

1994, chapter 21

AN ACT RESPECTING THE SOCIÉTÉ DE DÉVELOPPEMENT DES ENTREPRISES CULTURELLES

Bill 14

Introduced by Madam Liza Frulla, Minister of Culture and Communications

Introduced 28 April 1994

Passage in principle 5 May 1994

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Assented to 17 June 1994

Coming into force: on the date or dates fixed by the Government

- 19 October 1994: ss. 1-16, 28, 29 (1st par., subpar. 1), 30 (1st par.), 40, 41, 65
G.O., 1994, Part 2, p. 4301
- 1 April 1995: ss. 17-27, 29 (1st par., subpar. 2, 2nd par.), 30 (2nd, 3rd par.), 31-39, 42-64
G.O., 1995, Part 2, p. 783

Acts amended:

Cinema Act (R.S.Q., chapter C-18.1)

Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10)

Act replaced:

Act respecting the Société générale des industries culturelles (R.S.Q., chapter S-17.01)





CHAPTER 21

An Act respecting the Société de développement des entreprises culturelles

[Assented to 17 June 1994]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT AND ORGANIZATION

- 1.** The “Société de développement des entreprises culturelles” is hereby established.
- 2.** The Société is a legal person.
- 3.** The Société is a mandatary of the Government.
- The property of the Société forms part of the domain of the State, but the performance of the obligations of the Société may be levied against the property of the latter.
- The Société binds only itself when it acts in its own name.
- 4.** The head office of the Société shall be in the territory of the Communauté urbaine de Montréal, at the place determined by the Government. A notice of the location or any change of location of the head office shall be published in the *Gazette officielle du Québec*.
- The Société may hold its meetings at any place in Québec.
- 5.** The affairs of the Société shall be administered by a board of directors composed of eleven members appointed by the Government, on the proposal of the Minister of Culture and Communications, after consultation with bodies considered by the Minister to be representative of the sectors concerned by the activities of the Société. The board shall consist of

(1) a chairman;

(2) two persons active in the field of the cinema or television production;

(3) two persons active in the field of sound recording or variety shows;

(4) two persons active in the field of books or specialized publishing;

(5) two persons active in the field of fine crafts; and

(6) two persons active in a cultural field other than those referred to in paragraphs 2 to 5 or active in the field of business financing.

6. The chairman of the board of directors shall be appointed for a term not exceeding five years, and the other members of the board for a term not exceeding four years.

The appointment of the chairman or a member may be renewed only once.

7. At the end of their terms, the members of the board of directors shall remain in office until they are replaced or reappointed.

8. The chairman shall preside over the meetings of the board of directors and is responsible for the administration and direction of the Société within the scope of its by-laws and policies.

The chairman shall perform his duties full-time.

9. A vice-chairman shall be appointed by the members of the board of directors from among their number.

If the chairman is absent or unable to act, the vice-chairman shall act as chairman of the board of directors.

10. A majority of the members constitutes a quorum at meetings of the board of directors.

In the case of a tie-vote, the chairman has a casting vote.

11. The chairman's remuneration, employment benefits and other conditions of employment shall be determined by the Government.

Reimbursement of expenses

The other members of the board of directors shall receive no remuneration, except in the cases, on the conditions and to the extent that the Government may determine. They are entitled, however, to reimbursement of expenses incurred in performing their duties, on the conditions and to the extent determined by the Government.

General managers

12. The Société shall appoint two general managers, one assigned to the fields of the cinema and of television production and the other to the fields of sound recording, variety shows, books, specialized publishing and fine crafts.

Duties

The general managers shall, under the authority of the chairman, perform the duties entrusted to them by the Société full time.

Remuneration and appointment

13. The other members of the personnel of the Société shall be appointed in accordance with the staffing plan and standards established by by-law of the Société. The standards and scales of remuneration, employment benefits and other conditions of employment of the members of the personnel, including the general managers, shall also be established in the by-law.

Approval

The by-law shall be submitted to the Government for approval.

Conflict of interest

14. The chairman and the members of the personnel of the Société may not, on pain of forfeiture of office, have any direct or indirect interest in an enterprise placing their personal interest in conflict with that of the Société. However, forfeiture of office is not incurred if the interest devolves to them by succession or gift, provided they renounce or dispose of it with diligence.

