

1971 Bill 101

---

---

Fourth Session, 16th Legislature, 20 Elizabeth II

---

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 101**

**The Franchises Act**

---

---

THE ATTORNEY GENERAL

---

---

First Reading .....

Second Reading .....

Third Reading .....

---

---

Printed by L. S. Wall, Queen's Printer, Edmonton

# BILL 101

1971

## THE FRANCHISES ACT

(Assented to \_\_\_\_\_, 1971)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. (1) In this Act,
  1. "area franchise" means any contract, agreement or arrangement between a franchisor and a subfranchisor whereby the subfranchisor for consideration given or agreed to be given in whole or in part for that purpose, is granted the right to trade in the franchise;
  2. "associate", where used to indicate a relationship with any person, includes
    - (i) any company of which that person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding, or
    - (ii) any associated corporation within the meaning of the Income Tax Act (Canada), or
    - (iii) any affiliated company, or
    - (iv) any trust or estate in which that person has a beneficial interest or as to which that person serves as trustee or in a similar capacity, or
    - (v) any relative or spouse of that person or any relative of that spouse who, in any such case, has the same home as that person, or
    - (vi) any partner, fellow member of a syndicate or joint trustee;
  3. "Commission" means the Alberta Securities Commission;
  4. "company" means any incorporated corporation, incorporated association or other incorporated organization;
  5. "Director" means the person designated by the Minister as the Director of Franchises;

## **Explanatory Notes**

This Bill introduces a system to regulate trading in franchises by compelling full disclosure of all relevant facts to a prospective franchisee by a franchisor. The prospective franchisee will then be in a proper position to make a business decision. In this aspect it is similar in many of its provisions to The Securities Act. It also provides a measure of protection in the area of pyramid sales operations or multi-level distributorships by not only requiring full disclosure but also requiring the operations to meet certain prescribed standards in their relations with persons who become involved in the operations.

### **1. Interpretation.**

6. "franchise" means a contract, agreement or arrangement, either expressed or implied, whether oral or written, between two or more persons by which a franchisee is required to pay directly or indirectly a franchise fee in consideration for any of the following:
- (i) the right to engage in the business of offering, selling or distributing the goods manufactured, processed or distributed or the services organized and directed by the franchisor, or
  - (ii) the right to engage in the business of offering, selling or distributing any goods or services under a marketing plan or system prescribed or controlled by the franchisor, or
  - (iii) the right to engage in a business which is associated with the franchisor's trademark, service mark, trade name, logotype, advertising or any business symbol designating the franchisor or its associate, or
  - (iv) the right to engage in a business in which the franchisee is reliant on the franchisor for the continued supply of goods or services, or
  - (v) the right to recruit additional franchisees or subfranchisors;
- but excluding contracts, agreements or arrangements between manufacturers or where the franchisor is the Crown, a Crown agency or a municipal corporation;
7. "franchisee" means a person to whom a franchise is granted;
8. "franchise fee" means any consideration exchanged or agreed to be exchanged for the granting of the franchise agreement and without limiting the generality of the foregoing,
- (i) the consideration may include,
    - (A) any fee or charge that a franchisee or subfranchisor is required to pay or agrees to pay, or
    - (B) any payment for goods or services, or
    - (C) any service which the franchisee or subfranchisor is required to perform or agrees to perform, or
    - (D) any loan, guarantee or other commercial consideration exigible from the franchisee or subfranchisor at the discretion of the franchisor or subfranchisor for the right to engage in business under a franchise agreement,
- but



- (ii) the following are not franchise fees:
  - (A) the purchase of or agreement to purchase goods at the current wholesale market rate;
  - (B) the purchase of or the agreement to purchase services at the current market rate;
  - (C) the payment of a reasonable service charge to the issuer of a credit card by an establishment accepting or honouring the credit card;
- 9. "franchisor" means a person who grants a franchise;
- 10. "Minister" means the Attorney General;
- 11. "officer" means the chairman or any vice-chairman of the board of directors, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer or general manager of a company, or any other person designated an officer of a company by by-law or similar authority;
- 12. "person" means any individual, partnership, unincorporated association, unincorporated organization, syndicate, trustee, executor, administrator or other legal representative, corporation or company;
- 13. "pyramid sales franchise" means any scheme, arrangement, device or other means whereby a participant pays a franchise fee and
  - (i) is required or receives the right to recruit one or more other persons as participants who are subject to a similar requirement or who obtain a similar right, and
  - (ii) has the right to receive money, credits, discounts, goods or any other right or thing of value where the amount thereof is dependent upon the number of participants;
- 14. "register" means register in accordance with this Act;
- 15. "registrant" means a person registered or required to be registered under this Act;
- 16. "Registrar" means the Registrar of the Commission;
- 17. "subfranchisor" means a person to whom an area franchise is granted;
- 18. "trade" or "trading" includes
  - (i) any purchase or sale or disposition of or other dealing in or any solicitation in respect of a franchise for valuable consideration whether the terms of the payment are by instalment or otherwise, or any attempt to do any of the foregoing,



- (ii) any act, advertisement, conduct or negotiation directly or indirectly in furtherance of any of the foregoing.
- (2) A company shall be deemed to be an affiliate of another company if one of them is the subsidiary of the other or if both are subsidiaries of the same company or if each of them is controlled by the same person.
- (3) A company shall be deemed to be controlled by another person or persons if
  - (a) equity shares of the company 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 that other person or persons, and
  - (b) the votes carried by those shares are sufficient, if exercised, to elect a majority of the board of directors of the company.
- (4) A company shall be deemed to be a subsidiary of another company if
  - (a) it is controlled by
    - (i) that other, or
    - (ii) that other and one or more companies each of which is controlled by that other, or
    - (iii) two or more companies each of which is controlled by that other,
  - or
  - (b) it is a subsidiary of a company that is that other's subsidiary.
- (5) A company shall be deemed to be another's holding company or parent company if that other is its subsidiary.





