

1984 BILL 51

Second Session, 20th Legislature, 33 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 51

SMALL BUSINESS EQUITY CORPORATIONS ACT

THE MINISTER OF TOURISM AND SMALL BUSINESS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 51

1984

SMALL BUSINESS EQUITY CORPORATIONS ACT

(Assented to _____, 1984)

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

Definitions

1 In this Act,

(a) “associate”, where used to indicate a relationship with a person, means

(i) a corporation of which that person beneficially owns, directly or indirectly, equity shares carrying more than 10% of the voting rights attached to all equity shares of the corporation for the time being outstanding,

(ii) a partner of that person or a corporation referred to in subclause (i),

(iii) a trust or estate in which that person or a corporation referred to in subclause (i) has, in the opinion of the Minister, a substantial beneficial interest or as to which that person or corporation serves as trustee or in a similar capacity,

(iv) a spouse of that person,

(v) a relative of that person or his spouse who resides at the same residence as that person, or

(vi) a person deemed by the Minister to be associated with that person;

(b) “certificate of corporate investment” means a certificate issued under section 21;

(c) “corporation” means a body corporate, whether or not it is a corporation to which the *Business Corporations Act* applies;

(d) “debt obligation” means a mortgage, bond, debenture, note or other similar obligation of a corporation, whether secured or unsecured;

(e) “eligible investment” means an investment in a small business that complies with section 11;

(f) “equity capital” means the amount of consideration calculated in the manner prescribed by regulation and paid in money for which equity shares are issued;

(g) “equity share” means a share of a class of shares of a corporation carrying voting rights under all circumstances and a share of a class of shares carrying voting rights by reason of the occurrence of a contingency that has occurred and is continuing;

(h) “grant” means a grant under section 21;

(i) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(j) “person” means, except as otherwise expressly provided, an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative and includes a corporation;

(k) “register” means the Small Business Equity Corporations Register referred to in section 4(1);

(l) “security” means, except in sections 2(3)(a) and 13(1)(c), a share of a class of shares or a debt obligation of a corporation;

(m) “small business” means a corporation described in section 11(1);

(n) “small business equity corporation” means a corporation registered as a small business equity corporation under this Act;

(o) “tax credit” means a tax credit to which a corporation is entitled under section 26.6 of the *Alberta Corporate Income Tax Act*.

Relationship of
corporations

2(1) A corporation shall be deemed to be a subsidiary of another corporation if

(a) it is controlled by

(i) that other corporation,

(ii) that other corporation and 1 or more corporations each of which is controlled by that other corporation, or

(iii) 2 or more corporations each of which is controlled by that other corporation, or

(b) it is a subsidiary of a corporation that is that other corporation’s subsidiary.

(2) One corporation shall be deemed to be affiliated with another corporation if one of them is the subsidiary of the other or both are subsidiaries of the same corporation or each of them is controlled by the same person.

(3) Unless otherwise prescribed by regulation, a corporation shall be deemed to be controlled by another person or 2 or more persons if

(a) shares of the corporation carrying more than 50% 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 the shares referred to in clause (a) are sufficient, if exercised, to elect a majority of the board of directors of the corporation.

Equity shares

3(1) The total number of equity shares of a corporation beneficially owned or controlled shall be calculated as the total of all the equity shares actually owned or controlled, but each equity share that carries the right to more than 1 vote shall be counted as the number of equity shares equalling the total number of votes carried.

(2) In determining the number of shareholders of a corporation, 2 or more persons holding the same share or shares jointly shall be counted as 1 shareholder.

(3) A corporation shall be considered to be offering its equity shares to the public if

(a) a prospectus has been filed and a receipt obtained for it under the *Securities Act* in respect of its equity shares,

(b) any of its equity shares have been, at any time since the coming into force of this Act, listed and posted for trading on the Alberta Stock Exchange, regardless of when that listing and posting for trading commenced, or

(c) it has relied on one or more of the statutory exemptions provided in the *Securities Act*, other than the statutory exemption provided by section 66(j) of that Act.

