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SELECTED READINGS IN CANADIAN LEGISLATION
AFFECTING FOREIGN INVESTMENT IN CANADA

PART II: PROVINCIAL LAWS AND
REGULATIONS AS OF
NOVEMBER 1977

APERCU DES TEXTES DE LOI ET DES REGLEMENTS VISANT
L'INVESTISSEMENT ETRANGER AU CANADA

PARTIE II: LOIS ET REGLEMENTS
PROVINCIAUX EN VIGUEUR
EN NOVEMBRE 1977



Government of Canada

Foreign Investment
Review Agency



Gouvernement du Canada

Agence d'examen de
l'investissement étranger

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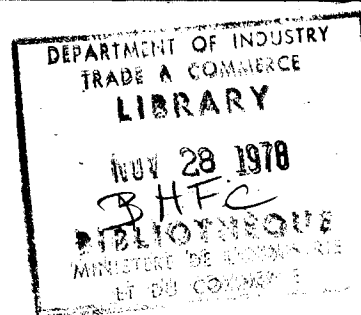


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INTRODUCTION

"Selected Readings in Canadian Legislation Affecting Foreign Investment in Canada" which is the second in a series of Occasional Papers published by the Foreign Investment Review Agency on topics related to foreign direct investment in Canada is being published in two parts. Part I covering federal laws and regulations was published in December 1977. At the time, it was indicated that Part II dealing with provincial laws and regulations affecting foreign investment in the various provinces would be published in 1978.

The same format has been adopted for both publications. Excerpts from a particular provincial law or regulation are given together with a reference to the source document from which the excerpts have been taken. This is preceded by a brief commentary on the general thrust of the excerpts. As these commentaries are not intended to paraphrase the provisions of the statutes or regulations or to be comprehensive in their coverage, the reader may want to refer to the source documents for further detail and precision.

The excerpts were selected on the basis of their relevance to foreign investment. Generally, the selection was based on the following three criteria:

- 1) legislation restricting the activities of investors who are foreign or foreign controlled;

AVANT-PROPOS

"Aperçu des textes de loi et des règlements visant l'investissement étranger au Canada" est le deuxième d'une série d'ouvrages publiés occasionnellement par l'Agence d'examen de l'investissement étranger et traitant de sujets reliés à l'investissement étranger direct au Canada. Il comprend deux parties: la première, portant sur les lois et les règlements fédéraux, est parue en décembre 1977. On avait alors indiqué que la deuxième partie portant sur les lois et règlements provinciaux en rapport avec l'investissement étranger paraîtrait au cours de 1978.

On a adopté le même format pour les deux ouvrages. Les sources de tous les extraits de lois et de règlements provinciaux qui y apparaissent sont indiquées. Chaque extrait est précédé d'un bref commentaire sur son sens général. Les commentaires ne visent ni à interpréter les dispositions des lois ou des règlements, ni à couvrir tous les détails; le lecteur pourra se reporter, pour de plus amples renseignements, aux documents d'origine.

Le choix des extraits est fonction de leur rapport avec l'investissement étranger. En général, il se fonde sur les trois critères suivants:

- 1) Une loi qui limite les investissements étranger ou aux contrôlés par des étrangers;

- 2) legislation prohibiting or limiting the degree of foreign or non-resident participation in Canadian businesses;
- 3) legislation restricting the acquisition of land or imposing additional duties on the transfer of land to non-residents.

In a number of instances the statutory provisions apply equally to Canadians and non-Canadians as the blanket phrase "non-residents of the province" has been used. These are nevertheless included because of their relevance to foreign investors.

In view of the complexity of provincial taxation legislation, no attempt was made to identify provisions which might impact on foreign investment.

Where the statutes exist in both official languages, excerpts are given in both languages. It was considered inadvisable to provide an unofficial translation of other provincial laws because problems of misinterpretation could easily arise. The commentary, giving the essential thrust of the extracted legislation, is however given in both official languages.

A number of New Brunswick's laws were considered for this publication but excluded as they did not fit the above criteria.

To the best of the Agency's knowledge, the excerpts are accurate as of November 1977.

- 2) Une loi interdisant ou limitant la participation d'étrangers ou de non-résidents à une entreprise canadienne;
- 3) Une loi qui limite l'acquisition de propriétés immobilières ou fixe des droits supplémentaires sur le transfert de la propriété immobilière aux non-résidents.

Dans plusieurs cas, les dispositions de la loi s'appliquent aussi bien aux Canadiens qu'aux étrangers lorsque l'expression générale "non-résidents de la province" est employée. On a cependant inclus ces lois ou règlements car ils se rapportent à l'investissement étranger.

Vue la complexité des lois fiscales provinciales nous n'avons pas essayé de relever les dispositions qu'elles comportent visant l'investissement étranger.

Lorsque les lois ou règlements existent dans les deux langues officielles, les extraits sont publiés en anglais comme en français. Par contre, on a estimé qu'il ne serait pas prudent de fournir une traduction officielle des lois provinciales unilingues par crainte de soulever des erreurs d'interprétation. Le commentaire, qui donne la portée essentielle des extraits, est cependant fourni dans les deux langues officielles.

Plusieurs lois du Nouveau-Brunswick ont été examinées aux fins de la présente publication, mais comme elles ne répondent pas aux critères ci-dessus, elles ne sont pas mentionnées.

D'après les renseignements de l'Agence, les extraits sont exacts jusqu'en novembre 1977.

NEWFOUNDLAND

TERRE-NEUVE

I FINANCIAL
FINANCES

- (1) Companies Act
- (2) Insurance Adjusters Act
- (3) Trust and Loan Companies
(Licensing) Act

I

FINANCIAL

FINANCES

(1) COMPANIES ACT

Comment

A foreign company intending to carry on business in Newfoundland must register under the Companies Act. The Lieutenant-Governor in Council may restrict the powers which a foreign company may exercise in the Province or may, in some cases, refuse registration of a company.

Commentaire

Aux termes de la présente Loi, une société étrangère qui a l'intention d'opérer à Terre-Neuve, doit être enregistrée. Le Lieutenant-gouverneur en conseil peut restreindre les pouvoirs d'une société étrangère dans la province, voire, dans certains cas, refuser l'enregistrement de la société.

(1) COMPANIES ACT

Provisions

Domestic and Foreign Companies

Interpretation

Sec. 265 In this Part

- (e) "domestic company" means any company, whether or not it is formed for gain, incorporated by or under any Act of the Legislature other than The Companies Act and other than a crown corporation;
- (f) "dominion company" means a company incorporated by or under an Act of the Parliament of Canada;
- (g) "foreign company" means a company incorporated otherwise than by or under an Act of the Legislature and includes a dominion company,
- (h) "private company" means a company that is incorporated by its charter, memorandum of association, articles of association, regulations, by-laws or otherwise.

Foreign company may be registered

Sec. 268(1) A foreign company may be registered in Newfoundland for any lawful purpose when it complies with this Part and pays the fees prescribed.

Registrar may refer applications to Lieutenant-Governor in Council

Sec. 268(2) The Registrar may refer the application of any foreign company other than a dominion company to the Lieutenant-Governor in Council who may, at his discretion, refuse registration and the Registrar shall not register the company.

Registrar may restrict powers of foreign company

Sec. 268(3) The Registrar may by his certificate restrict the powers which a foreign company other than a dominion company may exercise in Newfoundland and in this case the company shall, subject to this Part, carry on only those parts of its business or exercise only those of its powers which the certificate authorizes.

Appeal to Lieutenant-Governor in Council

Sec. 268(4) If the Registrar decides to restrict the powers of a foreign company under subsection (3) he shall, before or after he issues his certificate, notify the company of his decision and the company or any member of it may appeal to the Lieutenant-Governor in Council within six months of the date on which the notification is sent by the Registrar to the company and the Lieutenant-Governor in Council may confirm, vary or overrule the decision of the Registrar, who shall issue his certificate accordingly.

Amalgamation of foreign companies

Sec. 269 Where any two or more foreign companies amalgamate the company resulting from such amalgamation is a foreign company separate and distinct from its component parts for the purposes of this Part and shall itself comply with all the applicable requirements of this Part, notwithstanding that any of its component parts is registered under this Part or is a parent or subsidiary company as defined by Section 3.

Statement on application for registration

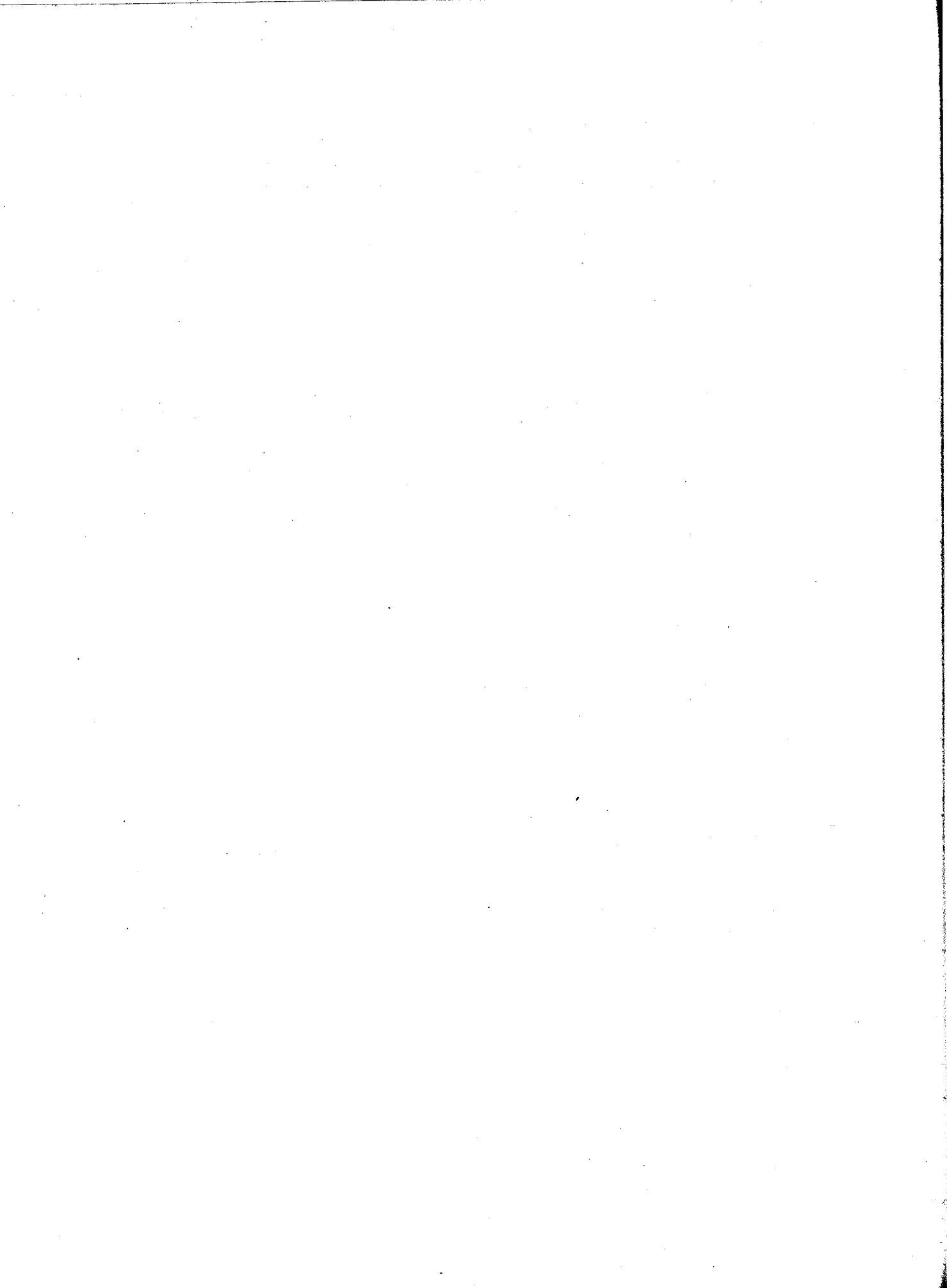
Sec. 270(1) Every foreign company required to be registered under this Part shall file with the Registrar a statement as in Form A of the Fourth Schedule specifying

- (e) full particulars of the charter and regulations of the company and all amendments thereto;
- (h) the business which the company will carry on in Newfoundland.

Suspension or revocation of registration

Sec. 275(1) The Lieutenant-Governor in Council may suspend or revoke the registration of a foreign company other than a dominion company for good cause or for failure to comply with any requirements of this Part and he may remove or cancel a suspension or revocation, subject to any conditions which he deems proper.

Source: "The Companies Act", Revised Statutes of Newfoundland 1970, Chapter 54, Part IV.



(2) INSURANCE ADJUSTERS ACT

Comment

The superintendent may issue an adjuster's licence to a company if

- (a) the company is incorporated for the purpose of acting as an insurance adjuster or for that and other purposes;
- (b) the head office of the company is in Canada; and
- (c) the company is doing business in Newfoundland.

Commentaire

Le Surintendant peut délivrer un permis d'ajusteur à une compagnie d'assurance si celle-ci:

- (a) Est constituée dans le but de faire office d'ajusteur et éventuellement dans d'autres buts;
- (b) A son bureau principal au Canada; et
- (c) Exerce ses activités à Terre-Neuve.

(2) INSURANCE ADJUSTERS ACT
Provisions

Interpretation

Sec. 2(a) "adjuster" means a person who

- (i) on behalf of an insurer or an insured, for or in expectation of fee, gain or reward, directly or indirectly solicits the right to negotiate the settlement of or investigate a loss or claim under a contract or a fidelity, surety or guaranty bond issued by an insurer, or investigates, adjusts or settles any such loss or claim, or
- (ii) holds himself out as an adjuster, investigator, consultant or adviser with respect to the settlement of losses or claims referred to in subparagraph (i),

Company licence

Sec. 7(1) The superintendent may issue an adjuster's licence to a company if

- (a) the company is incorporated for the purpose of acting as an insurance adjuster or for that and other purposes;
- (b) the head office of the company is in Canada; and
- (c) the company is doing business in Newfoundland.

Source: "An Act Respecting the Licensing of Insurance Adjusters, Assistant Adjusters and Student Adjusters", Revised Statutes of Newfoundland, 1970, Chapter 175.

(3) TRUST AND LOAN COMPANIES (LICENSING) ACT

Comment

Under the provisions of the Act the Minister, subject to the approval of the Lieutenant-Governor in Council, may waive the requirements of certain sections or the operation of the whole Act in respect of any company as long as the effective control of the company concerned remains in the hands of residents of the province.

Commentaire

Aux termes de la présente Loi, le Ministre peut, avec l'approbation du Lieutenant-gouverneur en conseil, lever les exigences de certains articles, voire ignorer totalement son application en faveur d'une société dont le contrôle effectif appartient aux résidents de la province.

(3) TRUST AND LOAN COMPANIES (LICENSING) ACT

Provisions

Licence not to be granted in certain circumstances

Sec. 5 A licence shall not be granted to a company if the unimpaired paid-up capital and surplus of the company is less than one million dollars.

Company must be insured before accepting deposits

Sec. 11(1) No company shall accept deposits, within the meaning of the Canada Deposit Insurance Corporation Act (Canada), unless it is insured under a policy of deposit insurance issued by the Canada Deposit Insurance Corporation.

Waiver of Act in whole or in part

Sec. 13(1) Subject to the approval of the Lieutenant-Governor in Council, the Minister may waive

- (a) the requirements of Sections 5 and 11; or
- (b) the operation of this whole Act

in respect of any company or class of company.

Waiver of Sections 5 and 11 for certain loan companies

Sec. 13(2) Notwithstanding subsection (1), if a loan company which

- (a) borrows money for the purpose of lending it on the security of real estate; or
- (b) has been actively engaged in the business of a loan company for a period of two years immediately prior to the 31st day of March, 1974, and which has during that period advertised for sale or has sold its bonds, debentures or other securities to the public;

applies to the Minister for a waiver of Sections 5 and 11 in respect of such loan company, the Minister shall bring the application to the attention of the Lieutenant-Governor in Council and if the Lieutenant-Governor in Council is satisfied that

- (c) the loan company referred to in paragraph (a) is not carrying on any business other than that referred to in such paragraph; or
- (d) the assets of the loan company referred to in paragraph (b) are more than sufficient to pay the face value of all bonds, debentures or other securities issued by it and outstanding on the date of the application,

the Minister shall waive the requirements of Sections 5 and 11 of this Act in respect of any such loan company subject to such terms and conditions as the Lieutenant-Governor in Council may subscribe.

Duration of waiver

Sec. 14 A waiver referred to in Section 13 applies only so long as the effective control of a company concerned remains in the hands of residents of the province.

Source: "The Trust and Loan Companies (Licensing) Act", Statutes of Newfoundland, 1974, No. 120.

PRINCE EDWARD ISLAND

ILE DU PRINCE-EDOUARD

I FINANCIAL
FINANCES

(1) Insurance Act

II RESOURCES
RESSOURCES

LAND
TERRES

(1) Real Property Act
(2) Registry Act

I

FINANCIAL

FINANCES

(1) INSURANCE ACT

Comment

The Act provides that only bona fide residents of the province who have obtained a certificate of authority may act as an insurance agent in the province.

Commentaire

Aux termes de la présente Loi, seuls les résidents de fait de la province qui ont obtenu un certificat d'exercice, peuvent faire office d'agent d'assurances dans la province.

(1) INSURANCE ACT

Provisions

AGENTS, BROKERS AND ADJUSTERS

Licence for agents

Sec. 342 No person shall act, or offer or undertake to act, as insurance agent in this province without having first obtained a certificate of authority under this Act, nor unless he is a bona fide resident of the province. R.S.P.E.I. 1951, c. 77, s. 292.

Source: "The Insurance Act", Revised Statutes of Prince Edward Island, 1974, Chapter I-5.

II

RESOURCES

RESSOURCES

LAND

TERRES

(1) REAL PROPERTY ACT

Comment

Under the Real Property Act, persons who are not residents of Prince Edward Island, may not take, acquire or hold title to any real property in the Province exceeding 10 acres in aggregate, or shore frontage exceeding five chains in aggregate, unless permission of the Lieutenant-Governor in Council is granted.

There is provision for the exclusion of certain relatives who are non-residents and who acquire title through the will or upon the intestacy of a resident from the requirement to obtain permission of the Lieutenant-Governor in Council for the acquisition of title to land in Prince Edward Island.

Commentaire

Aux termes de la présente Loi, les non-résidents de l'île du Prince-Edouard ne peuvent acquérir ou détenir les titres de propriété de biens immobiliers provinciaux dont la superficie dépasse un total de 10 acres, ou dont le front de mer fait plus de 100 mètres, sauf en cas d'autorisation par le Lieutenant-gouverneur en conseil.

La Loi prévoit que certains proches parents qui ne sont pas résidents et qui font l'acquisition des titres d'un résident par héritage ou "ab intestat" sont dispensés de l'obligation d'obtenir l'autorisation du Lieutenant-gouverneur en conseil pour l'acquisition des titres susmentionnés dans l'île du Prince-Edouard.

(1) REAL PROPERTY ACT

Provisions

Definition

Sec. 3(1) In this section

- (a) "Canadian citizen" means a person who is a Canadian citizen under the Citizenship Act (Canada), Stats. Canada 1975-76, c. 108;
- (b) "resident of the province" means a bona fide resident, animus et factum, of the province;
- (c) "corporation" means any company, corporation or other body corporate and politic, and any association, syndicate or other body.

Eligibility to deal in land

(2) Persons who are not Canadian citizens may take, acquire, hold, convey, transmit, or otherwise dispose of, real property in the Province of Prince Edward Island subject to subsection (3).

Permission required, where

(3) Unless he receives permission so to do from the Lieutenant Governor in Council, no person who is not a resident of the Province of Prince Edward Island shall take, acquire, hold or in any other manner receive, either himself, or through a trustee, corporation, or any such the like, title to any real property in the Province of Prince Edward Island the aggregate total of which exceeds ten acres, nor to any real property in the Province the aggregate total of which has a shore frontage in excess of five chains.

(4) Subsection (3) does not apply to the spouse, sons and daughters of a deceased person whose title is being acquired either upon intestacy or under the provisions of the will of a deceased person who is a resident of the Province at the date of his death.

Permission, basis of

(5) The grant of permission under subsection (3) shall be at the discretion of the Lieutenant Governor in Council, who shall notify the applicant in writing by means of a certified copy of an Order in Council of his decision within a reasonable time.

Form of application

(6) An application for any such permission shall be in the form prescribed, from time to time, by the Lieutenant Governor in Council.

Source: "The Real Property Act", Revised Statutes of Prince Edward Island, 1974, Chapter R-4, Sec. 3, amended by Statutes of Prince Edward Island, 1977, Chapter 34.

(2) REGISTRY ACT

Comment

The Act makes it necessary for a deed of conveyance relating to the sale of land to non-residents to be accompanied by an order of the Lieutenant-Governor in Council

Commentaire

Aux termes de la présente Loi, il faut qu'un titre de cession de terrain à des non-résidents soit accompagné d'un ordre du Lieutenant-gouverneur en conseil.

(2) REGISTRY ACT

Provisions

Sec. 14(6) Where permission or approval is required pursuant to section 3 of the Real Property Act, no deed of conveyance, or any such the like instrument shall be accepted by the Registrar for registration, or registered unless the said deed or instrument, as aforesaid, is accompanied by an order of the Lieutenant-Governor in Council pursuant to section 3 of the Real Property Act.

Source: "An Act to amend the Registry Act" Statutes of Prince Edward Island 1975, Chapter 25.

NOVA SCOTIA

NOUVELLE-ECOSSE

**I FINANCIAL
FINANCES**

- (1) Agriculture and Rural Credit Act**
- (2) Fisherman's Loan Act**
- (3) Trust Companies Act**

I

FINANCIAL

FINANCES

(1) AGRICULTURE AND RURAL CREDIT ACT

Comment

In order to be eligible for loans under the Act, a borrower must be either a person who has attained the age of majority and is a Canadian citizen or who has satisfied the Nova Scotia Resources Development Board of his intention to become a Canadian citizen or a corporation that is operating or proposes to operate a farm, the majority of whose shares are beneficially held by residents of the Province.

Commentaire

Aux termes de la présente Loi, il faut, pour pouvoir obtenir un prêt en vertu de cette Loi, être un citoyen canadien majeur, avoir signalé à l'Agence de développement des ressources naturelles de la Nouvelle-Ecosse son intention de devenir citoyen canadien, ou être une société qui exploite ou se propose d'exploiter une ferme dont la majorité des actions sont détenues par des résidents de la province.

(1) AGRICULTURE AND RURAL CREDIT ACT

Provisions

Interpretation

Sec. 1 In this Act

- (a) "Board" means Nova Scotia Farm Lands Board;
- (b) "borrower" means
 - (i) a male person of at least twenty-one years of age who is a Canadian citizen or who has satisfied the Board of his intention to become a Canadian citizen;
 - (ii) a corporation that is operating or proposes to operate a farm, provided a majority of the shares are beneficially held by residents of the Province.

Powers and Duties of Board

Sec. 6 The purposes, duties and powers of the Board are:

- (a) to make loans to, or guarantee of, a borrower for the purpose of acquiring or improving any farm, plant, machinery or equipment;

Source: "Agriculture and Rural Credit Act", Revised Statutes of Nova Scotia, 1967, Chapter 4.

(2) FISHERMAN'S LOAN ACT

Comment

While the Act itself is silent, the regulations approved by the Governor in Council on August 24, 1965, as amended in February of 1966, provide that no loan shall be made under the Act to a fisherman unless he is a Canadian citizen, or a British subject and a resident of Nova Scotia. These regulations further provide that no loan shall be made to an Association of fishermen or a Company unless incorporated under the Co-operative Associations Act, or the Companies Act (of Nova Scotia) or is an Association or Company to which one of these Acts apply.

Commentaire

Si pour sa part, la Loi n'en fait pas mention, les règlements approuvés par le Gouverneur en conseil le 24 août 1965, et modifiés en février 1966, stipulent qu'aux termes de la Loi, aucun prêt ne sera accordé à un pêcheur s'il n'est pas citoyen canadien ou sujet britannique et ne réside pas en Nouvelle-Ecosse. Ces règlements stipulent, en outre, qu'aucun prêt ne sera accordé à une association de pêcheurs ou à une société si elle n'est pas constituée aux termes de la Co-operative Associations Act ou de la Companies Act (de la Nouvelle-Ecosse) ou s'il s'agit d'une association ou d'une société auxquelles s'applique l'une de ces lois.

(2) FISHERMAN'S LOAN ACT

Provisions

Interpretation

Sec. 1 In this Act,

- (a) "Board" means Fishermen's Loan Board of Nova Scotia;
- (b) "fishermen" includes fisherman, groups of fishermen, companies, partnerships and associations of fishermen;
- (c) "Fund" means Fishermen's Loan Fund;
- (d) "Minister" means Minister of Fisheries;
- (e) "regulations" means regulations made under this Act.

Sec. 2

- (1) There shall be a Board to be called the Fishermen's Loan Board of Nova Scotia consisting of not less than five members to be appointed by the Governor in Council.

Purposes of the Board

Sec. 5 The purposes, duties and powers of the Board shall be:

- (a) to administer, in accordance with the regulations, the Fund and such other monies as shall from time to time come under control of the Board for the purpose of improving and developing the fishing industry of the Province, particularly, but not so as to restrict the generality of the foregoing, by making loans or advances to fishermen and to other persons, associations or corporations engaged either directly or indirectly in the catching, handling, processing or distributing of fish or fish products;

- (c) to perform such other duties and exercise such other powers as may from time to time be approved or determined by the Governor in Council whether such duties or powers be of the type hereinbefore mentioned or not.

Regulation

The regulation of the Fisherman's Loan Board approved November 27, 1963 state that:

- 4. To qualify for a loan under Part I a fisherman shall:
 - (a) be a Canadian citizen or a British subject and a resident of Nova Scotia.

The Governor in Council on the report and recommendation of the Minister of Fisheries dated the 27th day of January, A.D. 1966 and pursuant to the provisions of the Fisherman's Loan Act, is pleased to approve the change made in clause (a) of Regulation 5 by the Fisherman's Loan Board on January 10th, 1966 so that clause (a) of Regulation 5 reads as follows:

- 5. No loan hereunder shall be made to an association of fishermen or a company unless it:
 - (a) is an association or company incorporated pursuant to the provisions of the Cooperative Associations Act or is an Association or Company to which one of those Acts applies.

and that the said change in Regulation 5 be published in the Royal Gazette.

Source: Fisherman's Loan Act, Revised Statutes of Nova Scotia, 1967, Chapter 111.

(3) TRUST COMPANIES ACT

Comment

The Act requires that a majority of the directors of a provincially incorporated trust company be both residents of Nova Scotia and subjects of Her Majesty by birth or naturalization.

Commentaire

Aux termes de la présente Loi, la majorité des membres du conseil d'administration d'une société de fiducie constituée dans la province doivent être résidents de la Nouvelle-Ecosse et sujets de Sa Majesté, de naissance ou par naturalisation.

(3) TRUST COMPANIES ACT

Provisions

Majority of directors to be residents and British subjects

Sec. 17 The majority of the directors of the company shall at all times be persons resident in Nova Scotia, and subjects of Her Majesty by birth or naturalization.

Source: "Trust Companies Act", Revised Statutes of Nova Scotia, Chapter 316.

QUEBEC

QUEBEC

I	FINANCIAL	I	FINANCES
	(1) Trust Companies Act		(1) Loi des compagnies de fidéicommiss
II	RESOURCES	II	RESSOURCES
	LAND		TERRES
	(1) Land Transfer Duties Act		(1) Loi des droits sur les transferts de terrains
III	PUBLISHING	III	EDITION
	(1) Booksellers Accreditation Act		(1) Loi de l'accréditation des libraires
	(2) An Act respecting the guarantee of certain loans to publishers and booksellers and to amend the Quebec Industrial Development Assistance Act		(2) Loi concernant la garantie de certains prêts aux éditeurs et libraires et modifiant la Loi de l'aide au développement industriel du Québec
IV	SERVICES TO BUSINESS MANAGEMENT	IV	GESTION DES SERVICES A L'ENTREPRISE
	(1) Detective or Security Agencies Act		(1) Loi des agences d'investigation ou de sécurité

I

FINANCIAL

FINANCES

(1) TRUST COMPANIES
ACT

Comment

Under the Trust Companies Act foreign trust companies can be registered but only on the terms and conditions fixed by the Lieutenant-Governor in Council. Before a foreign trust company whose head office is situated outside of the Province is entitled to be registered as such in the province of Quebec, it must deposit with the Department of Finance, a power of attorney appointing a chief agent for the province of Quebec and a copy of its letters patent or articles of association or other incorporating documents.

(1) LOI DES COMPAGNIES DE
FIDEICOMMIS

Commentaire

Aux termes de la Loi sur les compagnies de fidéicommiss, les compagnies de fidéicommiss étrangères peuvent être enregistrées, mais seulement aux termes et conditions fixés par le lieutenant-gouverneur en conseil. Avant qu'une compagnie de fidéicommiss étrangère dont le siège social est situé en dehors de la province de Québec puisse avoir droit à l'enregistrement, elle doit déposer au ministère des Finances une procuration constituant un agent principal dans la province, et une copie de ses lettres patentes, de ses articles d'association ou de tout autre document constitutif.

(1) TRUST COMPANIES
ACT

Provisions

Definitions

Sec. 2 Except where the contrary is expressly declared or is implied from the context, the following expressions, terms and words shall have, in this act, the sense and meaning given them by this section:

(4) The words "extra-provincial company" mean a trust company incorporated in virtue of the laws of the Dominion of Canada or of some province of Canada, other than the Province of Quebec;

(5) The words "foreign company" mean a trust company incorporated by a country other than Canada or one of its provinces;

(7) The words "trust company" mean a provincial, extra-provincial or foreign company authorized to act as tutor, subrogate-tutor, curator to the property, liquidator, receiver, judicial adviser, judicial guardian, sequestrator, testamentary executor, trustee, trustee for the holders of bonds or debentures, agent for the winding up of business in general, the administration of successions and of moveable or immovable property, or possessing all or one or more of the powers hereinabove mentioned or other like powers, which, in addition, may be authorized by its charter.

(1) LOI DES COMPAGNIES DE
FIDEICOMMIS

Provisions

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Art. 2 A moins de déclaration contraire, expresse ou résultant du contexte de la disposition, les expressions, termes et mots suivants ont, dans la présente loi, le sens et l'application que leur attribue le présent article:

(4) Les mots "compagnies extra-provinciale" indiquent une compagnie de fidéicommiss constituée en corporation en vertu des lois de la puissance du Canada ou de quelque'une de ses provinces, à part la province de Québec;

(5) Les mots "compagnies étrangère" indiquent une compagnie de fidéicommiss constituée en corporation par un pays autre que le Canada ou quelque'une de ses provinces;

(7) Les mots "compagnies de fidéicommiss" indiquent une compagnie provinciale, extra-provinciale ou étrangère, autorisé à agir comme tuteur, subrogé-tuteur, curateur aux biens, liquidateur, receveur, conseil judiciaire, gardien judiciaire, séquestre, exécuteur testamentaire, fiduciaire, fidéicommissaire pour les porteurs de bons ou d'obligations, agent pour la liquidation d'affaires en général, l'administration de successions de biens mobiliers ou immobiliers, ou possédant tous les pouvoirs ou quelque'un ou quelques-uns des pouvoirs ci-dessus énumérés, ou autres pouvoirs analogues, et qui, en sus, peut être autorisée par sa charte.

Companies which may be registered

Sec. 19 The following trust companies, being solvent, may be registered:

(3) Extra-provincial companies having a common subscribed and paid-up capital stock of at least \$1,000,000;

(4) Foreign trust companies, but only on the terms and conditions fixed by the Lieutenant-Governor in Council.

Extra-provincial or foreign companies

Sec. 26 Any extra-provincial or foreign company whose head office is situated outside of the Province shall moreover, before being entitled to registration, deposit in the Department of Consumer Affairs, Cooperatives and Financial Institutions:

(1) A power of attorney appointing a chief agent for the Province for the purpose of receiving service of all actions and proceedings taken against it, and declaring where its head office in the Province will be established;

(2) A copy of its letters patent or articles of association or other incorporating instrument certified by the officer who has charge of the original.

Compagnies pouvant être enregistrées

Art. 19 Les compagnies de fidéicomis suivantes qui sont solvables peuvent être enregistrées:

(3) Les compagnies extra-provinciales qui possèdent un capital-actions ordinaire souscrit et versé d'au moins \$1,000,000;

(4) Les compagnies de fidéicomis étrangères, mais seulement aux termes et conditions fixés par le lieutenant-gouverneur en conseil.

Compagnies extra-provinciales ou étrangères

Art. 26 Une corporation extra-provinciale ou étrangère, dont le siège social est situé en dehors de la province doit de plus, avant d'avoir droit à l'enregistrement, déposer au ministère des consommateurs, coopératives et institutions financières:

(1) Une procuration constituant un agent principal dans la province, aux fins de recevoir les significations en toutes actions et procédures exercées contre elle, et déclarant où sera établi son principal bureau dans la province;

(2) Une copie de ses lettres patentes ou de ses articles d'association, ou de tout autre acte constitutif, certifiée par l'officier qui a la garde de l'original.

In the case of a company incorporated by a federal or provincial statute, it shall be sufficient to mention the statute or statutes relating to its constitution and powers.

Dans le cas d'une compagnie constituée par un statut fédéral ou provincial, il suffit d'indiquer le ou les statuts qui concernent sa constitution et ses pouvoirs.

Source: "Trust Companies Act",
Revised Statutes of
Québec, 1964, amended
by: Statutes of Quebec,
1974, chapter 67.

Source: "Loi des compagnies de
fidéicomis", Statuts Refondus
du Québec, 1964, modifié par:
Lois du Québec, 1974, chapitre 67.

II

RESOURCES

RESSOURCES

LAND

(1) LAND TRANSFER DUTIES ACT

Comment

Under this Act a duty is levied on the transfer of land to "non-resident persons". In addition, when control of an existing corporation owning principally land is acquired by "non-resident persons", either from a resident or another non-resident, such corporation becomes liable for land transfer duties. A non-resident is an individual who is not ordinarily resident in Canada or if resident in Canada is neither a Canadian citizen nor lawfully admitted to Canada for permanent residence. A corporation is non-resident when more than 50 per cent of its voting capital stock are owned, or if the corporation is controlled directly or indirectly in any manner whatever, by one or more persons not resident in Canada, or more than 50 per cent of its directors are non-resident individuals.

The Act provides for exemptions and deferments of the payment of duties in several defined circumstances.

