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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-SIXTH LEGISLATURE

## Bill 238

(Private)

### **An Act respecting the Mouvement Desjardins**

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## **Bill 238**

(Private)

### **AN ACT RESPECTING THE MOUVEMENT DESJARDINS**

WHEREAS it is in the interest of the Mouvement des caisses Desjardins that chapter 113 of the statutes of 1989, amended by chapter 4 of the statutes of 1990, chapter 111 of the statutes of 1993, chapter 77 of the statutes of 1994, chapter 69 of the statutes of 1996, chapter 72 of the statutes of 1999 and chapter 105 of the statutes of 1999, be replaced so as to provide, in harmony with the Act respecting financial services cooperatives (2000, chapter 29), special provisions applicable to the Fédération des caisses Desjardins du Québec, the Caisse centrale Desjardins du Québec and to the Société d'investissement Desjardins ;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

#### **CHAPTER I**

#### **FÉDÉRATION DES CAISSES DESJARDINS DU QUÉBEC**

1. The Fédération des caisses Desjardins du Québec has, in addition to the powers provided for in the Act respecting financial services cooperatives (2000, chapter 29), the power

(1) to receive deposits from any government outside Québec, including the departments and bodies of such governments ;

(2) to extend credit and other financial products and services, subject to the applicable legislative provisions, to any government outside Québec, including the departments and bodies of such governments, as well as to any person and partnership.

2. The president of the Fédération des caisses Desjardins du Québec is a member and the chair of the general meeting of the federation and, where applicable, of the meeting of all the members of all the councils of representatives of the Fédération des caisses Desjardins du Québec.

3. Paragraph 1 of section 81 of the Act respecting financial services cooperatives is replaced, for the Fédération des caisses Desjardins du Québec, by the following paragraph :

“(1) to secure a loan contracted to meet short term requirements for liquid funds or any loan contracted with the Bank of Canada;”.

4. The first paragraph of section 135 of the said Act is replaced, for the Fédération des caisses Desjardins du Québec, by the following paragraph :

“135. The Fédération des caisses Desjardins du Québec shall keep its books and registers at its head office or, in accordance with its by-laws, at any other place in Québec.”

5. The second paragraph of section 286 of the said Act is replaced, for the Fédération des caisses Desjardins du Québec, by the following paragraph :

“Any other person, except a credit union established under the Act respecting financial services cooperatives, any partnership and any group of persons may also be admitted as an auxiliary member.”

6. Section 296 of the said Act does not apply to the Fédération des caisses Desjardins du Québec.

7. Paragraphs 6 and 7 of section 297 of the said Act are replaced, for the Fédération des caisses Desjardins du Québec, by the following paragraphs :

“(6) the rules governing the convening of the members of the councils of representatives to their meetings ;

“(7) the rules of procedure for their meetings and for the meetings of all the members of all the councils of representatives, for meetings of the representatives of credit unions convened to elect the members of the councils of representatives, and for meetings of a single council of representatives ;

“(7.1) the rules governing the powers exercised by the meeting of all the members of all the councils of representatives ;”.

The rules referred to in subparagraph 7.1 of the first paragraph may allow the meeting of all the members of all the councils of representatives to exercise all or part of the powers conferred on the general meeting by the Act respecting financial services cooperatives.

8. The board of directors of the Fédération des caisses Desjardins du Québec may exclude its employees and those of a member credit union from the right to the payment of the attendance allowance provided for in section 323 of the Act respecting financial services cooperatives.

9. The winding-up of the Fédération des caisses Desjardins du Québec does not prevent the performance of all eligible financial contracts concluded by it or the setting off of an amount payable under or in connection with all such eligible financial contracts, in accordance with their provisions.

The Inspector General shall determine, by written instructions to the Fédération des caisses Desjardins du Québec, the eligible financial contracts referred to in this section.

## CHAPTER II

### CAISSE CENTRALE DESJARDINS DU QUÉBEC

10. The Caisse centrale Desjardins du Québec, constituted under chapter 46 of the statutes of 1979, replaced by chapter 113 of the statutes of 1989 and its amendments, is continued as a financial services cooperative governed by the Act respecting financial services cooperatives.

