

# SOCIETY ACT

## [RSBC 1996] CHAPTER 433

### Definitions

1 In this Act:

"**auditor**" has the same meaning as in section 1 (1) of the *Business Corporations Act*;

"**business**" means an activity that produces taxable income under the *Income Tax Act*;

"**bylaws**" means the bylaws of a society;

"**commission**" means the Financial Institutions Commission established under the *Financial Institutions Act*;

"**constitution**" means

(a) the constitution established for a society under this or the former Act, and

(b) with respect to a society that was subject to the original Act, the declaration for incorporation of that society, or other similar document;

"**court**" means the Supreme Court;

"**debenture**" has the same meaning as in the *Business Corporations Act*;

"**debt obligation**" means a bond, debenture, note or other similar obligation, whether secured or unsecured, of a society;

"**director**" includes a trustee, officer, member of an executive committee and a person occupying any such position by whatever name;

"**document**" means a written instrument, including a notice, order, certificate, register, letter, report, return, account, summons or legal process;

"**existing society**" means a society to which the former Act applied and that was in existence on January 5, 1978;

"**extraprovincial society**" means a society or association, incorporated or otherwise, formed outside British Columbia, and includes a branch of that society or association, but does not include a society or association, incorporated or otherwise, formed to acquire profit or gain or that has a capital divided into shares;

**"filed"** has the same meaning as in the *Business Corporations Act*, and, for that purpose, section 408 of that Act applies;

**"former Act"** means the *Societies Act*, S.B.C. 1947, c. 82, the *Societies Act*, R.S.B.C. 1948, c. 311, or the *Societies Act*, R.S.B.C. 1960, c. 362;

**"member"** means

- (a) an applicant for incorporation of a society who has not ceased to be a member, and
- (b) every other person who becomes and remains a member in accordance with the bylaws;

**"mortgage"** includes a secured debt obligation;

**"ordinary resolution"** means

- (a) a resolution passed in a general meeting by the members of a society by a simple majority of the votes cast in person or, if proxies are allowed, by proxy,
- (b) a resolution that has been submitted to the members of a society and consented to in writing by 75% of the members who would have been entitled to vote on it in person or by proxy at a general meeting of the society, and a resolution so consented to is deemed to be an ordinary resolution passed at a general meeting of the society, or
- (c) if a society has adopted a system of indirect or delegate voting or voting by mail, a resolution passed by a simple majority of votes cast in respect of the resolution;

**"original Act"** means the *Societies Act*, S.B.C. 1920, c. 83, the *Societies Act*, R.S.B.C. 1924, c. 236, or the *Societies Act*, R.S.B.C. 1936, c. 265;

**"registrar"** means the Registrar of Companies;

**"reporting society"** means a society that

- (a) is, by its bylaws or by an ordinary resolution filed with the registrar, declared to be a reporting society,
- (b) is carrying on insurance business as defined in the *Financial Institutions Act*,
- (c) requires a consent under section 2 (1) (a), (b) or (d) or section 20 as a condition precedent to incorporation or changing its constitution,
- (d) is ordered to be a reporting society under section 38,
- (e) is a holding corporation for the purposes of the *Business Corporations Act*, or

(f) became an amalgamated society after January 4, 1978 if one of the amalgamating societies was, at the time of the amalgamation, a reporting society,

unless the registrar under the regulations orders that it is not a reporting society;

**"society"** means a society incorporated under this Act, and includes an existing society;

**"special resolution"** means

(a) a resolution passed in a general meeting by a majority of not less than 75% of the votes of those members of a society who, being entitled to do so, vote in person or, if proxies are allowed, by proxy

(i) of which the notice that the bylaws provide, and not being less than 14 days' notice, specifying the intention to propose the resolution as a special resolution has been given, or

(ii) if every member entitled to attend and vote at the meeting agrees, at a meeting of which less than 14 days' notice has been given,

(b) a resolution consented to in writing by every member of a society who would have been entitled to vote on it in person or, if proxies are allowed, by proxy at a general meeting of the society, and a resolution so consented to is deemed to be a special resolution passed at a general meeting of the society,

(c) if a society has adopted a system of indirect or delegate voting or voting by mail, a resolution passed by at least 75% of the votes cast in respect of the resolution, or

(d) an extraordinary resolution passed before January 5, 1978;

**"subscription"** includes a fee, due, assessment or other similar sum payable by a member under the bylaws;

**"subsidiary"** has the same meaning as in the *Business Corporations Act*.

## **Part 1 — Incorporation**

### **Purposes**

**2 (1)** A society may be incorporated under this Act for any lawful purpose or purposes such as national, patriotic, religious, philanthropic, charitable, provident, scientific, fraternal, benevolent, artistic, educational, social, professional, agricultural, sporting or other useful purposes, but not for any of the following:

(a) the operation of a boarding home, orphanage or other institution for minors, or the supplying of any other form of care for minors without the written consent of the

director designated under the *Child, Family and Community Service Act* for the purposes of this section;

(b) the ownership, management or operation of a hospital without the written consent of the Minister of Health;

(c) [Repealed 2004-27-2.]

(d) the purpose of paying benefits or rendering services as described in section 14 without the written consent of the commission;

(e) any purpose without the consent of an existing society should the registrar require it;

(f) the purpose of carrying on a business, trade, industry or profession for profit or gain.

(2) Carrying on a business, trade, industry or profession as an incident to the purposes of a society is not prohibited by this section, but a society must not distribute any gain, profit or dividend or otherwise dispose of its assets to a member of the society without receiving full and valuable consideration except during winding up or on dissolution and then only as permitted by section 73.

### **Procedure for incorporation**

**3** (1) Five or more persons may form a society by

(a) filing with the registrar

(i) an original, signed by all applicants, and a copy of the constitution and bylaws of the proposed society in the form established by the registrar,

(ii) a list, in the form established by the registrar, of persons who will be the first directors of the society, stating their full names and resident addresses, and

(iii) a notice of the address of the proposed society in the form established by the registrar, and

(b) submitting to the registrar, with the documents referred to in paragraph (a), the prescribed fee.

(2) If the purposes of the proposed society do not appear to the registrar to be authorized by this Act or to be sufficiently set out, the registrar may require, as a prerequisite to incorporation, that they be altered accordingly.

(3) If

- (a) no consent is required by law as a condition precedent to incorporation or the use of a name, or the consent has been obtained,
- (b) the constitution of the proposed society appears to the registrar to comply with this Act,
- (c) the name of the proposed society is reserved under Division 2 of Part 2 of the *Business Corporations Act* as it applies for the purposes of this Act, and
- (d) a prerequisite under subsection (2) has been fulfilled,

the registrar must incorporate the society by issuing a certificate showing that the society is incorporated.

(4) On incorporation of a society, the registrar must

- (a) retain and register one copy of the constitution and bylaws and return the other copy to the applicants, certified as having been registered by the registrar, and
- (b) publish a notice of the incorporation in the prescribed manner.

(5) A certificate of incorporation given by the registrar for a society is conclusive proof that the requirements of this Act in respect of incorporation have been complied with and that the society is incorporated under this Act.

(6) Division 2 of Part 2 of the *Business Corporations Act* applies in respect of the name of

- (a) a society that is or may be incorporated under this Act, or
- (b) an extraprovincial society that is or may be registered under this Act.

#### **Effect of incorporation**

**4** (1) From the date of the certificate of incorporation, the members of a society are members of a corporation

- (a) with the name contained in the certificate,
- (b) having perpetual succession,
- (c) with the right to a seal, and
- (d) with the powers and capacity of a natural person of full capacity as may be required to pursue its purposes.

(2) The powers referred to in subsection (1) include but are not limited to the following powers:

- (a) to buy, sell, exchange, develop and mortgage property;
- (b) to borrow money and give security for it and secure or purchase money obligations;
- (c) to issue negotiable instruments;
- (d) to receive and make gifts;
- (e) to enter contracts and leases;
- (f) to employ persons;
- (g) to belong to other societies or associations, whether or not incorporated, with similar purposes or purposes beneficial to the society.

(3) A society may sue and be sued, contract and be contracted with, in its corporate name.

(4) A certificate issued by the president, secretary or a director of a society stating that the intended exercise by the society of a power described in the certificate is for a purpose of the society stated or summarized in the certificate is, as between the person to whom the certificate is issued and any other person, including the society, and past, present and future members or creditors of the society, conclusive proof of the truth of the matters set out in the certificate if the person to whom the certificate is issued acts on it in good faith and within a reasonable time.

#### **Liability of members**

**5** A member of a society is not, in the member's individual capacity, liable for a debt or liability of the society.

#### **Bylaws**

**6** (1) The bylaws of a society incorporated under this Act must contain provisions for the following:

- (a) the admission of members, their rights and obligations and when they cease to be in good standing;
- (b) the conditions under which membership ceases and the manner, if any, in which a member may be expelled;
- (c) the procedure for calling general meetings;

(d) the rights of voting at general meetings, whether proxy voting is allowed, and if proxy voting is allowed, provisions for it;

(e) the appointment and removal of directors and officers and their duties, powers and remuneration, if any;

(f) the exercise of borrowing powers;

(g) the preparation and custody of minutes of meetings of the society and directors.

(2) Subject to subsection (1), the bylaws of a society may be in the form of Schedule B or a modified form or another form altogether.

