



Requesting the Full Restoration of Your B.C. Company by the Registrar

Telephone: 1 877 526-1526
www.bcreg.ca

Mailing Address: PO Box 9431 Stn Prov Govt
Victoria BC V8W 9V3

Courier Address: 200 – 940 Blanshard Street
Victoria BC V8W 3E6

Thank you for your request on how to restore your B.C. company under section 356 of the *Business Corporations Act* (the Act). See **Appendix A**, attached.

WHO CAN APPLY?

This information package outlines the steps for a registrar approved full restoration of a B.C. company, or the conversion of a registrar approved limited restoration to a full restoration, by a related person.

Note: A “related person” is defined as a director, officer or shareholder of the company at the time of its dissolution, or the heir or personal or other legal representative of a shareholder.

The Act provides for two ways in which a dissolved company can be restored:

1. restoration approved by the registrar; and
2. restoration by the Supreme Court.

There are some instances where the Act requires the authority of the court to restore a company. In these instances it will be necessary to apply to the Supreme Court for an order to restore the company. For example, if the dissolution of the company occurred before the Act came into force on March 29, 2004 and the application to restore is made more than ten years after the date of the dissolution, then the application for restoration must be made to the court.


Another reason to apply to the court is the distinction in the Act between a limited restoration and a full restoration. Only a “related person” (see definition above) can apply to the registrar for the full restoration of a company. On the other hand a restoration application to the court provides for “an appropriate person to make the application”. Therefore, an applicant who is not related to the company would have to apply to the court for a full restoration.

Further, if the company owned land at the time of its dissolution, that land escheats to the Crown under the Escheat Act. If the company has been dissolved for more than two years, section 4(5) of the Escheat Act requires a court order for the vesting of the land back to the

dissolved company. Therefore, it may be simpler to apply to the court for a court ordered limited restoration and include the vesting of the land in that same application to the court.

For more information on Escheat claims see **Appendix B** and contact the Escheat office at 250-356-8819.

For an information package on how to apply for a court ordered full or limited restoration, please go to the Corporate Registry website www.bcreg.ca or contact us directly at 1 877 526-1526.

 **All steps need to be completed in the order shown.**

STEP ONE

The first step in restoration is to ensure the name of the company is available. As the company’s name is no longer protected once it is dissolved, the original name may not be available for restoration. The Name Request form (Form NR) allows you to make a maximum of three choices of names, in descending order of preference. The filing fee for this form is \$30.

If the company is to be restored with its incorporation number at the time of dissolution followed by “B.C. Ltd.” or “B.C. Community Contribution Company Ltd.” (e.g. 123456 B.C. Ltd.), or you are converting a limited restoration to a full restoration, then **Step One** can be omitted. This information must be indicated on the Full Restoration Application (Form 30).

You can apply for the company’s name in the following ways:

Online Options:

- Submit your Name Approval Request electronically through Name Requests Online at www.bcregistrynames.gov.bc.ca. Payment is by credit card. There is online information you can access to help you through the process. The fee to

submit online is \$30.00 and a service fee of \$1.50.

In-Person Options:

- Visit your local Service BC Centre. Once you've paid the fee, they will submit your request to the Corporate Registry. For a location near you, go to www.servicebc.gov.bc.ca.

Mailing Options

- Mail your Name Request form along with a cheque or money order for \$30.00 payable to the Minister of Finance, to:

Corporate Registry
PO Box 9431 Stn Prov Govt
Victoria BC V8W 9V3.

Restoration documentation cannot be processed until your corporate name has been approved and reserved.

Note: Once your name is approved, it is reserved for you for a period of 1 year plus 56 calendar days.

For further information regarding completion of your Name Request form, contact the Corporate Registry at 1 877 526-1526. Corporate Registry staff cannot provide legal or business advice.

STEP TWO

Step 2(A)

The applicant must publish in the British Columbia Gazette, notice that an application "Notice" to restore the company will be made to the registrar.

