years after the date of the applicable resolution.
- (4) Without limiting any other rights a director has at law, a director who has satisfied a liability arising under this section is entitled to contribution from the other directors who voted for or consented to the resolution that gave rise to the liability.
- (5) In a legal proceeding under this section, the court may, on the application of a society or a member or director of a society, do one or more of the following:
  - (a) order a person to pay or deliver to the society any money or other property the court considers was improperly distributed to that person;
  - (b) join a person as a party to the legal proceeding;
  - (c) make any other order the court considers appropriate.

### **Limitations on liability**

- 60** A director of a society is not liable under section 59 and has complied with his or her duties under section 53 (1) [*duties of directors*] if the director, reasonably and in good faith, relied on any of the following:
- (a) financial statements of the society represented to the director to fairly reflect the financial position of the society
    - (i) by a director or senior manager responsible for the preparation of the financial statements, or
    - (ii) in a written report of the auditor of the society;
  - (b) a written report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to a statement made by that person;
  - (c) a statement of fact represented to the director by another director or a senior manager of the society to be correct;
  - (d) any record, information or representation the court considers provides reasonable grounds for the actions of the director, whether or not
    - (i) the record was forged, fraudulently made or inaccurate, or
    - (ii) the information or representation was fraudulently made or inaccurate.

## **Division 6 — Senior Managers**

## Senior managers

- 61** (1) Subject to any restrictions or requirements in the bylaws, the directors of a society may appoint one or more senior managers of the society to exercise the directors' authority to manage the activities or internal affairs of the society as a whole or in respect of a principal unit of the society.
- (2) The appointment of a senior manager does not of itself create any contractual rights, and the removal of a senior manager is without prejudice to any contractual rights, or rights under law, of the senior manager.
- (3) A person who is not qualified under section 44 [*persons qualified to be directors*] to be a director of a society is not qualified to be a senior manager of the society.
- (4) Unless the bylaws provide otherwise and subject to section 41 [*employment of directors*], a director of a society may be a senior manager of the society.
- (5) The following provisions apply in relation to a senior manager of a society as if the senior manager were a director of the society:
- (a) section 47 (1) [*validity of acts of directors*];
  - (b) section 53 [*duties of directors*];
  - (c) section 106 [*relief in legal proceedings*].

## Disclosure of senior manager's interest

- 62** (1) This section applies to a senior manager of a society who has a direct or indirect material interest in
- (a) a contract or transaction, or a proposed contract or transaction, of the society, or
  - (b) a matter that is or is to be the subject of consideration by the directors, if that interest could result in the creation of a duty or interest that materially conflicts with the senior manager's duty or interest as a senior manager of the society.
- (2) A senior manager to whom this section applies must
- (a) disclose fully and promptly to the directors the nature and extent of the senior manager's interest,
  - (b) if the contract, transaction or matter referred to in subsection (1) is to be discussed at a directors' meeting at which the senior manager is present, leave the directors' meeting
    - (i) when the contract, transaction or matter is discussed, unless asked by the directors to be present to provide information, and

- (ii) when the directors vote on the contract, transaction or matter, and
  - (c) refrain from any action intended to influence the discussion or vote.
- (3) A disclosure under subsection (2) (a) must be evidenced in at least one of the following records:
  - (a) the minutes of a meeting of directors;
  - (b) a consent resolution of directors;
  - (c) a record addressed to the directors that is delivered to the delivery address, or mailed by registered mail to the mailing address, of the registered office of the society.
- (4) Sections 57 [*accountability*] and 58 [*validity of contracts*] apply to a senior manager of a society as if the senior manager were a director of the society except that, in applying section 57, in addition to any other necessary changes, references in that section to section 56 are to be read as references to this section.

## **Division 7 — Indemnification of Directors and Senior Managers and Payment of Expenses**

### **Definitions**

**63** In this Division:

- "eligible party"**, in relation to a society, means an individual who is or was a director or senior manager of the society or who holds or held an equivalent position in a subsidiary of the society;
- "eligible proceeding"** means a legal proceeding or investigative action, whether current, threatened, pending or completed, in which an eligible party or a representative of the eligible party, by reason of the eligible party being or having been a director or senior manager of the society, or holding or having held an equivalent position in a subsidiary of the society,
  - (a) is or may be joined as a party, or
  - (b) is or may be liable for or in respect of a penalty in, or expenses related to, the legal proceeding or investigative action;
- "expenses"** includes costs, charges and expenses, including legal and other fees, but does not include penalties;



**"penalty"** means a judgment, penalty or fine awarded or imposed in, or an amount paid in settlement of, an eligible proceeding;

**"representative"**, in relation to an eligible party, means an heir or personal or other legal representative of the eligible party.

### **Indemnification and payment of expenses**

- 64** (1) Subject to section 65, a society may, except to the extent that it is restricted from doing so under its bylaws, do one or both of the following:
- (a) indemnify an eligible party or a representative of the eligible party against all penalties to which the eligible party or the representative is or may be liable in respect of an eligible proceeding;
  - (b) after the final disposition of an eligible proceeding, pay the expenses actually and reasonably incurred by an eligible party or a representative of the eligible party in respect of the eligible proceeding.
- (2) Subject to section 65 and subsection (3) of this section, a society must, after the final disposition of an eligible proceeding, pay the expenses actually and reasonably incurred by an eligible party or a representative of the eligible party in respect of the eligible proceeding if
- (a) neither the eligible party nor the representative has been reimbursed for those expenses, and
  - (b) the eligible party was not judged by a court, in Canada or elsewhere, or by another competent authority to have committed any fault or to have omitted to do anything that the eligible party ought to have done.
- (3) A society is not required under subsection (2) to pay the expenses of an eligible party or a representative of the eligible party if the eligible party or the representative is liable for or in respect of those expenses by reason of the eligible party holding or having held a position in a subsidiary of the society that is equivalent to the position of director or senior manager of a society.
- (4) Subject to section 65 and subsection (5) of this section, a society may, except to the extent that it is restricted from doing so under its bylaws, pay, as they are incurred in advance of the final disposition of an eligible proceeding, the expenses actually and reasonably incurred by an eligible party or a representative of the eligible party in respect of the eligible proceeding.

- (5) A society must not make the payments referred to in subsection (4) unless the society first receives from the eligible party or the representative of the eligible party a written undertaking that, if it is ultimately determined that the payment of expenses is prohibited by section 65, the eligible party or the representative will repay the amounts advanced.

### **Indemnification or payment prohibited**

- 65** (1) A society must not, under section 64 (1), (2) or (4), indemnify or pay the expenses of an eligible party or a representative of the eligible party in respect of an eligible proceeding, in either of the following circumstances:
- (a) if, in relation to the subject matter of the eligible proceeding, the eligible party did not act honestly and in good faith with a view to the best interests of the society or the subsidiary of the society, as the case may be;
  - (b) in the case of an eligible proceeding other than a civil proceeding, if the eligible party did not have reasonable grounds for believing that the eligible party's conduct, in respect of which the eligible proceeding was brought, was lawful.
- (2) If an eligible proceeding is brought by or on behalf of a society, or a subsidiary of a society, the society must not, under section 64 (1), (2) or (4), indemnify or pay the expenses of an eligible party or a representative of the eligible party in respect of the eligible proceeding unless the court, on the application of the society, approves the indemnification or payment of expenses.

### **Insurance**

- 66** A society may purchase and maintain insurance, for the benefit of an eligible party or a representative of the eligible party, against any liability that may be incurred by reason of the eligible party being or having been a director or senior manager of the society or holding or having held an equivalent position in a subsidiary of the society.

## **Part 6 – Members and General Meetings**

### **Division 1 – Membership**

#### **Membership**

- 67** (1) A person may, in accordance with the bylaws, be admitted as a member of a society.

- (2) Unless the bylaws provide otherwise, an individual under the age of 19 years may be admitted as a member of a society.
- (3) A person, other than an individual, who is admitted as a member of a society must authorize an individual to be the person's representative to act on that person's behalf, and, if so authorized, the representative is entitled to exercise the same powers on behalf of that person as that person could exercise if that person were an individual member of the society.
- (4) Unless the bylaws provide otherwise, membership in a society is not transferable.

### **Classes of membership**

- 68** If the bylaws of a society provide for more than one class of membership,
- (a) the bylaws must set out the rights and obligations that apply to each class, and
  - (b) at least one of those classes must consist of voting members.

### **Termination of membership**

- 69** (1) A member's membership in a society terminates when
- (a) the member's term of membership, if any, expires,
  - (b) the membership terminates in accordance with the bylaws,
  - (c) the member resigns,
  - (d) the member, in the case of an individual, dies or, in the case of a partnership or corporation, dissolves, or
  - (e) the member is expelled in accordance with the bylaws or under section 70 (2).
- (2) Unless the bylaws provide otherwise, the rights of a person as a member of a society, including any rights in the property of the society, cease to exist when the person's membership in the society terminates.

### **Discipline and expulsion of member**

- 70** (1) The bylaws of a society may provide for the discipline or expulsion, or both, of members.
- (2) Unless the bylaws provide otherwise, a member of a society may be disciplined or expelled by special resolution.
- (3) Before a member of a society is disciplined or expelled under subsection (2) or the bylaws, the society must

- (a) send to the member written notice of the proposed discipline or expulsion, including reasons, and
- (b) give the member a reasonable opportunity to make representations to the society respecting the proposed discipline or expulsion.

## **Division 2 – General Meetings and Annual Reports**

### **Annual general meetings**

- 71** (1) Subject to subsections (2) and (3), the directors of a society must call annual general meetings so that an annual general meeting is held in each calendar year.
- (2) A society is not required to hold an annual general meeting in the calendar year in which the society is incorporated.
- (3) On the application of a society made on or before December 31 of a calendar year in which an annual general meeting of the society must be held under subsection (1), the registrar may authorize the society, on any terms the registrar considers appropriate, to hold the annual general meeting on or before a specified date that is not later than March 31 of the calendar year immediately following that calendar year, in which event
- (a) the meeting must be held on or before the date specified by the registrar, and
  - (b) if the meeting is held in accordance with paragraph (a) of this subsection, the meeting is deemed, for the purposes of this Act, to have been held in the preceding calendar year and not in the calendar year in which the meeting is actually held.

### **Deemed annual general meeting**

- 72** (1) An annual general meeting is deemed, for the purposes of this Act, to have been held in accordance with section 71 if
- (a) the matters that must, under this Act or the bylaws, be dealt with at that meeting, including the presentation under section 35 (1) [*financial statements*] of the financial statements and auditor's report, if any, to the members, are dealt with in a resolution, and
  - (b) all of the voting members consent in writing to the resolution on or before the date by which the annual general meeting must be held under section 71.
- (2) If an annual general meeting is deemed to have been held under subsection (1),

- (a) the meeting is deemed to have been held on the date on which the last voting member consents to the resolution referred to in that subsection or on any later date, specified in the resolution, that falls on or before the date by which the annual general meeting must be held under section 71, and
- (b) the requirements under this Act and the bylaws in respect of calling, giving notice of and holding the annual general meeting are deemed to have been met.

### **Society must file annual report**

- 73** (1) A society must, within 30 days after an annual general meeting is held, file with the registrar an annual report that includes the date on which the meeting was held.
- (2) Unless subsection (3) applies, if a society fails to hold an annual general meeting in a calendar year as required under section 71 (1) [*annual general meetings*], the society must file with the registrar, on or before January 31 of the calendar year following the calendar year in which the meeting was required to be held, an annual report indicating that an annual general meeting was not held.
- (3) If the registrar specifies under section 71 (3) a date on or before which an annual general meeting must be held and if, contrary to section 71 (3) (a), an annual general meeting is not held on or before that date, the society must, within 30 days after that date, file an annual report indicating that an annual general meeting was not held.
- (4) If each of the annual reports of a society for 2 consecutive calendar years indicates that an annual general meeting was not held, the registrar may send to the society a notice that the society may be dissolved under section 214 [*involuntary dissolution by registrar*] unless the society
- (a) holds an annual general meeting in the calendar year in which the notice is sent, and
  - (b) indicates in an annual report filed with the registrar for that calendar year that the annual general meeting referred to in paragraph (a) of this subsection was held.

### **Other general meetings**

- 74** Subject to section 71 [*annual general meetings*], the directors of a society may at any time call a general meeting.

### **Requisition of general meeting**

**75** (1) In this section:

**"requisition threshold"** means

- (a) 10% of the voting members of a society, unless paragraph (b) applies, or
- (b) if the bylaws of the society provide for a percentage lower than 10%, that percentage;

**"requisitionists"** means the voting members referred to in subsection (3) (b).

- (2) Voting members of a society may requisition the directors to call a general meeting for the purposes stated in the requisition.
- (3) A requisition under this section
  - (a) may be made in a single record or may consist of several records in similar form,
  - (b) must contain the names of, and be signed by, not fewer than the number of voting members that constitutes the requisition threshold for the society,
  - (c) must state, in 200 words or less, the business to be considered at the meeting, including any special resolution the requisitionists wish to have considered at the meeting,
  - (d) must be delivered to the delivery address, or mailed by registered mail to the mailing address, of the registered office of the society, and
  - (e) must be sent to each individual listed in the society's register of directors referred to in section 20 (1) (e) [*records to be kept*].
- (4) Promptly after a society receives a requisition mailed or delivered under subsection (3) (d),
  - (a) the directors must call a general meeting, to be held within 60 days after the date of the society's receipt of the requisition, to consider the business stated in the requisition, and
  - (b) the society must send, with the notice of the meeting, the text of the statement referred to in subsection (3) (c).
- (5) A society, or a person acting on behalf of a society, does not incur any liability merely because the society or person complies with subsection (4) (b).
- (6) If, within 21 days after the date of the society's receipt of a requisition, the directors do not call a general meeting, a majority of the requisitionists may

call the meeting.

- (7) A general meeting called under subsection (6) must be
- (a) called within 60 days after the expiry of the 21 day period referred to in that subsection, and
  - (b) called and held in the same manner, as nearly as possible, as a general meeting called and held by the directors except that notice of the meeting must be sent to every director as well as to every member.
- (8) Unless otherwise resolved by ordinary resolution at the general meeting called under subsection (6), the society must reimburse the requisitionists for the expenses actually and reasonably incurred by them in requisitioning, calling and holding that meeting.

### **Location of general meeting**

- 76** (1) A general meeting must be held in British Columbia at the location provided for in the bylaws or, in the absence of such a provision, at the location in British Columbia that the directors determine.
- (2) Despite subsection (1), a general meeting may be held at a location outside British Columbia if
- (a) the bylaws do not provide for a location in British Columbia at which the meeting must be held, and
  - (b) the meeting is held
    - (i) at a location outside British Columbia that is specified in the bylaws, or
    - (ii) in the absence of such specification, at a location outside British Columbia agreed on by every voting member before the meeting.

### **Notice of general meeting**

- 77** (1) Written notice of the date, time and location of a general meeting must be sent to every member of the society
- (a) at least
    - (i) 14 days before the meeting, unless subparagraph (ii) applies, or
    - (ii) the number of days before the meeting specified in the bylaws, if the number of days so specified is at least 7 days, and

- (b) not more than 60 days before the meeting.
- (2) Notice of a general meeting of a society that has more than 250 members is, if permitted by the bylaws, deemed to have been sent under subsection (1) if
  - (a) notice of the date, time and location of the meeting has been sent, to every member of the society who has provided an email address to the society, by email to that email address, and
  - (b) notice of the date, time and location of the meeting
    - (i) is published, at least once in each of the 3 weeks immediately before the meeting, in one or more newspapers identified in the bylaws, or
    - (ii) is posted, throughout the period commencing at least 21 days before the meeting and ending when the meeting is held, on a website that is maintained by or on behalf of the society and is accessible to all of the members of the society.
- (3) The accidental omission to send notice of a general meeting to a member, or the non-receipt of notice by a member, does not invalidate any proceedings at the meeting.

### **Notice of special resolutions**

- 78** Notice of a general meeting must include the text of any special resolution to be submitted to the meeting.

### **Waiver of notice**

- 79** (1) A member of a society may, in any manner, waive the member's entitlement to notice of a general meeting or may agree to reduce the period of that notice.
- (2) Attendance of a member at a general meeting is a waiver of the member's entitlement to notice of the meeting unless the member attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

### **Powers of court respecting general meetings**

- 80** (1) On the application of a member or director of a society, the court may order that a general meeting be called, held and conducted on the notice, on the date, at the time, at the location or in the manner the court directs,
  - (a) if it is not feasible to call, hold or conduct the meeting on the notice, on the date, at the time, at the location or in the manner required under this Act or the bylaws, or



- (b) for any other reason the court considers appropriate.
- (2) The court may order that the quorum under section 82 [*quorum*] be varied or dispensed with at a meeting called, held and conducted under this section.

## Members' proposals

**81** (1) In this section:

**"proposal"** means a notice sent under subsection (2) to a society;

**"proposal threshold"** means

- (a) 5% of the voting members of a society, unless paragraph (b) applies, or
  - (b) if the bylaws of the society provide for a percentage lower than 5%, that percentage,
- but in either case, not fewer than 2 members.

- (2) Voting members of a society may send to the society a notice of a matter that the members propose to have considered at an annual general meeting.
- (3) A proposal must contain the names of, and be signed by, not fewer than the number of voting members that constitutes the proposal threshold for the society.
- (4) A society that receives a proposal at least 7 days before notice of the annual general meeting is sent must include, with that notice,
  - (a) the proposal,
  - (b) the names of the members submitting the proposal, and
  - (c) one statement in support of the proposal, if the members submitting the proposal request that the statement be included with the notice.
- (5) A proposal, or, if a statement is provided under subsection (4) (c), the proposal and statement together, must not exceed 200 words in length.
- (6) A society, or a person acting on behalf of a society, does not incur any liability merely because the society or person complies with subsection (4).
- (7) A society is not required to comply with subsection (4) if substantially the same proposal was considered at a general meeting held in either of the 2 previous calendar years before the calendar year in which the annual general meeting referred to in that subsection is to be held.

## Quorum

- 82** (1) Subject to subsections (3) and (4), the quorum for the transaction of business at a general meeting is
- (a) 3 voting members, unless paragraph (b) of this subsection applies, or
  - (b) if the bylaws provide for a quorum greater than 3 voting members, that quorum.
- (2) The bylaws of a society may, for the purposes of subsection (1) (b), provide for a quorum that is greater than 3 voting members, by doing either of the following:
- (a) specifying the number of voting members that constitutes a quorum;
  - (b) requiring that the quorum be calculated as a specified percentage of voting members or on another basis.
- (3) If a society has fewer voting members than the quorum provided for in subsection (1), the quorum for the transaction of business at a general meeting is all of the voting members.
- (4) The bylaws of a society may provide that if a general meeting is adjourned until a later date because a quorum is not present, and if, at the continuation of the adjourned meeting, a quorum is again not present, the voting members present constitute a quorum for the purposes of that meeting.

