

Creating a Non-Profit Legal Person

Translation of the Guide

*Comment constituer une personne
morale sans but lucratif*



Introduction

The information included in this guide will help you fulfill the procedures required to incorporate a non-profit legal person as outlined in Part III of the *Companies Act*.

You can perform this process yourself. However, it might be wiser to avail yourself of a legal advisor's expertise because of the legal repercussions resulting from the incorporation of a legal person. His/her advice may well be of use when drawing up the purposes for which the legal person is being incorporated, when choosing its name, and when determining its internal organization.

Important

The examples of purposes, requirements for certain types of legal persons, and other provisions include a French version.

Please transcribe the **French version** in your application for incorporation of a non-profit legal person.



Drafting of the application for the incorporation of a non-profit legal person

Application and memorandum of agreement

Page 1 of application

By their signature, the applicants indicate their wish to incorporate a legal person.

Write the proposed name.

French language

The name must be in French. However, a legal person entirely dedicated to the cultural development of a specific ethnic group or to the defence of its special interests can give itself a name in the group's language, as long as there is a French version appended.

Government regulation

The name must comply with the requirements of the Regulation respecting the Corporate Names of Corporations Governed by Part III of the *Companies Act*. This regulation is reproduced on the back of the form "Demande de rapport de recherche de nom/Demande de réservation de nom" (Name Research Report Application/Name Reservation Application).

The name must have been checked against the names used and declared in the registre des entreprises individuelles, des sociétés et des personnes morales.

“INC.” or “LTÉE” abbreviations

It is preferable that legal persons not append the abbreviations “inc.” or “ltée” to their name, as they are not required to do so.

Definite article (le, la, les, l’)

It is always preferable not to use a definite article at the beginning of a name. E.g., one should use “Association des amis de Saint-François” rather than “L’association des amis de Saint-François”.

Brackets around “es”

The entreprise registrar does not accept the use of brackets to indicate explicitly that female persons are included in the name. For instance, it is not allowed to write “Association des étudiants(es) de (...)”. One should rather write “Association des étudiants et étudiantes de (...)”. To shorten the name, using an adjective could be considered, when possible – for instance, “Association étudiante de (...)”.

Applicants put their signature.

Applicants must be at least 18. Three or more applicants are necessary; it is best to choose this number of applicants. Signatures appended to this space must correspond to the surnames and given names appearing on page 2 of the application.

At the bottom of the page, write down the place and date of signature by the applicants. This date must be identical or earlier than the one on the affidavit.

Page 2 of application

1. Applicants

Enter the surnames and given names (spelled out) of applicants, who have signed on page 1, as well as their addresses and profession or usual occupation. Do not forget the postal codes.

Note

A married woman must ensure that the surname and given name entered in this space are identical to the ones in her signature on page 1.

2. Head office

Enter the location, in the province of Québec, of the head office of the legal person.

If the name of the city or village can possibly be confused with the name of another city or village, include the judicial district.

Regarding the exact address, postal code included, it is best to declare it in the initial declaration required by the *Act respecting the Legal Publicity of Sole Proprietorships, Partnerships, and Legal Persons*.

This initial declaration must be filed with the entreprise registrar within 60 days of registration of the legal person.

One is not allowed to give only a P.O. box as an address.

3. First directors

Enter the name of the three applicants who will act as the legal person's provisional directors. Please note that only the applicants can be provisional directors.

4. Immovables

Enter either the income or the value (but not both) that indicates the limit of real property holdings which can be acquired and owned by the legal person. It is best to enter a relatively high figure, e.g. \$500,000 or \$1,000,000, in order to not have to apply for additional letters patent later on, should the legal person expand.

Do note that you can not enter an amount smaller than \$1.00.

5. Purposes

The goal or justification of a legal person is found in its purposes. The legal person is incorporated in order to attain the purposes stated in the application. These must be written out carefully because the legal person will not be able to do anything, which does not comply with them. Here are some basic rules that ought to be observed while drafting the purposes, and also some examples of various purposes.