PART 1

SMALL BUSINESS EQUITY CORPORATIONS

Small Business
Equity
Corporations
Register

4(1) The Minister shall maintain the Small Business Equity Corporations Register, in which he shall list all small business equity corporations registered under this Act.

(2) The register shall be open for public inspection during normal office hours at a place to be determined by the Minister.

Proposal for
registration

5(1) A corporation incorporated under the *Business Corporations Act* may apply to be registered as a small business equity corporation under this Act by delivering to the Minister a proposal.

(2) A proposal shall be in the form and shall contain any information prescribed by the Minister.

Requirements for
registration

6 A corporation shall not be registered under this Act as a small business equity corporation unless

(a) the corporation complies with the *Business Corporations Act* and the *Securities Act*, if applicable,

(b) the corporation has never previously carried on business,

(c) the corporation's equity shares are without par value and may be issued for an aggregate consideration of not less than \$100 000 and not more than

(i) in the case of a corporation that is not offering its equity shares to the public, \$5 000 000, and

	<ul style="list-style-type: none"> (ii) in the case of a corporation that is offering its equity shares to the public, \$10 000 000, (d) the corporation has objects only to assist in the development of small businesses by <ul style="list-style-type: none"> (i) providing capital through the acquisition and holding of securities of small businesses, and (ii) providing business and managerial expertise to small businesses, (e) the corporation has equity capital of at least \$25 000, and (f) the corporation meets any other conditions that may be prescribed by regulation.
Registration	<p>7(1) Subject to section 36, a corporation is entitled to registration by the Minister except where it fails to</p> <ul style="list-style-type: none"> (a) comply with section 5 or 6, or (b) file the material required by this Act or the regulations. <p>(2) Subject to section 25, the Minister may</p> <ul style="list-style-type: none"> (a) refuse to register a corporation if, in the opinion of the Minister, the corporation is not entitled to registration under subsection (1), and (b) revoke the registration of a corporation if that corporation fails to comply with this Act or the regulations.
Registration by Minister	<p>8 If a corporation complies with sections 5 and 6, the Minister shall</p> <ul style="list-style-type: none"> (a) endorse on the proposal the word “Registered” and the date of registration, (b) place the name of the corporation on the register, and (c) issue a certificate of registration.
Minimum capital and investment	<p>9(1) Prior to the end of its first year of registration under this Act, a small business equity corporation shall have equity capital of at least \$100 000 and at least 40% of the amount of its equity capital shall be in eligible investments.</p> <p>(2) Prior to the end of its 2nd year of registration under this Act, a small business equity corporation shall have 70% of its equity capital in eligible investments.</p> <p>(3) During the 3rd and subsequent years of registration under this Act, a small business equity corporation shall maintain an average of at least 70% of its equity capital, calculated in the manner prescribed by regulation, in eligible investments.</p> <p>(4) After the first year of its registration under this Act, a small business equity corporation shall, at all times, maintain an equity capital of not less than \$100 000 and not more than</p> <ul style="list-style-type: none"> (a) in the case of a small business equity corporation that is not offering its equity shares to the public, \$5 000 000, and

(b) in the case of a small business equity corporation that is offering its equity shares to the public, \$10 000 000.

Trust fund

10(1) A small business equity corporation shall set aside in a trust fund an amount of money equal to 30% of all amounts received by it as equity capital and that trust fund shall be held by the corporation, or by a trustee on behalf of the corporation, in trust for the corporation and the Crown jointly to be dealt with in accordance with this section.

(2) Subject to subsection (4), while an amount is held in trust under subsection (1), the Minister shall permit payment from the trust fund of an amount equal to 3/7 of the purchase price paid by the small business equity corporation to acquire any eligible investment, provided that the Minister is satisfied that the purchase price of that eligible investment has been paid in full in money or that the amount permitted to be paid out by the Minister will be used by the corporation in payment of the full purchase price of the eligible investment.