### **Participation in general meeting by telephone or other communications medium**

- 83** (1) Unless the bylaws of a society provide otherwise, a person who is entitled to participate in a general meeting may do so by telephone or other communications medium if all of the persons participating in the meeting, whether by telephone, by other communications medium or in person, are able to communicate with each other.
- (2) Subsection (1) does not obligate a society to take any action to facilitate the use of any communications medium at a general meeting.
- (3) If one or more members of a society vote at a general meeting in a manner contemplated by this section, the vote must be conducted in a manner that adequately discloses the intentions of the members.

## **Division 3 – Voting**

### **Right to vote**

- 84** (1) A member of a society has the right to vote unless the member is a member of a class of members who, under the bylaws, do not have the right to vote.

- (2) A voting member of a society has only one vote.
- (3) Subject to subsections (4) and (5), a voting member of a society may, without restriction, exercise the right to vote on every matter.
- (4) The bylaws of a society may
  - (a) restrict the voting rights of a voting member who is not in good standing within the meaning of the bylaws, or
  - (b) provide that only voting members having a specified attribute have the right to elect or appoint certain directors.
- (5) The bylaws of a society may authorize
  - (a) indirect or delegate voting, or
  - (b) voting by mail or another means of communication, including by fax, email or other electronic means.
- (6) If the bylaws of a society authorize voting by a method referred to in subsection (5), the bylaws must set out rules respecting how that voting is to occur.

## **Proxies**

- 85** (1) If permitted by the bylaws of a society, a voting member may appoint a proxy holder.
- (2) An appointment of a proxy holder
    - (a) must be in writing and must comply with any other requirements set out in the bylaws,
    - (b) is, unless the bylaws provide otherwise, valid only at the meeting for which the appointment is given or at any adjournment of that meeting, and
    - (c) may be revoked at any time.
  - (3) Unless the bylaws provide otherwise, a proxy holder must be a member of the society and may be an individual under the age of 19 years.
  - (4) Unless limited in the appointment, a proxy holder stands in the place of the voting member appointing the proxy holder and can do anything that member can do, including propose and second resolutions, participate in the discussion and vote.

## **Part 7 — Corporate Reorganizations**

## Division 1 — Amalgamation

### Definitions

**86** In this Division:

**"amalgamated society"** means the society that results from an amalgamation under this Division;

**"amalgamating corporation"** means

- (a) an amalgamating society, or
- (b) an extraprovincial non-share corporation that is amalgamating under this Division;

**"amalgamating society"** means a society that is amalgamating under this Division.

### Application for amalgamation

**87** A society may amalgamate with one or more other societies or extraprovincial non-share corporations and continue as one society by

- (a) filing with the registrar an amalgamation application that
  - (i) sets out
    - (A) the name reserved under section 9 [*name*] for the amalgamated society and the reservation number given for that name or, if the application indicates that the amalgamated society will adopt the name of an amalgamating society, that name,
    - (B) the name of each amalgamating corporation, and
    - (C) the home jurisdiction of any amalgamating corporation that is an extraprovincial non-share corporation, and
  - (ii) contains, for the proposed amalgamated society,
    - (A) a constitution,
    - (B) bylaws, and
    - (C) a statement of directors and registered office, and
- (b) if any of the amalgamating corporations is an extraprovincial non-share corporation, providing to the registrar any records and information the registrar may require, including, without limitation, an authorization for the amalgamation from the official in the extraprovincial non-share corporation's home jurisdiction whose role in that jurisdiction is similar to the role of the registrar in British Columbia.

## Prerequisites to filing amalgamation application

**88** A society must not submit an amalgamation application to the registrar for filing under section 87 unless

- (a) the amalgamating corporations have entered into an amalgamation agreement that sets out
  - (i) the terms and conditions of the amalgamation, and
  - (ii) the details necessary to perfect the amalgamation and provide for the subsequent management and operation of the amalgamated society, including the constitution and bylaws proposed for the amalgamated society, and
- (b) each amalgamating society has adopted the amalgamation agreement by special resolution.

## Amalgamation

**89** (1) Amalgamating corporations are amalgamated and continue as an amalgamated society under this Division when the amalgamation application is filed with the registrar under section 87 [*application for amalgamation*].

(2) After amalgamating corporations are amalgamated as an amalgamated society under subsection (1), the registrar must

- (a) issue a certificate of amalgamation in which is recorded
  - (i) the name and incorporation number of the amalgamated society,
  - (ii) the date and time of the amalgamation,
  - (iii) the name of each amalgamating corporation, and
  - (iv) the home jurisdiction of any amalgamating corporation that was an extraprovincial non-share corporation,
- (b) furnish to the amalgamated society
  - (i) the certificate of amalgamation, and
  - (ii) a certified copy of the following records contained in the amalgamation application filed with the registrar under section 87:
    - (A) the constitution of the society;
    - (B) the bylaws of the society;
    - (C) the statement of directors and registered office of the society, and
- (c) publish notice of the amalgamation.

- (3) Whether or not the requirements precedent and incidental to amalgamation have been complied with, a notation in the register of societies that amalgamating corporations have been amalgamated as an amalgamated society is conclusive evidence for the purposes of this Act and for all other purposes that the amalgamating corporations have been duly amalgamated as an amalgamated society with the name, and on the date and time, shown in the register of societies.

### **Effect of amalgamation**

- 90** (1) When amalgamating corporations are amalgamated under this Division as an amalgamated society,
- (a) the amalgamation of the amalgamating corporations and their continuation as one society become irrevocable,
  - (b) this Act applies to the amalgamated society as if the amalgamated society had been incorporated under this Act,
  - (c) the amalgamated society has the constitution, bylaws and statement of directors and registered office contained in the amalgamation application filed with the registrar under section 87 [*application for amalgamation*],
  - (d) the property of each amalgamating corporation continues to be the property of the amalgamated society,
  - (e) the amalgamated society continues to be liable for the obligations of each amalgamating corporation,
  - (f) an existing cause of action, claim or liability to prosecution is unaffected,
  - (g) a legal proceeding being prosecuted or pending by or against an amalgamating corporation may be prosecuted or its prosecution may be continued, as the case may be, by or against the amalgamated society, and
  - (h) 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 society.
- (2) An amalgamation does not constitute an assignment by operation of law, a transfer or any other disposition of the property of an amalgamating corporation to the amalgamated society.

### **Restrictions on amalgamation**

- 91** A society must not amalgamate with another corporation to form

- (a) a corporation in a jurisdiction other than British Columbia, or
- (b) a corporation that is not a society.

## **Division 2 — Disposal of Society's Undertaking**

### **Disposal of undertaking**

- 92** (1) A society must not sell, lease or otherwise dispose of all or substantially all of its undertaking unless the society has been authorized to do so by special resolution.
- (2) If a society contravenes or is about to contravene subsection (1), on the application of a member or director of the society or another person whom the court considers to be an appropriate person to make an application under this section, the court may make any order the court considers appropriate, including an order doing either of the following:
- (a) setting aside part or all of the disposition;
  - (b) prohibiting part or all of the proposed disposition.

## **Division 3 — Continuation and Conversion**

### **Definition of "special Act non-share corporation"**

- 93** In this Division, "**special Act non-share corporation**" means a corporation, without share capital, incorporated by an Act.

### **Application for continuation into British Columbia**

- 94** An extraprovincial non-share corporation may be continued into British Columbia as a society by
- (a) filing with the registrar a continuation application that
    - (i) sets out
      - (A) the name of the extraprovincial non-share corporation and its home jurisdiction, and
      - (B) the name reserved under section 9 [*name*] for the proposed society and the reservation number given for that name, and
    - (ii) contains, for the proposed society,
      - (A) a constitution,
      - (B) bylaws, and
      - (C) a statement of directors and registered office, and

- (b) providing to the registrar any records and information the registrar may require, including, without limitation, an authorization for the continuation from the official in the extraprovincial non-share corporation's home jurisdiction whose role in that jurisdiction is similar to the role of the registrar in British Columbia.

### **Application for conversion of special Act non-share corporation**

**95** (1) Unless the Act by which it was incorporated provides otherwise, a special Act non-share corporation may convert itself into a society if it

- (a) has obtained the written consent of the minister to do so, and
- (b) has been authorized to do so by a special resolution that
  - (i) adopts a constitution and bylaws in substitution for the provisions of the Act by which the corporation was incorporated, and of the regulations under that Act, that are similar to the constitution and bylaws of a society, and
  - (ii) authorizes one or more members of the board of directors or other governing body of the special Act non-share corporation to file with the registrar the conversion application referred to in subsection (2) (a).

(2) A special Act non-share corporation that is authorized to do so under subsection (1) may convert itself into a society by filing with the registrar

- (a) a conversion application that
  - (i) sets out the name reserved under section 9 [*name*] for the proposed society and the reservation number given for that name, and
  - (ii) contains, for the proposed society,
    - (A) a constitution,
    - (B) bylaws, and
    - (C) a statement of directors and registered office,
- (b) the minister's written consent to the conversion, and
- (c) any other records the registrar may require.

### **Continuation or conversion**

**96** (1) An extraprovincial non-share corporation is continued as a society when the continuation application is filed with the registrar under section 94 [*application for continuation into British Columbia*].

(2) A special Act non-share corporation is converted into a society when the conversion application is filed with the registrar under section 95 (2).



- (3) After a corporation is continued as or converted into a society under subsection (1) or (2), the registrar must
- (a) issue a certificate of continuation or conversion, as the case may be, in which is recorded
    - (i) the name and incorporation number of the society, and
    - (ii) the date and time of the continuation or conversion,
  - (b) furnish to the society
    - (i) the certificate of continuation or conversion, and
    - (ii) a certified copy of the following records contained in the continuation application filed with the registrar under section 94 or the conversion application filed with the registrar under section 95 (2):
      - (A) the constitution of the society;
      - (B) the bylaws of the society;
      - (C) the statement of directors and registered office of the society, and
  - (c) publish notice of the continuation or conversion.
- (4) Whether or not the requirements precedent and incidental to continuation or conversion have been complied with, a notation in the register of societies that a corporation has been continued as or converted into a society is conclusive evidence for the purposes of this Act and for all other purposes that the corporation has been duly continued as or converted into a society, as the case may be, with the name, and on the date and time, shown in the register of societies.

### **Effect of continuation or conversion**

- 97** When a corporation is continued as or converted into a society under this Division,
- (a) this Act applies to the society as if the society had been incorporated under this Act and, in the case of the conversion of a special Act non-share corporation, the provisions of the Act by which the corporation was incorporated, and of the regulations under that Act, that are similar to the constitution and bylaws of a society cease to apply,
  - (b) the society has the constitution, bylaws and statement of directors and registered office contained in the continuation application filed with the registrar under section 94 [*application for continuation into British Columbia*] or the conversion application filed with the

registrar under section 95 (2) [*application for conversion of special Act non-share corporation*],

- (c) the property of the corporation continues to be the property of the society,
- (d) the society continues to be liable for the obligations of the corporation,
- (e) an existing cause of action, claim or liability to prosecution is unaffected,
- (f) a legal proceeding being prosecuted or pending by or against the corporation may be prosecuted or its prosecution may be continued, as the case may be, by or against the society, and
- (g) a conviction against, or a ruling, order or judgment in favour of or against, the corporation may be enforced by or against the society.

### **No continuation out of British Columbia**

- 98** A society must not apply to a jurisdiction other than British Columbia to be continued into that jurisdiction.

## **Division 4 – Arrangements**

### **Arrangement may be proposed**

- 99** (1) Subject to this Act and the regulations, a society may propose any arrangement that it considers appropriate, including, without limitation, an arrangement that includes one or more of the following:
- (a) an alteration to the constitution, bylaws or statement of directors and registered office of the society;
  - (b) an amalgamation of the society with one or more other societies;
  - (c) an amalgamation of the society with one or more extraprovincial non-share corporations that results in a society;
  - (d) a transfer of all or any part of the property or liabilities of the society to another corporation;
  - (e) a compromise between the society and its creditors or any class of its creditors;
  - (f) a dissolution, or a liquidation and dissolution, of the society.
- (2) Before an arrangement proposed under this section takes effect, the arrangement must be approved by
- (a) special resolution, and

(b) a court order under section 100.

### **Powers of court respecting arrangements**

- 100** (1) On the application of a society, the court may make an order approving an arrangement proposed by the society, on the terms presented in the application or substantially on those terms, or may refuse to approve the arrangement.
- (2) If the court approves an arrangement under subsection (1), the court may make any ancillary or consequential orders it considers necessary to ensure that the arrangement is fully and effectively carried out.

### **Registry filings respecting arrangements**

- 101** If the provisions of an arrangement the court approves under section 100 will, on taking effect, alter information contained in records filed with the registrar, the society must
- (a) file with the registrar
    - (i) the records required to give effect to those provisions, and
    - (ii) concurrently with those records, a copy of the entered court order, and
  - (b) provide to the registrar any other records and information the registrar may require.

## **Part 8 – Remedies**

### **Division 1 – Court Proceedings**

#### **Complaints by members**

- 102** (1) A member of a society may apply to the court for an order under this section on the grounds that
- (a) the activities or internal affairs of the society are being or were conducted, or the powers of the directors are being or were exercised, in a manner oppressive to the member or to the member and one or more other members, or
  - (b) an act of the society was done or is threatened, or a resolution of the members or directors was passed or is proposed, that is unfairly prejudicial to the member or to the member and one or more other members.

- (2) On an application under subsection (1), the court may, with a view to remedying or bringing to an end the matters complained of, make any interim or final order it considers appropriate, including an order
- (a) directing or prohibiting any act,
  - (b) regulating the conduct of the society's activities or internal affairs,
  - (c) removing a director or appointing a new director,
  - (d) varying or setting aside a transaction to which the society is a party and directing any party to the transaction to compensate any other party to the transaction,
  - (e) varying or setting aside a resolution,
  - (f) requiring the society, within a period the court specifies, to produce to the court or to a specified person financial statements or an accounting in any form the court may determine,
  - (g) directing the society to compensate an aggrieved person,
  - (h) directing correction of the records of the society,
  - (i) appointing a receiver or receiver manager,
  - (j) directing that the society be liquidated and dissolved and appointing one or more liquidators, or
  - (k) appointing an investigator to conduct an investigation of the society, providing directions in relation to that investigation and setting the investigator's remuneration.
- (3) Section 213 (4) [*investigation of society*] applies in relation to an investigator appointed under subsection (2) (k) of this section.

### **Derivative actions**

- 103** (1) In this section, "**complainant**", in relation to a society, means a member or director of the society or another person whom the court considers to be an appropriate person to prosecute or defend, under this section, a legal proceeding in relation to the society.
- (2) A complainant in relation to a society may, with leave of the court,
- (a) prosecute a legal proceeding in the name and on behalf of the society
    - (i) to enforce a right of, or a duty or obligation owed to, the society that could be enforced by the society itself, or
    - (ii) to obtain damages for any breach of a right, duty or obligation referred to in subparagraph (i), or

(b) defend, in the name and on behalf of the society, a legal proceeding brought against the society.

(3) Section 233 [*powers of court in relation to derivative actions*] of the *Business Corporations Act* applies for the purposes of this section.

### **Compliance or restraining orders**

**104** (1) This section applies if

(a) a person contravenes or is about to contravene a provision of this Act, the regulations or the bylaws of a society, or

(b) a society is carrying on activities that are inconsistent with or contrary to its purposes.

(2) On the application of a member or director of a society in relation to which this section applies or another person whom the court considers to be an appropriate person to make an application under this section, the court may make an order,

(a) in a case described in subsection (1) (a), directing the person who has contravened or is about to contravene a provision referred to in that subsection to comply with or refrain from contravening the provision, or

(b) in a case described in subsection (1) (b), directing the society to refrain from carrying on activities that are inconsistent with or contrary to its purposes.

(3) If the court makes an order under subsection (2), the court may make any ancillary or consequential orders it considers appropriate.

### **Court may remedy irregularities**

**105** (1) This section applies if an omission, defect, error or irregularity in the conduct of the activities or internal affairs of a society results in

(a) a contravention of this Act or the regulations,

(b) the society acting inconsistently with or contrary to its purposes,

(c) a default in compliance with the bylaws of the society,

(d) proceedings at, or in connection with, a meeting of members or directors of the society, or an assembly purporting to be such a meeting, being rendered ineffective, or

(e) a resolution consented to by members or directors of the society, or records purporting to be such a resolution, being rendered ineffective.

- (2) Despite any other provision of this Act, if an omission, defect, error or irregularity described in subsection (1) occurs,
- (a) the court may, either on its own motion or on the application of a person whom the court considers to be an appropriate person to make an application under this section, make an order
    - (i) to correct or cause to be corrected, or to negative or modify or cause to be modified, the consequences in law of the omission, defect, error or irregularity, or
    - (ii) to validate an act, matter or thing rendered or alleged to have been rendered invalid by or as a result of the omission, defect, error or irregularity, and
  - (b) the court may make any ancillary or consequential orders it considers appropriate.
- (3) Unless the court orders otherwise, an order under subsection (2) does not prejudice the rights of a third party who has acquired those rights for valuable consideration and without notice of the omission, defect, error or irregularity that is the subject of the order.

### **Relief in legal proceedings**

- 106** If, in a legal proceeding against a director of a society, the court finds that the director is or may be liable in respect of negligence, default, breach of duty or breach of trust, the court
- (a) must take into consideration all of the circumstances of the case, including those circumstances connected with the director's designation, election or appointment, and
  - (b) may relieve the director, either wholly or partly, from liability, on the terms the court considers appropriate, if it appears to the court that, despite the finding of liability, the director has acted honestly and reasonably and ought fairly to be excused.

## **Division 2 — Proceedings Respecting Records**

### **Registrar or court may order access or copies**

- 107** (1) A person who claims to be entitled under section 24 [*inspection of records*] or 25 [*inspection of register of members may be restricted*] to inspect a record of a society, or under section 27 [*copies of records*] or 28 [*copies of financial statements*] to receive a copy of a record of a society, may apply in writing to the registrar for an order under subsection (2) of this

section if the society does not provide the person with access to the record or a copy of the record, as the case may be.

(1.1) If, on the application of a person referred to in subsection (1), it appears to the registrar that a society has, contrary to section 24, 25, 27 or 28, failed to provide the applicant with access to, or a copy of, a record, the registrar may furnish a written notice to the society that the registrar will issue an order under subsection (2) of this section unless the society provides to the registrar within 15 days after the date on which the notice is furnished whichever of the following the society chooses to provide:

- (a) a copy of the record;
- (b) a signed statement of a director or senior manager of the society that sets out the reason why access to, or a copy of, the record is not being provided to the applicant.

