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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 29

LOAN AND TRUST CORPORATIONS ACT

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 29

1991

LOAN AND TRUST CORPORATIONS ACT

(Assented to , 1991)

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

PART 1

INTERPRETATION AND APPLICATION

Definitions

1(1) In this Act,

- (a) “auditor” means, with respect to a body corporate, its external auditor, and includes any individual who is responsible for conducting an external audit of the body corporate’s financial statements on behalf of its external auditor;
- (b) “bank” means a bank named in Schedule I or II to the *Bank Act* (Canada);
- (c) “body corporate” means any body corporate with or without share capital and wherever or however incorporated;
- (d) “branch” means an office of a corporation where it offers services to or for the public;
- (e) “capital base” means the shareholders’ equity of a corporation calculated in the prescribed manner;
- (f) “Chief of Securities Administration” means the Chief of Securities Administration as defined in the *Securities Act*;
- (g) “common trust fund” means a fund maintained by a trust corporation in which money belonging to various estates and trusts in its care are combined for the purpose of facilitating investment;

- (h) "corporation" means a loan corporation or a trust corporation whether incorporated in or outside of Alberta;
- (i) "Court" means the Court of Queen's Bench;
- (j) "debt obligation" means a bond, debenture, note or other evidence of indebtedness or guarantee of a provincial corporation, whether secured or unsecured;
- (k) "deposit" means, subject to subsection (2), a sum of money that
 - (i) is paid on terms that are not referable to the provision of property or services or to the giving of security,
 - (ii) is repayable to the person making it
 - (A) on demand,
 - (B) after notice, or
 - (C) on a fixed date or on the expiry of a specified term,

and

 - (iii) is paid or payable in accordance with prescribed requirements,

but does not include payments of sums of money that are prescribed;
- (l) "deposit-taking business" means, subject to subsection (3),
 - (i) the lending, in the ordinary course of business, of money received by way of deposit, or
 - (ii) any other activity that is financed wholly or to any material extent out of the capital of, or the interest on, money received by way of deposit;
- (m) "eligible financial institution" means a treasury branch, credit union or member institution of the Canada Deposit Insurance Corporation or of any other deposit insurance or guarantee plan prescribed by the Minister;

- (n) “entity” includes a body corporate, trust, partnership, fund or other unincorporated association or organization, the Crown in right of Canada or in right of a province, an agency of the Crown, a foreign government and any agency of a foreign government, but does not include an individual;
- (o) “extra-provincial body corporate” means a body corporate
 - (i) incorporated otherwise than by or under an Act of the Legislature or an Ordinance of the North-West Territories,
 - or
 - (ii) incorporated by or under an Ordinance of the North-West Territories and not subject to the legislative authority of the Province by section 16 of the *Alberta Act* (Canada);
- (p) “extra-provincial corporation” means a corporation that was incorporated under the laws of Canada or of any province other than Alberta;
- (q) “fair market rate” means
 - (i) in respect of the acquisition or disposition of property, including a lease or rental of property, and subject to regulations made with respect to the valuation of property, the most probable price in terms of money that the property should bring in a competitive and open market under all conditions requisite to a fair sale or lease, assuming that the price is not affected by undue stimuli, with both the seller and buyer acting prudently and knowledgeably,
 - (ii) subject to subclause (iii), in respect of the acquisition or provision of services, a consideration that might reasonably be expected to be obtained or given for the services in question in an arm’s length transaction in an open market between willing parties to a transaction of that nature and on terms that, having regard to open market conditions, are competitive and not unreasonable, and
 - (iii) in respect of the provision of services that are provided generally to customers of the provincial corporation or subsidiary in question,

the rate and terms that are offered in respect of those services to customers generally in the ordinary course of that corporation's or subsidiary's business;

- (r) "financial institution" means
 - (i) a securities dealer;
 - (ii) an insurer;
 - (iii) any member institution of the Canada Deposit Insurance Corporation or of any other deposit insurance or guarantee plan prescribed by the Minister;
- (s) "improved real estate" means
 - (i) land on which there exists a building or on which a building is being or is about to be constructed and the adjacent land used or to be used in connection with the building,
 - (ii) land on which bona fide farming operations are being conducted, and
 - (iii) vacant land that is restricted by law in its use to commercial, industrial or residential purposes, whether by zoning or otherwise;
- (t) "instrument of incorporation" means the special Act, charter, letters patent or other document incorporating or amalgamating a corporation, and includes all amendments to it;
- (u) "insurer" means an insurer, agent, broker or adjuster within the meaning of those terms in the *Insurance Act*;
- (v) "loan corporation" means a body corporate incorporated or operated for the purpose of carrying on a deposit-taking business but does not include a bank, a treasury branch, a trust corporation or a credit union;
- (w) "market value" means the most probable price in terms of money that property should bring in a competitive and open market under all conditions requisite to a fair sale, assuming that the price is not affected by undue stimuli, with both the seller and the buyer acting prudently and knowledgeably;

- (x) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (y) “officer” means, in relation to a corporation,
 - (i) its chief executive officer, president, chairman, vice-president, vice-chairman, treasurer, secretary, general manager or assistant general manager or any combination of those positions,
 - (ii) an individual who performs functions for the corporation normally performed by a person mentioned in subclause (i), or
 - (iii) any other person designated as an officer by by-law or by the board of the corporation;
- (z) “ordinary resolution” means a resolution passed by a majority of the votes cast by the shareholders who voted in respect of that resolution or signed by all the shareholders entitled to vote on that resolution;
- (aa) “person” means an individual, entity or personal representative;
- (bb) “personal representative” means an executor, administrator, guardian, committee, trustee, assignee, receiver or liquidator;
- (cc) “prescribed” means,
 - (i) with respect to a form, in a form authorized or provided by the Minister and containing the information required by the Minister, or
 - (ii) in any other case, prescribed in or pursuant to the regulations;
- (dd) “professional adviser” means
 - (i) an auditor,
 - (ii) a lawyer, accountant, appraiser, architect or engineer,
or
 - (iii) any other person whose membership in a profession would tend to lend credibility to a

statement made or opinion given by that person,

and includes an individual who is a member of or works in a professional capacity for a partnership, body corporate or other association of persons that is a professional adviser;

- (ee) “provincial corporation” means a corporation incorporated or continued under this Act;
- (ff) “real estate” means any estate or interest in land, including improvements;
- (gg) “registered corporation” means a corporation registered under this Act;
- (hh) “registered form”, when applied to a security, means a security that
 - (i) specifies a person entitled to the security or to the rights it evidences, and the transfer of which is capable of being recorded in a securities register, or
 - (ii) bears a statement that it is in registered form;
- (ii) “relative”, when used with respect to individuals, means related by blood, marriage or adoption;
- (jj) “reporting issuer” means a reporting issuer within the meaning of the *Securities Act*;
- (kk) “securities dealer” means a dealer within the meaning of the *Securities Act*;
- (ll) “security” means, except in Part 5, a security within the meaning of the *Securities Act*, and includes a deposit and any instrument evidencing a deposit;
- (mm) “special resolution” means a resolution passed by a majority of not less than 2/3 of the votes cast by the shareholders who voted in respect of that resolution or signed by all the shareholders entitled to vote on that resolution;
- (nn) “spouse” means the person of the opposite sex to whom a person is married or with whom the person is living in a conjugal relationship outside marriage;

(oo) “total assets” means the assets of a corporation calculated in the prescribed manner and, in the case of a trust corporation, includes cash and securities earmarked under section 188(5);

(pp) “trust corporation” means a body corporate incorporated or operated for the purposes of

(i) offering its services to the public as executor, administrator, trustee, bailee, agent, custodian, receiver, liquidator, sequestrator, assignee or guardian or trustee of a minor’s estate or of the estate of a mentally incompetent person, and

(ii) carrying on the deposit-taking business, except in the case of a body corporate whose registration is subject to a term, condition or restriction prohibiting it from carrying on the deposit-taking business,

but does not include a bank, a treasury branch, a loan corporation or a credit union;

(qq) “voting share” means a share of any class of shares of a body corporate carrying voting rights under all circumstances and a share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing.

