

Students' Right to Organise

Canadian Federation of Students

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Students' Right to Organize Legislation

Canadian Federation of Students

Context

Currently in Ontario there exists no clear legal protection for the right of students' unions to exist or collect fees on behalf of their members. In fact, in the many pages of legislation that exist covering post-secondary education and individual institutions, there is only a single reference to students' unions in legislation.

This reference can be found in the Ontario Colleges and Applied Arts and Technology Act, 2002 that states:

Ontario Colleges of Applied Arts and Technology Act, 2002

(Schedule F - Bill 109. Summer 2002) "Student Governing Body"

7. Nothing in this Act restricts a student governing body of a college elected by the students of a college from carrying on its normal activities and no college shall prevent the student governing body from doing so.

The minimal legal rights that do exist for students' unions have been established through a combination of common law, the *Corporations Act* and a hodgepodge of local agreements between individual students' unions and local campus administrations. Students' union fee collection is largely shaped by fee collection agreements with college and university administrations in conjunction with policy outlined by the Ministry of Training, Colleges and Universities through policies governing the collection of ancillary fees.

The Corporations Act

The legal responsibilities of students' unions are already legislated through the *Corporations Act* as it pertains to non-profit, non share-capital corporations. As such the *Corporations Act* regulates the following for students' unions:

Timing of Annual Meetings

Student unions must hold annual general meeting must no later than every 15 months.

Filing Changes of Directors

Students' unions must file any change to the composition of the Directors and any change to the addresses of the Directors within 15 days.

Penalty

Failure to submit these filings may lead to dissolution of the corporation and/or to fines.

Finances

Students' unions must appoint auditors at each annual general meeting.

Bylaws

Under the *Corporations Act* students' unions may adopt bylaws that do not contradict the Act or the letters patent to regulate:

- the admission of members
- the dues paid by its members
- when a member ceases to be a member
- the qualification of and the remuneration of the directors
- the time for and the manner of director elections
- the appointment, remuneration, functions duties and removal of agents, officers and employees of the corporation
- the time and place and the notice to be given for the holding of meetings of the members and of the board of directors
- the quorum at meetings of the members, the requirement as to proxies, and the procedure in all things at members' meetings and the meetings of the board of directors

Record Keeping

Under the *Corporations Act* Students' unions must meet the following record keeping obligations:

- Proper books of account and accounting records
- Minutes of meetings of members and directors
- Maintain copies of its letters patent, bylaws and special resolutions
- Register of its members and directors

Students' Union Rights to have Fees Collected

While the internal functions, democratic accountability, and fiduciary responsibilities of students' unions and their respective Boards of Directors are already legislated, the capacity of students' unions to fulfill their responsibilities under their own bylaws and the *Corporations Act* lies more or less with the institution's willingness to collect and remit students' union fees.

This very fact can have the effect of compromising the ability of students' unions to advocate effectively on behalf of their members, especially if such advocacy runs counter to the opinions and direction of the college or university administration.

In addition, the absence of legislation and a clear dispute resolution mechanism that operates at arms length from the institutional parties involved can produce unnecessary tensions on campus. Students' unions have in some cases had to resort to legal action,

or threat of legal action, against the respective institution to stop interference in the collection or remittance of students' union fees.

Other Provinces

In both Québec and British Columbia, students' union rights are enshrined in law. In British Columbia, the legislation has been included in the legislation that governs colleges, institutes, and universities. Amendments made in 1999 to the *College and Institute Act* and the *University Act* defines students' unions, mandates institutional Boards of Governors to collect and remit students' union members fees, and provides for minimum democratic requirements that must be met in order for the students' union to have fees collected. This legislation provides protection to both the students' union and the institutional administration.

The Legislation in Quebec is much more extensive with a model that more closely parallels the certification structure of trade unions. Titled: *An Act Respecting the Accreditation and Financing of Students' Associations* the Act represents separate and distinct legislation. It outlines the process by which students' unions become "accredited", establishes the right of students' unions to have fees collected, and ensures a minimal amount of free space and furnishings are available for use by the students' union on campus. Importantly, the legislation protects students' union autonomy in all matters relating to student issues and student representation.

Conclusion

The current Ontario government has moved to establish post-secondary education operating norms that are more formal, more transparent, and therefore accountable. Already, the government has committed itself to the formal, legal inclusion of universities under the *Freedom and Information and Protection of Privacy Act*.

Creating legislation that will protect the legal right of students' unions to exist and have fees collected and remitted will also create a more formal, transparent and accountable process for both institutions and students unions. Supplanting the hodgepodge of agreements and conventions that currently exist will also assure that both institutions and students' unions are treated fairly and consistently throughout the province.

Finally, by more clearly defining the role of the parties involved and removing the issue of fee collection from a potentially politically charged environment, a more mature, mutually respectful relationship between students' unions and administrations can develop.