(1.2) The registrar must

- (a) set out in a notice under subsection (1.1) an explanation of the basis on which the applicant claims to be entitled to obtain access to, or a copy of, the record, and
- (b) furnish a copy of the notice to the applicant.

(2) If a society referred to in a notice under subsection (1.1) does not provide to the registrar, in accordance with the notice, a copy of the record or a signed statement of a director or senior manager, the registrar must order the society to provide to the registrar whichever of the following the society chooses to provide:

- (a) a copy of the record referred to in subsection (1.1)(a);
- (b) a signed statement referred to in subsection (1.1)(b).

(3) The registrar must

- (a) set out in an order under subsection (2) an explanation of the basis on which the applicant claims to be entitled to obtain access to, or a copy of, the record, and
- (b) furnish a copy of the order to the society and the applicant.

(4) A society referred to in an order under subsection (2) must comply with the order within 10 days after the date of the order.

(5) If a society provides to the registrar a copy of a record under subsection (1.1)(a) or (2)(a), the registrar must furnish the copy of the record to the applicant.

- (6) If a society provides to the registrar a signed statement of a director or senior manager under subsection (1.1)(b) or (2)(b), the registrar must furnish the statement to the applicant.
- (7) An applicant under subsection (1) may, on notice to the society, apply to the court for an order that the applicant be provided with access to, or a copy of, a record if
- (a) a signed statement respecting the record is furnished under subsection (6) to the applicant by the registrar, or
  - (b) the society fails to comply with subsection (4).
- (8) The court may, on an application under subsection (7), make any order it considers appropriate, including any of the following orders:
- (a) an order requiring that access to a record of the society be provided to the applicant, or that a certified copy of the record be provided to the applicant, within the time specified by the order;
  - (b) an order requiring the society to change the location of its registered office to a location the court considers appropriate or to change the location at which some or all of its records are kept, or made available for inspection, under section 22 (1) [*location of records*];
  - (c) an order requiring the society to pay to the applicant damages in an amount the court considers appropriate.

### **Applications to court to correct records**

**108** (1) In this section, "**basic records**", in relation to a society, means

- (a) the society's
    - (i) constitution,
    - (ii) bylaws,
    - (iii) statement of directors and registered office,
    - (iv) register of directors, and
    - (v) register of members,
  - (b) the minutes of any meeting of members or directors, and
  - (c) any resolution passed by the members or directors, if the resolution is not included in the minutes referred to in paragraph (b).
- (2) If information is alleged to be or to have been wrongly entered or retained in, or wrongly deleted or omitted from, a society's basic records, the society, a member or director of the society or another person whom the court considers to be an appropriate person to make an application under this



section may apply to the court for an order that the basic records be corrected.

- (3) On an application under this section, the court may make any order it considers appropriate, including an order
- (a) requiring the society to correct one or more of its basic records,
  - (b) restraining the society from calling or holding a general meeting or doing any other act before the correction is made,
  - (c) determining the right of a party to the application to have the party's name entered or retained in, or deleted or omitted from, basic records of the society, and
  - (d) requiring a person to compensate a party who has incurred a loss as a result of a matter referred to in subsection (2).

### **Missing records**

- 109** (1) If the court is satisfied that a record the society is required to keep under section 20 [*records to be kept*] has been destroyed, is lost, was never created or is otherwise not accessible, the court may, on the application of the society, a member or director of the society or another person whom the court considers to be an appropriate person to make an application under this section, make any order it considers appropriate and may, without limitation,
- (a) declare what was or should have been contained in the record,
  - (b) declare the record to have existed with full legal effect from the date and time the society was incorporated or from any other date and time the court may order, and
  - (c) if a declaration is made under paragraph (a) of this subsection in respect of the contents of a record, order that some or all of those contents
    - (i) apply to a person or to an event, or
    - (ii) do not apply to a person or to an event, whether or not those contents would have applied to the person or to the event on or after the date and time the court orders under paragraph (b) of this subsection.
- (2) If an order is made under subsection (1) in respect of a record, the provisions of Division 2 [*Society Records*] of Part 3 [*Registered Office and Records*] that are applicable to that record apply to a copy of the entered court order.

## Part 9 – Audit

### Application of Part

**110** This Part applies in relation to a society

- (a) that is required to have an auditor under section 111 (1) (a), or
- (b) for which an auditor is appointed in any other case.

### Appointment of auditor

**111** (1) A society

- (a) must have an auditor if the society is required to have an auditor by the society's bylaws or under the regulations, and
- (b) may have an auditor in any other case.

- (2) The first auditor, if any, of a society must be appointed by the directors, or by ordinary resolution, to hold office until the close of the annual general meeting following the appointment.
- (3) Each auditor, if any, subsequent to the first auditor must be appointed at each annual general meeting, by ordinary resolution, to hold office until the close of the next annual general meeting.
- (4) If a subsequent auditor is not appointed as required under subsection (3), and the society is required to have an auditor under subsection (1) (a), the auditor in office continues as auditor until a successor is appointed.
- (5) If there is a vacancy in the office of auditor created by resignation, death or otherwise, other than by removal under section 115 [*removal of auditor during term*], the directors may appoint an auditor to hold office until the close of the next annual general meeting.
- (6) If, for any reason, a society that is required under subsection (1) (a) to have an auditor does not have an auditor, the court may, on the application of a member of the society or another person whom the court considers to be an appropriate person to make an application under this section,
  - (a) appoint an auditor to hold office until the close of the next annual general meeting, and
  - (b) set the remuneration the society is to pay for the auditor's services.

### Persons qualified to act as auditor

**112** A person is qualified to act as an auditor of a society only if the person is

- (a) a member of, or is a partnership whose partners are members of, a provincial institute of chartered accountants within Canada,

- (b) a member of a provincial organization of chartered professional accountants within Canada, authorized by that organization to perform an audit,
- (c) a professional accounting corporation as defined in the *Chartered Professional Accountants Act*, authorized by the CPABC as defined in that Act to perform an audit, or
- (d) a registered firm as defined in the *Chartered Professional Accountants Act*, authorized by the CPABC as defined in that Act to perform an audit.

## **Independence of auditor**

**113** (1) In this section:

**"member of the immediate family"**, in relation to a person, means any of the following:

- (a) the spouse of the person;
- (b) a parent or child of the person;
- (c) a relative of the person, or a relative of the person's spouse, who resides with the person;

**"partner"**, in relation to a person, means a person with whom the person carries on, in partnership, the profession of public accounting.

- (2) A person who is not independent of a society must not act as the auditor of the society.
- (3) For the purposes of this section, independence is a question of fact, but a person is not independent of a society if
  - (a) the person is
    - (i) a director or senior manager of the society or a person who holds an equivalent position in a subsidiary of the society,
    - (ii) an employee of the society or of a subsidiary of the society, or
    - (iii) a partner, employer, employee or member of the immediate family of a person referred to in subparagraph (i) or (ii),
  - (b) the person, a member of the immediate family of the person, a partner of the person or a member of the immediate family of a partner of the person beneficially owns or controls, directly or indirectly, an interest in a share or a bond, debenture, note or other evidence of debt obligation of the society or of a subsidiary of the society,

- (c) the person is appointed a trustee of the estate of the society under the *Bankruptcy and Insolvency Act* (Canada) or is a partner, employer, employee or member of the immediate family of that trustee, or
  - (d) the person is a member of the society and has the power, either directly or indirectly, to elect or appoint the majority of directors of the society.
- (4) Except in the circumstances described in subsection (3) (d), membership in a society is not to be taken into consideration in determining whether an auditor is independent.

### **Capacity to act as auditor**

- 114** (1) An auditor of a society who is not, or who ceases to be, qualified under section 112 [*persons qualified to act as auditor*] to act as an auditor must, promptly after becoming aware of that fact, become qualified or resign as auditor of the society.
- (2) An auditor of a society who is not, or who ceases to be, independent within the meaning of section 113 must, promptly after becoming aware of that fact,
- (a) eliminate the circumstances that resulted in the auditor not being independent, or
  - (b) resign as auditor of the society.
- (3) On the application of a member of a society or another person whom the court considers to be an appropriate person to make an application under this section, the court may order that an auditor of a society referred to in subsection (1) or (2) be removed on terms and conditions the court considers appropriate.

### **Removal of auditor during term**

- 115** (1) A society
- (a) may, by ordinary resolution passed at a general meeting called for the purpose, remove its auditor before the expiration of the auditor's term of office, and
  - (b) must, by ordinary resolution passed at the general meeting referred to in paragraph (a), appoint a person as auditor for the remainder of the term of office of the auditor who was removed under that paragraph.

- (2) Before calling a general meeting for the purpose referred to in subsection (1) (a), a society must send to the auditor who is proposed to be removed
  - (a) written notice of the intention to call the meeting, specifying the date on which the notice of the meeting is proposed to be sent, and
  - (b) a copy of all of the materials proposed to be sent to the members in connection with the meeting.
- (3) The society must send to the auditor who is proposed to be removed the records referred to in subsection (2) at least 14 days before the date on which the notice of the meeting is sent.
- (4) An auditor may send to the society written representations respecting the auditor's proposed removal as auditor, and, if the society receives those written representations at least 7 days before the date on which the notice of the meeting is sent, the society must, at its expense, send a copy of those representations with the notice of the meeting.
- (5) A society, or a person acting on behalf of a society, does not incur any liability merely because the society or person complies with subsection (4).

## **Examination and access**

- 116** (1) The auditor of a society must make the examinations that are, in the auditor's opinion, necessary to enable the auditor to prepare the report required under section 117.
- (2) A person who is or was a member, director or senior manager of a society or holds or held an equivalent position in a subsidiary of the society, or who is or was an employee or agent of the society or of a subsidiary of the society, must, to the extent that the person is reasonably able to do so, comply with any demand of the auditor of the society to do the following:
- (a) provide to the auditor all of the information and explanations that the auditor considers necessary for the purpose of any examination or report that the auditor must or may make or prepare under this Act;
  - (b) allow the auditor access to all of the society's records and all of the records of the society's subsidiaries, if any, that the auditor may require for the purpose of an examination or report referred to in paragraph (a) and provide to the auditor copies of those records, when and as required by the auditor.

## **Auditor's report**

- 117** (1) The auditor of a society must

- (a) prepare for the members of the society a report on the financial statements that are to be presented to the members at an annual general meeting, and
  - (b) state in the report referred to in paragraph (a) whether, in the auditor's opinion, the financial statements
    - (i) fairly reflect, in all material respects, for the period under review, the financial position of the society and the results of its operations,
    - (ii) were prepared in accordance with generally accepted accounting principles, and
    - (iii) in the case of financial statements other than the first financial statements, were prepared on a basis consistent with the basis on which the financial statements that related to the preceding period were prepared.
- (2) If an opinion given by an auditor in a report made under subsection (1) is subject to qualification, the auditor must state, in the report, the reasons for the qualification.

### **Right of auditor to attend general meeting**

**118** The auditor of a society is entitled, in respect of a general meeting,

- (a) to each notice and other communication relating to the meeting to which a member is entitled,
- (b) to attend the meeting, and
- (c) to be heard at the meeting on any part of the business of the meeting that deals with the financial statements of the society or any other matter with respect to which the auditor has a duty or function.

### **Member may require auditor to attend general meeting**

**119** (1) A member of a society may, by written notice received by the society at least 7 days before the meeting, require the attendance of the auditor at a general meeting at which

- (a) the financial statements of the society are to be considered, or
- (b) the auditor is to be appointed or removed.

- (2) If a society receives written notice in accordance with subsection (1), the society must promptly inform the auditor, the auditor must attend the meeting and the society must pay the expenses of that attendance.

## **Auditor must answer questions if present at general meeting**

**120** An auditor of a society who is present at a general meeting at which the financial statements of the society are to be considered must answer questions concerning the financial statements, the auditor's report, if any, on those financial statements and any other matter with respect to which the auditor has a duty or function.

## **Amendment of financial statements and auditor's report**

**121** (1) If, after an annual general meeting at which the financial statements of a society were considered, facts come to the attention of the directors or senior managers of the society

(a) that could reasonably have been determined before the date of the meeting, and

(b) that, if known before that date, would have required a material adjustment to the financial statements presented to that meeting,

the directors or senior managers must communicate those facts to the auditor, and the directors must promptly amend the financial statements and send the amended financial statements to the auditor.

(2) If facts described in subsection (1) come to the attention of the auditor, other than as a result of a communication under that subsection, the auditor must inform each director accordingly, and the directors must promptly amend the financial statements and send the amended financial statements to the auditor.

(3) If amended financial statements are sent to the auditor under subsection (1) or (2),

(a) the auditor must amend the auditor's report on the financial statements presented to the annual general meeting so that the report complies with this Act, and

(b) the directors must send to the members a copy of the amended report and a statement explaining the effect of the amendment.

## **Qualified privilege in defamation proceedings**

**122** An oral or written statement or report made under this Act by the auditor or a former auditor of a society or to an auditor under section 116 (2)

(a) [*examination and access*] or 121 (1) has qualified privilege for the purpose of defamation proceedings.

# **Part 10 — Liquidation, Dissolution and Restoration**

## **Division 1 – General Rules Respecting Liquidation and Dissolution**

### **Liquidation and dissolution**

- 123** A society may be dissolved, or liquidated and dissolved, under this Part by
- (a) a dissolution, without liquidation, initiated under section 126 [*dissolution by request*] by the members of the society by ordinary resolution,
  - (b) a liquidation and dissolution initiated under Division 3 [*Voluntary Liquidation*] by the members of the society by special resolution, or
  - (c) a court-ordered liquidation and dissolution initiated under Division 4 [*Court-Ordered Liquidation and Dissolution*] by an application to the court.

### **Distribution of property before dissolution or on liquidation**

- 124** (1) Before the dissolution of a society under section 126 [*dissolution by request*] or on the liquidation of a society under this Part,
- (a) all of the society's liabilities must be paid or adequate provision for payment of the liabilities must be made, and
  - (b) subject to subsection (2) of this section, after payment or adequate provision for payment of all of the society's liabilities is made, the remaining money or other property of the society may be distributed.
- (2) A distribution of money or other property under subsection (1) (b) must be made only
- (a) to a qualified recipient specified in the bylaws of the society, or
  - (b) if the bylaws do not specify a qualified recipient for such a distribution, to a qualified recipient specified in an ordinary resolution of the society or, if passing an ordinary resolution is not feasible, specified in a directors' resolution.

### **Stay of proceedings on insolvency**

- 125** Any proceedings taken under this Part to dissolve, or to liquidate and dissolve, a society must be stayed if the society is at any time found in a proceeding under the *Bankruptcy and Insolvency Act* (Canada) to be insolvent within the meaning of that Act.

## **Division 2 – Voluntary Dissolution without Liquidation**



## **Dissolution by request**

- 126** (1) The registrar may dissolve a society under this section if the society files with the registrar a dissolution by request application.
- (2) A society must not submit a dissolution by request application to the registrar for filing unless the dissolution has been authorized by ordinary resolution.
- (3) Concurrently with the filing of a dissolution by request application, a society must file with the registrar
- (a) a copy of the ordinary resolution referred to in subsection (2), and
  - (b) an affidavit sworn by 2 or more directors of the society, or, if the society has only one director, sworn by that director, declaring that, to the best of the knowledge of the directors or the sole director, as the case may be,
    - (i) the society has no liabilities or has made adequate provision for the payment of all of the society's liabilities in accordance with section 124 (1) (a) [*distribution of property before dissolution or on liquidation*], and
    - (ii) the remaining money or other property of the society, if any, has been distributed in accordance with section 124 (1) (b) and (2).

## **Division 3 – Voluntary Liquidation**

### **Voluntary liquidation**

- 127** A society may be voluntarily liquidated if the members of the society so resolve by a special resolution passed at a general meeting called for that purpose.

### **Appointment of liquidator in voluntary liquidation**

- 128** At the general meeting at which a special resolution referred to in section 127 is passed, the society must, by ordinary resolution, appoint one or more liquidators.

### **Commencement of voluntary liquidation**

- 129** A voluntary liquidation of a society commences when both of the resolutions referred to in sections 127 [*voluntary liquidation*] and 128 have been passed.

## **Division 4 – Court-Ordered Liquidation and Dissolution**

### **Court-ordered liquidation and dissolution**

- 130** (1) The court may, on the application of a society, a member or director of a society or another person whom the court considers to be an appropriate person to make the application, order that the society be liquidated and dissolved if
- (a) the bylaws provide that the society is to be dissolved on the occurrence of an event and that event has occurred, or
  - (b) the court considers that the liquidation and dissolution of the society would be just and equitable.
- (2) Before hearing the application of a person under subsection (1), the court may require the person to give security for the costs of the application.

### **Appointment of liquidator in court-ordered liquidation**

- 131** If the court orders that a society be liquidated and dissolved, the court
- (a) must, by order, appoint one or more liquidators and set the remuneration the society is to pay for the liquidators' services, and
  - (b) may make any other order the court considers appropriate.

### **Commencement of court-ordered liquidation and dissolution**

- 132** A court-ordered liquidation and dissolution of a society commences when both of the orders referred to in sections 130 [*court-ordered liquidation and dissolution*] and 131 (a) have been made or at a later date and time the court specifies.

## **Division 5 — Qualifications, Appointment and Removal of Liquidators**

### **Qualifications of liquidator**

- 133** (1) A person who is not qualified under section 64 (2) [*appointment and qualifications of receivers*] of the *Personal Property Security Act* to act as a receiver or receiver manager is not qualified to be a liquidator of a society except that, with the consent in writing of all of the members of a society, a person referred to in section 64 (2) (e) of that Act who is licensed as a trustee under the *Bankruptcy and Insolvency Act* (Canada) is qualified to be a liquidator of the society.
- (2) A person who is appointed as a liquidator of a society and who is not, or who ceases to be, qualified under subsection (1) to be a liquidator,
- (a) subject to subsection (3), must, in a voluntary liquidation, promptly resign as liquidator, or

- (b) must, in a court-ordered liquidation, seek directions from the court.
- (3) A person referred to in subsection (2) who is the only liquidator of a society in a voluntary liquidation must, before resigning as liquidator, call and hold a general meeting for the purpose of filling the vacancy and section 138 (1) (a) (ii) [*filling vacancy in office of liquidator*] applies for that purpose.

### **Validity of acts of liquidator**

- 134** An act of a liquidator of a society is not invalid merely because of a defect in the liquidator's appointment or qualifications.