**PART 1**  
**REGULATION OF FRANCHISE TRADING**

**Exemptions**

**2.** Any trade in a franchise other than a pyramid sales franchise is exempt from the provisions of section 5

- (a) where the franchisor has a net worth on a consolidated basis, according to its most recent audited financial statement,
  - (i) of not less than \$5,000,000, or
  - (ii) of not less than \$1,000,000 if the franchisor is at least 80 per cent owned by a corporation which meets the requirements of subclause (i),and
- (b) where the franchisor
  - (i) has had at least 25 franchisees conducting business at all times during the five-year period immediately preceding the trade, or
  - (ii) has conducted business which is the subject of the franchise continuously for not less than five years immediately preceding the trade, or
  - (iii) is at least 80 per cent owned by a corporation which meets the requirements of subclause (i) or (ii).

**3.** (1) The Director may, where in his opinion the action is not prejudicial to the public interest, order, subject to such terms and conditions as he may impose, that any trade in a franchise is exempt from the provisions of section 5.

(2) In considering the effect on the public interest in subsection (1) the Director shall have regard to the financial responsibility of the franchisor, its business experience, its ability to provide the goods and services it advertises and its general success in the franchise field.

(3) A notice of each order made under subsection (1) and a summary of the facts relating thereto shall be published by the Director in *The Alberta Gazette* as soon as practicable after the order is made.

**4.** (1) Where a trade in a franchise is exempt under section 2 or has been granted an exemption by the Director under section 3, the franchisor shall nevertheless, at least four days (exclusive of Saturdays, Sundays or holidays) prior to

- (a) the execution by the prospective franchisee of any binding franchise or any other agreement, or

**2.** Statutory exemptions.

**3.** Certain franchisors may be exempted from registration by the Director.

**4.** Contents of statement of material facts for exempt trade.

(b) the receipt of any consideration,  
supply the following information to each prospective franchisee by means of a statement of material facts:

1. the name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of any associate that will engage in business transactions with the franchisee;
2. the franchisor's principal business address and the name and address of his agent for service in Alberta;
3. the business form of the franchisor, whether corporate, partnership or otherwise;
4. the business experience of the franchisor, including the length of time the franchisor
  - (i) has conducted a business of the type to be operated by the franchisee,
  - (ii) has granted franchises for such business, and
  - (iii) has granted franchises in other lines of business;
5. a copy of the typical franchise contract or agreement proposed for use or in use in Alberta;
6. a statement of the franchise fee charged, the proposed application of the proceeds of such fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases, together with a notation concerning the existence of any continuing royalties;
7. a statement describing any payments or fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor, including royalties and payments or fees which the franchisor collects in whole or in part on behalf of a third party or parties together with the names of such third party or parties;
8. a statement indicating whether the cash investment required for the franchise covers payment for fixtures and equipment;
9. a statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor;
10. a statement as to whether the franchisee is able to sell the franchise and if so, what conditions, if any, attach to the sale;
11. a statement as to whether, by the terms of the franchise agreement or by other device or practice, the franchisee or subfranchisor is required to purchase



from the franchisor or his designate, services, supplies, products, fixtures or other goods relating to the establishment or operation of the franchise business together with a description thereof;

12. a statement as to whether the services, supplies, products, fixtures, or other goods relating to the establishment or operation of the franchise business are available from sources other than the franchisor;
13. a statement as to whether, by the terms of the franchise agreement or other device or practice the franchisee is limited in the goods or services which may be offered by him to his customers;
14. a statement as to whether the franchisor has, whether by contract, agreement, arrangement or otherwise, agreed with any third party or parties that the products or services of such third party or parties will be made available to the franchisee or subfranchisor on a discount or bonus basis;
15. a statement of the terms and conditions of any financing arrangements when offered directly or indirectly by the franchisor or his associate;
16. a statement of any past or present practice of or any intent of the franchisor to sell, assign or discount to a third party any note, contract or other obligation of the franchisee or subfranchisor in whole or in part;
17. if any statement of estimated or projected franchisee earnings is used, the data upon which it is based;
18. a statement as to whether franchisees or subfranchisors receive any exclusive rights or territory and if so, the extent thereof;
19. a statement indicating whether the franchisee is required to participate in a franchisor sponsored promotion or publicity campaign;
20. a statement as to whether the benefit of any patent or liability insurance protection of the franchisor is extended to the franchisee;
21. a statement as to whether any procedure has been adopted by the franchisor for the settlement of disputes between the franchisor and franchisee;
22. a statement as to whether the franchisor provides continuing assistance in any form to the franchisee and if so, the nature, extent and cost thereof;
23. a list of other franchises operating in Alberta where such is available and if no such franchises exist, a list of the franchisees operating in the next closest jurisdiction.



(2) No franchisor to whom section 2 or 3 applies shall trade in the franchise until he has filed with the Commission a copy of the statement of material facts.

### **Registration**

**5.** (1) On or after February 1st, 1972, no person shall trade in a franchise in Alberta either on his own account or on behalf of any other person until there have been filed with the Commission both an application for registration in the prescribed form and a prospectus in respect to the offer of such franchise and until a receipt for the prospectus has been obtained from the Registrar.

(2) The applicant for registration of a franchise shall provide the information requested in the application form and any additional information requested by the Director and shall pay the fee prescribed by the regulations.

(3) A trade in a franchise is deemed to have occurred in Alberta where

- (a) an offer to sell or a sale is made in Alberta, or
- (b) an offer to buy is accepted in Alberta, or
- (c) the franchisee is domiciled or ordinarily resident in Alberta, or
- (d) the franchise will be operated in Alberta, or
- (e) an offer to sell is made from Alberta, or
- (f) an offer to sell or an offer to buy is accepted by communicating the acceptance to a person in Alberta either directly or through an agent in Alberta.