(2) For the purposes of subsection (1)(k)(i), money is paid on terms that are referable to the provision of property or services or to the giving of security if

(a) it is paid by way of advance or part payment for the sale, lease or other provision of property or services of any kind and is repayable only in the event that the property or services are not in fact sold, leased or otherwise provided,

(b) it is paid by way of security for payment for the provision of property or services of any kind provided or to be provided by the person by whom or on whose behalf the money is accepted, or

(c) it is paid by way of security for the delivery or return of any property, whether in a particular state of repair or otherwise.

(3) Notwithstanding subsection (1)(l), a person shall not be considered to be carrying on the deposit-taking business if

- (a) the person does not hold himself out as accepting deposits on a day to day basis, and
- (b) any deposits that are accepted are accepted only on particular occasions and on a basis that is ancillary to another business purpose, whether or not in connection with the issue of debentures or other securities.

Relationships 2(1) For the purposes of this Act,

- (a) an entity is affiliated with another entity if one of them is controlled by the other or both of them are controlled by the same person, and
- (b) the affiliates of an entity are deemed to be affiliated with all other entities with which the entity is affiliated.

(2) For the purposes of this Act,

- (a) a person controls a body corporate if securities of the body corporate to which are attached more than 50% of the votes that may be cast to elect directors of the body corporate are held or beneficially owned by the person and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;
- (b) a person controls a trust, partnership, fund or other unincorporated entity if more than 50% of the beneficial interest, however designated, into which the entity is divided is held or beneficially owned by that person and the person is able to direct the affairs of the entity;
- (c) notwithstanding clauses (a) and (b), a person controls an entity if the person has, in relation to the entity, any direct or indirect influence that, if exercised, would result in control in fact of the entity.

(3) A holding body corporate is deemed to control any entity that is controlled or deemed to be controlled by a subsidiary of the holding body corporate.

(4) An entity that controls another entity is deemed to control any entity that is controlled or deemed to be controlled by the other entity.

(5) For the purposes of this Act, a body corporate is the holding body corporate of all of its subsidiaries.

(6) For the purposes of this Act, a body corporate is a subsidiary of another body corporate if

- (a) it is controlled by**
 - (i) that other,**
 - (ii) that other and one or more bodies corporate each of which is controlled by that other, or**
 - (iii) 2 or more bodies corporate each of which is controlled by that other,**

or

- (b) it is a subsidiary of a body corporate that is that other's subsidiary.**

(7) For the purposes of this Act, a person is a restricted party with respect to a provincial corporation if that person

- (a) is a director or officer of the corporation,**
- (b) is an employee of the corporation of a prescribed class,**
- (c) holds or is the beneficial owner of 10% or more of any class of the issued and outstanding shares of the corporation,**
- (d) holds or is a beneficial owner of voting shares of an affiliate of the corporation to which are attached 10% or more of the voting rights attaching to all of the issued and outstanding voting shares of the affiliate,**
- (e) is the auditor of the corporation or of any of its affiliates, in a case where the auditor is a sole practitioner,**
- (f) is a partner in the firm that is the auditor of the corporation or of any of its affiliates, if that person is actually engaged in auditing the corporation or affiliate,**
- (g) is a spouse of a person referred to in clause (a) or (c),**
- (h) is a relative of, or a relative of the spouse of, a person referred to in clause (a) or (c), who has the same home as that person,**

- (i) where the holder or beneficial owner referred to in clause (c) is a body corporate, is a director or officer of that body corporate,
- (j) is a body corporate in which an individual referred to in clause (a) or (c) is the holder or beneficial owner of voting shares to which are attached 10% or more of the voting rights attaching to all of the issued and outstanding voting shares of the body corporate,
- (k) is a body corporate that is controlled by a person referred to in clause (b), (e), (f), (g) or (i),
- (l) is a body corporate in which the corporation holds or beneficially owns voting shares to which are attached 10% or more of the voting rights attaching to all of the issued and outstanding voting shares of the body corporate,
- (m) is
 - (i) a partner of the corporation and has a 10% or greater beneficial interest in the partnership, or
 - (ii) a party to and has a 10% or greater interest in a joint venture agreement to which the corporation is also a party
 and the corporation has a 10% or greater beneficial interest in the partnership or joint venture,
- (n) is an affiliate of the corporation or a director or officer of an affiliate of the corporation, or
- (o) is designated under section 163 as a restricted party.

(8) Where in contemplation of a person's becoming a restricted party of a provincial corporation the person enters into a transaction with, or is given a guarantee by, the provincial corporation or its subsidiary, or the corporation or its subsidiary makes an investment in the securities of the person, the person is deemed to be a restricted party of the provincial corporation with respect to that transaction, guarantee or investment.

(9) Notwithstanding subsection (7)(c) and (n), unless the regulations prescribe otherwise,

- (a) a financial institution referred to in section 1(1)(r)(ii) or (iii) that wholly owns a provincial corporation is not a restricted party with respect to that corporation, and

- (b) a wholly owned subsidiary of a provincial corporation is not a restricted party with respect to that corporation.

(10) Where the Minister is satisfied that a subsidiary of a provincial corporation functions primarily for the purpose of providing a service, other than a financial service, to the provincial corporation or its subsidiaries, the Minister may, on application, exempt the subsidiary from the status of restricted party of the corporation, subject to any terms and conditions the Minister considers appropriate.

**Beneficial
ownership**

3(1) For the purposes of this Act, a security or other interest is beneficially owned by a person when it is held directly or through a personal representative or other intermediary for the use or benefit of that person otherwise than as a security interest.

(2) For the purposes of this Act, a person shall be deemed to own beneficially securities that are beneficially owned by a body corporate controlled by that person.

(3) For the purposes of this Act, where a person beneficially owns shares of a body corporate, the person shall be deemed to beneficially own that proportion of shares of every other body corporate that is beneficially owned by the first-mentioned body corporate, that is equal to the proportion of shares of the first-mentioned body corporate that is beneficially owned by the person.

(4) Where subsections (2) and (3) apply to a person, only the subsection under which the person is deemed to beneficially own more securities applies to the person.

(5) If a person owns securities in a corporation that itself owns securities in a body corporate, in determining the person's beneficial ownership of securities in the body corporate for the purposes of subsection (2) or (3) no regard shall be taken of the securities of the body corporate that are owned by the corporation.

**Conflicting
provisions**

4(1) Where there is a conflict between

- (a) a provision of the instrument of incorporation or by-laws of a provincial corporation, and
- (b) a provision of this Act or the regulations,

the provision of this Act or the regulations, as the case may be, prevails.

(2) To the extent that there is a conflict between the *Business Corporations Act* and this Act or the regulations in their application to a restricted party, this Act or the regulations prevail.

(3) Where a provision of

- (a) the *Securities Act* or the *Insurance Act*,
- (b) a statute of any other province or of Canada equivalent to the *Securities Act* or the *Insurance Act*,
- (c) any other prescribed statute, or
- (d) the regulations under any statute referred to in clause (a), (b) or (c)

applies to a subsidiary of a registered corporation and a similar or corresponding provision of this Act or the regulations under it would, but for this subsection, also apply to that subsidiary, that other provision applies, and the provision of this Act or the regulations does not apply, to the subsidiary.

(4) To the extent that there is any inconsistency in their application to a given situation between a provision in Part 9 that prohibits or restricts any activity and any other provision of this Act or the regulations, the provision in Part 9 prevails.

(5) To the extent that there is any inconsistency in their application to a given situation between a provision in Part 9 that permits an activity and any provision of any other Part of this Act that prohibits or restricts the activity, that other provision prevails.

Manner of
issuing letters
patent

5(1) Where this Act authorizes the Lieutenant Governor in Council to issue letters patent, letters patent of dissolution or letters patent of continuance, the letters patent are sufficiently issued if they are issued by the Minister pursuant to an order of the Lieutenant Governor in Council directing the Minister to do so.

(2) Notwithstanding section 8 of the *Department of the Attorney General Act*, letters patent, supplementary letters patent, letters patent of continuance and letters patent of dissolution issued under this Act need not be issued under the Great Seal of the Province.