### **Filing and publication of notice of appointment**

- 135** (1) Within 10 days after a liquidator of a society is appointed, the liquidator must file with the registrar
- (a) a notice of appointment of liquidator, including the liquidator's delivery address and mailing address, and
  - (b) concurrently with the notice referred to in paragraph (a), the following, if not already filed with the registrar:
    - (i) in a voluntary liquidation, a copy of the special resolution authorizing the liquidation;
    - (ii) in a court-ordered liquidation, a copy of the entered court order referred to in section 130 (1) [*court-ordered liquidation and dissolution*].
- (2) A liquidator of a society must, within 7 days after changing one or both of the liquidator's delivery address and mailing address, file with the registrar a notice of change of address of liquidator.
- (3) Promptly after the commencement of liquidation as defined in section 139 [*definition of "commencement of liquidation"*], the liquidator of a society must publish in the Gazette notice of whichever of the following applies to the society:
- (a) the society has resolved to voluntarily liquidate;
  - (b) the court has ordered that the society be liquidated and dissolved.

### **Removal of liquidator in voluntary liquidation**

- 136** A liquidator appointed in a voluntary liquidation of a society may be removed as liquidator by a special resolution passed at a general meeting called for that purpose, if written notice of that meeting was sent to
- (a) each liquidator of the society, and

- (b) each creditor of the society whose unpaid claim against the society exceeds the amount prescribed by regulation.

### **Liquidator ceasing to act must file notice**

**137** A liquidator of a society who resigns, is removed from office or, for any other reason, ceases to act must, within 7 days after the resignation, removal or cessation, file with the registrar a notice of ceasing to act as liquidator.

### **Filling vacancy in office of liquidator**

**138** (1) If a vacancy in the office of liquidator of a society occurs by resignation, death, removal or otherwise,

(a) in a voluntary liquidation,

(i) if one or more liquidators remain in office, the society may, by ordinary resolution, fill the vacancy, and

(ii) if no liquidators remain in office, the society must, by ordinary resolution, fill the vacancy, and

(b) in a court-ordered liquidation, the court may fill the vacancy on the application of a person referred to in section 130 (1) [*court-ordered liquidation and dissolution*].

(2) Subject to section 133 (3) [*qualifications of liquidator*], a voting member or liquidator of the society may call a general meeting for the purpose of passing an ordinary resolution referred to in subsection (1) (a) of this section.

(3) A general meeting that is called under subsection (2) must be called and held in the same manner, as nearly as possible, as a general meeting called and held by the directors.

## **Division 6 – Conduct of Liquidation**

### **Definition of "commencement of liquidation"**

**139** In this Division, "**commencement of liquidation**" means the date on which the liquidation of a society commences under section 129 [*commencement of voluntary liquidation*] or 132 [*commencement of court-ordered liquidation and dissolution*], as the case may be.

### **Effect of resolution or order for liquidation**

**140** (1) Subject to subsection (2), the corporate status, corporate powers and capacity of a society in liquidation continue until the society is dissolved.

- (2) A society in liquidation must, from the commencement of liquidation, refrain from carrying on its activities and internal affairs except to the extent the liquidator considers necessary or advisable for the liquidation.
- (3) On the appointment of the liquidator of a society, the powers of the directors and senior managers cease except so far as the liquidator approves their continuance.

### **Meeting of creditors**

- 141** (1) The liquidator of a society must, within 14 days after the commencement of liquidation,
- (a) send, to each person who appears to the liquidator to be a creditor of the society, a notice that a meeting of the creditors of the society will be held on the date, being at least 21 days but not more than 60 days after the commencement of liquidation, at the time and at the location in British Columbia specified in the notice, and
  - (b) advertise notice of the meeting
    - (i) in the Gazette, and
    - (ii) in a newspaper circulating in the place where
      - (A) the registered office of the society is located, or
      - (B) the activities of the society are primarily carried on.
- (2) The liquidator of the society must present to the meeting of the creditors of the society referred to in subsection (1) a full statement of the affairs of the society, including a list of the creditors of the society and the estimated amount of each of their claims.

### **Creditor must commence action on claim**

- 142** (1) The liquidator of a society may send to a creditor of the society written notice that a claim of the creditor is disputed or rejected.
- (2) If a liquidator sends to a creditor notice under subsection (1) in respect of a claim, the creditor may commence a legal proceeding in respect of the claim within 90 days after the notice is sent, and, if the creditor fails to commence a legal proceeding within that period, the claim of the creditor is forever barred.

### **Duties of liquidator**

- 143** (1) The liquidator of a society must, subject to any restrictions the court imposes or directions the court gives,
- (a) take into the liquidator's custody or control all of the society's property, including, without limitation,

- (i) the records the society is required to keep under section 20 [*records to be kept*], and
    - (ii) the other records of the society,
  - (b) provide the access to, and copies of, the records referred to in paragraph (a) (i) that the society is required to provide under sections 24 [*inspection of records*] to 28 [*copies of financial statements*],
  - (c) use the liquidator's own discretion in realizing the property of the society,
  - (d) distribute the money and other property of the society in accordance with section 124 [*distribution of property before dissolution or on liquidation*] or 199 [*distribution of property before dissolution or on liquidation of member-funded society*], as the case may be,
  - (e) keep proper records of all matters relating to the liquidation, including accounts of the money received and paid out by the liquidator,
  - (f) keep proper minutes of proceedings at meetings relating to the liquidation, and
  - (g) ensure that each invoice, business letter and order for goods issued by the liquidator, or on the liquidator's behalf, on which the name of the society appears states that the society is being liquidated.
- (2) Section 107 [*registrar or court may order access or copies*] applies in relation to the records of a society referred to in subsection (1) (b) of this section as if the liquidator were the society.
- (3) The liquidator of a society must, until money held by the liquidator is required for distribution,
- (a) place the money on deposit in an interest bearing account with a savings institution, or
  - (b) invest the money in an investment in which a prudent investor would invest,
- and any dividends, interest or other income received from those deposits or investments forms part of the property of the society.
- (4) If the liquidation of a society continues for more than one year, the liquidator must
- (a) call a general meeting at the end of the first year and at the end of each succeeding year after the commencement of liquidation, or as

- soon after that as is feasible,
- (b) present to the general meeting called under paragraph (a) an account of the liquidator's acts and dealings and of the conduct of the liquidation during the preceding year, and
  - (c) without limiting section 73 [*society must file annual report*], file with the registrar, promptly after the date on which the general meeting is held, a summary of the liquidator's receipts and payments during the preceding year.

## **Powers of liquidator**

- 144** (1) Subject to subsection (2), the liquidator of a society, to the extent necessary or advisable for the liquidation,
- (a) has the powers to manage, or supervise the management of, the activities and internal affairs of the society that were, before the appointment of the liquidator, held by the directors of the society, and
  - (b) may exercise the powers of the society that are not required by this Act to be exercised by the members of the society.
- (2) A society that is in a voluntary liquidation may, by ordinary resolution, direct the liquidator to refrain from taking a specified action unless the action is approved
- (a) by ordinary resolution, or
  - (b) in writing by certain members or by a specified number or percentage of members.
- (3) A direction under subsection (2) does not relieve a liquidator from the duty to act in accordance with this Act and the regulations.
- (4) If several liquidators are appointed, every power given to a liquidator may, except to the extent set out in the appointment, be exercised by any 2 or more liquidators.

## **Unclaimed or undistributed property**

- 145** (1) In this section:

**"administrator"** has the same meaning as in section 1 of the *Unclaimed Property Act*;

**"property"** has the same meaning as in section 1 of the *Unclaimed Property Act*.

- (2) If the liquidator of a society has or controls unclaimed or undistributed money or property of the society and the money or property remains unclaimed or undistributed for more than 6 months after the date on which it became payable or distributable, as the case may be,
- (a) the liquidator must promptly pay the money or deliver the property to the administrator with a statement showing the full names and last known addresses of the persons appearing to be entitled to the money or property and the amounts to which they appear to be respectively entitled, and
  - (b) the administrator must give the liquidator a receipt, which receipt is an effective discharge to the liquidator.
- (3) The administrator may realize property delivered to the administrator under this section and any money received or realized by the administrator under this section is deemed to be an unclaimed money deposit under the *Unclaimed Property Act*.

### **Limitations on liability**

- 146** The liquidator of a society is not liable in respect of an act done in the administration of the activities and internal affairs of the society or otherwise done by that person in the person's capacity as liquidator if, in doing the act, the liquidator, reasonably and in good faith, relied on any of the following:
- (a) financial statements of the society represented to the liquidator to fairly reflect the financial position of the society
    - (i) by a director or senior manager of the society responsible for the preparation of the financial statements, or
    - (ii) in a written report of the auditor of the society;
  - (b) a written report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to a statement made by that person;
  - (c) a statement of fact represented to the liquidator by a director or senior manager of the society to be correct;
  - (d) any record, information or representation the court considers provides reasonable grounds for the actions of the liquidator, whether or not
    - (i) the record was forged, fraudulently made or inaccurate, or
    - (ii) the information or representation was fraudulently made or inaccurate.

### **Duty to assist liquidator**



**147** A person who is or was a member, director or senior manager of a society that is being liquidated or holds or held an equivalent position in a subsidiary of the society, or who is or was an employee, auditor, agent, trustee, banker, receiver or receiver manager of the society or of a subsidiary of the society, must,

- (a) on inquiry by the liquidator, fully and truly inform the liquidator, to the best of the person's knowledge and belief,
  - (i) of all of the society's liabilities and all of its property, including records, and
  - (ii) how, when, to whom and for what consideration the society disposed of any part of its property, including records, except any part disposed of in the ordinary course of the activities of the society, and
- (b) on request of the liquidator, deliver to the liquidator, or as the liquidator directs, all of the society's property, including records, in the person's custody or control.

## **Division 7 — Powers of Court**

### **Powers of court respecting liquidation**

- 148** (1) On the application of a person whom the court considers to be an appropriate person to make the application, the court may, in relation to a society that is being liquidated, make any order it considers appropriate, including any of the following orders:
- (a) an order that a general meeting or a meeting of creditors of the society be called, held and conducted in the manner the court considers appropriate;
  - (b) an order requiring the audit or inspection of those of the records of the liquidator, or in the custody or control of the liquidator, that the court considers appropriate;
  - (c) an order setting a time within which creditors of the society must prove their claims or be excluded from the benefit of any distribution to be made by the liquidator;
  - (d) an order providing directions to the liquidator respecting a distribution by the liquidator under section 124 [*distribution of property before dissolution or on liquidation*] or 199 [*distribution of property before dissolution or on liquidation of member-funded society*];
  - (e) in a voluntary liquidation, an order appointing a liquidator if
    - (i) there is no liquidator acting, and

- (ii) it is not feasible to hold a general meeting for the purpose of filling the vacancy;
  - (f) an order imposing, either generally or in relation to specified matters, restrictions on the exercise of the powers of the liquidator;
  - (g) an order replacing or removing a liquidator;
  - (h) on terms and conditions the court considers appropriate, an order discharging a liquidator who has resigned or died or has been removed from office;
  - (i) an order confirming, reversing or modifying any act or decision of a liquidator;
  - (j) if it appears to the court that a liquidator has not faithfully performed the liquidator's duties, an order requiring that whatever action the court considers appropriate be taken;
  - (k) an order that there be an examination into the conduct of a person, if it appears that the person
    - (i) has misapplied, retained or become liable or accountable for any property of the society, or
    - (ii) has committed a breach of trust in relation to the society;
  - (l) an order that a person referred to in paragraph (k) do one or both of the following, whether or not the conduct complained of is conduct for which the person may be liable to prosecution:
    - (i) repay or restore all or part of the property that the person misapplied or retained, or for which the person is liable or accountable, with interest at the rate the court considers appropriate;
    - (ii) compensate the society for the conduct complained of;
  - (m) an order, on the terms and conditions the court considers appropriate, continuing, staying or discontinuing the liquidation;
  - (n) an order giving directions in relation to any matter arising in the liquidation.
- (2) If a court order is made under subsection (1) (m), the liquidator must file with the registrar a copy of the entered court order promptly after the order is made.

## **Division 8 — Dissolution of Society**

### **Final meeting and dissolution**

- 149** (1) Promptly after the activities and internal affairs of a society are fully wound up, the liquidator of the society must
- (a) prepare an account of the liquidation showing
    - (i) how the liabilities of the society were paid or provided for, and
    - (ii) how the remaining money and other property of the society were distributed, and
  - (b) call a final general meeting for the purpose of presenting the account and giving an explanation of the account.
- (2) If, within 30 minutes after the time set for holding a final general meeting under subsection (1), a quorum of voting members, as determined under section 82 [*quorum*], is not present, the liquidator must adjourn the meeting to the same day in the next week, at the same time and location, and if, at the continuation of the adjourned meeting, a quorum is again not present within 30 minutes from the time set for holding the continuation of the adjourned meeting, the voting members present constitute a quorum for the purposes of that meeting.
- (3) Subject to subsection (4), promptly after the final general meeting, the liquidator must file with the registrar
- (a) an application for dissolution, and
  - (b) concurrently with that application, the following:
    - (i) a copy of the account prepared under subsection (1) (a);
    - (ii) in the case of a liquidator appointed by the court, a copy of the entered court order referred to in subsection (4);
    - (iii) any other records the registrar may require.
- (4) A liquidator appointed by the court must not submit for filing an application for dissolution under subsection (3) (a) unless the court, by order made on the application of the liquidator, has approved the dissolution.
- (5) In making an order under subsection (4) approving the dissolution of a society, the court may make any other order it considers appropriate, including, without limitation, an order
- (a) respecting the custody or control of records referred to in section 152 [*retention of society's records by liquidator*], and
  - (b) that the liquidator be discharged effective on the dissolution of the society or at any other time the court orders, and, if the liquidator is discharged under this paragraph, section 151 (3) and (4) [*discharge of liquidator by court order*] applies.

## **Dissolution on completion of liquidation**

- 150** (1) A society is dissolved at the beginning of the day on the date that is 90 days after the date of filing of the application for dissolution referred to in section 149 (3) (a).
- (2) On the application of the liquidator of a society or by a person referred to in section 130 (1) [*court-ordered liquidation and dissolution*], the court may make an order deferring the date on which the dissolution of the society is to take effect to a date the court considers appropriate, and, in that event, subject to subsection (3) of this section, the society is dissolved at the beginning of the day on the date specified in the order.
- (3) A court order under subsection (2) is not effective unless a copy of the entered court order is filed with the registrar before the society is dissolved under subsection (1).

## **Division 9 – After Dissolution**

### **Discharge of liquidator by court order**

- 151** (1) After a society has been dissolved under section 150, the court may, on the application of a liquidator who has not been discharged by court order under section 149 (5) (b) [*final meeting and dissolution*], discharge the applicant as liquidator.
- (2) An application under subsection (1) must include the account of the liquidation prepared under section 149 (1) (a).
- (3) Subject to subsection (4), a court order discharging the liquidator of a society under this section discharges the liquidator from all liability in respect of any act done or default made by the liquidator in the administration of the activities and internal affairs of the society or otherwise done by that person in the person's capacity as liquidator of the society.
- (4) A court order discharging the liquidator of a society under this section
- (a) does not, except to the extent that the order expressly provides otherwise, relieve the liquidator from an obligation imposed on the liquidator under section 152, and
  - (b) may be revoked on proof that the court order was obtained by fraud or by suppression or concealment of a material fact.

### **Retention of society's records by liquidator**

- 152** (1) After a society has been dissolved under section 150 [*dissolution on completion of liquidation*], a liquidator of the society must

- (a) retain custody or control of the society's records for a period of 3 years following the date of the dissolution or until the expiration of any shorter period the court, on the application of the liquidator, may order, and
  - (b) comply with the provisions of this Act that relate to maintaining, providing access to and providing copies of those records, and, for that purpose, a reference in those provisions to the society is to be read as a reference to the liquidator.
- (2) A liquidator must ensure that all of the records the liquidator is required to keep under subsection (1),
- (a) in the case of records that are not in electronic form, are kept at an office of the liquidator in British Columbia, and
  - (b) in the case of records that are in electronic form, are available for inspection at an office of the liquidator in British Columbia by means of a computer terminal or other electronic technology.

### **Registrar's duties after dissolution**

- 153** (1) After a society is dissolved under this Part, the registrar must
- (a) issue a certificate of dissolution showing the date and time of the dissolution, and
  - (b) furnish a copy of the certificate of dissolution to each liquidator of the society or, if there is no liquidator of the society, to the person who submitted the application for dissolution on behalf of the society.
- (2) After a society is dissolved under this Part, the registrar must publish notice of the dissolution.

## **Division 10 — Effect of Dissolution**

### **Effect of dissolution**

- 154** (1) Subject to sections 155 and 157 [*liabilities survive*], when a society is dissolved under this Part, the society ceases to exist for any purpose.
- (2) Despite section 31 (3) [*joint tenancy in property*] of the *Business Corporations Act*, if a society is dissolved, any property held, immediately before the dissolution, by the society as a joint tenant
- (a) devolves, on the dissolution, on the other joint tenants only if all of the other joint tenants are qualified recipients, and

- (b) in any other case, is deemed to be held, immediately before the dissolution, by the society and the other joint tenants, as tenants in common, but the joint tenancy among the other joint tenants, if there is more than one, is not affected.
- (3) Subject to subsection (2), if, when a society is dissolved, the society has money or other property that has not been distributed, the property vests in the government unless the property is land located in British Columbia, in which case the property is deemed to escheat to the government under section 4 [*escheat of land on dissolution of corporation*] of the [Escheat Act](#).

### **Dissolved societies deemed to continue for litigation purposes**

- 155** (1) Despite the dissolution of a society under this Part,
- (a) a legal proceeding commenced by or against the society before its dissolution may be continued as if the society had not been dissolved, and
  - (b) a legal proceeding may be brought against the society within 2 years after its dissolution as if the society had not been dissolved.
- (2) If a society has not provided an address for service in a legal proceeding referred to in subsection (1), records related to the proceeding may be served on the society
- (a) by delivering the records to an individual who was a director or senior manager of the society immediately before the society was dissolved, or
  - (b) in the manner the court orders.

### **Liability of persons who receive distributions**

- 156** (1) If it appears to the court in a legal proceeding referred to in section 155 (1) that some or all of a society's money or other property was distributed to one or more persons in anticipation of, during or as a result of the society's liquidation or dissolution, the court may, subject to subsections (2) and (4) of this section,
- (a) add those persons as parties to the legal proceeding,
  - (b) determine, for each of those parties, the amount for which that party is liable and the amount that party must contribute towards satisfaction of the plaintiff's claim, and
  - (c) direct payment of the amounts so determined.
- (2) A person is not liable under subsection (1) unless the person is added as a party within 2 years after the date on which the society was dissolved.