**6.** Where a material adverse change occurs after the date of the application for registration of a franchise and before the issuance of a receipt for a prospectus that makes contrary or misleading any statement of a material fact contained in the application for registration, an amendment to the application for registration shall be filed with the Commission as soon as practicable, and in any event within 10 days from the date the change occurs.

**7.** (1) The prospectus shall provide full, plain and true disclosure of all material facts relating to the franchise proposed to be offered.

(2) A prospectus shall comply as to form and content with the requirements of this Act and the regulations.

(3) The Director may require any additional information which he considers necessary to be included in the prospectus.



**5. Registration.**

**6. Material changes to be contained in amendment to application.**

**7. Contents of prospectus.**

(4) The applicant shall file with a prospectus such documents, financial statements, reports and material, in a form satisfactory to the Director, and pay such fees as are prescribed by the regulations.

**8.** An application for registration, prospectus, registration renewal statement, and any amendments thereto, shall contain a certificate in the following form, signed

- (a) by the sole proprietor, partners, unit holders, trustee, or,
- (b) in the case of a company, by the chief executive officer and the chief financial officer and on behalf of the board of directors by any two directors of the company, authorized to sign, and
- (c) by any other person who has a substantial interest in the franchisor:

The foregoing constitutes full, plain and true disclosure of all material facts relating to the franchise offered by this prospectus as required by Part 1 of The Franchises Act of Alberta and the regulations thereunder.

**9.** If the Director finds that the applicant for registration has failed to demonstrate that adequate financial arrangements have been made to fulfill the franchisor's obligations to provide improvements, equipment, inventory, training or other items included in the offering, the Director may by order require

- (a) the escrow or impounding of franchise fees and other funds paid by franchisees or subfranchisors, or
- (b) at the option of the franchisor, the furnishing of a surety bond in such form and such amount as may be required by the Director,

until no later than the time of opening by the franchisee of the franchise business if the Director finds that such a requirement is necessary and appropriate to protect prospective franchisees or subfranchisors.

**10.** (1) The Director may in his discretion direct the Registrar to issue a receipt for any prospectus filed under this Part unless it appears to the Director that

- (a) the prospectus or any document required to be filed therewith
  - (i) fails to comply in any substantial respect with any of the requirements of this Part or the regulations, or
  - (ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or

**8.** Certificate of full disclosure.

**9.** Director may require security for performance of franchisor's obligations.

**10.** Receipt for prospectus.

(iii) conceals or omits to state any material facts necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made,

or

- (b) any person identified in the application has a criminal record or is subject to an order or has a civil judgment entered against him and the involvement of that person in the sale or management of the franchise is not in the public interest, or
- (c) the financial position of the franchisor is such that the granting of the right to distribute franchises is not in the public interest, or
- (d) the business experience of the applicant is such that the granting of the right to distribute franchises is not in the public interest, or
- (e) the ability of the franchisor to provide the goods and services outlined in the prospectus is such that the granting of the right to trade in franchises is not in the public interest.

(2) Every determination by the Director under subsection (1) shall be made in writing within 30 days of the receipt of the application for registration, the prospectus and any amending document and the person who filed the prospectus shall have a prior opportunity to be heard.

(3) The Lieutenant Governor in Council may make such regulations as he considers necessary or appropriate in the public interest pertaining to the matters referred to in subsection (1), clauses (c), (d) and (e) and, without limiting the generality of the foregoing, pertaining to requirements as to the paid-up capital and surplus, liquidity of assets, ratio of debts to paid-up capital and surplus, audit procedures, the furnishing of interim financial statements, and the qualifications, and obligations of the franchisor.

**11.** No receipt shall issue for a prospectus relating to a proposed trade in a pyramid sales franchise unless the Director is satisfied

- (a) that the majority of the income of the persons involved will derive from the sale of goods or services to the public,
- (b) that franchisees who obtain goods pursuant to the franchise arrangement may receive a refund of the cost price of unsold inventory upon termination of the franchise,
- (c) that there is a suitable limitation on the number of franchisees to be located in any area in relation to the population within the area, and
- (d) that all other requirements of this Act and the regulations have been complied with.

**11.** Pyramid sales franchises.

**12.** The Director may, and when so directed by the Commission shall,

- (a) require any applicant or registrant to deliver a bond to the Commission within a specified time, or
  - (b) require a registrant who had previously delivered a bond to deliver a new bond to the Commission,
- and the bond or new bond shall be in the form prescribed in the regulations and shall be approved by the Director as to amount and otherwise.

**13.** Where an application for registration is refused the applicant may re-apply upon other or additional material or upon the same material when there has been a significant change in circumstances.

**14.** (1) Where it appears to the Commission, after the registration of a prospectus under this Part and the issuance of a receipt therefor,

- (a) that any of the circumstances set out in section 10 exist, or
- (b) that there has been a failure to comply with any provisions of this Act or the regulations or any rule or order of the Commission, or
- (c) that the trade would constitute deceit or fraud of the purchasers,

the Commission may order that all trading in the franchise shall cease.

(2) No order shall be made under subsection (1) without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire 15 days from the date of the making thereof.

(3) A notice of every order made under this section shall be served upon the person to whose franchise the prospectus relates and upon every salesman of the franchise, and forthwith upon the receipt of the notice

- (a) no further trades shall be made in the franchise named in the order by any person, and
- (b) any receipt issued by the Registrar for the prospectus is revoked.

**15.** (1) A franchisor shall advise in writing, by an application to amend the registration and prospectus of any material change in the information contained in the application or prospectus as originally submitted, amended or renewed and the application shall be filed with the Registrar as soon as practicable and in any event within 10 days from the date the change occurs.

**12.** Director may require posting of a bond.

**13.** Applicant may re-apply.

**14.** Order to cease trading.

**15.** Material changes to be the subject of amendment applications.

(2) The Director shall determine whether any changes as submitted pursuant to subsection (1) are to be accepted, but in no case shall a refusal be made without an opportunity to be heard.

