

SUBJECT I

INTRODUCTION

I. Legal Forms of Business

A. Sole proprietor



I. Legal Forms of Business

B. Partnership

I. Legal Forms of Business

C. Incorporation

- An organization that is a legal person separate from its owners
- Own patrimony
- Therefore limited liability
- Full enjoyment of all civil rights
 - Including Canadian Charter and Quebec Charter
 - Except administration over people

D. Other forms?

- LLC

II. Jurisdiction

A. Federal vs. Provincial?

- S.91 vs. s.92 BNA Act

B. CBCA Covers?

1. All corporation activities (s.3(1))

II. Jurisdiction

A. Federal vs. Provincial

B. CBCA Covers?

2. Limitations (s.3(4)):

- (a) a bank;
- (a.1) a Cooperative Credit Associations ;
- (b) an insurance company; or
- (c) a Trust and Loan company.

II. Jurisdiction

A. Federal vs. Provincial

B. What Business Activities?

2. Limitations (s.3(5)):

- Degree granting institutions

III. Pre-Incorporation

A. Liability of signatory

1. Personally liable (s.14(1))
2. Except if:
 - Incorporation adopts (s.14(2))
 - Provided in written contract (s.14(4))

B. Fraud

- s.14(3)

III. Pre-Incorporation

14(3) Subject to subsection (4), whether or not a written contract made before the coming into existence of a corporation is adopted by the corporation, a party to the contract may apply to a court for an order respecting the nature and extent of the obligations and liability under the contract of the corporation and the person who entered into, or purported to enter into, the contract in the name of or on behalf of the corporation. On the application, the court may make any order it thinks fit.

IV. Capacity & Powers of Corp.

A. Capacity

1. Status?

s.15(1) A corporation has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

- Thus: Shareholder Immunity (s.45(1))

The shareholders of a corporation are not, as shareholders, liable for any liability, act or default of the corporation except

IV. Capacity & Powers of Corp.

A. Capacity

2. Jurisdiction?

s.15(2) A corporation may carry on business throughout Canada.

IV. Capacity & Powers of Corp.

A. Capacity

2. Jurisdiction?

s.15(3) A corporation has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Canada to the extent that the laws of such jurisdiction permit. (Extra-territorial)

- Plus Canadian domestic laws

IV. Capacity & Powers of Corp.

B. Powers

1. Extent of Powers?

s.16(1) It is not necessary for a by-law to be passed in order to confer any particular power on the corporation or its directors.

IV. Capacity & Powers of Corp.

B. Powers

2. Restrictions?

s.16(2) A corporation shall not carry on any business or exercise any power that it is restricted by its articles from carrying on or exercising, nor shall the corporation exercise any of its powers in a manner contrary to its articles.

IV. Capacity & Powers of Corp.

B. Powers

3. Tier Protection?

s.16(3) No act of a corporation, including any transfer of property to or by a corporation, is invalid by reason only that the act or transfer is contrary to its articles or this Act.

IV. Capacity & Powers of Corp.

C. Notifications to Interested Parties

1. Constructive Notice

s.17 No person is affected by or is deemed to have notice or knowledge of the contents of a document concerning a corporation by reason only that the document has been filed by the Director or is available for inspection at an office of the corporation.

IV. Capacity & Powers of Corp.

C. Notifications to Interested Parties

2. Indoor Management Rule

s.18(1) No corporation and no guarantor of an obligation of a corporation may assert against a person dealing with the corporation or against a person who acquired rights from the corporation that...

IV. Capacity & Powers of Corp.

C. Notifications to Interested Parties

2. Indoor Management Rule Prohibited

Therefore must inform parties of:

- (a) Change of the articles, by-laws and any unanimous shareholder agreement
- (b) Change of Directors
- (c) Change of address

IV. Capacity & Powers of Corp.

C. Notifications to Interested Parties

2. Indoor Management Rule Prohibited

Therefore must inform parties of:

- (d) Disqualified director, officer or an agent of the corporation
- (e) Invalid documents issued by corporation
- (f) Unauthorized substantial sale, lease or exchange of property

IV. Capacity & Powers of Corp.

C. Notifications to Interested Parties

2. Indoor Management Rule Prohibited

- Except if: s.18(2) Assumed knowledge