### **Voting**

7 (1) A voting member of a society has only one vote, and, despite any contrary provision in the bylaws, may exercise that vote on every matter without restrictions.

(2) A society may have non-voting members but their number must not exceed the number of voting members.

(3) The registrar may, by order, and on the terms and conditions the registrar considers appropriate

(a) [Repealed 2004-27-4.]

(b) exempt a society or class of societies from the limitation on the number of non-voting members in subsection (2).

(4) [Repealed 2004-27-4.]

(5) Subject to the bylaws, a person under the age of 19 years

(a) may be admitted as a member of a society,

(b) may be appointed to an office in the society, and

(c) is liable for the payment of a subscription as if the person were of full age.

(6) Subject to the bylaws, a corporation admitted to membership in a society may be represented by a person authorized on behalf of the corporation.

### **No share capital**

8 A society must not have a capital divided into shares.

### **Interest not transferable**

**9** Except as provided in the bylaws, the interest of a member in a society is not transferable.

**Address for service**

**10** (1) A society must

(a) have an address in British Columbia to which all communications and notices may be sent and at which all process may be served, and

(b) file with the registrar a notice of change of address, in the form established by the registrar, for every change of address.

(2) A change of address has effect on the day after the notice referred to in subsection (1)

(b) is filed.

**Location of records**

**11** (1) The directors of a society must ensure that all documents of a society including its financial records are kept at the address of the society.

(2) Despite subsection (1), the directors of a society may by resolution permit some of the documents, including its financial records, to be kept at places in British Columbia other than the address of the society.

(3) A resolution passed under subsection (2) must describe the documents to which it applies and the place they are to be kept.

(4) A resolution passed under subsection (2) has no effect until a copy of it is filed with the registrar.

**Service of documents**

**12** A document may be served on a society by

(a) leaving it at, or mailing it by registered mail to, the address of the society as filed under this Act, or

(b) personally serving a director, officer, receiver manager or liquidator of the society, or, in the case of an extraprovincial society, the attorney.

**Seal**

**13** (1) If a society adopts a seal, the seal must bear the name of the society.

(2) A society may adopt a new seal at any time.

(3) The seal of a society may be reproduced by a rubber stamp, an impression seal or other convenient means.

#### **Insurance purposes**

**14** (1) Unless it has the written consent of the commission, a society must not adopt a purpose of

- (a) making life insurance contracts,
- (b) making contracts for the payment of funeral benefits or relief, or
- (c) paying benefits or rendering services in the event of an accident, sickness or disability or by way of pensions or annuities.

(2) A society must not have a purpose of providing for benefits or compensation for loss of or damage to property.

(3) The commission must not consent under subsection (1) unless the commission

- (a) believes on reasonable grounds that it is in the public interest to consent,
- (b) is satisfied that the proposed bylaws of the society are fair and the plan of the society is reasonable, and
- (c) is satisfied that the society will be issued a business authorization under the *Financial Institutions Act*.

#### **Consent by commission**

**14.1** Despite section 14, if a society is exempt, and continues to be exempt, from the requirement to obtain a business authorization under the *Financial Institutions Act*, the commission must consent to the following:

- (a) the adoption by the society of a purpose under section 14 (1);
- (b) a change in the purposes of the society under section 20;
- (c) a change in the bylaws of the society under section 23.

#### **Section Repealed**

**15** [Repealed 2004-27-6.]

#### **Contracts**

**16** (1) Contracts on behalf of a society may be made as follows:

(a) a contract that, if made between natural persons, would be, by law, required to be in writing and under seal, may be made on behalf of the society in writing under the seal of the society, and may be varied or discharged in the same manner;

(b) a contract that, if made between natural persons, would be, by law, required to be in writing, signed by the person to be charged, may be made on behalf of the society in writing signed by a person acting under its authority, express or implied, and may be varied or discharged in the same manner;

(c) a contract that, if made between natural persons, would, by law, be valid although made orally and not reduced into writing, may be made in a similar manner on behalf of the society by a person acting under its authority, express or implied, and may be varied or discharged in the same manner.

(2) A contract made, varied or discharged in accordance with this section is, so far as concerns its form, effectual in law and binding on the society and all other parties to it.

(3) A bill of exchange or promissory note is deemed to have been made, accepted or endorsed on behalf of a society, if made, accepted or endorsed in the name of, or by or on behalf of or on account of the society by a person acting under its authority, express or implied.

#### **Amalgamation of societies**

**17** (1) Unless one or more of them is a grandfathered insurance society as defined in section 200 of the *Financial Institutions Act*, 2 or more societies may apply to amalgamate and form a new society by sending the registrar copies, in duplicate, of the special resolutions that authorize their respective directors

(a) to jointly sign a constitution and bylaws in the form established by the registrar for the purposes of this section, and

(b) to comply in other respects with section 3.

(2) Provisions of this Act that apply to the incorporation of a society apply to the amalgamation of 2 or more societies as if the amalgamation were the incorporation of the amalgamated society.

(3) After the issue of a certificate of incorporation to the new society, the former societies are dissolved, and all property and rights of those societies pass to and vest in the new society without further act or deed.

(4) An amalgamation under this section does not adversely affect the rights of a creditor of a former society, and the new society is liable for all debts and obligations of the former societies.

(5) On production of the required evidence, the estate and interest of the former societies in land registered under the *Land Title Act* must be registered in the name of the new society, but the new society is exempt from the payment of fees calculated according to the value of that estate or interest.

### **Branch societies**

**18** (1) A society may, if authorized by its bylaws, establish and maintain one or more branch societies with the powers, not exceeding the powers of the society, that the society confers.

(2) If a society establishes a branch society, it must without delay send the registrar a notice setting out the following:

- (a) the date the branch society was established;
- (b) the branch's name, location and powers;
- (c) the other information the registrar requires.

(3) Subsection (1) does not apply to a society whose purposes include operating a social club.

(4) Without the consent in writing of the registrar, a branch society must not use a name other than the name of the society that established the branch society together with

- (a) words describing the geographical location of the branch society or other distinguishing words, and
- (b) the word "Branch".

(5) If a branch society ceases to exist, the society that established it must without delay send the registrar a notice setting out the following:

- (a) the name and location of the branch;
- (b) the date the branch ceased to exist;
- (c) the other information the registrar requires.

### **Incorporation of branch societies**

**19** (1) If a branch of a society or extraprovincial society wishes to be incorporated under this Act, it must, in addition to any other requirement of this Act, file with the registrar a certificate under the seal, if any, of that society consenting to the incorporation, and must comply with any term or condition mentioned in the certificate.

(2) A branch society so incorporated must not exercise a power conferred on a society under this Act, without first obtaining the written consent of that society, if the exercise of that power is prohibited by or in conflict with

(a) the constitution or bylaws of the society to which it belongs, or

(b) a term or condition of the certificate filed under subsection (1).

(3) If the certificate filed under subsection (1) so provides, the constitution and bylaws of the branch society are deemed to include

(a) the constitution and bylaws of the society giving the certificate, or

(b) the portion of the constitution and bylaws mentioned in the certificate,

but the powers of a branch society must never exceed the powers conferred on a society under this Act.

## **Part 2 — Changes in Constitution and Bylaws**

### **Changes in constitution**

**20** (1) By special resolution, a society may

(a) change its name, or

(b) change its purposes so as to include a new purpose that may conveniently or advantageously be combined with the existing purposes of the society, or so as to restrict or abandon a purpose specified in the constitution, but a charitable purpose referred to in section 73 (3) must not be abandoned.

(2) A resolution under subsection (1) does not take effect

(a) unless the registrar approves,

(a.1) in the case of a change of name, unless the new name is reserved under Division 2 of Part 2 of the *Business Corporations Act* as it applies for the purposes of this Act, and

(b) if the new purpose or an existing purpose is one referred to in section 2 (1) (a), (b), (d) or (e), unless the consent of the person named in that paragraph is obtained.

(3) If the registrar approves a special resolution changing the name of a society, the registrar must issue a certificate under the registrar's seal of office setting out particulars of the change of name.

(4) If a society fails to comply with a requirement of this Act, the registrar may refuse to issue a certificate under this section.

(5) A certificate issued by the registrar under this section is conclusive proof that this section has been complied with.

(6) A society incorporated under the original Act has the power, subject to subsection (2), to change or rescind, by special resolution, any other provision of its declaration.

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

**21** A change of name of a society does not

- (a) affect any right or obligation of the society, or
- (b) render defective legal proceedings by or against the society,

and a legal proceeding that might have been continued or commenced against the society under its former name may be continued or commenced against it under its new name.

#### **Additional provisions of constitution**

**22** (1) If the constitution of a society contains a provision other than the statement of its name and purposes, the constitution must state whether or not the provision may be altered, and the provision is alterable or not as stated in the constitution.

(2) If it is not stated that a provision is unalterable, it is alterable.

(3) A provision that is alterable may be altered by a special resolution.

(4) A society may, by special resolution, add to its constitution a provision, other than the statement of its name and purposes, and this section applies to that provision.

#### **Change in bylaws**

**23** (1) A society may change its bylaws by special resolution and the resolution is effective on the later of

- (a) the date on which it is filed with the registrar, and
- (b) the date specified in the resolution.

(2) After a special resolution is filed with the registrar under subsection (1), the registrar must retain one copy of it and return the other copy to the society, certified as having been accepted by the registrar.