(3) Subject to subsection (4), while any amount is held in trust under subsection (1), the Minister may permit payment from the trust fund to a shareholder of the small business equity corporation of an amount calculated in the manner prescribed by regulation when equity shares of the small business equity corporation are acquired by the small business equity corporation by redemption, purchase or otherwise from that shareholder.

(4) The money held in trust under subsection (1) shall not be paid out to any person unless the Minister has consented in writing to that payment.

(5) Subject to section 22(1)(d), interest earned on the trust fund established in accordance with subsection (1) shall be paid to the small business equity corporation.

(6) If the registration of a small business equity corporation is revoked, the amount remaining in the trust fund shall immediately be paid to the Crown and

(a) the receipt of the Minister is a full and sufficient discharge to any trustee or any other person having control of the trust fund for the payment to the Crown, and

(b) the payment to the Crown is a full and complete discharge to the person making the payment and for any claims to that payment by any person that claims to be entitled to the trust fund or part of the trust fund.

(7) If a person fails to make the payment to the Crown under subsection (6), that person is liable to the Crown for the amount required to be paid by subsection (6) and the amount is a debt due the Crown.

PART 2

ELIGIBLE INVESTMENT

Eligible investment

11(1) A corporation shall be a small business in which an eligible investment may be made if

(a) it has no more than the number of employees prescribed by regulation,

- (b) 75% or more of its wages and salaries are paid in respect of operations in Alberta,
 - (c) it does not receive more than 50% of its annual revenue from
 - (i) the lending of money,
 - (ii) rental income from real property,
 - (iii) mortgages or other debt instruments,
 - (iv) the selling of insurance or real estate,
 - (v) the purchase and sale of shares or commodities traded on a stock exchange, or
 - (vi) any combination of the activities described in subclauses (i) to (v), and
 - (d) it is not engaged in an activity or does not act in a manner prohibited by regulation.
- (2) An investment shall be an eligible investment if
- (a) it is made in a small business described in subsection (1),
 - (b) it is the purchase and acquisition from a small business by the small business equity corporation of equity shares issued by the small business but, where the equity shares are issued as part of a transaction involving, directly or indirectly, the purchase or redemption of any previously issued shares of the small business or an affiliated corporation, the investment is an eligible investment only to the extent that the investment represents net new equity capital calculated in the manner prescribed by regulation,
 - (c) it is not used by the small business for
 - (i) lending,
 - (ii) reinvestment outside Canada,
 - (iii) purchasing or acquiring the securities of any person, or
 - (iv) any purpose prohibited by regulation,
 - (d) the aggregate number of equity shares taken in the small business by one or more small business equity corporations and any affiliated corporations does not at any time exceed 49%, determined in accordance with subsection (3), of all issued and outstanding equity shares of that small business, and
 - (e) the investment is made in a small business in which 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 does not exceed 49% of the total number of issued and outstanding equity shares of the corporation.
- (3) In determining the percentage of issued and outstanding equity shares of a small business for the purposes of subsection (2)(d) there shall be included

(a) the number of equity shares into which any debt obligation or shares of that small business may be converted,

(b) an option or right to purchase equity shares of that small business, and

(c) any equity shares, convertible debt obligations and any options or rights of that small business beneficially owned or held by an associate or an affiliated corporation of the small business equity corporation or any shareholder of it, or an associate or affiliated corporation of that shareholder.

(4) In subsection (2)(e), “non-resident” means

(a) an individual who has not resided in Canada for at least 186 days during the 12 month period immediately preceding the making of the investment in the small business,

(b) a corporation incorporated, formed or otherwise organized elsewhere than in Canada,

(c) a corporation that is controlled directly or indirectly by non-residents, as defined in clause (a) or (b),

(d) a trust in which non-residents as defined in clause (a), (b) or (c) have more than 50% of the beneficial interest, or

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

(5) For the purpose of determining whether or not a corporation is a small business, there shall be taken into account the number of employees of any affiliated corporation.