TERRES

(1) LOI DES DROITS SUR LES TRANSFERTS DE TERRAINS

Commentaire

Aux termes de cette Loi, un droit est prélevé sur le transfert d'un terrain à des non-résidents. De plus, lorsque le contrôle d'une corporation existante possédant principalement des terrains est acquis par des "non-résidents", soit d'un résident ou d'un autre non-résident, cette corporation devient assujettie aux droits sur les transferts de terrains. Un non-résident est une personne qui ne réside pas ordinairement au Canada ou qui, même si elle réside au Canada, n'a pas la citoyenneté canadienne et n'a pas été légalement admise au Canada pour y résider en permanence. Une corporation est un non-résident lorsque plus de 50 pour cent de son capital-actions avec droit de vote est détenu, ou si la corporation est contrôlée directement ou indirectement de quelque manière que ce soit, par un ou plusieurs non-résidents du Canada, et lorsque plus de 50 pour cent de ses administrateurs sont des non-résidents.

La Loi prévoit des exemptions et des ajournements de paiement de droits dans plusieurs cas précis.

(1) LAND TRANSFER DUTIES
ACT

Provisions

Definitions

Sec. 1 In this act and in the regulations, unless the context indicates a different meaning, the expression

"transferee" means a transferee who is not resident in Canada;

"corporation not resident in Canada" means any corporation validly incorporated, whatever be the nature and place of its incorporation,

- (a) of which more than 50 per cent of the shares of its capital stock to which are attached full voting rights are owned by one or more persons not resident in Canada;
- (b) more than one-half of the directors of which are physical persons who are persons not resident in Canada;
- (c) more than one-half of the members of which, in the case of a corporation without capital stock, are persons not resident in Canada; or
- (d) which is controlled directly or indirectly in any manner whatever by one or more persons not resident in Canada;

(1) LOI DES DROITS SUR LES
TRANSFERTS DE TERRAINS

Provisions

Définitions

Art. 1 Dans la présente loi et dans les règlements, à moins que le contexte n'indique un sens différent, on entend par:

"cessionnaire": le cessionnaire qui ne réside pas au Canada;

"corporation qui ne réside pas au Canada": une corporation valablement constituée, quels que soient la nature et l'endroit de sa constitution,

- a) dont plus de 50 pour cent des actions de son capital-actions, et ayant plein droit de vote, sont la propriété d'une ou de plusieurs personnes qui ne résident pas au Canada;
- b) dont plus de la moitié des administrateurs sont des personnes physiques qui ne résident pas au Canada;
- c) dont plus de la moitié des membres, dans le cas d'une corporation n'ayant pas de capital-actions, ne résident pas au Canada; ou
- d) qui est contrôlée, directement ou indirectement de quelque manière que ce soit, par une ou plusieurs personnes qui ne résident pas au Canada;

"transfer" means the transfer of an immoveable right as well as a contract of lease and the granting of an option or of a promise of sale; the word transfer does not include transfer for the purpose only of securing a debt, nor reconveyance by the creditor, nor the transfer of any right contemplated in section 3 of the Mining Act, (1965, 1st session, chapter 34), nor the transfer of timber limits, of a concession of wooded land or of a right to cut timber on public lands, nor the transfer or lease of public lands effected in virtue of the Lands and Forests Act.

"transfert": le transfert d'un droit immobilier ainsi que le contrat de louage et l'octroi d'une option ou d'une promesse de vente; le mot transfert ne comprend pas le transfert fait dans le seul but de garantir le paiement d'une dette, ni la rétrocession faite par le créancier, ni le transfert d'un droit visé à l'article 3 de la Loi des mines (1965, 1re session, chapitre 34), ni le transfert d'une concession forestière, d'une concession de terre boisée ou d'un droit de coupe de bois sur des terres publiques, ni le transfert ou la location de terres publiques consentis en vertu de la Loi des terres et forêts.

Person deemed to be a person
not resident in Canada

Sec. 2 For the purposes of this act and the regulations, a person is deemed to be a person not resident in Canada if he is:

- (a) a physical person who is not ordinarily resident in Canada;
- (b) a physical person who is ordinarily resident in Canada but is neither a Canadian citizen nor a person lawfully admitted to Canada for permanent residence therein;
- (c) a partnership, association, syndicate or any other group more than one-half of the members of which are persons not resident in Canada within the meaning of this section or in which interests representing more than 50 per cent of the total value of the property of the partnership, association, syndicate or other group are owned by such persons;

Personne réputée ne pas résider
au Canada

Art. 2 Aux fins de la présente loi et des règlements, une personne est réputée ne pas résider au Canada si elle est:

- a) une personne physique qui ne réside pas ordinairement au Canada;
- b) une personne physique qui réside ordinairement au Canada, mais qui n'a pas la citoyenneté canadienne et qui n'a pas été légalement admise au Canada pour y résider en permanence;
- c) une société, une association, un syndicat ou tout autre groupement dont plus de la moitié des membres sont des personnes qui ne résident pas au Canada au sens du présent article ou dans lesquels de telles personnes sont propriétaires d'intérêts représentant plus de 50 pour cent de la valeur globale des biens de la société, de l'association, du syndicat ou de l'autre groupement;

- (d) a trust in which persons who are not resident in Canada within the meaning of this section have more than 50 per cent of the total value of the capital or income interests, and "trust" also includes the trustee under such a trust; or
- (e) a corporation not resident in Canada.

- d) une fiducie dans laquelle des personnes qui ne résident pas au Canada au sens du présent article détiennent plus de 50 pour cent de la valeur globale des participations au capital ou au revenu et une fiducie comprend également le fiduciaire d'une telle fiducie; ou
- e) une corporation qui ne réside pas au Canada.

Person deemed to be a person ordinarily resident in Canada

Sec. 3 For the purposes of this act or the regulations, a physical person is deemed to be ordinarily resident in Canada if at the time such expression is being considered,

- (a) he has sojourned in Canada for a period of or periods the aggregate of which is 366 days or more during the 24 months immediately preceding that time;

Personne réputée résider ordinairement au Canada

Art. 3 Aux fins de la présente loi et des règlements, une personne physique est réputée résider ordinairement au Canada si, au moment où cette expression doit être prise en considération,

- a) elle a séjourné au Canada pour une ou des périodes formant 366 jours ou plus au cours des 24 mois précédant immédiatement ce moment;

Liability for duties and procedure

Sec. 4 Every transfer made after 11 May 1976 relating to land situated in Quebec requires the transferee to pay duties at the rate of 33 per cent of the value of the consideration.

Sec. 6 Where the transfer is made to several transferees, or both to several transferees and to a person resident in Canada, the transferees are jointly and severally liable for payment of the duties.

Assujettissement aux droits et procédure

Art. 4 Le transfert, fait après le 11 mai 1976, relatif à un terrain situé au Québec, oblige le cessionnaire au paiement de droit au taux de 33 pour cent de la valeur de la contrepartie.

Art. 6 Si le transfert est fait à plusieurs cessionnaires, ou, à la fois, à plusieurs cessionnaires et à une personne qui réside au Canada, les cessionnaires sont solidairement responsables du paiement des droits.

Sec. 7 Where the transfer is made in part to a person resident in Canada or to a transferee exempt from the payment of duties and in part to another transferee, the latter is required to pay the duties on that portion only of the consideration which corresponds to the part of the transfer made to him.

Deemed transfers

Sec. 24(1) Every following transaction is deemed to be a transfer relating to land to a transferee:

- (a) the issue or transfer of shares of the capital stock of a corporation of which at least 50 per cent of the property, at any time after 11 May 1976 and within the two years immediately preceding the issue or transfer, consists of land, where, following such issue or transfer, one or more persons not resident in Canada who did not control the corporation previously control it directly or indirectly in any manner whatever;
- (b) the amalgamation of two or more corporations, where at least 50 per cent of the property of one of such corporations, at any time after 11 May 1976 and within the two years immediately preceding the amalgamation, consists of land, and the control over such land is exercised directly or indirectly in any manner whatever, after the amalgamation, by one or more persons not resident in Canada who did not control it previously;

Art. 7 Si le transfert est fait pour partie à une personne qui réside au Canada ou à un cessionnaire qui est exonéré du paiement des droits et pour partie à un autre cessionnaire, ce dernier n'est tenu de payer les droits que sur la portion de la contrepartie qui correspond à la partie du transfert qui lui est faite.

Transferts réputés

Art. 24(1) Les opérations suivantes sont réputées constituer un transfert relatif à un terrain à un cessionnaire:

- a) l'émission ou le transfert d'actions du capital-actions d'une corporation dont au moins 50 pour cent des biens consistent, à un moment quelconque après le 11 mai 1976 et dans les deux ans précédant l'émission ou le transfert, en un ou plusieurs terrains, lorsque, suite à cette émission ou à ce transfert, une ou plusieurs personnes qui ne résident pas au Canada et qui ne contrôlaient pas la corporation auparavant la contrôlent directement ou indirectement, de quelque manière que ce soit;
- b) la fusion de deux ou plusieurs corporations, lorsqu'au moins 50 pour cent des biens de l'une d'elles consistent, à un moment quelconque après le 11 mai 1976 et dans les deux ans précédant la fusion, en un ou plusieurs terrains, et que le contrôle sur ce ou ces terrains est exercé, après la fusion, directement ou indirectement, de quelque manière que ce soit, par une ou plusieurs personnes qui ne résident pas au Canada et qui n'en avaient pas le contrôle auparavant;

(c) the transfer or change which occurred after 11 May 1976 of an interest or share in a partnership, association, syndicate, or any other group which owns land or capital or income interests in a trust which itself owns land, where, pursuant to such transfer or such change, the partnership, association, syndicate, group or trust becomes a person not resident in Canada.

(2) For the purposes of subsection 1, the word "land" includes the rights on land arising from an emphyteutic lease and from a contract of lease, providing that the period running from the date of the transfer to that of the termination of the contract of lease, including any extension or renewal mentioned therein, is 40 years or longer.

Sec. 26 The person who is the owner of land situated in Quebec immediately after the deemed transfer contemplated in paragraphs (a), (b) and (c) of section 24 is deemed to be the transferee of such land.

The same applies to the corporation which is the owner of land situated in Quebec comprised in the land of another corporation pursuant to paragraph (b) of section 25 providing, however, that at least 50 per cent of the property of the corporation, at any time after 11 May 1976 and within the two years preceding the date of the deemed transfer, consists of land.

c) le transfert ou la modification, survenu après le 11 mai 1976, d'un intérêt ou d'une participation dans une société, une association, un syndicat ou tout autre groupement qui est propriétaire d'un terrain ou d'une participation au capital ou au revenu d'une fiducie qui est elle-même propriétaire d'un terrain, lorsque, suite à ce transfert ou à cette modification, la société, l'association, le syndicat, le groupement ou la fiducie devient une personne qui ne réside pas au Canada.

(2) Aux fins du paragraphe 1, le mot "terrain" comprend les droits sur un terrain découlant d'un bail emphytéotique et d'un contrat de louage, pourvu que la période qui court à compter de la date du transfert jusqu'à celle de l'arrivée du terme du contrat de louage, y compris toute prolongation ou renouvellement y mentionné, est de 40 ans ou plus.

Art. 26 La personne qui est propriétaire d'un terrain situé au Québec immédiatement après le transfert réputé visé aux paragraphes a), b) et c) de l'article 24 est réputée cessionnaire de ce terrain.

Il en va de même de la corporation qui est propriétaire d'un terrain situé au Québec compris dans les terrains d'une autre corporation en application du paragraphe b) de l'article 25, pourvu cependant qu'au moins 50 pour cent des biens de la corporation, à un moment quelconque après le 11 mai 1976 et avant l'expiration des deux ans qui précèdent la date du transfert réputé, consistent en un ou plusieurs terrains.

The transferee contemplated in this section is deemed to have furnished a consideration equal to the market value of the land at the time of the deemed transfer.

Deferred payment

Sec. 28 Payment of the duties shall be deferred in the cases and on the conditions provided for by this chapter.

Sec. 29(1) Payment of the duties shall be deferred in the case where the transferee undertakes,

- (a) if he is a physical person who is a Canadian citizen, to reside in Canada before the expiry of five years after the date of transfer;
- (b) if he is a physical person who is not a Canadian citizen, to reside in Canada before the expiry of two years after the date of transfer;
- (c) if it is a corporation not resident in Canada, to reside in Canada before the expiry of five years after the date of transfer.

(2) For the purposes of paragraph (c) of subsection 1, where the corporation is a corporation not resident in Canada because shares of its capital stock are directly or indirectly owned by a physical person not resident in Canada, the latter shall undertake that the corporation will reside in Canada before the expiry of five years after the date of transfer, if such physical person is a Canadian citizen, and before the expiry of two years after the date of transfer if he is not a Canadian citizen.

Le cessionnaire visé au présent article est réputé avoir fourni une contrepartie égale à la valeur marchande du terrain au moment du transfert réputé.

Paiement différé

Art. 28 Le paiement des droits est différé dans les cas et aux conditions prévus par le présent chapitre.

Art. 29(1) Le paiement des droits est différé dans les cas où le cessionnaire s'engage,

- a) s'il s'agit d'une personne physique qui a la citoyenneté canadienne, à résider au Canada avant l'expiration des cinq ans qui suivent la date du transfert;
- b) s'il s'agit d'une personne physique qui n'a pas la citoyenneté canadienne, à résider au Canada avant l'expiration des deux ans qui suivent la date du transfert.
- c) s'il s'agit d'une corporation qui ne réside pas au Canada, à résider au Canada avant l'expiration des cinq ans qui suivent la date du transfert.

(2) Aux fins du sous-paragraphe c) du paragraphe 1, lorsque la corporation ne réside pas au Canada en raison du fait que des actions de son capital-actions sont, directement ou indirectement, la propriété d'une personne physique qui ne réside pas au Canada, cette dernière doit s'engager à ce que la corporation réside au Canada avant l'expiration des cinq ans qui suivent la date du transfert, si cette personne physique a la citoyenneté canadienne, et avant l'expiration des deux ans qui suivent la date du transfert si elle n'a pas la citoyenneté canadienne.

Sec. 30 Payment of the duties shall be deferred in the case where the transferee who is a physical person states that he acquired the whole of the land,

- (a) if he is a Canadian citizen, for the purposes of establishing thereon, before the expiry of ten years after the date of transfer, his principal residence or his principal recreational property;
- (b) if he is not a Canadian citizen, for the purposes of establishing thereon, before the expiry of five years after the date of transfer, his principal residence or his principal recreational property, provided that he states furthermore, in the manner prescribed:
 - i. that he has been lawfully admitted into Canada;
 - ii. that he is lawfully in Canada as an immigrant admitted for permanent residence or for the purpose of carrying on or holding a business, employment or office therein within the meaning of section 1 of the Taxation Act;
 - iii. that he is not in Canada as a tourist or visitor or on his way to another country or as a student admitted into Canada under the provisions of subparagraph (f) of subsection 1 of section 7 of the Immigration Act of Canada;

Art. 30 Le paiement des droits est différé dans le cas où le cessionnaire qui est une personne physique déclare avoir acquis la totalité du terrain,

- a) s'il a la citoyenneté canadienne, aux fins d'y établir, avant l'expiration des dix ans qui suivent la date du transfert, sa résidence principale ou sa principale aire de récréation;
- b) s'il n'a pas la citoyenneté canadienne, aux fins d'y établir, avant l'expiration des cinq ans qui suivent la date du transfert, sa résidence principale ou sa principale aire de récréation, pourvu qu'il déclare en outre, en la manière prescrite:
 - i. qu'il a été légalement admis au Canada;
 - ii. qu'il séjourne légalement au Canada au titre d'immigrant admis à y résider en permanence ou aux fins d'y exercer, d'y occuper ou d'y remplir respectivement une entreprise, un emploi ou une charge au sens de l'article 1 de la Loi sur les impôts;
 - iii. qu'il ne se trouve pas au Canada au titre de touriste ou de visiteur ou pour se rendre dans un autre pays ou au titre d'étudiant admis au Canada en vertu des dispositions du sous-paragraphe f) du paragraphe 1 de l'article 7 de la Loi sur l'immigration du Canada;

iv. the nature of the business, office or employment contemplated in subparagraph ii, if such is the case;

v. where the case is such, the number and expiration date of the visa relating to an employment and issued under the Immigration Act of Canada, and the length of time during which he intends to carry on or hold, as the case may be, the business, employment or office for which he was admitted into Canada.

Sec. 31(1) Payment of the duties shall be deferred in the case where the transferee states that he has acquired the whole of the land for one of the following purposes, provided that the area and value of the land are reasonable, all things considered:

- (a) the establishment, expansion or relocation, before the expiry of two years after the date of transfer, of a commercial or industrial business, other than a farming business, that is or is intended to be actively carried on by the transferee;
- (b) in the case of land on which no building is erected, the erection thereon of a building for the purposes of lease or sale, provided, however, that the laying of the foundation or of other seating of the building is begun before the expiry of two years after the date of transfer, the construction of the building is completed before the expiry of five years after

iv. la nature de l'entreprise, de l'emploi ou de la charge visée au sous-paragraphe ii, le cas échéant;

v. s'il y a lieu, le numéro et la date d'expiration du visa relatif à un emploi émis en vertu de la Loi sur l'immigration du Canada, ainsi que la durée de la période pendant laquelle il entend exercer, occuper ou remplir, selon le cas, l'entreprise, l'emploi ou la charge pour lequel il a été admis au Canada.

Art. 31(1) Le paiement des droits est différé dans le cas où le cessionnaire déclare avoir acquis la totalité du terrain pour l'une des fins suivantes, pourvu que l'étendue et la valeur du terrain soient raisonnables eu égard aux circonstances:

- a) l'établissement, l'expansion ou la relocalisation, avant l'expiration des deux ans qui suivent la date du transfert, d'une entreprise commerciale ou industrielle, autre qu'une entreprise agricole, que le cessionnaire exerce ou se propose d'exercer d'une façon active;
- b) si le terrain est un fonds de terre sur lequel aucun bâtiment n'est érigé, l'érection sur ce fonds d'un bâtiment à des fins de location ou de vente, à la condition que la mise en place des fondements ou autres assises du bâtiment ait débuté avant l'expiration des deux ans qui suivent la date du transfert, que la construction du bâtiment soit achevée avant l'expiration des cinq ans qui suivent cette date, que le coût du bâtiment

such date, the cost of the building is at least equal to the market value of the land on such date and the building is leased or sold before the expiry of two years after the date on which its construction is completed.

soit au moins égal à la valeur marchande du terrain à cette date et que le bâtiment soit loué ou vendu avant l'expiration des deux ans qui suivent la date de l'achèvement de sa construction;

(c) in the case of land on which a building is erected, the lease or sale,

c) si le terrain est un fonds de terre sur lequel un bâtiment est érigé, la location ou la vente,

i. before the expiry of two years from the date of transfer, of that building, if it has been renovated and the renovation costs represent an amount at least equal to the amount by which the market value of the land exceeds the market value of the building before renovation; or

i. avant l'expiration des deux ans qui suivent la date du transfert, de ce bâtiment, s'il est rénové et que les frais relatifs à la rénovation représentent un montant au moins égal à l'excédent de la valeur marchande du terrain sur celle, avant la rénovation, du bâtiment, ou

ii. before the expiry of two years from completion of construction of a building replacing a building erected on the land, of the replacement building if the building replaced has been acquired to be demolished, provided that the laying of the foundation or of any other seating of the building is begun before the expiry of two years after the date of transfer, the construction of the building is completed before the expiry of five years after such date and the cost of the building is at least equal to the market value of the land on such date;

ii. avant l'expiration des deux ans qui suivent la date de l'achèvement de la construction d'un bâtiment remplaçant un bâtiment érigé sur le fonds de terre, du bâtiment de remplacement, si le bâtiment remplacé a été acquis pour être démoli, à la condition que la mise en place des fondements ou autres assises du bâtiment ait débuté avant l'expiration des deux ans qui suivent la date du transfert, que la construction du bâtiment soit achevée avant l'expiration des cinq ans qui suivent cette date et que le coût du bâtiment soit au moins égal à la valeur marchande du terrain à cette date;

(d) repealed by Statutes of 1976, c. 24. s. 4;

(e) where the transferee has acquired the land in the normal course of operations of a business he actively carries on,

i. the sale of the land, before the expiry of two years after the date of transfer, by the transferee to his employee, to the spouse of the latter or to that employee and his spouse, in order that the employee establish his principal residence thereon;

ii. the assignment of the land, before the expiry of two years after the date of transfer, by the transferee, for the use of his employees for the purposes of establishing their principal residence thereon.

(2) The Minister may, upon application of the transferee, extend the delays provided for by subsection 1.

Exemptions

Sec. 39 There shall be an exemption from the obligation to pay duties in the cases and on the conditions provided for by this chapter.

Sec. 40 There shall be an exemption from the payment of duties where the business of the transferee consists of the lending of money on the security of real property, provided the deed of transfer mentions that the following conditions have been fulfilled:

d) abrogé par Lois de 1976, c. 24, a. 4;

e) lorsque le cessionnaire a acquis le terrain dans le cours normal de l'exploitation d'une entreprise qu'il exerce d'une façon active,

i. la vente du terrain, avant l'expiration des deux ans qui suivent la date du transfert, par le cessionnaire à son employé, au conjoint de ce dernier ou à l'employé et à son conjoint, pour que l'employé y établisse sa résidence principale;

ii. l'affectation du terrain, avant l'expiration des deux ans qui suivent la date du transfert, par le cessionnaire, à l'usage de ses employés aux fins d'y établir leur résidence principale.

(2) Le ministre peut, sur demande du cessionnaire, prolonger les délais prévus par le paragraphe 1.

Exonérations

Art. 39 Il y a exonération de l'obligation de payer les droits dans les cas et aux conditions prévus par le présent chapitre.

Art. 40 Il y a exonération du paiement des droits lorsque l'entreprise du cessionnaire consiste dans le prêt d'argent assorti de sûretés réelles, pourvu que l'acte de transfert mentionne l'accomplissement des conditions suivantes:

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| <p>(a) the transferee relating to land to the transferee must have been made by reason of the application of a stipulation of the deed of security agreed by the transferor to secure payment of a debt or in any other manner for the purpose of extinguishing a debt secured by real property or ensuring the protection of such security or of any claim;</p> <p>(b) the transferee must not be a person related to the transferor within the meaning of section 14 of the Taxation Act (1972, chapter 23); and</p> <p>(c) the transferee must not have acquired the land pursuant to one or more transactions made mainly for the purpose of avoiding or evading payment of the duties.</p> | <p>a) le transfert relatif à un terrain au cessionnaire doit avoir été fait en application d'une stipulation de l'acte constitutif de sûreté consenti par le cédant pour garantir le paiement d'une dette ou de toute autre manière dans le but soit d'éteindre une dette assortie d'une sûreté réelle, soit d'assurer la protection d'une telle sûreté ou d'une créance;</p> <p>b) le cessionnaire ne doit pas être une personne liée au cédant au sens de l'article 14 de la Loi sur les impôts (1972, chapitre 23); et</p> <p>c) le cessionnaire ne doit pas avoir acquis le terrain à la suite d'une ou de plusieurs opérations faites principalement dans le but d'éviter ou d'éluder le paiement des droits.</p> |
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Sec. 41(1) There shall be an exemption from the payment of duties where the transferee is a person described in subsection 2, provided the deed of transfer mentions the description of such person that appears in the said subsection and the fact that he fulfills one of the conditions provided for in subsections 3 to 6.

Art. 41(1) Il y a exonération du paiement des droits lorsque le cessionnaire est une personne décrite au paragraphe 2, pourvu que l'acte de transfert mentionne la qualité de cette personne au sens dudit paragraphe et le fait qu'elle remplit l'une des conditions prévues aux paragraphes 3 à 6.

(2) The person contemplated in subsection 1 is:

(2) La personne visée au paragraphe 1 est:

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| <p>(a) an insurance corporation authorized under the Insurance Act (Revised Statutes, 1964, chapter 295) to carry on insurance business in Quebec or authorized under a prescribed law to carry on such business in Canada;</p> | <p>a) une corporation d'assurance autorisée en vertu de la Loi des assurances (Statuts refondus, 1964, chapitre 295) à exercer une entreprise d'assurance au Québec ou autorisée en vertu d'une loi prescrite à exercer une telle entreprise au Canada;</p> |
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(b) a corporation of which at least 90 per cent of the issued shares of the capital stock, to which are attached full voting rights, are owned by an insurance corporation which is a person not resident in Canada described in paragraph (a);

(c) a partnership, association, syndicate or any other group which is not resident in Canada solely by the fact that a corporation described in paragraph (a) or (b) is a member thereof; or

(d) a corporation that is not resident in Canada solely by the fact that one or more corporations not resident in Canada described in paragraph (a) or (b) are owners of shares of the capital stock of one of such corporations.

(3) Where the transferee is an insurance corporation other than an insurance corporation incorporated in Canada,

(a) if the corporation has made the election provided for in section 618 of the Taxation Act (1972, chapter 23), all its gross investment income from the land in question must be included in computing its income under the said act;

(b) if the corporation has not made the election described in paragraph (a), the land in question must be held in trust in accordance with the prescribed rules.

b) une corporation dont au moins 90 pour cent des actions de son capital-actions, émises et ayant plein droit de vote, sont la propriété d'une corporation d'assurance qui est une personne, décrite au sous-paragraphe a), qui ne réside pas au Canada;

c) une société, une association, un syndicat ou tout autre groupement qui ne réside pas au Canada uniquement du fait qu'une corporation décrite au sous-paragraphe a) ou b) en est membre; ou

d) une corporation qui ne réside pas au Canada uniquement du fait qu'une ou plusieurs corporations qui ne résident pas au Canada et décrites au sous-paragraphe a) ou b) sont propriétaires d'actions du capital-actions d'une de ces corporations.

(3) Lorsque le cessionnaire est une corporation d'assurance autre qu'une corporation d'assurance constituée au Canada,

a) si la corporation a fait le choix prévu à l'article 618 de la Loi sur les impôts (1972, chapitre 23), tous ses revenus bruts de placements provenant du terrain en question doivent être inclus dans le calcul de son revenu en vertu de ladite loi;

b) si la corporation n'a pas fait le choix décrit au sous-paragraphe a), le terrain en question doit être détenu en fiducie selon les règles prescrites.

(4) Where the transferee is an insurance corporation incorporated in Canada, the land in question must not form part of the property of the corporation excluded by regulation.

(5) Where the transferee is a corporation of which at least 90 per cent of the issued shares of the capital stock to which are attached full voting rights are owned by an insurance corporation not resident in Canada described in paragraph (a) of sub-section 2, the latter corporation must certify that the land in question will be considered by the transferee to be an investment made and held in favour of the business the insurance corporation carries on in Canada.

(6) Where the transferee is a corporation not resident in Canada or a partnership, association or syndicate or any other group that is not resident in Canada solely by the fact that one or more corporations not resident in Canada described in paragraph (a) or (b) of subsection 2 are the owners of shares of the capital stock of one of such corporations or are members of such transferee, such corporation or corporations must certify, after reasonable inquiry, that the transferee would not be a person not resident in Canada were it not for the fact that such corporation or corporations are such owners or members.

Sec. 42(1) There shall be an exemption from the payment of duties in the following cases, provided the deed of transfer mentions the fact that:

(4) Lorsque le cessionnaire est une corporation d'assurance constituée au Canada, le terrain en question ne doit pas faire partie des biens de la corporation exclus par règlement.

(5) Lorsque le cessionnaire est une corporation dont au moins 90 pour cent des actions de son capital-actions, émises et ayant plein droit de vote, sont la propriété d'une corporation d'assurance qui ne réside pas au Canada et qui est décrite au sous-paragraphe a) du paragraphe 2, cette dernière corporation doit attester que le terrain en question sera considéré par le cessionnaire comme un placement fait et détenu au profit de l'entreprise que la corporation d'assurance exerce au Canada.

(6) Lorsque le cessionnaire est une corporation qui ne réside pas au Canada, ou est une société, une association, un syndicat ou tout autre groupement qui ne réside pas au Canada, uniquement du fait qu'une ou plusieurs corporations qui ne résident pas au Canada et qui sont décrites au sous-paragraphe a) ou b) du paragraphe 2, sont propriétaires d'actions du capital-actions d'une de ces corporations ou sont membres d'un tel cessionnaire, cette ou ces corporations doivent attester, après avoir fait une enquête raisonnable, que le cessionnaire ne serait pas une personne qui ne réside pas au Canada si ce n'était du fait que cette ou ces corporations sont de tels propriétaires ou de tels membres.

Art. 42(1) Il y a exonération du paiement des droits dans les cas suivants, pourvu que l'acte de transfert mentionne le fait que:

- (a) the transferee is the parent corporation of the transferor, a subsidiary of the transferor or a subsidiary of a corporation which is itself a subsidiary of the transferor;
- (b) the transferor is a subsidiary of a corporation which is a subsidiary of the transferee; or
- (c) the transferor and the transferee are both subsidiaries of the same parent corporation or subsidiaries of one or more corporations that is or are, as the case may be, subsidiaries of the same parent corporation.

(2) For the purposes of subsection 1, a corporation is a subsidiary, at a given time, of another corporation, hereinafter called "parent corporation", when at least 90 per cent of the issued shares to which are attached full voting rights of its capital stock are owned by such other corporation.

Sec. 43 There shall be an exemption from the payment of duties, in the following cases, provided the deed of transfer mentions the fact that:

- (a) the transfer is made by a transferor who is a physical person to a transferee who is a corporation not resident in Canada of which 90 per cent of the issued shares of its capital stock to which are attached full voting rights are owned by such transferor immediately after the transfer; or

- a) le cessionnaire est la corporation-mère du cédant, une filiale du cédant ou une filiale d'une corporation qui est elle-même une filiale du cédant;
- b) le cédant est une filiale d'une corporation qui est une filiale du cessionnaire; ou
- c) le cédant et le cessionnaire sont tous deux filiales d'une même corporation-mère ou filiales d'une ou de plusieurs corporations qui est ou sont, selon le cas, filiales d'une même corporation-mère

(2) Aux fins du paragraphe 1, une corporation est une filiale, à un moment donnée, d'une autre corporation, appelée "corporation-mère", lorsqu'au moins 90 pour cent des actions émises, ayant plein droit de vote, de son capital actions sont la propriété de cette dernière.

Art. 43 Il y a exonération du paiement des droits, dans les cas suivants, pourvu que l'acte de transfert mentionne le fait que:

- a) le transfert est fait par un cédant, qui est une personne physique, à un cessionnaire qui est une corporation qui ne réside pas au Canada et dont au moins 90 pour cent des actions de son capital-actions, émises et ayant plein droit de vote, sont la propriété de ce cédant immédiatement après le transfert; ou

(b) the transfer is made by transferor that is a corporation to a physical person not resident in Canada, if such person is, immediately before the transfer, the owner of at least 90 per cent of the issued shares to which are attached full voting rights, of the capital stock of the transferor.

b) le transfert est fait par un cédant qui est une corporation, en faveur d'une personne physique qui ne réside pas au Canada, si cette dernière est propriétaire, immédiatement avant le transfert, d'au moins 90 pour cent des actions émises, ayant plein droit de vote, du capital-actions du cédant.

Sec. 44 There shall be an exemption from the payment of duties in the following cases, provided the deed of transfer mentions the fact that:

Art. 44 Il y a exonération du paiement des droits dans les cas suivants, pourvu que l'acte de transfert mentionne le fait que:

(a) the amount of the consideration furnished by the transferee is less than \$500;

a) le montant de la contrepartie fournie par le cessionnaire est inférieur à \$500;

(b) the deed of transfer is in relation to the lease of land, except an emphyteutic lease, or to the transfer of the right of a lessee on land, provided that the period which runs from the date of the transfer to that of the termination of the contract of lease, including any extension or renewal mentioned therein, does not exceed 40 years;

b) l'acte de transfert est relatif au louage d'un terrain, à l'exclusion d'un bail emphytéotique, ou au transfert d'un droit d'un locataire sur un terrain, pourvu que la période qui court à compter de la date du transfert jusqu'à celle de l'arrivée du terme du contrat de louage, y compris toute prolongation ou tout renouvellement y mentionné, n'excède pas 40 ans;

(c) the deed is in relation to a transfer to a corporation not resident in Canada and the transferor is a trust which was created for the sole purpose of acquiring and holding the land temporarily until such corporation is incorporated;

c) l'acte est relatif au transfert à une corporation qui ne réside pas au Canada et que le cédant est une fiducie qui a été constituée dans le seul but d'acquérir et de détenir temporairement le terrain jusqu'à ce que cette corporation soit constituée;

- (d) the deed is in relation to the transfer of land by a transferor that is a physical person or a trust to a transferee that is a trust not resident in Canada, governed by a jurisdiction of common law and the transfer does not entail a change in the beneficial ownership of the land;
- (e) the deed related to the transfer of land to an ascendant or descendant in the direct line, or between consorts, between father-in-law or mother-in-law and son-in-law or daughter-in-law, or between stepfather or stepmother and stepson or stepdaughter;
- (f) the deed related to the transfer of land to a transferee not resident in Canada who carried on on 11 May 1976 and has carried on without interruption, from such date till the date of the transfer, a farming business in the province of Quebec having an agricultural production for market of an annual value of twenty thousand dollars or more, provided the land is used immediately after the transfer for the carrying on of such business; or
- (g) the deed is in relation to the transfer of land the whole of which was assigned to the active carrying on of a commercial or industrial business by the transferee who, on 11 May 1976, occupied, and from that date till the date of transfer, continuously so occupied it provided the area and value of the land are reasonable, all things considered.
- d) l'acte est relatif au transfert d'un terrain, par un cédant qui est une personne physique ou une fiducie, à un cessionnaire qui est une fiducie qui ne réside pas au Canada, régie par une juridiction de common law et que le transfert n'entraîne pas de changement dans le beneficial ownership du terrain;
- e) l'acte est relatif au transfert d'un terrain en ligne directe, ascendante ou descendante, ou entre conjoints, entre beau-père ou belle-mère et gendre ou bru ou entre beau-père ou belle-mère et beau-fils ou belle-fille;
- f) l'acte est relatif au transfert d'un terrain à un cessionnaire qui ne réside pas au Canada et qui exerçait, le 11 mai 1976, et a exercé sans interruption, depuis cette date jusqu'à la date du transfert, une entreprise agricole au Québec dont la production agricole destinée à la mise en marché est d'une valeur annuelle de vingt mille dollars ou plus, pourvu que le terrain soit utilisé, immédiatement après le transfert, dans l'exploitation de cette entreprise; ou
- g) l'acte est relatif au transfert d'un terrain dont la totalité était affectée à l'exercice, d'une façon active, d'une entreprise commerciale ou industrielle par le cessionnaire qui occupait le terrain le 11 mai 1976 et l'a ainsi occupé sans interruption depuis cette date jusqu'à la date du transfert, pourvu que l'étendue et la valeur du terrain soient raisonnables eu égard aux circonstances.