For information on the gazetting process, including the publication deadline date and the fees required, contact Crown Publications, www.crownpub.bc.ca.

Sample wording for the gazette notice for a Full Restoration Application:

RESTORATION APPLICATION

Take notice that a restoration application will be made to the registrar of companies to restore: ***[insert company name], [insert incorporation number].***

Dated at ***[insert city]***, B.C., this ***[insert day]*** day of ***[insert month], [insert year]. – [insert name of person applying for gazette notice], [insert relationship to company]***

A copy of the British Columbia Gazette publication containing your notice will be mailed to you by King's Printer.

Enter the publication date confirmed by King's Printer in Item H of the Full Restoration Application (Form 30; see **Step Three**).

Step 2(B)

The applicant must also mail a copy of the Notice to individuals who were directors at the time of dissolution as well as to the company's registered office address as shown in the Corporate Register. This notice can be a copy of the notice placed in the British Columbia Gazette. A search to determine the directors and company's last registered addresses can be made by contacting the Corporate Registry. BC OnLine clients can obtain a search online at www.bconline.com.

In Item H of the Full Restoration Application (Form 30) enter the latest date you mailed this notice to the directors and the company's registered office.

Note: If the company was involuntarily dissolved within the last year due to failing to file annual reports, the 21 day waiting period from the BC Gazette Publication and notification of directors (whichever is later) will not apply. However, if the company was dissolved for another reason, or it has been dissolved for over 1 year, then the company will not be restored until 21 days after the later of the two dates in Item H of the Full Restoration Application.

STEP THREE

The Full Restoration Application (form 30, attached), is to be completed and submitted to the Corporate Registry for filing. Other outstanding filings of Annual Reports, Notice of Change of Directors, as well as the appropriate fees, must accompany the Restoration Application.

Note: The *Business Corporations Act* requires a company to maintain a Dissolved Company Records Office for a period of two years after dissolution of the company. The location of these dissolved company records must be indicated in Item K of the application.

If the Dissolved Company's Records Office location is not available, then complete Item L of the application.

The addresses indicated in either Item K or Item L will become the new Records Office for the company once it is restored.

All filings must include the fees as follows:

Full Restoration Application	\$ 350.00
<u>Each</u> Annual Report	\$ 43.39
<u>Each</u> Director Change	\$ 20.00
Priority Service (optional)	\$ 100.00

All filings are processed on a first-come, first-served basis unless you pay an additional priority fee. If the filings are being submitted on a priority basis, clearly indicate on both the envelope and the documentation that the submission is a priority.

Note: Filing the restoration application on a priority basis will not waive the 21 day waiting period if it applies.

A priority service is considered completed when the document is filed or the service request is completed. Turnaround is usually within 2 business days. If a priority document to be filed has errors and requires correction, then those corrections must be made and returned to this office as soon as possible in order to maintain priority status.

Send your documentation, with cheque or money order payable to the Minister of Finance, by mail to:

Corporate Registry
PO Box 9431 Stn Prov Govt
Victoria BC V8W 9V3

or by courier to:

Corporate Registry
200 - 940 Blanshard Street
Victoria BC V8W 3E6

Once the documentation has been filed, the registrar will forward a Certificate of Restoration of the entity to the submitting party and will publish, in the British Columbia Gazette, a notification of the restoration.

STEP FOUR

Once the Restoration Application, and any other outstanding filings such as Annual Reports and Notice of Change of Directors, meet all requirements and have been filed, the company will be restored. See Item H of the [Full Restoration Application](#) for the conditions on the effective date

of restoration.

Once a company is restored, the registrar will:

- Publish notice of the restoration, extension or conversion on the King's Printer website, **www.bclaws.ca**;
- Issue a certificate, certified copy of the Full Restoration Application and a certified copy of the Notice of Articles (if applicable) to the company;
- Issue a copy of the certificate to the applicant; and
- Issue to the company, a certified copy of the Notice of Articles as altered (if applicable) for each Notice of Change of Directors filed **or** for a company who has not filed a Notice of Articles, confirmation of the change of directors.