PART 2

INCORPORATION

Letters Patent and Incidents of Incorporation

- Incorporation** **6(1)** The Lieutenant Governor in Council may, on the recommendation of the Minister, incorporate a provincial loan corporation or a provincial trust corporation by the issue of letters patent on the application of one or more persons.
- (2)** No loan corporation or trust corporation may be incorporated in Alberta otherwise than by letters patent under this Act.
- Application** **7(1)** An application for letters patent to incorporate a provincial corporation shall be in the prescribed form and shall be filed with the Minister.
- (2)** On filing an application for letters patent, the Minister
- (a)** shall require the applicant to publish notice of the application containing any information the Minister requires in The Alberta Gazette and in a newspaper having general circulation in the locality where the principal place of business of the provincial corporation is to be located, and
- (b)** may require the applicant to provide any information, material and evidence the Minister considers necessary in addition to the information, material and evidence required to be provided in or with the application.
- Conditions for
issuing letters
patent** **8** The Lieutenant Governor in Council shall not issue letters patent to incorporate a provincial corporation without being satisfied that
- (a)** it is in the public interest to establish an additional provincial loan or trust corporation, as the case may be,
- (b)** the proposed management is fit, both as to character and as to competence, to manage the corporation,
- (c)** the proposed capital structure and the rights, privileges, restrictions and conditions attaching to each class of shares are acceptable to the Minister,

- (d) each person who, based on the subscriptions for shares of the proposed corporation, will hold or beneficially own 10% or more of any class of shares of the proposed corporation can demonstrate the adequacy of his financial resources and is fit as to character to hold or own the shares subscribed for,
- (e) each proposed director is fit, both as to character and as to competence, to be a director of the corporation,
- (f) the depositors of the corporation will be adequately protected,
- (g) the proposed plan of operation of the corporation is feasible, and
- (h) the corporation intends to offer to the public the services set out in the application for incorporation.

Contents of
letters patent

9 The letters patent of a provincial corporation shall set out

- (a) the name of the corporation,
- (b) the classes and any maximum number of shares that the corporation is authorized to issue and the rights, privileges, restrictions and conditions attaching to each class of shares,
- (c) the number of directors or, subject to section 109(1)(a), the minimum and maximum number of directors of the corporation, and
- (d) the full name, residential address, citizenship and occupation of
 - (i) each of the first directors of the corporation,
 - (ii) each person who, based on the subscriptions for shares of the corporation, will hold or beneficially own 10% or more of any class of shares of the corporation, and
 - (iii) each of the applicants.

Provisions in
letters patent

10 The Lieutenant Governor in Council may set out in the letters patent incorporating a provincial corporation any provision not contrary to this Act that the Lieutenant Governor in Council

considers advisable to take into account the particular circumstances of the corporation.

Notice of
issue of
letters patent

11 The Minister shall cause to be published in The Alberta Gazette a notice of the issuance of letters patent incorporating a provincial corporation.

First directors

12 The first directors of a provincial corporation are the directors named in the application for letters patent to incorporate the corporation.

Effective
date of
incorporation

13(1) A provincial corporation comes into existence on the date set out in its letters patent.

(2) Letters patent are conclusive proof for the purposes of this Act and for all other purposes

- (a) that the provisions of this Act in respect of incorporation and all requirements precedent and incidental to incorporation have been complied with, and
- (b) that the provincial corporation has been incorporated under this Act as of the date shown in the letters patent.

Capacity of
provincial
corporation

14(1) Subject to this Act, the regulations, the by-laws and any terms, conditions and restrictions imposed on its registration, a provincial corporation

- (a) has the capacity and the rights, powers and privileges of an individual, and
- (b) has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Alberta to the extent that the laws of that jurisdiction permit.

(2) A provincial corporation shall not

- (a) carry on business or exercise any power that it is prohibited from carrying on or exercising by this Act, the regulations, the by-laws or any terms or conditions imposed on its registration, or
- (b) exercise any of its powers in a manner that is contrary to this Act or the regulations.

No
constructive
notice

15 No person is affected by or is deemed to have notice or knowledge of the contents of a document concerning a provincial corporation by reason only that the document has been filed by the Minister or is available for inspection at an office of the corporation.

Authority of
directors,
officers and
agents

16 A provincial corporation, a guarantor of an obligation of the corporation or a person claiming through the corporation may not assert against a person dealing with the corporation or dealing with any person who has acquired rights from the corporation

- (a) that the instrument of incorporation or by-laws have not been complied with,
- (b) that the persons named in the most recent notice of directors filed by the Minister under this Act are not the directors of the corporation,
- (c) that a person held out by the corporation as a director, an officer or an agent of the corporation
 - (i) has not been duly appointed, or
 - (ii) has no authority to exercise a power or perform a duty that the director, officer or agent might reasonably be expected to exercise or perform,

or

- (d) that a document issued by any director, officer or agent of the corporation with actual or usual authority to issue the document is not valid or not genuine,

unless the person has, or by virtue of his position with or relationship to the corporation ought to have, knowledge of those facts at the relevant time.

Supplemen-
tary letters
patent to
amend

17(1) On the application of a provincial corporation the Minister may issue supplementary letters patent to amend the letters patent of the corporation

- (a) to change its name,
- (b) in the case of a provincial loan corporation, to continue it as a provincial trust corporation,
- (c) in the case of a provincial trust corporation, to continue it as a provincial loan corporation,

- (d) to change any maximum number of shares that the corporation is authorized to issue,
 - (e) to create new classes of shares,
 - (f) to change the designation of all or any of its shares and add, change or remove any rights, privileges, restrictions and conditions, including rights to accrued dividends, in respect of all or any of its shares, whether issued or unissued,
 - (g) to change the shares of any class or series, whether issued or unissued, into a different number of shares of the same class or series or into the same or a different number of shares of other classes or series,
 - (h) to divide a class of shares, whether issued or unissued, into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions attaching to those shares,
 - (i) to authorize the directors to divide any class of unissued shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions attaching to those shares,
 - (j) to authorize the directors to change the rights, privileges, restrictions and conditions attached to unissued shares of any series,
 - (k) to revoke, diminish or enlarge any authority conferred under clause (i) or (j), or
 - (l) to add, change or remove restrictions on the transfer of shares.
- (2) No application shall be made under subsection (1) unless it has been authorized by a special resolution of the provincial corporation.
- (3) The holders of shares of a class or, subject to subsection (4), of a series, are entitled to vote separately as a class or series on a proposal to amend the letters patent
- (a) to increase or decrease any maximum number of authorized shares of that class, or increase any maximum number of authorized shares of a class having rights or privileges equal or superior to the shares of that class,

- (b) to effect an exchange, reclassification or cancellation of all or part of the shares of that class,
 - (c) to add, change or remove the rights, privileges, restrictions or conditions attached to the shares of that class and, without limiting the generality of the foregoing, are entitled to vote on a proposal
 - (i) to remove or change prejudicially rights to accrued dividends or rights to cumulative dividends,
 - (ii) to add, remove or change prejudicially redemption rights,
 - (iii) to reduce or remove a dividend preference or a liquidation preference, or
 - (iv) to add, remove or change prejudicially conversion privileges, options, voting, transfer or pre-emptive rights, rights to acquire securities of the provincial corporation, or sinking fund provisions,
 - (d) to increase the rights or privileges of any class of shares having rights or privileges equal or superior to the shares of that class,
 - (e) to create a new class of shares having rights or privileges equal or superior to the rights or privileges attached to the shares of that class,
 - (f) to make any class of shares having rights or privileges inferior to the shares of that class equal or superior to the shares of that class, or
 - (g) to effect an exchange or create a right of exchange of all or part of the shares of another class into the shares of that class.
- (4) The holders of a series of shares of a class are entitled to vote separately as a series under subsection (3) if that series of a class is affected by an amendment differently than other shares of the same class are affected.
- (5) Subsections (3) and (4) apply whether or not the shares of a class otherwise carry the right to vote.
- (6) A proposal to amend referred to in subsection (3) is adopted when the holders of the shares of each class entitled to vote

separately on it as a class have approved the amendment by a special resolution.

(7) The directors of a provincial corporation may, if authorized by the shareholders in the special resolution authorizing the amendment, revoke the resolution before it is acted on without further approval of the shareholders.