Sec. 45 In the case of a deemed transfer of land, sections 40 to 44 do not apply. However, there shall be an exemption from the payment of duties in the following cases of deemed transfer, provided the statement provided for in section 27 mentions the fact that the control of the transferee, if the transferee is a corporation, or the interest or share contemplated in sub-paragraph (c) of subsection 1 of section 24, if the transferee is a partnership, trust, association, syndicate or any other group, has been acquired, directly or indirectly; in any manner whatever,

- (a) by reason of a transfer of shares or an interest, as the case may be, to an ascendant or descendant in the direct line, or between consorts, between father-in-law or mother-in-law and son-in-law or daughter-in-law, or between stepfather or stepmother and stepson or stepdaughter; or
- (b) by a person who was a non-resident person at the time of the transfer and who carried on on 11 May 1976 and has carried on without interruption from such date till the date of the deemed transfer, a farming business in the province of Quebec having an agricultural production for market of an annual value of twenty thousand dollars or more, provided the land is used immediately after the deemed transfer for the carrying on of such business.

Source: "Land Transfer Duties Act", Statutes of Quebec, 1976, chapter 23, amended by chapter 24.

Art. 45 En cas de transfert réputé relatif à un terrain, les articles 40 à 44 ne s'appliquent pas. Toutefois, il y a exonération du paiement des droits dans les cas de transferts réputés suivants, pourvu que la déclaration visée à l'article 27 mentionne le fait que le contrôle du cessionnaire, si celui-ci est une corporation, ou que l'intérêt ou la participation visé au sous-paragraphe c) du paragraphe 1 de l'article 24, si le cessionnaire est une société, une fiducie, une association, un syndicat ou tout autre groupement, a été acquis directement ou indirectement, de quelque manière que ce soit,

- a) en raison d'un transfert d'actions d'intérêt ou de participation, selon le cas, en ligne directe, ascendante ou descendante, ou entre conjoints, entre beau-père ou belle-mère et gendre ou bru ou entre beau-père ou belle-mère et beau-fils ou belle-fille; ou
- b) par une personne qui ne résidait pas au Canada au moment du transfert et qui exerçait, le 11 mai 1976, et a exercé sans interruption, depuis cette date jusqu'à la date du transfert réputé, une entreprise agricole au Québec, dont la production agricole destinée à la mise en marché est d'une valeur annuelle de vingt mille dollars ou plus, pourvu que le terrain soit utilisé, immédiatement après le transfert réputé, dans l'exploitation de cette entreprise.

Source: "Loi des droits sur les transferts de terrains", Lois du Québec, 1976, chapitre 23, modifié par le chapitre 24.

III

PUBLISHING

EDITION

(1) BOOKSELLERS ACCREDITATION
ACT

Comment

With respect to the accreditation of booksellers, an applicant must meet the following conditions:

- he must be incorporated under Quebec Laws;
- he must have his main place of business in Quebec;
- the majority of the directors are Canadian citizens domiciled in Quebec;
- the president, the general manager, the assistant general manager and the secretary treasurer are Canadian citizens domiciled in Quebec;
- 50 per cent of the shares issued, representing at least 50 per cent of the votes which may be cast at a meeting of the shareholders and 50 per cent of the combined paid-up capital and acquired surplus belong to one or more Canadian citizens domiciled in Quebec or corporations meeting such requirements as stipulated above regarding citizenship and residency. Further, a majority of the issued shares must belong to Canadian citizens domiciled in Quebec and/or directly or indirectly to the Quebec government.

Regulations made under the Booksellers Accreditation Act stipulate that the Quebec government may grant subsidies for the publication and distribution of books only to companies or corporations provided that they meet similar conditions.

(1) LOI DE L'ACCREDITATION
DES LIBRAIRES

Commentaire

En ce qui a trait à l'accréditation des libraires, un requérant doit répondre aux conditions suivantes:

- il doit être constitué selon les lois du Québec;
- sa principale place d'affaires doit être située au Québec;
- la majorité des administrateurs doivent être citoyens canadiens domiciliés au Québec;
- le président, le directeur général le directeur général adjoint et le secrétaire trésorier doivent être des citoyens canadiens domiciliés au Québec;
- 50% des actions émises, représentant au moins 50% des voix pouvant être exprimées à une assemblée d'actionnaires et 50% de l'ensemble du capital versé et de l'excédent acquis doivent appartenir à un ou plusieurs citoyens canadiens domiciliés au Québec ou corporations répondant aux exigences susmentionnées concernant la citoyenneté et la résidence. De plus, une majorité des actions émises doivent appartenir à des citoyens canadiens domiciliés au Québec et/ou directement ou indirectement, au gouvernement du Québec.

Le règlement de la Loi de l'accréditation des libraires stipule que le gouvernement du Québec peut accorder des subventions pour la publication et la diffusion de livres aux compagnies ou corporations qui répondent à des conditions semblables.

In order to be eligible for grants from the Quebec government towards the purchase of books, specified subsidized institutions must purchase from bookshops accredited by the Minister of Cultural Affairs.

Pour être admissible à des subventions du gouvernement du Québec pour fins d'achat de livres, les institutions subventionnées doivent acheter dans des librairies accréditées par le ministère des Affaires culturelles.

(1) THE BOOKSELLERS ACCREDITATION
ACT

Provisions

REGULATIONS RESPECTING BOOKSELLERS
ACCREDITATION

2.3 Special conditions

- A - If the applicant is an individual, he must be a Canadian citizen domiciled in Quebec;
- B - If the applicant is a partnership:
 - (a) it must be incorporated under the laws of Quebec;
 - (b) the general manager, assistant general manager and supervisor must be Canadian citizens domiciled in Quebec;
 - (c) 50% of the aggregate of the capital paid up by the partners and of the acquired surplus must be owned by one or more Canadian citizens domiciled in Quebec;
- C - If the applicant is a company or corporation:
 - (a) it must be incorporated under the laws of Quebec; such rule respecting incorporation shall not apply to companies which, after having been incorporated under the laws of Canada, were operating a bookshop in Quebec on the 1st of May 1971;

(1) LOI DE L'ACCREDITATION
DES LIBRAIRES

Provisions

REGLEMENTS CONCERNANT L'AGREMENT DES
LIBRAIRIES

2.3 Conditions particulières

- A - Si le requérant est un individu, il faut qu'il soit un citoyen canadien domicilié au Québec;
- B - Si le requérant est une société, il faut:
 - a) que celle-ci soit constituée par les lois du Québec;
 - b) que le directeur général, le directeur général adjoint et le contrôleur soient des citoyens canadiens domiciliés au Québec;
 - c) que 50% de l'ensemble du capital versé par les associés et de l'excédent acquis appartiennent à un ou plusieurs citoyens canadiens domiciliés au Québec;
- C - Si le requérant est une compagnie ou une corporation, il faut:
 - a) que celle-ci soit constituée par les lois du Québec; cette règle, relative à l'incorporation, ne s'applique pas aux compagnies qui, constituées par les lois du Canada exploitaient une librairie au Québec au 1er mai 1971;

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| <p>(b) the majority of the directors must be Canadian citizens domiciled in Quebec;</p> <p>(c) the president, general manager, assistant general manager and secretary-treasurer must be Canadian citizens domiciled in Quebec;</p> <p>(d) 50% of the shares issued, representing at least 50% of the votes that might be registered at any time at a shareholders' meeting and 50% of the aggregate of the paid-up capital and of the acquired surplus, must be owned by a single one or each of the following persons:</p> <p style="margin-left: 20px;">i) one or more Canadian citizens domiciled in Quebec;</p> <p style="margin-left: 20px;">ii) one or more companies or corporations;</p> <p style="margin-left: 40px;">(aa) incorporated under the laws of Quebec;</p> <p style="margin-left: 40px;">(bb) the majority of the directors of which are Canadian citizens domiciled in Quebec;</p> <p style="margin-left: 40px;">(cc) the president, general manager, assistant general manager and secretary-treasurer of which are Canadian citizens domiciled in Quebec;</p> | <p>b) que la majorité des administrateurs soient des citoyens canadiens domiciliés au Québec;</p> <p>c) que le président, le directeur général, le directeur général adjoint et le secrétaire-trésorier soient des citoyens canadiens domiciliés au Québec;</p> <p>d) que 50% des actions émises, représentant au moins 50% des voix pouvant être exprimées, en toutes circonstances, à une assemblée d'actionnaires et 50% de l'ensemble du capital versé et de l'excédent acquis appartiennent à l'une et/ou à l'autre des personnes suivantes:</p> <p style="margin-left: 20px;">i) à un ou plusieurs citoyens canadiens domiciliés au Québec;</p> <p style="margin-left: 20px;">ii) à une ou plusieurs compagnies ou corporations;</p> <p style="margin-left: 40px;">(aa) constituées par les lois du Québec;</p> <p style="margin-left: 40px;">(bb) dont la majorité des administrateurs sont des citoyens canadiens domiciliés au Québec;</p> <p style="margin-left: 40px;">(cc) dont le président, le directeur général, le directeur général adjoint et le secrétaire-trésorier sont des citoyens canadiens domiciliés au Québec;</p> |
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(dd) of which 50% of the shares issued, representing at least 50% of the votes that may be exercised in all circumstances at a shareholders' meeting and 50% of the aggregate of the paid-up capital and of the acquired surplus, are owned by Canadian citizens domiciled in Quebec and/or, directly or indirectly, by the Quebec Government.

(dd) dont 50% des actions émises, représentant au moins 50% des voix pouvant être exprimées, en toutes circonstances, à une assemblée d'actionnaires et 50% de l'ensemble du capital versé et de l'excédent acquis appartiennent à des citoyens canadiens domiciliés au Québec et/ou, directement ou indirectement, au gouvernement du Québec.

D - If the applicant is a corporation governed by the Cooperative Associations Act (R.S. 1964, ch. 292) or the Savings and Credit Unions Act (R.S. 1964, ch. 293), the majority of the members or directors as well as the president, general manager, assistant general manager and secretary-treasurer must be Canadian citizens domiciled in Quebec;

D - Si le requérant est une corporation régie par la Loi des associations coopératives (R.S. 1964, ch. 292) ou par la Loi des caisses d'épargne et de crédit (S.R. 1964, ch. 293), il faut que la majorité des membres ou des administrateurs, de même que le président, le directeur général, le directeur général adjoint et le secrétaire-trésorier soient des citoyens canadiens domiciliés au Québec;

E - Whoever the applicant may: individual, partnership, company or corporation, 50% of the debt thereof must consist of liabilities towards persons fulfilling the conditions mentioned in sub-paragraph (d) of paragraph C above or towards finance companies operating in Quebec and registered with the Department of Financial Institutions, Companies and Cooperatives.

E - Quel que soit le requérant: individu, société, compagnie ou corporation, il faut que 50% de sa dette soit représentée par des engagements pris envers des personnes répondant aux conditions mentionnées à l'alinéa C, sous-alinéa d) ci-dessus ou envers des institutions financières faisant affaires au Québec et enregistrées au ministère des Institutions financières, compagnies et coopératives.

Source: (1972) 104, The Official Gazette of Quebec, 1753, (no. 8, 1972, 02, 26).

Source: (1972) 104, Gazette officielle du Québec, 1753, (no. 8, 1972, 02, 26).

RESPECTING ASSISTANCE FOR THE
PUBLICATION AND DISTRIBUTION OF
BOOKS

WHEREAS it is expedient to assist publishers and distributors of books in Quebec;

IT IS ORDERED therefore on the motion of the Minister of Cultural Affairs:

THAT the Quebec government may grant subsidies for the publication and distribution of books only to the companies or corporations which meet the following conditions:

- A) In the case of a company or corporation, it shall be necessary:
- (a) that it be incorporated under Quebec laws; such rule shall not apply to companies which, having been incorporated under the laws of Canada, were operating a publishing or distributing house, in Quebec territory, on the 1st of May 1971;
 - (b) that it have its main place of business in Quebec;
 - (c) that the majority of the directors be Canadian citizens domiciled in Quebec;
 - (d) that the president, the general manager, the assistant general manager and the secretary treasurer be Canadian citizens domiciled in Quebec;

CONCERNANT L'AIDE A L'EDITION ET A LA
DIFFUSION DU LIVRE

ATTENDU QU'il y a lieu d'aider les entreprises québécoises d'édition et de diffusion du livre;

IL EST ORDONNE, en conséquence, sur la recommandation du ministre des Affaires culturelles:

QUE le gouvernement du Québec puisse accorder des subventions pour l'édition et la diffusion du livre aux seules compagnies ou corporations qui répondent aux conditions suivantes:

- A) S'il s'agit d'une compagnie ou d'une corporation, il faut:
- a) que celle-ci soit constituée par les lois du Québec; cette règle ne s'applique pas aux compagnies qui, constituées par les lois du Canada, exploitaient une maison d'édition ou de diffusion, en territoire québécois, au 1er mai 1971;
 - b) qu'elle ait sa principale place d'affaires au Québec;
 - c) que la majorité des administrateurs soient des citoyens canadiens domiciliés au Québec;
 - d) que le président, le directeur général, le directeur général adjoint et le secrétaire-trésorier soient des citoyens canadiens domiciliés au Québec;

(e) that 50% of the shares issued, representing at least 50% of the votes which may be cast, in all circumstances, at a meeting of shareholders and 50% of the combined paid up capital and acquired surplus belong to one or more of the following persons:

(i) to one or more Canadian citizens domiciled in Quebec;

(ii) to one or more companies or corporations

(aa) incorporated under Quebec laws,

(bb) having their main places of business in Quebec,

(cc) of which the majority of directors are Canadian citizens domiciled in Quebec,

(dd) of which the president, the general manager, the assistant general manager and the secretary-treasurer are Canadian citizens domiciled in Quebec,

(ee) of which the majority of the shares issued, representing at least 50% of the votes which may be cast, in all circumstances at a meeting of shareholders and 50% of the combined paid up capital and acquired surplus belong to Canadian citizens domiciled in Quebec and/or, directly or indirectly, to the Quebec government.

e) que 50% des actions émises, représentant au moins 50% des voix pouvant être exprimées, en toutes circonstances, à une assemblée d'actionnaires et 50% de l'ensemble du capital versé et de l'excédent acquis appartiennent à l'une et/ou l'autre des personnes suivantes:

i) à un ou plusieurs citoyens canadiens domiciliés au Québec

ii) à une ou plusieurs compagnies ou corporations

(aa) constituées par les lois du Québec,

(bb) ayant leur principale place d'affaires au Québec,

(cc) dont la majorité des administrateurs sont des citoyens canadiens domiciliés au Québec,

(dd) dont le président, le directeur général, le directeur général adjoint et le secrétaire-trésorier sont des citoyens canadiens domiciliés au Québec,

(ee) dont la majorité des actions émises, représentant au moins 50% des voix pouvant être exprimées, en toutes circonstances, à une assemblée d'actionnaires et 50% de l'ensemble du capital versé et de l'excédent acquis appartiennent à des citoyens canadiens domiciliés au Québec et/ou, directement ou indirectement, au gouvernement du Québec.

B) In the case of a corporation governed by the Cooperative Associations Act (R.S. 1964, ch. 292) or by the Savings and Credit Unions Act (R.S. 1964, ch. 293), the majority of the members or directors as well as the president, the general manager, the assistant general manager and the secretary-treasurer must be Canadian citizens domiciled in Quebec;

B) S'il s'agit d'une corporation régie par la Loi des associations coopératives (S.R. 1964, ch. 292) ou par la Loi des caisses d'épargne et de crédit (S.R. 1964, ch. 293), il faut que la majorité des membres ou des administrateurs, de même que le président, le directeur général, le directeur général adjoint et le secrétaire-trésorier, soient des citoyens canadiens domiciliés au Québec;

THAT 50% of the debt of the companies, corporations and corporations governed by the Cooperative Associations Act (R.S. 1964, ch. 292) or by the Savings and Credit Unions Act (R.S. 1964, ch. 293) be represented by engagements taken toward persons meeting the conditions mentioned in paragraph A), sub-paragraph (e), hereinabove or toward financial institutions doing business in Quebec and registered with the Department of Financial Institutions, Companies and Cooperatives;

QUE 50% de la dette des compagnies, corporations, corporations régies par la Loi des associations coopératives (S.R. 1964, ch. 292) ou par la Loi des caisses d'épargne et de crédit (S.R. 1964, ch. 293) soit représentée par des engagements pris envers des personnes répondant aux conditions mentionnées à l'alinéa A), sous-alinéa e) ci-dessus ou envers des institutions financières faisant affaires au Québec et enregistrées au ministère des institutions financières, compagnies et coopératives;

THAT book publishing and distributing houses which do not meet the conditions expressed hereinabove have until the 30th of April 1973 to change their juridical structure, the composition of their board of directors and their financial structure in accordance with the requirements of this order in council, in order to benefit by subsidies for book publication and distribution.

QUE les maisons d'édition et de diffusion du livre qui ne répondent pas aux conditions exprimées ci-dessus aient jusqu'au 30 avril 1973 pour modifier leur structure juridique, la composition de leur conseil d'administration et leur structure financière conformément aux exigences du présent arrêté en conseil, pour bénéficier de subventions pour l'édition et la distribution du livre;

THAT this order in council shall not affect agreements made between the government of Quebec and any other government;

QUE le présent arrêté en conseil ne porte pas atteinte aux ententes conclues entre le gouvernement du Québec et tout autre gouvernement;

THAT orders in council number 2799 of the 4th of August 1971 and number 3297 of the 29th of September 1971 be repealed.

QUE les arrêtés en conseil numéro 2799 en date du 4 août 1971 et numéro 3297 en date du 29 septembre 1971 soient abrogés.

Source: (1972) 104, The Official of Quebec, 1721, (no. 7, 1972, 02, 19).

Source: (1972) 104, Gazette officielle du Québec, 1721, (no. 7, 1972, 02, 19).

RESPECTING ASSISTANCE TO ACCREDITED BOOKSHOPS

WHEREAS it is expedient to promote the distribution of books in Quebec and make them more readily available to the public.

THEREFORE, it is ordered, on the recommendation of the Minister of Cultural Affairs:

1.0 Purchasing clauses to be complied with by subsidized institutions

THAT, in order to be eligible to non-statutory grants from the Quebec Government towards the purchase of unused French and English books from all points of origin (in this order in council such term also includes pedagogical materials such as teachers handbooks, tests, index cards and audio-visual material mentioned in the lists of books approved by the Minister of Education or complementary to such books), subsidised institutions such as public libraries, municipal corporations, school boards, hospitals and educational establishments must purchase such books from bookshops accredited by the Minister of Cultural Affairs and prepared to supply such institutions with the necessary books and services. In this order in council the expression "librairie agréée" in the French text is equivalent to "librairie accréditée" (accredited bookshop).

7.0 Exceptions

THAT the following unused French and English books may be purchased elsewhere than in accredited bookshops:

CONCERNANT L'AIDE AUX LIBRAIRIES AGREES

ATTENDU QU'il y a lieu de favoriser la diffusion du livre au Québec et son accessibilité au public.

IL EST ORDONNE, en conséquence, sur la recommandation du ministre des Affaires culturelles:

1.0 Modalités d'achats que doivent respecter les institutions subventionnées

QUE pour bénéficier de subventions, autres que statutaires, du gouvernement du Québec pour fins d'achats de livres neufs (dans le présent arrêté ministériel, ce terme comprend aussi les éléments pédagogiques, tels que guides du maître, tests, fiches, matériel audiovisuel qui apparaissent sur les listes des manuels agréés par le ministre de l'éducation ou qui complètent lesdits manuels), en langues française et anglaise, de toutes provenances, les institutions subventionnées telles que bibliothèques publiques, corporations municipales, commissions scolaires, hôpitaux et institutions d'enseignement, doivent effectuer lesdits achats dans les librairies agréées par le ministre des affaires culturelles, qui sont en mesure de leur fournir les livres et le service requis. Dans le présent arrêté en conseil, l'expression "librairie agréée" équivaut à "libraire accrédité".

7.0 Exceptions

QUE les livres neufs suivants en langues française et anglaise peuvent être achetés ailleurs que dans les librairies agréées:

- | | |
|---|---|
| <p>7.1 Scientific, technical and medical books in French which retail for more than \$11. and are listed among the titles subject to a grant when sold in universities under Franco-Quebec agreements</p> | <p>7.1 Les livres scientifiques, techniques et médicaux, en langue française, qui ont un prix de détail excédant \$11. et qui apparaissent sur la liste des titres bénéficiant d'une subvention à la vente en milieux universitaires en vertu des accords franco-québécois;</p> |
| <p>7.2 Books -- other than school-books on the lists of books approved by the Minister of Education -- which publishers (or their exclusive distributors) have chosen to distribute solely through other channels than bookshops and which have been entered in the register of books, collections and goodwill, such register being kept at the Department of Cultural Affairs and open to inspection by subsidized institutions and accredited bookshops;</p> | <p>7.2 Les livres -- autres que les manuels scolaires qui apparaissent sur les listes des manuels agréées par le ministre de l'éducation -- que les éditeurs (ou leurs diffuseurs exclusifs) ont choisi de distribuer uniquement par des circuits autres que celui de la librairie et qui ont été inscrits au registre des livres, collections ou fonds, registre tenu à cet effet au ministère des affaires culturelles pour consultation par les institutions subventionnées et par les librairies agréées;</p> |
| <p>7.3 Old and rare books, that is those the publisher (or the exclusive distributor) of which has ceased to supply them to accredited bookshops for at least one year and the reprint of which has not yet been announced;</p> | <p>7.3 Les livres anciens et les livres rares, c'est-à-dire ceux dont l'éditeur (ou le diffuseur exclusif) a cessé la fourniture aux librairies agréées depuis au moins un an et dont la réimpression n'est pas annoncée;</p> |
| <p>7.4 Collectors' books, that is those in limited and numbered editions distinguished by the quality of the paper, the typography, or, on occasion, the illustrations;</p> | <p>7.4 Les livres de bibliophilie, c'est-à-dire les ouvrages à tirage limité et numéroté, caractérisé par la qualité du papier, de la typographie et éventuellement des illustrations;</p> |
| <p>7.5 The tentative publishing of school-books not yet approved by the Minister of Education ceded or sold by a publisher to a subsidized institution, on special terms, so that the latter may test such books in certain classes.</p> | <p>7.5 Les éditions de rodage de manuels scolaires non encore agréées par le ministre de l'éducation qu'un éditeur cède ou vend à une institution subventionnée, à des conditions spéciales, pour que celle-ci en fasse l'expérimentation dans certaines classes;</p> |

7.6 Official publications of the Government and inter-national organizations.

7.6 Les publications officielles des gouvernements et des organisations internationales.

Source: (1972) 104, The Official Gazette of Quebec, 1957, (no. 8, 1972, 02, 26).

Source: (1972) 104, Gazette officielle du Québec, 1957, (no. 8, 1972, 02, 26).

- (2) AN ACT RESPECTING THE
GUARANTEE OF CERTAIN LOANS
TO PUBLISHERS AND
BOOKSELLERS AND TO AMEND
THE QUEBEC INDUSTRIAL
DEVELOPMENT ASSISTANCE ACT

Comment

Under this Act the Minister of Cultural Affairs, after approval, where required, of the Lieutenant-Governor in Council, will authorize the guarantee of loans to eligible publishers or booksellers. To be considered eligible an individual must be a Canadian citizen or landed immigrant domiciled in Quebec. In the case of a corporation the majority of its directors must be Canadian citizens domiciled in Quebec and more than 50 per cent of the shares must be owned by Canadian citizens domiciled in Quebec.

- (2) LOI CONCERNANT LA GARANTIE DE
CERTAINS PRETS AUX EDITEURS
ET LIBRAIRES ET MODIFIANT LA
LOI DE L'AIDE AU DEVELOPPEMENT
INDUSTRIEL DU QUEBEC

Commentaire

Aux termes de cette loi, le ministère des Affaires culturelles, après approbation, lorsque nécessaire, du lieutenant-gouverneur en conseil, autorise la garantie de prêts à des éditeurs ou libraires admissibles. Pour être considéré comme admissible, un individu doit être citoyen canadien ou immigrant reçu domicilié au Québec. Dans le cas d'une corporation, la majorité des administrateurs doivent être citoyens canadiens domiciliés au Québec et plus de 50 pour cent des actions doivent être détenues par des citoyens canadiens domiciliés au Québec.

(2) AN ACT RESPECTING THE
GUARANTEE OF CERTAIN LOANS
TO PUBLISHERS AND BOOKSELLERS
AND TO AMEND THE QUEBEC
INDUSTRIAL DEVELOPMENT
ASSISTANCE ACT

Provisions

Eligibility for a Guarantee

Sec. 6 A person who counts publishing among his principal activities may benefit by a guarantee as a publisher.

Sec. 7 Where such a person is an individual he must be a Canadian citizen or a landed immigrant and must be domiciled in Quebec.

Sec. 8 In the case of a partnership, the majority of the partners must be Canadian citizens domiciled in Quebec and more than half of the assets of the partnership must be owned by Canadian citizens domiciled in Quebec.

Sec. 9 To benefit by a guarantee as a publisher, a corporation must meet the following requirements:

- (a) it must have been either incorporated under Quebec statutes or incorporated, before 1 June 1975, under the statutes of the Parliament of Canada;
- (b) the majority of its directors must be Canadian citizens domiciled in Quebec;

(2) LOI CONCERNANT LA GARANTIE DE
CERTAINS PRETS AUX EDITEURS ET
LIBRAIRES ET MODIFIANT LA LOI DE
L'AIDE AU DEVELOPPEMENT INDUSTRIEL
DU QUEBEC

Provisions

Admissibilité à la garantie

Art. 6 Peuvent bénéficier de la garantie à titre d'éditeurs les personnes dont l'une des activités principales est l'édition.

Art. 7 Ces personnes, s'il s'agit d'individus, doivent être des citoyens canadiens ou des immigrants reçus, et doivent être domiciliés au Québec.

Art. 8 S'il s'agit de sociétés, la majorité des associés doivent être des citoyens canadiens domiciliés au Québec et les avoirs de la société doivent, pour plus de la moitié, appartenir à des citoyens canadiens domiciliés au Québec.

Art. 9 Les corporations doivent, pour pouvoir bénéficier de la garantie à titre d'éditeurs, remplir les conditions suivantes:

- a) elles doivent avoir été constituées soit en vertu des lois du Québec, soit avant le 1er juin 1975 en vertu des lois du Parlement du Canada;
- b) la majorité de leurs administrateurs doivent être des citoyens canadiens domiciliés au Québec;

(c) the president, the secretary and the treasurer, or the persons serving in the equivalent capacities of management, must be Canadian citizens domiciled in Quebec;

(d) more than half of the shares of the corporation must be owned by Canadian citizens domiciled in Quebec.

Sec. 10 A cooperative is eligible for a guarantee as a publisher,

(a) if it was incorporated under the Cooperative Associations Act (Revised Statutes, 1964, ch. 292) or the Cooperative Syndicates Act (Revised Statutes, 1964, ch. 294);

(b) if the majority of the members and directors, as well as the president, the secretary, the treasurer, or the persons serving in the equivalent capacities of management, are Canadian citizens domiciled in Quebec.

Sec. 11 Persons accredited as booksellers under the Booksellers Accreditation Act (1965, 1st session, chapter 21) are eligible for such a guarantee.

Source: "An Act respecting the guarantee of certain loans to publishers and booksellers and to amend the Quebec Industrial Development Assistance Act", Statutes of Quebec, 1975, chapter 15.

c) le président, le secrétaire le trésorier et les personnes remplissant des fonctions de direction équivalentes doivent être des citoyens canadiens domiciliés au Québec;

d) les actions de la corporation doivent, pour plus de la moitié, être la propriété de citoyens canadiens domiciliés au Québec.

Art. 10 Les coopératives sont admissibles à la garantie à titre d'éditeurs, si,

a) elles ont été constituées en vertu de la Loi des associations coopératives (Statuts refondus, 1964, ch. 292) ou en vertu de la Loi des syndicats coopératifs (Statuts refondus, 1964, ch. 294);

b) la majorité des membres et des administrateurs, de même que le président, le secrétaire, le trésorier et les personnes remplissant des fonctions de direction équivalentes sont des citoyens canadiens domiciliés au Québec.

Art. 11 Sont admissibles à la garantie à titre de libraires les personnes qui sont agréées à ce titre en vertu de la Loi de l'agrément des libraires (1965, 1re session, chapitre 21).

Source: "Loi concernant la garantie de certains prêts aux éditeurs et libraires et modifiant la Loi de l'aide au développement industriel du Québec", Lois du Québec, 1975, Chapitre 15.

IV

SERVICES TO BUSINESS MANAGEMENT

GESTION DES SERVICES A L'ENTREPRISE

(1) DETECTIVE OR SECURITY
AGENCIES ACT

Comment

The Regulations made under the Detective or Security Agencies Act regarding private investigator or security guard permits, and detective or security agency permits, stipulate that applicants must be Canadian citizens.

(1) LOI DES AGENCES D'INVESTIGATION
OU DE SECURITE

Commentaire

Les règlements établis aux termes de la Loi des agences d'investigation ou de sécurité concernant la délivrance de permis à des agents privés d'investigation ou de sécurité et de permis à des agences de détectives ou de sécurité, stipulent que les requérants doivent être citoyens canadiens.

(1) DETECTIVE OR SECURITY
AGENCIES ACT

Provisions

Private investigator or security
guard permits

Sec. 3 Every person who applies
for a private investigator or
security guard permit shall,

- (a) be a Canadian citizen.

Detective or security agency
permits

Sec. 7 Every person who
applies for a detective or
security agency permit, on
his own behalf or on behalf
of a firm or corporation, shall

- (a) be a Canadian citizen.

Source: (1973) 105, The Official
Gazette of Quebec, 459,
(no. 5, 1973, 03,14).

(1) LOI DES AGENCES D'INVESTIGATION
OU DE SECURITE

Provisions

Permis d'agents d'investigation ou
de sécurité

Art. 3 Toute personne qui sollicite
un permis d'agent d'investigation ou
de sécurité doit avoir les qualités
suivantes:

- a) être citoyen canadien.

Permis d'agence d'investigation ou
de sécurité

Art. 7 Toute personne, qui sollicite
pour elle-même ou pour une société
ou une corporation un permis d'agence
d'investigation ou de sécurité
doit posséder les qualités suivantes:

- a) être citoyen canadien.

Source: (1973) 105, Gazette officielle
du Québec, 459, (no. 5, 1973,
03,14).

ONTARIO

ONTARIO

I FINANCIAL
FINANCES

- (1) Business Corporations Act
- (2) Collection Agencies Act
- (3) Insurance Act
- (4) Loan and Trust Corporations Act
- (5) Mortgage Brokers Act
- (6) Real Estate and Business Brokers Act
- (7) Securities Act

II RESOURCES
RESSOURCES

A. ENERGY
ENERGIE

- (1) Ontario Energy Corporation Act

B. LAND
TERRES

- (1) Land Transfer Tax Act
- (2) Public Lands Act

III PUBLISHING
EDITION

- (1) Paperback and Periodical Distributors Act
- (2) Theatres Act

IV TRANSPORTATION
LES TRANSPORTS

- (1) Ontario Transportation Development Corporation Act

V OTHER
DIVERS

- (1) Co-operative Corporations Act
- (2) Liquor Licence Act

I

FINANCIAL

FINANCES

(1) THE BUSINESS CORPORATIONS ACT

Comment

Under Ontario's Business Corporations Act, a majority of directors on the board of every corporation other than a non-resident corporation must be resident Canadians.

In addition a majority of the directors present whether in person or by means of telecommunications equipment, at any meeting of the board or of the executive committee are required to be resident Canadians.

In any financial year, where a corporation is a non-resident corporation, a majority of the meetings of the board and a majority of the meetings of the executive committee must be held in Canada.

A director can take part in a meeting of the executive committee by means of communications equipment such as a conference telephone. If a majority of the directors participating in such a meeting are in Canada when it is held, then the meeting is considered to be held in Canada.

Commentaire

Aux termes de la présente Loi, la majorité des membres du conseil d'administration des sociétés autre que des sociétés non-résidentes doivent être citoyens canadiens.

De plus, la majorité des membres du conseil d'administration présents, en personne ou reliés par téléphone, à une réunion du conseil d'administration ou du comité exécutif, doivent être citoyens canadiens.

Dans le cas d'une société non-résidente, la majorité des réunions du conseil d'administration et du comité exécutif tenues chaque année financière, doivent avoir lieu au Canada.

Un membre du conseil d'administration peut participer à une réunion du comité exécutif par le biais d'appareils de communication tel que le téléphone lorsqu'il s'agit d'une conférence téléphonique. Si la majorité des membres du conseil d'administration qui y participent se trouvent au Canada à ce moment-là, la réunion est considérée comme étant tenue au Canada.

(1) THE BUSINESS CORPORATIONS ACT

Provisions

Definitions

Sec. 1(1) Para. 18(a) "non-resident corporation" means a corporation that is not deemed to be resident in Canada under paragraph (c) of subsection 4 of section 250 of the Income Tax Act (Canada).

Para. 23(a) "resident Canadian" means an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and who is ordinarily resident in Canada.

Directors to be resident Canadians

Sec. 122(3) A majority of directors on the board of directors of every corporation other than a non-resident corporation shall be resident Canadians.

Exception

Sec. 130(2) Where the by-laws of the corporation so provide, the meetings of the board of directors and of the executive committee may be held at any place within or outside Ontario, but, except where the corporation is a non-resident corporation, in any financial year of the corporation a majority of the meetings of the board of directors and a majority of the meetings of the executive committee shall be held at a place within Canada.

Conduct of business

Sec. 132(2) Subject to section 133 and subsection (1) of section 23, no business of a corporation shall be transacted by its board of directors except at a meeting of directors at which a quorum of the board is present and, except where the corporation is a non-resident corporation, at which a majority of the directors present are resident Canadians.

Meetings by telephone

Sec. 130(3) Subject to the by-laws of the corporation, where all the directors have consented thereto, any director may participate in a meeting of the board of directors or of the executive committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a director participating in a meeting pursuant to this subsection shall be deemed for the purposes of this Act to be present in person at that meeting.

Place of meeting by conference telephone

Sec. 130(4) If a majority of the directors participating in a meeting held pursuant to subsection (3) are then in Canada, the meeting shall be deemed to have been held in Canada.

Executive Committee

Sec. 133(1) Where the number of directors of a corporation is more than six, and if authorized by a special by-law the directors may elect from among their number an executive committee consisting of not fewer than three of whom, except where the corporation is a non-resident corporation, a majority shall be resident Canadians and the directors may delegate to the executive committee any powers of the board of directors, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors.