APPENDIX I - BRITISH COLUMBIA

MISCELLANEOUS STATUTES AMENDMENT-ACT (No. 3), 1999

College and Institute Act

Section 1 of the College and Institute Act, R.S.B.C. 1996, c. 52, is amended

(a) by repealing the definition of "representative group" and substituting the following:

"representative group" means

- (a) a bargaining agent, as defined in section 1 of the Labour Relations Code, for faculty members or for support staff, or
- (b) a student society or student organization for which fees are collected under section 19 or 21 of this Act; ,

(b) by repealing the definition of "student association", and

(c) by adding the following definition:

"student society" means an organization incorporated as a society under the Society Act whose purpose is to represent the interests of the general student body, but does not include a provincial or national student organization; .

[repeals and replaces the definition of "student association" with a definition of "student society."]

Section 19 is amended by adding the following subsection:

- (3.1) Without limiting subsection (3), the board has the power to collect fees on behalf of a student organization and remit those fees to the student organization. [clarifies that the board of an institution has the power to collect and remit fees to a student organization whether or not the organization is a society under the Society Act.]

Section 21 is repealed and the following substituted:

Student society fees

- 21** (1) Subject to subsection (2), on annual notice from a student society, the board **must** direct the institution to collect student society fees and remit them to the student society if:
- (a) the institution collected fees on behalf of the student society between June 1, 1998 and June 1, 1999, or
 - (b) the student society has been designated by regulation and the amount of the student society fees has been approved by a majority of the members of the student society who voted in a referendum of that student society.
- (2) If a student society referred to in subsection (1) (a) or (b) changes student society fees, the new amount or the rate of change must be approved, before a notice is issued under subsection (1), by a majority of the members of the student society who vote in a referendum of that student society.
- (3) On annual notice from a student society, the board must direct the institution to collect fees on behalf of a provincial or national student organization and remit them to the student society or

directly to the provincial or national student organization, as may be agreed by the board and the student society, if

- (a) the institution collected fees on behalf of the provincial or national student organization between June 1, 1998 and June 1, 1999, or
 - (b) the student society has held a referendum and the majority of the members of the student society voting in that referendum voted in favour of joining the provincial or national student organization.
- (4) The board may direct that the institution cease to collect or remit student society fees to a student society if one of the following applies:
- (a) the student society fails to do one of the following in a timely manner:
 - (i) make available to its members annual audited financial statements and a report on those financial statements by an auditor who meets the requirements of section 42 of the Society Act;
 - (ii) inform the board in writing that the requirements set out in subparagraph (i) have been met;
 - (b) the student society is struck off the register in accordance with section 71 of the Society Act.

[Allows a student society to require an institution to collect student society fees and remit them to the student society if certain criteria are met. The institution may cease to collect or remit student society fees if the student society fails to make available to its members annual audited financial statements or if the student society is struck off the register in accordance with section 71 of the Society Act.]

Section 68 is repealed and the following substituted:

Power to make regulations

68 The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act, including regulations for the purposes of section 21 (1) (b) of this Act. [Clarifies that the Lieutenant Governor in Council may designate a student society by regulation for the purposes of the new section 21 of the Act.]

University Act

Section 1 of the University Act, R.S.B.C. 1996, c. 468, is amended

(a) by repealing the definition of "student association", and

(b) by adding the following definition:

"student society" means an organization incorporated as a society under the Society Act whose purpose is to represent the interests of the general undergraduate or graduate student body, or both, but does not include a provincial or national student organization;.

[Adds a definition of "student society".]

Section 19 (e) is repealed and the following substituted:

- (e) 2 full time students elected from all students who are members of the undergraduate student society or the graduate student society;
[is consequential to the amendments to sections 1 and 19 (e) of the Act.]

Section 20 (1) is repealed and the following substituted:

- (1) A member of the board, other than the chancellor, president or a member elected under section 19 (e), holds office for 3 years and after that until a successor is appointed or elected.

Section 27 (2) (n) is repealed and the following substituted:

- (n) to pay over
 - (i) the fees collected for a student or alumni organization that the organization may request, and
 - (ii) in accordance with section 27.1, the fees collected for a student society or a provincial or national student organization; .