Supplemen-
tary letters
patent to
amalgamate

18 On the application of the corporations involved the Minister may, after having approved an amalgamation agreement under section 219, issue supplementary letters patent to amalgamate the corporations and continue them as one provincial corporation.

Issue of
supplemen-
tary letters
patent

19(1) An application for supplementary letters patent shall be in the prescribed form and shall be filed with the Minister together with any information, material and evidence the form specifies and, in the case of an application under section 17(1)(b) or (c), evidence that the continued provincial corporation will meet the capital account and capital base requirements referred to in section 35(b).

(2) On the filing of an application for supplementary letters patent, the Minister

- (a) may require the applicant to publish notice of the application, containing any information the Minister requires, in The Alberta Gazette and in a newspaper having general circulation in the locality where the principal place of business of the provincial corporation is located, and
- (b) may require the applicant to provide any information, material and evidence the Minister considers necessary in addition to the information, material and evidence required to be provided in or with the application.

(3) The Minister shall not issue supplementary letters patent

- (a) to continue a provincial loan corporation as a provincial trust corporation or to continue a provincial trust corporation as a provincial loan corporation unless he is satisfied that
 - (i) it is in the public interest to so continue the corporation,
 - (ii) the management of the applicant is fit, both as to character and as to competence, to manage the continued corporation,

- (iii) the proposed capital structure of the continued corporation and the rights, privileges, restrictions and conditions attaching to each class of shares are acceptable to the Minister,
 - (iv) each person who, based on the subscriptions for shares in the continued corporation, will hold or beneficially own 10% or more of any class of shares of the continued corporation, or who holds or beneficially owns or on the issue of the supplementary letters patent will hold or beneficially own such shares, can demonstrate the adequacy of his financial resources and is fit as to character to hold or own the shares subscribed for,
 - (v) each director of the applicant is fit, both as to character and as to competence, to be a director of the continued corporation,
 - (vi) the depositors of the continued corporation will be adequately protected,
 - (vii) the proposed plan of operation of the continued corporation is feasible, and
 - (viii) the continued corporation intends to offer to the public the services set out in the application for supplementary letters patent;
- (b) to continue a provincial trust corporation as a provincial loan corporation unless he is satisfied that arrangements have been made to transfer to another registered trust corporation the business in relation to which the provincial trust corporation acted in a fiduciary capacity, and those arrangements are adequate to protect the persons in relation to which the provincial trust corporation acted in a fiduciary capacity.

(4) Subsection (3)(b) does not apply so as to require a provincial trust corporation that has applied to be continued as a provincial loan corporation to transfer money received by it as deposits.

(5) Where supplementary letters patent have been issued to continue a provincial loan corporation as a provincial trust corporation,

- (a) deposits received by the provincial loan corporation under section 188(1)(a) are deemed to be deposits received under section 188(2)(a), and

- (b) deposits received by the provincial loan corporation under section 188(1)(b) are deemed to be deposits received under section 188(2)(b).

(6) Where supplementary letters patent have been issued to continue a provincial trust corporation as a provincial loan corporation,

- (a) deposits received by the provincial trust corporation under section 188(2)(a) are deemed to be deposits received under section 188(1)(a), and
- (b) deposits received by the provincial trust corporation under section 188(2)(b) are deemed to be deposits received under section 188(1)(b).

Names

20(1) Subject to the regulations, neither letters patent nor supplementary letters patent shall be issued to a provincial corporation if the corporation has a name

- (a) that is prohibited by the regulations or contains a word or expression that is prohibited by the regulations,
- (b) that is identical to the name of
 - (i) a body corporate, whether in existence or not, incorporated under the laws of Alberta,
 - (ii) an extra-provincial body corporate registered in Alberta, or
 - (iii) a body corporate incorporated by or under an Act of the Parliament of Canada,
- (c) that is similar to the name of
 - (i) a body corporate incorporated under the laws of Alberta,
 - (ii) an extra-provincial body corporate registered in Alberta, or
 - (iii) a body corporate incorporated by or under an Act of the Parliament of Canada,if the use of that name is confusing or misleading,
- (d) that does not meet the requirements prescribed by the regulations,

- (e) that, in the case of a trust corporation, does not include "trust" or "fiducie" together with "corporation", "company", "compagnie", "limited", "limitée" or "société", or
- (f) that, in the case of a loan corporation, does not include "loan" or "prêts" together with "corporation", "company", "compagnie", "limited", "limitée", or "société".

(2) Subject to this Act and the regulations, a provincial corporation may have a name in an English form, a French form, an English form and a French form or a combined English and French form, and it may be legally designated by any such name.

(3) Where, through inadvertence or otherwise, a provincial corporation obtains a name contrary to this section, the Minister may issue supplementary letters patent changing the name of the corporation to a name specified in the supplementary letters patent.

Organization and Commencement

First
directors'
meeting

21(1) After the issue of letters patent incorporating a provincial corporation under this Part, a meeting of the directors of the corporation shall be held, and at that meeting the directors may, subject to this Part,

- (a) make by-laws,
- (b) adopt forms of security certificates and corporate records,
- (c) authorize the issue of securities of the corporation,
- (d) appoint officers,
- (e) appoint an auditor to hold office until the first meeting of shareholders,
- (f) make banking arrangements, and
- (g) deal with any other matters necessary to organize the corporation.

(2) An applicant for letters patent to incorporate the provincial corporation or a director named in the application for letters patent may call the meeting of the directors referred to in subsection (1)

by giving not less than 5 days' notice to each director, stating the time and place of the meeting.

Meeting of
shareholders

22(1) When the capital base and the capital accounts of a provincial corporation incorporated under this Part reach the applicable amounts referred to in section 35(b), the directors shall forthwith call a meeting of the shareholders of the corporation.

(2) The directors shall give notice of the meeting referred to in subsection (1) in accordance with section 85.

(3) The shareholders shall by ordinary resolution at the meeting referred to in subsection (1)

- (a) approve, amend or reject any by-laws made by the directors,
- (b) elect directors to hold office for a term expiring not later than the close of the first annual meeting of shareholders following the election, and
- (c) appoint an auditor to hold office until the close of the first annual meeting of shareholders.

Term of first
directors

23 A director named in the application for letters patent to incorporate a provincial corporation holds office until the election of directors at the meeting of shareholders referred to in section 22.

Carrying on
business

24 Except as permitted in sections 25 and 26, a provincial corporation incorporated under this Part shall not carry on any business until it is registered under Part 3.

No payments
before
registration

25 Until a provincial corporation incorporated under this Part is registered under Part 3, no payments on account of incorporation or organization expenses shall be made out of money received from the issue of securities of the corporation, or from the interest on that money, except reasonable sums

- (a) for the payment of the remuneration of not more than 2 officers,
- (b) for the payment of costs related to the issue of securities of the corporation,
- (c) for the payment of clerical assistance, legal services, accounting services, office accommodation at one

location, office expenses, advertising, stationery, postage and travel expenses, if any, and

- (d) for other prescribed purposes.

Deposit or
investment
before
registration

26 A provincial corporation incorporated under this Part may, before it becomes registered under Part 3,

- (a) deposit paid-up capital of the corporation in an eligible financial institution, and
- (b) invest paid-up capital of the corporation in securities issued or guaranteed by the Government of Canada or any province.

PART 3

REGISTRATION

Definition

27 In this Part, “application for registration” means any of the applications referred to in section 29.

Registers

28(1) The register known as the “Trust Companies Register” is hereby continued as the “Trust Corporations Register” for the purposes of this Act.

(2) There is hereby established a register called the “Loan Corporations Register”.

(3) The Minister shall maintain the registers and shall cause to be recorded in the appropriate register

- (a) the name of each trust corporation or loan corporation that has been granted registration,
- (b) all terms, conditions and restrictions imposed on the registration of a trust corporation or a loan corporation,
- (c) the suspension or revocation of the registration of a trust corporation or loan corporation, and
- (d) any other information that is prescribed.

(4) On payment of the prescribed fee any person may, during usual business hours, examine the registers and take extracts from or obtain copies of them.

Applications
re registration

29(1) A corporation that is duly constituted or incorporated under the laws of Alberta or of Canada or of another province may apply for initial registration as a trust corporation or a loan corporation.

