

Gouvernement du Québec

O.C. 953-2005, 19 October 2005

Cooperatives Act
(R.S.Q., c. C-67.2; 2003, c. 18)

Regulation

Regulation under the Cooperatives Act

WHEREAS, under sections 128.1, 131, 135, 139, 141, 211.5, paragraphs 1, 3, 6, 7, 8 and 11 of section 244 and section 280 of the Cooperatives Act (R.S.Q., c. C-67.2), enacted or amended by sections 70, 106, 142 and 162 of chapter 18 of the Statutes of 2003, the Government may make regulations for the purposes of the Cooperatives Act;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation under the Cooperatives Act was published in Part 2 of the *Gazette officielle du Québec* of 23 February 2005 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS amendments have been made to the draft Regulation following the publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Economic Development, Innovation and Export Trade:

THAT the Regulation under the Cooperatives Act, attached to this Order in Council, be made.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation under the Cooperatives Act

Cooperatives Act
(R.S.Q., c. C-67.2, ss. 128.1, 131, 135, 139, 141, 211.5, 244, pars. 1, 3, 6, 7, 8 and 11, and s. 280; 2003, c. 18, ss. 70, 106, 142 and 162)

**CHAPTER I
NAME**

1. In addition to one of the appropriate terms or expressions referred to in sections 16, 221.6.1, 221.7 and 226.2 of the Act, the name of a cooperative must contain a distinctive feature.

2. The distinctive feature of a cooperative's name may not consist solely of numbers or initials.

3. The name of a cooperative, a federation or a confederation may not contain

(1) the name of a living person, without the person's written consent; or

(2) the name of a deceased person, without the written consent of the person's legal heirs or legal representative.

**CHAPTER II
FORM AND CONTENT OF FINANCIAL
STATEMENTS**

4. The annual financial statements of a cooperative whose revenues were less than \$250,000 in the fiscal year preceding the appointment of the auditor must be prepared so as to disclose the applicable information prescribed by Schedule I.

5. Except for the cooperatives to which section 4 applies, the annual financial statements of a cooperative, a federation or a confederation must be prepared in accordance with the standards of the Canadian Institute of Chartered Accountants set out in the CICA Handbook, subject to the provisions of this Chapter.

6. The financial statements must be adapted to the special features of a cooperative undertaking as follows:

(1) any rebates allotted in the form of loans must be the last item under the heading "Liabilities"; that heading must be followed by the heading "Equity", subdivided into a "Participating Preferred Shares" section, a "Members' Equity" section and an "Equity of the Cooperative, Federation or Confederation" section, as the case may be;

(2) the "Participating Preferred Shares" section must state only the amount of the paid-up participating preferred shares;

(3) the "Members' Equity" section must state only

(a) the amount of the paid-up common shares; and

(b) the amount of the paid-up preferred shares;

(4) the "Equity of the Cooperative, Federation or Confederation" section must state, as applicable,

(a) the operating surplus or surplus earnings that must be allocated according to section 143 of the Act;

(b) the amount of the reserve referred to in section 145 of the Act;

(c) the amount of the enhancement reserve referred to in sections 149.1 to 149.6 of the Act; and

(d) the amount of the contributed surplus and appraisal increase credits, if any;

(5) the expression “operating surplus” or “surplus earnings” replaces the expression “profits”; the expression “surplus earnings” may be used for all classes of cooperatives, whereas the expression “operating surplus” may be used only in the case of cooperatives that supply goods or services;

(6) the expression “deficit” replaces the expression “loss” in the statement of earnings;

(7) the statement of the reserve replacing the statement of retained earnings must indicate

(a) the balance at the end of the preceding fiscal year;

(b) the operating surplus or surplus earnings for the preceding fiscal year that must be allocated in accordance with section 143 of the Act;

(c) the details of the rebates allotted by the last annual general meeting;

(d) the interest paid as participation in the operating surplus or surplus earnings on the participating preferred shares, if any;

(e) taxes paid or recovered;

(f) any adjustment required; and

(g) the deficit for the fiscal year including interest paid on the preferred shares and participating preferred shares, less any part of those items already charged to the enhancement reserve;

(8) where applicable, the statement of the enhancement reserve must indicate

(a) the balance at the end of the preceding fiscal year;

(b) the surplus earnings of the preceding fiscal year allocated by the board of directors;

(c) the details of the rebates allotted for the fiscal year concerned out of the enhancement reserve; and

(d) any deficit or part of the deficit for the fiscal year including interest paid on preferred shares and participating preferred shares, up to the balance of the enhancement reserve, which may not be negative.

