

Table 2

[am. B.C. Reg. 315/2004, ss. 10 to 14.]

Statutory Reporting Company Provisions

Part S1 — Interpretation

Definitions

S1.1 Without limiting any other provision of the Company's articles, in these Statutory Reporting Company Provisions:

"Business Corporations Act" means the *Business Corporations Act*, S.B.C. 2002, c. 57;

"Company Act, 1996" means the *Company Act*, R.S.B.C. 1996, c. 62;

"deliver", with reference to a notice or other document, includes mail to or leave with a person, or deposit in a person's mail box or receptacle at the person's residence or place of business;

"form of proxy" means a record that, on completion and signing by or on behalf of a shareholder, becomes a proxy;

"information circular" means an information circular in Form 22 of the *Company Act*, 1996 as it read immediately before its repeal;

"Interpretation Act" means *Interpretation Act*, R.S.B.C. 1996, c. 238;

"registrant" means a person registered or required to be registered in any jurisdiction to trade in securities, but does not include a trustee with respect to shares held under a trust instrument that regulates the manner in which those shares are to be voted;

"solicit" and **"solicitation"** include

(a) each request for a proxy, whether or not accompanied by or included in a form of proxy,

(b) each request to sign or not sign a form of proxy, or to revoke a proxy,

(c) the sending of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and

(d) the sending or delivery of a form of proxy to a shareholder under Article S3.2,

but do not include

(e) the sending of a form of proxy to a shareholder in response to an unsolicited request made by that shareholder or on that shareholder's behalf, or

(f) the performance by any person of professional services on behalf of a person soliciting a proxy.

Application of *Business Corporations Act* and *Interpretation Act*

S1.2 Without limiting any other provision of the Company's articles,

(a) the definitions in the *Business Corporations Act* apply to Parts S1 to S8,

(b) the *Interpretation Act* applies to the interpretation of Parts S1 to S8 as if those Parts were an enactment, and

(c) if there is a conflict between a definition in the *Business Corporations Act* and a definition or rule in the *Interpretation Act* relating to a term used in Parts S1 to S8, the definition in the *Business Corporations Act* will prevail in relation to the use of the term in those Parts.

Part S2 — Registrants

Shares in name of registrant

S2.1 If a share of the Company is registered in the name of a registrant or the registrant's nominee but is not beneficially owned by the registrant, the share must not be voted at a meeting of shareholders unless the registrant promptly sends to the beneficial owner of the share, at no expense to that beneficial owner,

(a) a copy of the notice of the meeting, financial statements, all information circulars and any other records, other than the forms of proxy, sent to shareholders for use in connection with the meeting, and

(b) a written request for voting instructions from the beneficial owner stating that if voting instructions are not received at least 24 hours, not including Saturdays and holidays, before the expiry of the time within which proxies may be delivered to the Company or its agent as specified by the notice calling the meeting, the registrant may, in the registrant's discretion, vote the shares or appoint a proxy holder to vote the shares at the meeting.

Registrant must know beneficial owner before voting

S2.2 A registrant must not vote or appoint a proxy holder to vote shares registered in the registrant's name or in the name of the registrant's nominee if the registrant does not know the beneficial owner of the shares.

Records must be provided to registrant

S2.3 The person by whom, or on whose behalf, a solicitation is made must, at the request of a registrant, promptly provide to the registrant, at the expense of that person, the necessary number of copies of the records referred to in Article S2.1 (a).

Registrant must follow instructions

S2.4 A registrant must vote, or appoint a proxy holder to vote, any shares referred to in Article S2.1 in accordance with written instructions received from the beneficial owner.

Limitation

S2.5 Nothing in this Part gives a registrant the right to vote shares that the registrant is otherwise prohibited from voting.

Part S3 — Proxies

Any person may be appointed as proxy

S3.1 A shareholder entitled to vote at a meeting of shareholders, including a shareholder that is a corporation, may, by proxy, appoint a proxy holder, who need not be a shareholder, as the shareholder's nominee to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy.

Mandatory solicitation of proxies

S3.2 Subject to any exemption granted under section 155 of the *Company Act, 1996*, the management of the Company must, concurrently with or before sending notice of a meeting of shareholders, send to each of the shareholders entitled to vote at the meeting a form of proxy that complies with Article S4.4 for use at that meeting.

Role of proxy

S3.3 A proxy holder has the same rights as the shareholder who appointed the proxy holder to speak at the meeting but, unless any other article provides otherwise, the proxy holder is not entitled, except on a poll, to vote the shares represented by the proxy.