Assets of small
business equity
corporation

12(1) A small business equity corporation shall maintain its assets in

(a) eligible investments,

(b) liquid reserves,

(c) equity shares that were eligible investments at the time they were acquired by the small business equity corporation,

(d) debt obligations of any small business that is an eligible investment, or

(e) any other form that may be prescribed by regulation.

(2) Assets of the small business equity corporation maintained in liquid reserves shall be deposited in a bank, credit union, trust company or treasury branch or in any investments that may be prescribed by regulation.

Prohibited
investments

13(1) A small business equity corporation shall not invest or maintain an investment in a security issued by a corporation which is or was, at any time, a small business if

(a) any of the shares of that corporation which is or was, at any time, a small business are held by

(i) a shareholder or an affiliated corporation, or an associate thereof, of the small business equity corporation,

(ii) an officer or director, or an associate thereof,

(A) of a small business equity corporation that proposes to invest or has invested in that corporation which is or was, at any time, a small business, or

(B) of a shareholder of a small business equity corporation described in subparagraph (A), or

(iii) a voting trust if the trust relates to the shares of the small business equity corporation,

(b) one or more small business equity corporations, together with their shareholders and any associates and affiliated corporations, and any associates and affiliated corporations of their shareholders, would hold more than 49% of the issued and outstanding equity shares of that corporation which is or was, at any time, a small business, or

(c) that corporation which is or was, at any time, a small business or an associate or affiliated corporation of that corporation, or a shareholder of that corporation or an associate or affiliated corporation of that shareholder, directly or indirectly provides, by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with, the purchase of shares of the small business equity corporation.

(2) Unless a small business equity corporation is widely held, it shall not invest in a small business if the proceeds of that investment are used or are intended to be used, in whole or in part, to finance the purchase or sale of goods or services provided to that small business by or through any shareholder of the small business equity corporation or any associate or affiliated corporation of that shareholder.

(3) For the purposes of subsection (2), a small business equity corporation is widely held if the corporation has 10 or more shareholders, each holding not more than 10% of the issued and outstanding equity shares of the corporation and none of the shareholders are associates or affiliated corporations.

Substantive
change

14(1) In this section a substantive change occurs if an investment of a small business equity corporation ceases to be an eligible investment.

(2) A small business equity corporation shall notify the Minister in the form prescribed by him of any substantive change in any of its investments within 30 days of the occurrence of that change.

(3) Notwithstanding any other provision of this Act except section 13(1) and subsection (4) of this section, when there is a substantive change, the investment by a small business equity corporation shall remain an eligible investment for a period of 2 years from the date of the occurrence of the substantive change.

(4) When a substantive change occurs by reason only of a small business exceeding the prescribed number of employees, the invest-

ment in that small business by a small business equity corporation shall remain an eligible investment for a period of 5 years from the date of the substantive change.

Restriction on disposition of equity shares

15 No equity shares and no option or right to acquire equity shares of a small business or of a corporation that has ceased to be a small business or an eligible investment shall be transferred or granted by a small business equity corporation without first granting to all other holders of the equity shares of that small business or corporation the right to acquire the whole or any part of those equity shares or that option or right on the same terms and conditions.

PART 3 ADMINISTRATION

Application of the Business Corporations Act

16 Section 157 of the *Business Corporations Act* does not apply to a small business equity corporation.

Filing of financial statements

17 A small business equity corporation shall file a copy of its financial statements and auditor's report with the Minister within 6 months of the end of its fiscal year.

Filing of returns and notices

18(1) Within 90 days after each anniversary of the date of its registration, a small business equity corporation shall prepare, verify and file with the Minister a return in the form prescribed by him setting out, as of its anniversary date, the information required by that return.

(2) A small business equity corporation shall notify the Minister in the form prescribed by him of any action

(a) involving the proposed amendment of its articles of incorporation,

(b) involving the purchase, surrender, redemption or conversion of an equity share of the corporation,

(c) to dispose of or sell any eligible investment, or

(d) to commence the winding-up or dissolution of the corporation,

within 21 days of carrying out the action.