7. The notes to the financial statements must indicate the recommendations of the board of directors concerning the allocation of the operating surplus or surplus earnings and the resulting taxes, and the effect on the financial statements.

8. Interest paid on preferred shares and participating preferred shares, other than interest paid as participation in the operating surplus or surplus earnings, must be deducted from the net operating surplus or surplus earnings for the fiscal year in order to calculate the operating surplus or surplus earnings that must be allocated in accordance with section 143 of the Act. In the case of a deficit, the interest is added together.

9. For the purposes of section 146 of the Act, “debts” means all the liabilities of the cooperative.

10. After the calculation of operating earnings, the revenue from the rebates of a federation or another cooperative must be shown under the heading “Other earnings”, as well as the extraordinary items referred to in Chapter 3480 of the CICA Handbook.

11. The following information must be provided in separate notes to the financial statements:

(1) the number of qualifying shares referred to in section 38.3 of the Act, the terms of payment of the shares and the total value of the shares held by members who are deceased, have resigned or have been expelled, if that value exceeds 5% of the value of the paid-up shares;

(2) the proportion of the business done by the cooperative with its members within the meaning of section 17 of this Regulation; and

(3) the total amount of financial assistance granted by the cooperative to its officers, directors, members and employees. For the purposes of this paragraph, “financial assistance” means any financial assistance granted in the form of a loan, partial or total forgiveness of a loan or debt, guarantee, security, the acquisition of bonds or other debt securities, an interest in share capital, capital stock or any other form, credit or gift.

CHAPTER III AUDIT

12. The second paragraph of section 135 of the Act does not apply to cooperatives to which section 4 applies.

13. Where the auditor is a member of a professional order of accountants governed by the Professional Code (R.S.Q., c. C-26), the auditor's report must be drawn up in accordance with the standards of the Canadian Institute of Chartered Accountants set out in the CICA Handbook.

14. Where the auditor is not a member of a professional order of accountants governed by the Professional Code, the auditor's report must indicate

(1) if the financial statements balance with the ledgers and if they meet the requirements of the Act, the Government regulations and the by-laws of the cooperative;

Classes of cooperatives

(1) Producers cooperatives, including agricultural cooperatives governed by Division I of Chapter I of Title II of the Act:

(a) whose object is to provide goods and services

(b) whose object is processing or marketing

(2) Consumer cooperatives, except those referred to in paragraphs 2.1 and 2.2

(2.1) Funeral service cooperatives

(2.2) Housing cooperatives

(3) Work cooperatives

(4) Shareholding workers cooperatives

(5) Solidarity cooperatives, according to the categories of members:

(a) user members, where the cooperative provides goods and services for their personal use

(b) user members, where the cooperative provides goods and services necessary in the practice of their profession or the operation of their enterprise

(2) if the documents and information requested were furnished; and

(3) if the cooperative's bookkeeping is done properly.

15. The review engagement referred to in section 139 of the Act is the review engagement defined in Chapters 8100 and 8200 of the CICA Handbook.

CHAPTER IV BUSINESS WITH MEMBERS

16. For the purposes of the first paragraph of section 128.1 of the Act, the proportion of business that a cooperative, a federation or a confederation must carry on with its members is 50% of its total business.