(2) A registered loan corporation may apply to change its registration to that of a trust corporation and a registered trust corporation may apply to change its registration to that of a loan corporation.

(3) A registered corporation may apply to amend the terms, conditions and restrictions of its registration.

Particulars of
application

30(1) An application for registration shall be in the prescribed form and shall be filed with the Minister together with any other information, material and evidence the form specifies.

(2) On receipt of an application for registration the Minister may require the applicant to provide any information, material and evidence the Minister considers necessary in addition to the information, material and evidence required to be provided in or with the application.

(3) Where a trust corporation wishes to have a term, condition or restriction imposed on its registration prohibiting it from carrying on the deposit-taking business, it shall so request in the application for registration.

(4) Where the activities of the corporation will involve the deposit-taking business, the application for registration shall be accompanied by evidence that the corporation will from the time of registration be a member of the Canada Deposit Insurance Corporation or that the corporation's deposits will be insured by some other similar public agency approved by the Minister.

(5) An application for registration as a trust corporation shall set out the classes of service in relation to which the corporation proposes to act in a fiduciary capacity.

(6) An application by a provincial corporation incorporated under Part 2 shall set out the sums of money paid or to be paid by the corporation in connection with its incorporation and organization.

Consents and
undertakings

31(1) Where an extra-provincial loan or trust corporation applies for registration, the application shall be accompanied by

- (a) a consent in writing authorizing the Minister to conduct examinations under sections 272 and 273 at the head office of the corporation or any of its subsidiaries, wherever located, and at branches of the corporation, wherever located, and
- (b) a written undertaking signed by the proper officers of the corporation that the corporation and its subsidiaries will provide to the Minister any information that the Minister requires in the administration of this Act and that the corporation will comply with the applicable provisions of this Act and with any terms, conditions and restrictions imposed on its registration.

(2) An undertaking under subsection (1) shall be accompanied by a certified copy of the resolution of the board of directors authorizing the extra-provincial loan or trust corporation's officers to apply for registration under this Act and authorizing the execution of the undertaking.

(3) Where a provincial corporation applies for registration, the application shall be accompanied by

- (a) a consent in writing authorizing the Minister to conduct examinations under sections 272 and 273 at the head office of any of its subsidiaries, wherever located, and
- (b) a written undertaking that the subsidiaries of the corporation will provide to the Minister any information that the Minister requires in the administration of this Act.

**Power of
attorney**

32(1) Where an extra-provincial loan or trust corporation applies for registration, the application shall be accompanied by

- (a) a power of attorney from the corporation, in the prescribed form, naming an agent or agents resident in Alberta for the purposes of section 321(2), and
- (b) the consent of the agent to act in the prescribed form.

(2) A power of attorney under this section

- (a) shall be signed by the proper officers of the corporation in the presence of a witness, and
- (b) shall be accompanied by the statutory declaration of the witness referred to in clause (a) in the prescribed form.

(3) When an extra-provincial loan or trust corporation changes any of its agents in Alberta, it shall forthwith file with the Minister a new power of attorney complying with subsection (2).

(4) An extra-provincial loan or trust corporation shall send to the Minister a notice in the prescribed form of any change in the address of its agents within 15 days after the change occurs.

(5) A copy of a power of attorney under this section certified by the Minister is sufficient evidence for all purposes of the power and authority of the person or persons named in it to act on behalf of the extra-provincial loan or trust corporation.

Publication **33** Where the Minister receives an application for registration, the Minister may require the applicant to publish notice of the application, containing any information the Minister requires, in The Alberta Gazette and in a newspaper having general circulation in any locality the Minister directs.

Names **34(1)** Subject to the regulations, no corporation shall be registered with a name that does not meet the requirements of section 20(1).

(2) Subject to this Act and the regulations, a corporation may be registered that has a name in an English form, a French form, an English form and a French form or a combined English and French form, and it may be legally designated in Alberta by any such name.

(3) Where a corporation has a name that contravenes subsection (1), the Minister may register the corporation if it undertakes either to change its name to a name that does not contravene subsection (1) or to carry on business in Alberta under a name that does not contravene subsection (1).

(4) Where, through inadvertence or otherwise, a corporation becomes registered with a name that contravenes subsection (1), the Minister may order as a condition of registration that the corporation carry on business under a name specified in the order.

Rejection of application **35** Subject to section 36, the Minister shall reject an application for registration

(a) unless he is satisfied that, in the case of an applicant that is a provincial corporation incorporated under Part 2,

(i) the meeting of shareholders referred to in section 22 has been held, and

- (ii) the expenses of incorporation or organization that have been paid or are to be paid by the corporation are reasonable,
- (b) unless
 - (i) the amount of the corporation's stated capital account for issued common shares or the amount of any other prescribed capital account of the corporation, or a combination of those amounts,
 - (A) in the case of a trust corporation whose registration is going to be subject to a term, condition or restriction prohibiting it from carrying on the deposit-taking business and that is not wholly owned by a financial institution, is at least equal to the greater of
 - (I) \$2 000 000, and
 - (II) any greater amount required by the Minister,
 - (B) in the case of a trust corporation whose registration is going to be subject to a term, condition or restriction prohibiting it from carrying on the deposit-taking business and that is wholly owned by a financial institution, is at least equal to an amount required by the Minister, or
 - (C) in any other case is at least equal to the greater of
 - (I) \$3 000 000 in the case of a loan corporation and \$5 000 000 in the case of a trust corporation, and
 - (II) any greater amount required by the Minister,
- and
 - (ii) the corporation has a capital base that is adequate, taking into account the nature of the business that it proposes to engage in, the

expected volume of its business and any restrictions on its business, and that is in an amount that is at least equal to the corresponding capital account amount for that corporation required under subclause (i),

- (c) unless the corporation satisfies the Minister that it has the capacity and power to engage in the activities of a trust corporation or a loan corporation, as the case may be,
- (d) if the applicant is not a corporation referred to in section 29(1),
- (e) unless it is shown to the satisfaction of the Minister that
 - (i) it is in the public interest to register an additional trust corporation or loan corporation,
 - (ii) the management is fit, both as to character and as to competence, to manage the corporation,
 - (iii) the capital structure and the rights, privileges, restrictions and conditions attaching to each class of shares are acceptable to the Minister,
 - (iv) each person who, immediately after the registration, will hold or beneficially own 10% or more of any class of the issued and outstanding shares of the corporation can demonstrate the adequacy of his financial resources and is fit as to character to hold or own those shares,
 - (v) each director is fit, both as to character and as to competence, to be a director of the corporation,
 - (vi) the depositors of the corporation will be adequately protected,
 - (vii) the proposed plan of operation of the corporation is feasible, and

- (viii) the corporation intends to offer to the public the services set out in the application for registration and the applicant has the capability to provide those services,

or

- (f) if the Minister is not satisfied as to the adequacy of any information received with or in support of the application for registration.

Registration
subject to
conditions

36(1) Where the Minister is not satisfied as to any or all of the matters referred to in section 35(b), (c), (d), (e) or (f) or where for any other reason the Minister considers it appropriate to do so, the Minister may, instead of rejecting the application, approve the registration of the applicant

- (a) as a corporation of a kind other than that for which the application for registration was made and subject to any terms, conditions and restrictions the Minister considers appropriate, or
- (b) as the kind of corporation for which the application for registration was made but subject to any terms, conditions and restrictions the Minister considers appropriate.

(2) Where a trust corporation's application for registration contains a request referred to in section 30(3), the Minister may impose such a term, condition or restriction on the registration of the corporation accordingly.

(3) The Minister may at the request or with the consent of a registered corporation

- (a) impose terms, conditions and restrictions on the registration of the corporation in addition to those imposed under subsection (1), or
- (b) revoke the corporation's registration, subject to any terms, conditions and restrictions that the Minister considers appropriate.

Certificate of
registration

37(1) Where the Minister registers a corporation the Minister shall issue a certificate of registration in the prescribed form and the certificate of registration is conclusive proof for the purposes of this Act and for all other purposes that the provisions of this Act in respect of registration of the corporation and all requirements

precedent and incidental to registration have been complied with, and that the corporation has been registered under this Part as of the date shown in the certificate of registration.