- (3) If a judgment is obtained in a legal proceeding against a dissolved society before or after its dissolution and it appears that some or all of the society's money or other property was distributed to a person in anticipation of, during or as a result of the society's liquidation or dissolution,
- (a) the judgment creditor may, within 2 years after the date on which the society was dissolved, bring a legal proceeding against the person to enforce the liability referred to in paragraph (b), and
  - (b) the person is liable to the judgment creditor if the court is satisfied that
    - (i) some or all of the society's money or other property was distributed to the person in anticipation of, during or as a result of the society's liquidation or dissolution,
    - (ii) the person has had an opportunity to raise any reasonable defences to the judgment creditor's claim against the society that were not considered in a trial or summary trial in the legal proceeding in which judgment against the society was obtained, and
    - (iii) the amount is justly due and owing by the society to the judgment creditor.
- (4) The liability of a person in relation to a distribution referred to in subsection (1) or (3) continues despite the dissolution of the society but is limited to the value that the money or other property received by the person on that distribution had on the date of that distribution.

### **Liabilities survive**

- 157** Subject to sections 151 (3) [*discharge of liquidator by court order*] and 156 (2) and (4), the liability of each member, director, senior manager or liquidator of a society that is dissolved continues and may be enforced as if the society had not been dissolved.

## **Division 11 — Restoration of Dissolved Society**

### **Definition of "applicant" and application of Division to society dissolved under former Act**

- 158** (1) In this Division, "**applicant**", in relation to an application under section 160 [*application to registrar for restoration*] or 162 [*application to court for restoration*] respecting a society that is dissolved, means,
- (a) in the case of an application to the registrar under section 160, a person

- (i) who, at the time of the dissolution, was a member or director of the society, or
  - (ii) who is the heir or personal or other legal representative of a person who, at the time of the dissolution, was a member of the society, or
- (b) in the case of an application to the court under section 162, a person
- (i) referred to in paragraph (a) (i) or (ii) of this subsection, or
  - (ii) whom the court considers to be an appropriate person to make the application.
- (2) This Division applies to a society under the former Act that was dissolved under the former Act as if it were a society that was dissolved under this Act.

### **Prerequisites to application for restoration by registrar or court**

- 159** (1) An application under this Division for restoration of a dissolved society may be
- (a) filed with the registrar under section 160, or
  - (b) made to the court under section 162 [*application to court for restoration*].
- (2) Before filing or making an application under subsection (1) (a) or (b), a person must
- (a) publish in the Gazette notice of the application,
  - (b) mail a notice of the application to the last addresses shown in the register of societies as
    - (i) the address or mailing address, as the case may be, of the registered office of the society, and
    - (ii) the address of each of the individuals who were the directors of the society at the time of the dissolution, and
  - (c) reserve a name under section 9 [*name*] for the society to be restored.

### **Application to registrar for restoration**

- 160** (1) To apply to the registrar for the restoration of a society, an applicant must file with the registrar
- (a) a restoration application, and
  - (b) any other records the registrar may require.



- (2) A restoration application referred to in subsection (1) (a) must contain the following information:
- (a) the date on which the notice required under section 159 (2) (a) was published in the Gazette;
  - (b) the latest date on which a notice required under section 159 (2) (b) was mailed in accordance with that provision;
  - (c) the name reserved under section 9 [*name*] for the society and the reservation number given for that name;
  - (d) the delivery address and mailing address of the registered office proposed for the society;
  - (e) if the restoration is for a limited period, a statement specifying the proposed limited period of the restoration.
- (3) In respect of applications to the registrar under this section for restorations for a limited period, the registrar may establish the maximum period of restoration that may be specified in a statement referred to in subsection (2) (e).
- (4) If a society was dissolved before the coming into force of this section, a restoration application in respect of the dissolved society may not be submitted for filing with the registrar more than 10 years after the date of the dissolution.

### **Restoration by registrar**

- 161** (1) Unless the court orders otherwise in an entered court order of which a copy has been filed with the registrar, after the restoration application is filed with the registrar under section 160, the registrar must, on any terms and conditions the registrar considers appropriate, restore the society or restore the society for the limited period set out in the application, as the case may be.
- (2) Despite subsection (1), the registrar may not restore a society under that subsection until 21 days after the later of
- (a) the date shown in the restoration application as the date on which notice of the application was published in the Gazette in accordance with section 159 (2) (a) [*prerequisites to application for restoration by registrar or court*], and
  - (b) the date shown in the restoration application as the latest date on which a notice of the application was mailed in accordance with section 159 (2) (b).

(2.1) Subsection (2) does not apply to the restoration of a society if

- (a) the society was dissolved under section 214 [involuntary dissolution by registrar] for one or more of the reasons set out in section 214 (1)(a) to (d), and for no other reason under that section, and
- (b) the application for restoration is filed no later than one year after the date of dissolution.

(3) Despite subsection (1), the registrar may not restore a society under that subsection unless the reservation of a name under section 9 [name] for the society remains in effect on the date of the restoration.

(4) Subject to section 165 [corporate property to be returned to restored society], a restoration under subsection (1) of this section is without prejudice to the rights acquired by persons before the restoration.

### **Application to court for restoration**

**162** (1) Before making an application to the court under this section for the restoration of a society, an applicant must

- (a) provide to the registrar notice of the application and a copy of any record proposed to be filed in the court registry in support of the application, and
- (b) obtain the registrar's written consent to the restoration.

(2) An applicant may apply to the court for the restoration of a society and must, on making an application, provide to the court

- (a) the information described in section 160 (2) (a) to (e) [application to registrar for restoration],
- (b) the registrar's written consent to the restoration, including any terms and conditions the registrar considers appropriate, and
- (c) any other information and records the court requires.

(3) If, on an application under subsection (2), the court is satisfied that it is appropriate to restore the society, the court may make an order that the society be restored and, in that order, may

- (a) set out any terms and conditions the court considers appropriate, and
- (b) give directions and make provisions the court considers appropriate for placing the society and every other person in the same position, as nearly as may be, as if the society had not been dissolved.

(4) Subject to section 165 [corporate property to be returned to restored society], unless the court orders otherwise, an order under subsection (3) of

this section is without prejudice to the rights acquired by persons before the restoration.

- (5) A court order under subsection (3) must reflect any terms and conditions referred to in subsection (2) (b).

### **Filing of restoration application with registrar in court-ordered restoration**

- 163** (1) Promptly after a court order is made under section 162 (3), the applicant must file with the registrar
- (a) a restoration application that complies with section 160 (2) [*application to registrar for restoration*], and
  - (b) concurrently with that application, the following:
    - (i) a copy of the entered court order;
    - (ii) any other records the registrar may require.
- (2) Subject to subsection (3), when the restoration application is filed with the registrar under this section, the registrar must restore the society, or restore the society for the limited period set out in the application, as the case may be.
- (3) The registrar may not restore a society under subsection (2) unless the reservation of a name under section 9 [*name*] for the society remains in effect on the date of the restoration.

### **Effect of restoration**

- 164** (1) A society that is restored under this Division is restored with the name reserved under section 9 [*name*] for the society.
- (2) Subject to subsection (1), a society that is restored under this Division is restored
- (a) with the constitution and bylaws it had immediately before its dissolution, and
  - (b) with the statement of directors and registered office that it had immediately before its dissolution except that the delivery address and mailing address of the registered office for the society are the addresses shown for that office in the restoration application,
- unless, in the case of a restoration under section 162 [*application to court for restoration*], the court orders otherwise.
- (3) A society that is restored under this Division is deemed to have continued in existence as if it had not been dissolved, and proceedings may be taken as might have been taken if the society had not been dissolved.

- (4) Subject to subsections (5) and (6), if the restoration of a society is for a limited period, the society is dissolved on the expiration of the limited period.
- (5) If the restoration of a society is for a limited period, on the application, within that limited period, of the applicant who filed the restoration application,
  - (a) in the case of a society that was restored under section 161 (1) [*restoration by registrar*], the registrar may extend the period to a later date that the registrar considers appropriate, or
  - (b) in the case of a society that was restored under section 161 (1) or 163 (2), the court may extend the period to a later date that the court considers appropriate.
- (6) If the limited period of the restoration of a society is extended under subsection (5), the society is dissolved on the expiration of the extended period.
- (7) Section 153 (1) [*registrar's duties after dissolution*] does not apply in respect of the dissolution of a society under subsection (4) or (6) of this section.

### **Corporate property to be returned to restored society**

- 165** (1) If money or other property of a society, other than property described in subsection (4) or (5), vested in the government under section 154 (3) [*effect of dissolution*] as a result of the society's dissolution, on the restoration of the society,
- (a) any of that property that has not been disposed of by the government vests in the society without any deed, bill of sale or other record from the government or any action by the government, and
  - (b) subject to subsection (3) of this section, the government must,
    - (i) in the case of property that remains in the government's custody, return all of that property to the society,
    - (ii) in the case of property that has been disposed of by the government, pay to the society, out of the consolidated revenue fund, the amount of money realized by the government from the disposition of that property, and
    - (iii) in the case of money that has been received by the government, pay to the society, out of the consolidated revenue fund, the amount of that money.
- (2) A payment under subsection (1) (b) may be made without an appropriation other than that provision.

- (3) The government need not comply with subsection (1) (b) in relation to money or other property of a restored society unless and until the government has been reimbursed, out of the money or other property, or otherwise, for the government's costs of
- (a) obtaining, retaining, maintaining and disposing of the money or other property, and
  - (b) paying the money, and returning the other property, in accordance with that provision.
- (4) Subject to subsection (5), title to, or an interest in, land of a society that has escheated to the government under section 4 [*escheat of land on dissolution of corporation*] of the *Escheat Act* is not, except as provided in section 4 of that Act, affected by a restoration of the society.
- (5) Title to, or an interest in, water system property of a society that
- (a) has escheated to the government under section 4 of the *Escheat Act*, or
  - (b) has vested in the government under this Act
- is not, except as provided in section 4.1 [*disposal of escheated water system property*] of the *Escheat Act*, affected by a restoration of the society.

### **Registrar's duties after restoration**

- 166** (1) After a society is restored under this Division, the registrar must
- (a) issue a certificate of restoration in which is recorded
    - (i) the name of the society,
    - (ii) the date and time of the restoration, and
    - (iii) in the case of a restoration for a limited period, the date on which the limited period of restoration expires,
  - (b) furnish to the society
    - (i) the certificate of restoration,
    - (ii) a certified copy of the statement of directors and registered office modified in accordance with section 164 (2) (b) [*effect of restoration*], and
    - (iii) a certified copy of the restoration application filed with the registrar under section 160 [*application to registrar for restoration*] or 163 [*filing of restoration application with registrar in court-ordered restoration*],
  - (c) furnish to the applicant who filed the restoration application a copy of the certificate of restoration, and

- (d) publish notice of
  - (i) the restoration, and
  - (ii) the date on which any limited period of restoration expires.
- (2) Whether or not the requirements precedent and incidental to restoration have been complied with, a notation in the register of societies that a society has been restored is conclusive evidence for the purposes of this Act and for all other purposes that the society has been duly restored with the name, and on the date and time, shown in the register of societies.

## **Part 11 — Extraprovincial Non-Share Corporations**

### **Division 1 — Definitions and Interpretation**

#### **Definitions**

**167** In this Part:

**"attorney"** means an attorney referred to in section 170 [*attorneys*];

**"delivery address"**, in relation to the head office of an extraprovincial non-share corporation, or an attorney for an extraprovincial non-share corporation, means the delivery address for that office or person, as the case may be, shown in the register of societies;

**"federal corporation"** means an extraprovincial non-share corporation that is incorporated, amalgamated, continued or otherwise formed by or under an enactment of Canada;

**"mailing address"**, in relation to the head office of an extraprovincial non-share corporation, or an attorney for an extraprovincial non-share corporation, means the mailing address for that office or person, as the case may be, shown in the register of societies;

**"registered extraprovincial non-share corporation"** means an extraprovincial non-share corporation that is registered under Division 2 [*Registration*].

#### **When extraprovincial non-share corporation deemed to carry on activities in British Columbia**

- 168** For the purposes of this Act, an extraprovincial non-share corporation is deemed to carry on activities in British Columbia if
- (a) its name, or a name under which it carries on activities, is listed in a telephone directory, for any part of British Columbia, in which an

address or telephone number in British Columbia is given for the extraprovincial non-share corporation,

- (b) its name, or a name under which it carries on activities, appears or is announced in an advertisement in which an address or telephone number in British Columbia is given for the extraprovincial non-share corporation, or
- (c) it has, in British Columbia,
  - (i) a resident agent or employee, or
  - (ii) an office or similar place from which it carries on activities.

## **Division 2 – Registration**

### **Extraprovincial non-share corporations must register**

**169** An extraprovincial non-share corporation must register in accordance with this Division within 60 days after it begins to carry on activities in British Columbia.

### **Attorneys**

**170** (1) A registered extraprovincial non-share corporation

- (a) that has its head office in British Columbia may have one or more attorneys, and
- (b) in any other case, must have one or more attorneys.

(2) Each attorney for a registered extraprovincial non-share corporation must be

- (a) an individual who is resident in British Columbia,
- (b) a society, or
- (c) a company as defined in section 1 (1) [*definitions*] of the *Business Corporations Act*.

(3) Each attorney for a registered extraprovincial non-share corporation is deemed to be authorized by the extraprovincial non-share corporation to accept service in British Columbia on behalf of, and receive each notice to, that extraprovincial non-share corporation.

### **Assumed name**

**171** (1) If, under section 9 [*name*], the name of an extraprovincial non-share corporation cannot be reserved, it must, if it wishes to be registered under this Division, reserve an assumed name that meets the requirements of that section.

- (2) If an extraprovincial non-share corporation reserves an assumed name, the registrar may register the extraprovincial non-share corporation with its own name if it provides an undertaking to the registrar, in form and content satisfactory to the registrar, that it will carry on all of its activities in British Columbia under the assumed name, and, on such registration, that extraprovincial non-share corporation is deemed to have adopted the assumed name.
- (3) An extraprovincial non-share corporation that has adopted an assumed name under this section
  - (a) must acquire under its assumed name all property in British Columbia,
  - (b) is entitled to all property acquired, and is subject to all liabilities incurred, under its assumed name as if the property and the liabilities had been acquired and incurred under its own name, and
  - (c) may sue or be sued in its own name or its assumed name, or both.
- (4) An act of an extraprovincial non-share corporation that has adopted an assumed name under this Act, including a transfer of property to or by it, is not invalid merely because the act contravenes subsection (3) (a).
- (5) This section does not apply to a federal corporation.

## **Procedure for registration**

**172** To register, an extraprovincial non-share corporation must

- (a) file with the registrar a registration statement that sets out the following:
  - (i) if the extraprovincial non-share corporation is a federal corporation, its name or, in any other case,
    - (A) the name reserved for it under section 9 [*name*] and the reservation number given for that name, unless section 171 applies to the extraprovincial non-share corporation, or
    - (B) if section 171 applies to the extraprovincial non-share corporation, its name, the assumed name reserved for it under that section and the reservation number given for that assumed name;
  - (ii) its home jurisdiction;
  - (iii) any incorporation or other identifying number given to it by its home jurisdiction and the date of its incorporation,



- amalgamation, continuation or other formation in that jurisdiction;
  - (iv) the delivery address and mailing address proposed for its head office;
  - (v) for each person, if any, that the extraprovincial non-share corporation proposes to have as an attorney, the full name of the person and the delivery address and mailing address proposed for that person, and
- (b) provide to the registrar any other records and information the registrar may require, including proof satisfactory to the registrar of the status of the extraprovincial non-share corporation in its home jurisdiction.

## Registration

**173** (1) After an extraprovincial non-share corporation complies with section 172 to the satisfaction of the registrar, the registrar

- (a) must, if it is a federal corporation, and
- (b) may, in any other case,

register the extraprovincial non-share corporation.

(2) After an extraprovincial non-share corporation is registered, the registrar must

- (a) issue a certificate of registration in which is recorded
  - (i) the extraprovincial non-share corporation's name, assumed name, if any, and registration number, and
  - (ii) the date and time of the registration,
- (b) furnish to the extraprovincial non-share corporation
  - (i) the certificate of registration, and
  - (ii) a certified copy of the registration statement the extraprovincial non-share corporation filed with the registrar under section 172 (a), and

(c) publish notice of the extraprovincial non-share corporation's registration.

(3) Whether or not the requirements precedent and incidental to registration under this Division of an extraprovincial non-share corporation have been complied with, a notation in the register of societies that an extraprovincial non-share corporation has been registered under this Division is conclusive evidence for the purposes of this Act and for all other purposes that the

extraprovincial non-share corporation has been duly registered under this Division with the name and any assumed name, and on the date and time, shown in the register of societies.

### **Registrar may order change of name**

**174** (1) If, for any reason, the name or assumed name of a registered extraprovincial non-share corporation is contrary to the requirements, if any, prescribed by regulation, or if the registrar, for good and valid reasons, disapproves of the name or assumed name of a registered extraprovincial non-share corporation, the registrar may, in writing and giving reasons, order the extraprovincial non-share corporation to change its name or assumed name, as the case may be, or to adopt an assumed name.

(2) This section does not apply to a federal corporation.

### **Effect of registration**

**175** (1) In this section, "**charter**" includes

- (a) the records of an extraprovincial non-share corporation that are similar to the constitution and bylaws of a society, and
- (b) the statute or other provision of law of the extraprovincial non-share corporation's home jurisdiction by or under which the extraprovincial non-share corporation is incorporated, amalgamated, continued or otherwise formed.

(2) Subject to this Act, to the other laws of British Columbia and to the laws of any other jurisdiction that are or may be applicable to it, a registered extraprovincial non-share corporation may, for the purpose of carrying on activities in British Columbia, exercise in British Columbia the powers contained in or permitted by its charter.

(3) Registration of an extraprovincial non-share corporation does not entitle it to do either of the following:

- (a) carry on an activity or exercise a power that its charter restricts it from carrying on or exercising;
- (b) exercise any of its powers in a manner inconsistent with those restrictions.

(4) An act of an extraprovincial non-share corporation that carries on activities in British Columbia, including a transfer of property to or by it, is not invalid merely because

- (a) the act is described in subsection (3) (a) or (b),

- (b) the extraprovincial non-share corporation was not, at the time of that act, registered under this Division, or
- (c) the act is contrary to section 183 [*effect of cancellation of registration*] or 188 (3) [*effect of reinstatement*].

### **Service of records on registered extraprovincial non-share corporation**

**176** Without limiting any other enactment, a record may be served on a registered extraprovincial non-share corporation

- (a) by delivering the record, if the extraprovincial non-share corporation's head office is in British Columbia, to the delivery address of the head office or by mailing it by registered mail to the mailing address of that head office, or
- (b) by delivering the record to an attorney of the extraprovincial non-share corporation, which delivery may be made in accordance with section 30 [*how record is delivered*] or by leaving the record at the delivery address of the attorney.

## **Division 3 — Registry Filings**

### **Registered extraprovincial non-share corporation must file annual report**

**177** A registered extraprovincial non-share corporation must, in each calendar year, file with the registrar an annual report.