Part 6 is amended by adding the following section:

Student society fees

27.1 (1) Subject to subsection (2), on annual notice from a student society, the board must collect student society fees and remit them to the student society if:

- (a) the board collected fees on behalf of the student society between June 1, 1998 and June 1, 1999, or
 - (b) the student society has been designated by regulation and the amount of the student society fees has been approved by a majority of the members of the student society who voted in a referendum of that student society.
- (2) If a student society referred to in subsection (1) (a) or (b) changes student society fees, the new amount or the rate of change must be approved, before a notice is issued under subsection (1), by a majority of the members of the student society who vote in a referendum of that student society.
- (3) On annual notice from a student society, the board must collect fees on behalf of a provincial or national student organization, and remit them to the student society or directly to the provincial or national student organization, as may be agreed by the board and the student society, if
- (a) the board collected fees on behalf of the provincial or national student organization between June 1, 1998 and June 1, 1999, or
 - (b) the student society has held a referendum and the majority of the members of the student society voting in that referendum voted in favour of joining the provincial or national student organization.
- (4) The board may cease to collect or remit student society fees to a student society if one of the following applies:
- (a) the student society fails to do one of the following in a timely manner:
 - (i) make available to its members annual audited financial statements and a report on those financial statements by an auditor who meets the requirements of section 42 of the Society Act;
 - (ii) inform the board in writing that the requirements set out in subparagraph (i) have been met;
 - (b) the student society is struck off the register in accordance with section 71 of the Society Act.

[Allows a student society to require a university to collect student society fees and remit them to the student society if certain criteria are met. The university may cease to collect or remit student society fees if the student society fails to make available to its members annual

audited financial statements or if the student society is struck off the register in accordance with section 71 of the Society Act.]

Section 35 (2) (h) is repealed and the following substituted:

- (h) a number of full time students, equal to the number provided in paragraphs (a) to (f), elected from all students who are members of the undergraduate student society or the graduate student society, in a manner that ensures that at least one student from each faculty is elected; .

Section 45 (3) is repealed and the following substituted:

- (3) The registrar must similarly keep an alphabetical list of the names of all students who are members of the undergraduate student society or the graduate student society.

Section 71 is repealed and the following substituted:

Power to make regulations

- 71** The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act, including regulations for the purposes of section 27.1 (1) (b). [Clarifies that the Lieutenant Governor in Council may designate a student society by regulation for the purposes of the proposed section 27.1 of the Act.]

APPENDIX II - QUÉBEC

AN ACT RESPECTING THE ACCREDITATION AND FINANCING OF STUDENTS' ASSOCIATIONS

CHAPTER I

SCOPE

1. This Act applies to every student registered in any educational institution contemplated in section 2.

1983, c. 33, s. 1.

Educational institutions.

2. The following are educational institutions within the meaning of this Act:

- 1) general and vocational colleges as well as regional colleges and their constituent colleges established under the General and Vocational Colleges Act (chapter C-29);
- 2) the Université du Québec and its constituent universities, research institutes and superior schools;
- 3) educational institutions at the university level at least one-half of whose operating expenses are paid out of appropriations appearing in the estimates tabled in the National Assembly;
 - 3.1) the École du Barreau du Québec;
- 4) educational institutions at the college level which are accredited for purposes of subsidies under the Act respecting private education (chapter E-9.1);
 - 4.1) college level institutions whose instructional program is the subject of an international agreement within the meaning of the Act respecting the Ministère des Relations internationales (chapter M-25.1.1);
- 5) (subparagraph repealed);
- 6) the constituent parts of the institutions in subparagraphs 1 to 5, namely, each campus or, in university institutions, each faculty, school, department, centre or institute, and each sector, branch or unit within the meaning of the general regulations under the Act respecting the Université du Québec (chapter U-1), or each centre of the École du Barreau du Québec;
- 7) any other educational institution at the college or university level determined by regulation of the Government.

Coming into force.

Regulations made under subparagraph 7 of the first paragraph come into force ten days after their publication in the Gazette officielle du Québec or on any later date fixed therein.

1983, c. 33, s. 2; 1989, c. 17, s. 2; 1993, c. 10, s. 1; 1992, c. 68, s. 156, s. 157; 1994, c. 15, s. 33; 1996, c. 21, s. 70; 1997, c. 87, s. 28.

Distinct student groups.

2.1. In each college level educational institution contemplated in subparagraphs 1, 4, 4.1 and 6 of the first paragraph of section 2, registered full-time students and registered part-time students constitute distinct student groups.

Distinct student groups.

In each university level educational institution contemplated in subparagraphs 2, 3 and 6 of the first paragraph of section 2, students at the undergraduate level, students at the Master's and Doctoral levels and students in continuing education constitute distinct student groups.

Interpretation.

"Full-time student", "part-time student", "undergraduate level", "Master's and Doctoral levels" and "continuing education" mean that which is recognized as such by the educational institution concerned.

1993, c. 10, s. 2.

Interpretation.

3. For the administration of this Act, a students' association or a students' association alliance is an organization whose main purposes are to represent students or students' associations, respectively, and to promote their interests, particularly respecting teaching, educational methods, student services and the administration of the educational institution.

1983, c. 33, s. 3.

CHAPTER II

STUDENTS' ASSOCIATIONS AND STUDENTS' ASSOCIATION ALLIANCES

Right of association.

4. Every student at an educational institution has a right to belong to the students' association of his choice. He also has a right to take part in setting up the association, and to participate in its activities and administration.

1983, c. 33, s. 4.

Existing associations.