(3) An amendment approved by the Director becomes effective on any date which the Director determines, having due regard to the public interest and the protection of franchisees.

**16.** The registration of a franchise offering expires one year from the date of registration, unless the Director by order specifies a different period.

**17.** The registration of a franchise offering may be renewed for additional periods of one year each by submitting to the Director a registration renewal statement in the prescribed form no later than 30 business days prior to the expiration of the registration unless such period is waived by the order of the Director.

**18.** (1) No person shall act as a salesman on behalf of a franchisor whose franchise is registered under this Act unless

- (a) he is listed on the franchisor's application for registration of a prospectus, and
- (b) he is registered under this Act.

(2) The termination of the employment of a salesman with a person whose franchise is registered shall operate as a withdrawal of the registration of the salesman until notice in writing has been received by the Registrar from another person whose franchise is registered under this Act of the employment of the salesman by that other person and the employment has been approved by the Director.

**19.** Subject to sections 18 and 22, the registration of a salesman expires one year from the date of registration.

**20.** The registration of a salesman may be renewed for additional periods of one year each by submitting to the Director a registration renewal statement in the prescribed form no later than 30 business days prior to the expiration of the registration unless such period is waived by the order of the Director.

**21.** (1) The Director shall grant registration or renewal of registration to a prospective salesman where in the opinion of the Director the applicant is suitable for registration and the proposed registration is not objectionable.



**16.** Expiry of registration.

**17.** Renewal of registration

**18.** Registration of salesmen.

**19.** Expiry of registration.

**20.** Expiry of registration.

**21.** Bond may be required.

(2) The Director shall not refuse to grant or refuse to renew registration as a salesman without giving the applicant an opportunity to be heard.

(3) The Director may in his discretion restrict a registration of a salesman by imposing terms and conditions thereon.

(4) The Director may, and when so directed by the Commission shall,

- (a) require any applicant for registration as a salesman or any person who has been registered as a salesman to deliver a bond to the Commission within a specified time, or
- (b) require a salesman who had previously delivered a bond to deliver a new bond to the Commission, and the bond or new bond shall be in the form prescribed in the regulations and shall be approved by the Director as to amount and otherwise.

**22.** The Director, after giving the registered salesman an opportunity to be heard, shall suspend or cancel any salesman registration where in his opinion such action is in the public interest, but, where the granting of an opportunity to be heard would be prejudicial to the public interest, he may suspend any registration of a salesman without giving the salesman an opportunity to be heard, in which case he shall forthwith notify the salesman of the suspension and of a hearing and review to be held before the Commission within 15 days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 48.

**23.** Where an application for registration as a salesman is refused the applicant may re-apply upon other or additional material or upon the same material when there has been a significant change in circumstances.

**24.** An application for registration as a salesman shall be made in writing upon a form prescribed by the regulations and provided by the Commission and shall be accompanied by such fee as may be prescribed by the regulations.

**25.** The Director may require any further information or material to be submitted by any applicant for registration as a salesman within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant for registration as a salesman or the registered franchisor or any partner, joint trustee, joint unit holder, joint personal representative or director or officer of the latter to submit to an examination under oath by a person designated by the Director.

**22.** Suspension or cancellation of registration.

**23.** Further application where registration refused.

**24.** Application for registration.

**25.** Director may require additional information.

**26.** Without limiting the generality of section 21, subsection (1), the Director may refuse registration to any prospective salesman where he is satisfied, on the basis of statements on the application and from any other sources of information, that the applicant

- (a) has not been a resident of Canada for at least one year prior to the date the application is made, or
- (b) is not a resident of Alberta at the date the application is made, or
- (c) does not intend to make his permanent home in Alberta after the application is granted.

**27.** Where an application for registration or renewal of registration of a franchise offering or of a salesman is refused or cancelled or where a receipt for a prospectus is not obtained, the Director may refund the fee or such part thereof as he considers fair and reasonable.

**28.** On and after February 1st, 1972 no franchisor shall conclude a trade in any franchise without providing to the purchaser a statement of material facts, prospectus or amended prospectus in accordance with section 34.

#### **General**

**29.** (1) Except as may be permitted by the regulations in the case of a prospectus, no person shall hold himself out as being a registrant by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery anything indicating that he is a registrant.

(2) No person who is not a registrant shall either directly or indirectly hold himself out as being a registrant.

**30.** No person shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant, upon the quality of any franchise, or upon the results to be expected by a franchisee operating under the terms of the franchise.

**31.** Every franchisor and subfranchisor offering franchises for sale shall at all times keep and maintain a complete set of books, records and accounts of their respective sales in Alberta at their principal place of business within Alberta shown on the prospectus or statement of material facts, as the case may be.

**26.** Refusal of registration.

**27.** Refund of fees.

**28.** Prohibition.

**29.** Representations as to registration.

**30.**Representations of Commission's approval prohibited.

**31.** Records.

**PART 2**  
**ENFORCEMENT**  
**Offences and Penalties**

**32. (1)** Every person who

- (a) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or the Registrar or to any person appointed to make an investigation or audit under this Act, that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading, or
- (b) makes a statement in any application, report, prospectus, return, financial statement or other document, required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading, or
- (c) contravenes this Act or the regulations, or
- (d) fails to observe or comply with any order, ruling, direction or other requirements made under this Act or the regulations

is guilty of an offence and liable on summary conviction to

- (e) a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both, or
- (f) in the case of a company, a fine of not more than \$25,000.