(3) The registrar must refuse to file a special resolution referred to in subsection (1) that is passed by a society referred to in section 2 (1) (b) or (d) unless written consent to the filing has been provided,

(a) in the case of a society referred to in section 2 (1) (b), by the Minister of Health Services, or

(b) in the case of a society referred to in section 2 (1) (d), by the Superintendent of Financial Institutions.

### **Part 3 — Directors**

#### **Directors**

**24** (1) The members of a society may, in accordance with the bylaws, nominate, elect or appoint directors.

(2) Subject to this Act and the constitution and bylaws of the society, the directors

(a) must manage, or supervise the management of, the affairs of the society, and

(b) may exercise all of the powers of the society.

(3) A limitation or restriction on the powers or functions of the directors is not effective against a person who does not know of the limitation or restriction.

(4) A society must have at least 3 directors.

(5) At least one of the directors of a society must be ordinarily resident in British Columbia.

(6) The first directors are those named in the list of first directors filed with the registrar.

(7) Notice of a change of directors of a society must be filed with the registrar, without delay, in the form established by the registrar.

(8) If a society has less than 3 members for more than 6 months, each director is personally liable for payment of every debt of the society incurred after the expiration of the 6 months and for so long as the number of members continues to be less than 3.

#### **Duties of directors**

**25** (1) A director of a society must

(a) act honestly and in good faith and in the best interests of the society, and

(b) exercise the care, diligence and skill of a reasonably prudent person,

in exercising the powers and performing the functions as a director.

(2) The requirements of this section are in addition to, and not in derogation of, an enactment or rule of law or equity relating to the duties or liabilities of directors of a society.

#### **Proceedings of directors**

**25.1** (1) A director who is entitled to do one or both of participate in and vote at a meeting of directors or of a committee of directors may participate or vote, as the case may be,

(a) in person, or

(b) unless the bylaws provide otherwise, by telephone or other communications medium if all directors participating in the meeting, whether by telephone, by other communications medium or in person, are able to communicate with each other.

(2) A director who participates in a meeting in a manner contemplated by subsection (1) is deemed for all purposes of this Act and the bylaws to be present at the meeting.

#### **No exceptions from statutory duties**

**26** Nothing in a contract, the constitution or the bylaws, or the circumstances of a director's appointment, relieves a director

(a) from the duty to act in accordance with this Act and the regulations, or

(b) from a liability that by a rule of law 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.

#### **Disclosure of interests**

**27** A director of a society who is, directly or indirectly, interested in a proposed contract or transaction with the society must disclose fully and promptly the nature and extent of the interest to each of the other directors.

#### **Accountability**

**28** (1) A director referred to in section 27 must account to the society for profit made as a consequence of the society entering or performing the proposed contract or transaction,

(a) unless

(i) the director discloses the interest as required by section 27,

(ii) after the disclosure the proposed contract or transaction is approved by the directors, and

(iii) the director abstains from voting on the approval of the proposed contract or transaction, or

(b) unless

(i) the contract or transaction was reasonable and fair to the society at the time it was entered into, and

(ii) after full disclosure of the nature and extent of the interest in the contract or transaction it is approved by special resolution.

(2) Unless the bylaws otherwise provide, a director referred to in section 27 must not be counted in the quorum at a meeting of the directors at which the proposed contract or transaction is approved.

#### **Validity of contracts**

**29** The fact that a director is, in any way, directly or indirectly, interested in a proposed contract or transaction, or a contract or transaction, with the society does not make the contract or transaction void, but, if the matters referred to in section 28 (1) (a) or (b) have not occurred, the court may, on the application of the society or an interested person, do any of the following:

(a) prohibit the society from entering the proposed contract or transaction;

(b) set aside the contract or transaction;

(c) make any order that it considers appropriate.

#### **Security and indemnity of officers and directors**

**30** (1) A society may require a director or officer to give the security it considers sufficient for the faithful discharge of duties.

(2) A society may, with the approval of the court, indemnify a director or former director of the society or a director or former director of a subsidiary of the society, and his or her heirs and personal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, actually and reasonably incurred by him or her, in a civil, criminal or administrative action or proceeding to which he or she is made a party because of being or having been a director, including an action brought by the society or subsidiary, if

(a) he or she acted honestly and in good faith with a view to the best interests of the society or subsidiary of which he or she is or was a director, and

(b) in the case of a criminal or administrative action or proceeding, he or she had reasonable grounds for believing his or her conduct was lawful.

(3) The court may, on application of a society, a director or former director of the society, or a director or former director of a subsidiary of the society, make an order approving an indemnity under this section, and the court may make any further order it considers appropriate.

(4) On an application under subsection (3), the court may order notice to be given to any interested person.

(5) A society may purchase and maintain insurance for the benefit of a director against personal liability incurred by him or her as a director, and sections 27, 28 and 29 do not apply to the purchase or maintenance of that insurance.

#### **Removal of directors**

**31** A director may be removed from office by special resolution and another director may be elected, or appointed by ordinary resolution, to serve during the balance of the term.

### **Part 4 — Financial**

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

**32** (1) The funds and property of a society must be used and dealt with only for its purposes in accordance with its bylaws.

(2) A society that has and exercises powers within the scope of section 14 must adhere to prudent standards as defined in section 136 (1) of the *Financial Institutions Act* in investing its funds.

(3) A society to which subsection (2) does not apply may invest its funds in investments authorized by its constitution or bylaws, but if that investment is not authorized, the society must invest its funds only as permitted under the provisions of the *Trustee Act* respecting the investment of trust property by a trustee.

#### **Deposit accounts**

**33** A society must maintain at least one account with a savings institution for the deposit of funds.

#### **Subsidiaries**

**34** (1) A society must not acquire, cause to be incorporated or dispose of its control of a subsidiary without the authorization of a special resolution.

(2) If a society acquires or causes to be incorporated a subsidiary, the society must promptly file with the registrar a notice in the form established by the registrar stating the following:

- (a) the name of the subsidiary;
- (b) the jurisdiction of incorporation;
- (c) the date on which control was acquired or the subsidiary was caused to be incorporated.

(3) If a notice is filed under subsection (2), the registrar may require further particulars to be filed.

(4) When a society ceases to have control of a subsidiary, the society must promptly file with the registrar a notice in the form established by the registrar stating the name of the former subsidiary and the date the society ceased to have control of the subsidiary.

### **Borrowing**

**35** (1) Divisions 8, 9 and 10 of Part 3 of the *Business Corporations Act* apply to a society.

(2) Membership in a society must not be taken into consideration in determining whether a material conflict of interest exists in a trustee's fiduciary role as trustee.

(3) A society must not issue a debenture unless the issuance of the debenture is authorized by a special resolution, which may confer a general power on the directors to issue debentures for a period of not longer than one year from the date the resolution is passed.

### **Register of indebtedness**

**35.1** (1) Each society must keep a register of its indebtedness in excess of \$5 000 to each director or officer of the society, or an associate of any of them, which register must contain

- (a) the name of the creditor,
- (b) the date the indebtedness was incurred,
- (c) the amount,
- (d) the interest rate payable, and
- (e) the due date.

(2) A society that contravenes this section commits an offence.

### **Preferential payment of wages and salary**

**35.2** (1) If a receiver or receiver manager is appointed on behalf of debentureholders of a society whose debentures are secured by a charge on all or substantially all the assets of the society, or any other person takes possession by or for those debentureholders of the property comprised in or subject to the charge, there must be paid out of assets coming into the hands of the receiver or receiver manager, or other person taking possession, in priority to any claim for principal or interest in respect of the debentures, the wages or salary of any employee, except an employee who is a director, paid on a basis of time or piecework, for services rendered to the society during 3 months before the date of the appointment of the receiver or receiver manager, or other person taking possession, but not exceeding \$2 000 for each employee.

(2) Payments made under this section must be recovered out of the assets of the society that are available for payment of general creditors, to the extent of those assets.

#### **Accounting records**

**36** (1) A society must keep proper accounting records in respect of all its financial and other transactions.

(2) Without limiting subsection (1), a society must keep records of the following:

- (a) all money received and disbursed by the society and the matter in respect of which the receipt and disbursement took place;
- (b) every asset and liability of the society;
- (c) every other transaction affecting the financial position of the society.

#### **Inspection by members**

**37** Unless otherwise provided in the bylaws, the documents, including the accounting records, of a society must be open to the inspection of a director or member on reasonable notice to the society.

#### **Reporting society**

**38** (1) The registrar, having regard to

- (a) the number of members of a society,
- (b) the nature of its assets and liabilities,
- (c) the manner in which it is pursuing its purposes, or
- (d) any special circumstance, including the receipt by it of government funding,

may order, on the conditions the registrar considers appropriate and subject to the regulations, that the society is or is not a reporting society.

(2) The registrar may vary or rescind an order made under subsection (1) if there is a change in circumstance.

#### **Providing financial statements**

**39** (1) A reporting society must, at least 10 days before the date of its annual general meeting, provide to the auditor and to each member a copy of the financial statement referred to in section 65 and the report of the auditor.

(1.1) The financial statement and report referred to in subsection (1) must be provided

(a) in the manner specified by the bylaws of the society, or

(b) if the bylaws of the society do not specify the manner, by mailing those records

(i) to the auditor, and

(ii) to each member at the member's latest address as shown on the register of members.