(2) The Minister shall publish in The Alberta Gazette notice of the registration of a corporation.

Time limit for
registration

38 Where a provincial corporation that is incorporated under Part 2 does not become registered within one year after the date of its letters patent, or within any further period that the Minister may on application allow,

- (a) the directors shall ensure that the corporation forthwith takes all reasonable steps under Part 13 toward its dissolution, and
- (b) the corporation shall not carry on any business or activity except for the sole purpose of dissolving the corporation.

PART 4

PRINCIPAL PLACE OF BUSINESS, RECORDS AND RETURNS

Principal
place of
business and
records office

39(1) A provincial corporation shall at all times have a principal place of business in Alberta.

(2) A notice of

- (a) the principal place of business, and
- (b) a separate records office, if any,

shall be sent to the Minister with the application for registration under section 29.

(3) The directors of a provincial corporation may at any time

- (a) change the address of the principal place of business, or
- (b) designate or revoke a designation of a records office

in Alberta.

(4) Unless the directors designate a separate records office, the principal place of business of a provincial corporation is its records office.

(5) A provincial corporation shall send to the Minister a notice of any change under subsection (3) in the prescribed form within 15 days of that change.

(6) A provincial corporation shall ensure that its principal place of business and its records office are

- (a) accessible to the public during normal business hours, and
- (b) readily identifiable from the address or other description given in a notice under subsection (2) or (5).

Record
keeping

40(1) A provincial corporation shall keep at its records office

- (a) a copy of its instrument of incorporation and its by-laws,
- (b) minutes of meetings and resolutions of shareholders,
- (c) a register of directors setting out, with respect to each person who is or has been a director,
 - (i) the person's name,
 - (ii) the dates on which the person became and ceased to be a director, and
 - (iii) the person's full residential address while a director,
- (d) a securities register complying with Part 6 of the *Business Corporations Act* as incorporated by section 53 of this Act,
- (e) a copy of the procedures referred to in section 197, and
- (f) copies of the financial statements, documents and information referred to in section 156(1).

(2) Notwithstanding subsection (1), a central securities register may be maintained at an office in Alberta of a provincial corporation's agent referred to in section 46(2)(a) of the *Business Corporations Act*, as incorporated by section 53 of this Act, and a branch securities register may be kept at any place in or out of Alberta designated by the directors.

(3) If a central securities register is maintained under subsection (2) at a place other than the records office, the provincial corporation shall maintain at its records office a record containing the names and addresses of all agents and offices at which securities registers are maintained and descriptions of all those registers.

(4) A registered extra-provincial loan corporation and a registered extra-provincial trust corporation shall maintain at a place in Alberta designated by the directors a copy of its instrument of incorporation and its by-laws, and a copy of minutes and registers referred to in subsection (1)(b), (c) and (d).

Additional
records

41(1) In addition to the records described in section 40, a registered corporation shall maintain in Alberta or at another place in Canada consented to by the Minister

- (a) adequate accounting records that will enable the Minister to determine the financial position of the corporation and whether it is in compliance with this Act and the regulations,
- (b) records containing minutes of meetings and resolutions of the directors and every committee of directors,
- (c) a record of all investments held by the corporation,
- (d) copies of all returns to the Minister required by this Act or the regulations, and
- (e) in the case of a trust corporation, full and adequate records relating to the fiduciary activities of the corporation.

(2) A registered corporation may keep at any place where it carries on business the parts of the accounting records that relate to the operations, business and assets and liabilities of the corporation carried on, supervised or accounted for at that place, but the corporation shall ensure that there is kept at the records office of the corporation or at another place authorized under this Part records that are adequate to enable the directors to ascertain the financial position of the corporation.

Access to
corporate
records

42(1) The directors and shareholders of a provincial corporation and their agents and legal representatives may examine the records referred to in section 40(1) during the usual business hours of the corporation free of charge.

(2) A shareholder of a provincial corporation is entitled on request and without charge to one copy of the instrument of incorporation and by-laws and amendments to them.

(3) Creditors of a provincial corporation and their agents and legal representatives may examine the records referred to in section 40(1)(a), (c) and (d) during the usual business hours of the corporation on payment of a reasonable fee and may make copies of those records.

(4) Any person may examine the records referred to in section 40(1)(c) and (d) during the usual business hours of the provincial corporation on payment of a reasonable fee and may make copies of those records.

Right to list of
shareholders

43(1) In the case of a provincial corporation that is a reporting issuer, on payment of a reasonable fee and on sending to the corporation or its agent the statutory declaration referred to in subsection (5), any person may on application require the corporation or its agent to furnish within 10 days from the receipt of the statutory declaration a list (in this section referred to as the "basic list") made up to a date not more than 10 days before the date of receipt of the statutory declaration, setting out

- (a) the names of the shareholders of the corporation,
- (b) the number of shares owned by each shareholder, and
- (c) the address of each shareholder,

as shown on the records of the corporation.

(2) A person requiring a provincial corporation to supply a basic list may, by stating in the statutory declaration that he requires supplemental lists, require the corporation or its agent on payment of a reasonable fee to furnish supplemental lists setting out any changes from the basic list in the information provided in it for each business day following the date the basic list is made up to.

(3) The provincial corporation or its agent shall furnish a supplemental list required under subsection (2)

- (a) on the date the basic list is furnished, if the information relates to changes that took place before that date, and
- (b) on the business day following the day to which the supplemental list relates, if the information relates to changes that took place on or after the date the basic list was furnished.

(4) A person requiring a provincial corporation to supply a basic list or a supplemental list may also require the corporation to include in that list the name and address of any known holder of an option or right to acquire shares in the corporation.

(5) A statutory declaration shall state

- (a) the name and address of the applicant,
- (b) the name and address for service of the body corporate if the applicant is a body corporate, and
- (c) that the basic list and any supplemental lists obtained pursuant to subsection (2) will not be used except as permitted under section 44.

(6) If the applicant is a body corporate, the statutory declaration shall be made by a director or officer of the body corporate.

Use of list

44 No person shall use a list of shareholders obtained under this section except in connection with

- (a) an effort to influence the voting of shareholders of the provincial corporation,
- (b) an offer to acquire shares of the provincial corporation, or
- (c) any other matter relating to the affairs of the provincial corporation.

Trafficking in list

45 No person shall sell or purchase, offer for sale or purchase or otherwise traffic in a list of holders of securities of a provincial corporation.

Annual return

46(1) A registered corporation shall prepare annually and send to the Minister not later than 3 months after the end of each fiscal year an annual return in the prescribed form relating to the fiscal year.

(2) In the case of a provincial corporation, the annual return shall be accompanied by

- (a) the financial statements and report of the auditor for the fiscal year to which the return relates, prepared in accordance with sections 156(2) and 157,

- (b) a copy of the resolution of the directors approving the annual return, and
- (c) any other documents and information prescribed by the Minister.

(3) In the case of an extra-provincial corporation, the annual return shall be accompanied by the financial statements and auditor's report on them for the fiscal year to which the return relates that the corporation must provide or has provided to a Minister of the Crown or a government official or agency in accordance with the requirements of applicable trust or loan corporation legislation governing the corporation in its home jurisdiction.

(4) Where,

- (a) in the case of a provincial corporation, the financial statements referred to in subsection (2) would be required by section 157 to be on a consolidated basis, or
- (b) in the case of an extra-provincial corporation, the financial statements referred to in subsection (3) are on a consolidated basis or would be required by section 157 to be on a consolidated basis if the extra-provincial corporation were a provincial corporation,

the financial statements shall be accompanied by

- (c) separate audited financial statements in respect of the provincial corporation or extra-provincial corporation, as the case may be, where it is a holding body corporate, and
- (d) separate audited financial statements in respect of the provincial corporation or extra-provincial corporation, as the case may be, where the provincial corporation or extra-provincial corporation is a subsidiary.

(5) Where the provincial corporation or extra-provincial corporation is a subsidiary, the Minister may by notice in writing require the holding body corporate of the provincial corporation or extra-provincial corporation to forward to the Minister the holding body corporate's financial statements and auditor's report, and may in the notice direct the basis on which those financial statements are to be prepared and the period of time to which they are to relate.

