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Waste Diversion Transition Act, 2016

ONTARIO REGULATION 357/17

INDUSTRY FUNDING ORGANIZATIONS — RULES THAT APPLY ON WINDING UP

**Consolidation Period:** From September 1, 2017 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

No amendments.

This is the English version of a bilingual regulation.

Application of Corporations Act provisions

**1.**(1)  Subject to subsections (2) to (6), Part VI (Winding Up) of the Corporations Act applies to an industry funding organization.

(2)  The provisions of the Corporations Act that apply for the purposes of this Regulation are subject to necessary modifications, including the modifications set out in this Regulation.

(3)  The provisions of the Corporations Act that apply for the purposes of this Regulation shall be read without reference to shareholders and inspectors.

(4)  If a provision of the Corporations Act that applies for the purposes of this Regulation requires that a document be given to the Minister as defined in the Corporations Act, the provision shall be read as requiring that the document also be given to the Minister of the Environment and Climate Change and to the Authority.

(5)  If a provision of the Corporations Act that applies for the purposes of this Regulation requires a resolution of members, the provision shall be read as requiring that the resolution be passed by majority vote.

(6)  If an administrator is appointed under section 43 of the Waste Diversion Transition Act, 2016 and has the exclusive right to exercise all the powers and perform all the duties of the members of the board and the officers of the industry funding organization, a provision of the Corporations Act that applies for the purposes of this Regulation that authorizes or requires the members of the industry funding organization to do a thing shall be read as authorizing or requiring the administrator to do that thing.

(7)  The following provisions in Part VI of the Corporations Act do not apply:

1. Section 229.

2. Subsection 231 (2).

3. Section 232.

4. Section 242.

5. Subsection 259 (2).

6. Section 263.

7. Subsection 266 (6).

8. Subsection 267 (3).

9. Subsections 268 (1) and (2).

Modifications re corporate law matters

**2.**(1)  Subsection 230 (1) of the Corporations Act is modified by adding “On or after the date on which the last waste diversion program for which the corporation is designated is to cease operation (as specified in a direction to the corporation under subsection 14 (10) or (11) of the Waste Diversion Transition Act, 2016, as the case may be), and” at the beginning.

(2)  Subsection 230 (2) of the Corporations Act is modified by striking out “persons, who may be directors, officers or employees of the corporation, as liquidator” and substituting “persons who have been approved by the Authority (which shall not approve directors, officers or employees of the corporation or of another entity that has entered into an agreement with the corporation for the management and administration of a program for which the corporation is designated, nor persons who are related to any of those individuals) as liquidator”.

(3)  Section 233 of the Corporations Act is modified by adding “with a person who has been approved by the Authority (which shall not approve directors, officers or employees of the corporation or of another entity that has entered into an agreement with the corporation for the management and administration of a program for which the corporation is designated, nor persons who are related to any of those individuals)” after “fill such vacancy”.

(4)  Section 234 of the Corporations Act is modified by,

(a) adding “With the Authority’s prior approval” at the beginning;

(b) striking out “or 232”; and

(c) adding “who has been approved by the Authority (which shall not approve directors, officers or employees of the corporation or of another entity that has entered into an agreement with the corporation for the management and administration of a program for which the corporation is designated, nor persons who are related to any of those individuals)” at the end.

(5)  Clause 243 (d) of the Corporations Act is modified by striking out “for some reason, other than” and substituting “for some reason, such as the reason that the wind up of the corporation is being implemented in a way that is inconsistent with the wind up plan approved under section 14 of the Waste Diversion Transition Act, 2016 or that the corporation has failed to comply with that Act or the regulations made under it, but other than the reason of”.

(6)  Subsection 244 (1) of the Corporations Act is modified by,

(a) striking out “or of a shareholder or of a member” and substituting “or of the Authority”; and

(b) striking out “of the liquidator” and substituting “of the liquidator, of the corporation, of the Authority”.

(7)  Subsection 246 (1) of the Corporations Act is modified by adding “but a person shall not be appointed as the liquidator under this section or section 253 if the person is a director, officer or employee of the corporation or of another entity that has entered into an agreement with the corporation for the management and administration of a program for which the corporation is designated or is related to any of those individuals” at the end.

(8)  Section 249 of the Corporations Act is modified by adding “with the modifications set out in Ontario Regulation 357/17” after “voluntary winding up”.

(9)  Section 252 of the Corporations Act is modified by adding “with the modifications set out in Ontario Regulation 357/17” after “apply”.

(10)  Subsection 253 (1) of the Corporations Act is modified by striking out “a shareholder or member of the corporation” and substituting “the Authority or the corporation”.

(11)  Clause 254 (1) (a) of the Corporations Act is modified by striking out “proportionately and, subject thereto, shall distribute the property rateably among the shareholders or members according to their rights and interests in the corporation” at the end and substituting “and, after satisfying the liabilities, shall distribute the property in a way that is consistent with the wind up plan approved under section 14 of the Waste Diversion Transition Act, 2016 and with the purposes set out in section 35 of that Act”.

(12)  Subsection 259 (1) of the Corporations Act is modified by striking out “belonging to the corporation if such sums” and substituting “belonging to the corporation, including all funds held in trust under section 35 of the Waste Diversion Transition Act, 2016, if such sums”.

(13)  Subsection 259 (5) of the Corporations Act is modified by striking out “the inspectors, if any” and substituting “the Authority”.

(14)  Section 261 of the Corporations Act is modified by striking out “the liquidator or of the inspectors, if any, or of any creditors” and substituting “the liquidator, the Authority or any creditors”.

(15)  Subsection 262 (2) of the Corporations Act is modified by,

(a) striking out “that a person who has taken part in the formation or promotion of the corporation or”; and

(b) striking out “the liquidator or of any creditor” and substituting “the liquidator, the Authority or any creditor”.

(16)  Section 265 of the Corporations Act is modified by,

(a) striking out “a shareholder or member or creditor” and substituting “the corporation, the Authority or a creditor”; and

(b) striking out “altogether or”.

(17)  Subsection 266 (1) of the Corporations Act is modified by adding “and the Minister of the Environment and Climate Change has issued a notice under subsection 14 (21) of the Waste Diversion Transition Act, 2016 terminating the last waste diversion program for which the corporation is designated” after “voluntarily”.

(18)  Subsection 266 (3) of the Corporations Act is modified by striking out “filing of the notice” and substituting “filing of the notice under subsection (2)”.

(19)  Subsection 266 (4) of the Corporations Act is modified by striking out “the liquidator” and substituting “the liquidator, the Authority”.

(20)  Subsection 267 (1) of the Corporations Act is modified by,

(a) striking out “the court at any time after the affairs of the corporation have been fully wound up may” and substituting “the court may, at any time after the affairs of the corporation have been fully wound up and after the Minister of the Environment and Climate Change has issued a notice under subsection 14 (21) of the Waste Diversion Transition Act, 2016 terminating the last waste diversion program for which the corporation is designated”; and

(b) by striking out “the liquidator or” and substituting “the liquidator, the Authority or”.

(21)  Subsection 269 (1) of the Corporations Act is modified by striking out “may be disposed of as it by resolution directs in case of voluntary winding up, or as the court directs in case of winding up under order” at the end and substituting “shall be given to the Authority”.

(22)  Subsection 270 (2) of the Corporations Act is modified by striking out “how the books, accounts and documents of the corporation and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as it thinks fit” at the end and substituting “that the books, accounts and documents of the corporation and of the liquidator be given to the Authority”.

3.  Omitted (provides for coming into force of provisions of this Regulation).

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