The Caisse centrale Desjardins du Québec may identify itself under the name “Caisse centrale Desjardins”.

11. The provisions of the Act respecting financial services cooperatives apply, with the necessary modifications, to the Caisse centrale Desjardins as if it were a federation.

However, where a provision of that Act applies to a credit union, the Caisse centrale Desjardins shall not be considered as the federation of which the credit union is a member.

12. The provisions of sections 294, 295 and 297 of the Act respecting financial services cooperatives and the provisions of section 7 of this Act apply, with the necessary modifications, to the Caisse centrale Desjardins as if it were a federation. Notwithstanding the second paragraph of section 11, the credit unions to which those provisions apply are, as regards the application of the provisions to the Caisse centrale Desjardins, the member credit unions of the Caisse centrale Desjardins.

13. Notwithstanding section 11 of this Act, sections 441 to 449 and 468 to 478 of the Act respecting financial services cooperatives apply to the Caisse centrale Desjardins as if it were one of the member credit unions of the Fédération des caisses Desjardins du Québec.

14. Notwithstanding the first paragraph of section 10 and section 11 of this Act, the following provisions do not apply to the Caisse centrale Desjardins: section 4, subparagraphs 3 and 4 of the first paragraph and the second paragraph of section 5, paragraphs 1, 2, 4 and 5 of section 6, sections 7 to 27, 30 to 36, 38 to 43, 46, 58, 62, 63, 74, 89, 90 and 95 to 97, paragraph 8 of section 132, sections 186 to 195, 197 to 286, 289 to 293, 296, paragraphs 3 and 4 of section 303, sections 329, 330, 331, 335 and 336, paragraphs 1, 3 and 5 of section 345, sections 347, 356, 364 to 388, 391 to 407, 414 to 423, 426, 438 to 444, 448, 450 to 465, 469, 479 to 547, 591 to 596, 600 and 685 of the Act respecting financial services cooperatives.

15. The Caisse centrale Desjardins shall have its head office in Lévis or any other location in Québec determined by by-law adopted by the general meeting.

Where the Caisse centrale Desjardins adopts such a by-law, it must, within 10 days, give notice thereof to the Inspector General of Financial Institutions, who shall cause a notice of the change of location of the head office to be published in the *Gazette officielle du Québec* at the expense of the Caisse centrale Desjardins.

The Caisse centrale Desjardins may, by resolution of its board of directors, change the address of its head office within the boundaries of the locality where it is situated. It must give notice of the change of address to the Inspector General.

16. In addition to the auxiliary members, the Fédération des caisses Desjardins du Québec and its member credit unions are members of the Caisse centrale Desjardins.

17. The Caisse centrale Desjardins may admit, as auxiliary members, the auxiliary members of the Fédération des caisses Desjardins du Québec and any legal person, partnership or group of persons, including any cooperative constituted outside Québec and having a mission similar to that of a financial services cooperative within the meaning of the Act respecting financial services cooperatives.

18. The general meeting of the Caisse centrale Desjardins is composed of the members of the general meeting of the Fédération des caisses Desjardins du Québec and of a representative of that federation.

The by-laws adopted by the federation under section 294 of the Act respecting financial services cooperatives and under section 297 of that Act, as amended by section 7 of this Act, are deemed also to be by-laws adopted by the Caisse centrale Desjardins, with the necessary modifications.

19. At least three-quarters of the members of the board of directors of the Fédération des caisses Desjardins du Québec other than the chair shall be elected or chosen to also be members of the board of directors of the Caisse centrale Desjardins. The members so elected or chosen must constitute more than half of the members of the board of directors of the Caisse centrale Desjardins.

20. The president of the Fédération des caisses Desjardins du Québec is, for the term of his or her office, chair of the board of directors and chief executive officer of the Caisse centrale Desjardins.

The board of directors shall, during or after the annual meeting, choose one or more vice-chairs of the board and one secretary of the board from among the directors.