Rules for the drafting and choosing of purposes

Purposes that comply with the law

The purposes of the legal person must not contravene public policy statutes or public decency. They must be spelled out with precision, succinctly and without repetition, while still showing, on the one hand, that these activities are strictly non-profit and demonstrate no intention of making monetary gains for the members of the future legal person and, on the other hand, that all profit or other increases of the legal person will be used towards reaching its goals.

Succinctness

Two or three short sentences should suffice to describe the purposes or goals of the legal person.

That the purposes be relatively broad

One should insure that the legal person's field of activity is rather broad so that it does not need to change its purposes (by applying for additional letters patent) as soon as it expands or wishes to diversify its activities. To this end, it is advantageous to use words expressing a wide scope. For instance, the word "interest" has a general meaning in the following provision: "Defend and promote the interests of its members."

If the non-profit legal person wishes to apply for registration as a charitable organization, we suggest that you refer to the guide "Registering a Charity for Income Tax Purposes" published by the Canada Revenue

Agency (CRA). This pamphlet is available on CRA's Web site, at all CRA offices, and in all tax services offices.

Precision

Even though the purposes might be described in a general fashion, these still must be precise enough so that one is able to gather what type of legal person is being delineated.

Distinguish purposes from activities

It is not necessary, nor appropriate, to specify the means that the legal person intends to use, nor the activities that it plans on pursuing in order to attain its purposes. For instance, it is not relevant to specify that an amateur sports legal person plans on purchasing sporting equipment.

Distinguish purposes from powers

It is not necessary, nor appropriate, to specify the powers that the legal person has in order to attain its purposes.

Do not specify the legal person's internal government rules.

The legal person's general regulations no longer need to be approved by the entreprise registrar.

Examples of purposes

(Transcribe the **French version** of the text that you choose to include in your application for incorporation of a non-profit legal person. The examples in English are immediately followed by their French translation written in *italics and blue character.*)

The examples of purposes described in the cases mentioned below must not be considered as limiting the applicants' power to stipulate other purposes.

The entreprise registrar usually requests that applicants write the following sentence at the beginning of their purposes:

“For purely (choose just one of the following expressions: social, charitable, artistic, philanthropic, etc.) purposes, and with no intention of monetary gain for its members.”

À des fins purement (choisir l'une ou l'autre des expressions suivantes : sociales, charitables, artistiques, philanthropiques, etc.), et sans intention de gain pécuniaire pour ses membres.

Assistance for certain diseases

Ensure the well-being of people suffering from... and of all other types of disease in...

Promote medical research in order to screen, treat, care and heal people suffering from... or other haematological diseases.

Assurer le bien-être des personnes atteintes de... et de toute autre forme de maladies dans...

Favoriser les recherches médicales en vue de dépister, traiter, soigner et guérir les personnes atteintes de... ou d'autres maladies hématologiques.

Alcoholics

Help people suffering from alcoholism.

Work towards solving and preventing this problem.

Aider les personnes qui souffrent d'alcoolisme.

Travailler à résoudre et à prévenir ce problème.

Alumni

Bring together under the aegis of a legal person the alumni of...

Defend and promote the interests of its members and the institution where they studied.

Regrouper en personne morale les anciens étudiants de...

Défendre et promouvoir les intérêts de ses membres ainsi que de l'établissement où ils ont étudié.

Entrepreneurs association

Protect its members' interests and encourage them to publicize and promote...

Promote and help bring about cultural and artistic events in...

Encourage its members to afford their clients all the courtesy and integrity possible; urge them to sell their wares and supply their services at a reasonable cost.

Be the mouthpiece of its members in all matters relating to protection of their collective interests.

Protéger les intérêts de ses membres et les encourager à faire de la publicité et de la promotion en faveur du...

Promouvoir et faciliter les manifestations culturelles et artistiques à l'intérieur du...

Encourager les membres à traiter leurs clients avec toute la courtoisie et l'intégrité possible, les inciter à vendre leurs marchandises et à fournir leurs services à des prix raisonnables.

Être le porte-parole de ses membres pour tout ce qui a trait à la protection de leurs intérêts collectifs.

Volunteers

Bring together under the aegis of a legal person the volunteers of...

Promote volunteer work.

Promote the recruitment, training and guidance of volunteers.