(2) A reporting society must, on demand by the holder of a debenture of the society, provide the holder with a copy of its latest financial statement and a copy of the report of the auditor.

(3) A society that is not a reporting society must, on demand by a member or the holder of a debenture of the society, provide the member or the holder with a copy of its latest financial statement.

(4) If a society is required to send or provide a copy of its financial statement under this section and that society has a subsidiary during the period of the financial statement, it must also send or provide a copy of the subsidiary's financial statement and report of the auditor for the fiscal period ended within the period of the financial statement of the society and the report of the auditor, if any, on the financial statement of the subsidiary.

(5) [Repealed 2004-27-12.]

#### **Approval by directors**

**40** (1) A society must not issue, publish or circulate a financial statement of the society other than to a director, employee or officer unless it is first approved by the directors and the approval is evidenced by the signatures of 2 directors.

(2) A financial statement of a society issued, published or circulated by the society other than to a director, employee or officer

(a) must have attached to it every auditor's report made in respect of it, and

(b) must not, unless it has been audited and an auditor's report has been made on it, purport to be an audited financial statement.

(3) A society that issues, publishes or circulates a financial statement that does not comply with this section commits an offence.

## **Part 5 — Audit**

### **Auditor**

**41** (1) A reporting society must, and a society that is not a reporting society may, have an auditor.

(2) The directors of a reporting society may appoint the first auditor of the society to hold office until the close of the first annual general meeting.

(3) A reporting society must, at each annual general meeting, appoint an auditor to hold office until the close of the next annual general meeting, and if at that meeting an appointment is not made, the auditor in office continues as auditor until a successor is appointed.

(4) The directors may fill a vacancy in the office of auditor created by resignation, death or otherwise.

(5) If an auditor is not appointed for a reporting society, the court may, on the application of a member, debenture holder or creditor of the society, appoint an auditor to hold office until the close of the next annual general meeting and set the remuneration to be paid by the society for the auditor's services.

(6) The society must promptly give notice in writing to an auditor of the auditor's appointment.

### **Professional qualifications**

**42** The auditor of a reporting society must be a person who is

(a) a member, or a partnership whose partners are members, in good standing of The Canadian Institute of Chartered Accountants or the Certified General Accountants' Association of British Columbia, or

(b) certified by the Auditor Certification Board under the *Business Corporations Act*.

### **Persons not qualified as auditors**

**43** (1) A person must not be the auditor of a reporting society if the person is not independent of the society and of its directors and officers.

(2) For the purposes of this section, independence is a question of fact, but the following rules apply:

(a) a person is not independent if the person is a director, officer or employee of the society or of a subsidiary of it, or if the person is a partner, employer or employee of that director, officer or employee or if the person is a member of the immediate family of that director or officer;

(b) a person is not independent if the person, a member of the person's immediate family, the person's partner or a member of the immediate family of the person's partner beneficially owns or controls, directly or indirectly, an interest in a debt obligation of the society or a share or debt obligation of a subsidiary of the society;

(c) membership in a society must not be taken into consideration in determining whether an auditor is independent;

(d) a person is not independent if the person is appointed a trustee of the estate of the society under the *Bankruptcy and Insolvency Act* (Canada) or if the person is a partner, employer, employee or member of the immediate family of that trustee.

(3) For the purposes of this section,

(a) the immediate family of the person referred to means the spouse, parent, child or other relative of that person or relative of the spouse of that person who resides in the same home as that person, and

(b) a partner of the person referred to means a person with whom that person carries on, in partnership, the profession of accounting.

(4) An auditor, on becoming aware that his or her appointment as auditor contravenes this section, must

(a) eliminate the circumstances that cause the contravention, or

(b) resign as auditor.

(5) If an auditor contravenes this section, an interested party may apply to the court for an order that the auditor be removed on the conditions the court considers appropriate.

### **Remuneration**

**44** (1) The remuneration of the auditor of a society must be set by ordinary resolution or, if the society so resolves, by the directors.

(2) The remuneration of an auditor appointed before the first annual general meeting or to fill a casual vacancy may be set by the directors.

#### **Incumbent auditor**

**45** A resolution must not be passed at an annual general meeting of a reporting society appointing an auditor other than the incumbent auditor, unless

- (a) the incumbent auditor declines reappointment, or
- (b) 14 days' notice in writing of the resolution has been given to all persons entitled to receive notice of meetings.

#### **Removal of auditor**

**46** (1) A society may, by ordinary resolution passed at a general meeting called for the purpose, remove an auditor before the expiration of the auditor's term of office, and must, by ordinary resolution at that meeting, appoint another auditor in the auditor's place for the remainder of the term.

(2) Before calling a general meeting for the purpose referred to in subsection (1), and not less than 14 days before the mailing of the notice of the meeting, a society must give the auditor

- (a) written notice of the intention to call the meeting, specifying the date on which the notice of the meeting is proposed to be mailed, and
- (b) a copy of all material proposed to be sent to members in connection with the meeting.

(3) An auditor may make to the society, not less than 3 days before the mailing of the notice of the meeting, representations in writing respecting the proposed removal of the auditor, and the society, at its expense, must forward with the notice of the meeting a copy of those representations to each member entitled to receive the notice.

#### **Annual audit**

**47** (1) The auditor of a society must make the examination that will enable the auditor to report to the members as required under subsection (2).

(2) The auditor must

- (a) make a report to the members on the financial statement, other than the part of it that relates to the period referred to in section 65 (2) (b), that is to be placed before the society at an annual general meeting during the auditor's term of office, and

(b) state in the report whether, in the auditor's opinion, the financial statement presents fairly the financial position of the society and the results of its operations for the period under review and, in the case of a financial statement other than the first, does so on a basis consistent with that of the preceding period.

(3) If the opinion contained in the report of the auditor under subsection (2) is qualified, the auditor must state the reasons in the report.

#### **Member may require auditor at meeting**

**48** (1) A member of a society may by notice in writing to the society given not less than 5 days before a meeting at which

(a) the financial statement of the society is to be considered, or

(b) the auditor is to be appointed or removed,

require the attendance of the auditor at the meeting at the expense of the society.

(2) If notice is given under subsection (1), the auditor must attend the meeting.

(3) A member may give notice under subsection (1) whether or not the member is entitled to vote at a meeting of the society.

#### **Inquiries of auditor**

**49** At a general meeting the auditor, if present, must answer inquiries directed to the auditor concerning the auditor's report.

#### **Reading report**

**50** At the request of a member attending an annual general meeting, the report of the auditor must be read to the meeting.

#### **Amendment of financial statements and report**

**51** (1) If facts come to the attention of the officers or directors of a society

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

(b) that, if known before the date of the last annual general meeting, would have required a material adjustment to the financial statement presented to the meeting,

the officers or directors must communicate those facts to the auditor who reported to the members, and the directors must amend the financial statement without delay and send it to the auditor.

- (2) If facts described in subsection (1) come to the attention of the auditor,
- (a) the auditor must, if in the auditor's opinion it is necessary, amend the auditor's report in respect of the financial statement presented to the last annual general meeting so that it complies with this Act, and
  - (b) the directors must mail to the members a copy of the amended report and a statement explaining the effect of the amendment on the financial position and results of the operations of the society.

#### **Access to records**

##### **52** The auditor of a society

- (a) has a right of access at all times to all documents and other property of the society and its subsidiaries, and
- (b) may require from the directors, officers, members and employees of the society and subsidiaries the information and explanations that, in the auditor's opinion, are necessary to enable the auditor to report as required by this Act.

#### **Powers of auditor**

**53** (1) For the purposes of an audit under this Act, the auditor of a reporting society may, by notice in writing, require the production to the auditor of all documents, securities and cash of the society in the custody of the person to whom the notice is directed and on whom it is served.

(2) In the notice served under subsection (1), the auditor must set out

- (a) the hour and day, being not less than 7 days after the day on which the notice is served, when production is to be made, and
- (b) the place where production is to be made, which must be either
  - (i) where the documents, securities and cash are usually kept, or
  - (ii) where the documents, securities and cash are required by law to be kept.

(3) A person who, without a reasonable excuse, refuses or neglects to comply with a notice served under subsection (1) commits an offence.

#### **Right to attend**

**54** (1) The auditor of a society is entitled to attend a general meeting of the society and to receive every notice and other communication relating to the meeting that a member is entitled to receive.

(2) The auditor of a society is entitled to be heard at a general meeting that the auditor attends on any part of the business of the meeting that concerns him or her as auditor or that concerns the financial statement of the society.

#### **Defamation**

**55** An oral or written statement or report made under this Act by the auditor or former auditor of a society has qualified privilege for the purpose of defamation proceedings.

### **Part 6 — Members and Meetings**

#### **Annual general meeting**

**56** (1) The first annual general meeting of the members of a society must be held not more than 15 months after the date of incorporation, and after that an annual general meeting of the society must be held at least once in every calendar year and not more than 15 months after the adjournment of the previous annual meeting.

(2) Despite subsection (1), the registrar may at any time extend the time within which a society is required to hold an annual general meeting.

#### **Place of meeting**

**57** A general meeting of a society must be held in British Columbia or at a place outside British Columbia that the registrar approves on application by the society.

#### **Requisition for general meeting**

**58** (1) In this section, "**requisitionists**" means the voting members who requisition a general meeting of the society under subsection (2).

(2) The directors of a society, on the requisition of 10% or more of the voting members of the society must convene a general meeting of the society without delay.