Conduct of business

Sec. 133(3) No business shall be transacted by an executive committee except at a meeting of its members at which a quorum of the executive committee is present and, except where the corporation is a non-resident corporation at which a majority of the members present are resident Canadians.

Source: "The Business Corporation Act", Revised Statutes of Ontario, 1970, Chap. 53 as amended by S.O. 1972, Chap. 138, S.O. 1974, Chap. 26.

(2) THE COLLECTION AGENCIES ACT

Comment

Under this Act any individual and all members of a partnership must be residents of Canada in order to carry on business as a collection agency. In order for a corporation to carry on business as a collection agency, non-residents as a group may not hold more than 25 per cent of the total number of issued and outstanding equity shares of the corporation, and no single non-resident may hold more than 10 per cent.

Commentaire

Aux termes de cette Loi, tout individu et les membres d'une société en nom collectif doivent être résidents du Canada pour exploiter un service de recouvrement. A cet effet, les membres non-résidents d'une société ne peuvent collectivement détenir plus de 25 pour cent du total des actions ordinaires de la société émises et en circulation; de plus, aucun non-résident ne peut détenir, à lui seul, plus de 10 pour cent de ces actions.

(2) THE COLLECTION AGENCIES ACT

Provisions

Definitions

Sec. 1(1)(eb) "non-resident" means an individual, corporation or trust that is not a resident.

Sec. 1(1)(ia) "resident" means,

- (i) an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and who is ordinarily resident in Canada,
- (ii) a corporation that is incorporated, formed or organized in Canada and that is controlled directly or indirectly by persons who are residents or by a resident trust, or
- (iii) a trust that is established by resident individuals or a resident corporation or one in which resident individuals or corporations hold more than 50 per cent of the beneficial interest.

Sec. 1(2) For the purposes of subclause (ii) of clause (ia) of subsection(1) a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations if,

- (a) equity shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or corporation or by or for the benefit of such other corporations; and
- (b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned corporation.

Resident requirements re individuals

Sec. 10(1) Subject to subsection (2), no individual shall carry on business in Ontario as a collection agency unless,

- (a) he is a resident; or

- (b) where he is a member of a partnership or an association, syndicate or organization of individuals, every member thereof is a resident.

Sec. 10(2) An individual who is carrying on business as a registered collection agency immediately before the 9th day of May, 1974, and who on that day is in contravention of subsection (1), may continue to carry on business, subject to the provisions of this Act if,

- (a) his interest or any part thereof is not transferred to or for the benefit of a non-resident; or
- (b) where he is a member of a partnership or an association, syndicate or organization of individuals, no person who is a non-resident is admitted as a member thereof.

Resident requirements re corporations

Sec. 11(1) No corporation shall carry on business in Ontario as a collection agency if,

- (a) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction exceeds 25 per cent of the total number of issued and outstanding equity shares of the corporation;
- (b) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident, over which he exercises control or direction together with any other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding equity shares of the corporation; or
- (c) the corporation is not incorporated by or under an Act of Ontario, Canada or any province of Canada.

Sec. 11(2) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

Sec. 11(3) A corporation that was carrying on business as a registered collection agency immediately before the 9th day of May, 1974, and which on that day is in contravention of subsection (1), may continue to carry on business, subject to the provisions of this Act:

- (a) in the case of a contravention of clause (a) or (b) of subsection (1), if no transfer or equity shares or beneficial interest therein including their control or direction is made to a non-resident or person associated with him excepting when the result would be in compliance with clause (a) or (b) subsection (1); or
- (b) in the case of a contravention of clause (c) of subsection until the 1st day of January, 1976 but a corporation incorporated after this Act comes into force and before the 1st day of January, 1976 by or under an Act of Ontario, Canada or a province of Canada may, notwithstanding clauses (a) and (b) of subsection (1), be registered in the place of the first-mentioned corporation if the equity shares of the new corporation or beneficial interest therein including their control or direction, held by non-residents are held directly or indirectly in the same manner as the equity shares of the first-mentioned corporation, but where the new corporation is in contravention of clause (a) or (b) of subsection (1), clause (a) of this subsection applies.

Associated shareholders

Sec. 11(4) For the purpose of this section, a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a corporation of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a corporation that is controlled, directly or indirectly, by the other shareholder;
- (d) both shareholders are corporations and one shareholder is controlled, directly or indirectly, by the same individual or corporation that controls, directly or indirectly, the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (b) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.

Joint ownership

Sec. 11(5) For the purposes of this section, where an equity share of the corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident.

Source: "The Collection Agencies Act", Revised Statutes of Ontario, 1970, Chapter 71, as amended by S.O. 1974, Chap. 29.

THE COLLECTION AGENCIES ACT

REGULATION MADE UNDER THE COLLECTION AGENCIES ACT

Sec. 12 No person shall be registered as a collection agency or as a collector unless he is,

(a) a resident.

Source: "The Collection Agencies Act", Ontario Regulation 496/74.

(3) THE INSURANCE ACT

Comment

Under this Act a corporation that was not licensed on April 27, 1972 and has a majority of its issued and outstanding voting shares owned beneficially or otherwise by a non-resident of Canada shall not be issued a licence to carry on business as an insurance agent, broker or adjuster. If licensed on or before the above date the Act prohibits the corporation's amalgamation, merger or acquisition of the assets, or shares of any other licensed agent, broker or adjuster.

Regulations made under this Act stipulate that no agent's licence for insurance will be issued to a corporation incorporated or with its head office outside Canada or to a corporation, the majority of whose shares are owned by a non-resident, or to a partnership in which any partner is a non-resident, unless the corporation or partnership held a licence on 6 July, 1961.

A licence may be granted to an applicant who is a non-resident of Ontario providing he has a certificate from the Department of Insurance of the province or state in which he is resident certifying that he is licensed for the class of insurance for which his application is made.

Commentaire

Aux termes de la présente Loi, une société qui n'était pas accréditée à la date du 27 avril 1972 et dont la majorité des actions donnant droit de vote émises et en circulation sont la propriété en usufruit ou sous une autre forme d'un non-résident canadien, ne sera pas autorisée à faire office de courtier ou d'ajusteur en assurances. Si la société a été accréditée à cette date ou auparavant, la Loi lui interdit de se fusionner avec ou d'acquérir l'actif ou les actions d'un agent d'assurance autorisé, un courtier ou un ajusteur.

Aux termes des règlements découlant de la présente Loi, aucun permis pour faire office de compagnie d'assurances ne sera délivré à une société constituée ou ayant son siège social à l'étranger, dont la majorité des actions appartiennent à un non-résident, ou à une société en nom collectif dont un associé est non-résident, à moins que la société ou société en nom collectif ait été accréditée avant le 6 juillet 1961.

Un requérant qui n'est pas résident de l'Ontario peut obtenir une accréditation à condition qu'il possède un certificat délivré par le ministère des assurances de la province ou de l'Etat dans lequel il réside, précisant qu'il est autorisé à pratiquer dans la catégorie d'assurances pour laquelle il a fait sa demande.

(3) THE INSURANCE ACT

Provisions

Licences to corporations

Sec. 353(1) Licences as agents, brokers or adjusters may be issued to any corporation that is incorporated expressly for the purpose of acting as an insurance agent, broker or adjuster or for that and such other purposes as the Superintendent expressly approves of and where the corporation has been incorporated under The Business Corporations Act after the 30th day of June, 1971, the articles of incorporation shall have been approved by the Superintendent prior to incorporation.

When licences not to be issued

Sec. 353(2) Licences as agents or brokers shall not be issued to a corporation whose head office is outside Canada or if it appears to the Superintendent that the application is made for the purpose of acting as agent or broker wholly or chiefly in the insurance of property owned by the corporation or by its shareholders or members, or in the placing of insurance for one person, firm, corporation, estate or family.

Prohibition on licensing non-residents

Sec. 353(2)(a) No licence shall be issued to a corporation that carries on business as an insurance agent, broker or adjuster if the majority of its issued and outstanding shares that entitle the holder to any voting rights are owned beneficially or otherwise by a non-resident of Canada unless such corporation was so licenced on the 27th day of April, 1972.

Definition of non-resident

Sec. 353(2)(b) For the purpose of this section, non-resident means,

- (a) an individual who is not ordinarily resident in Canada;
- (b) a company incorporated, formed or otherwise organized, elsewhere than in Canada;
- (c) a company that is controlled directly or indirectly by non-residents as determined in clause (a) or (b);
- (d) a trust established by a non-resident as defined in clause (a), (b) or (c), or a trust in which non-residents, as so defined, have more than 50 per cent of the beneficial interest; or

- (e) a company that is controlled directly or indirectly by a trust mentioned in clause (d).

Prohibition of a non-resident to amalgamate

Sec. 353(2)(c) A corporation that was licensed as an agent, broker or adjuster, on or before the 27th day of April, 1972, and whose issued shares entitling the holders thereof to voting rights were more than 50 per cent owned, as of that date, beneficially or otherwise, by one or more non-residents of Canada is not entitled to continue to hold a licence if it amalgamates, unites, merges, acquires the assets or business of, or acquires the shares of any other licensed agent, broker or adjuster.

Source: "The Insurance Act", Revised Statutes of Ontario, 1970, Chapter 224. as amended by S.O. 1971, Chapter 84; S.O. 1972, Chapter 66.

THE INSURANCE ACT

REGULATION MADE UNDER THE INSURANCE ACT

Sec. 4(3) Subject to section 6, a licence may be granted to an applicant who is a non-resident of Ontario and who produces a certificate from the Department of Insurance of the province or state in which he is resident that certifies that he is licensed for the class of insurance for which his application is made.

Sec. 6 No licence shall be issued to a corporation incorporated or with its head office outside Canada or to a corporation the majority of whose shares are owned beneficially or otherwise by a shareholder resident outside Canada, or to a partnership in which any partner is resident outside Canada, unless the corporation or partnership held a licence on the 6th day of July, 1961, and was one to which this section or a predecessor thereof applied on that date.

Source: Revised Regulations of Ontario, 1970, Volume 3 Regulation 539.

(4) THE LOAN AND TRUST CORPORATIONS ACT

Comment

Under this Act, the majority of the directors of a loan or trust company are required to be Canadian citizens ordinarily resident in Canada.

With certain exceptions total non-resident shareholdings may not be increased above 25 per cent of the voting shares of the corporation. If non-resident holdings already exceed 25 per cent, they cannot be increased further.

The holdings of a single non-resident, in conjunction with those of associates, cannot be increased above 10 per cent of the shares. When a non-resident's holdings exceed 10 per cent, they cannot be increased further.

Commentaire

Aux termes de la présente Loi, la majorité des membres du conseil d'administration d'une société de crédit ou de fiducie doivent être citoyens canadiens et résider habituellement au Canada.

A quelques exceptions près, les actionnaires non-résidents ne peuvent posséder plus de 25 pour cent des actions de la société donnant droit de vote. Si les actionnaires non-résidents détiennent déjà plus de 25 pour cent des actions, ils ne peuvent accroître ce montant.

Un seul non-résident, ou un non-résident en association avec d'autres détenteurs, ne peut détenir plus de 10 pour cent des actions. Lorsqu'un non-résident détient plus de 10 pour cent des actions, il lui est interdit de faire d'autres acquisitions d'actions.

(4) THE LOAN AND TRUST CORPORATIONS ACT

Provisions

Majority to be Canadian citizens and residents

Sec. 35(4) The majority of the directors shall at all times be Canadian citizens ordinarily resident in Canada.

Sec. 35(5) Where more than the permitted number of non-residents and aliens are elected, a new election shall be held forthwith to fill all the directorships to which non-residents or aliens have been elected, and so on until the number of non-residents and aliens elected is reduced to or below the permitted number.

Interpretation

Sec. 54(1) In this section and sections 55 to 59,

- (a) "company" includes an association, partnership or other organization;
- (b) "non-resident" means,
 - (i) an individual who is not ordinarily resident in Canada.

Sec. 54(2) For the purposes of sections 55 to 59, a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a company of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a company that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are companies and one shareholder is controlled directly or indirectly by the same individual or company that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation;
or
- (f) both shareholders are associated within the meaning of clauses a to e with the same shareholder.

Shares held jointly

Sec. 54(3) For the purposes of sections 55 to 59, where a share of the capital stock of a corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident.

Limit on shares held by non-residents

Sec. 55(1) The directors of a corporation shall refuse to allow in the books referred to in section 66 the entry of a transfer of any share of the capital stock of the corporation to a non-resident,

- (a) if, when the total number of shares of the capital stock of the corporation held by non-residents exceeds 25 per cent of the total number of issued and outstanding shares of such stock, the entry of the transfer would increase the percentage of such shares held by non-residents;
- (b) if, when the total number of shares the capital stock of the corporation held by non-residents is 25 per cent or less of the total number of issued and outstanding shares of such stock, the entry of the transfer would cause the total number of such shares of stock held by non-residents to exceed 25 per cent of the total number of issued and outstanding shares of such stock;
- (c) if, when the total number of shares of the capital stock of the corporation held by the non-resident and by other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding shares of such stock, the entry of the transfer would increase the percentage of such shares held by the non-resident and by other shareholders associated with him, if any; or
- (d) if, when the total number of shares of the capital stock of the corporation held by the non-resident and by other shareholders associated with him, if any, is 10 per cent or less of the total number of issued and outstanding shares of such stock, the entry of the transfer would cause the number of such shares of stock held by the non-resident and by other shareholders associated with him, if any, to exceed 10 per cent of the issued and outstanding shares of such stock.

Exception

Sec. 55(2) Notwithstanding subsection (1), the directors of a

corporation may allow in the books referred to in section 66 the entry of a transfer of any share of the capital stock of the corporation to a non-resident when it is shown to the directors on evidence satisfactory to them that the share was, immediately prior to the 17th day of June, 1970, held in the right of or for the use or benefit of the non-resident.

Allotment to non-resident

Sec. 55(3) The directors of a corporation shall not allot, or allow the allotment of, any shares of the capital stock of the corporation to any non-resident in circumstances where, if the allotment to such non-resident were a transfer of those shares, the entry thereof in the books would be required, under subsection (1), to be refused by the directors.

Penalty

Sec. 55(4) Default in complying with this section does not affect the validity of a transfer or allotment of a share of the capital stock of the corporation that has been entered in the books referred to in section 66, but every director or officer who knowingly authorizes or permits such default is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both such fine and imprisonment.

Voting by non-residents

Sec. 56(1) A non-resident shall not exercise the voting rights attached to shares of a corporation unless he is entered in the books of the corporation as a shareholder in respect of the shares.

Voting rights of nominees suspended

Sec. 56(2) Where a resident holds shares of the capital stock of a corporation in the right of, or for the use or benefit of, a non-resident and in respect of which the non-resident is not entered in the books of the corporation as the holder, the resident shall not, either in person or by proxy or by a voting trust, exercise the voting rights pertaining to those shares.

Change of status while entered on books

Sec. 56(3) Where a person or company who is a resident becomes a non-resident while entered on the books of a corporation as a shareholder and the number of shares of such person or company

recorded in such books when added to those entered therein as owned by other non-residents exceed the limit set out in section 55, the person or company shall not exercise, directly, by proxy or by a voting trust, any voting rights in respect of its shares that exceed the limit set out in section 55.

Voting rights of single non-resident owner

Sec. 56(4) Notwithstanding subsections (1), (2) and (3), where any shares of the capital stock of a corporation are held in the name of or for the use or benefit of a non-resident other than shares in respect of which the non-resident was entered in the books of the corporation before the 17th day of June, 1970 or is entered in the books under subsection (2) of section 55, no person shall, either as proxy or by a voting trust or in person, exercise the voting rights pertaining to such shares held by the non-resident or in his right or for his use or benefit, if the total of such shares so held, together with such shares held in the name or right of or for the use or benefit of,

- (a) any shareholders associated with the non-resident; or
- (b) any persons who would, under subsection (2) of section 54, be deemed to be shareholders associated with the non-resident were such persons and the non-resident themselves shareholders,

exceed in number 10 per cent of the issued and outstanding shares of such stock.

(5) THE MORTGAGE BROKERS ACT

Comment

Under this Act an individual must be a resident in order to carry on business as a mortgage broker. The same condition holds for each member in respect of a partnership, association, syndicate or organisation of individuals. In order for a corporation to carry on business as a mortgage broker, it must be incorporated by or under an Act of Ontario, Canada or any province of Canada. Non-residents as a group may not hold more than 25 per cent of the total number of issued and outstanding equity shares of the corporation, and no single non-resident may hold more than 10 per cent.

Commentaire

Aux termes de la présente Loi, un individu doit être résidant de l'Ontario pour être courtier en hypothèques. Il en va de même pour tout membre d'une association ou d'un syndicat. Si une société veut opérer comme courtier d'hypothèques, elle doit être constituée aux termes d'une loi de l'Ontario, du Canada, ou de l'une des provinces. Un groupe de non-résidents ne peut détenir plus de 25 pour cent du total des actions émises et en circulation de la société; un non-résident ne peut en détenir, à lui seul, plus de 10 pour cent.

(5) THE MORTGAGE BROKERS ACT

Provisions

Definitions

Sec. 1(ea) "non-resident" means an individual, corporation or trust that is not a resident,

Sec. 1(ia) "resident" means,

- (i) an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and who is ordinarily resident in Canada,
- (ii) a corporation that is incorporated, formed or organized in Canada and that is controlled directly or indirectly by persons who are residents or by a resident trust, or
- (iii) a trust that is established by resident individuals or a resident corporation or one in which resident individuals or corporations hold more than 50 per cent of the beneficial interest.

Resident requirements re individuals

Sec. 8(1) Subject to subsection (2), no individual shall carry on business in Ontario as a mortgage broker unless,

- (a) he is a resident; or
- (b) where he is a member of a partnership or an association, syndicate or organization of individuals, every member thereof is a resident.

Sec. 8(2) An individual who is carrying on business as a registered mortgage broker immediately before the 2nd day of October, 1973, and who on that day is in contravention of subsection (1), may continue to carry on business subject to the provisions of this Act if,

- (a) his interest or any part thereof is not transferred to or for the benefit of a non-resident; or
- (b) where he is a member of a partnership or an association, syndicate or organization of individuals, no person who is a non-resident is admitted as a member thereof.

Resident requirements re corporations

Sec. 9(1) No corporation shall carry on business in Ontario as a mortgage broker if,

- (a) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction exceeds 25 per cent of the total number of issued and outstanding equity shares of the corporation;
- (b) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident over which he exercises control or direction, together with other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding equity shares of the corporation; or
- (c) the corporation is not incorporated by or under an Act of Ontario, Canada or any province of Canada.

Sec. 9(2) A corporation that was carrying on business as a registered mortgage broker immediately before the 2nd day of October, 1973, and which on that day is in contravention of subsection (1), may continue to carry on business, subject to the provisions of this Act,

- (a) in the case of a contravention of clause (a) or (b) of subsection (1), if no transfer of equity shares or beneficial interest therein including their control or direction is made to a non-resident or person associated with him excepting when the result would be in compliance with clauses (a) and (b) of subsection (1); or
- (b) in the case of a contravention of clause (c) of subsection (1), until the 1st day of January, 1975, but a corporation incorporated after this Act comes into force and before the 1st day of January, 1975 by or under an Act of Ontario, Canada or a province of Canada may, notwithstanding clauses (a) and (b) of subsection (1), be registered in the place of the first mentioned corporation if the equity shares of the new corporation or beneficial interest therein, including their control or direction, held by non-residents are held directly or indirectly in the same manner as the equity shares of the first mentioned corporation, but where the new corporation is in contravention of clause (a) or (b) of subsection (1), clause (a) of this subsection applies.

Associated shareholders

Sec. 9(3) For the purpose of this section, a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a corporation of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a corporation that is controlled, directly or indirectly, by the other shareholder;
- (d) both shareholders are corporations and one shareholder is controlled, directly or indirectly, by the same individual or corporation that controls, directly or indirectly, the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.

Joint ownership

Sec. 9(4) For the purpose of this section, where an equity share of the corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident.

Source: "The Mortgage Brokers Act", Revised Statutes of Ontario, 1970, Chapter 278 as amended by S.O. 1973, Chapter 103.

(6) REAL ESTATE AND BUSINESS BROKERS ACT

Comment

The regulations made under the Act provide that every applicant for registration as a broker or salesman must trade in Ontario real estate from an office which is located in Ontario and must be a bona fide resident in Canada for one year with the intention of residing in Canada permanently before making an application under the Act.

Commentaire

Selon les règlements établis en vertu de la présente Loi, toute personne demandant son inscription comme courtier ou représentant immobilier en Ontario, doit opérer à partir d'un bureau situé dans cette province et être un résident de fait du Canada depuis au moins un an et avoir l'intention de résider en permanence au Canada avant de faire sa demande aux termes de la Loi.

(6) REAL ESTATE AND BUSINESS BROKERS ACT

Provisions

REGULATION MADE UNDER THE REAL ESTATE AND BUSINESS BROKERS ACT

Sec. 12 No broker or salesman shall be registered unless he is

- (b) a bona fide resident of Canada for one year immediately prior to the date of application with the intention of making his permanent home in Canada unless at the time of the application the person is registered either as a broker or salesman under the laws relating to real estate and business brokers of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of application and is otherwise suitable for registration. O. Reg: 448/70, s. 12.

Sec. 13 (2a) A registered broker or salesman shall not trade in Ontario real estate from an office which is located outside of Ontario.

(17) Every registered broker and registered salesman shall be a bona fide resident of Canada.

Source: "The Real Estate and Business Brokers Act", Revised Regulations of Ontario, 1970, 769/70 as amended by Ontario Regulation 169/71; 441/71; 357/76.

(7) THE SECURITIES ACT

Comment

Regulations under the Act provide for registration or a renewal of registration, if the applicant is a resident and if the total number of shares held or controlled by non-residents as a group does not exceed 25 per cent of the outstanding shares; if no single non-resident, in conjunction with his associates, holds or controls more than 10 per cent of the outstanding shares; and where the applicant is a company, it is incorporated in Canada.

The Ontario Securities Commission may grant registration in spite of these restrictions if, in its opinion, such action is not prejudicial to the public interest.

Commentaire

Les règlements aux termes de la présente Loi prévoient l'inscription ou le renouvellement de l'inscription, si le requérant est un résident et si le nombre des actions possédées ou contrôlées collectivement par des non-résidents ne dépassent pas 25 pour cent du total des actions en circulation, si un non-résident et ses associés ne possèdent ou ne contrôlent pas plus de 10 pour cent des actions en circulation, et si le requérant est une société constituée au Canada.

L'Ontario Securities Commission peut accorder l'enregistrement en dépit des restrictions susmentionnées si elle estime qu'une telle mesure n'est pas préjudiciable à l'intérêt collectif.

(7) THE SECURITIES ACT

Provisions

Sec. 6(a)(e) "non-resident" means,

- (i) a person who is not a Canadian citizen,
- (ii) a person not resident in Canada,
- (iii) a company incorporated under the laws of a jurisdiction other than Canada or one of its provinces or territories,
- (iv) a trust, partnership or other unincorporated association created by,
 - 1. a person referred to in subclause (i) or (ii),
 - 2. a company referred to in subclause (iii),
 - 3. a trust in which a person referred to in subclause (i) or (ii) or a company referred to in subclause (iii) has a beneficial interest that exceeds 10 per cent of the beneficial ownership of the trust, or
 - 4. a trust in which any combination of persons referred to in subclause (i) or (ii) and companies referred to in subclause (iii) has a beneficial interest that exceeds 25 per cent of the beneficial ownership of the trust, or
- (v) a company controlled, directly or indirectly, by a person referred to in subclause (i) or (ii), a company referred to in subclause (iii) or a trust, partnership or other unincorporated association referred to in subclause (iv);

Sec. 6(a)(f) "non-resident controlled dealer" means a dealer in which the total number of votes attached to equity shares beneficially owned directly or indirectly by,

- (i) non-residents and their associates and affiliates or over which non-residents and their associates and affiliates exercise control or direction, exceeds 25 per cent of the total number of votes attaching to the issued and outstanding equity shares of the dealer, or

- (ii) a non-resident and his associates and affiliates or over which a non-resident and his associates and affiliates exercise control or direction, exceeds 10 per cent of the total number of votes attaching to the issued and outstanding equity shares of the dealer.

Sec. 6(a)(g) "non-resident controlled registrant" means a registrant in which the total number of votes attached to equity shares beneficially owned directly or indirectly by,

- (i) non-residents and their associates and affiliates or over which non-residents and their associates and affiliates exercise control or direction, exceeds 25 per cent of the total number of votes attaching to the issued and outstanding equity shares of the dealer, or
- (ii) a non-resident and his associates or affiliates or over which a non-resident and his associates and affiliates exercise control or direction, exceeds 10 per cent of the total number of votes attaching to the issued and outstanding equity shares of the dealer.

Sec. 6(a)(h) "permissible capital" means the sum of,

- (i) either,
 - 1. the highest level of capital employed by a non-resident controlled dealer in any financial year ending on or before the 31st day of March, 1971, or,
 - 2. where, prior to the 14th day of July, 1971, the business of the non-resident controlled dealer in Canada was conducted by a dealer and its branches, controlled directly or indirectly by non-residents through a branch office in Ontario and where, under the requirements of Part II of the Act and section 6(a) of this Regulation, as made by section 1 of Ontario Regulation 296/71, the business was subsequently transferred to the non-resident controlled dealer, a company incorporated under the laws of Canada or one of its provinces or territories, the capital that would have been required by subsections (1) and (2) of section 6 of this Regulation had section 6 been in force on or before the 31st day of March, 1971, calculated as if the

business of the dealer and its branches transferred to the non-resident controlled dealer was conducted by a single company and approved by the Commission,

- (ii) any increase in capital obtained through the issuing of voting and fully participating common shares to residents for which notice has been filed with the Commission, and
- (iii) any increase or decrease in capital determined or permitted in accordance with sections 6(3) and 6(f).

Sec. 6(b) For the purposes of sections 6(a) to 6(f), both inclusive, where a security is owned jointly and one or more of the joint owners is a non-resident, the security shall be deemed to be owned by a non-resident.

Sec. 6(c) Subject to section 6(d), a registration or a renewal of registration is conditional upon,

- (a) the applicant or registrant being a resident;
- (b) the non-resident beneficial ownership of or control or direction over securities of any class of securities of an applicant or registrant, together with his associates and affiliates, not exceeding 25 per cent of the issued securities of that class, with no single non-resident, together with his associates and affiliates, having a beneficial interest in or exercising control or direction over more than 10 per cent of the issued securities of that class of securities; and
- (c) where the applicant or registrant is a company, the company being incorporated under the laws of Canada or one of its provinces or territories.

Sec. 6(d)(1) The registration and renewal of registration of a non-resident controlled dealer is conditional upon,

- (a) there being no material change in ownership without the consent or permission of the Commission under subsections (2) and (3);
- (b) where the non-resident controlled registrant is a non-resident controlled dealer its capital not exceeding its permissible capital; and

- (c) where the parent of a non-resident controlled registrant has paid a dividend to its shareholders in its last financial year, the non-resident controlled registrant paying to its shareholders within twelve months of the date on which the dividend of the parent company was paid the same percentage of its retained earnings, if any, that the dividends paid by its parent company were of the parent company's retained earnings.

Sec. 6(d)(2) Except where,

- (a) the written consent of the Commission is obtained prior to the commencement of a distribution to the public; and
- (b) all terms and conditions of the Commission's written consent referred to in clause (a) are complied with,

an increase in the capital of a parent company of a non-resident controlled registrant through a distribution of its securities to the public shall be deemed to be a material change in the ownership of the non-resident controlled registrant.

Sec. 6(d)(3) Upon the application of a non-resident controlled registrant, the Commission, where it is satisfied,

- (a) that the non-resident controlled registrant provides material or unique service to Ontario investors not substantially available to those investors through other registrants; and
- (b) the non-resident and his associates or affiliates have made reasonable efforts without success to obtain resident Canadian purchasers for the equity shares over which they exercise control or direction of the non-resident controlled registrant and that under the control or direction of the proposed non-resident, the non-resident controlled registrant would continue to provide the material or unique service to Ontario investors; or
- (c) the continuation of the material or unique service to Ontario investors is dependent upon continued non-resident control or direction,

and that to do so would not otherwise be prejudicial to the public interest, may permit a material change in non-resident ownership, control or direction of the non-resident controlled registrant subject to such terms and conditions as it may impose.

Sec. 6(d)(4) Upon an application of a non-resident controlled registrant, the Commission may exempt the non-resident controlled registrant from the obligation to comply with clause (c) of subsection (1), upon such terms and conditions as it may impose, where it is satisfied that to do so would not be prejudicial to the public interest.

Sec. 6(e)(1) Commencing with the financial year ending in the twelve months preceding the 1st day of April, 1971, every money market dealer and every non-resident controlled dealer shall file with the Commission, within ninety days of the end of each financial year in which it held registration, its audited financial statement for the financial year.

(2) The Commission shall calculate the domestic base capital for each financial year commencing with the financial year ending the 31st day of March, 1971 and shall compare the domestic base capital for each financial year with the domestic base capital of the previous financial year for the purpose of calculating the percentage increase or decrease in the domestic base capital.

(3) The Commission shall calculate the permissible capital of each non-resident controlled dealer for each financial year by applying the percentage rate of increase or decrease in domestic base capital for that financial year to the existing permissible capital of the non-resident controlled dealer.

(4) The Commission shall notify each non-resident controlled dealer of its permissible capital for each financial year commencing with the financial year preceding the 1st day of April, 1972.

Sec. 6(f)(1) Where the capital of a non-resident controlled dealer is less than its permissible capital, the capital may be increased by an amount up to, but not exceeding, the difference between capital and permissible capital provided that the funds employed for the purpose of increasing the capital are earnings of the non-resident controlled dealer.

(2) Subject to subsection (3), where after receiving notice of its permissible capital from the Commission for any given year the capital of the non-resident controlled dealer as shown in its audited financial statement for the same period exceeds its permissible capital, its capital shall be reduced by an amount equal to the excess, within ten days of receipt of the notice from the Commission.

Sec. 6(f)(3) Upon an application of a non-resident controlled dealer, the Commission may exempt the non-resident controlled dealer from the requirement of subsection (2), upon such terms and conditions as it may impose, where it is satisfied that to do so would not be prejudicial to the public interest.

Sec. 20(1) The Commission may, where in its opinion such action is not prejudicial to the public interest, order, subject to such terms and conditions as it may impose, that sections 6 and 35 do not apply to any trade, security person or company, as the case may be, named in the order.

Source: "Revised Statutes of Ontario", 1970, Chapter 426 as amended by Ontario Regulation 14/75, 600/74, 95/74.

II

RESOURCES

RESSOURCES

A. ENERGY
ENERGIE

(1) THE ONTARIO ENERGY CORPORATION ACT

Comment

Under this Act a majority of members of the Board of the Ontario Energy Corporation must at all times be resident Canadians. Also the total number of equity shares of the corporation held by non-residents must not exceed 10 per cent of the total outstanding equity shares of the corporation. Furthermore, the total number of equity shares beneficially owned, directly or indirectly, by any person or over which a person exercises control or direction shall not at any time exceed 5 per cent of the total number of issued and outstanding shares.

Commentaire

Aux termes de la présente Loi, la majorité des membres du Board of Ontario Energy Corporation doit en tous temps être composée de résidents canadiens. Le total des actions de la société détenues par des non-résidents ne doit pas dépasser 10 pour cent du total des actions en circulation de la société. De plus, le total des actions détenues, soit directement ou indirectement, par tout individu ou sur lesquelles un individu peut exercer un pouvoir de direction ou de contrôle ne peut dépasser 5 pour cent du total des actions émises et en circulation.

(1) THE ONTARIO ENERGY CORPORATION ACT

Provisions

Interpretation

Sec. 1(2) In this Act, the terms, ...

- (d) "resident Canadian", have the same meanings as in The Business Corporations Act.

Majority to be resident Canadians

Sec. 4(2) A majority of the members of the Board shall at all times be resident Canadians.

Interpretation

Sec. 13(1) In this section, "non-resident" means any person other than,

- (a) a resident Canadian;
- (b) a corporation controlled by a resident Canadian or a group of resident Canadians;
- (c) a corporation the majority of the equity shares of which are held by resident Canadians and which is not controlled by one or more non-residents;
- (d) Her Majesty in right of Canada, Ontario or any other province of Canada or an agent or nominee of her Majesty.

Equity shares owned or controlled by non-residents

(2) The total number of equity shares of the Corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction shall not at any time exceed 10 per cent of the total number of issued and outstanding equity shares of the Corporation.

Limit of individual ownership of equity shares

(3) The total number of equity shares of the Corporation beneficially owned, directly or indirectly, by any person or over which the person exercises control or direction shall not at any time exceed 5 per cent of the total number of issued and outstanding equity shares of the Corporation.

(4) Subsection (3) does not apply in respect of any equity shares of the Corporation beneficially owned by Her Majesty in right of Canada, Ontario or any other province of Canada or by an agent or nominee of Her Majesty.

Where person deemed beneficial owner of equity shares

(5) For the purposes of this section, a person shall be deemed to own beneficially any equity shares of the Corporation owned beneficially by any associate or affiliate of such person.

Controlled corporation

(6) For the purposes of this section, a corporation is controlled by another corporation, individual or trust if it is in fact effectively controlled by such other corporation, individual or trust, directly or indirectly, or through the holding of shares of the corporation or any other corporation, or through the holding of the outstanding debt of a corporation or individual, or by any other means whether of a like or different nature.

Calculation of total number of equity shares

(7) In calculating the total number of equity shares of the Corporation beneficially owned, directly or indirectly by any person or over which the person exercises control or direction for the purposes of this section, the total number shall be calculated as the total of all such equity shares, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

Statement by shareholder

(8) A shareholder of the Corporation shall, upon the request of the Board, file with the Board a statement verified by affidavit that sets out.

- (a) the total number of equity shares of the Corporation beneficially owned or deemed to be owned, directly or indirectly, by the shareholder or over which the shareholder exercises control or direction;

- (b) the name of any person other than the shareholder exercising control or direction over equity shares of the Corporation, the number of equity shares over which such control or direction is exercised and whether the person is a non-resident;
- (c) whether the shareholder or any other person in whose right or for whose use or benefit any equity share of the Corporation is held by the shareholder is a non-resident;
- (d) if the shareholder is a corporation or trust, information establishing that the shareholder is not a non-resident; and
- (e) such other matters as the Board considers relevant in the circumstances for the purposes of this section.