Regrouper en personne morale les bénévoles de...

Promouvoir le bénévolat.

Favoriser le recrutement, la formation et l'orientation des bénévoles.

Audiovisual animation centre

Endow the ... area with a permanent animation centre focusing on audiovisual techniques.

Allow the pooling of audiovisual equipment in a common venue to provide for joint use.

Create a bank of audiovisual documents.

Doter la région de... d'un centre permanent d'animation axé sur les techniques audiovisuelles.

Permettre le regroupement d'équipements audiovisuels en un lieu commun en vue d'une utilisation commune.

Mettre sur pied une banque de documents audiovisuels.

Art centre

Set up and organize an art centre.

Promote arts in the province of Québec and more specifically in the ... area.

Établir et organiser un centre d'art.

Promouvoir les arts au Québec et plus particulièrement dans la région de...

Childcare centre

Set up and maintain a childcare centre that complies with the provisions of the *Act respecting Childcare Centres and Childcare Services* (L.R.Q., c.C-8.2) and of the regulations enacted under its terms.

Établir et maintenir un centre de la petite enfance conformément aux dispositions de la Loi sur les centres de la petite enfance et autres services de garde à l'enfance (L.R.Q., c. C-8.2) et des règlements adoptés en vertu de celle-ci.

Recreation centre

Set up and organize a recreation centre for the population of the ... area and vicinity.

Promote leisure activities.

Établir et organiser un centre de loisir au bénéfice de la population de la région de... ainsi que des environs.

Promouvoir les activités de loisir.

Real estate board

Bring together under the aegis of a legal person real estate agents, realtors and other persons having an interest in real estate transactions.

Defend and promote its members' interests.

Promote sound and fair rules of conduct for all persons working in the real estate sector.

Regrouper en personne morale les agents immobiliers, les courtiers immobiliers et les autres personnes intéressées aux transactions immobilières.

Défendre et promouvoir les intérêts de ses membres.

Promouvoir des règles de conduite saines et équitables pour toutes les personnes qui oeuvrent dans le domaine immobilier.

Charity

Increase the self-sufficiency of people emotionally, economically, physically or educationally disadvantaged.

Acquire, for the aforementioned purposes, funds or other property through public fundraising.

Accroître l'autonomie des personnes qui sont défavorisées sur le plan affectif, matériel, physique ou éducationnel.

Se procurer, aux fins mentionnées ci-dessus, des fonds ou d'autres biens par voie de souscriptions publiques.

Citizens

Defend and promote the interests of the citizens of the city (village or neighbourhood) of...

Defend and promote the interests of this city (village or neighbourhood).

Represent the citizens before the authorities.

Raise awareness of citizens concerning their rights, obligations and responsibilities.

Défendre et promouvoir les intérêts des citoyens de la ville (du village ou du quartier) de...

Défendre et promouvoir les intérêts de cette ville (de ce village ou de ce quartier).

Représenter les citoyens auprès des autorités.

Sensibiliser les citoyens à leurs droits, obligations et responsabilités.

Senior citizens' club

Bring together under the aegis of a legal person senior citizens of the ... area and ensure their well-being and the safeguarding of their interests.

Intervene before any organization or local, provincial or federal government, so as to defend and promote the rights of senior citizens.

Organize and maintain any other related social, sporting or cultural activity to promote the goals of the legal person.

Regrouper en personne morale les personnes âgées de la région de... et veiller à leur bien-être et à la sauvegarde de leurs intérêts.

Intervenir auprès de tout organisme ou gouvernement local, provincial ou fédéral afin de défendre et de promouvoir les droits des personnes du troisième âge.

Organiser et maintenir toute autre activité sociale, sportive et culturelle connexe pour promouvoir les buts de la personne morale.

Golf club

Set up and operate a golf club.

Provide all manner of services relating to the goals of the legal person.

Établir et exploiter un club de golf.

Fournir des services de toute nature en relation avec les buts de la personne morale.

Social club (leisure activities)

Set up and manage a social and sports club, for the recreation and relaxation of mind and body of its members and their guests.

Provide all manner of services relating to the goals of the legal person.