The board of directors shall also choose a director general who need not be a director. The functions of the director general shall be exercised under the direction of the chair of the board of directors and the chief executive officer.

21. A member of the board of directors of the Fédération des caisses Desjardins du Québec who ceases to be qualified to sit on the board also ceases to be qualified to sit on the board of directors of the Caisse centrale Desjardins.

22. The board of directors shall allocate the annual surplus earnings.

The board of directors may order the creation of a general reserve.

23. The board of directors may pay dividends to the members out of annual surplus earnings. The board of directors may declare interest on the capital shares and determine the terms and conditions applicable to the payment thereof.

24. Section 75 of the Act respecting financial services cooperatives is replaced, for the Caisse centrale Desjardins, by the following section :

“75. Notwithstanding subparagraphs 1 and 2 of the first paragraph of section 5 of the Act respecting financial services cooperatives, the Caisse centrale Desjardins may

(1) receive deposits from the Government of Québec, the Government of Canada, a government outside Québec, the departments and bodies of such a government, any legal person, any partnership, and the other depositors designated by the Government by regulation under subparagraph 6 of the first paragraph of section 599 of the Act respecting financial services cooperatives, except natural persons not considered to be bodies within the meaning of section 2 of the Financial Administration Act (2000, chapter 15);

(2) extend credit, subject to the applicable legislative provisions, and supply other financial products and services to its members, to the Government of Québec, the Government of Canada, a government outside Québec, the departments and bodies of such a government as well as to any person.”

25. Paragraphs 1 and 6 of section 81 of the said Act are replaced, for the Caisse centrale Desjardins, by the following paragraphs :

“(1) to secure a loan contracted to meet short-term requirements for liquid funds or a loan contracted with the Bank of Canada ;

“(6) to act on behalf of its members and any other person for the clearing and settlement of instruments of payment or securities transactions.”

26. For the purposes of paragraph 1 of section 122 of the said Act, the officers of the Fédération des caisses Desjardins du Québec are also restricted parties.

27. The first paragraph of section 135 of the said Act is replaced, for the Caisse centrale Desjardins, by the following paragraph :

“135. The Caisse centrale Desjardins shall keep its books and registers at its head office or, in accordance with its by-laws, at any other place in Québec.”

28. Section 144 of the said Act is replaced, for the Caisse centrale Desjardins, by the following section:

“144. The auditor is disqualified from acting if the auditor or a partner or the spouse or minor child of either cohabiting with the auditor or the partner, as the case may be,

(1) is a director or officer of the Caisse centrale Desjardins or of a legal person belonging to the group;

(2) holds, directly or through legal persons it controls, 10% or more of the voting rights attached to one class of shares or to all the shares of a legal person belonging to the group, or can cause the election of a majority of the directors of such a legal person;

(3) has been the sequestrator, liquidator or trustee in bankruptcy of any legal person belonging to the group within the two years preceding the auditor's appointment.

The auditor is also disqualified from acting if the auditor is an associate of an officer of the Caisse centrale Desjardins.”

29. Section 174 of the said Act is replaced, for the Caisse centrale Desjardins, by the following section:

“174. In the event of the winding-up or dissolution of the Caisse centrale Desjardins, the liquidator or Public Curator, as the case may be, shall, after the payments referred to in the first paragraph of section 173 are made, remit the remaining assets to the Fédération des caisses Desjardins du Québec. If the federation is wound up or dissolved, the liquidator shall remit the remaining assets to a legal person designated by the Government.”

30. The third paragraph of section 178 of the said Act is replaced, for the Caisse centrale Desjardins, by the following paragraph:

“The liquidator of the Caisse centrale Desjardins shall forward such documents to the Fédération des caisses Desjardins du Québec.”

31. Section 196 of the said Act is replaced, for the Caisse centrale Desjardins, by the following section:

“196. The Caisse centrale Desjardins may not be a member of a credit union belonging to the group.”