5. Existing students' associations at any educational institution may form an alliance of associations.

1983, c. 33, s. 5.

CHAPTER III

ACCREDITATION

DIVISION I

RIGHT OF ACCREDITATION

6. (Section renumbered).

1983, c. 33, s. 6; 1993, c. 10, s. 3.

See section 10.1.

7. (Section renumbered).

1983, c. 33, s. 7; 1993, c. 10, s. 4.

See section 10.2.

Limit.

8. Only one students' association may be accredited for each educational institution.

Accreditation.

However, one association may be accredited for each group of students contemplated in section 2.1.

1983, c. 33, s. 8; 1993, c. 10, s. 5.

Limit.

9. Only one students' association alliance may be accredited for each educational institution composed of units contemplated in subparagraph 6 of the first paragraph of section 2.

Accreditation.

However, one alliance may be accredited for each group of students contemplated in section 2.1.

Furthermore, an association which represents more than one group of students contemplated in section 2.1 may, in such a case, be a member of more than one alliance.

1983, c. 33, s. 9; 1993, c. 10, s. 6.

Restriction.

10. No students' association representing students at several educational institutions may be accredited unless these institutions are components of the same educational institution.

Restriction.

Similarly, no students' association alliance whose member students' associations are from several educational institutions may be accredited unless the institutions are components of the same educational institution.

1983, c. 33, s. 10.

Accreditation.

10.1. A students' association which, at the time of its application for accreditation,

- 1) is constituted under Part III of the Companies Act (chapter C-38), and
- 2) has obtained a majority of the votes cast in a ballot poll of the students who will eventually be contemplated by the application for accreditation, provided that the majority comprises at least 25 % of the students who are registered at the institution concerned on the date of the polling notice,

is entitled to accreditation.

Accreditation.

Every association which intends to apply for accreditation for more than one of the groups of students contemplated in section 2.1 must obtain, for each such group, a majority of the votes cast in a ballot poll of the students of each group, provided that the majority comprises, for each group, at least 25 % of the students who are registered at the institution concerned on the date of the polling notice.

Votes.

However, where several applicant associations in the same educational institution obtain the majority of students required in subparagraph 2 of the first paragraph or in the second paragraph during the same polling period, only the association having obtained the greater or greatest number of votes is entitled to accreditation.

1983, c. 33, s. 6; 1993, c. 10, s. 3; 1999, c. 40, s. 5.

Association alliance.

10.2. A students' association alliance which, at the time of its application for accreditation,

- 1) is constituted under Part III of the Companies Act (chapter C-38),
- 2) has been joined by over one-half of the accredited or, within the meaning of section 56, recognized associations which will eventually be contemplated by the accreditation, by resolution of the board of directors of each, and these associations together comprise over one-half of the students of the institution concerned, or comprise over one-half of the students of each of the groups of students contemplated in section 2.1 who will eventually be contemplated by the accreditation,

is entitled to accreditation.

1983, c. 33, s. 7; 1993, c. 10, s. 4; 1999, c. 40, s. 5.

DIVISION II

ACCREDITATION PROCEDURE

Polls.

11. Students' associations shall hold accreditation polls only during the period extending from 15 September to 15 November or the period extending from 15 January to 15 March.

1983, c. 33, s. 11; 1985, c. 30, s. 17; 1993, c. 10, s. 7.

Notice.

12. A students' association intending to hold an accreditation poll shall send a notice to an accreditation agent appointed under section 19, indicating the place, date and time of the poll. The notice must have been sent by registered or certified mail or by any other means allowing proof of receipt, and must have been received by the accreditation agent not later than fifteen days before the first polling day.

Procedure.

The accreditation agent shall then see that the poll is properly and regularly held. For that purpose, he may prescribe the polling procedure.

1983, c. 33, s. 12; 1985, c. 30, s. 18; 1993, c. 10, s. 8.

Application.

13. A students' association or students' association alliance may request accreditation by a written application to an accreditation agent. The application must be sent by registered or certified mail or by any other means allowing proof of receipt.

1983, c. 33, s. 13; 1993, c. 10, s. 9.

Limit.

14. No students' association or students' association alliance may submit more than one application for accreditation between 1 July of one year and 30 June of the following year.

1983, c. 33, s. 14.

Date of application.

15. To be accepted, an application for accreditation of a students' association must be received by the accreditation agent not later than 1 December or 1 April, according to the period contemplated in section 11 in which the poll is held.

1983, c. 33, s. 15; 1985, c. 30, s. 19; 1993, c. 10, s. 10.

Interested parties.

16. The only interested parties in an application for accreditation, so far as the representativeness of a students' association or students' association alliance is concerned, are each student and each students' association or students' association alliance at the educational institution concerned.

1983, c. 33, s. 16.

Decision.