ADDITIONAL INFORMATION

For information regarding completion of your documentation, contact the Corporate Registry at 1 877 526-1526. Corporate Registry staff cannot provide legal or business advice.

CHECKLIST

Full Restoration by the Registrar

Make sure you have everything in order before you take the final step and submit your restoration documents for filing:

- An approved and reserved corporate name;
- Notice of Application for Restoration "Notice" has been published in the BC Gazette;
- Copy of Notice has been mailed to the company's registered office address as listed with the Corporate Registry; and
- Copy of Notice has been mailed to each individual who was a director at the time the company was dissolved.

Send the following to BC Registries and Online Services:

- Full Restoration Application (Form 30), completed and signed;
- Any outstanding Annual Reports (Form 06 COM) completed and signed;
- Any Director Changes (Form 10 COM) and Notice of Articles; and
- Cheque or money order payable to the Minister of Finance for the total fees (as described on page 3), or authorization to debit your BC OnLine account.

Business Corporations Act (SBC 2002) Chapter 57

Part 2 – Incorporation

Division 2 – Corporate Names

[Section 22 – Reservation of names](#)

Part 10 – Liquidation, Dissolution, and Restoration Division 8 – Effect of Dissolution

[Section 346 – Dissolved companies to continue for litigation purposes](#)

[Section 349 – Dissolved company's assets available to judgement creditors](#)

Division 11 – Restoration and Reinstatement

[Section 355 – Pre-requisites to application](#)

[Section 356 – Applications to the registrar for restoration](#)

[Section 357 – Contents of application to the registrar for restoration](#)

[Section 358 – Registrar must restore](#)

[Section 359 – Limited restoration by registrar](#)

[Section 360 – Applications to the court for restoration](#)

[Section 361 – Limited restoration by court](#)

[Section 368 – Corporate assets to be returned to restored company](#)

Reservation of names

- 22** (1) A person wishing to reserve a name for the purposes of this Act must apply to the registrar.
- (2) After receiving an application to reserve a name under subsection (1), the registrar may reserve the name for a period of 56 days from the date of reservation or any longer period that the registrar considers appropriate.
- (3) After receiving a request for the extension of a reservation of a name, the registrar may, if that request is received before the expiry of that reservation, extend that reservation for the period that the registrar considers appropriate.
- (4) The registrar must not reserve a name for the purposes of this section unless that name complies with the prescribed requirements and with the other requirements set out in this Division.
- (5) A name that the registrar for good and valid reasons disapproves contravenes the requirements set out in this Division.

Dissolved companies deemed to continue for litigation purposes

- 346** (1) Despite the dissolution of a company under this Act,
- (a) a legal proceeding commenced by or against the company before its dissolution may be continued as if the company had not been dissolved, and
- (b) a legal proceeding may be brought against the company within 2 years after its dissolution as if the company had not been dissolved.
- (2) Unless the court orders otherwise, records related to a legal proceeding referred to in subsection (1) may be
- (a) delivered to the company at its address for delivery in the legal proceeding, or
- (b) if the company does not have an address for delivery in the legal proceeding, served on the company
- (i) by personal service of those records on any individual who was a director or senior officer of the company immediately before the company was dissolved, or
- (ii) in the manner ordered by the court.