### **Registered extraprovincial non-share corporation must notify registrar of changes**

- 178** (1) A registered extraprovincial non-share corporation must file with the registrar a notice of change in respect of any change that renders incorrect or incomplete any of the information shown with respect to the registered extraprovincial non-share corporation in the register of societies.
- (2) A notice of change required to be filed under subsection (1) must
- (a) set out
    - (i) the information the registrar requires, and
    - (ii) if the change reflected in the filing is a change of name and the extraprovincial non-share corporation does not have an assumed name, the new name reserved for it under section 9 [*name*] or, if that name cannot be reserved, the assumed name reserved for it under section 171 [*assumed name*], and the reservation number given for that name or assumed name, as the case may be, and

- (b) be submitted to the registrar for filing promptly after the occurrence of the change.
- (3) Subsection (2) (a) (ii) does not apply to a federal corporation.
- (4) If a notice of change filed with the registrar under subsection (1) is in respect of a change of name, the registrar must
  - (a) issue a certificate showing the change of name,
  - (b) furnish the certificate to the extraprovincial non-share corporation, and
  - (c) publish notice of the change of name.

### **Cancellation or change of assumed name**

- 179** (1) A registered extraprovincial non-share corporation that has adopted an assumed name under this Act may, by filing with the registrar a notice of change of assumed name and providing to the registrar any other records or information the registrar may require,
- (a) if the extraprovincial non-share corporation reserves its own name under section 9 [*name*], cancel its assumed name and carry on activities in British Columbia under its own name, or
  - (b) if the extraprovincial non-share corporation reserves a new assumed name under section 171 [*assumed name*], change its assumed name and carry on activities in British Columbia under the new assumed name.
- (2) A notice of change of assumed name in respect of a registered extraprovincial non-share corporation must set out
- (a) the information the registrar requires, and
  - (b) the name or assumed name referred to in subsection (1) (a) or (b), as the case may be, reserved for the extraprovincial non-share corporation and the reservation number given for that name or assumed name.
- (3) After a registered extraprovincial non-share corporation cancels or changes its assumed name in accordance with this section, the registrar must
- (a) issue a certificate showing the cancellation or change of assumed name,
  - (b) furnish the certificate to the extraprovincial non-share corporation, and
  - (c) publish notice of the cancellation or change of assumed name.

## Division 4 — Cancellation of Registration

### Cancellation of registration by registrar

- 180** (1) If a registered extraprovincial non-share corporation
- (a) fails, for 2 consecutive calendar years, to file with the registrar an annual report required under this Act to be filed,
  - (b) fails, for a period of at least 2 years, to file with the registrar a record, other than an annual report, required under this Act to be filed,
  - (c) fails to pay a fee required under this Act to be paid to the registrar,
  - (d) fails to comply with an order of the registrar, or
  - (e) fails to comply with section 170 *[attorneys]*,

the registrar may furnish to the extraprovincial non-share corporation a letter notifying it of its default and of the powers of the registrar under this section.

- (2) The registrar may furnish the letter referred to in subsection (1) to the head office of the registered extraprovincial non-share corporation, if the head office is in British Columbia, or to an attorney of that corporation.
- (3) Unless, within one month after the registrar furnishes the letter referred to in subsection (1),
- (a) the default identified in the letter is remedied, or
  - (b) the registrar receives a response that
    - (i) satisfies the registrar that reasonable steps are being taken to remedy the default, or
    - (ii) is otherwise satisfactory to the registrar,

the registrar may publish notice that, at any time after the expiration of one month after the date of the publication of notice, the registration of the registered extraprovincial non-share corporation may be cancelled unless cause to the contrary is shown to the registrar.

- (4) At any time after one month after the date of the publication of notice referred to in subsection (3) or, if an application for extension was filed with the registrar under subsection (5), at any time after the expiry of the extended period that results from that filing, the registrar may cancel the registration of the registered extraprovincial non-share corporation unless cause to the contrary is shown to the registrar.

- (5) A registered extraprovincial non-share corporation referred to in subsection (4) may file with the registrar an application for extension and, with that filing, the period after which the registrar may cancel the registration of the extraprovincial non-share corporation is extended
- (a) for a period of 6 months, or
  - (b) if the registrar furnishes written notice to the extraprovincial non-share corporation indicating that a period longer than 6 months has been allowed, for the longer period referred to in the notice.
- (6) Unless the registrar otherwise permits, a registered extraprovincial non-share corporation must not submit for filing more than one application for extension in relation to any one notice published under subsection (3).

### **Cancellation of registration of inactive or defunct extraprovincial non-share corporation**

- 181** The registrar must cancel the registration of a registered extraprovincial non-share corporation if
- (a) a person files with the registrar a notice, from the official in the extraprovincial non-share corporation's home jurisdiction whose role in that jurisdiction is similar to the role of the registrar in British Columbia, that that corporation has ceased to exist, or
  - (b) the extraprovincial non-share corporation files with the registrar a notice that it has ceased to carry on activities in British Columbia.

### **Cancellation of registration by Lieutenant Governor in Council**

- 182** (1) The Lieutenant Governor in Council may cancel the registration of a registered extraprovincial non-share corporation.
- (2) Subsection (1) does not apply to a federal corporation.

### **Effect of cancellation of registration**

- 183** An extraprovincial non-share corporation whose registration is cancelled under this Division must cease carrying on activities in British Columbia.

### **Publication of notice of cancellation**

- 184** After the registration of an extraprovincial non-share corporation is cancelled under this Division, the registrar must publish notice of the cancellation.

## **Division 5 – Reinstatement of Registration**

### **Definition of "applicant"**

**185** In this Division, "**applicant**", in relation to an application under section 186 respecting an extraprovincial non-share corporation whose registration has been cancelled, means

- (a) the extraprovincial non-share corporation, or
- (b) an individual who, when the application is made, is a member of the board of directors or other governing body of the extraprovincial non-share corporation.

### **Application for reinstatement of registration**

**186** (1) If the registration of an extraprovincial non-share corporation has been cancelled under this Part or under the former Act, an applicant may apply to the registrar under this section to reinstate the registration.

(2) Before applying to the registrar to reinstate the registration of an extraprovincial non-share corporation, an applicant must reserve a name under section 9 [*name*] or an assumed name under section 171 [*assumed name*] for the extraprovincial non-share corporation whose registration is to be reinstated, unless it is a federal corporation.

(3) To reinstate the registration of an extraprovincial non-share corporation under this section, an applicant must

- (a) file with the registrar
  - (i) a reinstatement application, and
  - (ii) any other records the registrar may require, and
- (b) provide to the registrar any other records and information the registrar may require.

(4) A reinstatement application must contain the following information:

- (a) the name or assumed name, as the case may be, reserved for the extraprovincial non-share corporation and the reservation number given for that name or assumed name, unless that corporation is a federal corporation;
- (b) if the extraprovincial non-share corporation is a federal corporation, the name of that corporation;
- (c) the delivery address and mailing address proposed for the head office of the extraprovincial non-share corporation;
- (d) for each person, if any, that the extraprovincial non-share corporation proposes to have as an attorney, the full name of the person and the delivery address and mailing address proposed for that person;

- (e) if the reinstatement is for a limited period, a statement specifying the proposed limited period of the reinstatement.
- (5) The registrar may establish the maximum period of reinstatement that may be specified in a statement referred to in subsection (4) (e).

## **Reinstatement**

- 187** (1) After the reinstatement application is filed with the registrar under section 186, the registrar must, on any terms and conditions the registrar considers appropriate, reinstate the registration of the extraprovincial non-share corporation or reinstate the registration for the limited period set out in the application, as the case may be, with the same registration number the extraprovincial non-share corporation had before its registration was cancelled.
- (2) Despite subsection (1), the registrar may not reinstate under that subsection the registration of an extraprovincial non-share corporation, other than a federal corporation, unless the reservation of a name under section 9 [*name*] or an assumed name under section 171 [*assumed name*] for the extraprovincial non-share corporation remains in effect on the date of the reinstatement.

## **Effect of reinstatement**

- 188** (1) When the registration of an extraprovincial non-share corporation is reinstated under this Division,
- (a) its name or assumed name is the name or assumed name, as the case may be, shown for the extraprovincial non-share corporation on the reinstatement application,
  - (b) the delivery address and mailing address of the head office of the extraprovincial non-share corporation are the addresses shown for that office on the reinstatement application,
  - (c) the delivery address and mailing address of the attorneys, if any, for the extraprovincial non-share corporation are the addresses shown for those attorneys on the reinstatement application, and
  - (d) the registration is deemed not to have been cancelled, and, without limiting this, proceedings may be taken as if that registration had not been cancelled.
- (2) The registration of an extraprovincial non-share corporation that is reinstated for a limited period is cancelled on the expiration of the limited period.
- (3) An extraprovincial non-share corporation whose registration is cancelled under subsection (2) must cease carrying on activities in British Columbia.



- (4) After the registration of an extraprovincial non-share corporation is cancelled under subsection (2), the registrar must publish notice of the cancellation.

### **Registrar's duties after reinstatement**

- 189** (1) After the registration of an extraprovincial non-share corporation is reinstated under this Division, the registrar must
- (a) issue a certificate of reinstatement in which is recorded
    - (i) the extraprovincial non-share corporation's name, assumed name, if any, and registration number,
    - (ii) the date and time of the reinstatement, and
    - (iii) in the case of a reinstatement for a limited period, the date on which the limited period of reinstatement expires,
  - (b) furnish to the extraprovincial non-share corporation
    - (i) the certificate of reinstatement, and
    - (ii) a certified copy of the reinstatement application filed with the registrar under section 186 [*application for reinstatement of registration*],
  - (c) furnish to the applicant who filed the reinstatement application a copy of the certificate of reinstatement, and
  - (d) publish notice of
    - (i) the reinstatement, and
    - (ii) the date on which any limited period of reinstatement expires.
- (2) Whether or not the requirements precedent and incidental to reinstatement have been complied with, a notation in the register of societies that the registration of an extraprovincial non-share corporation has been reinstated is conclusive evidence for the purposes of this Act and for all other purposes that the registration of the extraprovincial non-share corporation has been duly reinstated with the name and any assumed name, and on the date and time, shown in the register of societies.

## **Part 12 – Special Societies**

### **Division 1 – Member-Funded Societies**

#### **Definitions**

**190** In this Division:

**"donations"** includes bequests and gifts;

**"government funding"** means funding by way of a grant, a loan without interest or with interest substantially below the market rate or similar funding, provided by

- (a) the government of Canada, British Columbia or another province of Canada,
- (b) a municipality in British Columbia or in another province of Canada,
- (c) the governing body of a first nation in Canada, including the governing body of a band as defined in section 2 (1) of the *Indian Act* (Canada),
- (d) an organization that is owned or controlled by, or is an agent of, any of the governments or bodies referred to in paragraphs (a) to (c), or
- (e) a government, body or other organization that is included in this definition by regulation,

but does not include funding excluded from this definition by regulation;

**"member-funded society"** means a society whose constitution contains a statement referred to in section 191 (1);

**"public donations"** means donations made to a society other than donations made by

- (a) a voting member, director, senior manager or employee of the society,
- (b) the spouse of a person referred to in paragraph (a), or
- (c) a relative of a person referred to in paragraph (a) or (b),

but does not include donations excluded from this definition by regulation.

### **Statement in constitution that member-funded society exists primarily for members**

**191** (1) Despite section 10 (2) [*constitution*] but subject to subsection (2) of this section, the constitution of a society may contain, in addition to the society's name and purposes, the following statement:

This society is a member-funded society. It is funded primarily by its members to carry on activities for the benefit of its members. On its liquidation or dissolution, this society may distribute its money and other property to its members.

- (2) A society must not have a constitution that contains the statement referred to in subsection (1) if the society
- (a) except as provided in the regulations, has received during the period prescribed by regulation
    - (i) public donations having a total value greater than the amount specified in, or calculated in accordance with, the regulations,
    - (ii) government funding having a total value greater than the amount specified in, or calculated in accordance with, the regulations, or
    - (iii) a combination of public donations and government funding having a total value greater than the amount specified in, or calculated in accordance with, the regulations,
  - (b) is a registered charity as defined in section 248 (1) of the *Income Tax Act*(Canada) or is another qualified donee as defined in section 149.1 (1) of that Act,
  - (c) is a designated recipient as defined in section 1 [definitions] of the *Provincial Sales Tax Act* or is otherwise entitled to receive taxes, fees or other revenue received by the government as agent of the society,
  - (d) is a student society as defined in section 1 [definitions] of the *College and Institute Act* or section 1 [definitions] of the *University Act*,
  - (e) is a hospital society as defined in section 42.1 [definitions for sections 42.1 to 42.4] of the *Hospital Act* or a society that owns, manages or operates a licensed community care facility, as defined in section 1 [definitions] of that Act, that is designated as a hospital society under section 42.4 (1) [further application of sections 42.2 and 42.3] of that Act, or
  - (f) is in a class of societies that is prohibited under the regulations from having the statement in its constitution.

### **Ceasing to be member-funded society**

#### **192 (1) A member-funded society**

- (a) must immediately alter its constitution to remove the statement referred to in section 191 (1) if the member-funded society is or becomes a society described in any of paragraphs (a) to (f) of section 191 (2), and

(b) may, in any other case, alter its constitution to remove the statement.

(2) Section 15 [*alterations to constitution*] applies to an alteration referred to in subsection (1) of this section except that an alteration required by subsection (1) (a) of this section may be made without the authorization of a special resolution referred to in section 15 (2) (a).

### **Altering constitution to become member-funded society**

- 193** (1) Subject to subsection (2), a society may, by filing with the registrar a constitution alteration application, alter its constitution to include the statement referred to in section 191 (1) [*statement in constitution that member-funded society exists primarily for members*].
- (2) A society must not, under subsection (1), submit a constitution alteration application to the registrar for filing unless
- (a) the alteration proposed by the application has been authorized by special resolution, and
  - (b) the court, on the application of the society, has, by order, declared that the society is not prohibited under section 191 (2) from including in its constitution the statement referred to in section 191 (1).
- (3) A society that files with the registrar a constitution alteration application referred to in subsection (1) must, concurrently with that filing, file with the registrar a copy of the entered court order referred to in subsection (2) (b).
- (4) Section 15 (3) and (4) (a) [*alterations to constitution*] applies in respect of a constitution alteration under this section.

### **Other restrictions on becoming member-funded society**

- 194** (1) A society must not, under section 87 (a) [*application for amalgamation*], submit to the registrar for filing an amalgamation application containing a constitution that includes the statement referred to in section 191 (1) [*statement in constitution that member-funded society exists primarily for members*] unless
- (a) all of the amalgamating corporations are member-funded societies, or
  - (b) the court, on the application of an amalgamating corporation, has, by order, declared that none of the amalgamating corporations that are not member-funded societies are prohibited under section 191 (2) from including the statement in its constitution.

- (2) A society that files with the registrar an amalgamation application referred to in subsection (1) in respect of which a court order is required under subsection (1) (b) must, concurrently with that filing, file with the registrar a copy of the entered court order.

### **Access to financial statements of member-funded society**

- 195** Section 28 [*copies of financial statements*] does not apply in relation to a member-funded society.

### **Reporting on remuneration for member-funded society**

- 196** Section 36 [*reporting on remuneration of directors, employees and contractors*] does not apply in relation to a member-funded society.

### **Directors of member-funded society**

- 197** (1) Despite section 40 [*number and residency of directors*], a member-funded society need have only one director and none of the directors need be ordinarily resident in British Columbia.

- (2) Section 41 [*employment of directors*] does not apply in relation to a member-funded society.

### **Member-funded society may convert to company**

- 198** A member-funded society may, under section 267.2 [*conversion of member-funded societies*] of the *Business Corporations Act*, be converted to a company as defined in section 1 (1) [*definitions*] of that Act.

### **Distribution of property before dissolution or on liquidation of member-funded society**

- 199** (1) Section 124 (2) [*distribution of property before dissolution or on liquidation*] does not apply in relation to a member-funded society, and a distribution of money or other property under section 124 (1) (b) in respect of a member-funded society may be made

- (a) to any person specified in the bylaws of the society, or
- (b) if the bylaws do not specify a recipient for such a distribution, to any person specified in an ordinary resolution of the society or, if passing an ordinary resolution is not feasible, specified in a directors' resolution.

- (2) Despite section 126 [*dissolution by request*], in the case of a dissolution under that section of a member-funded society, the affidavit referred to in section 126 (3) (b) must set out that

- (a) the society has no liabilities or has made adequate provision for the payment of all of the society's liabilities in accordance with section 124 (1) (a), and
- (b) the remaining money or other property of the society, if any, has been distributed in accordance with section 124 (1) (b) and subsection (1) of this section.

### **Effect of dissolution of member-funded society on joint tenancy**

**200** Despite section 154 (2) [*effect of dissolution*], on the dissolution of a member-funded society, any property held, immediately before the dissolution, by the society as a joint tenant devolves on the other joint tenants.

## **Division 2 — Occupational Title Societies**

### **Definitions and interpretation**

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

**"designated words or initials"**, in relation to an occupational title society that is registered under this Division, means the word or combination of words, or the initials, designated by the registrar under section 88 (3) of the former Act as it read immediately before its repeal;

**"occupational title society"** means a society that has as one of its purposes the representation of the interests of an occupation or profession;

**"pre-existing application"** means an application for registration under section 88 of the former Act that is made on or before December 31, 2015 by a pre-existing society.

(2) An occupational title society is registered under this Division if

- (a) the society was registered under Part 10 of the former Act immediately before its repeal or is registered under Part 10 of the former Act as it applies under section 202 (2) of this Act, and
- (b) the registration of the society has not been cancelled under this Division.

### **Applications for registration by pre-existing occupational title societies**

**202** (1) If the former Act is repealed on or before December 31, 2015, despite the repeal, a pre-existing society may apply on or before December 31, 2015 under section 88 of the former Act, as it read immediately before that repeal, for registration under Part 10 of the former Act.

- (2) Part 10 of the former Act as it read immediately before its repeal, despite that repeal, continues to apply for the purposes of a pre-existing application until a final determination respecting the registration of the pre-existing society under section 88 of the former Act is made in respect of that application.

### **Publication of names of registered occupational title societies**

**203** The registrar must publish in the manner described in section 211 [*publication*] a list of the names of the occupational title societies that are registered under this Division.

### **Effect of registration**

- 204** (1) A person who is not a member of an occupational title society that is registered under this Division must not use, in connection with an occupation or profession the person practises that is similar to the occupation or profession the society represents, the name of that society or the designated words or initials of that society in a way that identifies the person as a member of that society.
- (2) Registration under this Division of an occupational title society does not mean that the society, its qualifications for admission to membership or its members are in any way endorsed by the government.
  - (3) Registration under this Division of an occupational title society does not affect any remedy that a person would have had if that society had not been registered under this Division.