17. For the purposes of sections 128.1 and 211.5 of the Act, "business" means the following, depending on the classes of cooperatives listed below:

Meaning of "business"

sales and revenues from services

purchase and consignment of marketed products, except those of the same nature as those marketed for the members, originating from persons who are not eligible to become members

sales and revenues from services

the number of funerals

the number of dwellings in use

remuneration paid

remuneration paid by the company

In the case of a shareholding workers cooperative made up exclusively of workers of a place of business of the company, the remuneration paid by the company in that place of business

sales and revenues from services

sales and revenues from services

Classes of cooperatives

(c) user members, where the cooperative processes or markets the products or services of its members

(d) worker members

The provisions of this section apply, with the necessary modifications, to federations and confederations.

Where the object of a cooperative, federation or confederation is to provide goods and services and be engaged in processing or marketing, the proportion of its business that must be carried on with its members is to be calculated separately for each sector of business.

Where a cooperative, federation or confederation has work done for a fixed price, the word “business” includes the price paid for the work, but does not include the supply and sale of goods and services required to perform the contract and the resulting goods and services.

The word “business” does not include purchases and sales of goods and services contracted between a cooperative and a federation or confederation or La Coop fédérée or other cooperative.

For the purposes of section 128.1 of the Act, “subsidiary” means

“a legal person in which the cooperative holds more than 50% of the issued capital stock having full voting rights or has the right to elect a majority of the members of its board of directors.”

CHAPTER V PRESCRIBED FEES

18. The fee payable on application to the Minister under the Act is \$200, except for an article amendment application for which the fee is \$75. The fees are adjusted as provided in section 20.

19. The fee payable on application for retroactive revocation of the dissolution of a cooperative, federation or confederation is \$230. The fee is adjusted as provided in section 20.

20. The fees prescribed in this Regulation are adjusted on 1 April of each year based on the percentage change in the general Consumer Price Index for Canada, as determined by Statistics Canada for the period ending on 31 December of the preceding year.

Meaning of “business”

purchase and consignment of marketed products

remuneration paid

The fees adjusted in the prescribed manner are reduced to the nearest \$5 if they contain a fraction of \$5 less than \$2.50; they are increased to the nearest \$5 if they contain a fraction of \$5 equal to or greater than \$2.50.

The Minister is to inform the public of the adjustment under this section through the *Gazette officielle du Québec* or by such other means as the Minister considers appropriate.

CHAPTER VI MISCELLANEOUS

21. The registration and keeping of any document which the Act requires to be registered is effected by filing the document in a file opened in the name of the cooperative, federation or confederation and by writing on the document, if required, “Original document registered on”, followed by the date and the signature of the Minister or the person designated by the Minister.

22. This Regulation replaces the Regulation under the Cooperatives Act, made by Order in Council 2560-83 dated 6 December 1983.

23. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE I (s. 4)

CONTENT OF THE FINANCIAL STATEMENTS OF COOPERATIVES TO WHICH SECTION 4 OF THE REGULATION APPLIES

1. The financial statements must include

- (1) the balance sheet;
- (2) the statement of earnings;
- (3) the statement of the reserve; and
- (4) where applicable, the statement of the enhancement reserve;
- (5) notes to the financial statements.

2. The balance sheet must be drawn up so as to represent fairly the financial position at the end of the fiscal year and must present the following items separately :

- (1) cash on hand;
- (2) accounts receivable and provision for bad debts;
- (3) the amount overdue or not resulting from the ordinary course of business, due from directors;
- (4) the value of inventory with an indication of the basis of evaluation;
- (5) prepaid expenses;
- (6) total short-term assets;
- (7) investments, indicating the name of the enterprise, the nature of the investment and the basis of evaluation;
- (8) capital assets, indicating the following classes separately : land, buildings, furnishings and rolling stock, and indicating for each class and the total of all classes : the acquisition cost, the amount of accumulated depreciation and the depreciated value;
- (9) deferred charges;
- (10) total assets;
- (11) short-term borrowings;
- (12) accounts payable;
- (13) accrued expenses;
- (14) deferred income;
- (15) the part of long-term debt maturing during the year;
- (16) total short-term liabilities;
- (17) long-term debts, indicating for each one
 - (a) the type of debt;
 - (b) the guarantees;
 - (c) the interest rate;
 - (d) the manner of repayment;

- (18) rebates allotted in the form of loans; and
- (19) total liabilities.