32. The board of directors of the Caisse centrale Desjardins may exclude its employees and those of its members from the right to the payment of the attendance allowance provided for in section 323 of the Act respecting financial services cooperatives.

33. Paragraph 3 of section 328 of the said Act is replaced, for the Caisse centrale Desjardins, by the following paragraph:

“(3) an officer or employee of a federation other than the Fédération des caisses Desjardins du Québec;”.

34. Section 332 of the said Act is replaced, for the Caisse centrale Desjardins, by the following section:

“332. If the president of the Caisse centrale Desjardins is absent or unable to act, the vice-president of the Fédération des caisses Desjardins du Québec shall act as president.”

35. The second paragraph of section 337 of the said Act is replaced, for the Caisse centrale Desjardins, by the following paragraph:

“In no case may the majority of the members of the executive committee be employees of the Fédération des caisses Desjardins du Québec or of the member credit unions of the federation, or be employees of the Caisse centrale Desjardins.”

36. Section 342 of the said Act is replaced, for the Caisse centrale Desjardins, by the following section:

“342. A special committee shall be composed of not fewer than three persons. It may comprise officers, employees and members of the Fédération des caisses Desjardins du Québec, of member credit unions of the federation and of the Caisse centrale Desjardins.”

37. Section 346 of the said Act is replaced, for the Caisse centrale Desjardins, by the following section:

“346. The board of ethics of the Caisse centrale Desjardins shall adopt rules relating to the protection of the interests of the Caisse centrale Desjardins.”

38. Section 349 of the said Act is replaced, for the Caisse centrale Desjardins, by the following section:

“349. The board of ethics shall, in addition to its main function, receive any complaints concerning the rules it has adopted from the members of the Caisse centrale Desjardins, including auxiliary members where permitted by the by-laws of the Caisse centrale Desjardins, reply to the complainants, and verify whether corrective measures are required and if they are applied.”

39. Section 359 of the said Act is replaced, for the Caisse centrale Desjardins, by the following section:

“359. The Caisse centrale Desjardins shall, by by-law, determine the number of members of the board of ethics, which must not be fewer than three.”

40. Subparagraphs 1 to 3 of the first paragraph of section 361 of the said Act are replaced, for the Caisse centrale Desjardins, by the following subparagraphs:

“(1) an employee of the Caisse centrale Desjardins, of the Fédération des caisses Desjardins du Québec or of a member credit union;

“(2) a director of the Caisse centrale Desjardins or of the Fédération des caisses Desjardins du Québec;

“(3) an officer or employee of a federation other than the Fédération des caisses Desjardins du Québec;”.

41. The Caisse centrale Desjardins must form an audit commission composed of not fewer than three members of its board of directors. In no case may the audit commission be composed in the majority of presidents, vice-presidents or secretaries of boards of directors or employees of the Caisse centrale Desjardins, of the Fédération des caisses Desjardins du Québec, of a legal person belonging to the group, or of shareholders holding 10% or more of the voting rights attached to the shares of a legal person belonging to the group.

42. The words “audit and inspection commission” in sections 389 and 390 of the Act respecting financial services cooperatives are replaced, as regards their application to the Caisse centrale Desjardins, by the words “audit commission”.

43. The audit commission shall, in addition to the duties provided for in sections 389 and 390 of the Act respecting financial services cooperatives, ascertain

(1) whether the activities and operations of the Caisse centrale Desjardins are in conformity with the provisions of this chapter, with the provisions of the Act respecting financial services cooperatives that apply to the Caisse centrale Desjardins, and with the applicable regulations;

(2) whether the Caisse centrale Desjardins complies with the orders and written instructions issued or given under the provisions of this chapter or under the provisions of the Act respecting financial services cooperatives that apply to the Caisse centrale Desjardins.

44. The audit commission may be convened by one of its members, by a director or by the auditor. The auditor shall be given notice of all commission meetings. The auditor must attend any meeting to which he or she is convened and be given the opportunity to be heard thereat.

The audit commission shall, if it becomes aware of an error or mis-statement in a financial statement, cause such statement to be corrected and inform the board of directors thereof.