Disclosure of interests

Any other member of the board of directors who has a direct or indirect interest in an enterprise placing his personal interest in conflict with that of the Société shall, on pain of forfeiture of office, disclose it in writing to the chairman and abstain from taking part in any debate or decision bearing upon the enterprise in which he has such an interest and from taking part in any part of a meeting of the board of directors during which his interest is discussed.

Rules of ethics

15. The Société shall establish, by by-law, rules of ethics applicable to the members of the board of directors.

Article 323 of Civil Code of Québec

The rules of ethics shall prescribe accessory provisions or means of verification to ensure compliance with the provision of article 323 of the Civil Code of Québec pursuant to which no director may use for his own profit or that of a third person any information he obtains by reason of his duties.

Internal management **16.** The Société may provide for its internal management by by-law.

Vacancy The by-law may, in particular, provide that absence from a specified number of meetings constitutes a vacancy, in the cases and circumstances determined in the by-law.

CHAPTER II

OBJECTS AND POWERS

Objects **17.** The objects of the Société are to promote and support the creation and development of cultural enterprises, including media enterprises, in all regions of Québec, and to contribute to improving the quality and competitiveness of their products and services in Québec, elsewhere in Canada and abroad.

Financial assistance **18.** The Société may, within the scope of its plan of activities and on the conditions it determines, grant financial assistance by means of

- (1) a loan;
- (2) a guarantee of full or partial repayment of a financial commitment;
- (3) an investment based on the anticipated profitability of a project or an enterprise, in return for a share in the profits, royalties or any other form of compensation;
- (4) a subsidy;
- (5) assistance that is partially repayable on the basis of revenues, if any;
- (6) any other form of assistance authorized by the Government.

Financial assistance programs However, a subsidy, partially repayable assistance or preferential loan, namely, a loan at a rate of interest lower than the prevailing market rate or temporarily free of interest, may be granted only within the scope of the financial assistance programs of the Société.

Plan of activities **19.** Every year, the Société shall send a plan of its activities to the Minister, on the date fixed by the Minister. The plan must reflect the orientations and objectives given to the Société by the Minister.

Content	The plan must contain separate sections pertaining, respectively, to the cinema and television production, sound recording and variety shows, book and specialized publishing, and fine crafts. In addition, it must take the form determined by the Minister and contain the information he indicates, particularly with respect to the terms and conditions for the granting of the financial assistance described in subparagraphs 1 to 3 of the first paragraph of section 18. The plan shall be submitted to the Minister for approval.
Content	The plan must be accompanied by the projected activities of the Société and budget for the two fiscal years following the year covered by the plan of activities.
Criteria of eligibility for financial assistance	20. Each subsidy, partially repayable assistance or preferential loan program of the Société must contain criteria of eligibility for financial assistance, the scales and limits of the assistance and the procedure for granting it.
Approval	The criteria of eligibility and the scales and limits of financial assistance shall be submitted to the Minister for approval.
Cultural enterprises eligible for subsidy	21. Only those cultural enterprises whose activities are concerned principally with the cinema, television production, sound recording, variety shows, books, specialized publishing or fine crafts are eligible for a subsidy, partially repayable assistance or a preferential loan under a program of the Société.
Natural persons	In the fields of the cinema and of television production, natural persons engaging alone in an activity are also eligible for a subsidy.
Advice to Minister	22. The Société shall advise the Minister on questions submitted to it by him relating to fields or matters within its competence. It may include recommendations with its advice.
Administration of financial assistance programs	23. In addition to the powers provided for in sections 17 and 18, the Société, with the authorization of and on the conditions determined by the Government, shall administer any financial assistance program entrusted to it by a department or public body, in particular as regards communications enterprises.
Powers	24. The Société may, in particular, in exercising its powers and performing its duties, (1) enter into an agreement, according to law, with a government other than that of Québec, a department of such a government, an international organization, or a body of such a government or organization;

(2) form committees responsible for assessing the applications made within the scope of the financial assistance programs mentioned in section 20, and determine their operating rules;

(3) form advisory commissions, other than those provided for in Chapter III, with a view to facilitating the carrying out of this Act, and determine their powers, duties and operating rules.