Établir et administrer un club social et sportif pour la récréation et la détente de l'esprit et du corps de ses membres et de leurs invités.

Fournir des services de toute nature en relation avec les buts de la personne morale.

Industry commission

Promote industrial, commercial and economic expansion of the ... area.

Provide information to locals and foreigners about the industrial benefits and commercial opportunities of the ... area.

Make use of all efficient and necessary means to attract new industries in the region.

Favoriser l'expansion industrielle, commerciale, économique de la région de...

Faire connaître aux résidents et aux étrangers les avantages industriels et les possibilités commerciales de la région de...

Prendre tous les moyens efficaces et nécessaires pour attirer de nouvelles industries dans la région.

Economic council

Bring together under the aegis of a legal person all persons interested in the cultural, economic and social development of the ... area and vicinity.

Promote the cultural, economic and social development of this region.

Regrouper en personne morale toutes les personnes intéressées au développement culturel, économique et social de la région de... et des environs.

Promouvoir le développement culturel, économique et social de cette région.

Consumers

Defend and promote the interests of consumers.

Raise awareness of consumers regarding their rights, obligations and responsibilities.

Défendre et promouvoir les intérêts des consommateurs.

Sensibiliser les consommateurs à leurs droits, obligations et responsabilités.

Culture

Promote the fine arts and cultural activities, such as drawing, literature, music, painting, photography, and sculpture.

Encourage the pursuit of excellence in these fields. The legal person shall comply with the *Act respecting Private Education* (L.R.Q., c. E-9) and its regulations.

Promouvoir les beaux-arts et les activités culturelles telles le dessin, la littérature, la musique, la peinture, la photographie, la sculpture.

Favoriser la poursuite de l'excellence dans ces domaines. La personne morale respectera la Loi sur l'enseignement privé (L.R.Q., c. E-9) et ses règlements.

Children

Defend and promote the interests of children by raising their awareness about issues that concern them such as incest, child prostitution, and family violence.

Raise the public's awareness regarding children's need of love and safety and about the crucial importance of a child's first six years.

Acquire, for the aforementioned purposes, funds or other property through public fundraising.

Défendre et promouvoir les intérêts des enfants en les sensibilisant à des questions qui les concernent telles que l'inceste, la prostitution infantile, la violence familiale.

Sensibiliser la population aux besoins d'amour et de sécurité des enfants et sur l'importance capitale des six premières années de l'enfant.

Se procurer, aux fins mentionnées ci-dessus, des fonds ou autres biens par voie de souscriptions publiques.

Building contractor (company)

Bring together building contractors in the... area.

Review, promote and develop the practical, cultural and social interests of its members.

Print, publish, edit and distribute magazines, newspapers, periodicals, and by and large, disseminate any information pertaining to the construction sector.

Regrouper les entrepreneurs en construction de la région de...

Étudier, promouvoir et développer les intérêts matériels, culturels et sociaux de ses membres.

Imprimer, publier, éditer et distribuer des revues, journaux, périodiques et, plus généralement, diffuser toute information se rapportant à l'industrie de la construction.

Students

Bring together under the aegis of a legal person the students of...

Defend and promote the interests of its members and of students in general.

Regrouper en personne morale les étudiants de...

Défendre et promouvoir les intérêts de ses membres et des étudiants en général.

Environment

Promote and encourage the reclamation of the banks of Québec's streams.

Promote and encourage public education about natural sciences.

Promouvoir et encourager la mise en valeur des berges des cours d'eau du Québec.

Promouvoir et encourager l'éducation populaire en matière de sciences naturelles.

Family

Defend and promote the interests of families, especially in the... area.

Défendre et promouvoir les intérêts de la famille, particulièrement dans la région de...

Single-parent family

Bring together under the aegis of a legal person single parents, who are family heads.

Defend and promote the interests of these people.

Raise the awareness of these persons about their rights and obligations.

Regrouper en personne morale les parents seuls, chefs de familles.

Défendre et promouvoir les intérêts de ces personnes.

Sensibiliser ces personnes à leurs droits et obligations.

Federation

Bring together in a federation legal persons pursuing ends relating to...