(6) Where the provincial corporation or extra-provincial corporation is a holding body corporate, the Minister may by notice

in writing require the provincial corporation or extra-provincial corporation to forward to the Minister separate audited financial statements in respect of any of its subsidiaries, and may in the notice direct the basis on which those financial statements are to be prepared and the period of time to which they are to relate.

Other
information to
be given to
Minister

47(1) A registered corporation shall send to the Minister a copy of every statement of a financial nature relating to the corporation that is furnished to its shareholders within 5 days after the furnishing of the statement to the shareholders.

(2) A registered corporation shall send to the Minister

- (a)** a copy of any application and supporting documents made under a law of Canada or of a province other than Alberta for a change to its instrument of incorporation or its registration status, together with a copy of the approval or refusal of the application, within 7 days of the making of the application or the receipt of the approval or refusal, and
- (b)** a copy of any change made to its instrument of incorporation or to its ability to carry on business in any other jurisdiction in Canada, within 7 days after the effective date of the change.

(3) A registered extra-provincial corporation shall send to the Minister notice

- (a)** of the making of an order by a court or person in another jurisdiction that is in the nature of an order or direction under section 273, 278, 282, 283 or 284 of this Act, and
- (b)** of the corporation's being subject to an arrangement in another jurisdiction that is in the nature of a program of voluntary compliance under section 279 of this Act.

(4) A registered extra-provincial corporation shall send to the Minister notice of any change in the membership of its board of directors within 30 days after the effective date of the change.

(5) A registered corporation shall provide to the Minister at the times prescribed by the Minister any financial or other information that is prescribed by the Minister.

Form of
records

48 All registers and other records required by this Act to be prepared and maintained by a registered corporation may be in

bound or loose-leaf form or in photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or any other information storage device that is capable of reproducing any required information in legible written form within a reasonable time.

Legible
copies

49(1) If a person is entitled to examine any register or record that is maintained by a registered corporation in a form other than written form and makes a request of the corporation to do so, the corporation shall

- (a) make available to that person within a reasonable time a reproduction of the text of the register or record in legible written form, or
- (b) provide facilities to enable that person to examine the text of the register or record in legible written form otherwise than by providing a reproduction of that text,

and shall allow that person to make copies of that register or record.

(2) A registered corporation may charge a reasonable fee for providing a reproduction of the text of a register or record under subsection (1).

Protection of
records

50 A registered corporation and its agents shall take reasonable precautions to

- (a) prevent loss or destruction of,
- (b) prevent falsification of entries in, and
- (c) facilitate detection and correction of inaccuracies in,

the registers and other records required by this Act to be prepared and maintained.

PART 5

SHARES AND SHAREHOLDERS

Definition

51 In this Part, "security" means, subject to Part 6 of the *Business Corporations Act* as incorporated by section 53 of this Act, a share of any class or series of shares or a debt obligation of a body corporate, and includes a certificate evidencing such a share

or debt obligation and includes a warrant, but does not include a deposit or any instrument evidencing a deposit in a corporation.

Interpretation **52** For the purposes of sections 63, 64, 65, 67 and 72, deposits in a provincial trust corporation shall be deemed to be a liability of the corporation notwithstanding that the deposits are held by it as trustee.

Application of Business Corporations Act **53** Part 6 of the *Business Corporations Act* applies with respect to a provincial corporation as if it were a corporation within the meaning of that Act, and a reference in that Part to a section in that Act, other than to a section in that Part, is deemed to be a reference to the corresponding section in this Act that deals with the same subject-matter.

Non-par value shares **54(1)** Shares of a provincial corporation shall be in registered form and shall be without nominal or par value.

(2) Shares with a nominal or par value of a provincial corporation incorporated before the coming into force of this section are, for the purposes of subsection (1), deemed to be shares without nominal or par value.

Classes of shares **55(1)** A provincial corporation shall have a class of shares designated as “common shares”.

(2) The rights of the holders of common shares are equal in all respects and include

- (a) the right to vote at all meetings of shareholders,
- (b) the right to receive dividends of the provincial corporation if declared on those shares, and
- (c) the right to receive the remaining property of the provincial corporation on dissolution.

(3) The instrument of incorporation may provide for classes of shares in addition to common shares, and in that case

- (a) the rights, privileges, restrictions and conditions attaching to the shares of each class shall be set out in the instrument of incorporation, and
- (b) those shares shall not be designated as common shares or by any similar term.

(4) Subject to section 58, if a provincial corporation has more than one class of shares the rights of the holders of the shares of a class are equal in all respects.

**Issue of
shares**

56(1) Subject to this Act and the instrument of incorporation, shares of a provincial corporation may be issued at the times, to the persons and for the consideration determined by the directors.

(2) Shares issued by a provincial corporation are non-assessable and the shareholders are not liable to the corporation or to its creditors in respect of them.

(3) A provincial corporation shall not issue a share until the consideration for the share is fully paid in money and received by the corporation.

(4) The requirement in subsection (3) that the consideration be in money does not apply

- (a) in a case where the share is issued as part of an amalgamation, or
- (b) in any other circumstances with respect to which the Minister has given his prior approval.

**Stated capital
account**

57(1) A provincial corporation shall maintain a separate stated capital account for each class and series of shares it issues.

(2) Unless the Minister approves otherwise, a provincial corporation shall add to the appropriate stated capital account in respect of any shares it issues the full amount of the consideration it receives for the shares.

(3) On the issue of a share, a provincial corporation shall not add to a stated capital account in respect of the share an amount greater than the amount referred to in subsection (2).

(4) If a provincial corporation proposes to add any amount to a stated capital account it maintains in respect of a class or series of shares and

- (a) the amount to be added was not received by the corporation as consideration for the issue of shares, and
- (b) the corporation has issued outstanding shares of more than one class or series,

the addition to the stated capital account must be approved by special resolution unless all the issued and outstanding shares are shares of not more than 2 classes of convertible shares referred to in section 68(5).

(5) Where, in the case of a proposed addition of an amount to a stated capital account in a situation where a special resolution is required under subsection (4), a class or series of shares of a provincial corporation would be affected differently from how any other class or series of shares of the corporation would be affected by such action, the holders of shares of the differently affected class or series are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not such shares otherwise carry the right to vote.

(6) Subject to subsections (4) and (5), a provincial corporation may add to a stated capital account any amount it has credited to a retained earnings or other surplus account.

(7) On the day this section comes into force, the stated capital of each class and series of shares of a provincial trust corporation is deemed to equal the paid-up capital of each class and series of shares of the body corporate immediately prior to that day.

Shares in
series

58(1) Subject to its instrument of incorporation, the directors of a provincial corporation may authorize the issue of any class of shares, other than common shares, in one or more series, and they may fix the number of shares in, and determine the designation, rights, privileges, restrictions and conditions attaching to the shares of each series.

(2) If any cumulative dividends or amounts payable on return of capital in respect of a series of shares are not paid in full, the shares of all series of the same class participate ratably in respect of accumulated dividends and return of capital.

(3) No rights, privileges, restrictions or conditions attached to a series of shares authorized under this section shall confer on shares of a series

- (a) greater voting rights than are attached to shares of any other series in the same class that are then outstanding, or
- (b) a priority in respect of dividends or return of capital over shares of any other series in the same class that are then outstanding.

(4) Subsection (3) does not apply to a right or privilege to exchange a share or shares for, or to convert a share or shares into, a share or shares of another class.

Shareholder's
pre-emptive
right

59(1) If the letters patent of a provincial corporation so provide, no shares of a class shall be issued unless the shares have first been offered to the shareholders holding shares of that class, and those shareholders have a pre-emptive right to acquire the offered shares in proportion to their holdings of the shares of that class, at the same price and on the same terms as those shares are to be offered to others.

(2) Notwithstanding that the letters patent provide the pre-emptive right referred to in subsection (1), shareholders have no pre-emptive right in respect of shares to be issued

- (a) for a consideration other than money,
- (b) as a share dividend, or
- (c) pursuant to the exercise of conversion privileges, options or rights previously granted by the provincial corporation.