(3) The requisition may consist of several documents in similar form each signed by one or more requisitionists and must

(a) state the purpose of the general meeting,

(b) be signed by the requisitionists, and

(c) be delivered or sent by registered mail to the address of the society.

(4) If, within 21 days after the date of the delivery of the requisition, the directors do not convene a general meeting, the requisitionists, or a majority of them, may themselves convene a general meeting to be held within 4 months after the date of the delivery of the requisition.

(5) A general meeting convened by the requisitionists must be convened in the same manner, as nearly as possible, as general meetings are convened by the directors.

(6) In the case of a reporting society, unless the members otherwise resolve at a general meeting called by the requisitionists,

(a) the society must reimburse the requisitionists for the expenses actually and reasonably incurred by them in requisitioning, calling and holding the meeting, and

(b) each director, who was in default in not calling the meeting as required under subsection (2), must pay the society his or her prorated share of the amount paid by the society to reimburse the requisitionists under paragraph (a).

(7) For the purposes of this section, a member who has the right to vote, whether at a general meeting or in a system of delegate or indirect voting or voting by mail allowed under this Act, is a voting member.

#### **Court may call**

**59** If a society fails to hold a general meeting in accordance with this Act, the regulations or its bylaws, the court may, on the application of a member of the society, call or direct the calling of that general meeting.

#### **Notice**

**60** A society must give not less than 14 days' written notice of a general meeting to those members entitled to receive notice of a general meeting, but those members may waive or reduce the period of notice for a particular meeting by unanimous consent in writing.

#### **Quorum**

**61** Unless the bylaws provide for a greater number, the quorum for the transaction of business at a general meeting of a society is 3 persons.

#### **Voting**

**62** A member is not entitled to vote on a resolution unless the member is a voting member in good standing in accordance with the bylaws.

#### **Proxies**

**63** A permanent proxy or proxy entitling a person or member to vote at other than one meeting and any adjournment is void.

#### **Financial statements**

**64** (1) The directors of a society that is not a reporting society must place the following before each annual general meeting of the society:

- (a) the financial statement required by this section;
- (b) the report of the auditor, if any;
- (c) the report of the directors to the members;
- (d) any further information respecting the society required by the bylaws or the regulations.

(2) The financial statement must be for the period

- (a) beginning on the date of incorporation or, if the society has completed a financial year, at the end of the last completed financial year, and
- (b) ending not more than 6 months before the annual general meeting.

(3) The financial statement must consist of

- (a) a statement of receipts and disbursements for the period, or
- (b) a statement of income and expenditure and a statement of surplus for the period, and a balance sheet as of the end of the period,

but the statements need not be identified by those names.

#### **Financial statements for reporting societies**

**65** (1) The directors of a reporting society must place the following before each annual general meeting of the society:

- (a) the financial statements required by this section;
- (b) the report of the auditor;
- (c) if the society has a subsidiary, a copy of the financial statement of the subsidiary for a fiscal period ending within the period of the financial statement of the society and a copy of the auditor's report on the financial statement of the subsidiary;
- (d) the report of the directors to the members;
- (e) any further information respecting the society required by the bylaws or the regulations.

(2) The financial statements must be comparative statements relating to

(a) the period

(i) beginning on the date of incorporation or, if the society has completed a financial year, at the end of the last completed financial year, and

(ii) ending not more than 6 months before the annual general meeting, and

(b) the period, if any, that was the financial year immediately before that last completed financial year.

(3) Despite subsection (2), the financial statement may relate only to the period ending not more than 6 months before the annual general meeting if the reason for the omission of the statement in respect of the period covered by the previous financial statement is set out in the financial statement to be placed before the meeting.

(4) The financial statements must consist of

(a) a statement of income and expenditure for each period,

(b) a statement of surplus for each period,

(c) a statement of source and application of funds for each period, and

(d) a balance sheet as of the end of each period,

but the statements need not be identified by those names.

(5) Despite subsection (4) (c), a statement of source and application of funds may be omitted if the reason for the omission is set out in the financial statement.

#### **Special resolutions**

**66** A society must file with the registrar an original and one copy of each special resolution, which special resolutions must be in the form established by the registrar.

(2) After a special resolution is filed under subsection (1), the registrar must retain one copy of the special resolution and must return the other copy to the society, certified as having been filed with the registrar.

(3) A special resolution, other than one changing the number of directors or removing a director, does not take effect until it is filed with the registrar.

#### **Other resolutions**

**67** If a copy of an ordinary resolution or a director's resolution is required by this Act to be filed, section 66 applies.

#### **Filing annual report**

**68** A society must, within 30 days after each annual general meeting, file with the registrar an annual report in the form established by the registrar.

#### **Copies of constitution and bylaws**

**69** A society must provide to a member, on request, free of charge or, if so resolved by the directors, on payment of not more than \$1, a copy of its constitution and bylaws.

#### **Register of members**

**70** (1) A society must keep a register of its members.

(2) A society must enter in the register the names of the applicants for incorporation and the name of every other person admitted as a member of the society, together with the following particulars of each member:

- (a) the full name and resident address;
- (b) the date on which the person is admitted as a member;
- (c) the date on which the person ceases to be a member;
- (d) the class of membership, if provision is made for classes.

(3) A society that fails to comply with this section commits an offence.

### **Part 7 — Termination of a society**

#### **Dissolution and restoration**

**71** (1) Despite the repeal of the *Company Act*, R.S.B.C. 1996, c. 62, Part 9 of that Act continues to apply to a society and an extraprovincial society as though Part 9 of that Act had not been repealed.

(2) A society that has as a purpose one of those mentioned in section 2 (1) must not be restored to the register without the written consent required under that section.

#### **Society with insurance purposes**

**72** Prepaid membership dues of members of a society having a purpose not prohibited by section 14, paid in advance in respect of a period extending beyond the date of the order appointing a liquidator, must be

- (a) treated as a debt of the society, and
- (b) paid proportionately with the other unpreferred claims,

and benefits are not payable to those members for an accident, illness or other cause arising after the date of the order.

#### **Disposal of assets**

**73** (1) On the winding up and dissolution of a society with a charitable purpose, the assets must not be distributed among the members, and unless the constitution, bylaws or a resolution of the members provides for the payment, transfer and delivery of the assets remaining, after all debts have been paid or provision for payment has been made, to a charitable institution or to trustees on trust for a charitable purpose, the assets remaining must be paid, transferred or delivered to the Minister of Finance.

(2) On the winding up and dissolution of a society without a charitable purpose, unless the constitution, bylaws or resolution of the members provides otherwise, after all debts have been paid or provision for payment has been made, the assets remaining must be paid, transferred or delivered to the Minister of Finance.

(3) In this section, a society having any of the following purposes has a charitable purpose:

- (a) the relief of poverty;
- (b) the advancement of education;
- (c) the advancement of religion;
- (d) any other purpose beneficial to the community.

(4) If a society is wound up, the assets remaining, after all debts have been paid or provision for payment has been made, must be paid, transferred or delivered to the persons entitled to receive those assets.

#### **Conversion to company**

**74** (1) A society may, with the consent of the registrar and in accordance with the regulations, be converted to a company, and for that purpose section 266, other than subsections (3) (b) and (6) of that section, and sections 267 and 268 of the *Business Corporations Act* apply to the society as if it were a special Act corporation within the meaning of that Act.

(2) This section does not apply to a society with a charitable purpose referred to in section 73 (3) of this Act.

### **Part 8 — Extraprovincial Societies**

### **Extraprovincial society registration**

75 (1) An extraprovincial society may apply for registration under this Act.

(2) The registrar may require an extraprovincial society that carries on operations in British Columbia, other than an extraprovincial society that is authorized to carry on insurance business under the *Financial Institutions Act*, to apply for registration under this Act, and that society must, unless registration is granted, cease to operate in British Columbia, and the registrar must set the date after which it must cease to operate.

(3) [Repealed 2004-27-15.]

(4) An extraprovincial society must not be registered unless the name of the proposed society is reserved under Division 2 of Part 2 of the *Business Corporations Act* as it applies for the purposes of this Act.

### **Procedure for registration**

76 (1) An application for registration of an extraprovincial society must be made to the registrar according to a form established by the registrar and must be accompanied by the documents the registrar requires.

(2) If an extraprovincial society that is registered under this Act has a purpose referred to in section 14, the provisions of this Act that are applicable to a society having any such purpose are applicable to the extraprovincial society.

(3) After receipt of an application referred to in subsection (1),

(a) issue a certificate showing that the society is registered under this Act as an extraprovincial society, and stating the place of formation or incorporation, and

(b) publish a notice of the registration in the prescribed manner.

(4) The registrar may attach to a certificate of registration the conditions and limitations that seem to the registrar advisable.

(5) An extraprovincial society must comply with and observe the conditions and limitations attached to its certificate of registration.

(6) Unless the registrar otherwise orders, the limitations, prohibitions and conditions applicable to incorporation of societies under section 2 apply to the registration of an extraprovincial society,

(7) After investigation, the registrar may refuse registration of an extraprovincial society.

### **Attorney for service**

77 (1) The registrar must require an extraprovincial society to appoint, within a time specified by the registrar, a person resident in British Columbia as its attorney authorized and directed on its behalf to accept service of process in all proceedings by or against the society in British Columbia and to receive all lawful notices to the society.