Dissolved company's assets available to judgment creditors

- 349** (1) In this section, "dissolved company's assets" means, in respect of a company that has been dissolved, the assets, other than land in British Columbia, that were owned by it before its dissolution, that vested in the government and that were received by the government, and includes
- (a) money,
 - (b) and any money realized by the government from the disposition of those assets.
- (3) If a judgment is obtained in a legal proceeding against a dissolved company before or after its dissolution, the person who obtained the judgment may, within 2 years after the date on which the company is dissolved, apply to the minister for recovery against the dissolved company's assets.
- (4) If the minister is satisfied that the applicant under subsection (2) is entitled to recover some or all of the dissolved company's assets in satisfaction of a judgment referred to in that subsection, the minister may,
- (a) if the dissolved company's assets have not yet been disposed of, provide those assets to the sheriff who may realize on those assets in accordance with the *Court Order Enforcement Act*, or
 - (b) in any other case, pay out of the consolidated revenue fund, without an appropriation other than this section, the lesser of
 - (i) the amount of money that the applicant is entitled to recover out of the dissolved company's assets, and
 - (ii) the amount of money realized by the government from the disposition of those assets less the government's costs of obtaining, maintaining and disposing of those assets.
- (5) If assets are provided to the sheriff under subsection (3) (a), the sheriff must apply the money realized from the disposition of those assets firstly in payment of the government's costs of obtaining, maintaining and disposing of those assets, and secondly in accordance with the scheme for payment under the *Court Order Enforcement Act*.

Pre-requisites to application

- 355** (1) If, for any reason, a company has been dissolved, an application for restoration under this Division may be made,
- (a) in the case of an application for the restoration of an unlimited liability company, to the court, or
 - (b) in any other case, to the registrar or to the court.
- (2) Before submitting an application to the registrar for filing under section 356 or before making an application to the court under section 360, the applicant must
- (a) publish in the Gazette notice of the application,
 - (b) mail notice of the application to the last addresses shown in the corporate register as
 - (i) the address or mailing address, as the case may be, of the registered office of the company, and
 - (ii) the address or prescribed address for each of the individuals who were the directors of the company at the time of the dissolution, and
 - (c) reserve a name under section 22 for the company unless the company is to be restored with the name created by adding "B.C. Ltd." or, if the company is a community contribution company, "B.C. Community Contribution Company Ltd.", or, in the case of an unlimited liability company, "B.C. Unlimited Liability Company" after the incorporation number of the company.

Applications to the registrar for restoration

- 356** (1) A person may apply to the registrar to restore a company.
- (2) An application may be made under subsection (1)
- (a) for a full restoration, by a related person, or
 - (b) for a limited restoration, by any person.
- (2.1) In respect of applications to the registrar under subsection (1) for limited restorations, the registrar may establish the maximum period of restoration that may be specified in a statement referred to in section 357 (f).
- (3) In order to apply for restoration under this section, an applicant must provide to the registrar the records and information the registrar may require and must submit to the registrar for filing
- (a) a restoration application in the form established by the registrar, and

- (b) any other records the registrar may require.
- (4) An application to the registrar under subsection (1)
 - (a) must, if the dissolution of the company occurred before the coming into force of this Act, be made within 10 years after the dissolution, or
 - (b) may, in any other case, be made at any time.

Contents of application to the registrar for restoration

357 A restoration application under section 356 must contain the following:

- (a) the date on which the notice required under section 355 (2) (a) was published in the Gazette;
- (b) the latest date on which a notice required under section 355 (2) (b) was mailed in accordance with that provision;
- (c) the name reserved for the company and the reservation number given for it, or a statement that the name by which the company is to be restored is the name created by adding "B.C. Ltd." or, if the company is a community contribution company, "B.C. Community Contribution Company Ltd.", after the incorporation number of the company;
- (d) any translation of the company's name, set out in the prescribed manner, that the company intends to use outside Canada;
- (e) if the application is for a full restoration of the company,
 - (i) a statement that the applicant is related to the company and the nature of the person's relationship with the company,
 - (ii) the mailing address and the delivery address of the office proposed as the registered office of the restored company, and
 - (iii) for the records office of the restored company, the mailing address and the delivery address of the office at which the dissolved company's records, within the meaning of section 351, are being kept or, if those records are not available, a statement to that effect and the mailing address and the delivery address of the office proposed as the records office of the restored company;
- (f) if the application is for a limited restoration of the company, a statement specifying the proposed limited period of the restoration.