Where statement not filed

(9) Where a shareholder does not file with the Board a statement verified by affidavit that sets out the information requested by the Board pursuant to subsection (8) within thirty days from the day the statement was requested by the Board, the equity shares of the Corporation held by the shareholder shall be deemed to be held in contravention of this section until a statement verified by affidavit that sets out the information is filed with the Board.

Transfer of shares

(10) Within sixty days after the purchase or other acquisition of a share of the Corporation by any person, the certificate representing the share shall be presented to the Corporation for transfer into the name of the person, his designated nominee, trustee, executor or other personal representative, and shares not so presented for transfer shall be deemed to be held in contravention of this Act.

Cancellation of shares held in contravention of Act

Sec. 14 (1) Where any equity shares of the Corporation are held in contravention of this Act, the Corporation may, upon such notice to the holder thereof in such manner as may be prescribed by the by-laws, require such equity shares to be disposed of to a person or corporation who may be eligible to hold equity shares of the Corporation, within such period of time, not being less than sixty days nor more than 180 days or such longer period of time as may be approved by special resolution of the Corporation, as may be stipulated in the notice.

(2) Where the equity shares referred to in a notice given pursuant to subsection (1) have not been disposed of within the stipulated time, the Corporation may, at any time while the equity shares continue to be held in contravention of this Act, decrease its authorized and issued capital by cancelling the equity shares and the decrease is effective upon,

- (a) the deposit by the Corporation of the amount of the capital repayment payable with respect to the equity shares in a special account with a chartered bank or trust company; and
- (b) the giving by the Corporation of notice of cancellation to the holders of the equity shares in such manner as may be prescribed by the by-laws, including notice of the deposit referred to in clause a,

and thereupon the equity shares are cancelled and the rights of the holder and of any beneficial owners of the equity shares are terminated except for the right of the holder thereof to receive out of the amount so deposited, without interest, the capital repayment payable with respect thereto upon presentation and surrender of the certificates representing the said equity shares, and any interest payable on the deposit shall be paid to the Corporation.

Source: "The Ontario Energy Corporation Act", Statutes of Ontario, 1974, Chap. 101.

B. LAND TERRES

(1) LAND TRANSFER TAX ACT

Comment

Commentaire

Rates of Tax

The tax is payable when a deed is presented at a local Land Registry Office. The ordinary resident tax rate is 3/10 of 1 per cent of the first \$35,000 of consideration paid and 6/10 of 1 per cent on the balance. Effective April 10, 1974, the rate on acquisitions of land by non-resident persons was increased to 20 per cent of the value of the consideration. However, since April 20, 1977, this non-resident tax rate does not apply to land defined as unrestricted. Unrestricted land will include all land zoned for commercial or industrial use and all land having a residential assessment for municipal tax purposes or that is in use for commercial, industrial or residential purposes. In no case however will unrestricted land include land that is assessed or used as farm land, recreational land or woodland. The emphasis is on the land status immediately prior to the acquisition by the non-resident.

Non-Resident Persons

An individual is a non-resident person if he or she is not ordinarily resident in Canada or if ordinarily resident, is neither a Canadian citizen nor a landed immigrant.

Taux d'imposition

L'impôt foncier est payable lorsqu'un acte est présenté au bureau local du cadastre. Le taux habituel de l'impôt pour un résident est de 3/10 d'un pour cent sur les premiers 35,000 dollars payés sur le montant total de la vente et de 6/10 d'un pour cent sur le reste. A compter du 10 avril 1974, l'impôt sur les acquisitions de terres par les non-résidents est passé à 20 pour cent du montant du prix de vente. Depuis le 20 avril 1977 cependant, le taux de l'impôt pour les non-résidents ne s'applique plus aux terrains dits libres. Ceux-ci comprennent tous les terrains à des fins commerciales ou industrielles, et tous les terrains dont la cote foncière est celle des zones résidentielles et commerciales aux fins de l'impôt municipal, ou qui servent au commerce ou à l'industrie, ou de lieu de résidence. En aucun cas cependant, les terres libres ne comprennent les terrains agricoles, à vocation récréative ou boisés. C'est le statut de la terre avant l'acquisition par des non-résidents qui importe.

Personnes non-résidentes

Par personne non-résidente, on désigne un individu, homme ou femme, qui n'habite pas habituellement au Canada ou qui, dans le cas contraire, n'est ni citoyen canadien ni immigrant reçu.

A partnership, syndicate, association or other organization is classified as non-resident when one-half or more of its members are non-residents. A trust is similarly classified when 50 per cent or more of the beneficial interests are held by non-residents.

A corporation is classified as non-resident when it is controlled by non-residents or when one-half or more of the directors or members are non-resident.

There are provisions providing for the deferral or refund of the tax for both individuals and corporations providing certain conditions are met.

Une société, un syndicat, une association ou tout autre organisme sont considérés comme non-résidents si la moitié de ses membres au moins sont des non-résidents. Il en va de même pour une société de fiducie si au moins 50 pour cent des droits d'usufruit sont la propriété de non-résidents.

Une société est considérée comme non-résidente si elle est contrôlée par des non-résidents et si au moins la moitié des membres du conseil d'administration sont des non-résidents.

Certaines dispositions de la Loi prévoient, sous certaines conditions, le report ou le remboursement de l'impôt payé par les individus et les sociétés.

(2) THE LAND TRANSFER TAX ACT

Provisions

Definitions

Sec. 1 (1) In this Act,

- (f) "non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,
 - (i) that has allotted and issued shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by one or more non-resident persons, but this sub-clause does not apply where it is established to the satisfaction of the Minister that such one or more non-resident persons do not in fact directly or indirectly exercise control over the corporation and that subclause (v) does not apply to the corporation,
 - (ii) that has allotted and issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by any one non-resident person, but this sub-clause does not apply where it is established to the satisfaction of the Minister that such non-resident person does not in fact directly or indirectly exercise control over the corporation and that subclause (v) does not apply to the corporation.
 - (iii) one-half or more of the directors of which, or of the persons occupying the position of director by whatever name called, are individuals who are non-resident persons,
 - (iv) without share capital and one-half or more of the members of which are non-resident persons, or
 - (v) that is controlled directly or indirectly by one or more non-resident persons, including a non-resident corporation within the definition contained in the provisions of this clause other than this sub-clause;

(g) "non-resident person" means,

(i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor an individual who has been lawfully admitted to Canada for permanent residence in Canada.

(ii) a partnership, syndicate, association or other organization of whatsoever kind of which one-half or more of the members are non-resident persons within the meaning of subclause (i), (iii) or (iv) or in which interests representing in value 50 per cent or more of the total value of the property of such partnership, syndicate, association or other organization, are beneficially owned by non-resident persons within the meaning of subclause (i), (iii) or (iv).

(iii) a trust in which non-resident persons within the meaning of subclause (i), (ii) or (iv) have 50 percent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom, and "trust" includes the trustees under such a trust in their capacity as the trustees thereof, or

(iv) a non-resident corporation;

(ha) "recreational land" means land that is not used exclusively as residential land and that is predominantly used for the recreation and enjoyment of its owner or lessee or those, other than persons using the land for agricultural purposes, who are permitted by such owner or lessee to be on the land;

(hb) "residential" means, when used in respect of land, the land adjacent to a building that is the main and principal residence of the occupants, whether as owners or tenants, and includes all immediately contiguous lands necessary and used for such residence;

(la) "unrestricted land" means land that,

(i) under a by-law passed pursuant to section 35 of The Planning Act, or under an order made pursuant to section 32 of that Act is zoned for commercial or industrial use, or

(ii) where subclause (i) does not apply, is assessed under The Assessment Act for residential assessment or is lawfully used and occupied or was last lawfully used or occupied for commercial, industrial or residential purposes, and that is not assessed under The Assessment Act, or is not actually used, as farm or agricultural land, woodlands, recreational land or as an orchard.

Control defined

Sec. 1 (2) For the purposes of clause (f) of subsection (1), "control" means control by another corporation, individual or trust that is in fact exercising effective control either directly or indirectly and either through the holding of shares of the corporation or of any other corporation or through the holding of a significant portion of any class of shares of the corporation or of the outstanding debt of the corporation or of any shareholder or member of the corporation, or by any other means whether of a like or different nature.

Ordinarily Resident Defined

Sec. 1 (3) For the purpose of clause (g) of subsection (1), an individual shall be considered to be ordinarily resident in Canada if, at the time the expression is being applied,

- (b) he has sojourned in Canada during the next preceding 24 months for a period of, or periods the aggregate of which is 366 days or more;
- (c) he is a member of the Canadian Forces required to reside outside Canada;
- (d) he is an ambassador, minister, high commissioner, officer or servant of Canada, or is an agent-general, officer or servant of a province of Canada, and resided in Canada immediately prior to appointment or employment by Canada or a province of Canada or is entitled to receive representation allowances;
- (e) he is performing services in a country other than Canada under an international development assistance program of the Government of Canada that is prescribed for the purposes of paragraph (d) of subsection (1) of section 250 the Income Tax Act (Canada), and resided in Canada at any time in the three month period preceding the day on which such services commenced, or
- (f) he resides outside Canada and is the spouse or child of, and is living with, an individual described in clause (c), (d) or (e)

Imposition of Tax

Sec. 2(1) Every person who tenders for registration in Ontario,

- (a) a conveyance whereby any land is conveyed to or in trust for any transferee who is not a non-resident person; or
- (b) a conveyance that is a conveyance only of unrestricted land and upon which is endorsed or to which is attached a certification by the Minister, or by some person authorized by the Minister in writing to make the certification, that all of the land being conveyed is unrestricted land,

shall, before the conveyance is registered, pay a tax computed at the rate of three-tenths of 1 per cent of the value of the consideration for the conveyance up to and including \$35,000, and at the rate of six-tenths of 1 per cent upon the remainder of the value of the consideration.

(2) Every person who tenders for registration in Ontario a conveyance whereby any land that is not unrestricted land, is conveyed to or in trust for any transferee who is a non-resident person shall, before the conveyance is registered, pay a tax computed at the rate of 20 per cent of the value of the consideration for the conveyance.

Apportionment of consideration

Sec. 2(6) Where only a part of the land being conveyed is unrestricted land and the conveyance is to or in trust for any non-resident person, the Minister may, to the extent that he considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the unrestricted land being conveyed, and the person tendering the conveyance for registration is, notwithstanding subsection (1) or (2), liable to a tax computed at the rate of six-tenths of 1 per cent of such amount so determined, and is liable to a tax computed at the rate of 20 per cent of the amount of the value of the consideration for the conveyance that is determined by the Minister not to be reasonably attributable to the unrestricted land being conveyed.

Refund

Sec. 8(2) Where a conveyance has been tendered for registration that conveys land both to non-resident persons and to persons who are not non-resident persons, the Minister may refund to the persons who are not non-resident persons an amount equal to the difference between,

- (a) the amount that would result from the application of the rates of tax in subsection (1) of section 2 of the value of the consideration attributable in the opinion of the Minister to the land conveyed to persons who are not non-resident persons; and

- (b) the amount of tax paid on the value of the consideration attributable in the opinion of the Minister to land conveyed to persons who are not non-resident persons

but no refund under this subsection shall be made if the land is held in joint tenancy by the non-resident person and the persons who are not non-resident persons or if the Minister is of the opinion that the land conveyed to persons who are not non-resident persons cannot readily be distinguished from the land conveyed to non-resident persons.

Deferral or remission of tax to non-residents

Sec. 16 Where tax has been paid or may be payable on the registration of a conveyance of land to a non-resident person and that non-resident person satisfies the Minister that the land was or is to be acquired,

- (a) for the purpose of the development and resale of land for residential, commercial or industrial purposes;
- (b) for the purpose of establishing expanding or relocating any active commercial or industrial business that is or will be carried on by the non-resident person who shall undertake to obtain, within such time as is agreed upon with the Minister, any zoning changes necessary to permit the land to be used as proposed and to complete, within such time as is agreed upon with the Minister, the establishment, expansion or relocation for which the land was or is to be acquired;
- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within five years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land;
- (d) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land;
- (e) by a non-resident corporation that is a non-resident person because of the ownership of shares in that corporation, whether directly or indirectly, by a non-resident person described in clause (c) who undertakes to the Minister that the corporation will cease to be a non-resident person within five years from the date of the grant of a deferral or remission under this sub-section with respect to the acquisition of the land;

- (f) by a non-resident corporation that is a non-resident person because of the ownership of shares in that corporation, whether directly or indirectly, by a non-resident person described in clause (d) who undertakes to the Minister that the corporation will cease to be a non-resident person within two years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land, or
- (g) by a non-resident corporation that undertakes to the Minister to cease to be a non-resident corporation within five years from the date of the grant of the deferral or remission under this subsection with respect to the acquisition of the land,

the minister may, with the approval of the Lieutenant Governor in Council, defer the payment of the tax, or remit the tax paid, on such conditions as to the use and development of the land or other wise as are considered advisable and sufficient to ensure the development of the land as proposed or compliance with any undertakings given by the non-resident person acquiring the land, and any tax deferred or remitted under this subsection constitutes a first lien and charge in favour of Her Majesty in right of Ontario on the land so acquired or to be acquired, and the lien and charge shall be effective upon registration by the Minister of a notice thereof, and the Minister may discharge the lien and charge in whole or in part as the conditions that he has imposed or the undertakings that have been given to him are fulfilled or complied with, and may, where he considers it necessary and advisable to enable the performance of any condition or undertaking, postpone, release or waive the lien and charge with respect to all or any part of any land affected by the lien and charge.

Sec. 16 (2) A deferral or remission under subsection 1 may not exceed the amount by which the rate of tax imposed by subsection (2) of section 2 exceeds the rate of tax imposed by subsection (1) of section 2 but may otherwise be for all or any part of the tax.

Deferred tax cancelled

Sec. 16 (3) Where tax is deferred under subsection (1) upon conditions that are fulfilled, the amount of the tax so deferred is thereupon cancelled and no longer owing as tax under this Act, and where the conditions upon which any tax has been remitted under subsection (1) are not fulfilled, the tax so remitted thereupon becomes payable.

Reduction of tax in certain cases

Sec. 16 (4) Upon the tender for registration of a conveyance that is described in any of clauses (a) to (e) and that is made to a non-resident

person, the tax imposed by subsection (2) of the section 2 shall notwithstanding any other provision of this Act, be reduced to an amount equal to the tax that would result if only the rates of tax mentioned in subsection (1) of section 2 were applicable

- (a) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,
 - (i) that he has been lawfully admitted to Canada and is lawfully in Canada as an immigrant admitted under the Immigration Act (Canada) for permanent residence in Canada, or that he is lawfully in Canada for the purpose of engaging in a trade, profession, calling, occupation or employment that he is authorized to engage in in Canada, and the nature of that trade, profession, calling, occupation or employment,
 - (ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon his principal residence in Canada, and will not be used as the residence of persons other than the transferee or members of his family or members of his usual domestic establishment,
 - (iii) the number and expiration date of the employment visa, if any, issued to him pursuant to the Immigration Act (Canada) or regulations made thereunder and the length of time during which he tends to engage in the trade, profession, calling, occupation or employment for which he was admitted into Canada, and
 - (iv) that he is not in Canada as a tourist or visitor or for the purpose of passing through Canada to another country, or as a student admitted to Canada under the provisions of paragraph f of subsection (1) of section 7 of the Immigration Act (Canada);
- (b) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,
 - (i) that the transferee is a Canadian citizen, and
 - (ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon a place of residence or recreation to be his principal residence or principal recreational property upon his return to Canada to take up permanent resident in Canada;

- (c) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,
 - (i) that the transferee, on and after the 9th day of April, 1974, has continuously occupied premises in Canada where the transferee carried on an active commercial or industrial business that is not principally,
 - (A) the rental of land or premises for possession or occupancy for a period of one month or more,
 - (B) the acquisition of land,
 - (C) the sale of land owned by the seller,
 - (D) the holding of land, or
 - (E) the development of land,
 - (ii) the nature of such business so carried on by the transferee, and the principal location in Canada from which such business is carried on, and
 - (iii) that the land being conveyed to the transferee is being acquired for the purpose of enabling the transferee to acquire the freehold of only the leased premises on which such business is being carried on and not of other premises, or is being acquired for the purpose of expanding or re-locating the operations of such business where such expansion or relocation is not prevented by any zoning restrictions affecting the land conveyed;
- (d) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, and stating that the land being conveyed to him is being acquired by him as part of his normal business practice and either,
 - (i) for the principal purpose of selling the land to an employee of the transferee or to such employee and his spouse as the residence of that employee and members of his family or members of his usual domestic establishment, or

- (ii) for the principal purpose of making the land available for the exclusive use of his employees and members of their families or members of their usual domestic establishments as a place of residence; or
- (e) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation by an authorized officer of that corporation stating,
 - (i) that the land being conveyed to him is being acquired by him as the result of a final order of foreclosure under a mortgage or charge affecting the land or is being acquired in any other manner for the sole purpose of satisfying the obligations of the transferor to the transferee under a mortgage or charge affecting the land,
 - (ii) that the land being conveyed to him is being acquired by him only for the purpose of safeguarding or giving effect to rights or interests of the transferee as mortgagee or chargee and in respect of an outstanding loan that was owned by the transferor to the transferee and that is in default,
 - (iii) that the transferee is dealing in all respects with the transferor as though the parties were strangers, and
 - (iv) that the conveyance was not arranged with the intention of defeating the incidence of tax imposed by this Act.

Source: "The Land Transfer Tax Act" Statutes of Ontario 1974, Chap. 8, as amended by S.O. 1974, Chap. 16; 93 and S.O. 1977, Chap 14

THE LAND TRANSFER TAX ACT

REGULATION MADE UNDER THE LAND TRANSFER TAX ACT 1974

EXEMPTION FOR CERTAIN EASEMENTS GRANTED TO OIL OR GAS PIPELINES

Sec. 1 In this Regulation, "pipe line company" means a corporation whose principal business is the construction or operation of pipe lines for the transportation of oil, gas or other liquid and gaseous hydrocarbons and products thereof.

Sec. 2 It is determined that any conveyance to or in trust for a pipe line company that conveys only an easement or right of way in, over, under or upon land, or that conveys only the right to acquire such an easement or right of way, and that is made for the purpose of enabling the pipe line company to construct and operate on the land described in the conveyance a pipe line for the transportation of oil, gas or other liquid and gaseous hydrocarbons and products thereof is a class of conveyance to which the Act was not intended to apply, and every person tendering for registration any such conveyance is exempt from the tax imposed by the Act on the tender thereof for registration.

Source: "The Land Transfer Tax Act, 1974" Ontario Regulation 749/74

THE LAND TRANSFER TAX ACT

REGULATION MADE UNDER THE LAND TRANSFER TAX ACT, 1974

EXEMPTION FOR CERTAIN INSURANCE COMPANIES

Sec. 1 Subject to sections 2 and 3 the Minister or any collector is authorized to exempt from that part of the tax payable under subsection (2) of section 2 of the Act that exceeds the amount of tax that would result if the rates under subsection (1) of the said section 2 were applied any person tendering for registration a conveyance to a non-resident person that is,

- (a) an insurance company licensed to carry on business in Ontario under the Insurance Act and registered to carry on business in Canada under either the Canadian and British Insurance Companies Act (Canada) or the Foreign Insurance Companies Act (Canada);
- (b) a corporation all of the issued share capital of which, except directors' qualifying shares, is beneficially-owned by a life insurance company that is a non-resident person described in clause (a); or
- (c) a non-resident person solely because of the membership of a company described in clause (a) or (b) in an association of persons, partnership or syndicate that is the transferee to whom a conveyance is made or solely because of the ownership of shares by a company described in clause (a) or (b) of a corporation that is the transferee to whom a conveyance is made.

Sec. 1 The exemption authorized by section 1 shall be given only when a certification is made certifying that the transferee named in the conveyance meets one of the following conditions:

- (a) where the transferee is an insurance company or a trustee therefore, other than an insurance company incorporated by Canada or a province of Canada, the transferee must certify that,
 - (i) in the case of a company that has made the election provided for in subsection (9) of section 138 of the Income Tax Act (Canada), all of its gross investment revenue from the land to which the conveyance relates will be included in computing the income of the company under that Act, or
 - (ii) in the case of a company that has not made the election provided for in subsection (9) of section 138 of the Income Tax Act (Canada), the land to which the conveyance relates will be vested in trust under the provisions of the Canadian

and British Insurance Companies Act (Canada) or the Foreign Insurance Companies Act (Canada);

- (b) where the transferee is an insurance company incorporated by Canada or a province of Canada, the transferee must certify that the land to which the conveyance relates will not form part of the company's "assets out of Canada" required to be reported by it under the Canadian and British Insurance Companies Act (Canada) in its annual statement to the Superintendent of Insurance (Canada);
- (c) where the transferee is a corporation all of the issued share capital of which, except directors' qualifying shares, is beneficially-owned by a life insurance company that is a non-resident person described in clause (a) of section 1, the life insurance company by which the shares of the transferee corporation are beneficially-owned must certify that the land to which the conveyance relates will be treated by the transferee as an investment made and held for the benefit of the business carried on in Canada by the life insurance company; or
- (d) where the transferee is an association of persons, a partnership, syndicate or a corporation that is a non-resident person solely because of the membership in such association, partnership or syndicate, or solely because of the ownership of shares in such corporation, of or by one or more of the companies described in clause (a) or (b) of section 1, any such described company must certify that it has made reasonable inquiry and that to the best of its knowledge and belief the transferee would not, but for the membership or ownership of shares of one or more of the companies described in clause (a) or (b) of section 1, be a non-resident person within the meaning of the Act.

Source: "The Land Transfer Tax Act, 1974" Ontario Regulation 773/74

THE LAND TRANSFER TAX ACT

REGULATION MADE UNDER THE LAND TRANSFER TAX ACT, 1974

MINISTER AUTHORIZED TO EXEMPT AND REFUND

Sec. 1 (1) Where tax has been paid or may be payable on the registration of a conveyance of land to a non-resident person, and that non-resident person satisfies the Minister that the land was or is to be acquired,

- (a) by a non-resident person who undertakes to the Minister to develop and resell the land for residential, commercial or industrial purposes within five years from the date of the grant of an exemption or refund under this Regulation with respect to the acquisition of the land;
- (b) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within five years from the date of the grant of an exemption or refund under this Regulation with respect to the acquisition of the land;
- (c) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years from the date of the grant of an exemption or refund under this Regulation with respect to the acquisition of the land;
- (d) by a non-resident corporation that is a non-resident person because of the ownership of shares in that corporation, whether directly or indirectly, by a non-resident person described in clause (b) who undertakes to the Minister that the corporation will cease to be a non-resident person within five years from the date of the grant of an exemption or refund under this Regulation with respect to the acquisition of the land;
- (e) by a non-resident corporation that is a non-resident person because of the ownership of shares in that corporation, whether directly or indirectly, by a non-resident person described in clause (c) who undertakes to the Minister that the corporation will cease to be a non-resident person within two years from the date of the grant of an exemption or refund under this Regulation with respect to the acquisition of the land; or
- (f) by a non-resident corporation that undertakes to the Minister to cease to be a non-resident corporation within five years from the date of the grant of an exemption or refund under this Regulation with respect to the acquisition of the land,

the Minister is, subject to section 2, authorized to refund the tax paid or to exempt the non-resident person from the payment of the tax on condition that security in a form and of a kind acceptable to the Minister is furnished to him for the performance of the undertakings given by the non-resident person.

(2) An exemption or refund under subsection (1) may not exceed the amount by which the rate of tax imposed by subsection (2) of section 2 of the Act exceeds the rate of tax imposed by subsection (1) of section 2 of the Act, but may otherwise be for all or any part of such excess.

Sec. 2 (1) Where the Minister is satisfied that a non-resident person has performed the conditions as undertaken by him pursuant to section 1, he shall return to the non-resident person the security furnished in respect of the exemption granted under that section, but, where the non-resident person fails to perform the conditions as undertaken, the exemption under section 1 shall no longer apply and the Minister may enforce the security furnished to recover the tax.

(2) Where the conditions upon which any tax has been refunded under section 1 are not fulfilled, the tax so refunded becomes due and payable.

Sec. 3 The Minister may at such times as he considers advisable publish in The Ontario Gazette the particulars of an exemption given under this regulation.

Source: "The Land Transfer Tax, 1974" Ontario Regulation, 250/76.

(2) THE PUBLIC LANDS ACT

Comment

Regulations made under the Public Lands Act provide that no person other than a resident may apply for a lease of a summer resort location on Crown land for private use, until one year after the date of registration of the plan of subdivision which created the summer resort located in question.

However, during the period of one year next following the registration referred to above, only residents, a Canadian or a person having landing may apply for a lease.

Commentaire

Les règlements établis aux termes de la présente Loi prévoient que seuls des résidants peuvent demander l'attribution d'un bail, à des fins privées, d'une station estivale établie sur des terres de la Couronne jusqu'à un an après la date d'enregistrement du plan de lotissement à l'origine de la station estivale concernée.

Seuls les résidants, un citoyen ou un immigrant reçu peuvent cependant demander l'attribution d'un bail au cours de la seconde année suivant l'enregistrement susmentionné.

(2) THE PUBLIC LANDS ACT

REGULATION MADE UNDER THE PUBLIC LANDS ACT

Sec. 1 (ga) "resident" means a person who has actually resided in Ontario for the twelve months next preceding the date on which he applies to lease a summer resort location;

Sec. 12 (1) In this section, "landing" means landing as defined in the Immigration Act (Canada).

(2) During the period of one year next following the date of registration of a plan of subdivision creating summer resort locations, no person, other than a resident, shall apply for a lease of a summer resort location in the subdivision for private use and no such lease shall be granted to any such person.

(3) During the period of one year next following the one year period referred to in subsection (2), no person other than a resident, a Canadian or a person having landing, shall apply for a lease of a summer resort location in the subdivision for private use and no such lease shall be granted to any such person.

Source: "The Public Lands Act", Ontario Regulation, 514/75

III

PUBLISHING

EDITION

(1) PAPERBACK AND PERIODICAL DISTRIBUTORS ACT

Comment

Under this Act no person may carry on business in Ontario as a distributor unless he is a resident. In the case of a partnership, association, syndicate or organization of individuals, every member must be a resident. A corporation shall not carry on business in Ontario as a distributor if non-residents hold or control more than 25 per cent of the shares; or a single non-resident holds or controls more than 10 per cent of the shares; or if the corporation is incorporated outside Canada.

There is an exception for Canadian-incorporated companies which were carrying on business prior to 14 June 1971, and on that day were in contravention of the limits placed on non-resident shareholding or control, provided that no further transfers of shares or control are made that would result in a single non-resident, in conjunction with his associates, holding or controlling shares in excess of 10 per cent; or non-residents as a group holding or controlling shares in excess of 25 per cent.

Commentaire

Aux termes de la présente Loi, seuls les résidents de l'Ontario peuvent y être distributeurs. S'il s'agit d'une société en nom collectif, d'une association, d'un syndicat ou d'un groupement d'individus, tous les membres doivent être résidents. Une société ne peut exploiter une entreprise de distribution en Ontario si les non-résidents détiennent ou contrôlent plus de 25 pour cent des actions, ou si la société est constituée à l'étranger.

On fait une exception pour les sociétés constituées au Canada qui opéraient antérieurement au 14 juin 1971, date à laquelle ils ont enfreint les limites imposées à la détention ou au contrôle d'actions par les non-résidents. Cette exception ne vaut que si l'on n'effectue pas de transferts d'actions ou du contrôle qui auraient pour effet de concentrer entre les mains d'un seul non-résident et de ses associés, la propriété ou le contrôle de plus de 10 pour cent des actions, ou d'amener un groupe de non-résidents à détenir ou contrôler plus de 25 pour cent des actions.

(1) PAPERBACK AND PERIODICAL DISTRIBUTORS ACT

Provisions

Interpretation

Sec. 1(1)(g) "non-resident" means,

- (i) an individual who is not a Canadian citizen or has not been lawfully admitted to Canada for permanent residence.
- (ii) an individual who is not ordinarily resident in Canada,
- (iii) a corporation incorporated, formed or otherwise organized elsewhere than in Canada,
- (iv) a corporation that is controlled directly or indirectly by non-residents as defined in subclause (i), (ii) or (iii),
- (v) a trust established by a non-resident as defined in subclause (i), (ii), (iii) or (iv), or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest, or
- (vi) a corporation that is controlled directly or indirectly by a trust mentioned in subclause (v).

Sec. 1(1)(1) "resident" means a person, company or trust that is not a non-resident;

Control

Sec.1 (1a) For the purposes of subclause (iv) of clause (g) of subsection (1), a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations if,

- (a) equity shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or corporation or by or for the benefit of such other corporations; and

- (b) the votes carried by such securities are sufficient if exercised, to elect a majority of the board of directors of the first-mentioned corporation.

Residency requirements for individual

Sec. 8(1) Subject to subsection (2), no person who is not a corporation shall carry on business in Ontario as a distributor unless,

- (a) he is a resident; or
- (b) in the case of a partnership or an association, syndicate or organization of individuals, every member thereof is a resident.

(2) A person who is not a corporation and who was carrying on business as a distributor immediately before the 14th day of June, 1971 and who on that day is in contravention of subsection (1) may continue to carry on business, subject to section 4, if,

- (a) in the case of an individual, his interest or any part thereof is not transferred to or for the benefit of a non-resident; or
- (b) in the case of a partnership or an association, syndicate or organization of individuals, no person who is a non-resident is admitted as a member thereof.

Residency requirements re corporations

Sec.9(1) No corporation shall carry on business in Ontario as a distributor if,

- (a) the total number of equity shares of the corporation beneficially-owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction exceeds 25 per cent of the total number of issued and outstanding equity shares of the corporation;

(1a) In calculating the total number of equity shares of the corporation beneficially-owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

- (b) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident or over which he exercises control or direction, together with other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding equity shares of the corporation; or
- (c) the corporation is not incorporated by or under an Act of Ontario, Canada or any province of Canada.

Sec. 9(2) A corporation that was carrying on business as a distributor immediately before the 14th day of June, 1971 and that on that day is in contravention of subsection (1) may continue to carry on business, subject to section 4,

- (a) in the case of a contravention of clause (a) or (b) of subsection (1), if no transfer of equity shares or beneficial interest therein including their control or direction is made to a non-resident or person associated with him excepting when the result would be in compliance with clauses (a) and (b) of subsection (1); or
- (b) in the case of a contravention of clause (c) of subsection (1), until the 14th day of June, 1972, but a corporation incorporated after this Act comes into force and before the 14th day of June, 1972 by or under an Act of Ontario, Canada or a province of Canada may, notwithstanding clauses (a) and (b) of subsection (1), be registered in the place of the first mentioned corporation if the equity shares of the new corporation or beneficial interest therein, including their control or direction, held by non-residents are held directly or indirectly in the same manner as the equity shares of the first mentioned corporation, but where the new corporation is in contravention of clause (a) or (b) of subsection (1), clause (a) of this subsection applies.

Associated shareholder

Sec. 9(3) For the purposes of this section, a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a corporation of which the other shareholder is an officer or director;

- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a company that is controlled, directly or indirectly, by the other shareholder;
- (d) both shareholders are corporations and one shareholder is controlled, directly or indirectly, by the same individual or corporation that controls, directly or indirectly, the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.

Shares held jointly

(4) For the purposes of this section, where an equity share of a corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident.

Source: "The Paperback and Periodical Distributors Act, 1971"
Statutes of Ontario, 1971, Chap. 82 as amended by S.O. 1974,
Chap. 27.

(2) THE THEATRES ACT

Comment

Under the Act the Lieutenant Governor in Council may make regulations stipulating the proportion of Canadian manufacture and origin with respect to films available for distribution to exhibitors, or exhibited in theatres.

Where film submitted to the Board is wholly produced in Canada, no fee is payable therefor.

Commentaire

Aux termes de la présente Loi, le Lieutenant-gouverneur en conseil peut établir des règlements fixant la part des films fabriqués au Canada qui doit être mis à la disposition des directeurs de salles de cinéma ou projetés dans les cinémas.

Lorsque les films présentés à l'Office sont entièrement produits au Canada, ils ne sont assujettis à aucune taxe.

(2) THE THEATRES ACT

Provisions

Sec. 60(1) The Lieutenant Governor in Council may make regulations

11. requiring any proportion of films available for distribution to exhibitors or of films exhibited in theatres or any class thereof to be of Canadian manufacture and origin and fixing such proportion on a monthly or yearly basis.

Regulation

11a Where film submitted to the Board is wholly produced in Canada, no fee is payable therefor.

Source: "The Theatres Act" Revised Statutes of Ontario, 1970, Chapter 459, as amended by S.O. 1975 Ch. 60 and Ontario Regulation 259/65.

IV

TRANSPORTATION

LES TRANSPORTS

(1) ONTARIO TRANSPORTATION DEVELOPMENT CORPORATION ACT

Comment

Under the Act a majority of the board of directors must at all times be resident Canadians. The Act limits the proportion of shares of the Corporation which can be held by non-residents to 10 per cent, and the proportion which can be held by any one person (non-resident or resident) to 5 per cent.

Commentaire

Aux termes de la présente Loi, la majorité des membres du conseil d'administration doivent être en tous temps résidents canadiens. La Loi limite la part des actions de la société que peuvent détenir des non-résidents à 10 pour cent, et à 5 pour cent la part que peut détenir une seule personne, résidente ou non-résidente.

(1) ONTARIO TRANSPORTATION DEVELOPMENT CORPORATION ACT
Provisions

Interpretation

Sec. 1 In this Act,

- (e) "resident Canadian" has the same meaning as in
THE BUSINESS CORPORATIONS ACT:

Board of Directors

Sec. 7 A majority of the members of the Board shall at all times
be resident Canadians.

General

Sec. 14(1) In this section, "non-resident" means any person other
than a resident Canadian, a corporation controlled by resident
Canadians, Her Majesty in right of Canada, Ontario or any other
province of Canada or an agent or nominee of Her Majesty.

(2) The total number of equity shares of the Corporation
beneficially-owned, directly or indirectly, by non-residents or
over which non-residents exercise control or direction shall not
at any time exceed 10 per cent of the total number of issued and
outstanding equity shares of the Corporation.

(3) The total number of equity shares of the Corporation
beneficially-owned, directly or indirectly, by any person over
which he exercises control or direction shall not at any time
exceed 5 per cent of the total number of issued and outstanding
equity shares of the Corporation.

Source: "Ontario Transportation Development Corporation Act", Statutes
of Ontario, 1973, Chapter 66 as amended by S.O. 1975, Chapter 55.

V

OTHER

DIVERS

(1) THE CO-OPERATIVE CORPORATIONS ACT

Comment

Under this Act a majority of the board of directors must be resident Canadians. The board cannot transact business unless the majority of members present are resident Canadians.