(3) The Minister may extend the time for filing any notice or return under this section.

Information required by Minister

19 The Minister may, at any time, by notice, require a small business equity corporation or a corporation in which the small business equity corporation has invested to file, within the time specified in the notice, a return on any subject connected with its affairs and, in the opinion of the Minister, relevant to the administration or enforcement of this Act.

PART 4

GRANTS AND CERTIFICATES OF CORPORATE INVESTMENT

Incentive to investor

20(1) Subject to subsections (2) and (3), if a person complies with this Act, the Minister may make a grant or issue a certificate of corporate investment to that person in accordance with section 21.

(2) The Minister shall not make a grant or issue a certificate of corporate investment unless the small business equity corporation referred to in section 21(1) has established and maintained a trust fund in accordance with section 10.

(3) Subject to section 25, if the Minister is of the opinion that the small business equity corporation or its officers, directors or shareholders are conducting their business and affairs in a manner that is contrary to the spirit and intent of this Act or for the purpose of obtaining a grant or certificate of corporate investment to which they would not otherwise be entitled, the Minister may

(a) revoke the registration of the small business equity corporation,

(b) refuse to pay a grant, or

(c) refuse to issue a certificate of corporate investment.

(4) Notwithstanding section 7(2)(b) and subsection (3) of this section, if a small business equity corporation does not comply with this Act or the regulations, but the Minister is of the opinion that the corporation is meeting the spirit and intent of this Act, he may refrain from revoking the registration of the corporation for any period of time he considers appropriate.

Payment of grant or issue of certificate

21(1) Subject to subsections (3), (5) and (8) and section 36, a person who is the beneficial and registered owner of equity shares of a small business equity corporation may make an application in the form prescribed by the Minister

(a) in the case of a person other than a corporation, for a grant, and

(b) in the case of a corporation, for a certificate of corporate investment

and the Minister may

(c) in the case of an applicant under clause (a), pay a grant equal to 30% of the amount of money paid by the applicant to the small business equity corporation for equity shares issued to him by the corporation, and

(d) in the case of an applicant under clause (b), issue a certificate of corporate investment.

(2) A certificate of corporate investment shall be in the form prescribed by the Minister.

(3) No grant shall be paid and no certificate of corporate investment shall be issued by the Minister under subsection (1) unless

(a) the equity shares are purchased or acquired directly from the corporation issuing the equity shares or, in the case of a corporation offering its equity shares to the public, from an underwriter within the meaning of the *Securities Act*,

(b) in the case of an applicant who is an individual, he has, on the date of purchase or acquisition of the shares, resided in Alberta for at least 186 days during the preceding 12 month period and is a Canadian citizen or has been lawfully admitted to Canada for permanent residence, and

(c) in the case of an applicant that is a corporation, the corporation has a permanent establishment, as defined in the *Alberta Corporate Income Tax Act*, in Alberta.

(4) If the Minister refuses to pay a grant or issue a certificate of corporate investment solely because, at the time of purchase or acquisition of the equity shares, a person has not complied with subsection (3)(b) or (c), the Minister may, if that person complies with subsection (3)(b) or (c) within 12 months of the date of refusal, pay a grant or issue a certificate of corporate investment to that person as if that person had complied with subsection (3)(b) or (c) at the time of purchase or acquisition of the equity shares.

(5) If the Minister has served a notice of his proposal to revoke the registration of a small business equity corporation under section 25, he shall not consider an application for a grant or a certificate of corporate investment by the holder of equity shares in the small business equity corporation until all proceedings under that section and section 26, if any, have been completed.

(6) An application under subsection (1) shall be accompanied by any material that may be prescribed by the Minister.

(7) If the beneficial owner of equity shares of a small business equity corporation is a person other than a corporation, the registered owner shall apply for the grant.

(8) If the applicant for a grant is the registered but not the beneficial owner of equity shares of a small business equity corporation, the Minister may prescribe the terms and conditions relating to the beneficial ownership of the shares that the applicant shall comply with in order to be entitled to a grant.