17. Within 30 days after the expiry of the time prescribed in section 15 for accepting applications or, in the case of an application for accreditation by a students' association alliance, within 30 days after the date of receipt of the application, the accreditation agent shall give his decision in writing, with reasons, to grant or refuse accreditation.

Decision.

The agent shall immediately transmit his decision to the students' association or students' association alliance concerned, and to the educational institution concerned.

1983, c. 33, s. 17; 1993, c. 10, s. 11.

Posting.

18. On receiving the decision of the accreditation agent, the educational institution shall post it up in at least three conspicuous places for the students, with a notice informing the interested parties of their right to appeal from the decision and of the available time to do so.

1983, c. 33, s. 18.

DIVISION III

ACCREDITATION AGENTS

Appointment.

19. The Minister of Education shall appoint, from among the civil servants in his department, accreditation agents responsible for accrediting students' associations or students' association alliances.

Duties.

Accreditation agents shall, in particular, verify the right of accreditation of students' associations or students' association alliances that apply for accreditation and the propriety and regularity of the accreditation procedure.

1983, c. 33, s. 19; 1985, c. 21, s. 96; 1988, c. 41, s. 88; 1993, c. 51, s. 72; 1994, c. 16, s. 50.

Access to documents.

20. Subject to the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), an accreditation agent may request any information and examine any document necessary for the discharge of his duties.

1983, c. 33, s. 20.

DIVISION IV

CANCELLATION AND AMENDMENT OF ACCREDITATION

Existence verified.

21. An accreditation agent shall verify whether an accredited students' association is still in existence, on the application, over 12 months after its accreditation, of not fewer than 25 students represented by it or of the educational institution where it is established.

Existence verified.

He shall verify whether an accredited students' association alliance is still in existence, on the application, over 12 months after its accreditation, of one-third of the associations it represents or of the educational institution where it is established.

1983, c. 33, s. 21; 1993, c. 10, s. 13.

Majority verified.

22. An accreditation agent shall verify whether an accredited association still has the majority required in subparagraph 2 of the first paragraph of section 10.1 on the application, over 12 months after its accreditation, of not fewer than 25 % of the students represented by it.

Representativeness verified.

He shall verify the representativeness of an accredited students' association alliance on the application, over 12 months after its accreditation, of one-half of the associations it represents representing, together, over one-half of the students at the institution concerned.

1983, c. 33, s. 22; 1993, c. 10, s. 14.

Representation.

- 22.1. An accreditation agent shall verify whether the students of a group of students contemplated in section 2.1, represented by an association accredited to represent more than one such group of students, wish to continue to be represented by that association on the application, over 12 months after the accreditation of the association, of not fewer than 25 % of the students of one such group.

1993, c. 10, s. 15.

Representation.

- 22.2. An accreditation agent shall verify whether the associations of a group of students contemplated in section 2.1 which are represented by a students' association alliance accredited to represent associations of more than one such group wish to continue to be represented by that alliance on the application, over 12 months after the accreditation of the alliance, of not fewer than one-half of those associations.

1993, c. 10, s. 15.

Application.

23. Not more than one application for verification may be made under one of sections 21 to 22.2 between September and the month of June following.

1983, c. 33, s. 23; 1993, c. 10, s. 16.

Duties.

24. On receiving an application made under any of sections 22 to 22.2, an accreditation agent, shall, as the case may be, either

- 1) order the association to hold a ballot poll among the students concerned, in which case he may prescribe any polling procedure; or
- 2) order a students' association alliance, where the application concerns such an alliance, to obtain, from the board of directors of each association concerned, within the time he specifies, a resolution regarding its membership.

1983, c. 33, s. 24; 1993, c. 10, s. 17.

Applicable provisions.

24.1. In cases covered by section 22, sections 10.1 and 10.2 apply with respect to the poll or the obtaining of new resolutions, as the case may be.

Negative vote.

In cases covered by section 22.1, the accreditation agent shall amend the accreditation of the association to exclude the students of a group if a majority of the students of that group return a negative vote, provided that the majority comprises not fewer than 25 % of the students of the group who, on the date of the polling notice, are registered at the institution concerned.

Exclusion.

In cases covered by section 22.2, the accreditation agent shall amend the accreditation of the alliance to exclude the associations of a group if a majority of the associations of the group to which the associations which made the application belong reply in the negative, provided that the majority comprises over 50 % of the students of the group concerned.

1993, c. 10, s. 18.

Decision.

25. Within 30 days after the date of receipt of the application made under section 21 or, in the case of an application made under one of sections 22 to 22.2, within 30 days after polling day or, as the case may be, the expiry of the time limit set by him to obtain the resolutions, the accreditation agent shall give his decision in writing, with reasons, to amend, not to amend, to cancel or not to cancel the accreditation.

Decision.

He shall transmit his decision immediately to the students' association or students' association alliance contemplated, and to the educational institution concerned. Section 18 applies to the decision.

1983, c. 33, s. 25; 1993, c. 10, s. 19.