(2) No person is guilty of an offence under subsection (1), clause (a) or (b) if he establishes that he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

(3) Where a company is found guilty of an offence under subsection (1) every director or officer of the company who authorized, permitted or acquiesced in such offence is also guilty of an offence and is liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

**33.** No proceedings under section 32 shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

**32.** Offences and penalties.

**33.** Limitation.

### Civil Remedies and Liabilities

**34.** (1) A person not acting as agent of the purchaser who receives an order for a franchise to which section 4, 5 or 17 is applicable shall, unless he has previously done so, send by prepaid mail or deliver to the purchaser the statement of material facts, prospectus or amended prospectus, whichever is the last required to be filed with the Commission,

- (a) before entering into an agreement of purchase and sale resulting from the order, or
- (b) not later than midnight on the fourth day, exclusive of Saturdays, Sundays and holidays, after entering into the agreement.

(2) An agreement of purchase and sale or a sale referred to in subsection (1) is not binding upon the purchaser if the person from whom the purchaser purchased the franchise receives written or telegraphic notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale or the sale not later than midnight on the fourth day, exclusive of Saturdays, Sundays and holidays, after receipt by the purchaser of the statement of material facts, prospectus or amended prospectus, whichever is the last required to be filed with the Commission.

(3) Subsection (2) does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the franchise referred to in subsection (2), otherwise than to secure indebtedness, before the expiration of the time referred to in subsection (2).

(4) For the purpose of this section, where a statement of material facts, prospectus or amended prospectus is sent by prepaid mail, the statement of material facts, prospectus or amended prospectus shall be deemed conclusively to be received in the ordinary course of mail by the person or company to whom it was addressed.

(5) The receipt of a statement of material facts, prospectus or amended prospectus by a person who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a franchise referred to in subsection (1) shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such statement of material facts, prospectus or amended prospectus.

(6) The receipt of the notice referred to in subsection (2) by a person who acted as agent of the vendor with respect to the sale of a franchise referred to in subsection (1) shall, for the purpose of this section, be receipt by the vendor as of the date on which the agent received such notice.



**34.** Withdrawal from trade agreement. This and the subsequent section are the same procedures as are used in The Securities Act, sections 64 and 65 respectively.

(7) For the purpose of this section, a person shall not be considered to be acting as agent of the purchaser unless the person or company is acting solely as the agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale.

(8) The onus of proving that the time for giving notice under subsection (2) has expired is upon the person from whom the purchaser agreed to purchase the franchise.

(9) Every statement of material facts or prospectus shall contain a statement of the rights given to a purchaser by this section.

**35.** (1) A person that is party to a contract as purchaser resulting from the offer of a franchise to which section 4, 5 or 15 is applicable has a right to rescind the contract while still the owner of the franchise if the statement of material facts or the prospectus and any amended prospectus then filed with the Commission in compliance with section 15 and received by the purchaser, as of the date of receipt contains an untrue statement of a material fact or omits to state a material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made.

(2) No action shall be commenced under this section after the expiration of 2 years from

- (a) the receipt of the statement of material facts, prospectus or amended prospectus by the purchaser, or
- (b) the date of the contract referred to in subsection (1), whichever is the later.

(3) Subsection (1) does not apply to an untrue statement of a material fact or an omission to state a material fact

- (a) if the untruth of such statement or the fact of such omission was unknown to the person whose franchises are being offered by the statement of material facts or prospectus and, in the exercise of reasonable diligence, could not have been known to such person, or
- (b) if such statement or omission is disclosed in an amended prospectus filed in compliance with section 15 and the amended prospectus was received by the purchaser, or
- (c) if the purchaser knew of the untruth of the statement or knew of the omission at the time he purchased the franchise.

**35.** Rescission of trade agreement.

(4) For the purpose of this section, where a statement of material facts, prospectus or amended prospectus is sent by prepaid mail, it shall be deemed conclusively to be received in the ordinary course of mail by the person to whom it was addressed.

(5) The receipt of a statement of material facts, prospectus or amended prospectus by a person who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a franchise referred to in subsection (1) shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such statement of material facts, prospectus or amended prospectus.

(6) For the purpose of this section, a person shall not be considered to be acting as agent of the purchaser unless the person is acting solely as the agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale.

(7) The cause of action conferred by this section is in addition to and without derogation from any other right the purchaser may have at law.

(8) Every statement of material facts or prospectus shall contain a statement of the right of rescission provided by this section.

**36.** (1) Where a franchise has been registered under this Act, a subfranchisor may, in lieu of providing its own prospectus, provide to a prospective franchisee a copy of the franchisor's prospectus, and such prospectus shall be deemed to be prospectus of the subfranchisor except as it may be varied in writing by the subfranchisor.

(2) Where a franchise is exempt or has been exempted from registration under this Act, a subfranchisor shall provide to a prospective franchisee a copy of the franchisor's statement of material facts and such statement shall bind the subfranchisor except as it may be varied in writing by the subfranchisor.

(3) The franchisor shall provide each subfranchisor with sufficient copies of the prospectus or statement of material facts to enable him to comply with this section.

**37.** (1) Where a receipt for a prospectus has been issued by the Registrar, notwithstanding that such receipt is thereafter revoked, every purchaser of the franchise to which the prospectus relates shall be deemed to have relied upon the statements made in the prospectus whether the

**36. Subfranchisors.**

**37. Personal liability for material false statements in the prospectus.**

purchaser has received the prospectus or not, and, if a material false statement is contained in the prospectus, every person who, at the time of the issue of a receipt for the prospectus, is a director of a company issuing the franchises or a person who signed the certificate required by section 8 is liable to pay compensation to all persons who have purchased the franchise for any loss or damage such persons have sustained as a result of such purchase unless it is proved

- (a) that the prospectus was filed with the Commission without his knowledge or consent, and that, on becoming aware of its filing with the Commission, he forthwith gave reasonable public notice that it was so filed, or
  - (b) that, after the issue of a receipt for the prospectus and before the purchase of the franchise by such purchaser, on becoming aware of any false statement therein, he withdrew his consent thereto and gave reasonable public notice of such withdrawal and of the reason therefor, or
  - (c) that, with respect to every false statement, he had reasonable grounds to believe and did believe that the statement was true, or
  - (d) that he had no reasonable grounds to believe that an expert who made a statement in a prospectus or whose report or valuation was produced or fairly summarized therein was not competent to make such statement, valuation or report, or
  - (e) that, with respect to every false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document.
- (2) The liability under subsection (1) of a person as a director or as a signatory of the certificate is joint and several with all other such persons and with the company.