(9) Notwithstanding section 21(1), the Minister may require a corporation that would by operation of that subsection be an applicant for a certificate of corporate investment to apply for a grant under that subsection and, if the applicant so applies, it shall be deemed to be a person other than a corporation for the purposes of this Act.

22(1) Subject to subsection (2), when a small business equity corporation proposes to wind up or dissolve, or when its registration is revoked, or when any of its equity shares are purchased or otherwise acquired by the small business equity corporation, the small business equity corporation shall immediately pay to the Minister an amount of money calculated in accordance with the following rules:

(a) when an equity share of the small business equity corporation is purchased or otherwise acquired by it for a total consideration

Recovery of
money from
small business
equity
corporation

equal to or greater than that for which the share was issued, the small business equity corporation shall pay to the Minister an amount of money equal to 30% of the consideration paid to the corporation by a shareholder for the share at the time the share was issued;

(b) when an equity share of the small business equity corporation is purchased or otherwise acquired by it for a total consideration that is less than that for which the share was issued, the small business equity corporation shall pay to the Minister an amount of money equal to 30% of the gross consideration paid by the corporation for the purchase or acquisition of the share;

(c) when the registration of a small business equity corporation is revoked or when the corporation proposes to wind up or dissolve, it shall pay to the Minister an amount of money equal to 30% of the value of all of its shareholders' equity to an amount not exceeding the aggregate of

(i) the grants made by the Minister, and

(ii) 30% of the aggregate of investments in respect of which the Minister has issued certificates of corporate investment

in respect of all equity shares then issued and outstanding at the time of revocation, winding-up or dissolution, calculated in the manner prescribed by regulation;

(d) when the small business equity corporation proposes to wind up or dissolve or when the registration of the corporation is revoked for failure to comply with section 9(1) or (2), it shall pay to the Minister, in addition to the amount set out under clause (c), an amount equal to the interest earned on all money paid into the trust fund established by the corporation under section 10 and not paid out in accordance with subsection (2) or (3) of that section from the date of registration of the corporation under this Act.

(2) Subsection (1) does not apply after the expiration of 7 years from the date of purchase or acquisition of the equity shares of the small business equity corporation by the shareholder except that when a notice of objection has been served under section 25 or an application commenced under section 26, subsection (1) shall continue to apply until all proceedings under section 25 or 26, as the case may be, have been completed.

Share certificate

23 Every share certificate issued by a small business equity corporation in respect of equity shares shall state on its face the words "The value of the shares represented by this certificate may be significantly affected by recapture provisions under the *Small Business Equity Corporations Act*".

PART 5

POWERS AND DUTIES OF MINISTER

Demand for payment of amount payable

24(1) When an amount is payable to the Minister or the Crown under this Act, the Minister may, by notice of demand in writing to the person who owes the amount payable, demand that payment be made immediately or in the number of days specified in the demand,

and, if the amount is not paid as demanded, the amount payable is a debt due to Her Majesty in right of Alberta and is recoverable as such in any court of competent jurisdiction or in any other manner provided for by this Act.

(2) Notwithstanding that an objection or other proceeding under section 25 has been commenced or may be commenced, an amount demanded to be paid under subsection (1) remains payable and recoverable until the demand for it is revoked in writing by the Minister.

Proposal of
Minister

25(1) If the Minister proposes to

- (a) refuse to register a corporation under this Act,
- (b) revoke the registration of a small business equity corporation,
- (c) refuse to pay a grant,
- (d) refuse to issue a certificate of corporate investment, or
- (e) revoke a certificate of corporate investment,

he shall serve notice of his proposal, together with written reasons for it, on the applicant for registration, small business equity corporation, applicant for a grant, applicant for a certificate of corporate investment or recipient of a certificate of corporate investment, as the case may be.

(2) If the Minister has not registered a corporation under section 7 within 4 months of the date on which the corporation delivered a proposal under section 5, the Minister shall be deemed to have proposed to refuse registration under subsection (1)(a) and to have served notice of his proposal.