Commentaire

Aux termes de la présente Loi, la majorité des membres du conseil d'administration doivent être canadiens. Le conseil ne peut traiter d'affaires que si la majorité des membres présents sont résidents canadiens.

(1) THE CO-OPERATIVE CORPORATIONS ACT

Provisions

Definition

Sec. 1(1)(21) "resident Canadian" means a Canadian citizen or person lawfully admitted to Canada for permanent residence, who is ordinarily resident in Canada.

Composition of the Board of Directors

Sec. 85(3) A majority of directors on the board of directors of every co-operative shall be resident Canadians.

Place of meetings

Sec. 94(1) Subject to subsection (2), the meetings of the board of directors and the executive committee shall be held at the place where the head office of the co-operative is located.

Exception

Sec. 94(2) Where the by-laws of the co-operative so provide, the meetings of the board of directors and of the executive committee may be held at any place within or outside Ontario, but in any financial year of the co-operative a majority of the meetings of the board of directors and a majority of the meetings of the executive committee shall be held at a place within Canada.

Duties

Sec. 96(1) The board of directors shall manage or supervise the management of the affairs and business of the co-operative.

Conduct of business

Sec. 96(2) Subject to section 97, no business of a co-operative shall be transacted by its board of directors except at a meeting of directors at which a quorum of the board is present and at which a majority of the directors present are resident Canadians.

Sec. 96(3) Where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office.

Executive committee

Sec. 97(1) Where the number of directors of a co-operative is more than six, and if authorized by a by-law, the directors may elect from among their number an executive committee consisting of not fewer than three of whom a majority shall be resident Canadians and may delegate to the executive committee any powers of the board of directors, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors.

Quorum

Sec. 97(2) An executive committee may fix its quorum, which shall be not less than a majority of its members.

Conduct of business

Sec. 97(3) No business shall be transacted by an executive committee except at a meeting of its members at which a quorum of the executive committee is present and at which a majority of the members present are resident Canadians.

Source: "The Co-operative Corporations Act", Statutes of Ontario, 1973, Chap. 101.

(2) THE LIQUOR LICENCE ACT

Comment

Commentaire

Under this Act no licence may be issued, transferred to an individual or renewed if the individual is not a Canadian citizen or landed immigrant; or to a corporation where the majority of the board of directors are not Canadian citizens.

En vertu de la présente Loi, aucune licence ne peut être accordée, transférée ou renouvelée à un individu s'il n'est pas citoyen canadien ou immigrant reçu ou à une société dont la majorité des membres du conseil d'administration ne sont pas citoyens canadiens.

(2) THE LIQUOR LICENCE ACT

Provisions

Licence to sell other than
by manufacturer

Sec. 6.(1) An applicant for a licence, or for approval of the transfer of a licence other than a licence referred to in section 5, is entitled to be issued the licence or have the transfer approved except where,

(b) the applicant is not a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;

(c) the applicant is a corporation and,

(iii) a majority of the members of the board of directors are not Canadian citizens or persons lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;

Source: "The Liquor License Act, 1975", Statutes of Ontario, 1975, Chapter 40.

MANITOBA

MANITOBA

I FINANCIAL
FINANCES

(1) Corporations Act

II OTHER
DIVERS

(1) Liquor Control Act

(2) The Farm Lands Protection Act

I

FINANCIAL

FINANCES

(1) CORPORATIONS ACT

Comment

Under the Corporations Act, the percentage of the shares of a loan or trust company held by non-residents may not be increased above 25 percent. Where non-residents' holdings are already in excess of 25 percent, they may not be increased above the existing percentage. The shareholdings of a non-resident person may not be increased above 10 percent, and where such holdings are in excess of 10 percent they are restricted to the existing percentage.

A majority of the directors of a corporation must be residents of Canada except in the case of certain holding corporations.

Commentaire

Aux termes de la présente Loi, le pourcentage des actions d'une société de crédit ou de fiducie détenues par des non-résidents ne peut dépasser 25 pour cent. Lorsque ce pourcentage dépasse déjà 25 pour cent, ce chiffre ne peut être accru. Un non-résident ne peut détenir plus de 10 pour cent; si c'est le cas, ce chiffre ne doit pas être augmenté.

La majorité des membres du conseil d'administration d'une société, à l'exception de certaines sociétés à portefeuille, doivent être résidents canadiens.

(1) CORPORATIONS ACT

Provisions

Interpretation

Sec. 1(1)z "resident of Canada" means an individual who is

- (i) ordinarily resident in Canada, or
 - (ii) not ordinarily resident in Canada, but who is a member of a prescribed class of persons.
- (1)x "prescribed" means prescribed by the regulations.

For the purposes of subsection 1(1)(z)(ii), Regulation 237/76 prescribes the following classes of persons as being residents of Canada:

- (a) persons who are full-time employees of the Government of Canada or a Province, of an agency of any such Government or of a federal or provincial Crown corporation;
- (b) persons who are full-time employees of a body corporate
 - (i) of which more than 50% of the voting shares are beneficially owned or over which control or direction is exercised by residents of Canada, or
 - (ii) a majority of the directors of which are residents of Canada,

where the principal reason for the residence of the employees outside Canada is to act as such employees;

- (c) persons who are full-time students at a university or other educational institution recognized by the educational authorities of a majority of the Provinces of Canada and have been resident outside Canada less than 10 consecutive years;
- (d) persons who are full-time employees of an international association or organization of which Canada is a member; or
- (e) persons who were, at the time of reaching their 60th birthday, ordinarily resident in Canada and have been resident outside Canada less than 10 consecutive years;
- (f) persons who are full-time members of the academic staff of a Canadian university on sabbatical or study leave outside Canada.

Residency

Sec. 100(3) A majority of the directors of a corporation must be residents of Canada.

Exception for holding corporation

Sec. 100(4) Notwithstanding subsection (3), not more than one-third of the directors of a holding corporation need be residents of Canada if the holding corporation earns in Canada directly or through its subsidiaries less than five percent of the gross revenues of the holding corporation and all of its subsidiary bodies corporate together as shown in the most recent consolidated financial statements of the holding corporation or the most recent financial statements of the holding corporation and its subsidiary bodies corporate.

Resident majority

Sec. 109(3) Directors, other than directors of a corporation referred to in subsection 100(4), shall not transact business at a meeting of directors unless a majority of directors present are residents of Canada.

Transaction of business

Sec. 109(4) Notwithstanding subsection (3), directors may transact business at a meeting of directors where a majority of directors who are residents of Canada is not present if

- (a) a director who is a resident of Canada and who is unable to be present approves in writing or by telephone or other communications facilities the business transacted at the meeting; and
- (b) a majority of directors who are residents of Canada would have been present had that director been present at the meeting.

Delegation

Sec. 110(1) Directors of a corporation may appoint from their number a managing director who is a resident of Canada or a committee of directors and delegate to such managing or committee any of the powers of the directors.

Resident majority

Sec. 100(2) If the directors of a corporation, other than a corporation referred to in subsection 100(4), appoint a committee of directors, a majority of the members of the committee must be residents of Canada.

Trust and Loan Corporations

Definitions

Sec. 315 In this Part,

- (a) "corporation" means a trust corporation or a loan corporation;
- (b) "loan corporation" means a corporation incorporated in Manitoba that carries on the business or exercises the powers set forth in section 327 and that accepts deposits from the public within the meaning of The Canada Deposit Insurance Corporation Act (Canada);

- (g) "trust corporation" means a corporation incorporated in Manitoba that carries on any of the businesses or exercises any of the powers set forth in subsection 322(1).

Application

Sec. 316(1) Notwithstanding any other Act of the Legislature, this Part applies to every loan corporation and to every trust corporation incorporated by or under any Act for which this Act is substituted or by a special Act of the Legislature.

Definitions

Sec. 344 (1) In this section, and in sections 345 and 349,

- (c) "non-resident" means

- (i) an individual who is not ordinarily resident in Canada, or
- (ii) a company incorporated, formed or otherwise organized elsewhere than in Canada, or
- (iii) a company that is controlled directly or indirectly by non-residents as defined in sub-clause (i) or (ii), or
- (iv) a trust established by a non-resident as defined in sub-clause (i), (ii) or (iii), or a trust in which non-residents as defined in those sub-clauses have more than 50% of the beneficial interest, or
- (v) a company that is controlled, directly or indirectly, by a trust as defined in sub-clause (iv);

- (d) "resident" means an individual, company or trust that is not a non-resident.

Shares held jointly

Sec. 344(3) For the purposes of sections 345 to 349, where a share of the capital of a corporation is held jointly and one or more of the joint holders is a non-resident, the share is deemed to be held by a non-resident.

Limit on shares held by non-residents

Sec. 345(1) The directors of a corporation shall refuse to permit the entry of a transfer of any share of the capital of the corporation to a non-resident

- (a) if, when the total number of shares of the capital of the corporation held by non-residents exceeds 25% of the total number of issued and outstanding shares of the corporation, that entry would increase the percentage of shares held by non-residents; or
- (b) if, when the total number of shares of the capital of the corporation held by non-residents is 25% or less of the total number of issued and outstanding shares of the corporation, that entry would cause the total number of shares held by non-residents to exceed 25% of the total number of issued and outstanding shares of the corporation; or
- (c) if, when the total number of shares of the capital of the corporation held by the non-resident and by other shareholders associated with him, if any, exceeds 10% of the total number of issued and outstanding shares of the corporation, that entry would increase the percentage of shares held by the non-resident and by the other shareholders associated with him, if any; or
- (d) if, when the total number of shares of the capital of the corporation held by the non-resident and by other shareholders associated with him, if any, is 10% or less of the total number of issued and outstanding shares of the corporation, that entry would cause the number of shares held by the non-resident and by the other shareholders associated with him, if any, to exceed 10% of the issued and outstanding shares of the corporation.

Exception

Sec. 345(2) Notwithstanding subsection (1), the directors of a corporation may permit the entry of a transfer of any share of the capital of the corporation to a non-resident when it is shown to the directors on evidence satisfactory to them that the share was, prior to June 18, 1971, held in the right of or for the use or benefit of the non-resident.

Allotment to non-resident

Sec. 345(3) The directors of a corporation shall not allot, or permit the allotment of, any shares of the capital of the corporation to a non-resident in circumstance where, if the allotment were a transfer, to entry thereof would be required, under subsection (1), to be refused by the directors.

Penalty

Sec. 345(4) Default in complying with this section does not affect the validity of a transfer or allotment of a share of the capital of the corporation that has been entered, but every director or officer who knowingly authorizes or permits the default is guilty of an offence and is liable, on summary conviction, to a fine of not more than \$5,000.00 or to imprisonment for a term of not more than one year, or both.

Voting by non-residents

Sec. 346(1) A non-resident shall not exercise the voting rights attached to shares of a corporation unless he is entered as a shareholder in respect of the shares.

Voting rights of nominees suspended

Sec. 346(2) Where a resident holds shares of the capital of a corporation in the right of or for the use or benefit of a non-resident and in respect of which the non-resident is not entered as the holder, the resident shall not, either in person or by proxy or by a voting trust, exercise the voting rights pertaining to those shares.

Change of status while entered

Sec. 346(3) Where a resident becomes a non-resident while entered as a shareholder, and the number of shares entered as owned by that shareholder, together with those entered as owned by other non-residents, exceed the limit set out in section 345, the shareholder shall not exercise, directly, by proxy or by voting trust, any voting rights in respect of the shares that exceed that limit.

Voting rights where associated shareholders

Sec. 346(4) Notwithstanding subsections (1), (2) and (3), where any shares of the capital of a corporation are held in the name of or for the use or benefit of a non-resident, other than shares in respect of which the non-resident was entered before this section comes into force or is entered under subsection 345(2), no person shall, either directly or as proxy or by voting trust, exercise the voting rights pertaining to those shares, if the total thereof together with any shares held in the name or right of or for the use or benefit of,

- (a) any shareholders associated with the non-resident; or
- (b) any person who would, under subsection 344(2), be deemed to be associated with the non-resident were such person and the non-resident themselves shareholders;

exceed in number 10% of the issues and outstanding shares of the corporation.

Penalty

Sec. 346(5) Every person who knowingly contravenes this section is guilty of an offence and is liable, on summary conviction, to a fine of not more than \$5,000.00 or to imprisonment for a term of not more than one year, or both.

Effect of contravention

Sec. 346(6) If any provision of this section is contravened at a general meeting of the corporation, no proceeding, matter or thing at that meeting is void by reason only of the contravention, but is voidable at the option of the shareholders by a resolution passed at a special general meeting of the corporation at any time within one year from the day of commencement of the general meeting at which the contravention occurred.

By-laws and resolutions

Sec. 347(1) The directors of a corporation may pass such resolution or by-laws as they consider necessary to carry out the intent of sections 345 and 346 and, in particular but without restricting the generality of the foregoing, may pass resolutions or by-laws

- (a) requiring any person holding a share of the capital of the corporation to submit a written declaration as to
 - (i) the ownership of the share,
 - (ii) the place in which the shareholder and any person for whose use or benefit the share is held are ordinarily resident,
 - (iii) whether the shareholder is associated with any other shareholder, and
 - (iv) such other matters as the directors consider relevant for the purposes of those sections;
- (b) prescribing the time and manner of submission of the declaration described in clause (a); and
- (c) requiring any person desiring to have a transfer of a share to him entered, to submit the same declaration as may be required under this section in the case of a shareholder.

Where declaration required

Sec. 347(2) Where, by or under any by-law or resolution made under subsection (1), a declaration is required to be submitted in respect of the transfer of a share, the directors may refuse to permit the entry of the transfer until the required declaration is completed and submitted.

Penalty

Sec. 347(3) Any person who makes a willfully false or deceptive statement in a declaration required by a by-law or resolution made under subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine of not more than \$5,000.00 or to imprisonment for a term of not more than one year, or both.

Liability of directors

Sec. 348 In determining , for the purposes of sections 344 to 347, whether a person is a resident or non-resident, by whom a corporation is controlled or any other circumstances relevant to the performance of their duties under those sections, the directors of the corporation may rely upon any statement made in a declaration submitted under section 347, or upon their own knowledge of the circumstances; and the directors are not liable in any action for anything done or omitted by them in good faith on the basis of that statement or knowledge.

Source: "The Corporations Act", Statutes of Manitoba, 1976, Chapter 40
as augmented by Section 5 of Regulation 2377/76, October 8, 1976.

II

OTHER

DIVERS

(1) THE LIQUOR CONTROL ACT

Comment

Under the Manitoba Liquor Control Act, in order to be eligible for a licence, an individual must be a Canadian citizen resident in Canada for at least one year immediately prior to the date of application for a licence. In the case of a partnership, each member of the partnership must meet the residence requirement. A corporation must be incorporated or authorized to carry on its business in Manitoba in order to be eligible for a licence.

Commentaire

Aux termes de la présente Loi du Manitoba, un individu ne peut obtenir une licence que s'il est citoyen canadien résidant au Canada depuis au moins une année avant la date de demande du permis. En ce qui concerne les sociétés en nom collectif, tous les membres doivent répondre aux critères de résidence ci-dessus. Une société doit être constituée ou avoir obtenu l'autorisation d'opérer au Manitoba, pour être admissible à un permis.

(1) THE LIQUOR CONTROL ACT

Provisions

Qualification of certain licensees.

Sec. 74 (1) Subject to section 165, a licence of any of the classes mentioned in clause (a), clauses (c) to (g), (g.1) and clause (m) of subsection (1) of section 73 shall be issued only to

- (a) person who is eighteen or more years of age, a Canadian citizen, resident in Canada for at least one year immediately prior to the date of application and of good reputation and character; or
- (b) a partnership each of the members whereof is qualified as in clause (a) provided; or
- (c) a railway corporation in respect of its hotels; or
- (d) a corporation
 - (i) that owns and operates hotels in connection with a railway; and
 - (ii) more than half of the stock of which is owned by a railway corporation; or
- (e) any other corporation
 - (i) that is incorporated, or authorized to carry on its business in Manitoba, under the laws of the province; and
 - (ii) the directors, chief officers, and major shareholders of which, and the officer or agent of which who is in charge of the premises to be licensed, are of good reputation and character; or
- (f) any department or agency of the Government of Canada, or of the Government of Manitoba, or a municipality, or the Metropolitan Corporation of Greater Winnipeg.

Source: "The Liquor Control Act" Revised Statutes of Manitoba, 1970, Chap. L160, as amended by S.M. 1971, Chap. 40; S.M. 1975, Chap. 18.

(2) THE FARM LANDS PROTECTION ACT

Comment

The intent of this Act is twofold: to restrict the acquisition of land, over a certain acreage, by persons or corporations that are not resident Canadians, and also to restrict the acquisition of land, over a certain acreage, by resident Canadians who are not farmers.

Two exceptions are: (1) those having land in excess of limit at the time of introduction of the law; and (2) those acquiring land by devise.

Commentaire

La présente Loi a deux objectifs: d'une part, restreindre l'acquisition de terres par des personnes ou des sociétés qui ne résident pas au Canada, à une certaine superficie; d'autre part, restreindre l'acquisition de terres par des résidents canadiens qui ne sont pas agriculteurs, à une certaine superficie.

Il existe deux exceptions: (1) les personnes possédant, au moment de la mise en vigueur de la Loi, une superficie de terres supérieure à la limite et (2) celles qui font l'acquisition de terres par legs.

(2) FARM LANDS PROTECTION ACT

Provisions

Definitions

Sec. 1(1) In this Act

- (a) "corporation" means a corporation or co-operative corporation
 - (i) which is not primarily engaged in the business of farming, and
 - (ii) 40 per cent or more of all the issued voting and non-voting shares of which are legally and beneficially owned by persons whose principal occupation is not farming;
- (b) "farmer" means a resident Canadian who is actively and substantially engaged in farming in Manitoba and whose principal occupation is farming;
- (c) "land" means agricultural land in Manitoba situated outside of a city, town, or village, and includes messuages, tenements, hereditaments, corporeal and incorporeal, of every kind and description, whatever the estate or interest therein, and whether legal or equitable, together with all paths, passages, ways, watercourses, liberties, privileges, and easements, appertaining thereto, and all trees and timber thereon, but excludes minerals and land used for the purpose of extracting, processing, storing, or transporting minerals and land designated or zoned for residential, commercial or industrial use in accordance with The Planning Act;
- (d) "minister" means the Minister of Agriculture;
- (e) "resident Canadian" means
 - (i) a Canadian citizen or landed immigrant, or

- (ii) a corporation, other than a corporation defined in clause (a), which is primarily engaged in business of farming and at least 60 per cent of all the issued voting and non-voting shares of which are legally and beneficially owned by individuals who are resident Canadians and whose principal occupation is farming;

Restrictions on acquisition of land by corporations and by persons who are not resident Canadians

Sec. 2(1) Except as may be otherwise provided in this Act, no corporation and no person or corporation that is not a resident Canadian shall purchase or otherwise acquire land which results in that corporation or person owning land in the aggregate in excess of 160 acres.

Restrictions on acquisition of land by persons who are not farmers

Sec. 2(2) Except as may be otherwise provided in this Act or the regulations, a resident Canadian who is not a farmer shall not acquire land which results in owning land in the aggregate in excess of 640 acres.

Acquisition of non-agricultural land

Sec. 2(3) Except for land designated or zoned for residential, commercial or industrial use in accordance with The Planning Act, no person, resident Canadian or corporation shall directly or indirectly acquire land that is not agricultural land which would result in that person, resident or corporation owning in the aggregate more than 640 acres of non-agricultural land.

Deemed ownership of land owned by spouse and children

Sec. 3(1) For the purposes of this Act, land owned by the spouse and dependant children of a person who is not a resident Canadian shall be deemed to be owned by him.

Deemed acquisition by corporation

Sec. 3(2) For the purposes of this Act, land owned or acquired

- (a) by a corporation (designated herein as "A"), the majority of whose issued and outstanding voting shares are owned by another corporation (designated herein as "B"), or by a majority of the shareholders of "B" who are also shareholders of "A", shall be deemed to be owned or acquired by both "A" and "B"; or

- (b) by corporation "A", the majority of whose issued and outstanding voting shares are owned by an individual or a group of individuals and the same individual or group of individuals are also the owners of a majority of the issued and outstanding voting shares of corporation "B" shall be deemed to be owned or acquired by corporation both "A" and "B".

Reduction of land holding by corporation becoming a non-resident Canadian

Sec. 3(3) Where land is owned by a corporation as defined in clause 1(1)(a) or mentioned in sub-clause 1(1)(e)(ii), and a sale or transfer of its shares occurs which results in the corporation not being a resident Canadian, the land so owned by the corporation shall be reduced to the maximum permitted under section 2 within 2 years of the date of the sale or transfer of the shares.

Exceptions

Sec. 4(1) Section 2 does not prevent a corporation or person that is not a resident Canadian or a farmer from owning or acquiring land in excess of the amounts specified in that section

- (a) if the person or corporation owned or acquired the land prior to the 1st day of April, 1977; or
- (b) where the person or corporation acquires land on or after the 1st day of April, 1977, if the right to obtain title to the land arose prior to that date.

Exception on acquisition by devise

Sec. 4(2) Section 2 does not prevent

- (a) a person from owning or acquiring land in excess of the amounts specified in that section where the person acquires the land by devise or by the operation of The Devolution of Estates Act; or
- (b) a corporation from acquiring land in excess of the amounts specified in that section where the corporation acquires the land by devise.

Acquisition by realization of security by corporation

Sec. 5(1) A corporation or a person who is not a resident Canadian may acquire land by the realization, quit claim, settlement, or otherwise of its or his security which results in that corporation or that person owning land in the aggregate excess of 160 acres;

but that corporation or person shall reduce the total amount of land owned to 160 acres not later than 2 years from the date of the acquisition, or such further time as the board may, upon application, deem justified to avoid hardship.

Enforcement of limitation of land holding

Sec. 7(1) A person or a corporation acquiring land in contravention of section 2 shall forthwith reduce his or its ownership of land to the maximum permitted under that section.

Order to reduce land holding

Sec. 7(2) The minister may order a person or a corporation acquiring land in contravention of section 2, requiring the person or the corporation to reduce his or its ownership of land to the maximum permitted under that section.

Service of order

Sec. 7(3) The order referred to in subsection (2) shall be in writing and may be served personally or by registered or certified mail addressed to the person or corporation named in the order.

Failure to comply with order

Sec. 7(4) Where a person or a corporation fails to comply with an order of the minister under subsection (2) within 6 months from the date on which the order is served, the minister may apply to a judge of the Court of Queen's Bench for an order

- (a) declaring null and void any instrument or document by which the land was acquired in contravention of this Act;
- (b) for the sale of the land held in excess of the amount permitted to be held under this Act and the distribution of the proceeds from the sale to such persons as may be entitled thereto;
- (c) vesting title to the land in the name of such person as may be entitled thereto;
- (d) to return any consideration given under an instrument or a document made in contravention of this Act;

- (e) for possession of the land to be given to such persons as may be entitled thereto;
- (f) respecting costs; and
- (g) providing for such other matters or things as may be necessary to give effect to the provisions of this Act or as to him seems just.

Source: "Farm Lands Protection Act", Statutes of Manitoba, 1977,
C. 44, Chapter F-35.

SASKATCHEWAN

SASKATCHEWAN

I FINANCIAL
FINANCES

(1) Trust Companies Act

II RESOURCES
RESSOURCES

LAND
TERRES

(1) Saskatchewan Farm Ownership Act

III AGRICULTURE
AGRICULTURE

(1) Agricultural Incentives Act

IV OTHER
DIVERS

(1) Liquor Licensing Act

I

FINANCIAL

FINANCES

(1) TRUST COMPANIES ACT

Comment

The majority of the directors of a trust company are required to be both residents of Saskatchewan and British subjects.

Commentaire

La majorité des membres du conseil d'administration d'une société de fiducie doivent être résidents de la Saskatchewan et sujets britanniques.

(1) TRUST COMPANIES ACT

Provisions

Directors

Sec. 19 The majority of the directors of the company shall be British subjects and at all times resident in Saskatchewan.

Source: "Trust Companies Act", Revised Statutes of Saskatchewan 1965, Chapter 132.

II

RESOURCES

RESSOURCES

LAND
TERRES

(1) SASKATCHEWAN FARM OWNERSHIP ACT

Comment

The aggregate land holdings of Saskatchewan farm land by a non-resident may not exceed a value of \$15,000 as assessed for municipal tax purposes. The assessment does not include buildings and other related improvements.

A non-resident may not make any new acquisition of farm land if it would have the effect of increasing his aggregate holdings beyond the specified limit.

There is an exception to these restrictions in the case of land which was acquired, or rights to it existed, prior to 31 March 1974 and in the case where land was acquired while the person was a resident.

When a non-resident acquired farm land by way of devise or inheritance and such acquisition has the effect of increasing his aggregate holdings beyond the specified limit, the non-resident has 5 years from the date of acquisition to reduce his holdings to within the provisions of the Act.

The land holding restrictions placed on non-residents do not apply to specified relatives of a transferor provided that the transferor was a resident during any five year period prior to the

Commentaire

Aux termes de la présente Loi, la valeur total des terres agricoles détenues par un non-résident ne peut dépasser \$15,000 selon l'évaluation foncière pour fin de taxes municipales.

Un non-résident ne peut pas faire l'acquisition d'une plus grande superficie de terres agricoles si cette acquisition a pour effet d'accroître ses avoirs au-delà de la limite fixée.

Il existe une exception à ces restrictions: lorsque les terres ont été acquises, ou que les droits rattachés à ces terres, existent, avant le 31 mars 1974; lorsque les terres ont été acquises alors que l'acheteur était résident de la province.

Si un non-résident fait l'acquisition de terres agricoles à la suite d'un legs ou d'un héritage et que cette acquisition a pour effet d'accroître ses avoirs au-delà de la limite fixée, il dispose de 5 ans, à partir de la date d'acquisition, pour ramener ses avoirs dans les limites fixées par la Loi.

Les limites imposées aux non-résidents en matière de possessions foncières ne s'appliquent pas aux proches parents désignés du cédant si celui-ci a résidé dans la province pendant une période de 5 ans avant la date du

transfer and that while he was a resident, he farmed the land. The acquisition of such land by a non-resident, however, would be included in his aggregate holdings and thereby reduce the land holding he would otherwise be permitted to acquire.

A non-resident creditor who has acquired farm land in excess of the specified limit by way of a settlement of a claim, has 2 years from the date of acquisition to reduce his holdings. The Board has the power to extend such a period.

A non-resident may apply for an exemption to the land holding restrictions if he intends to become a resident within a period of 3 years.

transfert et s'il cultivait alors ses terres. Celles-ci, nouvellement acquises par un non-résident, seraient cependant comprises dans le total de ses avoirs et réduiraient ainsi les avoirs fonciers qu'il serait autrement autorisé à acquérir.

Un créancier non-résident dont les acquisitions de terres agricoles à la suite du règlement d'une demande dépassent la limite prescrite, dispose de deux ans à compter de la date d'acquisition pour réduire ses avoirs. L'Office peut étendre cette période.

Un non-résident peut faire une demande de levée des restrictions à la possession foncière s'il a l'intention de devenir résident au cours des trois années à venir.

(1) SASKATCHEWAN FARM OWNERSHIP ACT

Provisions

Definitions

Sec. 2 In this Act:

- (b) "agricultural corporation" means a corporation:
 - (i) which is primarily engaged in the business of farming;
 - (ii) of which not less than sixty per cent of all issued voting shares are legally and beneficially owned by farmers who are resident persons; and
 - (iii) of which not less than sixty per cent of all issued shares are legally and beneficially owned by farmers who are resident persons;
- (g) "non-agricultural corporation" means a corporation which does not meet all of the requirements of clause (b);
- (h) "non-resident person" means a person who does not meet the requirements of clause (i);
- (i) "resident person" means:
 - (i) an individual who resides in Saskatchewan for one hundred and eighty three days or more a year; or
 - (ii) a farmer who resides for one hundred and eighty-three days or more a year outside Saskatchewan but within twenty miles of the border of Saskatchewan;

Sec. 7 Subject to sections 8,9, 10 and 13, no non-resident person shall:

- (a) have an aggregate land holding with an assessed value for municipal taxation purposes in excess of \$15,000, excluding any assessment for buildings and similar improvements; or
- (b) acquire a land holding which results in the non-resident person having an aggregate land holding with an assessed value

for municipal taxation purposes in excess of \$15,000, excluding any assessment for buildings and similar improvements.

Restrictions not applicable to land acquired prior to March 31, 1974 or to land acquired while a resident

Sec. 8(1) Clause (a) of section 7 shall not apply:

- (a) where the land holding was acquired by the non-resident person prior to the thirty-first day of March 1974;
- (b) where the land holding was acquired by the non-resident person on or after the thirty-first day of March, 1974, but the right to the land holding arose prior to that date; or
- (c) where the land holding is held by a non-resident person who during any five years:
 - (i) was a farmer;
 - (ii) was a resident person; and
 - (iii) farmed the land holding.

(2) A non-resident person who has a land holding in excess of that permitted under section 7 which he held while a resident person but who does not meet the requirements of clause (c) of subsection (1) shall have five years from the date of becoming a non-resident person to reduce his aggregate land holding to an aggregate land holding permitted under section 7.

Sec. 9 A non-resident person who acquires a land holding by devise or by operation of The Intestate Succession Act which results in the non-resident person having an aggregate land holding in excess of that permitted under section 7, shall have five years from the date of his acquisition of the land holding, to reduce his aggregate land holding to an aggregate land holding permitted under section 7.

Sec. 10(1) Notwithstanding section 9, and subject to subsection(3), section 7 does not apply to a land holding transferred to a spouse or to a son, daughter, grandson, granddaughter, brother, sister, nephew, niece or spouse thereof, if the transferor, during any five years prior to the date of transfer was:

- (a) a resident person; and
- (b) a farmer farming the land holding or the spouse of

a farmer farming the land holding.

(2) For the purpose of subsection (1), in the case of a devise, or in the case of a succession under the The Intestate Succession Act, the deceased shall be deemed to be the transferor.

(3) Where a non-resident person acquires a land holding pursuant to this section, for the purposes of clause (b) of section 7, such land holding shall be included in his aggregate land holding and thereby reduce the land holding that he is permitted to acquire under clause (b) of section 7.

Special exemption for acquisition of land by creditors

Sec. 13(1) A non-resident person or a non-agricultural corporation may acquire a land holding by the realization, quit claim, settlement or otherwise of his or its security which results in the non-resident person or the non-agricultural corporation having a land holding in excess of that permitted under section 7 or section 11, as the case may be; but after a period of two years from the date of acquisition of the land holding, such land holding shall be included in his or its aggregate land holding for the purposes of section 7 or section 11, as the case requires.

(2) The board may extend the two year time period mentioned in subsection (1) subject to such terms and conditions as it considers advisable.

Special exemption for potential residents

Sec. 15(1) Notwithstanding section 7, a non-resident person who intends to become a resident person within three years may apply for and the board may in writing grant exemption from the provisions of section 7 and such exemption shall be subject to the applicant becoming a resident person within three years from the granting of the exemption.

(2) Where a non-resident person, who has been granted an exemption under subsection (1), fails to qualify as a resident person within the three-year period, the exemption shall terminate forthwith.

Enforcement

Sec. 17(1) A non-resident person or a non-agricultural corporation having a land holding in contravention of this Act shall forthwith reduce his or its aggregate land holding to an aggregate land holding permitted under the Act.

(2) The board may issue an order to a non-resident person or a non-agricultural corporation having a land holding in contravention of this Act, requiring the non-resident person or the non-agricultural corporation to reduce his or its aggregate land holding to an aggregate land

holding permitted under the Act.

(3) The order referred to in subsection (2) shall be in writing and may be served personally or by registered mail addressed to the non-resident person or non-agricultural corporation to be served.

(4) Where a non-resident or a non-agricultural corporation fails to comply with an order of the board under subsection (2) within six months from the date on which the order is served, the board may apply to a judge of the Court of Queen's Bench who shall enforce compliance with this Act and may make one or more of the following orders:

- (a) an order declaring null and void any instrument or document by which a land holding is or may be acquired in contravention of this Act;
- (b) an order for the sale of the land holding held in contravention of this Act and the distribution of the proceeds from the sale to such persons as may be entitled thereto;
- (c) an order directing the registrar of land titles to cancel a Certificate of Title of a non-resident person or non-agricultural corporation and to issue a new Certificate of Title and duplicate thereof in the name of such persons as may be entitled thereto;
- (d) an order to return any consideration given under an instrument or a document made in contravention of this Act;
- (e) an order for possession of the land holding to be given to such persons as may be entitled thereto;
- (f) an order respecting costs;
- (g) such other order as may be necessary to give effect to the provisions of this Act or as to him seems just.

Source: "Saskatchewan Farm Ownership Act", Statutes of Saskatchewan, 1973-74, Chapter 98.

III

AGRICULTURE

AGRICULTURE

AGRICULTURE
AGRICULTURE

(1) THE AGRICULTURAL INCENTIVES ACT

Comment

Commentaire

In order to be eligible for financial assistance under the Agricultural Incentives Act, a farmer must be a Canadian citizen or a landed immigrant residing in Saskatchewan. Similarly, every member of a farming partnership or of a cooperative farming association and every shareholder of a farming corporation must be a Canadian citizen or a landed immigrant residing in Saskatchewan.

Aux termes de la présente Loi, un agriculteur doit être citoyen canadien ou immigrant reçu résidant dans la Saskatchewan pour pouvoir bénéficier d'une aide financière. De même, tout membre d'une société agricole en nom collectif, d'une coopérative agricole, et tout actionnaire d'une société agricole doit être citoyen canadien ou immigrant reçu résidant dans la Saskatchewan.

(1) THE AGRICULTURAL INCENTIVES ACT

Provisions

Interpretation

Definitions

Sec. 2 In this Act:

(f) "farmer" means:

(i) an individual:

(A) who has declared his intention of making or continuing to make, farming his principal occupation during the term of a loan made to him under section 10, during the term of a loan to him in respect of which the corporation is required to make a payment under section 14 or during the period in respect of which a grant under this Act is made to him; or

(F) who is a Canadian citizen or has landed in Canada and resides in Saskatchewan with an intention of residing permanently in the province;

(ii) a co-operative farm association or farming partnership each member of which, or a farming corporation each shareholder of which, has declared his intention of being principally occupied, or continuing to be principally occupied, in the farming operations of the association, corporation or partnership, as the case may be, during the term of a loan made to the association, corporation or partnership under section 10 or during the term of a loan to the association, corporation or partnership in respect of which Farm-Start is required to make a payment under section 14 and who meets the qualifications of paragraphs (C) to (F) of subclause (i).