Composition of committees Each committee formed under subparagraph 2 of the first paragraph shall be composed of persons working in the field of activity to which the financial assistance program concerned applies. Such persons shall not be members of the board of directors of the Société, of the council or a commission provided for in Chapter III, or of the personnel of the Société or the public service. The contracts of employment of committee members must contain rules of ethics.

Remuneration. Reimbursement of expenses The Government shall determine the remuneration of the members of the committees formed under subparagraph 2; the members of the commissions formed under subparagraph 3 shall receive no remuneration, except in the cases, on the conditions and to the extent that the Government may determine. The members of the committees and commissions are entitled to reimbursement of expenses incurred in performing their duties, on the conditions and to the extent determined by the Government.

Meetings The committees and commissions may hold their meetings at any place in Québec.

Authorizations required **25.** Except in the cases and on the conditions that the Government may determine by regulation, the Société shall obtain the authorization of the Government before

(1) acquiring stocks, shares or assets of a legal person or disposing of them;

(2) acquiring, restoring, renovating, managing, operating or disposing of immovables, except for the purpose of realizing on a security given by a borrower;

(3) contracting any loan that would increase its total outstanding borrowings beyond a determined amount;

(4) making any other financial commitment for a sum exceeding the amount determined by regulation of the Government.

Conditions The Government may make its authorization subject to the conditions it determines.

Forfeiture
of financial
assistance

26. Any enterprise or person that receives financial assistance from the Société to which it or he is not entitled or that uses the proceeds of the assistance for purposes other than those for which it was granted forfeits the assistance by operation of law and must return any sums received, unless the Société decides otherwise.

Cancellation
or suspen-
sion

In addition, the Société may cancel or suspend financial assistance if the beneficiary enterprise or person no longer meets the criteria of eligibility.

Recognition
of films

27. The Société is also entrusted with recognizing films as Québec films in accordance with the standards provided by the regulations of the Government made under the Cinema Act (R.S.Q., chapter C-18.1).

CHAPTER III

COUNCIL AND COMMISSIONS

Establish-
ment

28. A council under the name of “Conseil national du cinéma et de la production télévisuelle” and commissions under the names of “Commission du disque et du spectacle de variétés”, “Commission du livre et de l’édition spécialisée” and “Commission des métiers d’art” are hereby established within the Société.

Composition

29. The council and each of the commissions are composed of

(1) a chairman appointed by the Government, on the proposal of the Minister, from among the members of the board of directors of the Société who are active in the field of competence of the council or commission;

(2) members appointed by the Société after consultation with bodies it considers to be representative of the sectors concerned by the field of competence of the council or commission.

Number of
members

The number of members of the council and of each of the commissions shall be determined by by-law of the Société, but shall not be less than five.

Term of
office of
chairman

30. The term of office of each chairman corresponds to the unexpired portion of his term of office as a member of the board of directors of the Société.

Term of
other mem-
bers

The other members of the council and of a commission shall be appointed for the term determined by by-law of the Société.

Operating
rules

The operating rules of the council and of a commission shall also be determined by by-law of the Société.

Remunera-
tion and
reimburse-
ment of
expenses

31. The members of the council and those of a commission shall receive no remuneration, except in the cases, on the conditions and to the extent that the Government may determine. They are entitled, however, to reimbursement of expenses incurred in performing their duties, on the conditions and to the extent determined by the Government.

General
manager

32. The general manager assigned to the fields of the cinema and television production shall take part in the meetings of the council, but is not entitled to vote; he shall act as secretary of the council.

General
manager

The general manager assigned to the fields of sound recording, variety shows, books, specialized publishing and fine crafts shall have the same duties in respect of each of the commissions.

Absence or
inability to
act

If a general manager is absent or unable to act, a person designated by the Société from among the personnel assigned to a sector of activity corresponding to the field of competence of the council or commission may replace him in the performance of his duties with the council or commission.

Meetings

33. The council and the commissions may meet on the premises of the Société.

Use of equip-
ment and
administra-
tive support

They may also use the equipment and administrative support services of the Société, in accordance with the terms and conditions established by the Société after consulting the council or the commission concerned.

Advice to
Société

34. The function of the council and the commissions is to advise the Société on any question it submits to them and to carry out any study required by the Société within their fields of competence.