(3) If a person objects to a proposal under subsection (1), he may, within 60 days from the day of mailing of the proposal or the date on which the Minister has been deemed under subsection (2) to have proposed to refuse registration, serve on the Minister a notice of objection in the form prescribed by the Minister setting out the reasons for the objection and all the relevant facts.

(4) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister.

(5) The Minister may accept a notice of objection under this section, notwithstanding that it was not served in the manner required.

(6) If a notice of objection under subsection (3) is not served, the Minister may carry out the proposal stated in his notice under subsection (1).

(7) On receipt of a notice of objection, the Minister shall, as soon as possible, forward a copy of his proposal and the notice of objection to a review committee established by him in accordance with section 6 of the *Department of Tourism and Small Business Act*.

(8) The review committee shall review the proposal and notice of objection and shall make recommendations to the Minister.

(9) On receiving the recommendations of the review committee, the Minister shall reconsider the proposal objected to and confirm, vary or abandon the proposal, and he shall

(a) notify the person making the objection of his action by registered mail, and

(b) in the case of a proposal under subsection (1)(e), notify the Provincial Treasurer of his action.

(10) A decision of the Minister under subsection (9) is final and is not subject to appeal, except where the decision involves an issue solely of law.

Application
to Court of
Queen's Bench

26 In any dispute over a decision or action of the Minister under section 25(9) either party may, where the dispute involves an issue solely of law, apply to the Court of Queen's Bench to have the issue in dispute determined and that application shall be made within 6 months of the day that the Minister notifies the other party of his decision under section 25(9).

PART 6 GENERAL

Application
of sections
28 and 29

27 Sections 28 and 29 apply to

(a) an applicant for a grant or certificate of corporate investment,

(b) a recipient of a grant or certificate of corporate investment,

(c) a small business equity corporation, and

(d) a small business in which an eligible investment has been made, whether or not that investment has ceased to be an eligible investment or that small business has ceased to be a small business described in section 11(1).

Records and
books of account

28(1) A person referred to in section 27 shall keep any records and books of account prescribed by the Minister and the records and books of account shall be in the form prescribed by the Minister.

(2) Records and books of account required to be kept under subsection (1) shall be kept

(a) at the person's place of business or residence in Alberta, or

(b) if the person has no place of business or residence in Alberta, at a place in Alberta or elsewhere approved in writing by the Minister under any terms and conditions he may impose.

(3) Notwithstanding subsection (2)(a), a person may keep the records and books of account at a place in Alberta or elsewhere approved in writing by the Minister under any terms and conditions he may impose.

(4) If a person has failed to keep adequate records and books of account for the purposes of this Act, the Minister may require the person to keep those records and books of account that he may specify and that person shall then keep the records and books of account so required.

(5) Every person required by this section to keep records and books of account shall retain

(a) the records and books of account in respect of which a period is prescribed by the Minister, together with every account and voucher necessary to verify the information in any record or book of account, for the prescribed period, and

(b) all records and books of account other than those referred to in clause (a), together with every account and voucher necessary to verify the information contained in any record or book of account, until the expiration of 6 years from the end of the last fiscal year to which the records and books of account relate.

(6) Where a person required by this section to keep records or books of account serves a notice of objection under section 25 or is a party to an application under section 26, that person shall retain every record, book of account and voucher necessary for dealing with the objection or application until the objection or application is disposed of and any appeal is disposed of or the time for filing any appeal has expired.

(7) Where the Minister is of the opinion that it is necessary for the administration of this Act, he may, by a demand served personally or by registered letter or certified mail, require any person required by this section to keep records and books of account to retain those records and books of account, together with every account and voucher necessary to verify the information contained in the records and books of account, for any period specified in the demand.

(8) A person required by this section to keep records and books of account may dispose of the records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained in the records and books of account, before the expiration of the period for which those records and books of account are required to be kept if written permission for their disposal is given by the Minister.