**38.** (1) Except with the consent of the Minister, no action whatever and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy lies or shall be instituted against any person, whether in his public capacity, in respect of any act or omission in connection with the administration or the carrying out of the provisions of this Act or the regulations where such person is a member of the Commission, a representative of the Commission or the Director or Registrar, or where such person or company was proceeding under the written or oral direction or consent of anyone of them or under an order of the Minister made under this Act.

**38.** Certain persons and actions protected.

(2) No person has any rights or remedies and no proceedings lie or shall be brought against any person in respect of any act or omission of that person done or omitted in compliance or intended compliance with

(a) any requirement, order or direction under this Act of

(i) the Commission or any member thereof, or

(ii) the Director, or

(iii) the Registrar, or

(iv) any person appointed by order of the Minister,  
or

(v) the Minister, or

(vi) any representative of the Minister, the Commission, the Director or Registrar or of any person appointed by the Minister,

or

(b) this Act and the regulations.





### **PART 3**

#### **INVESTIGATION AND ACTION BY THE COMMISSION**

**39.** (1) The Commission or any person to whom as its representative it may in writing delegate such authority may at any time make an examination of the financial affairs of a registrant or of any person whose franchises have been the subject of a filing with the Commission, and prepare a balance sheet as of the date of such examination and such other statements and reports as may be required by the Commission.

(2) The Commission or any person making an examination under this section is entitled to free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person whose financial affairs are being examined, and no person shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section.

**40.** (1) The Commission may appoint one or more experts to assist the Commission in any manner which it may consider expedient.

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection (1) for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and compel them to produce documents, records and things as is vested in the Commission in conducting an investigation and section 41, subsections (3) and (4) apply with all necessary modifications.

(3) An expert appointed under subsection (1) shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine.

**41.** (1) Where upon a statement made under oath it appears probable to the Commission that any person has

(a) contravened any of the provisions of this Act or the regulations, or

(b) committed an offence under the Criminal Code in connection with a trade in franchises,

the Commission may by order appoint any person to make such investigation as it deems expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation.

**39.** Financial affairs of registrant may be examined.

**40.** Board may use experts.

**41.** Investigations by order of the Commission.

(2) The Commission may, on its own motion by order, appoint one or more persons to make such investigation as it considers expedient for the due administration of this Act or into any matter relating to trading in franchises, and in the order shall determine and prescribe the scope of the investigation.

(3) For the purposes of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine

- (a) the affairs of the person in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person and any property, assets or things owned, acquired or alienated in whole or in part by such person or by any person acting on behalf of or as agent for such person, and
- (b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person and the relationship that may at any time exist or have existed between such person and any other person by reason of a sale or an agreement of purchase and sale, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money or other property, interlocking directorates, common control, undue influence or control or any other relationship.

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order of judgment of the Supreme Court, provided that no provision of The Alberta Evidence Act exempts any bank or any officer or employee thereof from the operation of this section.

(5) A person giving evidence at an investigation under this section may be represented by counsel.

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person whose affairs are being investigated.



(7) Where any documents, records, securities or other property are seized under subsection (6), such documents, records, securities or other property will be made available for inspection and copying by the person from whom seized at a mutually convenient time and place.

(8) Where an investigation is ordered under this section the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person whose affairs are being investigated.

(9) Every person appointed under subsection (1), (2) or (8) shall report the result of his investigation or examination to the Commission.

(10) The provisions of any rules of court or of law relating to the service of subpoenas to witnesses and to the payment of conduct money or witness fees do not apply with respect to investigations under this section or section 43.

(11) An order under subsection (1) or (2) may provide for the appointment of two or more persons to make the investigation.

**42.** (1) Where upon the report of an investigation made under section 32 it appears to the Commission that any person may have

- (a) contravened any of the provisions of this Act or the regulations, or
- (b) committed an offence under the Criminal Code in connection with a transaction relating to franchises

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcripts of evidence and any material in the possession of the Commission relating thereto, to the Minister.

**43.** Notwithstanding section 41, the Minister may by order appoint one or more persons to make such investigation as he considers expedient for the due administration of this Act or into any matter relating to trading in franchises, in which case the person or persons so appointed, for the purposes of the investigation, have the same authority, powers, rights and privileges as a person appointed under section 41.

**44.** No person, without the consent of the Commission, shall disclose, except to his counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 41 or 43.

**42.** Commission to report offences and contraventions to the Minister.

**43.** Minister may order a further investigation.

**44.** Evidence not to be disclosed.

**45.** Where an investigation has been made under section 41, the Commission may, and, where an investigation has been made under section 43, the person making the investigation shall, report the result thereof, including the evidence, findings, comments and recommendations, to the Minister, and the Minister may cause the report to be published in whole or in part in any manner which he considers proper.

**46.** (1) The Commission may,

- (a) where it is about to order an investigation under section 41 or during or after an investigation under section 41 or 43, or
- (b) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or affecting the right of any person to trade in franchises, or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person, that in the opinion of the Commission are connected with or arise out of any franchise or trade therein or out of any business conducted by such person,

in writing or by telegram direct any person having on deposit under control or for safekeeping any funds or securities of the person referred to in clause (a), (b) or (c) to hold such funds or securities or direct the person referred to in clause (a), (b) or (c) to refrain from withdrawing any such funds or securities from any other person having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the Bankruptcy Act (Canada), The Judicature Act, The Companies Act or the Winding-up Act (Canada), or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, and in the case of a bank, loan or trust company the direction applies only to the offices, branches or agencies named in the direction.