Accept as a member any legal person that can contribute to the promotion of these purposes.

Defend and promote its members' interests.

Regrouper en fédération des personnes morales poursuivant des fins reliées à...

Admettre comme membre toute personne morale pouvant contribuer à promouvoir ces fins.

Défendre et promouvoir les intérêts de ses membres.

Women

Defend and promote the interests and rights of women by raising the public's awareness about issues that concern them such as violence against women, integration of women in the labour market, etc.

Défendre et promouvoir les intérêts et les droits des femmes en sensibilisant la population à des questions qui les concernent telles que la violence faite aux femmes, l'intégration des femmes au marché du travail, etc.

Family day care service

Set up and maintain a family day care service in accordance with the provisions of the *Act respecting Childcare Centres and Childcare Services* (L.R.Q., c. C-8.2) and the regulations enacted under its terms.

Établir et maintenir une agence de garde en milieu familial conformément aux dispositions de la Loi sur les centres de la petite enfance et autres services de garde à l'enfance (L.R.Q., c. C-8.2) et des règlements adoptés en vertu de celle-ci.

Daycare centre

Set up and maintain a daycare center in accordance with the provisions of the *Act respecting Childcare Centres and Childcare Services* (L.R.Q., c. C-8.2) and the regulations enacted under its terms.

Établir et maintenir un service de garde en garderie conformément aux dispositions de la Loi sur les centres de la petite enfance et autres services de garde à l'enfance (L.R.Q., c. C-8.2) et des règlements adoptés en vertu de celle-ci.

Big brother

Encourage recruitment and guidance of men who are willing to offer, for a few hours a week, their friendship to a young boy who lacks a masculine presence at home.

Favoriser le recrutement et l'orientation des hommes qui sont prêts à offrir leur amitié quelques heures par semaine à un jeune garçon privé d'une présence masculine au foyer.

Handicapped people

Defend and promote the interests of physically or mentally handicapped persons, especially in the... area.

Raise public awareness about the needs of handicapped people.

Acquire, for the aforementioned purposes, funds or other property through public fundraising.

Défendre et promouvoir les intérêts des personnes handicapées physiques ou mentales, particulièrement dans la région de...

Sensibiliser la population aux besoins des personnes handicapées.

Se procurer, aux fins mentionnées ci-dessus, des fonds ou d'autres biens par voie de souscriptions publiques.

Nature

Defend the integrity of the natural environment.

Promote a way of life or healthy habits that respect the natural environment.

Défendre l'intégrité de l'environnement naturel.

Promouvoir des mœurs ou habitudes de vie saines et respectueuses de l'environnement naturel.

Elderly persons

Bring together under the aegis of a legal person elderly persons in the... area and vicinity.

Defend and promote its members' rights as well as those of elderly people in general.

Regrouper en personne morale les personnes âgées de la région de... ainsi que des environs.

Défendre et promouvoir les intérêts de ses membres et des personnes âgées en général.

Profession

Bring together under the aegis of a legal person people whose occupation or profession is...

Defend and promote its members' interests and those of the profession.

Regrouper en personne morale les personnes dont l'occupation ou la profession est...

Défendre et promouvoir les intérêts de ses membres et de la profession.

Property owners (association)

Defend and promote the interests of property owners in the city of...

Represent the property owners before the authorities.

Raise the awareness of property owners regarding their rights, obligations and responsibilities.

Défendre et promouvoir les intérêts des propriétaires de la ville de...

Représenter les propriétaires auprès des autorités.

Sensibiliser les propriétaires à leurs droits, obligations et responsabilités.

Land and wildlife protection – hunting and fishing (association for)

Bring together under the aegis of a legal person people who are interested in the preservation and protection of wildlife, fish and game in the... territory.

Promote safety rules and hunting and fishing regulations in Québec.

Promote sportsmanship in hunting and fishing, as well as in any aspect dealing with nature such as lakes, brooks, and forests.

Regrouper en personne morale les personnes intéressées à la conservation et à la protection de la faune, du poisson et du gibier dans le territoire...

Promouvoir les règles de sécurité et les règlements de chasse et de pêche au Québec.