Proxy must be signed and dated

S3.4 A proxy must

- (a) be signed by
 - (i) the appointing shareholder,

- (ii) an attorney authorized in writing by the appointing shareholder, or
 - (iii) if the appointing shareholder is a corporation, an authorized director, officer or attorney of the corporation,
- (b) include the date on which the proxy is signed, and
- (c) include the name of the proxy holder.

When proxy ceases to be valid

S3.5 A proxy ceases to be valid one year after its date.

Form of proxy

S3.6 The form of proxy must,

- (a) if solicited by or on behalf of the management of the Company, contain space for a shareholder to appoint alternate proxy holders, and
- (b) comply with the requirements of Article S4.4, if applicable, and the other provisions of the Company's articles.

Alternate proxy holders

S3.7 A shareholder may appoint an alternate proxy holder to act in the place and stead of an absent proxy holder.

Revocation of proxy

S3.8 A proxy may be revoked in any manner provided by law including by a written instrument that is

- (a) signed by
 - (i) the appointing shareholder,
 - (ii) an attorney authorized in writing by the appointing shareholder, or
 - (iii) if the appointing shareholder is a corporation, an authorized director, officer or attorney of the corporation, and
- (b) delivered to

(i) the delivery address of the registered office of the Company on or before the last business day preceding the date of the meeting, or any adjournment of it, at which the proxy is to be used, or

(ii) the chair of the meeting on the date of the meeting or any adjournment of it before the taking of any vote in respect of which the proxy is to be used.

Directors may set time by which proxies must be received

S3.9 Subject to Article S3.10, the directors may set a time before which proxies to be used at a meeting, or any adjournment of it, must be received by the Company or its agent.

Limitations on Article S3.9

S3.10 A time set under Article S3.9

(a) must not be more than 48 hours, not including Saturdays and holidays, before the meeting or adjourned meeting at which the proxy is to be used, and

(b) must be specified in the notice calling the meeting or in the information circular relating to the meeting.

Part S4 — Information Circulars and Proxies

Information circular required for solicitations

S4.1 Subject to any exemption granted under section 155 of the *Company Act*, 1996, a person must not solicit proxies to vote shares of the Company unless,

(a) in the case of a solicitation by or on behalf of the management of the Company, an information circular, either as an appendix to or as a separate record accompanying the notice of the meeting, is sent to each of the shareholders of the Company whose proxy is solicited, or

(b) in the case of any other solicitation, the person making the solicitation, concurrently with or before it, sends an information circular to each of the shareholders of the Company whose proxy is solicited.

Certain solicitations excepted

S4.2 Article S4.1 does not apply to

(a) a solicitation that is not by or on behalf of the management of the Company, if the total number of shareholders whose proxies are solicited is not more than 15,

(b) a solicitation made under Article S2.1, or

(c) a solicitation made by a person in respect of shares of which the person is the beneficial owner.

Information to be included in information circular

S4.3 If shareholders who, in the aggregate, hold shares carrying, in the aggregate, at least 1/10 of the voting rights that may be exercised in an election or appointment of directors at a meeting of shareholders deliver to the delivery address of the registered office of the Company, at least 35 days before the date of the meeting, a nomination for a director and the information as to the nominee required to be provided in an information circular under Article S4.4, the Company must, at its expense, reproduce and distribute the information received as a separate part of any information circular of management sent under Article S4.1 (a).

Form of proxy and information circular when proxies solicited

S4.4 If Article S3.2, S4.1 or S4.3 applies,

(a) the form of proxy sent to a shareholder by the person soliciting proxies must

(i) indicate in boldface type, or other conspicuous manner, whether or not the proxy is solicited by or on behalf of the management of the Company,

(ii) provide a specifically designated blank space for dating the form of proxy, and

(iii) subject to paragraph (e) of this article, provide a method for the shareholder whose proxy is solicited to specify that the shares registered in the shareholder's name must be voted by the proxy holder in favour of, or against, in accordance with the choice of the shareholder, every matter or group of related matters identified in it or in the information circular as intended to be acted on, other than the election or appointment of directors and the appointment of auditors,

(b) a proxy may confer discretionary authority with respect to matters as to which a choice, contemplated by paragraph (a) (iii), is not specified, if the form of proxy or the information circular states in boldface type or other conspicuous manner how it is intended to vote the shares represented by the proxy in each case,

(c) a proxy may confer discretionary authority with respect to

(i) amendments or variations to matters identified in the notice of meeting, or

(ii) other matters that may properly come before the meeting,

but only if

(iii) the person by whom, or on whose behalf, a solicitation is made is not made aware, a reasonable time before the time the solicitation is made, that those amendments, variations or other matters are to be presented for action at the meeting, and