Registrar must restore

358 (1) Subject to section 363, unless the court orders otherwise in an entered order of which a copy has been filed with the registrar, after a restoration application under section 356 is filed with the registrar, the registrar must, on any terms and conditions the registrar considers appropriate, restore the company.

- (2) Subject to section 368, unless the court orders otherwise, a restoration under subsection (1) of this section is without prejudice to the rights acquired by persons before the restoration.

Limited restoration by registrar

359 (1) Subject to section 361 (2) and subsection (2) of this section, if a restoration under section 358 is for a limited period, the restored company is dissolved on the expiration of the limited period of restoration.

- (2) If a restoration under section 358 is a limited restoration, the registrar may, on an application filed with the registrar within the limited period of restoration,
 - (a) if the application is made by a related person, convert the limited restoration into a full restoration, or
 - (b) on an application made by any person, extend the period to any later date that the registrar considers appropriate, in which case the restored company is dissolved on the expiration of the extended period.
- (3) An applicant under subsection (2) (a) of this section must comply with sections 355 (2) (a) and (b), 356 (3) and 357 (a), (b) and (e).
- (4) After a company is dissolved under this section, the registrar must publish in the prescribed manner notice that the company has been dissolved.

Applications to the court for restoration

- 360**
- (1) A person may apply to the court to restore a company.
 - (2) An application may be made under subsection (1)
 - (a) for a full restoration, by a related person, or
 - (b) for a limited restoration, by any person.
 - (3) An applicant must
 - (a) provide to the registrar notice of the application and a copy of any record filed in the court registry in support of it, and
 - (b) obtain the registrar's consent to the restoration.
 - (4) On an application under subsection (1), the applicant must provide to the court
 - (a) the information required under section 357 or, in the case of an unlimited liability company,
 - (i) the information required under section 357 (a), (b), (d), (e) and (f), and
 - (ii) the name reserved for the company and the reservation number given for it, or a statement that the name by which the company is to be restored is the name created by adding "B.C. Unlimited Liability Company" after the incorporation number of the company,
 - (b) the registrar's consent to the restoration, including any terms and conditions that the registrar considers appropriate, and
 - (c) any other information and records required by the court.
 - (5) Subject to subsection (8), on an application under subsection (1), the court may, if it is satisfied that it is appropriate to restore the company, make an order, on the terms and conditions, if any, the court considers appropriate, that the company be restored.
 - (6) Without limiting subsection (5), in an order made under that subsection, the court may give directions and make provisions it considers appropriate for placing the company and every other person in the same position, as nearly as may be, as if the company had not been dissolved.
 - (7) Subject to section 368, unless the court orders otherwise, an order under subsection (5) of this section is without prejudice to the rights acquired by persons before the restoration.
 - (8) An order under subsection (5) must reflect any terms and conditions referred to in subsection (4) (b).

Limited restoration by court

- 361**
- (1) Subject to subsection (2), if a restoration ordered by the court under section 360 (5) is for a limited period, the restored company is dissolved on the expiration of the limited period of restoration.
 - (2) If a restoration under section 358 or 360 (5) is a limited restoration, the court may, on an application made in accordance with this section within the limited period of restoration,
 - (a) if the application is made by a related person, convert the limited restoration into a full restoration, or
 - (b) on an application made by any person, extend the period to any later date that the court considers appropriate, in which case the restored company is dissolved on the expiration of the extended period.
 - (3) An applicant under subsection (2) (a) of this section must
 - (a) comply with section 355 (2) (a) and (b),
 - (b) provide to the registrar notice of the application and a copy of any record filed in the court registry in support,
 - (c) obtain the registrar's consent to the conversion, and
 - (d) provide to the court
 - (i) the information required under section 357 (a), (b) and (e),
 - (ii) the registrar's consent to the conversion, including any terms and conditions that the registrar considers appropriate, and
 - (iii) any other information and records required by the court.
 - (4) After a company is dissolved under this section, the registrar must publish in the prescribed manner notice that the company has been dissolved.