(2) Any person in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any funds or franchise or in the case of a claim being made thereto by any person not named in the direction, may apply to a judge of the Supreme Court who may direct the disposition of such funds or franchise and may make such order as to costs as seems just.

(3) In any of the circumstances mentioned in subsection (1), clause (a), (b) or (c), the Commission may in writing or by telegram notify any registrar of land titles that proceedings are being or are about to be taken that may



**45.** Minister may publish findings.

**46.** Order to preserve funds.

affect land belonging to the person referred to in the notice, and the notice shall be registered or recorded against the lands mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens* or a caution, but the Commission may in writing revoke or modify the notice.

**47.** (1) The Commission may,

- (a) where it is about to order an investigation under section 41, or during or after an investigation under section 41 or 43, or
- (b) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or affecting the right of any person to trade in franchises, or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person that in the opinion of the Commission are connected with or arise out of any franchise or any trade therein, or out of any business conducted by such person, apply to a judge of the Supreme Court for the appointment of a receiver or a receiver and manager or a trustee of the property of such person.

(2) Upon an application made under subsection (1), the judge may, where he is satisfied that the appointment of a receiver or a receiver and manager or a trustee of the property of any person is in the best interests of the creditors of such person or of persons whose property is in the possession or under the control of such person, appoint a receiver or a receiver and manager or a trustee of the property of such person.

(3) Upon an *ex parte* application made by the Commission under this section, the judge may make an order under subsection (2) appointing a receiver or a receiver and manager or a trustee for a period not exceeding eight days.

(4) A receiver or a receiver and manager or a trustee of the property of any person appointed under this section shall be the receiver or the receiver and manager or the trustee of all the property belonging to the person or held by the person on behalf of or in trust for any other person, and the receiver or the receiver and manager or the trustee shall have authority, if so directed by the judge, to wind-up or manage the business and affairs of the person and all powers necessary or incidental thereto.

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

(6) The rules of practice of the Supreme Court apply to an application made under this section.

**47.** Applications for receivers, managers or trustees.

## **PART 4**

### **APPEALS**

**48.** (1) Any person primarily affected by a direction, decision, order or ruling of the Director may, by notice in writing sent by registered mail to the Registrar within 30 days after the mailing of the notice of the direction, decision, order or ruling, request and be entitled to a hearing and review thereof by the Commission.

(2) Upon a hearing and review, the Commission may by order confirm the direction, decision, order or ruling under review or make such other direction, decision, order or ruling as the Commission deems proper.

**49.** (1) Any person primarily affected by a direction, decision, order or ruling of the Commission, may appeal to the Appellate Division of the Supreme Court of Alberta.

(2) Every appeal shall be by notice of motion sent by registered mail to the Registrar within 30 days after the mailing of the notice of the order, and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action.

(3) The Registrar shall certify to the Clerk of the Supreme Court

- (a) the direction, decision, order or ruling that has been reviewed by the Commission,
- (b) the order of the Commission, together with any statement of reasons therefor,
- (c) the record of the review, and
- (d) all written submissions to the Commission or other material that is relevant to the appeal.

(4) The Commission may appear and be represented by counsel appointed by the Minister for that purpose upon the hearing of any appeal under this section.

(5) Where an appeal is taken under this section, the Appellate Division may by its order direct the Commission to make such direction, decision, order or ruling or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the Court deems proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such direction, decision, order or ruling or do such act accordingly.

(6) Notwithstanding an order of the Appellate Division, the Commission has power to make any further direction, decision, order or ruling upon new material or where there is a material change in the circumstances, and every such direction, decision, order or ruling is subject to this section.

**48.** Appeals to the Commission from the Director.

**49.** Appeals to the Appellate Division from the Commission.

**PART 5**  
**ADMINISTRATION**

**50.** For the purposes of a hearing required or permitted under this Act to be held before the Commission or the Director, the following rules apply:

1. In addition to any other person to whom notice is required to be given, notice in writing of the time, place and purpose of the hearing shall be given to any person that, in the opinion of the Commission or the Director, is primarily affected by the hearing, and any such notice is sufficient if sent to the person by prepaid mail at the last address of the person appearing on the record of the Commission or, if not so appearing, to such address as is directed by the Commission or the Director.
2. For the purposes of the hearing any of the persons convening the hearing or before whom the hearing is held has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court of Alberta for the trial of civil actions, and the failure or refusal of a person to attend to answer questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court of Alberta as if in breach of an order or judgment of that Court.
3. At the hearing, the person presiding shall receive all evidence submitted by any person to whom notice has been given or by any other person submitting evidence that is relevant to the hearing, but the person presiding is not bound by the legal or technical rules of evidence.
4. At the hearing or hearing and review by the Commission, all oral evidence received shall be taken down in writing and together with such documentary evidence and things as are received in evidence by the Commission shall form the record.
5. Where the direction, decision, order or ruling made after a hearing adversely affects the right of a person to trade in franchises, the person presiding at the hearing shall, at the request of the person, issue written reasons for the direction, decision, order or ruling.
6. Notice of every direction, decision, order or ruling, together with a copy of the written reasons therefor, if any, shall be given upon the issuance thereof

**50.** Rules relating to hearings.

to every person to whom notice of the hearing was given and to any person who, in the opinion of the person who presided at the hearing, is primarily affected thereby, and any such notice is sufficient if sent to such person by prepaid mail at the last address of such person appearing on the records of the Commission or, if not so appearing, to such address as is directed by the Commission or the Director.

7. A person attending or submitting evidence at a hearing pursuant to clause 1 may be represented by counsel.

**51.** A statement as to

- (a) the registration or non-registration of any person, or
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Commission, or
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing or to any such person, document or material,

purporting to be certified by the Commission or a member thereof or by the Director or the Registrar is, without proof of the office or signature of the person certifying, receivable in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution.