Promouvoir l'esprit sportif pour la chasse et la pêche et à tout ce qui a trait à la nature tels que les lacs, ruisseaux, forêts.

Science

Bring together under the aegis of a legal person people interested in...

Defend and promote its members' interests and those of this science.

Ensure the dissemination to the general public of new discoveries and their applications.

Regrouper en personne morale les personnes intéressées à...

Défendre et promouvoir les intérêts de ses membres et de cette science.

S'assurer de la diffusion des nouvelles découvertes et de ses applications dans le public.

Home-care service

Encourage home support of ordinary people, especially elderly, handicapped or sick people.

Provide material and moral support to these persons.

Defend and promote these persons' interests.

Acquire, for the aforementioned purposes, funds or other property through public fundraising.

Favoriser le maintien à domicile des gens du milieu, particulièrement les personnes âgées, handicapées ou malades.

Offrir un soutien matériel et moral à ces personnes.

Défendre et promouvoir les intérêts de ces personnes.

Se procurer, aux fins mentionnées ci-dessus, des fonds ou d'autres biens par voie de souscriptions publiques.

Housing corporation

Build, acquire or improve one or more low-rental housing projects in order to provide housing for middleincome persons, as set out in the *National Housing Act* (L.R. 1985, ch. N-11).

The goals and purposes of the legal person will be exclusively charitable and will include any philanthropic, religious, social or volunteer goals.

Construire, acquérir ou améliorer un ou plusieurs projets d'habitation à bas loyer dans l'intention de fournir des habitations à des personnes dont le revenu est moyen au sens de la Loi nationale sur l'habitation (L.R. 1985, ch. N-11).

Les buts et objets de la personne morale seront exclusivement charitables et incluront spécifiquement tout but philanthropique, religieux, social ou bénévole.

Amateur sports

Promote amateur sports to the public, especially in the... area.

Foster amateur sports activities and the pursuit of excellence in this field.

Promouvoir le sport amateur auprès de la population, particulièrement dans la région de...

Favoriser les activités de sport amateur et la poursuite de l'excellence en ce domaine.

Theatre

Bring together under the aegis of a legal person people interested in theatre.

Promote theatre and theatrical activities.

The legal person shall comply with the *Act respecting Private Education* (L.R.Q., c. E-9) and its regulations.

Regrouper en personne morale les personnes intéressées au théâtre.

Promouvoir le théâtre et les activités théâtrales.

La personne morale respectera la Loi sur l'enseignement privé (L.R.Q., c. E-9) et ses règlements.

Tourism

Promote tourism and tourist activities, especially in the... area.

Inform interested people of the region's economic benefits.

Promouvoir le tourisme et les activités touristiques, particulièrement dans la région de...

Faire connaître aux intéressés les avantages économiques de la région.

Volleyball

Promote and regulate volleyball activities.

Promouvoir et régir les activités de volley-ball.

Requirements pertaining to some types of legal persons

(Transcribe the **French version** of the text you choose to include in your application for incorporation of a non-profit legal person. The examples in English are immediately followed by their French translation written in *italics and blue character*.)

Legal person wishing, among other purposes, to collect funds by way of public fundraising or in any other manner.

Specify the following provision in item "5 – Purposes" (« 5 – Objets » on page 3 of application)

"Receive donations, bequests and other similar contributions in cash, securities and immovables; manage such donations, bequests and contributions; organize fundraising campaigns to collect funds for charitable purposes."

« Recevoir des dons, legs et autres contributions de même nature en argent, en valeurs mobilières ou immobilières, administrer de tels dons, legs et contributions; organiser des campagnes de souscriptions dans le but de recueillir des fonds pour des fins charitables. »

and the following provision in item

“6 – Other provisions” (« 6 – Autres dispositions » on page 4 of application)

“Should the legal person be wound-up or have its assets distributed, the latter shall be devolved upon an organization involved in analogous activities.”

« En cas de liquidation de la personne morale ou de distribution des biens de la personne morale, ces derniers seront dévolus à une organisation exerçant une activité analogue. »

Foundations for philanthropic, cultural, scientific, charitable purposes, etc.

