



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 797

**An Act to amend the Business
Corporations Act to include benefit
corporations**

Introduction

**Introduced by
Mr. Carlos J. Leitão
Member for Robert-Baldwin**

**Québec Official Publisher
2021**

EXPLANATORY NOTES

This bill amends the Business Corporations Act to include benefit corporations. For a business corporation to be called a benefit corporation, its articles of constitution must contain a statement in which the corporation commits to operating responsibly and sustainably and to promoting one or more social interests or public benefits.

A public benefit is defined as an environmental or social consideration for the good of the environment or a group of persons other than shareholders of the company in their capacity as shareholders. Further, a benefit corporation's articles must specify the public benefits it promotes.

The bill also provides that a benefit corporation's directors and officers must ensure that the corporation operates responsibly and sustainably and that it promotes the public benefits specified in its articles of constitution.

In addition, every year, the benefit corporation's board of directors must present a public benefit report containing a detailed assessment of the corporation's performance in operating responsibly and sustainably and in carrying out its commitments. The corporation's performance is measured against a public benefit standard selected by the board of directors and developed by a standard-setting body that fulfills the conditions determined by regulation.

Lastly, the bill indicates that any person may examine a copy of the public benefit report free of charge.

LEGISLATION AMENDED BY THIS BILL:

- Business Corporations Act (chapter S-31.1).

Bill 797

AN ACT TO AMEND THE BUSINESS CORPORATIONS ACT TO INCLUDE BENEFIT CORPORATIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

BUSINESS CORPORATIONS ACT

1. Section 2 of the Business Corporations Act (chapter S-31.1) is amended by inserting the following definitions in alphabetical order:

““public benefit report” means the report presented by a benefit corporation in accordance with section 42.5;

““public benefit statement” means the benefit corporation’s statement provided for in section 42.1;”.

2. Section 5 of the Act is amended by adding the following paragraph at the end:

“(10) the public benefit statement and elements provided for in section 42.1, if applicable.”

3. Section 31 of the Act is amended by adding the following paragraph at the end:

“(5) the public benefit report, if applicable.”

4. Section 32 of the Act is amended by adding the following paragraph at the end:

“Any person may examine a copy of the public benefit report without charge.”

5. The Act is amended by inserting the following chapter after Chapter IV:

“CHAPTER IV.1

“BENEFIT CORPORATIONS

“42.1. A business corporation whose articles of constitution contain the following statement is called a “benefit corporation”:

“This corporation is a benefit corporation. As such, it is committed to operating responsibly and sustainably and to promoting one or more social interests or public benefits.”

The articles must also specify the public benefits promoted and the commitment to promote them and operate responsibly and sustainably.

For the purposes of this Chapter, “responsibly and sustainably” means taking into account the well-being of the persons affected by the corporation’s operations and using a fair, proportionate share of the environmental, social and economic resources available.

For the purposes of this Chapter, “public benefit” means any environmental or social consideration for the good of the environment or a group of persons other than shareholders in their capacity as shareholders.

“42.2. The directors and officers of a benefit corporation must, in the exercise of their functions, reconcile their obligations under section 119 with the obligation to ensure that the corporation operates responsibly and sustainably and promotes the public benefits specified in the corporation’s articles of constitution.

Despite the first paragraph, the benefit corporation’s directors and officers have no obligation towards third parties who may be concerned by the public benefits and commitments specified in the articles in accordance with section 42.1.

Only a shareholder holding at least 2% of the benefit corporation’s shares may, without prejudice to any other right the shareholder has, ask the court to order the directors or officers to comply with their obligation under the first paragraph or to make any further order the court thinks fit.

“42.3. A business corporation may become a benefit corporation or cease to be one by amending its articles of constitution in accordance with the provisions of Division I of Chapter IX.

“42.4. The board of directors of a benefit corporation must, each year, for the purposes of preparing a public benefit report,

- (1) select a public benefit standard; and
- (2) assess the benefit corporation’s performance in carrying out the commitments set out in its articles of constitution against the public benefit standard selected.

“Public benefit standard” means any standard, developed by a standard-setting body recognized by the Government, used to define and assess a benefit corporation’s performance in conducting its business responsibly and sustainably and in carrying out the commitments set out in its articles of constitution.

“42.5. At every annual shareholders meeting, the board of directors must present the benefit corporation’s public benefit report for the fiscal year ended not more than six months before the meeting.

The public benefit report must contain

(1) a fair and accurate description of the means used by the benefit corporation to conduct its business responsibly and sustainably;

(2) a fair and accurate description of the means used by the benefit corporation to promote the public benefits specified in its articles of constitution;

(3) a detailed assessment of the benefit corporation’s performance against the public benefit standard selected;

(4) the circumstances that prevented the benefit corporation from carrying out the commitments set out in its articles of constitution, if applicable;

(5) the reasons justifying the choice of standard-setting body; and

(6) any other information whose presentation is required by the articles of constitution, the by-laws or a unanimous shareholder agreement.

“42.6. The public benefit report may not be presented at the annual meeting or otherwise circulated unless it has been approved by the board of directors.

The board of directors’ approval of the public benefit report is evidenced by the signature of one or more directors, regardless of the means used to sign it.”

6. Section 118 of the Act is amended by adding the following paragraph at the end:

“(16) to approve the benefit corporation’s public benefit report.”

7. Section 489 of the Act is amended by inserting the following paragraph after paragraph 3:

“(3.1) determine the conditions that must be fulfilled to be recognized as a standard-setting body referred to in Chapter IV.1;”.

8. The Act is amended by inserting the following section after section 490:

“490.1. A person who contravenes the first paragraph of section 42.5 commits an offence and is liable to a fine of not less than \$5,000 and not more than \$50,000.”

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