45. Subparagraphs 1 and 5 of the first paragraph of section 424 of the said Act are replaced, for the Caisse centrale Desjardins, by the following subparagraphs:

“(1) a statement of the sums deposited by the members of the Caisse centrale Desjardins or administered on their behalf, established according to the various classes of deposits, according to their respective maturity dates, and showing the average annual return obtained by each class;

“(5) a statement of the assets and liabilities and an operating statement of the Caisse centrale Desjardins, presented according to generally accepted accounting principles.”

46. The Caisse centrale Desjardins shall maintain, for its operations, an adequate capital base consistent with sound and prudent management, in accordance with the standards of the Fédération des caisses Desjardins du Québec. Those standards must, before coming into force, be approved by the Inspector General.

47. For the purposes of the acquisition and holding by the Caisse de dépôt et placement du Québec of bonds or other evidences of indebtedness issued by the Caisse centrale Desjardins, the capital shares of the Caisse centrale Desjardins and of its members, except auxiliary members, are deemed, for the purposes of the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2), to be common shares.

48. The expenses incurred by the Inspector General in respect of the inspection and supervision of the Caisse centrale Desjardins under this Act shall be charged to the Caisse centrale Desjardins.

49. The winding-up of the Caisse centrale Desjardins does not prevent the performance of all eligible financial contracts concluded by it or the setting off of an amount payable under or in connection with all such eligible financial contracts, in accordance with their provisions.

The Inspector General shall determine, by written instructions to the Caisse centrale Desjardins, the eligible financial contracts referred to in this section.

50. The Fédération des caisses Desjardins du Québec may amalgamate with the Caisse centrale Desjardins by absorption of the Caisse centrale Desjardins.

The provisions of sections 428 to 437 of the Act respecting financial services cooperatives apply, with the necessary modifications, to such an amalgamation as if the Caisse centrale Desjardins were a federation. Moreover, the provisions of a regulation made under section 69 of this Act apply to any such amalgamation.

51. For the purposes of the application of section 565 of the Act respecting financial services cooperatives to the Caisse centrale Desjardins, the Inspector General is not required to consult the Caisse centrale Desjardins before issuing guidelines for it. However, the Inspector General shall consult the Fédération des caisses Desjardins du Québec.

52. Section 602 of the said Act is replaced, for the Caisse centrale Desjardins, by the following section:

“602. Every person who contravenes any of the provisions of the first and second paragraphs of section 28, of sections 51 and 133, of the first paragraph of section 136 and of section 144 of this Act is guilty of an offence.”

53. Section 609 of the said Act is replaced, for the Caisse centrale Desjardins, by the following section:

“609. Every person who fails to comply with an order or written instruction issued or given by the Inspector General pursuant to section 467, 471, 567, 569 or 571 of this Act is guilty of an offence.”

54. The first paragraph of section 612 of the Act respecting financial services cooperatives is replaced, for the Caisse centrale Desjardins, by the following paragraph:

“612. Every person found guilty of an offence under any of sections 602 to 611 is liable to a fine of not less than \$200 nor more than \$2,000 in the case of a natural person and of not less than \$600 nor more than \$30,000 in the case of a legal person.”

55. For the purposes of the application of Chapters XII, XIV and XVI of the Act respecting financial services cooperatives to the Caisse centrale Desjardins, the words “this Act” are replaced by the words “this Act or, as the case may be, the Act respecting the Mouvement Desjardins”.

### **CHAPTER III**

#### **SOCIÉTÉ D'INVESTISSEMENT DESJARDINS**

56. Société d'investissement Desjardins, a joint stock company constituted under chapter 80 of the statutes of 1971, replaced by chapter 113 of the statutes of 1989 and its amendments, hereinafter called “the Société”, is continued under this Act.

The Société may also identify itself under the name “Investissement Desjardins”.

57. Subject to the provisions of this chapter, the Société is governed by the provisions of Part II of the Companies Act (R.S.Q., chapter C-38).