Add the following provisions to item “5 – Purposes” (« 5 – Objets » on page 3 of application)

The purposes do not permit, in any way shape or form, the recovery of money that was given to the legal person by successors or by persons having made a contribution to the organization.

« Les objets ne permettent cependant pas aux souscripteurs ou à leurs ayants droit de recouvrer sous quelque forme que ce soit, l'argent qu'ils auront versé à la personne morale. »

and the following one in item

“6 – Other provisions” (« 6 – Autres dispositions » on page 4 of application)

“Should the legal person be wound-up or have its assets distributed, the latter shall be devolved upon an organization involved in analogous activities.”

« En cas de liquidation de la personne morale ou de distribution des biens de la personne morale, ces derniers seront dévolus à une organisation exerçant une activité analogue. »

Legal person having as a purpose the offering of courses in various fields (teaching)

If the legal person itself wishes to do the teaching, specify after the relevant purpose the following provision in item

“5 – Purposes” (« 5 – Objets » on page 3 of application)

“Subject to the *Act respecting Private Education* (L.R.Q., c. E-9) and its regulations.”

« Sous réserve de la Loi sur l’enseignement privé (L.R.Q., c. E-9) et de ses règlements. »

If the legal person itself does not wish to do the teaching, specify after the relevant purpose the following provision in item

“5 – Purposes” (« 5 – Objets » on page 3 of application)

“The purposes indicated below do not however permit the legal person itself to do the teaching.”

« Les objets mentionnés ci-dessous ne permettent toutefois pas d’offrir de l’enseignement. »

Page 4 of application

6. Other provisions

(Transcribe the **French version** of the text you choose to include in your application for incorporation of a non-profit legal person. The examples in English are immediately followed by their French translation written in *italics and blue character*.)

In this section, it is possible and often preferable to specify certain provisions based on the following keywords:

- Shares
- Directors
- Assembly
- Loan
- Winding-up

Shares

The *Companies Act* (Sect. 44, 224) gives the board of directors the power to adopt a by-law in order to acquire shares of business corporations. However, this by-law must be approved by a vote of at least two thirds of the members present at a general assembly duly called to this end.

Nonetheless, Section 44 makes it possible to forego adoption of a by-law "if the incorporating document authorizes such a purchase". In such cases, it would be appropriate to specify the following provision:

"The legal person can acquire and hold shares of business corporations, sell them or otherwise dispose of them ."

« La personne morale peut acquérir et détenir des actions de sociétés par actions, les vendre ou autrement en disposer. »

Directors

- Number of directors

One must specify in the application the number of directors to be elected if this number does not correspond to the number of provisional directors. In such cases, it would be appropriate to specify the following provision:

"The board of directors is made up of... directors; this number can be changed in accordance with Section 87 of the *Companies Act*."

« Le conseil d'administration est composé de... administrateurs; ce nombre peut être modifié conformément à l'article 87 de la Loi sur les compagnies. »

Please note that it is mandatory to write down a precise number of directors and that the board of directors must be comprised of at least three directors.

- Election of directors outside Québec

According to Section 88 of the Companies Act, the election of directors of a legal person which has not performed a public distribution of securities, can take place outside of Québec if its incorporation document provides for it. The same applies in the case of the annual general meeting.

For certain legal persons it may be useful to add the following provision:

“If deemed to be opportune, the board of directors may decide that the annual general meeting and election of administrators will take place outside the province of Quebec. At least 30 days before the date foreseen the board of directors sends a written notice to its members informing them of the place and date of the meeting.”

« Le conseil d'administration peut décider, lorsqu'il le juge opportun, que l'assemblée annuelle et l'élection des administrateurs auront lieu hors du Québec. Le conseil d'administration envoie un avis écrit aux membres, au moins 30 jours avant la date prévue, pour les informer du lieu et de la date de cette assemblée. »

- Dismissal of a director

It is unlikely that the members of a legal person would have the power to dismiss a director, unless such power is granted by the letters patent.

If this power is sought, it would be wise to include the following provision in the application:

“The members can, at a meeting, remove from office a director of the legal person. The notice calling the meeting must mention that such a person is liable to removal from office, as well as the main breach of duty being held against them.”