The heading "Equity" follows the presentation of the above items and is divided into 3 sections: Participating Preferred Shares, Members' Equity and Equity of the Cooperative.

The "Participating Preferred Shares" section states only the amount of the paid-up participating preferred shares.

The "Members' Equity" section states only

- (20) the amount subscribed for the qualifying shares;
- (21) the amount of the paid-up common shares;
- (22) the amount of the paid-up preferred shares;
- (23) the total for the section.

The "Equity of the Cooperative" section states

- (24) the operating surplus or surplus earnings that must be allocated in accordance with section 143 of the Act;
- (25) the amount of the enhancement reserve referred to in sections 149.1 to 149.6 of the Act;
- (26) the amount of the reserve referred to in section 145 of the Act;
- (27) the amount of the contributed surplus and the appraisal increase credits, if any;
- (28) the total for the section;
- (29) the total under the heading "Equity"; and
- (30) the total obtained by adding the liabilities and the heading "Equity".

3. The statement of earnings must be drawn up so as to represent fairly the earnings from the transactions of the fiscal year and must present the following items separately :

- (1) gross sales and revenue;
- (2) the cost of merchandise sold;
- (3) the gross operating surplus or surplus earnings;

- (4) expenditures, listing separately:
 - (a) wages and salaries;
 - (b) capital asset depreciation;
 - (c) amortization of deferred charges; and
 - (d) interest charges;
- (5) the operating surplus or surplus earnings or the operating deficit;
- (6) under the heading “Other Earnings”:
 - (a) rebates from a federation or other cooperative; and
 - (b) extraordinary items;
- (7) the operating surplus or surplus earnings or the deficit for the fiscal year;
- (8) the interest paid on the preferred shares and participating preferred shares, other than interest paid as participation in the operating surplus or surplus earnings; and
- (9) the operating surplus or surplus earnings that must be allocated in accordance with section 143 of the Act or the deficit, as the case may be, including interest paid on the preferred shares and participating preferred shares, if any.

The expression “surplus earnings” may be used for all classes of cooperatives, whereas the expression “operating surplus” may be used only in the case of cooperatives that supply goods or services.

4. The statement of the reserve must indicate

- (1) the balance at the end of the preceding fiscal year;
- (2) the operating surplus or surplus earnings for the preceding fiscal year that must be allocated in accordance with section 143 of the Act;
- (3) the details of the rebates allotted by the last annual general meeting;
- (4) the interest paid as participation in the operating surplus or surplus earnings on the participating preferred shares, if any;
- (5) taxes paid or recovered;

- (6) any adjustment required; and

(7) the deficit for the fiscal year including interest paid on the preferred shares and participating preferred shares, less any part of those items already charged to the enhancement reserve.

5. Where applicable, the balance of the enhancement reserve must indicate

- (1) the balance at the end of the preceding fiscal year;
- (2) the surplus earnings of the preceding fiscal year allocated by the board of directors;
- (3) the details of the rebates allotted for the fiscal year concerned out of the enhancement reserve; and
- (4) any deficit or part of the deficit for the fiscal year including interest paid on preferred shares and participating preferred shares, up to the balance of the enhancement reserve, which may not be negative.

6. The notes to the financial statements must indicate the recommendations of the board of directors concerning the allocation of the operating surplus or surplus earnings and the resulting taxes, and the effect on the financial statements.

7. The notes to the financial statements must provide the following information in separate notes:

- (1) the rate of interest on rebates allotted in the form of loans and the terms of repayment;
- (2) the number of qualifying shares referred to in section 38.3 of the Act, the terms of payment of the shares and the total value of the shares held by members who are deceased, have resigned or have been expelled, if that value exceeds 5% of the value of the paid-up shares;
- (3) the conditions for redemption or repayment, the privileges, rights or restrictions attached to the preferred shares and participating preferred shares and the amount of interest in arrears on the shares;
- (4) the proportion of the business done by the cooperative with its members within the meaning of section 17 of the Regulation; and
- (5) in the case of a producer cooperative, the book value of the shares held in the company employing its members.