(2) The society must, within one week after the appointment, file a copy of the appointment with the registrar.

(3) If the person appointed attorney ceases to act, the society must

(a) within one week after the attorney ceases to act, appoint a new attorney, and

(b) within one week after the appointment, file a copy of the appointment with the registrar.

(4) The name and address of the attorney must be stated in the copy of an appointment filed under this section.

(5) If the address of the attorney changes, the society must file a notice of the change with the registrar.

#### **Return to registrar**

78 An extraprovincial society registered under this Act must file the following with the registrar:

(a) a verified copy of an amendment to its constitution and bylaws or corresponding instrument within one month after the amendment takes effect;

(b) the notice of address required by section 10;

(c) the annual report required by section 68, with the changes the circumstances require;

(d) a notice of change of directors in the form established by the registrar.

#### **Suspension and revocation of registration**

79 Subject to any condition that the registrar considers advisable, the registrar may

(a) for good cause, suspend or revoke the registration of an extraprovincial society under this Act, and

(b) cancel a suspension or revocation.

#### **Agents prohibited**

**80** A person must not act as agent for an extraprovincial society that is required by the registrar to apply for registration under this Act unless the society holds a subsisting certificate of registration under this Act.

**Limitations on unregistered extraprovincial society**

**81** An extraprovincial society that is not registered as required by this Act is not capable of

- (a) maintaining a proceeding in a court in British Columbia in respect of a contract made in whole or in part in British Columbia in the course of or in connection with its operation, or
- (b) acquiring or holding land or an interest in land in British Columbia or registering title to land under the *Land Title Act*.

**Application**

**82** This Act applies to the operations of an extraprovincial society registered under this Act.

**Part 9 — Special Procedures**

**Imperfect compliance**

**83** If there has been imperfect compliance with

- (a) a condition in the membership certificate as to the proof of claim for the payment of benefits by a member, or
- (b) any other matter or thing required to be done by the member with respect to a claim for the payment of benefits

and a consequent forfeiture or avoidance of all or part of the certificate, the court, if it considers it inequitable that the benefits should be forfeited or avoided on that ground, may relieve against the forfeiture or avoidance on the terms it considers just.

**Investigation of society**

**84** (1) If it appears to the registrar that a society

- (a) exists for an illegal purpose,
- (b) carried on chiefly as a social club is not conducted in a proper manner or as a genuine club,
- (c) within the scope of section 14 is not conducted in a proper manner or is or is likely to become insolvent, or

(d) is otherwise acting in a manner contrary to the public interest,

the registrar must report the facts to the minister, who may appoint a person to investigate the affairs and conduct of the society and to make a written report to the minister of the investigator's findings.

(2) The investigator may

(a) examine on oath a director, manager, officer or agent of the society or other person in relation to the affairs of the society,

(b) administer an oath accordingly, and

(c) require the production of all documents, securities and cash of the society, and of all relevant documents.

(3) A director, manager, officer or agent of the society or other person who on examination under this section refuses to answer a question relating to the affairs of the society or to produce any documents, securities or cash in that person's custody commits an offence.

(4) On a report from the registrar or after an investigation, and subject to the conditions the minister thinks advisable, the minister may

(a) order that the society

(i) discontinue an illegal action,

(ii) if a social club, conduct itself in a proper manner,

(iii) if within the scope of section 14, conduct its affairs in a proper manner or take measures to meet its obligations, or

(iv) cease acting in a manner contrary to the public interest, and

(b) subject to the conditions the minister thinks advisable, suspend any of the powers of the society.

(5) A society that contravenes an order made under subsection (4) commits an offence and a director, manager, officer or agent of the society who knowingly participates or acquiesces in the contravention commits an offence.

#### **Court may remedy irregularities**

**85** (1) Despite anything in this Act, if an omission, defect, error or irregularity occurs in the conduct of the affairs of a society by which

- (a) a breach of this Act occurs,
- (b) there is default in compliance with the constitution or bylaws of the society, or
- (c) proceedings at, or in connection with, a general meeting, a meeting of the directors of the society or an assembly purporting to be such a meeting are rendered ineffective,

the court may

(d) either of its own motion or on the application of an interested person, make an order

(i) to rectify or cause to be rectified or to negate 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

(e) give the ancillary or consequential directions it considers necessary.

(2) The court must, before making an order, consider the effect of it on the society and its directors, officers, members and creditors.

(3) An order made under subsection (1) does not prejudice the rights of a third party who has acquired those rights for valuable consideration without notice of the omission, defect, error or irregularity cured by the order.

## **Part 10 — Occupational Titles Protection**

### **Definition**

**86** In this Part, "**society**" means a society that

- (a) has at least 50 members in good standing, and
- (b) has as one of its purposes the representation of the interests of an occupation or profession.

### **Application of Part**

**87** This Part does not apply to a society if it ceases to be a society under this Act.

### **Registration**

**88** (1) A society may apply to the registrar for registration under this Part by

- (a) having in its bylaws provisions respecting

- (i) qualifications for admission to membership or a class of membership,
  - (ii) courses of study and examinations for members or applicants for membership,
  - (iii) the conduct of members, ethics and standards of practice, and
  - (iv) suspension, expulsion or other penalties for misconduct, incapacity or incompetence of members,
- (b) completing the application form established by the registrar, and
- (c) submitting the prescribed application fee.

(2) If the registrar is satisfied that subsection (1) has been complied with, and the registrar considers that it is in the public interest, the registrar must register the society under this Part unless the registrar considers the name of the society or the initials associated with that name to be so similar to the name or initials of another similar organization that confusion will result.

(3) On registration of a society under this Part, the registrar may designate

- (a) a word or combination of words that identifies a person as a qualified member of that society, and
- (b) initials that identify the society or a person as a qualified member of that society.

#### **Effect of registration**

**89** (1) If a society is registered under this Part, no person other than a qualified member of that society has the right to use, in connection with an occupation or profession the person practises that is similar to the occupation or profession represented by that society, the name of that society or the word or combination of words or initials designated under section 88 (3), in a way that identifies the person as a qualified member of that society.

(2) Registration of a society under this Part does not signify that the society, its qualifications for admission to membership or its qualified members are in any way endorsed by the government.

#### **Injunction**

**90** If a person contravenes section 89 (1), the society may apply for injunctive relief from the court.

#### **Cancellation by registrar**

**91** The registrar may cancel the registration of a society under this Part if

- (a) the registrar considers that continued registration is no longer in the public interest,
- (b) the society ceases to have 50 members in good standing,
- (c) the society alters its constitution so that the purposes of the society no longer represent the interests of an occupation or profession, or
- (d) without the registrar's approval, the society repeals a provision of its bylaws referred to in section 88 (1).

**Other remedies not affected**

**92** Registration of a society under this Part does not affect any other remedy that a person would have if the society had not been registered under this Part.

**Offences**

**93** (1) Section 5 of the *Offence Act* does not apply to section 89.

(2) Subject to subsection (3), a person who makes or assists in making a statement in a document that is required or permitted to be filed with the registrar under this Act, commits an offence if the statement

- (a) is, at the time and in light of the circumstances under which it is made, false or misleading in respect of any material fact, or
- (b) omits any material fact, the omission of which makes the statement false or misleading.

(3) No person is guilty of an offence under subsection (2) if that person

- (a) did not know that the statement was false or misleading, and
- (b) with the exercise of reasonable diligence, could not have known that the statement was false and misleading.

(4) A person who commits an offence under subsection (2) 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.

**Part 11 — General**

**Section Repealed**

**94** [Repealed 2004-27-20.]

**Registrar has no obligation to ensure accuracy or compliance**

**94.1** Nothing in this Act requires the registrar to ensure that a record filed with the registrar, or the information contained in it, is accurate or complete or meets the requirements of this Act, the regulations or any other enactment.

**Inspection and copies of documents**

**95** (1) On payment of the fees set out in Schedule C, a person may

- (a) inspect the documents filed in the office of the registrar relating to a society,
- (b) require a copy or extract of a document or part of it, and
- (c) require a copy or extract to be certified as a true copy.

(2) A document purporting to be issued and signed by the registrar or a person designated as a signing officer by the Lieutenant Governor in Council or by the registrar must be received in evidence and, unless the contrary is shown, is deemed to have been so issued, and it is not necessary to prove the handwriting or official position of the registrar or person designated by the Lieutenant Governor in Council or by the registrar.

(3) If a person requests a society to provide a copy of a financial statement of the society referred to in section 64 or 65 and pays the fee charged for that copy under subsection (5) of this section, the society must provide that person with a copy of that financial statement promptly after receipt of the request and payment.

(4) A copy of a financial statement referred to in subsection (3) must be provided in the manner agreed to by the society and the person seeking to obtain the copy or, in the absence of such an agreement,

- (a) must, if the person seeking to obtain the copy so requests, be provided by mailing it to that person, or
- (b) may, in any other case, be provided to the person seeking to obtain the copy by making it available for pick-up at the address of the society.

(5) A society may, for any financial statement made available by it under subsection (3), charge a reasonable fee that is not greater than the prescribed amount.

**Remedies on denial of copies**

**95.1** (1) A person who claims to be entitled under section 95 (3) to receive a copy of a financial statement of the society referred to in section 64 or 65 may apply in writing to the

registrar for an order under subsection (2) of this section if the society does not provide that person with a copy of the financial statement.