« Les membres peuvent, lors d'une assemblée, destituer un administrateur de la personne morale. L'avis de convocation de l'assemblée doit mentionner qu'une telle personne est passible de destitution ainsi que la principale faute qu'on lui reproche. »

Assembly

In accordance with Section 98 of the *Companies Act*, the annual general meeting of the members of the legal person can be held outside Québec if the latter has not done any public distribution of securities and if its incorporation document provides for it. One can find an example of such a provision in the item “Élection des administrateurs hors du Québec” (Election of directors outside Québec).

Loan

The *Companies Act* (Sect. 77, 224) grants the board of directors the power to adopt a by-law to borrow money and mortgage the property of the legal person. However this by-law must be approved by a vote of at least two thirds of the members present at a general meeting duly called for this purpose.

If one wishes to avoid this procedure, these powers can be granted to the board of directors, without having to request approval by the members.

The following provision should then be specified:

“The board of directors can, when it deems so appropriate:

- contract loans of money in the name of the legal person;
- issue bonds or other securities from the legal person and give them as security or sell them at prices and amounts deemed appropriate;
- mortgage immovable and movable property, or otherwise put a lien on the movable property of the legal person.”

« Le conseil d'administration peut, lorsqu'il le juge opportun :

- faire des emprunts de deniers sur le crédit de la personne morale;*
- émettre des obligations ou autre valeurs de la personne morale et les donner en garantie ou les vendre pour les prix et sommes jugés convenables;*
- hypothéquer les immeubles et les meubles ou autrement frapper d'une charge quelconque les biens meubles de la personne morale. »*

In order for the legal person not operating a business to have the powers to borrow described in the *Act respecting the Special Powers of Legal Persons*, the following paragraph should be added:

“Notwithstanding the provisions of the Civil Code of Québec, the granting of a mortgage, even a blanket one, on a universality of properties, movable or immovable, present or future, corporeal or incorporeal, in compliance with Section 34 of the Act respecting the Special Powers of Legal Persons.”

« Nonobstant les dispositions du Code civil du Québec, consentir une hypothèque, même ouverte, sur une universalité de biens, meubles ou immeubles, présents ou à venir, corporels ou incorporels, le tout conformément à l'article 34 de la Loi sur les pouvoirs spéciaux des personnes morales. »

Winding-up

We have previously set out requirements relating to certain types of legal persons, more specifically those having the purpose, among others, of collecting funds by means of public fundraising or any other way, and foundations. These requirements relate to devolution of the property of these legal persons should they be wound-up or have their assets distributed.

In the same circumstances, the assets of legal persons not covered by these requirements are divided up between their members in accordance with the law without it being necessary to include a provision to this effect.

If one wishes that they be devolved upon an organization involved in analogous activities, then one should include the following provision:

“Should the legal person be wound-up or have its assets distributed, the latter shall be devolved upon an organization involved in analogous activities.”

« En cas de liquidation de la personne morale ou de distribution des biens de la personne morale, ces derniers seront dévolus à une organisation exerçant une activité analogue. »

Affidavit

Name of the non-profit legal person

Enter the exact same name as the one appearing on page 1 of the application.

Declaration of an applicant

The applicant must be one of the application's signatories and must sign this declaration in the space « ET J'AI SIGNÉ » ("and I have set my hand").

Solemn affirmation

Write the place and date of the solemn affirmation.

This date must be identical or later than the application's date.

The solemn affirmation must be signed by a person authorized to receive oaths. If this person is not a lawyer, public notary or judge, write the name of the judicial district where they exercise their jurisdiction, or their identification number, or their status authorizing them to receive oaths.

An applicant can not act as a commissioner of oaths.

Persons holding the following positions are authorized to put on oath: lawyer, public notary, commissioner of oaths, clerk of a court of justice, justice of the peace, mayor, city clerk or a municipal secretary treasurer*.

Persons holding these positions can not receive evidence under oath or solemn affirmations from their family members (up to and including their first cousins), nor from parties they represent.

* *Courts of Justice Act* (L.R.Q., c. T-16, Sect. 219, 220).

**Registraire
des entreprises**

Québec