Production
of records and
books of account

29(1) If the Minister is of the opinion that it is necessary for the administration or enforcement of this Act, he may, by a demand served personally or by registered letter or certified mail, require any person required to keep records and books of account under section 28 to produce those records and books of account for audit or examination by any person authorized for the purpose by the Minister.

(2) A person authorized by the Minister may audit or examine any records or books of account produced pursuant to subsection (1) and may make or cause to be made one or more copies of those records and books of account.

Offence and
penalty

30 Every person who makes a false or misleading statement in any document required by or for the purposes of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$2000 or, if that person is a corporation, to a fine of not more than \$20 000.

General offence
and penalty

31 Subject to section 30, every person who contravenes this Act or the regulations is guilty of an offence and liable to a fine of not more than \$10 000.

Liability of
officers of
corporation

32 If a corporation is guilty of an offence under this Act or the regulations, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the

commission of the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

Debt due to
the Crown

33 In addition to any other remedy available under this Act, where any person obtains a grant or certificate of corporate investment on the basis of information that is false or misleading or an application that contains any false or misleading statement, the amount of that grant, together with interest on it at the rate prescribed by regulation, shall be deemed to be a debt due to the Crown and is recoverable as such in any court of competent jurisdiction and the Minister may revoke the certificate of corporate investment.

Regulations

34 The Lieutenant Governor in Council may make regulations

(a) requiring any person to file information returns respecting any class of information required in assessing compliance with this Act;

(b) prescribing the method of calculation of the amount of a grant where equity shares are purchased by a shareholder as part of a distribution to the public;

(c) defining any word or expression used in this Act or the regulations and not already defined in this Act;

(d) prescribing the method of calculation of the consideration to be paid for each equity share under section 22 where a small business equity corporation proposes to dissolve, or where its registration is revoked, or where any of its equity shares are purchased or otherwise acquired by the small business equity corporation;

(e) prescribing any conditions that a corporation must meet prior to registration as a small business equity corporation;

(f) prescribing the method of calculating the amount of equity capital of a small business equity corporation;

(g) prescribing the number of employees of a small business for the purposes of section 11(1)(a);

(h) prohibiting a small business from carrying on any activity, for the purposes of section 11(1);

(i) prohibiting the use of an investment by a small business for any purpose, for the purposes of section 11(2)(c);

(j) prescribing investments for the purposes of section 12;

(k) prescribing the method of calculation to be used in determining the percentage of wages and salaries paid in respect of operations in Alberta;

(l) prescribing any rate of interest that is to be prescribed and the method by which interest is to be calculated;

(m) respecting the disclosure of information by the small business equity corporation to any person;

(n) prescribing any other matter required by this Act to be prescribed by the regulations.

Powers of
Minister

35 The Minister may, by order,

- (a) prescribe forms and provide for their use;
- (b) deem any person to be associated with another person for the purposes of section 1(a);
- (c) prescribe anything that is by this Act to be prescribed by the Minister;
- (d) delegate any of his duties or powers under this Act or the regulations to any person.

Cessation
of payment
of grants

36(1) Notwithstanding anything in this Act except subsection (2), no corporation shall be registered as a small business equity corporation, no grant shall be paid to any person and no certificate of corporate investment shall be issued to any corporation after

- (a) the date prescribed by the Minister to be the date on which the total amount of money paid out as grants and paid or applied as tax credits exceeds \$15 000 000, or
- (b) 4 years from the commencement of this Act,

whichever is earlier.

(2) Subsection (1) does not operate to prevent the Minister from making a grant or issuing a certificate of corporate investment if the shares of the small business equity corporation were fully paid for and beneficially owned by the shareholders prior to the earlier of the dates referred to in subsection (1)(a) and (b).

Amends
RSA 1980 F-9

37 *The Financial Administration Act is amended in section 1(1)(p) by striking out “include money” and substituting “include money in a trust fund established under section 10 of the Small Business Equity Corporations Act or”.*

Coming
into force

38 *This Act comes into force on Proclamation.*