Corporate assets to be returned to restored company

- 368** (1) If money or other assets of a company vested in the government as a result of the dissolution of the

- company, on the restoration of the company,
- (a) any of the assets that vested in the government and that have not been disposed of by the government vest in the company without any deed, bill of sale or other record from the government or any action by the government, and
 - (b) the government must, subject to subsections (3) to (5),
 - (i) in the case of assets that remain in the government's custody, return each of those assets to the company,
 - (ii) in the case of assets that have been disposed of by the government, pay to the company, out of the consolidated revenue fund, the amount of money realized by the government from the disposition of those assets, and
 - (iii) in the case of money vested in the government that has been received by the government, pay to the company, out of the consolidated revenue fund, the amount of that money.
- (2) A payment under subsection (1) (b) may be made without any appropriation other than this Act.
 - (3) The government need not comply with subsection (1) (b) in relation to money or other assets paid or provided by the minister under section 349.
 - (4) The government need not comply with subsection (1) (b) unless and until it has been reimbursed, out of the money or other assets or otherwise, for its costs of
 - (a) obtaining, retaining, maintaining and disposing of the money and other assets, and
 - (b) paying the money, and returning the other assets, in accordance with that subsection.
 - (5) Subject to subsection (6), title to, or any interest in, land that has escheated to the government under section 4 of the *Escheat Act* is not, except as provided in section 4 of that Act, affected by a restoration of a company.
 - (6) Title to, or any interest in, water system property that
 - (a) has escheated to the government under section 4 of the *Escheat Act*, or
 - (b) has vested in the government under this Act
-

This is an unofficial excerpt from the *Business Corporations Act* and is enclosed for ease of reference only. For complete information, refer to the *Business Corporations Act*. Acts and regulations are available for purchase through Crown Publications at www.crownpub.bc.ca.

ESCHEAT CLAIMS Background Information

WHEN ISSUES INVOLVING ESCHEATS ARISE

Issues involving escheats arise in a variety of situations. Probably the most frequent situation is when a corporation is dissolved for failure to file annual reports and, at the time of dissolution, held land, an interest in land or personal property. Occasionally, situations occur where someone dies without a will and no one exists who would be entitled to the estate.

The Crown is the owner of otherwise ownerless property, by Crown prerogative. The *Escheat Act*, R.S.B.C. 1996, c.120, codifies parts of the common law.

OPTIONS FOR THE APPLICANT IN ESCHEAT MATTERS

Section 4(1) of the *Escheat Act* provides that land in British Columbia held by a corporation (includes an extraprovincial company) when it dissolves, escheats to the Crown, but section 4(3) provides that the government must not dispose of it for two years following the dissolution. Section 4(4) provides that if the corporation is revived within two years of its dissolution, the revival has the effect as if the land had not escheated and subject to the terms of any court order, the land vests in the corporation.

Applicants who are dealing with a dissolved corporation may have the option of applying to the court for an order to revive the corporations. Where the dissolved corporation was the owner of land upon dissolution, it is important to ensure that the court order addresses the vesting of the land back to the dissolved corporation upon restoration.

A second option to deal with land that was held by a corporation which has dissolved is to proceed with an application for a Ministerial Order through the Escheats Office. Such an application requires approval of the Attorney General or Deputy Attorney General. This process generally takes a number of weeks.

SEEK LEGAL ADVICE

The Escheats Office strongly recommends that applicants seek independent legal advice on how to proceed with any escheat matter.

FOR FURTHER INFORMATION, contact:

Ministry of Attorney General
Legal Services Branch, Escheat Officer
PO Box 9280 Stn Prov Govt
Victoria, BC V8W 9J7
Phone: 250 356-8819
Fax: 250 387-0700