(iv) a specific statement is made in the information circular or in the form of proxy that the proxy is conferring that discretionary authority,

(d) a proxy must not confer authority to vote

(i) for the election or appointment of an individual as a director of the Company unless an individual has been nominated in good faith as a director and is named in an information circular sent to the shareholders, or

(ii) at a meeting other than the meeting specified in the notice of meeting or any adjournment of that meeting,

(e) if an information circular contains the names of nominees for election or appointment as directors or the name of a nominee for appointment as auditor,

(i) the form of proxy accompanying the information circular must provide a method for the shareholder whose proxy is solicited to specify that the shares registered in that shareholder's name must or must not be voted by the proxy holder for the nominees, or for those of the nominees that the shareholder may specify, and

(ii) if, for any reason, the instructions of the shareholder whose proxy is solicited are uncertain as they relate to the election or appointment of directors, the proxy holder must not vote the shares of that shareholder for any director,

(f) an information circular or form of proxy must state that, if the instructions are certain,

(i) the shares represented by the proxy will be voted on any poll, and

(ii) if the shareholder whose proxy is solicited specifies a choice with respect to any matter to be acted on, the shares will be voted on any poll in accordance with the specifications so made,

(g) an information circular or form of proxy must

(i) indicate in boldface type, or other conspicuous manner, that the shareholder has the right to appoint a person, who need not be a shareholder, to attend and act for the shareholder and on the shareholder's behalf at the meeting, other than the person, if any, designated in the form of proxy, and

(ii) contain instructions as to the manner in which the shareholder may exercise the right referred to in subparagraph (i), and

(h) if the form of proxy contains a designation of a named person as proxy holder, a method must be provided by which the shareholder may designate, in a form of proxy, some other person as the shareholder's proxy holder for the purpose of Article S3.1.

Part S5 — Financial Statements

Division 1 — Comparative Financial Statements

Comparative financial statement

S5.1 Without limiting any other requirement relating to financial statements that is imposed on or is otherwise applicable to the Company or its directors under this Part or the *Business Corporations Act*, the directors of the Company must ensure that each of its financial statements produced and published on or before an annual reference date under Part 6 of the *Business Corporations Act* is prepared as a comparative financial statement relating separately to

- (a) the period that began on the date of incorporation and ended as of the close of the Company's first financial year or, if it has completed a financial year, the latest completed financial year, as the case may be, the statement to be made up to a date not more than 6 months before the annual reference date, and
- (b) the period, if any, that is the financial year next preceding the latest completed financial year.

Components of comparative financial statement

S5.2 A comparative financial statement required under Article S5.1 must be made up of

- (a) an income statement,
- (b) a statement of retained earnings,
- (c) a cash flow statement, and
- (d) a balance sheet as at the end of each period.

Cash flow statement may be omitted

S5.3 Despite Article S5.2 (c), the cash flow statement may be omitted if the reason for the omission is set out in the financial statement.

No special designations required

S5.4 The statements referred to in Article S5.2 need not be designated as an income statement, statement of retained earnings, cash flow statement or balance sheet.

Period to which comparative financial statement is to relate

S5.5 Despite Article S5.1, each comparative financial statement referred to in Article S5.1 may relate only to a period ending not more than 6 months before the applicable annual reference date, if the reason for the omission of the statement in respect of the period covered by the previous financial statement is set out in the financial statement to be produced and published before that annual reference date.

Auditor's report on comparative financial statement

S5.6 The auditor making any report required under section 212 (1) (a) of the *Business Corporations Act* in relation to a comparative financial statement referred to in Article S5.1 need not report on any part of that financial statement that relates to the earlier of the 2 financial periods reported on in that financial statement.

Company must distribute comparative financial statement and report to shareholders

S5.7 At least 10 days before each annual reference date, the Company must send to each shareholder and to the auditor, if any,

(a) a copy of the comparative financial statement referred to in Article S5.1 that the directors are required under Article S5.1 to produce and publish on or before that annual reference date, and

(b) unless the Company has resolved under section 203 (2) of the *Business Corporations Act* to waive the appointment of an auditor, the report of the auditor required under section 212 (1) (a) of the *Business Corporations Act* on that financial statement.

Company must distribute comparative financial statement and report to debentureholders

S5.8 On demand by a qualifying debentureholder of the Company, the Company must send the qualifying debentureholder a copy of the Company's latest comparative financial statement and a copy of any auditor's report on that financial statement.

Division 2 — Comparative Interim Financial Statements

Comparative interim financial statement

S5.9 The directors of the Company must produce a comparative interim financial statement in accordance with Article S5.10 after each financial year.