Société to
consult coun-
cil and com-
missions

The Société must consult the council and the commissions on

(1) proposed financial assistance programs within their respective fields of competence;

(2) those parts of its draft plan of activities that apply to financial assistance within their respective fields of competence.

Advice to
Minister

35. A further function of the council is to advise the Minister on any question he submits to it and to carry out any study required

by the Minister concerning the administration of the Cinema Act (R.S.Q., chapter C-18.1). For that purpose and at the request of the Minister, the council may solicit opinions and receive suggestions from the public.

Draft regulations

The Minister must consult the council on draft regulations of the Government or draft by-laws of the Régie du cinéma made under that Act.

Representation of Société

36. In addition, the council shall perform any other mandate entrusted to it by the Société that involves representing the Société at events in order to promote the products and services of cultural enterprises in the fields of the cinema and of television production.

CHAPTER IV

FINANCIAL PROVISIONS

Fiscal year

37. The fiscal year of the Société ends on 31 March.

Powers of Government

38. The Government may, on the conditions it determines,

(1) guarantee payment of the principal and interest of any loan taken out by the Société or of any obligation of the Société;

(2) authorize the Minister of Finance to advance to the Société any amount considered necessary for the fulfilment of its obligations, the achievement of its objectives or the exercise of its powers.

Consolidated revenue fund

The sums required for the purposes of this section shall be taken out of the consolidated revenue fund.

Financing of activities

39. The Société shall finance its activities out of the sums it receives and the appropriations granted each year for that purpose by the Parliament of Québec. Any surplus shall be retained by the Société, unless the Government decides otherwise.

CHAPTER V

DOCUMENTS, ACCOUNTS AND REPORTS

Deeds, documents, writings, binding force

40. No deed, document or writing binds the Société unless it is signed by the chairman or a member of its personnel and, in the latter case, only to the extent determined by by-law of the Société.

Signature

The Société, on the conditions it determines, may allow a required signature to be affixed by means of an automatic device to the

documents it determines, or a facsimile of a signature to be engraved, lithographed or printed on such documents. However, the facsimile has the same force as the signature itself only if the document is countersigned by a person authorized by the chairman of the Société.

Minutes of
meetings.
Authentic

41. The minutes of the meetings of the board of directors, approved by it and certified by the chairman or any other person authorized to do so by the Société, are authentic. The same applies to documents or copies of documents emanating from the Société or forming part of its records, provided they are signed or certified by any such person.

Financial
statements,
report of
activities

42. Not later than 30 June, the Société shall submit its financial statements and a report of its activities for the preceding fiscal year to the Minister.

Content

The financial statements must contain separate entries for the revenues and expenditures of the Société related to financial assistance programs, the exercise and performance of its other powers and duties, and administration. The report must contain the names of the beneficiaries of the financial assistance programs, together with the amounts granted to each. The financial statements and the report must also contain any information the Minister may prescribe.

Tabling

43. The Minister shall table the report and statements before the National Assembly within 30 days of receiving them if the Assembly is in session or, if it is not sitting, within 30 days of resumption.

Audit

44. The books and accounts of the Société shall be audited every year by the Auditor General, and also whenever so ordered by the Government.

Auditor's
report

The auditor's report must accompany the report of activities and the financial statements of the Société.

CHAPTER VI

AMENDING PROVISIONS

c. C-18.1,
Chap. II,
Div. III, IV,
repealed

45. Divisions III and IV of Chapter II of the Cinema Act (R.S.Q., chapter C-18.1) are repealed.

c. C-18.1,
s. 73, am.

46. Section 73 of the said Act is amended by striking out paragraph 2.

c. C-18.1,
s. 74, am. **47.** Section 74 of the said Act is amended by replacing the words and figures “paragraphs 1 and 2” in the first line by the word and figure “paragraph 1”.

c. C-18.1,
s. 168, am. **48.** Section 168 of the said Act is amended by replacing subparagraph 2 of the first paragraph by the following subparagraph:

“(2) establish standards for the recognition of a film as a Québec film by the Société de développement des entreprises culturelles, established by the Act respecting the Société de développement des entreprises culturelles (1994, chapter 21) and, for the purposes it determines, define the categories of films that are eligible or not eligible for such recognition;”.

c. R-10,
Sched. I, am. **49.** Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by Orders in Council 327-93 of 17 March 1993, 1202-93 of 1 September 1993, 1573-93 of 17 November 1993, 1728-93 of 8 December 1993 and 555-94 of 20 April 1994, and by section 153 of chapter 68 of the statutes of 1992, section 65 of chapter 40 of the statutes of 1993, section 31 of chapter 41 of the statutes of 1993, section 6 of chapter 50 of the statutes of 1993, section 13 of chapter 74 of the statutes of 1993 and section 79 of chapter 2 of the statutes of 1994, is again amended by replacing the words “the Société générale des industries culturelles” in paragraph 1 by the words “the Société de développement des entreprises culturelles”.