(2) If, on the application of a person referred to in subsection (1), it appears to the registrar that the society has, contrary to section 95 (3), failed to provide the applicant with a copy of a financial statement of the society referred to in section 64 or 65, the registrar may order the society to provide to the registrar whichever of the following the society considers appropriate:

(a) a certified copy of the financial statement;

(b) an affidavit of a director or officer of the society setting out why the applicant is not entitled to obtain a copy of the financial statement.

(3) The registrar must

(a) set out in any order made under subsection (2) of this section an explanation of the basis on which the applicant claims to be entitled to obtain a copy of the applicable financial statement, and

(b) furnish a copy of that order to the society and the applicant.

(4) The society referred to in an order made under subsection (2) must comply with that order within 15 days after the date of the order.

(5) If the society provides to the registrar a certified copy of the financial statement required under subsection (2) (a), the registrar must furnish the certified copy of the financial statement to the applicant.

(6) If the society provides an affidavit of a director or officer to the registrar under subsection (2) (b), the registrar must furnish the affidavit 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 a copy of a financial statement of the society referred to in section 64 or 65, if

(a) an affidavit respecting the financial statement is furnished to the applicant by the registrar under subsection (6) of this section, or

(b) the society fails to comply with subsection (4).

(8) Without limiting the power of the registrar, the court may, on an application under subsection (7) of this section, make the order it considers appropriate and may, without limitation, do one or more of the following:

(a) make an order that a certified copy of a financial statement of the society referred to in section 64 or 65 be provided to the applicant, within the time specified by the order;

(b) make an order directing the society to change the location of the address of the society to a location that the court considers appropriate;

(c) order the society to pay to the applicant damages in an amount that the court considers appropriate;

(d) order the society to pay to the applicant the applicant's costs of and related to the application.

(9) An order may be made under subsection (8) in addition to a legal proceeding, conviction or penalty for an offence.

### **Appeals**

**96** (1) In this section, “**decision**” means a decision, refusal or order by the registrar under this Act.

(2) Subject to subsection (3), a person affected by a decision under this Act may appeal it to the court.

(3) No appeal lies under this section in respect of a decision of the registrar under section 88 (2) or (3).

(4) The registrar is a party to an appeal of a decision to the court.

(5) An appeal under subsection (2) is an appeal on the record.

(6) For the purposes of subsection (5), the record consists of the following:

(a) the record of oral evidence, if any, before the registrar;

(b) copies or originals of documentary evidence before the registrar;

(c) other things received as evidence by the registrar;

(d) the registrar’s decision, refusal or order;

(e) the written reasons for the decision, if any.

(7) An appeal under subsection (2) must be commenced not more than 30 days after the earlier of the following:

(a) the mailing to the appellant, at the appellant's most recent address known to the registrar, of a notice of the decision to be appealed;

(b) actual notice to the appellant of the decision to be appealed.

### **Hearings**

**97** Unless otherwise expressly specified in this Act or the regulations, it is not necessary for the minister, the registrar or any other person to hold a hearing or to receive submissions as a condition precedent to the exercise of a power, function or duty under this Act.

### **Fees**

**98** Fees must be paid to the registrar in respect of the matters mentioned in Schedule C.

### **Power to make regulations**

**99** (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 as follows:

(a) prescribing the method of inspection of societies' books of accounts and records;

(b) prescribing the minimum membership fees and dues payable to a society by its members;

(c) prescribing the form and content of financial statements;

(d) prescribing the procedure and requirements for the conversion of a society to a company;

(e) respecting the manner and form in which, or the method by which, records or information may be provided or submitted to, or certified by, the registrar;

(f) prescribing records and information that must be provided or submitted to the registrar in, or in conjunction with, any record provided to the registrar or submitted to the registrar for filing, with power to prescribe different information and records for different situations;

(g) respecting the manner in which, or the method by which, records may be mailed, sent or provided, and the requirements that a person must meet to mail, send, provide or receive information or records in an electronic or other format for the purposes of this Act;

(h) respecting the manner in which the registrar is to publish notices that the registrar is required or permitted to publish under this Act, including prescribing different manners of publication for different notices;

(i) prescribing the maximum amount that may be charged as a fee for providing a copy of a financial statement under section 95 (3).

(3) The Lieutenant Governor in Council may amend, repeal or add to the schedules and a reference to the schedules is a reference to the schedules as added to or replaced.

#### **Application of Act**

**100** (1) This Act applies to a society to which the former Act applied in the same manner as if the society had been incorporated under this Act.

(2) If the bylaws of an existing society provide for an extraordinary resolution, they must be taken to mean a special resolution.

(3) The registrar may make the orders the registrar considers necessary in order to effect, generally or in respect of a particular society or class of societies, the transition from the application of the former Act to the application of this Act.

(4) An order made by the Lieutenant Governor in Council under the former Act remains in force, until revoked by the Lieutenant Governor in Council, for the same period of time during which it would have remained in force but for this Act.

#### **Schedules**

##### **Schedule A**

[Schedule repealed 2004-27-23.]

##### **Schedule B**

#### **SOCIETY ACT**

Bylaws of ..... (Name of Society)

#### **Part 1 — Interpretation**

1 (1) In these bylaws, unless the context otherwise requires:

**"directors"** means the directors of the society for the time being;

**"Society Act"** means the *Society Act* of British Columbia from time to time in force and all

amendments to it;

**"registered address"** of a member means the member's address as recorded in the register of members.

(2) The definitions in the *Society Act* on the date these bylaws become effective apply to these bylaws.

- 2 Words importing the singular include the plural and vice versa, and words importing a male person include a female person and a corporation.

## **Part 2 — Membership**

- 3 The members of the society are the applicants for incorporation of the society, and those persons who subsequently become members, in accordance with these bylaws and, in either case, have not ceased to be members.
- 4 A person may apply to the directors for membership in the society and on acceptance by the directors is a member.
- 5 Every member must uphold the constitution and comply with these bylaws.
- 6 The amount of the first annual membership dues must be determined by the directors and after that the annual membership dues must be determined at the annual general meeting of the society.
- 7 A person ceases to be a member of the society
  - (a) by delivering his or her resignation in writing to the secretary of the society or by mailing or delivering it to the address of the society,
  - (b) on his or her death or, in the case of a corporation, on dissolution,
  - (c) on being expelled, or
  - (d) on having been a member not in good standing for 12 consecutive months.
- 8 (1) A member may be expelled by a special resolution of the members passed at a general meeting.
  - (2) The notice of special resolution for expulsion must be accompanied by a brief statement of the reasons for the proposed expulsion.
  - (3) The person who is the subject of the proposed resolution for expulsion must be given an opportunity to be heard at the general meeting before the special resolution is put to a vote.
- 9 All members are in good standing except a member who has failed to pay his or her current annual membership fee, or any other subscription or debt due and owing by the member to the society, and the member is not in good standing so long as the debt remains unpaid.

## **Part 3 — Meetings of Members**

- 10 General meetings of the society must be held at the time and place, in accordance with the *Society Act*, that the directors decide.
- 11 Every general meeting, other than an annual general meeting, is an extraordinary general meeting.
- 12 The directors may, when they think fit, convene an extraordinary general meeting.
- 13 (1) Notice of a general meeting must specify the place, day and hour of the meeting, and, in case of special business, the general nature of that business.  
  
(2) The accidental omission to give notice of a meeting to, or the non-receipt of a notice by, any of the members entitled to receive notice does not invalidate proceedings at that meeting.
- 14 The first annual general meeting of the society must be held not more than 15 months after the date of incorporation and after that an annual general meeting must be held at least once in every calendar year and not more than 15 months after the holding of the last preceding annual general meeting.

#### **Part 4 — Proceedings at General Meetings**

- 15 Special business is
  - (a) all business at an extraordinary general meeting except the adoption of rules of order, and
  - (b) all business conducted at an annual general meeting, except the following:
    - (i) the adoption of rules of order;
    - (ii) the consideration of the financial statements;
    - (iii) the report of the directors;
    - (iv) the report of the auditor, if any;
    - (v) the election of directors;
    - (vi) the appointment of the auditor, if required;
    - (vii) the other business that, under these bylaws, ought to be conducted at an annual general meeting, or business that is brought under consideration by the report of the directors issued with the notice convening the meeting.
- 16 (1) Business, other than the election of a chair and the adjournment or termination of the meeting, must not be conducted at a general meeting at a time when a quorum is not present.  
  
(2) If at any time during a general meeting there ceases to be a quorum present, business then in progress must be suspended until there is a quorum present or until the meeting is adjourned or terminated.