### **Injunction**

- 205** (1) An occupational title society that is registered under this Division may apply to the court for an injunction restraining a person from contravening section 204 (1) in relation to that society.
- (2) The court may grant an injunction sought under subsection (1) if satisfied that there is reason to believe that there has been or will be a contravention of section 204 (1) in relation to the occupational title society.
  - (3) The court may grant an interim injunction until the outcome of a proceeding commenced under subsection (1).

### **Bylaw alterations**

**206** An occupational title society that is registered under this Division must not, unless that society has first obtained the written consent of the registrar, submit a bylaw alteration application to the registrar for filing under section

17 [*alterations to bylaws*] in relation to a provision in the society's bylaws respecting

- (a) qualifications for admission to membership or a class of membership,
- (b) courses of study and examinations for members or applicants for membership,
- (c) the conduct of members, ethics and standards of practice, or
- (d) suspension, expulsion or other penalties for misconduct, incapacity or incompetence of members.

### **Cancellation by registrar**

**207** The registrar may cancel the registration under this Division of an occupational title society if

- (a) the registrar considers that continued registration is no longer in the public interest,
- (b) the society does not have at least 50 members in good standing,
- (c) the society alters its purposes to remove the purpose of representing the interests of an occupation or profession, or to change the occupation or profession whose interests are being represented,
- (d) the society submits a bylaw alteration application under section 17 [*alterations to bylaws*] without first obtaining the written consent of the registrar, if that consent is required under section 206, or
- (e) the society requests that the registration be cancelled.

### **Effect of restoration of dissolved occupational title society**

**208** Despite section 164 (3) [*effect of restoration*], restoration under Division 11 [*Restoration of Dissolved Society*] of Part 10 [*Liquidation, Dissolution and Restoration*] of a dissolved society that was, on its dissolution, registered under Part 10 of the former Act or this Division does not restore the society's registration under this Division.

## **Part 13 – General**

### **Division 1 – Administration**

#### **Filing of records**



- 209** (1) For the purposes of this Act, a record is filed with the registrar when the registrar accepts the record and includes, in the register of societies, the information contained in the record.
- (2) A record that, under this Act, must or may be filed with the registrar, submitted to the registrar for filing or provided to the registrar must be filed, submitted or provided, as the case may be, in the manner the registrar requires.
- (3) Sections 407 (a) [*means of filing*] and 408 (1) (b) [*filing of records*] of the *Business Corporations Act* do not apply in relation to the filing of records with the registrar under this Act.
- (4) Despite sections 409 [*future dated filing of records*] and 410 [*limitation on future dated filings*] of the *Business Corporations Act*, a record submitted for filing to the registrar under this Act may not specify a date on which the filing of the record is to take effect that is later than the date on which the record is filed with the registrar.

### **Furnishing of records by registrar**

- 210** For the purposes of this Act, a record is furnished to a person by the registrar if the registrar provides the record to the person
- (a) by mail to the mailing address for the person shown in the registrar's records,
  - (b) if the person has provided an email address or fax number for that purpose, by email or fax to that email address or fax number,
  - (c) by a method agreed to by the registrar and the person, or
  - (d) by a method prescribed by regulation.

### **Publication**

- 211** For the purposes of this Act, notice of a matter is published by the registrar if the registrar publishes notice of the matter
- (a) on a website maintained by or on behalf of the government, or
  - (b) in another manner prescribed by regulation.

### **Fees payable to registrar**

- 212** There must be paid to the registrar for the matters prescribed by regulation the fees prescribed by regulation.

## **Division 2 — Government Powers of Investigation and Dissolution**

## Investigation of society

- 213** (1) In this section, "**minister**" means the minister prescribed by regulation for the purposes of this section.
- (2) The registrar must make a report to the minister if it appears to the registrar that
- (a) a society is conducting its activities with intent
    - (i) to defraud a person, or
    - (ii) to otherwise act unlawfully, or
  - (b) a society is carrying on activities that are detrimental to the public interest.
- (3) After receiving a report from the registrar under subsection (2) in relation to a society, the minister may appoint a person to conduct an investigation of the society and to make a written report to the minister of the investigator's findings.
- (4) An investigator appointed under subsection (3) may, in relation to the activities, internal affairs, accounts and records of or relating to the society being investigated, examine under oath a person who is or was a member, director or senior manager of the society or holds or held an equivalent position in a subsidiary of the society, or who is or was an employee, auditor, agent, trustee, banker, receiver, receiver manager or liquidator of the society or of a subsidiary of the society, and the investigator may administer the oath.
- (5) On examination under subsection (4), a person must answer any question relating to the society and must produce any records in that person's custody or control relating to the society.
- (6) After receiving a report from the registrar or after an investigation under this section, and subject to the conditions the minister considers advisable and to any order of the court, the minister may do one or more of the following:
- (a) order the society to conduct all or specified activities or internal affairs of the society in the manner specified in the order;
  - (b) order the society to cease, for a specified period or permanently, all or specified activities of the society or the exercise of all or specified powers of the society;
  - (c) recommend to the Lieutenant Governor in Council that the society be dissolved under section 215 [*dissolution by Lieutenant Governor in Council*].

## Involuntary dissolution by registrar

**214** (1) If a society

- (a) fails, for 2 consecutive calendar years, to file with the registrar an annual report required under this Act to be filed,
- (b) fails, for a period of at least 2 years, to file with the registrar a record, other than an annual report, required under this Act to be filed,
- (c) fails to file an annual report referred to in section 73 (4) [*society must file annual report*],
- (d) fails to pay a fee required under this Act to be paid to the registrar,
- (e) fails to comply with an order of the registrar, or
- (f) fails to comply with an order of the minister under section 213 (6) (a) or (b),

the registrar may furnish to the society a letter notifying the society of its default and of the powers of the registrar under this section.

- (2) The registrar may furnish the letter referred to in subsection (1) to the registered office of the society.
- (3) Unless, within one month after the registrar furnishes the letter referred to in subsection (1),
  - (a) the default identified in the letter is remedied, or
  - (b) the registrar receives a response that
    - (i) satisfies the registrar that reasonable steps are being taken to remedy the default, or
    - (ii) is otherwise satisfactory to the registrar,

the registrar may publish notice that, at any time after the expiration of one month after the date of the publication of notice, the society may be dissolved unless cause to the contrary is shown to the registrar.

- (4) At any time after one month after the date of the publication of notice referred to in subsection (3) or, if an application for extension was filed with the registrar under subsection (5), at any time after the expiry of the extended period that results from that filing, the registrar may dissolve the society unless cause to the contrary is shown to the registrar.
- (5) A society referred to in subsection (4) may file with the registrar an application for extension and, with that filing, the period after which the registrar may dissolve the society is extended
  - (a) for a period of 6 months, or

(b) if the registrar furnishes written notice to the society indicating that a period longer than 6 months has been allowed, for the longer period referred to in the notice.

(6) Unless the registrar otherwise permits, a society must not submit for filing more than one application for extension in relation to any one notice published under subsection (3).

### **Dissolution by Lieutenant Governor in Council**

**215** The Lieutenant Governor in Council may declare a society to be dissolved.

### **Application of Part 10**

**216** Section 153 (2) [*registrar's duties after dissolution*] and Divisions 10 [*Effect of Dissolution*] and 11 [*Restoration of Dissolved Society*] of Part 10 [*Liquidation, Dissolution and Restoration*] apply in relation to a society that has been dissolved under this Division.

## **Division 3 – Application of *Business Corporations Act***

### **References in applicable provisions of *Business Corporations Act* and regulations**

**217** If a provision of the *Business Corporations Act*, or of a regulation under that Act, is made applicable under this Act, or applies under the *Business Corporations Act* in relation to a society, unless a contrary intention appears,

(a) the definitions in this Act apply to the provision, and

(b) the following references, if any, in the provision are to be read as follows:

(i) a reference to "company" is to be read as a reference to "society" as defined in section 1 of this Act;

(ii) a reference to "officer" or "senior officer" is to be read as a reference to "senior manager" as defined in section 1 of this Act;

(iii) a reference to "shareholder" is to be read as a reference to "member" as defined in section 1 of this Act;

(iv) a reference to "articles" is to be read as a reference to "bylaws" as defined in section 1 of this Act.

### **Pre-incorporation contracts**

**218** Section 20 [*pre-incorporation contracts*] of the *Business Corporations Act* applies for the purposes of this Act.

## Trust indentures, debentures, receivers and receiver managers

- 219** (1) Division 9 [*Debentures*] of Part 3 [*Finance*] of the *Business Corporations Act* applies for the purposes of this Act.
- (2) Without otherwise limiting the application to societies of Divisions 8 [*Trust Indentures*] and 10 [*Receivers and Receiver Managers*] of Part 3 of the *Business Corporations Act*, for the purposes of section 92 [*eligibility of trustee*] of that Act, membership in a society is not to be taken into consideration in determining whether a material conflict of interest exists between a person's role as trustee and the person's role in any other capacity.

## Part 14 – Offences and Fines

### Offence Act

- 220** Section 5 [*general offence*] of the *Offence Act* does not apply to this Act or the regulations.

### General offences

- 221** (1) A person who contravenes any of the following provisions commits an offence:
- (a) section 38 (1) or (2) [*issuance of financial statements*];
  - (b) section 116 (2) [*examination and access*];
  - (c) section 133 (2) [*qualifications of liquidator*];
  - (d) section 147 [*duty to assist liquidator*];
  - (e) section 213 (5) [*investigation of society*].
- (2) A person who becomes or acts as a director of a society and who is not qualified under section 44 [*persons qualified to be directors*] to be a director commits an offence.
- (3) A person who becomes or acts as a senior manager of a society and who is not qualified under section 61 (3) [*senior managers*] to be a senior manager commits an offence.
- (4) A society that contravenes any of the following orders commits an offence:
- (a) an order, under section 213 (6) (a) or (b), of the minister as defined in section 213 (1);
  - (b) an order, under 245 (3) [*consent required for alterations to unalterable provisions in bylaws of government-related pre-existing*]

*societies*], of a designated minister as defined in section 245 (1).

- (5) If a society commits an offence under subsection (4), a director or senior manager of the society who knowingly authorizes, permits or acquiesces in the commission of the offence also commits an offence, whether or not the society is prosecuted or convicted.

### **Offences respecting records**

**222** A society, or a liquidator who has custody or control under section 143 (1) (a) [*duties of liquidator*] or 152 (1) (a) [*retention of society's records by liquidator*] of a society's records, commits an offence if the society or liquidator, as the case may be, refuses, without reasonable excuse,

- (a) to permit a person to inspect a record, in relation to the society, that the person is entitled to inspect under section 24 [*inspection of records*], 25 [*inspection of register of members may be restricted*], 143 (1) (b) or 152 (1) (b), as the case may be, and for which the appropriate fee, if any, was tendered, or
- (b) to provide to a person under section 27 [*copies of records*], 28 [*copies of financial statements*], 143 (1) (b) or 152 (1) (b), as the case may be, a copy of a record, in relation to the society, that the person is entitled to receive and for which the appropriate fee, if any, was tendered.

### **Misleading statements an offence**

- 223** (1) Subject to subsection (4), a person who makes or assists in making a statement that is included in a record that is required or permitted to be made by or for the purposes of this Act or the regulations commits an offence if the statement
- (a) is, at the time and in the light of the circumstances under which it is made, false or misleading in respect of a material fact, or
  - (b) omits a material fact, the omission of which makes the statement false or misleading.
- (2) If a society commits an offence under subsection (1), a director or senior manager of the society who authorizes, permits or acquiesces in the commission of the offence also commits an offence, whether or not the society is prosecuted or convicted.
- (3) If an extraprovincial non-share corporation commits an offence under subsection (1), a member of the board of directors or other governing body of the extraprovincial non-share corporation, or an officer of that corporation, who authorizes, permits or acquiesces in the commission of the offence also

commits an offence, whether or not the extraprovincial non-share corporation is prosecuted or convicted.

- (4) A person does not commit an offence under this section in relation to a statement if the person
- (a) did not know that the statement was false or misleading, and
  - (b) could not have known, with the exercise of reasonable diligence, that the statement was false or misleading.

### **Offences respecting unregistered extraprovincial non-share corporations**

**224** An extraprovincial non-share corporation that contravenes any of the following provisions commits an offence:

- (a) section 169 [*extraprovincial non-share corporations must register*];
- (b) section 183 [*effect of cancellation of registration*];
- (c) section 188 (3) [*effect of reinstatement*].

### **Fines**

**225** (1) A person who commits an offence under section 221 [*general offences*] or 222 [*offences respecting records*] is liable,

- (a) in the case of a person other than an individual, to a fine of not more than \$5 000, or
- (b) in the case of an individual, to a fine of not more than \$2 000.

(2) A person who commits an offence under section 223 [*misleading statements an offence*] is liable,

- (a) in the case of a person other than an individual, to a fine of not more than \$25 000, or
- (b) in the case of an individual, to a fine of not more than \$10 000.

(3) An extraprovincial non-share corporation that commits an offence under section 224 is liable to a fine of not more than the amount prescribed by regulation for each day that the offence continues.

### **Additional liabilities**

**226** (1) A legal proceeding, conviction or fine for an offence under this Act does not relieve a person from any other liability.

(2) Without limiting subsection (1), if a person is convicted of an offence under this Act, the court in which proceedings in respect of the offence are taken may, in addition to any fine the court may impose for the offence, order the person to comply with the provisions of this Act.

- (3) A person who contravenes an order under subsection (2) commits an offence and is liable on conviction to the fines provided for the offence in relation to which the order was made.

### **Limitation period**

- 227** The time limit for laying an information to commence a prosecution for an offence under this Act is 3 years after the date on which the act or omission that is alleged to constitute the offence occurred.

## **Part 15 – Regulations**

### **General regulation-making authority**

- 228** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations in relation to any matter for which regulations are contemplated by this Act.
- (3) The authority to make regulations under another provision of this Act does not limit subsection (1) or (2).
- (4) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:
- (a) delegate a matter to a person;
  - (b) confer a discretion on a person;
  - (c) make different regulations for different persons, places, things, records, provisions, information, services, matters or circumstances, or for different classes of persons, places, things, records, provisions, information, services, matters or circumstances;
  - (d) establish or define classes of persons, places, things, records, provisions, information, services, matters or circumstances.

### **Regulations applying *Business Corporations Act* and regulations**

- 229** (1) The Lieutenant Governor in Council may make regulations providing that a provision of the *Business Corporations Act*, or of a regulation under that Act, applies for the purposes of this Act or for the purposes of a specified provision of this Act.



(2) The Lieutenant Governor in Council may make regulations in respect of a provision of the *Business Corporations Act*, or of a regulation under that Act, that is made applicable under this Act, including, without limitation, regulations doing one or more of the following:

- (a) providing that, in applying a provision, in addition to any necessary changes, or changes provided for in this Act, that provision is to be read with specified changes;
- (b) specifying circumstances in which a provision applies;
- (c) setting conditions of, or limitations on, the application of a provision.

## **Other regulations**

**230** The Lieutenant Governor in Council may make regulations as follows:

- (a) respecting distributions contemplated by section 4 (e) [*restrictions on distributions*];
- (b) respecting names and assumed names and prescribing the requirements names or assumed names must meet before being available for reservation or use under this Act;
- (c) for the purposes of section 11 (2) [*bylaws*], prescribing a set of provisions, and designating those provisions as the "Model Bylaws";
- (d) respecting the register of societies;
- (e) for the purposes of section 35 (3) [*financial statements*], prescribing requirements respecting the preparation of financial statements under this Act, including, without limitation, the form and manner in which financial statements must be produced;
- (f) respecting sections 44 (2) [*persons qualified to be directors*] and 61 (3) [*senior managers*], including, without limitation,
  - (i) providing that an individual who is 16 or 17 years of age and who meets the requirements, if any, established under subparagraph (ii) is qualified to be a director or senior manager of a society or of a society in a prescribed class of societies, and
  - (ii) establishing requirements for the purposes of subparagraph (i);
- (g) despite any other provision of this Act, respecting societies who have or wish to have as directors or senior managers individuals who are 16 or 17 years of age, including, without limitation, regulations doing one or more of the following:

- (i) establishing requirements that must be met by such a society;
  - (ii) establishing restrictions on the composition of the board of directors of such a society;
  - (iii) respecting the powers, functions, rights, duties and liabilities of such a director or senior manager;
- (h) for the purposes of section 46 (4) [*remuneration and reimbursement of directors*],
  - (i) setting conditions of, or limitations on, the payment of remuneration or reimbursement to directors, or
  - (ii) prohibiting, in specified circumstances, the payment of remuneration or reimbursement to directors;
- (i) providing that all or any of the provisions referred to in section 55 (1) (a) to (m) [*application of this Act to persons performing functions of director*] do not apply to a person in a specified class of persons;
- (j) specifying information that, in addition to the information provided for in this Act, must or may be included in annual reports filed with the registrar under section 73 [*society must file annual report*] or 177 [*registered extraprovincial non-share corporation must file annual report*];
- (k) for the purposes of section 111 (1) (a) [*appointment of auditor*], requiring a society in a specified class of societies to have an auditor, subject to any conditions or limitations specified in the regulation;
- (l) defining any word or expression used but not defined in this Act;
- (m) prescribing, for the contravention of a regulation made under this Act, a fine not exceeding the maximum fine set out in section 225 (1) [*fines*].

## **Part 16 – Transitional Provisions**

### **Division 1 – Definitions**

#### **Definitions**

**231** In this Part:

**"pre-existing reporting society"** means a pre-existing society that, immediately before the coming into force of this section, was a reporting society under the former Act;

**"pre-transition bylaws"** means the bylaws of a pre-existing society as those bylaws read immediately before the coming into force of this section;

**"pre-transition constitution"** means the constitution of a pre-existing society, or a document recognized as a constitution of a society under the former Act, as that constitution or document read immediately before the coming into force of this section;

**"pre-transition society"** means a pre-existing society that has not filed with the registrar a transition application under section 240 [*pre-existing society must file transition application*];

**"reporting society provisions"** means the provisions that are prescribed under section 250 [*regulations establishing reporting society provisions*] and designated under that section as the "Reporting Society Provisions";

**"unalterable provision"** means a provision of the pre-transition constitution of a pre-existing society that is stated in the pre-transition constitution to be unalterable.

## **Division 2 — Application of Act to Pre-Existing Societies**

### **References to members, senior managers and filings**

**232** (1) A reference in this Act to

- (a) a member of a society includes a person who, immediately before the coming into force of this section, was a member, under the former Act, of a pre-existing society and remains a member of the society,
- (b) a director of a society includes an individual who, immediately before the coming into force of this section, was a director, under the former Act, of a pre-existing society and remains a director of the society, and
- (c) a senior manager of a society includes an individual who, immediately before the coming into force of this section, held a position in a pre-existing society to which the individual was appointed by the directors of the pre-existing society to exercise the

directors' authority as described in section 61 (1) [*senior managers*] of this Act and who remains in that position.