Name
replaced **50.** In every statute and in every regulation, by-law, order, order in council, contract or other document, the name “Société générale des industries culturelles” is replaced by the name “Société de développement des entreprises culturelles”, unless the context indicates otherwise.

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

Administra-
tion of finan-
cial assis-
tance pro-
grams **51.** The financial assistance programs of the Ministère de la Culture et des Communications and the related budgets, identified by the Government in a transfer plan, shall, for the fiscal year 1995-96, be administered by the Société, adapted as required, from the date or dates fixed in the transfer plan.

Procedures
established
by Minister The administration of the programs referred to in the first paragraph, together with the records and other documents of the

department related thereto, shall be transferred in accordance with the procedures established by the Minister in collaboration with the Société.

- References **52.** For the purposes of section 51, in any order in council, contract or other document, any reference to the Minister or Deputy Minister of Culture and Communications or to the Ministère de la Culture et des Communications is a reference to the Société where it pertains to a program the administration of which has been transferred to the Société.
- Administration of financial assistance programs **53.** The financial assistance programs of the Société générale des industries culturelles for the fiscal year 1995-96 shall also be administered by the Société de développement des entreprises culturelles.
- Shareholder's equity **54.** The shareholder's equity in the Société générale des industries culturelles on 31 March 1995 becomes the equity property of the Société de développement des entreprises culturelles.
- Net debt of Government increased **55.** The value of the Government's equity investment in the Société générale des industries culturelles on 31 March 1995 increases the net debt of the Government as defined in the public accounts drawn up pursuant to the Financial Administration Act (R.S.Q., chapter A-6).
- Rights and obligations **56.** The rights and obligations of the Société générale des industries culturelles and those of the Institut québécois du cinéma become the rights and obligations of the Société de développement des entreprises culturelles.
- Non-application of D-15.1 The Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1) does not apply to transfers of immovables under this Act.
- Transfer of records **57.** The records and other documents of the Société générale des industries culturelles and those of the Institut québécois du cinéma become the records and other documents of the Société de développement des entreprises culturelles.
- Current business continued **58.** The current business of the Société générale des industries culturelles and of the Institut québécois du cinéma are continued by the Société de développement des entreprises culturelles.

- Party to proceedings **59.** The Société de développement des entreprises culturelles becomes, without continuance of suit, a party to any proceedings to which the Société générale des industries culturelles was a party.
- End of terms of office **60.** The term of office of the members of the board of directors of the Société générale des industries culturelles ends on 1 April 1995.
- End of terms of office **61.** The term of office of the members of the board of directors of the Institut québécois du cinéma ends on 1 April 1995.
- Transfer of personnel **62.** The members of the personnel of the Société générale des industries culturelles and the members of the personnel of the Institut québécois du cinéma become the members of the personnel of the Société de développement des entreprises culturelles, without further formality.
- Transfer of appropriations **63.** The appropriations granted for the fiscal year 1995-96 to the Minister of Culture and Communications are transferred to the Société to the extent and on the terms and conditions determined by the Government.
- Transfer of appropriations The appropriations granted in respect of the Société générale des industries culturelles and the Institut québécois du cinéma are transferred to the Société de développement des entreprises culturelles.
- c. S-17.01, replaced **64.** This Act replaces the Act respecting the Société générale des industries culturelles (R.S.Q., chapter S-17.01).
- References Any reference to the Act respecting the Société générale des industries culturelles or one of its provisions is a reference to this Act or the corresponding provision of this Act.
- Minister responsible **65.** The Minister of Culture and Communications is responsible for the administration of this Act.
- Coming into force **66.** The provisions of this Act will come into force on the date or dates fixed by the Government.