Contents of comparative interim financial statement

S5.10 A comparative interim financial statement must

- (a) be produced for
 - (i) the 6 month period that began immediately after the end of the Company's most recently completed financial year, and
 - (ii) the comparable 6 month period, if any, in the 12 months immediately preceding the end of that financial year, and
- (b) contain
 - (i) a cash flow statement for each period, and
 - (ii) sufficient relevant financial information in summary form to present fairly the results of the operations of the Company for each period, including
 - (A) a statement of sales or gross operating revenue,
 - (B) extraordinary items of income or expense,
 - (C) net income before income taxes imposed by any taxing authority,
 - (D) income taxes imposed by any taxing authority, and
 - (E) net profit or loss.

Comparative interim financial statement required in addition to other statements

S5.11 A comparative interim financial statement required under this Part must be produced in addition to any financial statement that the directors are required to produce under this Part or under Part 6 of the *Business Corporations Act*.

Notes to comparative interim financial statement

S5.12 There must be stated, by way of a note to a comparative interim financial statement,

- (a) particulars of any change in accounting principle or practice, or in the method of applying any accounting principle or practice, made during the period covered that affects the comparability of the comparative interim financial statement with the financial statement for the preceding financial year or with the interim financial statement for the comparable 6 month period, and
- (b) the effect, if material, of the change on the profit or loss for the period covered by the comparative interim financial statement.

Change in accounting principles or practice

S5.13 For the purposes of Article S5.12, a change in accounting principle or practice, or in the method of applying any accounting principle or practice, affects the comparability of a statement with that for the preceding financial year or comparable 6 month period, even though it did not have a material effect on the profit or loss for the period covered by the comparative interim financial statement.

Distribution of comparative interim financial statement

S5.14 A comparative interim financial statement must be sent by the Company to each shareholder within 2 months after the end of the 6 month period referred to in Article S5.10 (a) (i).

Division 3 — First Interim Financial Statement

Application

S5.15 This Division applies to a company if the company became a reporting company within the meaning of the *Company Act*, 1996 within 6 months after its incorporation under that Act.

First interim financial statement

S5.16 Within 8 months after the Company's date of incorporation,

- (a) the directors of the Company must produce an interim financial statement for the 6 month period that began on the date of incorporation, and
- (b) the Company must send a copy of the interim financial statement to each shareholder.

Contents of first interim financial statement

S5.17 The interim financial statement referred to in Article S5.16 must contain

- (a) a cash flow statement, and
- (b) sufficient relevant financial information in summary form to present fairly the results of the operations of the Company for the period referred to in Article S5.16 (a), including
 - (i) a statement of sales or gross operating revenue,
 - (ii) extraordinary items of income or expense,
 - (iii) net income before income taxes imposed by any taxing authority,

- (iv) income taxes imposed by any taxing authority, and
- (v) net profit or loss.

Directors may be relieved of obligations

S5.18 Directors may be relieved of their obligations under Article S5.16, and for that purpose section 200 of the *Business Corporations Act* applies.

Division 4 — General

Preparation of financial statements

S5.19 A financial statement required under this Part must be prepared in accordance with the regulations made under the *Business Corporations Act* and, if prepared without audit, must be clearly marked to that effect.

Approval for publication

S5.20 Before a financial statement referred to in this Part is published or sent by the Company,

- (a) the financial statement must be approved by the directors, and
- (b) that approval must be evidenced by the signatures of 2 directors.

Audit information on distribution

S5.21 A financial statement referred to in this Part that is sent by the Company to its shareholders or published

- (a) must have attached each auditor's report, if any, made on that financial statement, and
- (b) must not purport to be audited unless that financial statement has, in fact, been audited and an auditor's report has been made.

Directors may be relieved of obligations

S5.22 Directors may be relieved of their obligations under one or both of Articles S5.1 and S5.9, and for that purpose section 200 of the *Business Corporations Act* applies.

Part S6 — Directors

Directors and officers

S6.1 The Company must have at least 3 directors.

Qualifications of directors and officers

S6.2 Subject to Article S6.3, an individual must not become or act as a director or officer of the Company if that individual is a person whose registration in any capacity has been cancelled

(a) under the *Securities Act*, R.S.B.C. 1996, c. 418, by the Securities Commission or the executive director, or

(b) under the *Mortgage Brokers Act*, R.S.B.C. 1996, c. 313, by

(i) the registrar under that Act,

(ii) the Commercial Appeals Commission established under the *Commercial Appeals Commission Act*, R.S.B.C. 1996, c. 54, or

(iii) the Financial Services Tribunal established under the *Financial Institutions Act*, R.S.B.C. 1996, c. 141.