- (2) A reference in section 214 (1) (a) or (b) [*involuntary dissolution by registrar*] to an annual report or other record required under this Act to be filed with the registrar by a society includes a reference to an annual report or other record, as the case may be, required to be filed with the registrar by the society under the former Act.

### **References to special resolutions**

**232.1** A reference in this Act to a special resolution includes a special resolution, as defined in section 1 of the former Act, passed or consented to, as the case may be, before November 28, 2016.

### **Application of provisions to directors and senior managers of pre-existing societies**

**233** Sections 41 [*employment of directors*], 42 (4) [*designation, election and appointment of directors*], 44 [*persons qualified to be directors*], 46 [*remuneration and reimbursement of directors*] and 61 (3) [*senior managers*] do not apply in relation to a pre-existing society until the date that is 2 years after the date on which this section comes into force.

### **General meetings and voting respecting pre-existing societies**

**234** A general meeting called or requisitioned, or a voting process begun, in relation to a pre-existing society before the date on which this section comes into force must be called, held or continued, as the case may be, as nearly as possible, in accordance with this Act.

### **First financial statements of pre-existing society**

**235** For the purposes of applying section 35 (2) (a) [*financial statements*] to a pre-existing society, if, when this section comes into force, the pre-existing society has not completed a financial year, the financial statements of the society must be prepared in relation to the period beginning on the date the society was incorporated under the former Act.

## **Division 3 – Pre-Transition Societies**

### **Constitution, bylaws and amalgamation of pre-transition society**

**236** (1) Despite section 10 (2) [*constitution*] but subject to section 238 [*pre-transition society may not be member-funded society*], a pre-transition society may have a pre-transition constitution that contains provisions in addition to the name and purposes of the society.

- (2) A reference in this Act to the bylaws of a society, when used in relation to a pre-transition society, includes every provision of the society's pre-transition constitution other than the name and purposes of the society.
- (3) Despite sections 15 [*alterations to constitution*] and 17 [*alterations to bylaws*], a pre-transition society must not alter its pre-transition constitution or pre-transition bylaws.
- (4) Despite Division 1 [*Amalgamation*] of Part 7 [*Corporate Reorganizations*], a pre-transition society must not amalgamate with another corporation.

### **Pre-existing reporting societies before transition**

**237** The reporting society provisions apply to a pre-existing reporting society until the reporting society provisions are included, in accordance with section 240 (2) (b) (iv) and (3) [*pre-existing society must file transition application*], in the bylaws of the society on the filing with the registrar of that society's transition application.

### **Pre-transition society may not be member-funded society**

- 238** (1) The pre-transition constitution of a pre-transition society must not contain the statement referred to in section 191 (1) [*statement in constitution that member-funded society exists primarily for members*].
- (2) If, contrary to subsection (1), the pre-transition constitution of a pre-transition society contains the statement referred to in section 191 (1), the pre-transition society, despite the definition of "member-funded society" in section 190 [*definitions*] and despite that statement, is not a member-funded society for the purposes of this Act.

### **Filings respecting directors and registered office of pre-transition society**

- 239** After a record is filed with the registrar under section 19 (1) [*change of registered office*] or 51 (1) or (2) [*registry filings respecting directors*] in relation to a pre-transition society, the registrar must,
- (a) for the purposes of section 19 (3) or 51 (3), as the case may be, alter the information respecting the society shown in the register of societies, and
  - (b) furnish to the society a confirmation of the change.

## **Division 4 — Transition of Pre-Existing Societies**

### **Pre-existing society must file transition application**

**240** (1) A pre-existing society must, within 2 years after the coming into force of this section, file with the registrar a transition application that complies with subsection (2).

(2) A transition application referred to in subsection (1) must contain

(a) a constitution for the society that sets out only the name and purposes of the society, which name and purposes must be the name and purposes the society had immediately before the filing of the application,

(b) the bylaws for the society, consolidated into a single set of bylaws, that contain

(i) the pre-transition bylaws of the society,

(ii) any provisions from the society's pre-transition constitution, as they read immediately before the coming into force of this section, other than the society's name, its purposes and any unalterable provisions,

(iii) any unalterable provisions from the society's pre-transition constitution, as they read immediately before the coming into force of this section, identified as having previously been unalterable, and

(iv) if the society is a pre-existing reporting society, the reporting society provisions, and

(c) a statement of directors and registered office for the society that sets out

(i) the full name and address, in accordance with section 12 (2) [*statement of directors and registered office*], of each individual who was, immediately before the filing of the application, a director of the society, and

(ii) the delivery address and mailing address of the office that was, immediately before the filing of the application, the registered office of the society.

(3) When a transition application in respect of a society is filed with the registrar in accordance with this section, the society has the constitution, bylaws and statement of directors and registered office contained in the transition application.

(4) Despite any wording to the contrary in a security agreement or other record, the filing with the registrar of a transition application by a society in accordance with this section and any alteration required by this section to the constitution or bylaws of the society do not constitute a breach or

contravention of, or a default under, the security agreement or other record and are deemed, for the purposes of the security agreement or other record, not to be an alteration to the constitution or bylaws of the pre-existing society.

- (5) After a transition application in respect of a society has been filed with the registrar in accordance with this section, the registrar must furnish to the society a certified copy of the following records contained in the application:
- (a) the constitution of the society;
  - (b) the bylaws of the society;
  - (c) the statement of directors and registered office of the society.

### **Other alterations to bylaws of pre-existing society on transition**

- 241** (1) Despite section 240 (2) (b), the bylaws contained in a transition application filed under section 240 by a pre-existing society may contain alterations to the pre-transition bylaws of the pre-existing society in addition to those described in section 240 (2) (b) or may contain an entirely new set of bylaws, if those alterations or new bylaws have been authorized by special resolution.
- (2) Despite subsection (1), a transition application must not contain bylaws that reflect any alterations to an unalterable provision, or to a reporting society provision, referred to in section 240 (2) (b) (iii) or (iv).

### **Timing of special resolution authorizing alteration to previously unalterable provision or reporting society provision in bylaws**

**241.1** A pre-existing society must not submit to the registrar for filing a bylaw alteration application under section 17 [alterations to bylaws] in relation to a provision that, under section 240 (2) (b) (iii), is identified in the bylaws of the society as having previously been unalterable or that is a reporting society provision referred to in section 240 (2) (b) (iv), unless the special resolution referred to in section 17 (2) authorizing the alteration is passed or consented to, as the case may be, after the society has filed the society's transition application under section 240.

## **Division 5 – Transition of Special Societies**

### **Transition of pre-existing society wishing to become member-funded society**

- 242** Despite section 240 (2) (a) [*pre-existing society must file transition application*], the constitution included in a pre-existing society's transition application filed under section 240 may include the statement referred to in section 191
- (1) [*statement in constitution that member-funded society exists primarily for*

*members*], without the court order referred to in section 193 (2) (b) [*altering constitution to become member-funded society*], if

- (a) the society wishes to become, on the filing of the application, a member-funded society as defined in section 190 [*definitions*],
- (b) the society is not prohibited under section 191 (2) from including the statement in its constitution, and
- (c) the inclusion of the statement has been authorized by special resolution.

### **Transition of pre-existing registered occupational title societies**

**243** (1) Despite section 241 (1) [*other alterations to bylaws of pre-existing society on transition*], a pre-existing society that is an occupational title society as defined in section 201 [*definitions and interpretation*] and that is registered under Division 2 [*Occupational Title Societies*] of Part 12 [*Special Societies*] must not submit to the registrar for filing under section 240 [*pre-existing society must file transition application*] a transition application that includes alterations, described in section 241, to the bylaws referred to in section 206 [*bylaw alterations*].

(2) The registrar may cancel the registration of an occupational title society under Division 2 of Part 12 if the society submits for filing a transition application that does not comply with subsection (1) of this section.

### **Transition of restored society**

**244** (1) In this section:

**"restored former society"** means a society that

- (a) was dissolved under the former Act,
- (b) was restored under section 161 (1) [*restoration by registrar*] or 163 (2) [*filing of restoration application with registrar in court-ordered restoration*] of this Act, and
- (c) has not subsequently been dissolved under this Act;

**"restored pre-existing society"** means a pre-existing society that

- (a) was dissolved under this Act,
- (b) was restored under section 161 (1) or 163 (2), and
- (c) has not subsequently been dissolved under this Act.

(2) Despite section 240 (1) [*pre-existing society must file transition application*], a restored former society or restored pre-existing society that has not filed



with the registrar a transition application under section 240 must file with the registrar, within one year after its restoration, a transition application that complies with that section.

- (3) This Part applies to a restored former society as if it were a pre-existing society except that in applying this Part, in addition to any other changes, the phrase "immediately before the coming into force of this section", wherever it appears in this Part, is to be read as if it were "immediately before the dissolution of the restored former society".

## **Division 6 – Special Societies with Unalterable Provisions**

### **Consent required for alterations to unalterable provisions in bylaws of government-related pre-existing societies**

**245** (1) In this section:

**"designated minister"**, in relation to a designated pre-existing society, means the minister designated by regulation under subsection (5) in respect of that society or in respect of a class of societies that includes that society;

**"designated pre-existing society"** means a pre-existing society that

(a) has filed with the registrar under section 240 [*pre-existing society must file transition application*] a transition application,

(b) has an identified unalterable provision in its bylaws, and

(c) is designated by regulation under subsection (5) of this section or is in a class of pre-existing societies designated by regulation under that subsection;

**"identified unalterable provision"** means a provision that, under section 240 (2) (b) (iii), is identified in the bylaws of a society as having previously been an unalterable provision.

- (2) Despite section 17 (5) [*alterations to bylaws*], a designated pre-existing society must not alter an identified unalterable provision in its bylaws unless the society has first obtained the written consent of the designated minister to the alteration.
- (3) If a designated pre-existing society contravenes subsection (2) in respect of an identified unalterable provision, the designated minister may order the society to alter its bylaws, within the time specified in the order, to reinstate the identified unalterable provision.

- (4) Section 17 applies to an alteration ordered by the designated minister under subsection (3) of this section except that the alteration may be made without the authorization of a special resolution referred to in section 17 (2).
- (5) The Lieutenant Governor in Council may designate a pre-existing society, or a class of pre-existing societies, for the purposes of paragraph (c) of the definition of "designated pre-existing society" in subsection (1) and may designate a minister in respect of that pre-existing society, or the societies in that class of pre-existing societies, as the case may be, if that pre-existing society or the societies in that class of pre-existing societies
- (a) perform functions under an enactment other than this Act,
  - (b) have a minister or other public officer as a voting member or director, or have one or more voting members or directors who are appointed directly or indirectly by the Lieutenant Governor in Council, by a minister or other public officer, or by an Act, or
  - (c) are receiving or have received
    - (i) a grant or advance of money or other property from the government or from an organization that is owned or controlled by, or is an agent of, the government,
    - (ii) taxes, fees or other revenue received by the government as agent of the society or the societies in the class of societies, as the case may be, or
    - (iii) other similar money or other property from the government or from an organization that is owned or controlled by, or is an agent of, the government.

## **Division 7 — Extraprovincial Non-Share Corporations**

### **Definition of "previously registered extraprovincial society"**

**246** In this Division, "**previously registered extraprovincial society**" means an extraprovincial non-share corporation that, immediately before the coming into force of this section, was registered under Part 8 of the former Act.

### **Registration requirements**

**247** (1) A previously registered extraprovincial society is deemed to be registered under Division 2 [*Registration*] of Part 11 [*Extraprovincial Non-Share Corporations*] of this Act unless its registration is cancelled under Division 4 [*Cancellation of Registration*] of that Part.

(2) An extraprovincial non-share corporation that, immediately before the coming into force of this section, was not registered under Part 8 of the

former Act and was not required to be registered may, but is not, despite section 169 [*extraprovincial non-share corporations must register*], required to, register under Division 2 of Part 11 of this Act before the date that is 2 years after the date on which this section comes into force.

### **Attorney of previously registered extraprovincial society**

- 248** (1) A person who was an attorney for a previously registered extraprovincial society immediately before the coming into force of this section is, on the coming into force of this section, an attorney for the previously registered extraprovincial society.
- (2) The address for an attorney referred to in subsection (1) that was shown in the register of societies immediately before the coming into force of this section is, on the coming into force of this section, the delivery address and mailing address of that attorney.
- (3) If, on the coming into force of this section, a previously registered extraprovincial society has as its attorney a person other than a person described in section 170 (2) (a), (b) or (c) [*attorneys*], section 170 (2) does not apply in relation to that person, in that person's capacity as attorney of the previously registered extraprovincial society, until the later of
- (a) the date that is 6 months after the date on which this section comes into force, and
  - (b) the date by which the previously registered extraprovincial society is required to file its annual report under section 177 [*registered extraprovincial non-share corporation must file annual report*].

### **References to filings**

- 249** A reference in section 180 (1) (a) or (b) [*cancellation of registration by registrar*] to an annual report or other record required under this Act to be filed with the registrar by a registered extraprovincial non-share corporation includes a reference to an annual report or other record, as the case may be, required to be filed with the registrar by that corporation under the former Act.

## **Division 8 – Regulations**

### **Regulations establishing reporting society provisions**

- 250** The Lieutenant Governor in Council may, by regulation, prescribe a set of provisions and designate those provisions as the "Reporting Society Provisions".

### **Transitional regulations**

**251** (1) Despite this or any other Act, the Lieutenant Governor in Council may make regulations as follows:

- (a) respecting any matter that the Lieutenant Governor in Council considers is not provided for, or is not sufficiently provided for, in this Act;
- (b) making provisions that the Lieutenant Governor in Council considers appropriate for the purpose of more effectively bringing this Act into operation;
- (c) making provisions that the Lieutenant Governor in Council considers appropriate for the purpose of preventing, minimizing or otherwise addressing any transitional difficulties encountered in bringing this Act into effect, including, without limitation, provisions making an exception to or a modification of a provision in an enactment or providing for the application or continued application of a previous enactment;
- (d) resolving any errors, inconsistencies or ambiguities arising in this Act.

(2) A regulation under subsection (1) may be made retroactive to the date this section comes into force or a later date and, if made retroactive, is deemed to have come into force on the specified date.

(3) To the extent of any conflict between a regulation under subsection (1) and another enactment, the regulation prevails.

(4) This section and any regulations made under this section are repealed on the date that is 3 years after the date this section comes into force.

## **Part 17 — Repeal and Consequential and Related Amendments**

### **Repeal**

*[Note: See Table of Legislative Changes for the status of sections 252 to 365.]*

<b>Section(s)</b>	<b>Affected Act</b>
252	<a href="#">Society Act, R.S.B.C. 1996, c. 433</a>

### **Consequential and Related Amendments**

<b>Section(s)</b>	<b>Affected Act</b>
253	<a href="#">Adoption Act</a>

254-256	<i>Architects (Landscape) Act</i>
257-259	<i>Association of Former M.L.A.s of British Columbia Act</i>
260-261	<i>British Columbia Neurotrauma Fund Contribution Act</i>
262	<i>Building Officials' Association Act</i>
263-289	<i>Business Corporations Act</i>
290	<i>Business Practices and Consumer Protection Authority Act</i>
291	<i>Christ College of Canada Society Act</i>
292-293	<i>College and Institute Act</i>
294	<i>Community Living Authority Act</i>
295	<i>Community Services Interim Authorities Act</i>
296-299	<i>Cooperative Association Act</i>
300	<i>Credit Union Incorporation Act</i>
301	<i>Crown Counsel Act</i>
302	<i>Destination BC Corp. Act</i>
303	<i>Emergency Health Services Act</i>
304-308	<i>Financial Institutions Act</i>
309-310	<i>Forest Act</i>
311	<i>Gaming Control Act</i>
312	<i>Health Authorities Act</i>
313	<i>Health Professions Act</i>
314	<i>Home Owner Grant Act</i>
315-319	<i>Hospital Act</i>
320	<i>Hospital Insurance Act</i>
321	<i>Independent School Act</i>
322	<i>Insurance Act</i>
323	<i>Jury Act</i>
324	<i>Knowledge Network Corporation Act</i>
325	<i>Labour Relations Code</i>
326	<i>Land Title and Survey Authority Act</i>
327	<i>Legal Services Society Act</i>
328	<i>Mennonite Brethren Biblical Seminary Act</i>
329	<i>Mental Health Act</i>
330	<i>Motor Dealer Act</i>
331	<i>New Relationship Trust Act</i>
332	<i>Notaries Act</i>
333	<i>Oil and Gas Activities Act</i>
334-336	<i>Pacific Coast University for Workplace Health Sciences Act</i>

337	<i>Partnership Act</i>
338	<i>Patient Care Quality Review Board Act</i>
339	<i>Personal Property Security Act</i>
340	<i>Pharmacy Operations and Drug Scheduling Act</i>
341	<i>Property Transfer Tax Act</i>
342-343	<i>Provincial Sales Tax Act</i>
344-346	<i>Public Sector Employers Act</i>
347-348	<i>Resort Associations Act</i>
349	<i>Resort Municipality of Whistler Act</i>
350	<i>Safety Authority Act</i>
351	<i>School Act</i>
352-354	<i>Sea to Sky University Act</i>
355	<i>Society Act</i>
356	<i>Teachers Act</i>
357-358	<i>Union of British Columbia Municipalities Act</i>
359-360	<i>University Act</i>
361	<i>Vancouver Foundation Act</i>
362	<i>Weed Control Act</i>
363	<i>Wildlife Act</i>
364	<i>World Trade University Canada Establishment Act</i>

### **Amendment to this Act**

<b>Section(s)</b>	<b>Affected Act</b>
365	<i>Societies Act, S.B.C. 2015, c. 18</i>

### **Commencement**

**366** The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 <b>Provisions of Act</b>	Column 2 <b>Commencement</b>
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 1 to 263	By regulation of the Lieutenant Governor in Council
3	Sections 265 to 268	By regulation of the Lieutenant Governor in Council
4	Sections 270 to 274	By regulation of the Lieutenant Governor in Council

5	Section 276	By regulation of the Lieutenant Governor in Council
6	Section 279	By regulation of the Lieutenant Governor in Council
7	Sections 281 to 288	By regulation of the Lieutenant Governor in Council
8	Sections 291 to 295	By regulation of the Lieutenant Governor in Council
9	Sections 297 to 299	By regulation of the Lieutenant Governor in Council
10	Sections 301 to 322	By regulation of the Lieutenant Governor in Council
11	Sections 324 and 325	By regulation of the Lieutenant Governor in Council
12	Sections 327 to 338	By regulation of the Lieutenant Governor in Council
13	Sections 340 to 349	By regulation of the Lieutenant Governor in Council
14	Sections 351 to 354	By regulation of the Lieutenant Governor in Council
15	Sections 356 to 365	By regulation of the Lieutenant Governor in Council