Purpose

Sec. 3 The purposes of this Act are to assist in the establishment and development of profitable farming operations in the province and to stimulate the expansion of the live-stock industry in the province by providing financial assistance to farmers to assist them in diversifying their farming operations.

Source: "Agricultural Incentives Act", Statutes of Saskatchewan, 1973, Chapter 2.

IV

OTHER

DIVERS

OTHER
DIVERS

(1) LIQUOR LICENSING ACT

Comment

In order to be eligible for a licence under Saskatchewan's Liquor Licensing Act, an individual must be a Canadian citizen who has resided in Canada for at least one year previous to the date of application. For a partnership to be eligible, every member thereof must so qualify; and for a corporation to be eligible, it must be authorized to carry on business in the province, and a majority of its shareholders, as well as the person in charge of the premises to be licensed, must comply with the requirement for individual applicants.

Commentaire

Aux termes de la présente Loi, il faut, pour pouvoir obtenir une licence, être citoyen canadien et avoir résidé au Canada pendant au moins une année avant la date de demande. En conséquence, tous les membres d'une société doivent répondre à ces critères pour pouvoir obtenir une licence; pour ce qui est des sociétés, elles doivent obtenir l'autorisation d'opérer dans la province et la majorité de ses actionnaires comme les responsables de l'établissement doivent répondre aux critères requis pour les demandes individuelles.

(1) LIQUOR LICENSING ACT

Provisions

Qualification of licensee

Sec. 74

A licence may be issued only to:

- (a) a person nineteen years of age or more who is a Canadian citizen and has resided in Canada for at least one year immediately prior to the date of application for a licence;
- (b) a partnership, each of the members of which is qualified as mentioned in clause (a);
- ...
- (d) a corporation authorized to carry on its business in Saskatchewan which has among its objects the right to operate, conduct or manage a hotel, restaurant or dining room, and a majority of whose shareholders are and whose officer or agent in charge of the hotel, restaurant or dining room is personally qualified as mentioned in clause (a) and not disqualified under section 66;

Source: "The Liquor Licensing Act", Revised Statutes of Saskatchewan 1965, Chap. 383, as amended by S.S. 1970, Chap. 8.

ALBERTA

ALBERTA

GENERAL COMMENT
COMMENTAIRE GENERAL

I FINANCIAL
FINANCES

- (1) Alberta Insurance Act
- (2) Companies Act
- (3) Trust Companies Act

II RESOURCES
RESSOURCES

A. AGRICULTURE
AGRICULTURE

- (1) Agricultural Development Act

B. ENERGY
ENERGIE

- (1) Alberta Energy Company Act
- (2) Alberta Gas Trunk Line Company Act

C. LAND
TERRES

- (1) Agricultural and Recreational Land
Ownership Act
- (2) Public Lands Act

III COMMUNITY SERVICES
SERVICES COMMUNAUTAIRES

- (1) Nursing Homes Act

IV OTHER
DIVERS

- (1) Liquor Licensing Act
- (2) Real Estate Agents' Licensing Act

GENERAL COMMENT

The Government of Alberta considers that it is not in the public interest to have purchases of land, particularly agricultural and recreational land, by non-residents.

Consequently, it passed the Agricultural and Recreational Land Ownership Act in 1977. This law required the amendment of a number of other acts which would not normally affect foreign investment.

The amendments require persons covered by these laws to submit information concerning their citizenship and residency.

The acts amended thus are:

Agricultural Societies Act
Alberta Insurance Act
Co-operative Associations Act
Companies Act
Credit Union
Land Titles Act
Oil and Gas Conservation Act
Partnership Act
Religious Societies Act
Trust Companies Act

COMMENTAIRE GENERAL

Le gouvernement de l'Alberta estime que les achats de terres agricoles et à vocation récréative, par des non-résidents, ne sont pas dans l'intérêt de la province.

Il a donc voté en 1977, l'Agricultural and Recreational Land Ownership Act. Cette loi imposait la modification de plusieurs autres lois qui ne portent normalement pas sur l'investissement étranger.

Les modifications obligent les personnes concernées par ces lois à présenter des renseignements sur leur citoyenneté et leur résidence.

Les lois modifiées sont les suivantes:

Agricultural Societies Act
Alberta Insurance Act
Co-operative Associations Act
Companies Act
Credit Union
Land Titles Act
Oil and Gas Conservation Act
Partnership Act
Religious Societies Act
Trust Companies Act

I

FINANCIAL

FINANCES

(1) ALBERTA INSURANCE ACT

Comment

The Alberta Insurance Act provides that a majority of the directors of a provincial "life insurance company" or an "other than life insurance company" must at all times be residents of Alberta and subjects to the Crown by birth or naturalization.

Commentaire

La présente Loi stipule que la majorité des membres du conseil d'administration d'une compagnie d'assurance-vie ou d'un autre type de compagnie d'assurance doivent résider en permanence dans l'Alberta et être sujets de la Couronne, de naissance ou par naturalisation.

(1) ALBERTA INSURANCE ACT

Provisions

Directors

Sec. 138 (1) There shall be in the case of life insurance companies having a capital stock, whether called by the name of capital stock, guarantee fund or any other name, two classes of directors, namely,

- (a) directors elected by shareholders, in this Act called "shareholders' directors", and
- (b) directors elected by the policy-holders, in this Act called "policy-holders' directors".

(2) In the case of companies, other than life companies, having a capital stock there shall be only one class of directors, namely, directors elected by the shareholders, in this Act called "ordinary directors".

(3) The majority of the directors of a company so elected shall at all times be persons resident in the Province and subjects of the Crown by birth or naturalization.

Source: "Alberta Insurance Act", Revised Statutes of Alberta, 1970 Chapter 187, Office consolidation with amendments to November 30, 1977.

(2) COMPANIES ACT

Comment

The Companies Act of Alberta provides, effective January 1, 1978, that at least one-half of the members of the board of directors of every company incorporated in Alberta shall be resident Albertans.

In any year a majority of the meetings of the board of directors must be held in Canada.

The Act further provides that at any meeting of the board of directors a majority of the directors present must be resident Albertans.

The Act provides that the company is required at the time of incorporation and annually to provide information concerning the citizenship and residency of members and subscribers.

Commentaire

A compter du 1er janvier 1978, la présente Loi stipule qu'au moins la moitié des membres du conseil d'administration des sociétés constituées en Alberta devront être résidents de cette province.

En tout temps, la majorité des réunions du conseil d'administration doivent être tenues au Canada.

La Loi stipule en outre que la majorité des membres du conseil d'administration présents aux réunions doivent être résidents de l'Alberta.

La Loi stipule qu'au moment de sa constitution, et une fois par an, une société doit fournir des renseignements sur la citoyenneté et le lieu de résidence des membres du conseil d'administration et des souscripteurs.

(2) COMPANIES ACT

Provisions

Definitions

Sec. 2 (1) In this Act

"resident Albertan" means an individual who

- (i) is a Canadian citizen, or
- (ii) has been lawfully admitted to Canada for permanent residence,

and who is ordinarily resident in Alberta;

Residence requirements

Sec. 76.1

(1) At least half of the members of the board of company shall be resident Albertans.

(2) The meetings of a board of directors may be held at any place within or outside Alberta, but in any year a majority of the meetings of a board of directors shall be held at a place within Canada.

(3) No business of a company shall be transacted at a meeting of a board of directors unless at least half of the members of the board of directors present at that meeting are resident Albertans.

(4) A company that fails to comply with any provision of this section is guilty of an offence and is liable on summary conviction to a fine of not more than \$5,000 and every director of the company who authorized, permitted or acquiesced in any such failure is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000.

(5) Non-compliance with this section does not invalidate any resolution passed or decision made at a meeting of a board of directors.

(6) This section does not apply to an extra-provincial company or a non-resident company. (1975(2), c.46, s. 3Eff. Jan. 1, 1975).

Source: "The Companies Act", Revised Statutes of Alberta 1970, Chapter 60. Office Consolidation.

(3) THE TRUST COMPANIES ACT

Comment

Under the Trust Companies Act three-quarters of the directors of an Alberta incorporated trust company are required to be Canadian citizens ordinarily resident in Canada.

The Trust Companies Act provides the following restraints on non-resident shareholding. Holdings by non-residents cannot be increased above 25 per cent of the issued and outstanding shares unless that limit has already been exceeded, in which case no further increase will be allowed.

The holdings of a single non-resident, in conjunction with those of his associates, cannot be increased above 10 per cent of the shares unless that limit has already been exceeded, in which case no further increase will be allowed.

The voting rights pertaining to shares held on behalf of a non-resident may not be exercised by a resident holding such shares.

When shares held by or on behalf of a non-resident, together with shares held by or on behalf of the associates of that non-resident, exceed 10 per cent of the capital stock, the voting rights pertaining to such stock may not be exercised.

If a resident corporation or trust becomes a non-resident corporation after 30 June 1969, any shares acquired by that company while it was a resident shall be deemed to be held by a resident for the benefit of a non-resident.

Commentaire

Aux termes de la présente Loi, les trois quarts des membres du conseil d'administration d'une société de fiducie constituée en Alberta doivent être citoyens canadiens résidant habituellement au Canada.

La Loi impose aux actionnaires non-résidants les limites suivantes: Les non-résidants peuvent détenir jusqu'à 25 pour cent des actions émises et en circulation; dans le cas où cette limite est dépassée les non-résidants ne peuvent accroître ce montant.

Un seul non-résident et ses associés, ne peuvent détenir plus de 10 pour cent des actions à moins que cette limite soit déjà dépassée. Dans ce cas, aucun accroissement n'est autorisé.

Un résident détenant les actions d'un non-résident donnant droit de vote ne peut exercer ce droit.

Quand le total des actions détenues par un non-résident ou en son nom et des actions détenues par les associés de ce non-résident ou en leur nom dépasse 10 pour cent du capital social, le droit de vote inhérent ne peut être exercé.

Si, après le 30 juin 1969, une société résidente ou une société de fiducie devient société non-résidente, les actions qu'elle aura acquises lorsqu'elle était résidente, seront considérées comme détenues par un résident au profit d'un non-résident.

(3) THE TRUST COMPANIES ACT

Provisions

Qualifications of directors

Sec. 30(6) Three-quarters of the directors shall at all times be Canadian citizens ordinarily resident in Canada.

(7) The election or appointment of any person as a director of a company is void if

- (b) the composition of the board would as a result of the election or appointment fail to comply with subsection (6).

Definitions

Sec. 66(1) In this section and sections 67 to 69,

(a) "corporation" includes an association, partnership or other organization;

(b) "non-resident" means

- (i) an individual who is not ordinarily resident in Canada or an individual who is ordinarily resident in Canada but who is not a Canadian citizen, or
- (ii) a corporation incorporated, formed or otherwise organized, elsewhere than in Canada, or
- (iii) a corporation that is controlled directly or indirectly by non-residents as defined in subclause (i) or (ii), or
- (iv) a trust established by a non-resident as defined in subclause (i), (ii) or (iii), or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest, or
- (v) a corporation that is controlled directly or indirectly by a trust mentioned in subclause (iv);

(c) "resident" means an individual, corporation or trust that is not a non-resident.

(2) For the purposes of sections 67 to 69, a shareholder is deemed to be associated with another shareholder if

- (a) one shareholder is a corporation of which the other shareholder is an officer or director, or
- (b) one shareholder is a partnership of which the other shareholder is a partner, or
- (c) one shareholder is a corporation that is controlled directly or indirectly by the other shareholder, or
- (d) both shareholders are corporations and one shareholder is controlled directly or indirectly by the same individual or corporation that controls directly or indirectly the other shareholder, or
- (e) both shareholders are members of a voting trust where the trust relates to shares of the company, or
- (f) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.

(3) For the purposes of sections 67 to 69, where a share of the capital stock of the company is held jointly and one or more of the joint holders thereof is a non-resident, the share is deemed to be held by a non-resident.

(4) For the purposes of this section and sections 67 to 69, a "shareholder" is a person who according to the register of shareholders of the company is the holder of one or more shares of the capital stock of the company and a reference in sections 67 to 69 to a share being held by or in the name or any person is a reference to his being the holder of the share according to the register of shareholders of the company.

(5) Where after June 30, 1969, a corporation or trust that was at any time a resident becomes a non-resident, any shares of the capital stock of the company acquired by the corporation or the trust while it was a resident and held by it while it is a non-resident shall be deemed, for the purposes of sections 67 and 68, to be shares held by a resident for the use or benefit of a non-resident. (R.S.A. 1970, c. 372, s. 66; 1973, c. 57, s. 6).

Non-resident shareholdings

Sec. 67(1) The directors of a company shall refuse to allow a transfer of a share of the capital stock of the company to a non-resident to be recorded in the share transfer register of the company

- (a) if, when the total number of shares of the capital stock of the company held by non-residents exceeds 25 per cent of the total number of the issued and outstanding shares of such stock, the transfer would increase the percentage of such shares held by non-residents or
- (b) if, when the total number of shares of the capital stock of the company held by non-residents is 25 per cent or less of the total number of the issued and outstanding shares of such stock, the transfer would cause the total number of such shares held by non-residents to exceed 25 per cent of the total number of the issued and outstanding shares of such stocks, or
- (c) if, when the total number of shares of the capital stock of the company held by the non-resident and by other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding shares of such stock, and the recording of the transfer would increase the percentage of such shares held by the non-resident and by other shareholders associated with him, if any, or
- (d) if, when the total number of shares of the capital stock of the company held by the non-resident and by other shareholders associated with him, if any, is 10 per cent or less of the total number of issued and outstanding shares of such stock, the recording of the transfer would cause the number of such shares of stock held by the non-resident and by other shareholders associated with him, if any, to exceed 10 per cent of the issued and outstanding shares of such stock.

(2) The directors of a company shall not allot or allow the allotment of any shares of the capital stock of the company in circumstances where, if the allotment were a transfer of the shares, the directors would be required under subsection (1) to refuse to allow the transfer to be recorded.

(3) Default in complying with the provisions of this section does not affect the validity of a transfer of a share of the capital stock of the company that has been recorded in the share transfer register of the company or the validity of the allotment of shares of the capital stock of the company. (R.S.A. 1970, c. 372, s. 67)

Prohibition to vote for non-resident

Sec. 68(1) Notwithstanding section 21 and section 47, subsection (2) where a resident holds shares of the capital stock of the company in the right of, or for the use or benefit of, a non-resident, the resident shall not, in person or by proxy, exercise the voting rights pertaining to those shares.

(2) Where any shares of the capital stock of a company are held in the name or right of or for the use or benefit of a non-resident, no person shall, either as proxy or in person, exercise the voting rights pertaining to such shares held by the non-resident or in his right or for his use or benefit, if the total of such shares so held, together with such shares held in the name or right of or for the use or benefit of

(a) any shareholders associated with the non-resident, or

(b) any persons who would, under section 66, subsection (2), be deemed to be shareholders associated with the non-resident themselves
shareholders

exceed in number of 10 per cent of the issued and outstanding shares of such stock.

(3) If any provision of this section is contravened at a general meeting of the shareholders of the company, no proceeding, matter or thing at that meeting is void by reason only of such contravention, but any such proceeding, matter or thing is, at any time within one year from the day of commencement of the general meeting at which the contravention occurred, voidable at the option of the shareholders by a resolution passed at a special general meeting of the shareholders. (R.S.A. 1970 c. 372, s. 68)

By-laws re non-resident shareholders

Sec. 69(1) The directors may make such by-laws as they consider necessary to carry out the intent of sections 66 to 68 and subsections (2) and (3) of this section and in particular, and without restricting the generality of the foregoing, the directors may make by-laws

- (a) requiring any shareholders of the company to submit a declaration
 - (i) with respect to the ownership of such share,
 - (ii) with respect to the place in which the shareholder and any person in whose right or for whose use or benefit the share is held are ordinarily resident,
 - (iii) whether the shareholder is associated with any other shareholder, and
 - (iv) with respect to such other matters as the directors consider relevant for the purposes of sections 66 to 68 and this section,
- (b) requiring any person desiring to have a transfer of a share to him recorded in the share transfer register of the company or desiring to subscribe for a share of the capital stock of the company to submit such a declaration as may be required pursuant to this section in the case of a shareholder, and
- (c) prescribing the times at which and the manner in which any declaration required under clause (a) or (b) is to be submitted.

(2) Where pursuant to any by-law made under subsection (1) any declaration is required to be submitted by any shareholder or person in respect of the transfer of or subscription for any share, the directors may refuse to allow a transfer to be recorded in the share transfer register of the company or to accept a subscription without the submission of the required declaration.

- (3) In determining for the purposes of sections 66 to 68
 - (a) whether a person is a resident or non-resident,
 - (b) by whom a corporation is controlled, or
 - (c) any other circumstances relevant to the performance of their duties under those sections,

The directors of the company may rely upon any statements made in any declarations submitted under this section or rely upon their own knowledge of the circumstances, and the directors are not liable in any action for anything done or omitted by them in good faith as a result of any conclusion made by them on the basis of any such statements or knowledge. (R.S.A. 1970, c. 372, s. 69)

Penalties

Sec. 71.

(1) Every director of a company who knowingly authorizes or permits a contravention of any provision of section 67 or 70 is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year or to both such fine and imprisonment.

(2) Every person who knowingly contravenes section 68 is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year or to both such fine and imprisonment. (R.S.A. 1970, c. 372, s. 71)

Foreign Ownership of Recreational Land

Sec. 147(1.1) An application for registration shall be accompanied by any information respecting the members of the company that may be required by regulations under The Agricultural and Recreational Land Ownership Act and section 33 of the Citizenship Act (Canada) in the form and manner prescribed by those regulations.

Sec. 161(1.1) The statement to the Director shall be accompanied by any information respecting the members of the company that may be required by regulations under The Agricultural and Recreational Land Ownership Act and section 33 of the Citizenship Act (Canada) in the form and manner prescribed by those regulations.

Source: "The Trust Companies Act", Revised Statutes of Alberta 1970 Chapter 372 Office Consolidation, with amendments up to November 30, 1977 except revisions to sec. 147 and 161 amendments under "Agricultural and Recreational Land Ownership Act" 1977 Bill 40 (unproclaimed).

II

RESOURCES

RESSOURCES

A. AGRICULTURE
AGRICULTURE

(1) THE AGRICULTURAL DEVELOPMENT ACT

Comment

Commentaire

Under the Agricultural Development Act, to be eligible for a loan or loan guarantee by the Alberta Agricultural Development Corporation, an applicant must be a Canadian resident. A corporation is eligible for a loan provided that it is a resident of Alberta; that it is incorporated in Canada; and that non-resident ownership and control does not exceed 20 per cent of the issued and outstanding shares. A non-resident includes an individual who is not a Canadian citizen or a landed immigrant as well as a trust established or controlled by a non-Canadian citizen or landed immigrant.

A partnership having non-resident partners is not eligible for a loan if the beneficial interest of non-resident partners exceed 20 per cent of the fair market value of the partnership property or 20 per cent of the actual purchase price of the partnership property at the time the application for a loan is made, whichever is greater, and if the profits to which the non-resident partners are entitled exceed 20 per cent of the total profits.

Aux termes de la présente Loi, un requérant doit être résident canadien pour pouvoir obtenir un prêt ou une garantie de prêt de l'Alberta Agricultural Development Corporation. Quant aux sociétés, elles doivent être établies en Alberta et constituées au Canada et la propriété et le contrôle par des non-résidents ne doit pas dépasser 20 pour cent des actions émises et en circulation. On entend par non-résident une personne qui n'est ni citoyen canadien ni immigrant reçu ou une société de fiducie fondée ou contrôlée par un citoyen étranger ou un immigrant reçu.

Une société en nom collectif qui comprend des associés non-résidents ne peut obtenir de prêts si le droit d'usufruit des associés non-résidents dépasse 20 pour cent du juste prix de vente des avoirs de la société ou 20 pour cent du prix d'achat réel de ces mêmes avoirs au moment où la demande de prêt a été formulée (on considère le plus élevé des deux prix) et si les profits auxquels ont droit les associés non-résidents dépassent 20 pour cent du total des profits.

(1) THE AGRICULTURAL DEVELOPMENT ACT

Provisions

Definitions

Sec. 1 In these regulations

- (a) "agricultural industry" means an industry that
 - (i) processes, alters or packages any agricultural commodity produced in Alberta, or
 - (ii) provides services to primary producers;
- (a1) "lending institution" means
 - (i) a treasury branch,
 - (ii) a bank
 - (iii) a credit union incorporated under the Credit Union Act,
 - (iv) a trust company registered under the Trust Companies Act,
 - (v) an insurer licensed under the Alberta Insurance Act, or
 - (vi) any other lender duly authorized to carry on business in Alberta;
- (b) "non-resident" means
 - (i) a person who is not a Canadian citizen or landed immigrant, or
 - (ii) a person who is not ordinarily resident in Canada, or
 - (iii) a company incorporated, formed or otherwise organized elsewhere than in Canada, or
 - (iv) a company that is controlled directly or indirectly by a non-resident as defined in subclauses (i), (ii) or (iii).
 - (v) a trust established by a non-resident as defined in subclauses (i), (ii), (iii) or (iv), or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest, or

- (vi) a company that is controlled directly or indirectly by a trust mentioned in subclause (v);
- (c) "person" includes a company or partnership;
- (d) "primary producer" means a person who is operating, or who intends to operate a farm
- (e) "resident" means a person, including a trust, that is not a non-resident.

Residency requirements

Sec. 5 Where a primary producer wishes to obtain a loan from the Corporation or have a loan guaranteed by the Corporation he shall provide evidence that

- (a) he is a resident, and
- (b) he has the necessary ability to successfully operate his enterprise or his proposed enterprise.

Sec. 6(1) Where a person carrying on business in an agricultural industry or associated business wishes to obtain a loan from the Corporation to have a loan guaranteed by the Corporation

- (a) he shall provide evidence that
 - (i) he is a resident, and
 - (ii) he has or will have the necessary machinery, equipment, buildings, land, capital and ability to successfully operate the enterprise or proposed enterprise,

and

- (b) he shall undertake to provide to the Corporation an audited financial statement annually.

Certain partnerships not eligible

Sec. 7 A partnership having non-resident partners is not eligible for a loan in accordance with the Act if

- (a) the beneficial interest of non-resident partners in the partnership property exceeds 20 per cent of the fair market value of the partnership property at the time that the application for the loan is made or 20 per cent of the actual total purchase price of the partnership property at the time the application for the loan is made, whichever is the greater, and

- (b) the profits to which the non-resident partners are entitled to from the partnership exceeds 20 per cent of the total profits earned in each year by the partnership.

Certain corporations not eligible

Sec. 8 A company, to be eligible for a loan made in accordance with the Act

- (a) must be a resident of Alberta,
- (b) can not have more than 20 per cent of the total number of its issued and outstanding equity shares beneficially owned, directly or indirectly, by non-residents over which non-residents exercise control or direction, and
- (c) must be incorporated by or under an Act of Alberta, Canada or a province or territory of Canada.

Sec. 9 For the purposes of these regulations, where an equity share is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident.

Source: "The Agricultural Development Act Regulations", The Alberta Gazette, October 31, 1972, Alberta Regulations 323/72 as amended by 54/73; 291/74.

B. ENERGY
ENERGIE

(1) ALBERTA ENERGY COMPANY ACT

Comment

Under the provisions of the Alberta Energy Company Act, only Canadian citizens are qualified to be directors of the Company. In addition, three-quarters of the members of the Board are required to be residents of Alberta.

Only Canadian citizens or Canadian residents are eligible to purchase, own or hold voting shares in the Company.

No person may purchase or hold voting shares for the benefit of a non-resident unless the non-resident is a Canadian citizen.

The total number of voting shares which may be held for the benefit of a person or group of associated persons may not exceed one per cent of the issued and outstanding shares of the company or such other percentage as may be fixed by the Lieutenant-Governor in Council by regulation.

Commentaire

Aux termes de la présente Loi, seuls les citoyens canadiens peuvent être membres du conseil d'administration de la Société et les trois quarts d'entre eux doivent résider en Alberta.

Seuls les citoyens ou résidents canadiens peuvent acheter ou posséder des actions de la Société donnant droit de vote.

Nul ne peut acheter ou détenir des actions donnant droit de vote pour un non-résident à moins que celui-ci ne soit citoyen canadien.

Une personne ou un groupe d'associés ne peut détenir plus d'un pour cent des actions émises et en circulation de la société donnant droit de vote; ce pourcentage peut être modifié aux termes d'un règlement passé par le Lieutenant-gouverneur en conseil.

(1) ALBERTA ENERGY COMPANY ACT

Provisions

Definitions

Sec. 1(1) In this Act,

(f.1) "non-resident of Alberta" means

(i) an individual who is not ordinarily resident in Alberta, or

(ii) a corporation having its head office outside Alberta, or

(iii) the Crown in right of any province outside Alberta or any agent thereof, the Crown in right of Canada or any agent thereof or the government of any foreign state or any political subdivision thereof, or an agent of either, or

(iv) a corporation that is controlled directly or indirectly by non-residents as defined in this clause, or

(v) a trust

(A) established by a non-resident as defined in any of subclauses (i) to (iv) other than a trust for the administration of a pension fund for the benefit of individuals a majority of whom are residents of Alberta, or

(B) in which non-residents as defined in any of subclauses (i) to (iv) have more than 50 per cent of the beneficial interest,

or

(vi) a corporation of which the majority of the directors or persons occupying the position of directors by whatever name called, are non-residents as defined in subclause (i), or

(vii) a corporation that is controlled directly or indirectly by a trust defined in this clause as a non-resident;

- (g) "person" includes an individual or group of individuals, a partnership, a trust, a body corporate and any government or government agency;
- (h) "resident of Alberta" means a person who is not a non-resident of Alberta;
- (i) "resident of Canada" means a resident as defined in Part 3;

Directors

Sec. 3(1) Subject to the provisions of THE COMPANIES ACT, any Canadian citizen is qualified to be a director of the Company if the otherwise qualifies under the articles in that regard.

(2) A person ceases to be a director if he ceases to be a Canadian citizen.

(3) At least three-quarters of the members of the Board shall at all times be residents of Alberta.

Transfer of shares

Sec. 5(5) A shareholder of the Company shall, upon the request of the Board made in accordance with the articles, submit a declaration to the Company with respect to

- (a) his direct or indirect ownership of any shares of the Company;
- (b) whether he and any person in whose right or for whose use or benefit the share is held are residents of Canada or individuals who are Canadian citizens;
- (c) whether he is associated with any other shareholder;
- (d) whether he is a Canadian citizen;
- (e) if the shareholder is a corporation or trust, information establishing that the shareholder is a resident of Canada;

Eligibility to be a shareholder

Sec. 7(1) No person other than a Canadian citizen or a person who is a resident of Canada is eligible to purchase, own or hold voting shares of the Company.

Restriction on holding voting shares

Sec. 25 No person shall purchase or hold voting shares of the Company in the right of or for the use or benefit of a non-resident, unless such non-resident is a Canadian citizen.

Interpretation

Sec. 28(1) For the purposes of this Part, (Part 3)

(c) "non-resident" means

- (i) an individual who is not ordinarily resident in Canada, or
- (ii) a corporation incorporated, formed or otherwise organized, elsewhere than in Canada, or
- (iii) the government of a foreign state or any political subdivision thereof, or an agent of either, or
- (iv) a corporation that is controlled directly or indirectly by non-residents as defined in this clause, or
- (v) a trust
 - (A) established by a non-resident as defined in any of subclauses (i) to (iv) other than a trust for the administration of a pension fund for the benefit of individuals a majority of whom are residents, or
 - (B) in which non-residents as defined in any of subclauses (i) to (iv) have more than 50 per cent of the beneficial interest, or
- (vi) a corporation of which the majority of the directors, or persons occupying the position of directors, by whatever name called, are non-residents as defined in sub-clause (i), or
- (vii) a corporation that is controlled directly or indirectly by a trust defined in this clause as a non-resident;

(d) "resident" means an individual, corporation, trust or government that is not a non-resident.

(3) For the purposes of this Part, where a share of the Company is held jointly and one or more of the joint holders thereof is a non-resident, the share is deemed to be held by a non-resident.

(5) Where a corporation or trust that was at any time a resident becomes a non-resident, any shares of the Company acquired by the corporation or the trust while it was a resident and held by it while it is a non-resident shall be deemed, for the purposes of this Part, to be shares held by a resident for the use or benefit of a non-resident.

Source: "Alberta Energy Company Act", Statutes of Alberta, 1974, Chapter 6 as amended by S.A. 1976, Chapter 1.

(2) ALBERTA GAS TRUNK LINE COMPANY ACT

Comment

The Alberta Gas Trunk Line Company Act provides that all of the directors of the Company must be Canadian citizens and must be domiciled in and residents of Alberta.

Commentaire

En vertu de la présente Loi, tous les membres du conseil d'administration de la Société doivent être citoyens canadiens, être domiciliés et résider en Alberta.

(2) ALBERTA GAS TRUNK LINE COMPANY ACT

Provisions

Directors

Sec. 18(1) The Board shall consist of 15 directors.

(2) Every director of the company shall

- (a) be a Canadian citizen,
- (b) be domiciled in and a resident of Alberta, and
- (c) have been resident in Alberta for at least one year immediately prior to his appointment as a director.

Source: "The Alberta Gas Trunk Line Company Amendment Act, 1974",
Statutes of Alberta, 1974, Chapter 7.

C. LAND
TERRES

(1) AGRICULTURAL AND RECREATIONAL LAND OWNERSHIP ACT

Comment

The Agricultural and Recreational Land Ownership Act was passed May 18th, 1977. It has not yet been proclaimed. However, the Foreign Ownership of Land (Temporary) Regulations were passed April 26th, 1977. Once the permanent regulations have been finalized the Act will be proclaimed and the permanent regulations passed pursuant to both section 33 of the Citizenship Act (Canada) and The Agricultural and Recreational Land Ownership Act (Alberta).

The regulations in effect prohibit the sale of agricultural and recreational land (controlled land) to non-Canadians and non-landed immigrants or to foreign-controlled corporations. Lands not controlled are mines and minerals and land within the boundaries of cities, towns, new towns, villages and summer villages.

A corporation is foreign-controlled when it is effectively controlled by non-Canadian citizens.

An ineligible person or a foreign-controlled corporation may acquire up to two parcels of controlled land containing in the aggregate not more than twenty acres.

Commentaire

Cette Loi a été votée le 18 mai 1977 mais n'a pas encore été publiée. Les règlements provisoires qui en découlent ont été adoptés le 26 avril 1977. Une fois les règlements définitifs rédigés, la Loi sera annoncée publiquement et les règlements seront votés conformément à l'article 33 de la Loi fédérale sur la citoyenneté et à la Loi provinciale considérée.

Les règlements en vigueur interdisent la vente de terres agricoles et à vocation récréative (terres contrôlées) à des personnes qui ne sont pas citoyens canadiens ou immigrants reçus ou à des sociétés contrôlées par l'étranger. Entrent dans la catégorie des terres non contrôlées, les mines, les gisements miniers et les terres situées dans les limites des villes de plus ou moins grande importance, des villes nouvelles, des villages et des agglomérations estivales.

On entend par société contrôlée par l'étranger une société contrôlée effectivement par des citoyens étrangers.

Une personne non admissible ou une société contrôlée par l'étranger peut faire l'acquisition de deux parcelles de terre contrôlée dont la superficie totale ne dépasse pas vingt acres.

This new law is designed to prevent non-Canadians from buying significant amounts of prime agricultural and recreational land. However, it does not discourage those existing or future non-Canadian investors who wish to come to Alberta to build new manufacturing plants, expand existing plants, invest in agricultural processing operations, recreational developments, new home subdivisions, or similar developments. Joint business ventures between non-Canadian enterprises and Alberta companies have been and will continue to be encouraged. These will be excluded from controls if an exemption is approved by the Provincial Cabinet.

NOTE: Currently section 30.1(1) of the Land Titles Act is being used in obtaining a statement as to citizenship of the purchaser or transferee. As soon as The Agricultural and Recreational Land Ownership Act is proclaimed this section 30.1(1) will be repealed and persons registering transfers and caveats will be required to sign a Statutory Declaration regarding their citizenship status.

La nouvelle Loi vise à interdire aux étrangers d'acheter de grandes superficies de bonnes terres agricoles et à vocation récréative. Elle ne dissuade cependant pas les étrangers qui possèdent des terres ou les futurs investisseurs étrangers désirant venir en Alberta de construire de nouvelles usines, d'agrandir des établissements, d'investir dans les usines de traitement des produits agricoles, les aménagements récréatifs, les nouveaux lotissements résidentiels ou autres aménagements similaires. On encourage la formation de coentreprises entre sociétés étrangères et sociétés de l'Alberta et on continuera de le faire. Ces coentreprises seront dispensées des contrôles si le Cabinet provincial en autorise l'exemption.

NOTE: L'article 30.1(1) de la Land Titles Act actuellement en vigueur permet d'exiger de l'acquéreur ou du cessionnaire la preuve de leur citoyenneté. Lorsque la nouvelle Loi sera annoncée publiquement, l'article 30.1(1) sera abrogé; les personnes qui déclareront des transferts et des oppositions devront signer une déclaration solennelle de leur citoyenneté.

(1) THE FOREIGN OWNERSHIP OF LAND (TEMPORARY)
REGULATIONS

Provisions

Application

Sec. 4(1) Subject to these regulations, no ineligible person or foreign controlled corporation shall take or acquire, directly or indirectly, any interest in controlled land.

(2) Nothing in subsection (1) affects the succession by any person to any interest in controlled land arising out of the death of any person.

(3) For the purposes of these regulations, a corporation is effectively controlled by persons who are not Canadian citizens if it is a foreign controlled corporation.

Sec. 5 Notwithstanding section 4, an ineligible person or a foreign controlled corporation may take or acquire, directly or indirectly, an interest in controlled land if, as a result of that taking or acquisition, the ineligible person or foreign controlled corporation will own or beneficially own interest in controlled land consisting of not more than two parcels containing, in the aggregate, not more than 20 acres.

Sec. 6 These regulations do not apply to

- (a) a right of entry order under The Surface Rights Act (Alberta);
- (b) an interest in controlled land acquired for a purpose for which a right of entry order under The Surface Rights Act (Alberta) may be granted;
- (c) an interest in controlled land acquired for the purpose of the construction of
 - (i) a pipeline or an installation as these words are defined in the Pipeline Act (Alberta)
 - (ii) a processing land as defined in the Oil and Gas Conservation Act (Alberta), or
 - (iii) a transmission line as defined in The Hydro and Electric Energy Act (Alberta);
- (d) the taking or acquisition of an interest in controlled land pursuant to section 29 or 30 of The Water, Gas, Electric and Telephone Companies Act (Alberta);

- (e) a lease of controlled land for a term of 45 years or less, other than a lease that contains a provision by which its term may be extended or renewed so that the period in which the lease is in effect will exceed 45 years;
- (f) the taking or acquisition of an interest in controlled land by a foreign state for diplomatic or consular purposes;
- (g) the taking or acquisition of an interest in controlled land by a person as the executor or administrator of the estate of a deceased person;
- (h) an order of a court charging an interest in controlled land for the benefit of a spouse or child of the owner of that interest in controlled land;
- (i) a burial lot or plot to which The Cemeteries Act (Alberta) applies;
- (j) a mortgaged of controlled land given as a security for a loan or other indebtedness.