- (3) A quorum is 3 members present or a greater number that the members may determine at a general meeting.
- 17 If within 30 minutes from the time appointed for a general meeting a quorum is not present, the meeting, if convened on the requisition of members, must be terminated, but in any other case, it must stand adjourned to the same day in the next week, at the same time and place, and if, at the adjourned meeting, a quorum is not present within 30 minutes from the time appointed for the meeting, the members present constitute a quorum.
- 18 Subject to bylaw 19, the president of the society, the vice president or, in the absence of both, one of the other directors present, must preside as chair of a general meeting.
- 19 If at a general meeting
- (a) there is no president, vice president or other director present within 15 minutes after the time appointed for holding the meeting, or
  - (b) the president and all the other directors present are unwilling to act as the chair,
- the members present must choose one of their number to be the chair.
- 20 (1) A general meeting may be adjourned from time to time and from place to place, but business must not be conducted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (2) When a meeting is adjourned for 10 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.
- (3) Except as provided in this bylaw, it is not necessary to give notice of an adjournment or of the business to be conducted at an adjourned general meeting.
- 21 (1) A resolution proposed at a meeting need not be seconded, and the chair of a meeting may move or propose a resolution.
- (2) In the case of a tie vote, the chair does not have a casting or second vote in addition to the vote to which he or she may be entitled as a member, and the proposed resolution does not pass.
- 22 (1) A member in good standing present at a meeting of members is entitled to one vote.
- (2) Voting is by show of hands.
- (3) Voting by proxy is not permitted.
- 23 A corporate member may vote by its authorized representative, who is entitled to speak and vote, and in all other respects exercise the rights of a member, and that representative must be considered as a member for all purposes with respect to a meeting of the society.

#### **Part 5 — Directors and Officers**

- 24 (1) The directors may exercise all the powers and do all the acts and things that the society

may exercise and do, and that are not by these bylaws or by statute or otherwise lawfully directed or required to be exercised or done by the society in a general meeting, but subject, nevertheless, to

- (a) all laws affecting the society,
  - (b) these bylaws, and
  - (c) rules, not being inconsistent with these bylaws, that are made from time to time by the society in a general meeting.
- (2) A rule, made by the society in a general meeting, does not invalidate a prior act of the directors that would have been valid if that rule had not been made.
- 25 (1) The president, vice president, secretary, treasurer and one or more other persons are the directors of the society.
- (2) The number of directors must be 5 or a greater number determined from time to time at a general meeting.
- 26 (1) The directors must retire from office at each annual general meeting when their successors are elected.
- (2) Separate elections must be held for each office to be filled.
- (3) An election may be by acclamation, otherwise it must be by ballot.
- (4) If a successor is not elected, the person previously elected or appointed continues to hold office.
- 27 (1) The directors may at any time and from time to time appoint a member as a director to fill a vacancy in the directors.
- (2) A director so appointed holds office only until the conclusion of the next annual general meeting of the society, but is eligible for re-election at the meeting.
- 28 (1) If a director resigns his or her office or otherwise ceases to hold office, the remaining directors must appoint a member to take the place of the former director.
- (2) An act or proceeding of the directors is not invalid merely because there are less than the prescribed number of directors in office.
- 29 The members may, by special resolution, remove a director, before the expiration of his or her term of office, and may elect a successor to complete the term of office.
- 30 A director must not be remunerated for being or acting as a director but a director must be reimbursed for all expenses necessarily and reasonably incurred by the director while engaged in the affairs of the society.

## **Part 6 — Proceedings of Directors**

- 31 (1) The directors may meet at the places they think fit to conduct business, adjourn and otherwise regulate their meetings and proceedings, as they see fit.
- (2) The directors may from time to time set the quorum necessary to conduct business, and unless so set the quorum is a majority of the directors then in office.
- (3) The president is the chair of all meetings of the directors, but if at a meeting the president is not present within 30 minutes after the time appointed for holding the meeting, the vice president must act as chair, but if neither is present the directors present may choose one of their number to be the chair at that meeting.
- (4) A director may at any time, and the secretary, on the request of a director, must, convene a meeting of the directors.
- 32 (1) The directors may delegate any, but not all, of their powers to committees consisting of the director or directors as they think fit.
- (2) A committee so formed in the exercise of the powers so delegated must conform to any rules imposed on it by the directors, and must report every act or thing done in exercise of those powers to the earliest meeting of the directors held after the act or thing has been done.
- 33 A committee must elect a chair of its meetings, but if no chair is elected, or if at a meeting the chair is not present within 30 minutes after the time appointed for holding the meeting, the directors present who are members of the committee must choose one of their number to be the chair of the meeting.
- 34 The members of a committee may meet and adjourn as they think proper.
- 35 For a first meeting of directors held immediately following the appointment or election of a director or directors at an annual or other general meeting of members, or for a meeting of the directors at which a director is appointed to fill a vacancy in the directors, it is not necessary to give notice of the meeting to the newly elected or appointed director or directors for the meeting to be constituted, if a quorum of the directors is present.
- 36 A director who may be absent temporarily from British Columbia may send or deliver to the address of the society a waiver of notice, which may be by letter, telegram, telex or cable, of any meeting of the directors and may at any time withdraw the waiver, and until the waiver is withdrawn,
- (a) a notice of meeting of directors is not required to be sent to that director, and
- (b) any and all meetings of the directors of the society, notice of which has not been given to that director, if a quorum of the directors is present, are valid and effective.
- 37 (1) Questions arising at a meeting of the directors and committee of directors must be decided by a majority of votes.
- (2) In the case of a tie vote, the chair does not have a second or casting vote.
- 38 A resolution proposed at a meeting of directors or committee of directors need not be seconded, and the chair of a meeting may move or propose a resolution.

39 A resolution in writing, signed by all the directors and placed with the minutes of the directors, is as valid and effective as if regularly passed at a meeting of directors.

#### **Part 7 — Duties of Officers**

40 (1) The president presides at all meetings of the society and of the directors.

(2) The president is the chief executive officer of the society and must supervise the other officers in the execution of their duties.

41 The vice president must carry out the duties of the president during the president's absence.

42 The secretary must do the following:

(a) conduct the correspondence of the society;

(b) issue notices of meetings of the society and directors;

(c) keep minutes of all meetings of the society and directors;

(d) have custody of all records and documents of the society except those required to be kept by the treasurer;

(e) have custody of the common seal of the society;

(f) maintain the register of members.

43 The treasurer must

(a) keep the financial records, including books of account, necessary to comply with the *Society Act*, and

(b) render financial statements to the directors, members and others when required.

44 (1) The offices of secretary and treasurer may be held by one person who is to be known as the secretary treasurer.

(2) If a secretary treasurer holds office, the total number of directors must not be less than 5 or the greater number that may have been determined under bylaw 25 (2).

45 In the absence of the secretary from a meeting, the directors must appoint another person to act as secretary at the meeting.

#### **Part 8 — Seal**

46 The directors may provide a common seal for the society and may destroy a seal and substitute a new seal in its place.

47 The common seal must be affixed only when authorized by a resolution of the directors and then only in the presence of the persons specified in the resolution, or if no persons are specified, in the presence of the president and secretary or president and secretary treasurer.

### **Part 9 — Borrowing**

- 48 In order to carry out the purposes of the society the directors may, on behalf of and in the name of the society, raise or secure the payment or repayment of money in the manner they decide, and, in particular but without limiting that power, by the issue of debentures.
- 49 A debenture must not be issued without the authorization of a special resolution.
- 50 The members may, by special resolution, restrict the borrowing powers of the directors, but a restriction imposed expires at the next annual general meeting.

### **Part 10 — Auditor**

- 51 This Part applies only if the society is required or has resolved to have an auditor.
- 52 The first auditor must be appointed by the directors who must also fill all vacancies occurring in the office of auditor.
- 53 At each annual general meeting the society must appoint an auditor to hold office until the auditor is re-elected or a successor is elected at the next annual general meeting.
- 54 An auditor may be removed by ordinary resolution.
- 55 An auditor must be promptly informed in writing of the auditor's appointment or removal.
- 56 A director or employee of the society must not be its auditor.
- 57 The auditor may attend general meetings.

### **Part 11 — Notices to Members**

- 58 A notice may be given to a member, either personally or by mail to the member at the member's registered address.
- 59 A notice sent by mail is deemed to have been given on the second day following the day on which the notice is posted, and in proving that notice has been given, it is sufficient to prove the notice was properly addressed and put in a Canadian post office receptacle.
- 60 (1) Notice of a general meeting must be given to
  - (a) every member shown on the register of members on the day notice is given, and
  - (b) the auditor, if Part 10 applies.(2) No other person is entitled to receive a notice of a general meeting.

### **Part 12 — Bylaws**

- 61 On being admitted to membership, each member is entitled to, and the society must give the member without charge, a copy of the constitution and bylaws of the society.

62 These bylaws must not be altered or added to except by special resolution.

### **Schedule C**

## **SOCIETY ACT**

### **Table of Fees**

	\$
1 For incorporation, amalgamation or restoration of a society	100.00
2 For filing a notice, list, return or other document required by this Act.	15.00
3 For a certificate of true copy or extract	25.00
4 For each search conducted through the B.C. OnLine information service using a person's own computer terminal	7.00*
5 For each search conducted by a person using a computer terminal provided by the government	8.00*
6 For each search conducted by government personnel	10.00
7 Item 6 does not apply to a search made as part of the review by the registrar of an application to hold or reserve a name.	
8 For registration, amalgamation or restoration of an extraprovincial society	100.00
9 For a copy of, or extract from, a document, for every page or part of a page	.50
10 For changing the name or registering a change of name of an extraprovincial society	50.00
11 For filing an annual report	25.00
12 For applying for registration under Part 10	300.00
13 For priority service when offered, except the filing of encumbrances	100.00
14 For pre-vetting of documents to be filed with the registrar	100.00
15 For filing and certification of resolutions as required by this Act	50.00

\* In addition to a fee marked by an asterisk, a further operator fee of \$1.50, plus any G.S.T. applicable to the operator fee, may be charged for any transaction done by electronic means from a location outside a government office or at a government office by a person who is not a government employee.