58. The purpose of the Société is to promote the development of industrial and commercial undertakings, whether of a cooperative nature or not, and thus promote the economic progress of Québec.

59. The Société may, in particular,

(1) acquire securities, evidences of indebtedness and equity securities ;

(2) establish, provide and lease and hire technical, management and research services for itself or others ;

(3) grant a loan or guarantee the repayment, in whole or in part, of a financial commitment.

60. The affairs of the Société shall be administered by a board of directors composed of not fewer than seven members. However, the by-laws of the Société may provide for a greater number of directors.

It is not necessary that a director of the Société be a shareholder.

61. The board of directors of the Société may exercise alone the powers set out in sections 142, 145 and 169 of the Companies Act.

62. The authorized capital stock of the Société is composed of an unlimited number of common shares without par value.

However, the board of directors may adopt a by-law to alter the capital stock of the Société in accordance with Part II of the Companies Act.

## **CHAPTER IV**

### **TRANSITIONAL AND FINAL PROVISIONS**

63. The qualifying shares issued before the date of the amalgamation referred to in section 689 of the Act respecting financial services cooperatives by La Confédération des caisses populaires et d'économie Desjardins du Québec may be redeemed.

64. Notwithstanding section 711 of the Act respecting financial services cooperatives, the Fédération des caisses Desjardins du Québec may, by by-law that may be adopted at any time, exchange all or part of the capital shares and the investment shares of a given class for capital shares or investment

shares of another class, subject to the rights, privileges, conditions and restrictions relating to such shares which may permit such an exchange.

65. The Caisse centrale Desjardins shall, prior to 20 December 2000, establish by resolution of the board of directors

- (1) the capital stock of the Caisse centrale Desjardins ;
- (2) the conversion of outstanding cooperative shares into qualifying shares or capital shares.

The Caisse centrale Desjardins shall transmit a certified true copy of the resolution to the Inspector General, who shall deposit a copy of the resolution in the register instituted under the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45).

66. Notwithstanding section 716 of the Act respecting financial services cooperatives, a member credit union of the Fédération des caisses Desjardins du Québec is authorized, by a by-law that is deemed to be adopted by its general meeting on (*insert here the date of coming into force of this section*), to issue capital shares of a class carrying the same rights, privileges, conditions and restrictions as those attached to the permanent shares already issued by the credit union, until such a by-law is replaced or repealed. Moreover, the permanent shares issued by the credit union before (*insert here the date of coming into force of this section*) shall be converted into capital shares of that class without prejudice to the rights and privileges of the holders, and are deemed to be issued in accordance with the provisions of that Act.

The capital shares of that class shall be designated as permanent shares.

67. The Caisse centrale Desjardins shall, prior to 20 December 2000, establish by resolution of its board of directors the new by-laws of the Caisse centrale Desjardins that are to apply after that date.

68. The Fédération des caisses Desjardins du Québec may hold shares of Société d'investissement Desjardins in accordance with section 688 of the Act respecting financial services cooperatives.

69. The Government may, by regulation, provide for any other transitional measures or other measures conducive to the application of this Act.

A regulation made under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein. The regulation may also, once published and where it so provides, apply from any date not prior to 20 December 2000.

70. Notwithstanding section 285.21 of the Act respecting insurance (R.S.Q., chapter A-32), the Laurentian Life and Health Insurance Corporation may invest in a legal person that is affiliated with it until 31 December 2000 or,

with the authorization of the Inspector General of Financial Institutions, until any later date determined by the Inspector General.

71. The Act to replace the Act respecting La Confédération des caisses populaires et d'économie Desjardins du Québec (1989, chapter 113), amended by chapter 4 of the statutes of 1990, chapter 111 of the statutes of 1993, chapter 77 of the statutes of 1994, chapter 69 of the statutes of 1996, chapter 72 of the statutes of 1999 and by chapter 105 of the statutes of 1999, is replaced by this Act.

72. The provisions of this Act come into force on the date of coming into force of section 689 of the Act respecting financial services cooperatives, except sections 63, 65, 67, 69 and 70, which come into force on 20 December 2000.