Sec. 7 (1) Subject to subsection (2), an ineligible person or foreign controlled corporation may acquire an interest in controlled land that it could not otherwise acquire under these regulations by way of

- (a) the completion of a purchase under an agreement for sale, or
- (b) the exercising of an option to purchase, or
- (c) the foreclosure of a mortgage, or
- (d) the specific performance of an agreement for sale,

made or given in writing before the coming into force of these regulations.

(2) Subsection (1) does not apply in any case where a transfer or caveat, as those words are defined or used in the Land Titles Act (Alberta) relating to

- (a) the completion of a purchase under an agreement for sale of, or
- (b) the exercising of an option to purchase on,

an area of controlled land consisting of 5,000 or more acres that is used in a single operation for the production of food or fibre has not been registered under the Land Titles Act (Alberta) and no such transfer or caveat shall be so registered without the consent of the Lieutenant Governor in Council.

Exclusions from Regulations

Sec. 8 The Lieutenant Governor in Council may, by order, exclude from the operation of these regulations

- (a) any person or class of person,
- (b) any transaction or class of transactions involving controlled land,
- (c) any interest or class of interest in controlled land,
- (d) any use or class of uses of controlled land, and
- (e) all or any part of the land within the boundaries of a hamlet as defined in The Municipal Government Act (Alberta).

Sec. 9 (1) No ineligible person or foreign controlled corporation shall, as beneficiary of a trust, other than a trust resulting from the death of a person, acquire a beneficial interest in an interest in controlled land that he or it could not under these regulations acquire directly.

(2) No trustee shall acquire for a trust of which he is trustee any interest in controlled land that would, if acquired, result in a beneficiary of the trust acquiring beneficial interest in an interest in controlled land contrary to subsection (1).

Judicial Sale

Sec. 10 (1) Where a person takes or acquires an interest in controlled land contrary to these regulations, the Attorney General of Alberta may apply by way of originating notice to a court for an order that the interest in controlled land be sold by judicial sale.

(2) If the proceeds of a sale under subsection (1) are more than the amount paid for the interest in controlled land by the person, those proceeds, less the costs of sale, shall be paid to the person.

(3) If the proceeds of a sale under subsection (1) are more than the amount paid for the interest in controlled land by the person, the amount by which the proceeds exceed the amount paid shall be paid into the General Revenue Fund of Alberta and the remainder, less the costs of sale, shall be paid to the person.

Evidence

Sec. 11 A Registrar of Titles for Alberta may require such evidence verified by statutory declaration or otherwise, as he considers necessary for the purpose of determining whether or not the registration of a transfer, transmission or caveat as those words are defined or used in The Land Titles Act (Alberta) will result in a contravention of these regulations.

Sec. 12 The onus of proving

(a) that a person is not an ineligible person or a foreign controlled corporation, or

(b) that an ineligible person or a foreign controlled corporation is entitled to the benefit of an exception or exemption under these regulations,

is on the person, ineligible person or foreign controlled corporation, as the case may be.

Source: "The Foreign Ownership Land (Temporary) Regulations", The Canada Gazette, May 11, 1977, Federal Regulation No. SOR/77-346 and Alberta O.C. 404/77. Amendments found in Alberta, O.C. 484/77, O.C. 526/77 and O.C. 1332/77.

(2) PUBLIC LANDS ACT

Comment

Under this Act an applicant for a homestead sale under the Public Lands Act must be a Canadian citizen. Non-Canadians and non-Canadian corporations are not permitted to purchase and hold public lands.

Regulations under the Act provide that only a Canadian citizen at least eighteen years old or a corporation may apply for a grazing lease on public lands.

No grazing lease shall be issued to a corporation unless the majority of its shares are owned by Canadian citizens resident in Alberta, for their own exclusive use and benefit.

To be eligible for a licence under the Forest Management Area Grazing License Regulations, an applicant must be a Canadian citizen at least eighteen years old or a corporation or registered association, the majority of whose shares are held by Alberta residents who are Canadian citizens.

Under the Cultivation Lease and Permit Regulations, an applicant must be a Canadian citizen; must be a veteran or meet specified residency requirements in Alberta; and must be operating a farm in Alberta.

The Farm Development Regulations provide that only a Canadian citizen may apply to exchange, lease or purchase public land. A family company may apply to acquire public land, provided that each shareholder qualifies as an individual to acquire such land.

Commentaire

Aux termes de la présente Loi, seul un citoyen canadien peut proposer d'acheter une ferme. Les étrangers et les sociétés étrangères ne peuvent faire l'acquisition et posséder de terres d'utilité publique.

Les règlements découlant de la présente Loi stipulent que seul un citoyen canadien âgé d'au moins 18 ans, ou une société, peuvent obtenir un bail de pâturage sur les terres d'utilité publique. Si la majorité des actions d'une société n'appartiennent pas, à leur usage et profit personnel, à des citoyens canadiens résidant en Alberta, cette société ne peut obtenir de bail de pâturage.

Aux termes des Forest Management Area Grazing License Regulations, un requérant doit, pour obtenir un permis, être citoyen canadien âgé d'au moins 18 ans, une société ou une association enregistrée, dont la majorité des actions appartiennent à des citoyens canadiens résidant en Alberta.

Aux termes des Cultivation Lease and Permit Regulations, un requérant doit être citoyen canadien, ancien combattant, ou satisfaire aux exigences de résidence propres à l'Alberta, et avoir une exploitation agricole dans cette province.

Aux termes des Farm Development Regulations, seul un citoyen canadien peut faire une demande d'échange, de location ou d'achat de terre d'utilité publique. Pour qu'une société familiale puisse faire l'acquisition de terres d'utilité publique, tous les détenteurs de ces actions doivent, individuellement, rencontrer les exigences qui leurs permettent d'acquiescer ces terres.

(2) PUBLIC LANDS ACT

Provisions

Prohibition re sales to non-Canadians

Sec. 21.1(1) The Minister shall not sell public land pursuant to section 18, the regulations or an order of the Lieutenant Governor in Council, or issue a notification in favour of the purchaser for that land, if the purchaser or one of the purchasers is

- (a) a person who is not a Canadian citizen, or
- (b) a corporation that is not a Canadian corporation, or
- (c) a person or corporation acting as a trustee for a person who is not a Canadian citizen or for a corporation that is not a Canadian corporation.

(2) This section does not apply where the purchaser has entered into an agreement under section 21, subsection (1) or with respect to a sale made before the commencement of this section

(3) In this section

- (a) "Canadian corporation" means
 - (i) in the case of a corporation with share capital, a corporation in which not less than 75 per cent of the equity shares are registered in the name of and beneficially owned by
 - (A) one or more Canadian citizens, or
 - (B) one or more corporations with share capital, if in each case not less than 75 per cent of its equity shares are registered in the name of and beneficially owned by Canadian citizens, or
 - (C) one or more corporations without share capital if in each case not less than 75 per cent of its members are Canadian citizens, or
 - (D) any combination of persons or corporations referred to in paragraphs (A), (B) and (C),

or

- (ii) in the case of a corporation without share capital, a corporation in which not less than 75 per cent of the members are Canadian citizens;
- (b) "equity share" means any share of any class of shares of a corporation carrying full or limited voting rights and any share of any class of shares of the corporation carrying voting rights by reason of a contingency that has occurred and is continuing. (1973, c. 49, s.2)

Applications for homestead sale-eligibility of applicant

Sec. 83(1) Every person who

- (a) is a veteran or has resided in the Province for an aggregate total of one year within the three years prior to the date he applies for a homestead sale,
- (b) has attained the age of eighteen years and who has not attained the age of seventy-one years, and
- (c) is a Canadian citizen,

may apply for a homestead sale unless he is ineligible to do so by reason of subsection (2).

Grazing leases - Proof by corporate lessee

Sec. 116(1) Where any corporation is the holder of a grazing lease, the Minister at any time by notice in writing may require the lessee to furnish proof that at the time of the notice

- (a) it is incorporated under the laws of Canada or of Alberta, and
- (b) the majority of its shares are owned by residents of the Province for their exclusive use and benefit and not in the interests of or for the benefit of any other person,

and, if the Minister should so desire, to furnish proof that the de facto control of the lessee company is in the persons resident in the Province who own the major part of the shares of such company.

(2) If the lessee fails to comply with the notice or if the proof furnished by the lessee is not satisfactory to the Minister, the Minister may cancel the lease. (R.S.A. 1970, c. 297, s. 116)

Change in corporate ownership

Sec. 117(1) The Minister may require a corporation that holds a grazing

lease to file a statement certified by an officer or director of the corporation showing the names, addresses and number of shares held by each of the shareholders at the time the grazing lease is issued or at any time during its term.

(2) Where a corporation holds a grazing lease and by the transfer of shares or by the allotment of new shares, or both, the majority of its shares at any time become vested in persons other than those persons who held the majority of its shares prior to such transfer or allotment, the Minister may

- (a) cancel the grazing lease if he considers it in the public interest to do so, or
- (b) require the corporation to pay a sum equivalent to the assignment fee that it would be required to pay by the regulations if the grazing lease had been assigned by it to another person. (R.S.A. 1970, c.297 s. 117; 1971, c. 96, s.10(c); 1972, c.89, s.17)

Source: "The Public Lands Act", Revised Statutes of Alberta 1970, Chapter 297. Office Consolidation.

PUBLIC LANDS ACT

REGULATIONS MADE UNDER THE PUBLIC LANDS ACT

Applications under the Public Lands Grazing Lease Regulations

Sec. 3(1) Everyone who

- (a) has attained the age of eighteen years, and
- (b) is a Canadian citizen, or
- (c) is a corporation

may apply for a grazing lease or a renewal grazing lease by submitting an application to the Director on a form prescribed by him.

Sec. 4(1) If an applicant for a grazing lease is a corporation, the corporation shall submit with its application

- (a) a copy of its certificate of incorporation or other evidence of its corporate status,
- (b) a statement of an officer of the corporation showing the names, addresses and citizenship of the persons who hold shares allotted by the corporation and the number of shares allotted to each such person, and
- (c) evidence showing that the corporation is registered under Part VIII of The Companies Act if it is incorporated under the laws of Canada or under the laws of any other jurisdiction outside the Province, or
- (d) evidence showing that the corporation is incorporated under The Societies Act or The Co-operative Associations Act, together with a copy of its by-laws if it is a grazing association.

(2) No grazing lease shall be issued to a corporation unless the majority of its shares are

- (a) owned by residents of the Province who are Canadian citizens, and
- (b) for the exclusive use and benefit of the shareholders and not in the interests of or for the benefit of any other person.

Source: "The Public Lands Grazing Lease Regulations", The Alberta Gazette, December 31, 1966, Alberta Regulation 432/66.

PUBLIC LANDS ACT

REGULATIONS MADE UNDER THE PUBLIC LANDS ACT

Applications under the Forest Management Area Grazing Licence Regulations

Sec. 6(1) Only a Canadian citizen who has attained the age of eighteen years is eligible to obtain a licence.

(2) A corporation or a registered association is eligible to obtain a licence if the majority of shares are held by residents of the Province who are Canadian citizens.

Source: "Forest Management Area Grazing Licence Regulations, The Alberta Gazette, December 31, 1966, Alberta Regulations 309/71.

PUBLIC LANDS ACT

REGULATIONS MADE UNDER THE PUBLIC LANDS ACT

Applications under the Cultivation Lease and Permit Regulations

- Sec. 7 Every person who,
- (a) has attained the age of eighteen years,
 - (b) is a British subject or Canadian citizen,
 - (c) is a veteran or has resided in the Province for an aggregate total of one year within three years prior to the date of his application,
 - (d) in the opinion of the Minister, is operating a farm in Alberta may apply for a cultivation lease.

Source: "Cultivation Lease and Permit Regulations", The Alberta Gazette, September 30, 1966, Alberta Regulation 325/66, O.C. 1761/66.

PUBLIC LANDS ACT

REGULATIONS MADE UNDER THE PUBLIC LANDS ACT

Applications under the Farm Development Regulations

Sec. 3 In these regulations

- (b) "family company" means a corporate body incorporated under the laws of Alberta, of which the majority of the voting shares are held, in their own right, by natural persons resident in Alberta and of which all of the voting shares are held by persons who are related in any of the following ways to the eldest shareholder - his or her spouse and their children and their spouses and their children, his and her brothers and sisters and their spouses and their children;
- (c) "posted" means the manner or method by which the Minister makes known the availability of public land.

Sec. 6 (1) Upon attaining 18 years of age, a Canadian citizen may apply

- (a) to exchange his land for public land;
- (b) for a lease, with or without an option to purchase, on public land;
- (c) to purchase public land.

(2) A family company may apply to acquire public land provided each shareholder thereof is a natural person and a Canadian citizen, and at least one shareholder has attained the full age of 18 years.

Sec. 10 Any applicant eligible under section 6 subsection (1) or subsection (2) hereof who is the holder of a cultivation lease issued pursuant to the Act, may apply to convert the cultivation lease, or part thereof, to an agreement to purchase to be issued pursuant to these regulations, when, in the opinion of the Minister, the land involved is essential to creating or retaining a farm unit which is, or has the potential of being developed into, an economic enterprise.

Source: "Farm Development Regulations", The Alberta Gazette, March 15, 1973,
Alberta Regulation 57/73

III

COMMUNITY SERVICES

SERVICES COMMUNAUTAIRES

(1) THE NURSING HOMES ACT

Comment

The Act provides that a contract to operate a nursing home may only be granted to an individual who is resident in Alberta, a partnership all of whose members are resident in Alberta, or a corporation incorporated in Alberta and controlled by residents of Alberta. The Act does not apply to renewals of contracts entered into before June 6, 1974. The Act also provides that if an operator of a nursing home ceases to be a resident of Alberta, his contract may, after a hearing, be suspended.

Commentaire

Aux termes de la présente Loi, seuls un individu résidant en Alberta, une société en nom collectif dont tous les membres résident en Alberta ou une société constituée en Alberta et contrôlée par des résidents de l'Alberta peuvent exploiter une maison de repos. La Loi ne s'applique pas aux renouvellements des contrats passés avant le 6 juin 1974. Elle prévoit également que le contrat d'un exploitant de maison de repos peut être suspendu, après audience, si ce dernier cesse d'être résidant de l'Alberta.

(1) THE NURSING HOMES ACT

Provisions

Definitions

Sec. 2 (1) In this Act,

- (h) "resident of Alberta" means an individual who is entitled to be and remain in Canada and who ordinarily resides in Alberta.

Sec. (3)

- (a) "Alberta corporation" means a corporation incorporated by or pursuant to an Act of the Legislature of Alberta and which is controlled by residents of Alberta but does not include a non-profit religious corporation;
- (b) "corporate group" means two or more corporations that are associated corporations within the meaning of the Income Tax Act (Canada) as amended from time to time;
- (c) "equity share" means
 - (i) an issued and subscribed common share, or
 - (ii) an issued and subscribed preferred share carrying, at a material time under this Act, full or limited voting rights.

(4) For the purposes of subsection (3), clause (a), an Alberta corporation is controlled by residents of Alberta if the majority of the members of its board of directors, board of management or other governing body are residents of Alberta and if

- (a) in the case of a corporation without share capital, the majority of the members of the corporation are residents of Alberta, or
- (b) in the case of a corporation with share capital,
 - (i) at least 50 per cent of the equity shares of the corporation are beneficially owned by residents of Alberta, or
 - (ii) the corporation is a member of a corporate

group and the de facto control of the corporate group is in the hands of residents of Alberta.

Contracts for nursing home care

Sec. 8 (1) Subject to this Act and the regulations, the Commission may enter into a contract with a person who operates or intends to operate a nursing home for the provision of nursing home care to eligible patients.

(2) A nursing home contract shall provide for the payment by the Commission to the operator of amounts prescribed by the regulations on a patient day basis or on any other basis prescribed by the Commission.

(3) The Commission shall not enter into a nursing home contract after the commencement of this section unless the other party to the contract is

- (a) a district board, or
- (b) an individual who is a resident of Alberta, or
- (c) a partnership consisting solely of residents of Alberta, or
- (d) an Alberta corporation, or
- (e) a non-profit religious corporation, or
- (f) the Government of Canada, a Minister of the Crown in right of Canada or an agent of the Government of Canada.

(4) Subsection (3) does not apply where the Commission enters into a nursing home contract for the purpose of replacing a nursing home contract entered into before the commencement of this section with the same operator.

Approval of sale

Sec. 10(1) No agreement between an operator or other person and a district board for the sale to the district board of any land, buildings, fixtures, equipment or other assets to be used for the purposes of a nursing home is valid unless the sale is approved by the Commission.

(2) Subsection (1) does not apply to the sale to a district board of

- (a) any supplies required in the ordinary course of

operating the nursing home, or

- (b) any kind of fixtures, equipment or other assets exempted from the application of this section by the regulations.

(4) The Commission shall refuse to give its approval under subsection (1) where it is satisfied that the selling price of the property sold is greater than the valuation of that property determined in accordance with regulations.

5) Subject to subsection (4), the Commission may give or refuse to give its approval under subsection (1).

(6) Where the Commission finds that an operator or former operator has been unsuccessful in his attempts to sell his nursing home business to a person who is eligible under section 8, subsection (3) to enter into a nursing home contract, the Commission may direct the district board to purchase the assets used in connection with the operation of the nursing home at a price equal to the valuation of those assets determined in accordance with regulations.

(7) Where any sale to which this section applies is made to a district board by an operator, no value shall be attributed to that operator's nursing home contract in determining the valuation of the property being sold.

Order cancelling contract

Sec. 11(1) The Commission may, upon a complaint by any person appearing to have knowledge of the facts or upon its own motion, hold a hearing to determine whether or not any ground exists under subsection (3) for the making of an order under that subsection.

(2) The Commission shall

- (a) give notice of the time and place of the hearing and of the subject matter of the hearing to the operator concerned and the complainant, if any, and
- (b) permit any person referred to in clause (a) to appear at the hearing and to make representations to the Commission regarding the subject matter of the hearing.

(3) After a hearing under this section, the Commission may make an order cancelling the nursing home contract of the operator concerned, suspending the contract of that operator or prohibiting or restricting the admission of patients to that operator's contract

nursing home after the effective date of the order, where the Commission is satisfied, on the basis of the evidence adduced at the hearing, that

- (d) the operator was a resident of Alberta at the time his contract was entered into but has ceased to be a resident of Alberta, or
- (e) the operator was a partnership consisting of residents of Alberta at the time its contract was entered into but one or more of the partners have ceased to be residents of Alberta, or
- (f) the operator was an Alberta corporation at the time its contract was entered into, or became an Alberta corporation after its contract was entered into, but has subsequently ceased to be an Alberta corporation, or
- (g) the operator has, without justification, neglected or refused to comply with a direction given by the Commission pursuant to section 13.1, or
- (h) in the case of an operator that is a corporation with share capital but which was not an Alberta corporation at the commencement of this section, the control of the corporation has, by reason of transfers or allotments of shares made after the commencement of this section, been transferred to a person or group of persons who are not within any of the categories of persons enumerated in section 8, subsection (3), or
- (i) the operator has contravened any other provision of this Act or the regulations, if the contravention, having regard to its nature and gravity, has, in the the opinion of the Commission, prejudicially affected or is likely to prejudicially affect the well-being of the patients in the operator's contract nursing home.

(4) An order under subsection (3) suspending a contract or prohibiting or restricting the admission of patients to a contract nursing home may be of indefinite duration or for a stated period.

(5) The Commission shall furnish copies of the order to the operator concerned and the complainant, if any.

Information to Commission

Sec. 13.1 For the purposes of determining whether or not the operator of a contract nursing home is an Alberta corporation, the Commission may direct the operator to furnish to it, on an annual basis or at any other time,

- (a) any information regarding the names and places of residence of the members of its board of directors, board of management or other governing body, or
- (b) any information regarding the names and places of residence of the members or shareholders of the corporation, or
- (c) evidence as to whether any person registered as a shareholder is also the beneficial owner of the shares, or
- (d) evidence as to the identity and place of residence of any person who is the beneficial owner of shares if he is not also the registered owner of the shares, or
- (e) evidence that the operator is an Alberta corporation, or
- (f) any information with respect to the corporate group of which the operator is a member or with respect to any other member of the corporate group,

and may direct that any information or evidence be verified by statutory declaration or affidavit.

Source: "The Nursing Homes Act", Revised Statutes of Alberta, 1970, Chapter 264, as amended by S.A. 1974, Chap. 46.

IV

OTHER

DIVERS

(1) THE LIQUOR LICENSING ACT

Comment

The Liquor Licensing Act provides that an applicant for a beverage room licence, dining lounge or cocktail lounge licence or the manager of such licensed premises in a hotel must be a Canadian citizen or a British subject and resident of Alberta for at least one year.

Commentaire

La présente Loi prévoit que le requérant d'une licence d'exploitation d'un débit de boisson, d'un restaurant, d'un bar-salon, ou le gérant de ces endroits dans un hôtel, doit être citoyen canadien ou sujet britannique et avoir résidé en Alberta depuis au moins un an.

(1) THE LIQUOR LICENSING ACT

Provisions

Sec. 16 A dining lounge licence or lounge licence shall be issued only to

- (a) a person of good reputation and character who is 18 or more years of age, a Canadian citizen or British subject and resident in Alberta for at least one year before the date of application, or
- (b) a partnership of which each of the partners is qualified as provided in clause (a), or
- (c) a railway corporation in respect of its hotels, trains or resort golf club houses, or
- (d) a corporation that owns and operates hotels in connection with a railway and more than half of the stock of which is owned by a railway corporation, or
- (e) any other corporation that is incorporated or authorized to carry on its business in Alberta under the laws of Alberta, and of which a majority of the directors are, and the officer or agent who is in charge of the premises to be licensed is, personally qualified as provided in clause (a), or
- (f) a city or town that operates a public dining room and the officer or agent who is in charge of the premises to be licensed is personally qualified, as provided in clause (a), or
- (g) an airline corporation in respect of its aircraft while on commercial passenger flights;
- (h) Canadian Forces in respect of premises approved by the Board on a permanent base.

Corporate Licensee

Sec. 23 (1) A corporation may become a licensee under this Act and in such a case anything required by this Act to be done by any person as licensee, whether before or after the granting of a licence, may be done in the name of the corporation by the officer or agent of the corporation in charge of the particular premises for which the licence is to be or has been granted.

Requirement for applicant for licence

Sec. 29 No person other than a Canadian citizen or British subject shall be an applicant for a beverage room licence or the manager of the licensed premises of a hotel in respect of which a beverage room licence has been issued.

Source: "The Liquor Licensing Act", Revised Statutes of Alberta 1970, Chapter 212 as amended to November 30, 1977.

(2) THE REAL ESTATE AGENTS' LICENSING ACT

Comment

The Alberta Real Estate Agents' Licensing Act requires that an individual must be a resident of Alberta and has been a resident of Canada for not less than three months immediately prior to the date of his application for a licence and that a partner or corporation must maintain an office in Alberta.

Commentaire

Aux termes de la présente Loi, un individu ne peut s'établir comme agent immobilier s'il ne réside ni en Alberta ni au Canada depuis au moins trois mois au moment de sa demande de licence; de plus, un associé ou une société doit avoir un bureau en Alberta.

(2) THE REAL ESTATE AGENTS' LICENSING ACT

Provisions

Eligibility to be licensed

Sec. 8(3) A person is not eligible to be licensed unless

- (a) in the case of an individual, that person is a resident of Alberta and has been a resident of Canada for not less than three months immediately prior to the date of his application for a licence, or
- (b) in the case of a partnership or corporation, that partnership or corporation, at the time of its application for a licence, maintains a business office in Alberta.

Source: "The Real Estate Agents' Licensing Act" Revised Statutes of Alberta, 1970, Chapter 311 Office Consolidation, with Amendments up to and including November 30, 1977.

BRITISH COLUMBIA

COLOMBIE BRITANNIQUE

I FINANCIAL
FINANCES

- (1) Companies Act
- (2) Trust Companies Act

II RESOURCES
RESSOURCES

A. LAND
TERRES

- (1) Land Act

B. MINING
MINES

- (1) Mineral Act

III OTHER
DIVERS

- (1) Liquor Control and Licensing Act
- (2) Travel Agents Registration Act

I

FINANCIAL

FINANCES

(1) COMPANIES ACT

Comment

The Companies Act requires that a majority of the directors of a company incorporated in British Columbia must be ordinarily resident in Canada, and that one director of every company must be ordinarily resident in the province.

Commentaire

Aux termes de la présente Loi, la majorité des membres du conseil d'administration d'une société constituée en Colombie Britannique doivent résider habituellement au Canada et l'un des membres du conseil d'administration de toutes les sociétés doit résider habituellement dans cette province.

(1) COMPANIES ACT

Provisions

Citizenship and residence of majority of directors

Sec. 131(1) The majority of the directors of every company shall be persons ordinarily resident in Canada.

(2) One director of every company shall be ordinarily resident in the Province.

Source: "Companies Act", Statutes of British Columbia 1973, Chapter 18.

(2) TRUST COMPANIES ACT

Comment

Under the provisions of the Trust Companies Act, a majority of the directors of a trust company must be both residents of British Columbia and subjects of Her Majesty.

Commentaire

Aux termes de la présente Loi, la majorité des membres du conseil d'administration d'une société de fiducie doivent être résidents de la Colombie Britannique et sujets de Sa Majesté.

(2) TRUST COMPANIES ACT

Provisions

Majority of directors to be residents of Province and British subjects

Sec. 23(5) A majority of the directors of the company shall at all times be resident in the Province and subjects of Her Majesty by birth or naturalization.

Source: "Trust Companies Act" Revised Statutes of British Columbia 1960, Chapter 389.

II

RESOURCES

RESSOURCES

A. LAND
TERRES

(1) LAND ACT

Comment

Under the provisions of the Land Act, non-Canadian citizens are not entitled to a Crown grant.

As a matter of policy the issuance of leases or other types of tenure involving Crown lands are restricted to Canadian citizens or landed immigrants only. Under the terms of a lease to a landed immigrant, the lessee must become a Canadian citizen within one year from the date of eligibility or the lease is subject to cancellation.

Commentaire

Aux termes de la présente Loi, les citoyens étrangers ne peuvent bénéficier d'une subvention de la Couronne.

La politique de la Colombie Britannique consiste à limiter aux seuls citoyens canadiens et immigrants reçus l'attribution des baux ou autres formes de jouissance de terres de la Couronne. Si un immigrant reçu signe un bail, il doit devenir citoyen canadien dans l'année qui suit la date à laquelle il est admissible à la citoyenneté, au risque de voir le bail annulé.

(1) LAND ACT

Provisions

No rights vested by filing of applications

Sec. 7 (1) No person shall acquire any right whatsoever, either vested or contingent, in or to Crown lands, or any priority in respect of such lands by reason of filing an application for Crown lands under this Act.

(2) No disposition of Crown land is binding on the Crown until the certificate of purchase, grant, lease, licence of occupation, right-of-way, or easement is executed by the Crown in accordance with this Act; and no negotiations or arrangements, whether in writing or otherwise, preliminary or prior to the execution of the documents herein referred to shall be binding on or commit the Crown to perform or complete a disposition.

(3) No person

(a) who is not a Canadian citizen within the meaning of the Canadian Citizenship Act (Canada); and

(b) whose application for a disposition of Crown land has not been allowed prior to the coming into force of this Act

shall be entitled to a Crown grant.

Source: "Land Act," Statutes of British Columbia 1970, Chapter 17.

B. MINING
MINES

(1) MINERAL ACT

Comment

Under this Act in order to explore, mine or produce minerals, or to acquire title to mining property, a free miner's certificate is required. A holder of a free miner's certificate must be a Canadian resident or a Canadian corporation. This certificate becomes void should the holder cease to be a Canadian citizen. The Lieutenant Governor in Council may, however, by order, authorize the issuance of a free miner's certificate to a person who is neither a Canadian corporation nor a Canadian resident.

It should be noted that:

- (i) Failure to renew a Free Miner's Certificate does not affect title to mining property and
- (ii) That Free Miner's Certificates are necessary also to acquire title under the Placer Mining and the Coal Acts.

Commentaire

Aux termes de la présente Loi, il faut être détenteur d'un certificat de droits de mines pour pouvoir exploiter une mine ou produire du minerai. Seuls un résident ou une société canadienne peuvent posséder un tel certificat. Celui-ci est annulé si son détenteur cesse d'être citoyen canadien. Par ordre du Lieutenant-gouverneur en conseil, un certificat de droits de mine peut être délivré à une personne qui n'est ni société ni résident canadiens.

Il faut savoir que:

- (i) Le non renouvellement du certificat d'exemption n'influe pas sur le titre de propriété de la mine et que
- (ii) Les certificats d'exemption sont également nécessaires pour faire l'acquisition d'un titre en vertu du Placer Mining Act et du Coal Act.

(1) MINERAL ACT

Provisions

Free miner's certificate

Sec. 4 (1) No person shall explore for, mine, or produce minerals under this Act, or acquire title to mining property, unless he is the holder of a valid and subsisting free miner's certificate.

(2) For the purposes of this section,

(a) "Canadian corporation" means

- (i) a company as defined in the Companies Act, or a corporation registered extra-provincially under that Act; or
- (ii) a trust company registered under the Trust Companies Act; or
- (iii) an insurance company licensed under the Insurance Act; or
- (iv) a chartered bank,

in which at least fifty per cent of the directors are Canadian residents;

(b) "Canadian resident" means a person, other than a corporation, who is ordinarily resident in Canada and who is

- (i) a Canadian citizen; or
- (ii) not a Canadian citizen, but who has not, at the date he applies for, or applies to renew, a free miner's certificate, ordinarily resided in Canada for a continuous period of more than eight years.

(3) Any person who is

(a) eighteen years of age or over and is a Canadian resident; or

(b) a Canadian corporation;

may apply in the prescribed form and manner, and by paying the

prescribed fee, to the office of any Gold Commissioner or Mining Recorder for a free miner's certificate or the renewal of a free miner's certificate.

(4) A free miner's certificate

- (a) shall be in prescribed form;
- (b) shall be subject to the terms and conditions that are contained in it or are prescribed under the regulations;
- (c) shall not be transferred;
- (d) shall be issued to only one person and, where that person is a corporation, shall be issued in its corporate name;
- (e) is evidence of every matter contained in it unless some material irregularity is shown in respect of it;
- (f) shall be deemed to be void and unenforceable under this Act if the person to whom it is issued ceases, at any time, to be a Canadian resident or a Canadian corporation.

(5) Notwithstanding subsection (3) and clause (f) of subsection (4),

- (a) every free miner's certificate that is in force at the date this Act comes into force shall, whether or not the holder of it is a Canadian corporation or a Canadian resident, be valid until the thirty-first day of December, 1973, and may be renewed, in accordance with this Act, prior to that date and thereafter from time to time within one year after its expiry date.
- (b) the Lieutenant-Governor in Council may, by Order, authorize a free miner's certificate to be issued to a person who is neither a Canadian corporation nor a Canadian resident.

(6) Every person under the age of nineteen years to whom a free miner's certificate is issued shall, for the purposes of operating, and contracting with respect to, his mining property, be deemed to have attained the age of nineteen years. 1973, c.52, s.3 (proc. eff. May 31, 1973); 1973 (2nd Sess.), c.129, s.2 (proc. eff. Dec. 10, 1973).

Source: "Mineral Act," Revised Statutes of British Columbia, 1960 Chapter 244, Office Consolidation. "Mineral Amendment Act" 1976, Statutes of British Columbia, 1976, Chap. 30.

III

OTHER

DIVERS

(1) LIQUOR CONTROL AND LICENSING ACT

Comment

Under this Act an individual must be a resident of the province in order to obtain a liquor licence. This requirement holds for each member in respect of a partnership. In the case of a corporation, the agent or manager of the licensed establishment must be a resident.

Commentaire

Aux termes de la présente Loi, un individu doit résider dans la province pour obtenir une licence de débit de boissons. Il en va de même pour tous les membres d'une société en nom collectif. En ce qui concerne les sociétés, le tenancier ou le gérant de l'établissement licencié doit être résidant de la province.

(1) LIQUOR CONTROL AND LICENSING ACT

Provisions

Where issue of licence prohibited

Sec. 16(3) No licence shall be issued, renewed, or transferred under this Act, excepting to

- (a) a person who is a resident and normally resides within the Province and is not a minor, or
- (b) a partnership, each of the members of which is a resident and normally resides within the Province and is not a minor, or
- (c) a corporation whose agent or manager selected by the corporation to carry on the business of the corporation in the licensed establishment is a resident and normally resides within the Province and is not a minor.

Source: "Liquor Control and Licensing Act", Statutes of British Columbia, 1975, Chapter 38.

(2) TRAVEL AGENTS' REGISTRATION ACT

Comment

The proprietor of a proprietorship, at least one of the partners in a partnership and at least one of the directors of a corporation, registered under this Act, shall be ordinarily resident in the Province.

Commentaire

Le propriétaire d'une entreprise individuelle, au moins l'un des associés d'une société et l'un des membres du conseil d'administration d'une société constituée aux termes de la présente Loi, doivent résider habituellement dans la province.

(2) TRAVEL AGENTS' REGISTRATION ACT

Provisions

Definitions

Sec. 1 In this Act

"travel agent" means a person who, in the course of business, sells or otherwise provides to the public travel services supplied by another person;

"travel service" means transportation, accommodation or other service for the use or benefit of a traveller, tourist or sightseer;

"travel wholesaler" means a person who, in the course of business, supplies his own non-scheduled travel transportation to the public, purchases or acquires from another person rights to travel services for the purpose of resale, or deals with travel agents or other travel wholesalers for the sale of travel services supplied by another.

Residence

Sec. 10 The proprietor of a proprietorship, at least one of the partners in a partnership and at least one of the directors of a corporation, registered under this Act, shall be ordinarily resident in the Province.

Source: "Travel Agents' Registration Act", Statutes of British Columbia, 1977, Chapter 22.



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24/2/80	Alfonso...	APR 30 2000	6-1841
22/5/80	Reminded		
82/8/4	E. O'DWYER	512	34685
Oct 21, 82	A212 ABMA	JAN 4 1983	57891