DIVISION V

EFFECTS OF ACCREDITATION

Presumption of membership.

26. Every student at an educational institution who is represented by an accredited students' association is deemed a member of the association, and every students' association represented by an accredited students' association alliance is deemed a member of the alliance.

Membership.

A member of such an association or alliance remains so even when it loses its accreditation or ceases to represent the member.

Member's rights.

The member may, in particular, in respect of the association or alliance, as the case may be, exercise the rights conferred by the Companies Act (chapter C-38) on the members of a legal person constituted under Part III as well as the rights granted by the association's or alliance's charter and by-laws to its members.

Refusal.

This section does not apply, however, to a student who serves notice in writing on the association representing him that he refuses to be a member of it, nor to an association which serves notice in writing on the students' association alliance representing it that it refuses to be a member of that alliance.

1983, c. 33, s. 26; 1993, c. 10, s. 20; 1999, c. 40, s. 5.

Obligations.

27. Every students' association and students' association alliance is required, in respect of the students it represents or, as the case may be, in respect of its member associations under section 26, to fulfill the same obligations as those imposed by the Companies Act (chapter C-38) on a legal person constituted under Part III, in respect of its members, or those imposed on it in respect of its members by its charter and by-laws.

1983, c. 33, s. 27; 1999, c. 40, s. 5.

Recognition.

28. An educational institution shall recognize an accredited student's association or students' association alliance as the representative, as the case may be, of all the students or students' associations of a group contemplated in section 2.1 or at the institution.

1983, c. 33, s. 28; 1993, c. 10, s. 21.

Room and furnishing.

29. An educational institution shall provide the accredited students' association or students' association alliance with a room and furniture free of charge.

Bulletin boards.

It shall also place bulletin boards and display stands at their disposal free of charge.

1983, c. 33, s. 29.

Free access.

30. An educational institution shall guarantee the members of the board of directors of an accredited students' association or students' association alliance free access during business hours of the institution to the room provided to the association or alliance.

1983, c. 33, s. 30.

List of students.

31. An educational institution shall, if an accredited students' association or alliance so requests, furnish it with a list of the students at the institution; the list shall indicate, in addition, the address of the place of residence and the telephone number of each student together with the title of the course of study in which the student is registered and, with his authorization, his identification number.

1983, c. 33, s. 31; 1993, c. 10, s. 22.

Appointment of students.

32. An accredited students' association or alliance may, alone, appoint students who, under an Act, regulation, by-law, charter or agreement, are called upon to sit or participate as student representatives on various councils, committees or other bodies in the institution. If several associations or students' association alliances are accredited to represent the students of the various groups contemplated in section 2.1, the appointments shall be made upon agreement among those associations and alliances, or, failing an agreement, as determined by the institution.

Representation.

When the Act, regulation, by-law, statutes or agreement grants a group of students contemplated in section 2.1 the rights contemplated in the first paragraph, the association or students' association alliance accredited to represent the students of that group may, alone, appoint the students to represent the group. If no association or alliance is accredited to represent the students of the group contemplated, the appointments for that group shall be made as determined by the institution.

1983, c. 33, s. 32; 1993, c. 10, s. 23.

DIVISION VI

APPEAL

1. — Accreditation Committee

Establishment.

33. An Accreditation Committee is hereby established.

1983, c. 33, s. 33.

Composition.

34. The Committee is composed of five members appointed by the Minister of Education, three of whom are students appointed after consultation with students' associations or students' association alliance; at least one of the students must be a member of the college community and another, of the university community.

Chairman and secretary.

The members of the Committee shall designate one of their members as chairman and another as secretary.

1983, c. 33, s. 34; 1985, c. 21, s. 96; 1988, c. 41, s. 88; 1993, c. 51, s. 72; 1994, c. 16, s. 50.

Terms of office.

35. The members of the Committee are appointed for not over two years.

Continuance in office.

At the expiry of their terms, they shall remain in office until they are replaced or reappointed. Their terms of office may be renewed consecutively only once.

Vacancies.

Any vacancy among the members of the Committee is filled within 60 days in the manner provided in section 34.

1983, c. 33, s. 35.

Remuneration and expenses.

36. The members of the Committee are not remunerated. They are entitled, however, on presentation of vouchers, to an expense allowance as reimbursement of reasonable costs incurred by them in the performance of their duties. The allowance is determined according to the rules applicable to government employees.

1983, c. 33, s. 36; 1993, c. 10, s. 24.

Location.

37. The office of the Committee is situated at the place determined by the Minister of Education. Notice of the location or any change of location of the office is published in the Gazette officielle du Québec.

1983, c. 33, s. 37; 1985, c. 21, s. 96; 1988, c. 41, s. 88; 1993, c. 51, s. 72; 1994, c. 16, s. 50.

Quorum.

38. The Committee shall sit with a minimum of three members, including at least one non-student member.

Sitting.

