



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 158

An Act to amend the Act respecting Québec business investment companies

Introduction

**Introduced by
Mr Daniel Johnson
Minister of Industry and Commerce**

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EXPLANATORY NOTES

This bill amends the Act respecting Québec business investment companies as a follow-up to the measures announced in the Budget Speech of 1 May 1986.

The bill provides that qualified corporations may establish a stock ownership plan which allows the employees and executive staff to purchase shares of their company through a Québec Business Investment Company (SPEQ).

The bill also provides that the Société de développement industriel du Québec is required to attest the qualification of an investment it is to be considered a qualified investment.

The bill also amends provisions of the Act in order to clarify certain rules of administration.

Bill 158

An Act to amend the Act respecting Québec business investment companies

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. (1) The Act respecting Québec business investment companies (R.S.Q., chapter S-29.1) is amended by inserting, after section 4, the following section:

“4.1 The Société de développement industriel du Québec shall register a company as an employee owned company where, in addition to the requirements determined in section 4 and following the establishment of a stock ownership plan referred to in Division III.1, the company proves that each shareholder of the company is an eligible employee referred to in section 15.2.”

(2) This section has effect from 2 May 1986.

2. (1) Section 5 of the said Act, replaced by section 227 of chapter 15 of the statutes of 1986, is replaced by the following section:

“5. For the purposes of this Act, a common share with full voting rights is a common share within the meaning of section 1 of the Taxation Act (R.S.Q., chapter I-3) to which are attached a number of voting rights in the issuing corporation, in all circumstances and regardless of the number of shares held, which is not less than the number attached to any other share of the share capital of the corporation.”

(2) This section applies to every share acquired after 1 May 1986.

3. Section 8 of the said Act is amended

(1) by replacing that part which precedes paragraph 1 by the following:

“8. Registration of a company is revoked of right upon the occurrence of any of the following events:”;

(2) by adding, after paragraph 4, the following paragraphs:

“(5) upon the reduction by the company, after 1 May 1986, of the paid-up capital in respect of its shares to less than \$100 000;

“(6) upon the adoption or approval by the company’s shareholders of a resolution ordering the amalgamation of the company.”

4. Section 9 of the said Act is amended by striking out, at the end, the words “or becomes void”.

5. (1) Section 12 of the said Act is amended

(1) by replacing the first paragraph by the following paragraphs:

“12. An investment attested by the Société de développement industriel du Québec which is,

(1) in the case of a company referred to in section 4, a common share with full voting rights of the share capital of a qualified corporation that is acquired by a company as first purchaser,

(2) in the case of a company referred to in section 4.1, a common share with full voting rights of the share capital of a qualified corporation that is acquired by a company as first purchaser provided each shareholder of the company holds, directly, indirectly or with related persons who are not in the employ of the qualified corporation or of a subsidiary referred to in section 15.2, less than 5% of the voting shares of the share capital of the qualified corporation, is a qualified investment.

Notwithstanding the first paragraph, an investment in a qualified corporation is not a qualified investment if the shareholder directly or indirectly controlling the qualified corporation that, but for this paragraph, would benefit by a qualified investment or a person with whom the shareholder is not dealing at arm’s length, is the shareholder of a company that, within the two years preceding the investment, made a qualified investment in a qualified corporation any of whose shareholders directly or indirectly controlling it or any person with whom the shareholder is not dealing at arm’s length is also a shareholder

of the company that, but for this paragraph, would have made a qualified investment.”;

(2) by adding, at the end, the following paragraph:

“The condition referred to in subparagraph 4 must be fulfilled within two years following the acquisition of a qualified investment by a qualified corporation.”

(2) This section applies to any investment made after 1 May 1986, and takes effect from 1 May 1986 in respect of the addition of the last paragraph of section 12.

6. (1) Section 15 of the said Act is replaced by the following section:

“**15.** The Société de développement industriel du Québec shall issue a statement to each shareholder of a company, attesting to the amount of his adjusted interest in a qualified investment.

For the purposes of this Act, an adjusted interest in a qualified investment is the adjusted interest in a qualified investment as determined under section 965.31.1 of the Taxation Act.”

(2) This section applies to any qualified investment made after 1 May 1986.

7. (1) The said Act is amended by inserting, after section 15, the following:

“DIVISION III.1

“STOCK OWNERSHIP PLAN

“**15.1** A stock ownership plan is a plan instituted by a qualified corporation to enable all its eligible employees to acquire common shares with full voting rights from a company referred to in section 4.1.

“**15.2** The expression “eligible employee of a qualified corporation” means any individual residing in Québec who is in the employ of the qualified corporation or of a subsidiary not less than 90 per cent of the shares of the issued capital stock of which having full voting rights under all circumstances are owned directly or indirectly by the qualified corporation and who, immediately before the acquisition of the shares, from the company, and immediately before its registration, holds directly, indirectly or with related persons who are not in the employ of the eligible corporation or of such a subsidiary, less than 5 per cent of the shares of the issued capital stock of the qualified corporation.

“15.3 A stock ownership plan may provide that an individual is not an eligible employee of a corporation if, at the time of acquisition of the shares of the company, he cannot prove three consecutive months of service with the corporation, or with a subsidiary not less than 90 per cent of the shares of the issued capital stock of which having full voting rights under all circumstances are owned directly or indirectly by the corporation.

“15.4 A stock ownership plan may set a maximum limit to the number of common shares with full voting rights of the capital stock of the company that may be acquired thereunder, provided the number is determined by means of the same formula for all eligible employees.

“15.5 In no case may a stock ownership plan require each eligible employee to acquire a minimum number of common shares with full voting rights of the capital stock of the company under the plan.

“15.6 Every stock ownership plan shall provide the identical formula for all eligible employees for the determination of the purchase price of each common share will full voting rights of the capital stock of the company that may be acquired under the plan.

“15.7 Every stock ownership plan shall provide eligible employees with means for financing the acquisition of common shares with full voting rights of the share capital of the company within the scope of the plan, as provided for in section 15.8, which shall be identical for all, up to the amount of the acquisition.

“15.8 The means of financing provided under a stock ownership plan shall be an interest-free loan granted by the qualified corporation, a loan granted by the corporation bearing interest at a rate not exceeding the market rate at the time of the loan or a loan from another person, provided the terms and conditions are negotiated by the qualified corporation.

“15.9 Every stock ownership plan shall provide the terms of repayment of a loan, which shall be reasonable and spread the payments over a reasonable period beginning with the time of the loan.

“15.10 A stock ownership plan may provide clauses applicable in the event of an eligible employee's failure to repay his loan, the death, retirement, illness or layoff of an eligible employee, the sale or transfer of shares acquired under the plan or any other situation that may compromise repayment of the loan contracted by an eligible employee.

“15.11 Every stock ownership plan shall be managed by a dealer, within the meaning of paragraph *f* of section 965.1 of the Taxation

Act, who has custody of the certificate attesting to the share of the company and who is required to keep, in Québec, a register, in a separate account, of all the operations made by each shareholder of the company within the scope of the stock ownership plan.”

(2) This division has effect from 2 May 1986.

8. This Act comes into force on (*insert here the date of assent to this Act*).