Exception

S6.3 Article S6.2 does not apply to prevent an individual from becoming or acting as a director or officer of the Company if

(a) the individual or body that cancelled the registration orders otherwise, or

(b) 5 years have elapsed since the cancellation of the registration.

Part S7 — Meetings

Notice of meeting to elect directors

S7.1 The Company must publish an advance notice of a meeting of shareholders to elect directors,

(a) if the meeting is to be held in the County of Vancouver, the County of Victoria or the County of Westminster, by publishing the notice in one issue of a daily newspaper published and circulating in the county in which the meeting is to be held,

(b) if the meeting is to be held in British Columbia, but outside the counties referred to in paragraph (a), by publishing the notice in

(i) one issue of a daily newspaper published and circulating in the County of Vancouver, and

(ii) one issue of a daily or weekly newspaper published and circulating in the place where the meeting is to be held, or

(c) if the meeting is to be held outside British Columbia, by publishing the notice in one issue of a daily newspaper published and circulating in the County of Vancouver.

Notice of meeting to elect directors

S7.1.1 The Company, not less than 56 days before it holds a meeting of shareholders at which a director is to be elected or appointed, must publish in the manner set out in Article S7.1 an advance notice of the meeting that

(a) gives the date of the meeting,

(b) invites written nominations for directors signed by shareholders holding in the aggregate not less than 10% of the shares that may be voted at the meeting,

(c) states that, if any nomination referred to in paragraph (b) is delivered to the registered office of the Company not less than 35 days before the date of the meeting, accompanied by the information as to the nominee required to be furnished in the information circular, the Company will include the name of the nominee in the form of proxy and the information as to the nominee in the information circular sent by the management of the Company under Articles S3.2 and S4.1,

(d) gives the mailing address and delivery address of the registered office of the Company, and

(e) gives the qualifications for director provided by the Act and by these articles.

Disclosure of any grounds of disqualification

S7.2 A notice of a meeting to elect directors must include, as part of the qualifications to become or continue to act as a director, the grounds on which a person is disqualified from becoming or continuing to act as a director.

Information for annual general meeting

S7.3 Subject to this article, the directors of the Company must place before each annual general meeting a statement of

- (a) any change in the nature of the business carried on by the Company or its subsidiaries during the most recent complete financial year,
- (b) business conditions as they affected the Company, its subsidiaries and the financial results for the past year,
- (c) the total capital expenditures and dispositions, without set-off, for the past year, capital expenditures to which the Company is currently committed and the effect of each on production capacity,
- (d) any major changes in long or short term financing arrangements which have occurred during the most recent complete financial year or which are contemplated,
- (e) the sales volume of the Company, if applicable, expressed in those units of production applicable to the industry,
- (f) any material acquisitions made during the last complete financial year,
- (g) all new or major projects begun or brought into operation during the most recent complete financial year and their effect on the financial statements of the Company,
- (h) the total number of employees at the end of the most recent complete financial year and the total remuneration paid to the employees of the Company for each of the last two complete financial years, and
- (i) the general competitive environment in which the Company operates, including any material changes in the pricing of products or the cost of raw materials.

Harmful information need not be disclosed

S7.4 If the release of any of the information required in Article S7.3 would be harmful to the business of the Company or its subsidiaries, that information does not need to be included in the statement referred to in Article S7.3.

Part S8 — Auditors and Audit Committees

Application

S8.1 Articles S8.2 and S8.3 do not apply to the Company if section 210 of the *Business Corporations Act* applies to the Company.

Notice required to change auditor

S8.2 The management of the Company must not, unless notice is contained in its information circular required by Article S4.1, propose at any annual general meeting the appointment of an auditor other than the appointment of the incumbent auditor.

Notice of proposed change

S8.3 If the information circular contains the notice referred to in Article S8.2,

(a) the Company, not less than 14 days before the sending of the notice of the meeting, must give to the incumbent auditor written notice of the intention of management not to recommend the auditor's reappointment at the annual general meeting, specifying in it the date on which the notice of the meeting is proposed to be sent, and

(b) the incumbent auditor has the right to make to the Company, not less than 3 days before the sending of the information circular, representations in writing respecting the proposal not to reappoint the incumbent as auditor, and the Company, at its expense, must forward with the notice of the meeting a copy of those representations to every shareholder entitled to receive notice of the meeting.

Directors must appoint audit committee

S8.4 The company must form an audit committee and sections 224 to 226 of the *Business Corporations Act* apply.