It may sit anywhere in Québec.

1983, c. 33, s. 38.

Functions.

39. The main function of the Committee is to dispose, in appeal, of any decision of an accreditation agent granting, amending, cancelling or refusing to grant, amend or cancel the accreditation of a students' association or students' association alliance.

1983, c. 33, s. 39; 1993, c. 10, s. 25.

Powers.

40. When the Committee sits in appeal, it may confirm or quash any decision submitted to it and in the latter case, render the decision it considers just and lawful.

1983, c. 33, s. 40.

Powers.

41. The Committee is vested, for the exercise of its functions, with the powers granted to an accreditation agent in section 20.

Ballot poll or resolution.

It may, if the appeal regards an application under one of sections 22 to 22.2, order a students' association to hold a ballot poll or a students' association alliance to obtain, within the time limit it determines, a resolution confirming its membership from the board of directors of each association represented.

1983, c. 33, s. 41; 1993, c. 10, s. 26.

2. — Appeal procedure

Appeal.

42. Only the following persons may appeal from the decision of an accreditation agent:

- 1) as regards the granting or refusal of accreditation or the granting or refusal of amendment, a student, students' association or students' association alliance at the educational institution concerned;
- 2) as regards the cancellation or refusal to cancel accreditation, a student, students' association or students' association alliance or, as the case may be, any educational institution having made an application for verification as in section 21.

1983, c. 33, s. 42; 1993, c. 10, s. 27.

Written petition.

43. An appeal is brought by filing a written petition in appeal in the office of the Committee, within forty-five days after the date of the decision contested.

Content.

The petition must briefly set forth the grounds on which it is based. The secretary shall transmit it without delay to the interested parties, including the accreditation agent who made the decision against which the appeal is brought.

Execution.

Filing of a petition in appeal does not suspend execution of the decision appealed from, unless the Committee decides otherwise.

1983, c. 33, s. 43; 1985, c. 30, s. 20.

Disqualification.

44. No member of the Committee may sit in appeal from a decision concerning a students' association or students' association alliance at the educational institution where he is registered or employed.

1983, c. 33, s. 44.

Representations.

45. The Committee shall, before rendering its decision, give the interested parties an opportunity to state their views.

1983, c. 33, s. 45.

Decision.

46. The Committee shall hear the appeal and render its decision in writing, giving reasons, within 45 days of the filing of the petition.

Prescribed time.

However, if it orders a students' association to hold a poll or requires a students' association alliance to obtain new resolutions, its decision must also be rendered within 30 days after polling day or, as the case may be, after the expiry of the time for obtaining the resolutions.

Decision.

The secretary of the Committee shall transmit the decision to the interested parties without delay.

1983, c. 33, s. 46; 1993, c. 10, s. 28.

DIVISION VII

RESTRAINING PROVISIONS

Prohibited recourses.

47. Except for a question of competence, no extraordinary recourse contemplated in articles 834 to 850 of the Code of Civil Procedure (chapter C-25) may be exercised nor any injunction granted against an accreditation agent or the Accreditation Committee acting in his or its official capacity.

1983, c. 33, s. 47.

Exception.

48. Except for a question of competence, article 33 of the Code of Civil Procedure (chapter C-25) does not apply either to a person or to a body contemplated in section 47 acting in his or its official capacity.

1983, c. 33, s. 48.

CHAPTER IV

ASSISTANCE FOR ACCREDITATION

Assistance.

49. An educational institution shall facilitate the holding of any consultation or any poll that may be necessary to accredit a students' association or students' association alliance.

Material assistance.

It shall furnish the association or alliance with the material resources necessary for the consultation or poll, in particular, the list of students of the institution, premises, bulletin boards and display stands.

Postal poll.

The educational institution shall also facilitate the holding of any postal poll by mailing ballot papers at the request of, and to be charged to, the association or alliance.

1983, c. 33, s. 49; 1993, c. 10, s. 29.

Sums required.

50. Upon the application of a students' association having obtained, in a poll held in accordance with Division II of Chapter III, the required majority under subparagraph 2 of the first paragraph or the second paragraph of section 10.1, or on the application of a students' association alliance having obtained the required membership under paragraph 2 of section 10.2, the educational institution shall lend to the association or the alliance, as the case may be, the sums necessary to pay the costs required for its constitution.

1983, c. 33, s. 50; 1993, c. 10, s. 30; 1999, c. 40, s. 5.

Repayment of loans.

51. When a students' association or students' association alliance to which sums have been lent pursuant to section 50 does not reimburse the sums borrowed within the time and on the conditions agreed

upon, the educational institution that lent the sums may apply toward the payment of the debt any assessment it subsequently collects for the account of the borrowing association or alliance.

Assessment.

The institution may, in the same manner, apply toward the payment of expenses borne by it under section 49 any assessment it subsequently collects for the account of the association or alliance.