**52.** (1) Where a magistrate or justice of another province issued a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province similar to this Act, any provincial judge or justice of Alberta within whose jurisdiction that person is or is suspected to be may, upon satisfactory proof of the handwriting of the provincial judge or justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all persons to whom it was originally directed and to all constables within the territorial jurisdiction of the provincial judge or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Alberta and to re-arrest that person anywhere in Alberta.

(2) Any constable of Alberta or of any other province of Canada who is passing through Alberta having in his custody a person arrested in another province under a warrant endorsed in pursuance of subsection (1) is entitled to hold, take and re-arrest the accused anywhere in Alberta under that warrant without proof of the warrant or the endorsement thereof.



**51.** Certified statements receivable in evidence.

**52.** Execution of warrants from another province.

**53.** (1) Where it appears to the Commission that any person has failed to comply with or is violating any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, the Commission may apply to the Supreme Court of Alberta by way of originating notice of motion for an order directing that person to comply with the provision or for an order restraining that person from violating the provision, and upon such application the Court may make the order or any other order that it thinks fit.

(2) The originating notice shall be served at least two clear days before the day named in the notice for hearing the application.

(3) An appeal lies to the Appellate Division of the Court from an order made under subsection (1).

**54.** (1) Any bond mentioned in section 12 or section 21 is forfeited and the amount thereof becomes due and owing, by the person bound thereby, as a debt to Her Majesty in right of Alberta

- (a) when any person or any officer or partner of a company in respect of whose conduct the bond is conditioned has been convicted of
  - (i) an offence under this Act or the regulations,  
or
  - (ii) an offence involving fraud or theft or conspiracy to commit an offence involving fraud or theft under the Criminal Code, or
  - (iii) an offence in connection with a transaction relating to securities under the Criminal Code,
- (b) when judgment based on a finding of fraud has been given against any registered person or any officer or partner of a registered company, in respect of whose conduct the bond is conditioned, or
- (c) when proceedings by or in respect of any registered person or any officer or partner of a registered company, in respect of whose conduct the bond is conditioned, have been taken under the Bankruptcy Act (Canada) or by way of winding up and a receiving order under the Bankruptcy Act (Canada) or a winding-up order has been made,

and such conviction, judgment or order has become final by reason of lapse of time or of having been confirmed by the highest court to which an appeal may be taken.

(2) A bond may be cancelled by any person bound thereunder by giving to the Registrar at least three months' notice in writing of intention to cancel and, subject to sub-

**53.** Orders compelling compliance with the Act.

**54.** Forfeiture of bond.

section (3) it shall be deemed to be cancelled on the date stated in the notice, which date shall be not less than three months after receipt of the notice by the Registrar.

(3) For the purposes of every act and omission occurring during the period of registration or the period prior to cancellation under subsection (2), every bond continues in force and the collateral security, if any, shall remain on deposit for a period of two years after the lapse or cancellation of the registration to which it relates, or the cancellation of the bond, whichever occurs first.

(4) Where a bond secured by the deposit of collateral security with the Provincial Treasurer is forfeited under subsection (1) the Lieutenant Governor in Council may direct the Provincial Treasurer to sell the collateral security at the current market price.

(5) Where Her Majesty becomes a creditor of any person in respect of a debt to the Crown arising from the provisions of subsection (1), the Commission may take such proceedings as it deems fit under the Bankruptcy Act (Canada), The Judicature Act, The Companies Act or the Winding-up Act (Canada) for the appointment of an interim receiver, custodian, trustee, receiver or liquidator.

(6) The Lieutenant Governor in Council may direct the Provincial Treasurer

- (a) to assign any bond forfeited under subsection (1) and transfer the collateral security, if any, or
- (b) to pay over any moneys recovered under such bond, or
- (c) to pay over any moneys realized from the sale of the collateral security under subsection (4),

to any person, or to the clerk of the Supreme Court of Alberta in trust for such persons as may become judgment creditors of the person bonded or to any trustee, custodian, interim receiver, receiver or liquidator of such person.

(7) Where

- (a) a bond has been forfeited under subsection (1) by reason of a conviction or judgment under subsection (1), clause (a) or (b), and
- (b) the Commission has not
  - (i) within two years of the conviction or judgment having become final, or
  - (ii) within two years of the registered person in respect of whom the bond was furnished, having ceased to carry on business as such,whichever occurs first, received notice in writing of any claim against the proceeds of the bond or of such portion thereof as remains in the possession of the Provincial Treasurer,



the Lieutenant Governor in Council may direct the Provincial Treasurer to pay such proceeds or portion thereof to that person or to any person who upon forfeiture of the bond made any payments thereunder, after first deducting the amount of any expenses that have been incurred in connection with any investigation or other matter relating to that person.



**PART 6**  
**MISCELLANEOUS**

**55.** The Lieutenant Governor in Council may make regulations

1. prescribing the form and content of prospectuses to be filed with the Commission by persons in accordance with the Act,
2. prescribing requirements respecting applications for registration and renewal of registration,
3. regulating the trading in franchises and records relating thereto,
4. governing the furnishing of information to the public or to the Commission by a registrant in connection with franchises or trades therein,
5. governing the keeping of accounts and records, the preparation and filing of financial statements of franchise issuers and the audit requirements with respect thereto,
6. prescribing the fees payable to the Commission, including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations,
7. prescribing the documents, reports, statements, agreements and other information and the form, content and other particulars relating thereto that are required to be filed, furnished or delivered under this Act and the regulations,
8. prescribing the practice and procedure of investigations under sections 41 and 43,
9. prescribing the forms for use under this Act and the regulations,
10. prohibiting or otherwise regulating the distribution of written or printed material by a person in respect of a franchise whether in the course of trading or otherwise, and
11. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

**56.** This Act comes into force on a date to be fixed by proclamation.



**55. Regulations.**