1983, c. 33, s. 51; 1993, c. 10, s. 31.

CHAPTER V

ASSESSMENT

Student's contribution.

52. To finance its activities, an accredited students' association or students' association alliance, by by-law approved by a majority of the students voting at a special meeting or referendum for that purpose, may fix an assessment payable by each student represented by the alliance.

Refund.

The by-law must provide whether the assessment is refundable or not and, where such is the case, in which cases and on what conditions it may be refunded.

1983, c. 33, s. 52.

Collection.

53. Where the accredited students' association or students' association alliance so requests not later than 30 days before the first day for registration, the educational institution shall collect from each person at registration, the assessment established by the association or alliance.

1983, c. 33, s. 53.

Mandatory contribution.

54. Every person, in order to be registered at an educational institution where an accredited students' association or students' association alliance exists, shall pay the assessment established by the association or alliance, if contemplated by the accreditation.

1983, c. 33, s. 54; 1993, c. 10, s. 32.

Payment to the students' association.

55. The educational institution, within 30 days after the last day for registration, shall pay to the accredited students' association or students' association alliance entitled thereto the sums collected pursuant to section 53.

1983, c. 33, s. 55.

Unaccredited association.

56. Where there is no accredited students' association or students' association alliance at an educational institution, the institution, at registration, may collect from each person the assessment established by an unaccredited students' association or students' association alliance which the institution nevertheless recognizes as the representative, as the case may be, of all the students or all the students' associations at the institution.

Assessment.

In addition, where there is no accredited students' association or students' association alliance for a group of students contemplated in section 2.1, an educational institution, at registration, may collect from each person belonging to the group the assessment established by any unaccredited students' association or students' association alliance which the institution nevertheless recognizes as representing all the students or students' associations of that group.

Payment.

In such cases, the assessments are collected and paid according to the terms and conditions agreed upon.

1983, c. 33, s. 56; 1993, c. 10, s. 33.

CHAPTER VI

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Inconsistent provisions.

57. Any general or special provision inconsistent with any provision of this Act is without effect.

1983, c. 33, s. 57.

58. (Amendment integrated into c. C-29, s. 24).

1983, c. 33, s. 58.

Existing associations.

59. Notwithstanding sections 10.1 and 10.2, a students' association or students' association alliance established before 23 June 1983 has the right to be accredited if it satisfies the following conditions:

- 1) it is constituted under Part III of the Companies Act (chapter C-38);
- 2) it has received the assessments collected by the educational institution;
- 3) it is, as the case may be, the only association that represents the students at the educational institution, or the only students' association alliance that represents the students' associations at the institution.

1983, c. 33, s. 59; 1993, c. 10, s. 34; 1999, c. 40, s. 5.

Application.

60. To be receivable, an application for accreditation based on section 59 must be made in writing to an accreditation agent, within 90 days of the coming into force of chapter 33 of the statutes of 1983.

1983, c. 33, s. 60.

Conditions.

61. Upon receiving an application for accreditation based on section 59, the accreditation agent shall verify the statements in the application and, if he considers that the requirements established in that section have been satisfied, grant the accreditation.

1983, c. 33, s. 61.

Collection.

62. Notwithstanding section 53, an educational institution shall, at the request of a students' association or students' association alliance accredited by virtue of sections 59 to 61, collect, within ten days from the request, the assessment fixed by the association or alliance.

Payment to the association.

The institution, within ten days after collecting the assessment, shall pay the amounts collected pursuant to the first paragraph to the association or alliance to which it is rightfully due.

Effect.

This section ceases to have effect on 1 January 1984.

1983, c. 33, s. 62.

Minister responsible.

63. The Accreditation Committee shall transmit to the Minister of Education, not later than 30 September of every year, a report of its activities and the administration of this Act for the previous school year.

Recommendations.

In addition, it may present to the Minister opinions and recommendations on any question respecting the administration of this Act.

Tabling.

The Minister shall table the report and, where such is the case, the opinions or recommendations of the Committee in the National Assembly within 30 days of receiving them if the Assembly is sitting or, if it is not sitting, within 30 days of the opening of the next session or of resumption.

1983, c. 33, s. 63; 1985, c. 21, s. 96; 1988, c. 41, s. 88; 1993, c. 51, s. 72; 1994, c. 16, s. 50.

Minister responsible.

64. The Minister of Education is responsible for the administration of this Act.

1983, c. 33, s. 64; 1985, c. 21, s. 96; 1988, c. 41, s. 88; 1993, c. 51, s. 72; 1994, c. 16, s. 50.

65. (This section ceased to have effect on 23 June 1988).

1983, c. 33, s. 65; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

66. (Omitted).

1983, c. 33, s. 66.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), chapter 33 of the statutes of 1983, in force on 1 July 1983, is repealed, except section 66, effective from the coming into force of chapter A-3.01 of the Revised Statutes.