Conversion
privileges,
options and
rights

60(1) A provincial corporation may issue certificates, warrants or other evidences of conversion privileges or options or rights to acquire securities of the corporation, and shall set out the conditions to which the conversion privileges, options or rights are subject

- (a) in the certificates, warrants or other evidences, or
- (b) in certificates evidencing the securities to which the conversion privileges, options or rights are attached.

(2) Conversion privileges and options or rights to purchase securities of a provincial corporation may be made transferable or non-transferable, and options and rights to purchase may be made separable or inseparable from any securities to which they are attached.

(3) If a provincial corporation has granted privileges to convert any securities issued by the corporation into shares, or into shares of another class or series, or has issued or granted options or rights to acquire shares, the corporation shall reserve and continue to reserve sufficient authorized shares to meet the exercise of those conversion privileges, options and rights.

Prohibited
shareholdings

61(1) A provincial corporation

- (a) shall not hold shares in itself or in its holding body corporate, and
- (b) shall not permit any of its subsidiaries to hold shares in the corporation or in the holding body corporate of the corporation

except in accordance with this section and sections 62 to 66 or unless the Minister consents in writing to the holding.

(2) Subsection (1) does not apply to shares held in contravention of subsection (1) immediately before December 8, 1988.

(3) A provincial corporation may in the capacity of personal representative hold shares in itself or in its holding body corporate unless it or the holding body corporate or a subsidiary of either of them has a beneficial interest in the shares.

(4) A provincial corporation may hold shares in itself or in its holding body corporate by way of security for the purposes of a transaction entered into by it in the ordinary course of its business.

(5) A provincial corporation holding shares in itself or in its holding body corporate shall not vote or permit those shares to be voted unless the corporation

- (a) holds the shares in the capacity of personal representative, and
- (b) has complied with section 147 of the *Business Corporations Act*, as incorporated into this Act by section 99 of this Act.

Restrictions
on acquisition
of shares

62(1) Subject to this section, section 77 applies to a purchase, acquisition or redemption for cancellation of voting shares by a provincial corporation under section 63, 64 or 65 as if the purchase, acquisition or redemption of voting shares were a transfer or issue of voting shares.

(2) Notwithstanding subsection (1),

- (a) section 77(6) does not apply, and
- (b) the provincial corporation must make the application referred to in section 77(7) on behalf of the persons referred to in that subsection

in the case of a purchase, acquisition or redemption of shares referred to in subsection (1).

**Acquisition of
own shares**

63(1) Subject to subsection (2) and to its by-laws, a provincial corporation may purchase or otherwise acquire shares issued by it.

(2) A provincial corporation shall not make any payment to purchase or otherwise acquire shares issued by it if there are reasonable grounds for believing that

- (a) the corporation is, or after the payment would be, unable to pay its liabilities as they become due, or
- (b) the realizable value of the corporation's assets after the payment would be less than the aggregate of its liabilities and stated capital of all classes.

(3) A provincial corporation that is not a reporting issuer shall, within 30 days of the purchase of any of its issued shares, notify its shareholders

- (a) of the number of shares it has purchased,
- (b) of the names of the shareholders from whom it has purchased the shares,
- (c) of the price paid for the shares, and
- (d) of the balance, if any, remaining due to the shareholders from whom it purchased the shares.

(4) A shareholder of a provincial corporation other than a reporting issuer is entitled on request and without charge to a copy of the agreement between the corporation and any of its other shareholders under which the corporation has agreed to purchase, or has purchased, any of its own shares.

**Alternative
acquisition of
own shares**

64(1) Subject to subsection (2) and to its by-laws, a provincial corporation may purchase or otherwise acquire shares issued by it

- (a) to settle or compromise a debt or claim asserted by or against the corporation,
- (b) to eliminate fractional shares, or
- (c) to fulfil the terms of a non-assignable agreement under which the corporation has an option or is obliged to

purchase shares owned by a director, officer or employee of the corporation.

(2) Notwithstanding section 63(2), a corporation may purchase or otherwise acquire shares issued by it to comply with an order under section 292.

(3) A provincial corporation shall not make any payment to purchase or acquire under subsection (1) shares issued by it if there are reasonable grounds for believing that

- (a) the corporation is, or after the payment would be, unable to pay its liabilities as they become due,
- (b) the realizable value of the corporation's assets after the payment would be less than the aggregate of
 - (i) its liabilities, and
 - (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, prior to the holders of the shares to be purchased or acquired,

or

- (c) the purchase or acquisition would cause the corporation to be in contravention of this Act or the regulations.

Redemption
of shares

65(1) Subject to subsection (2) and to its by-laws, a provincial corporation may purchase or redeem any redeemable shares issued by it at prices not exceeding the redemption price calculated according to a formula stated in the by-laws.

(2) A provincial corporation shall not make any payment to purchase or redeem any redeemable shares issued by it if there are reasonable grounds for believing that

- (a) the corporation is, or after the payment would be, unable to pay its liabilities as they become due,
- (b) the realizable value of the corporation's assets after the payment would be less than the aggregate of
 - (i) its liabilities, and
 - (ii) the amount that would be required to pay the holders of shares who have a right to be paid,

on a redemption or in a liquidation, ratably with or prior to the holders of the shares to be purchased or redeemed,

or

- (c) the redemption would cause the corporation to be in contravention of this Act or the regulations.

Donated and
escrowed
shares

66 A provincial corporation may accept from any shareholder a share of the corporation

- (a) that is surrendered to it as a gift, or
- (b) that has been held in escrow pursuant to an escrow agreement required by the Chief of Securities Administration and that is surrendered pursuant to that agreement.

Reduction of
stated capital

67(1) Subject to subsection (3) and its instrument of incorporation, a provincial corporation, by special resolution and with the approval of the Minister, may reduce its stated capital for any purpose.

(2) Where a class or series of shares of a provincial corporation would be affected by a reduction of stated capital under subsection (1) differently from how any other class or series of shares of the corporation would be affected by such action, the holders of shares of the differently affected class or series are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not the shares otherwise carry the right to vote.

(3) A special resolution under this section shall specify the stated capital account or accounts from which the reduction of stated capital affected by the special resolution will be made.

(4) A provincial corporation shall not reduce its stated capital other than for the purpose of declaring it to be reduced by an amount that is not represented by realizable assets, if there are reasonable grounds for believing that

- (a) the corporation is, or after the reduction would be unable to pay its liabilities as they become due,

- (b) the realizable value of the corporation's assets after the reduction would be less than the aggregate of its liabilities, or
- (c) the reduction would cause the corporation to be in contravention of this Act or the regulations.

(5) A shareholder, creditor or depositor of a provincial corporation may apply to the Court for an order compelling another shareholder or another recipient

- (a) to pay to the corporation an amount equal to any liability of that other shareholder that was extinguished or reduced contrary to this section, or
- (b) to pay or deliver to the corporation any money or property that was paid or distributed to that other shareholder or recipient as a consequence of a reduction of capital made contrary to this section.

(6) A proceeding to enforce a liability imposed by this section may not be commenced after 2 years from the date of the action, complained of.

(7) This section does not affect any liability that arises under section 131.

Adjustment of
stated capital
account

68(1) On a purchase, redemption or other acquisition by a provincial corporation under section 63, 64, 65, 73 or 292(3)(e) of shares or fractions of shares issued by it, the corporation shall deduct from the stated capital account maintained for the class or series of shares of which the shares purchased, redeemed or otherwise acquired form a part, an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares or fractions of shares of that class or series purchased, redeemed or otherwise acquired, divided by the number of issued shares of that class or series immediately before the purchase, redemption or other acquisition.

(2) A provincial corporation shall deduct the amount of a payment made by the corporation to a shareholder under section 292(3)(f) from the stated capital account maintained for the class or series of shares in respect of which the payment was made.

(3) A provincial corporation shall adjust its stated capital account or accounts in accordance with any special resolution referred to in section 67(3).

(4) On a conversion or change of issued shares of a provincial corporation into shares of another class or series, the corporation shall

- (a) deduct from the stated capital account maintained for the class or series of shares converted or changed an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series converted or changed, and dividing by the number of issued shares of that class or series immediately before the conversion or change, and
- (b) add the result obtained under clause (a) and any additional consideration received pursuant to the conversion or change to the stated capital account maintained or to be maintained for the class or series of shares into which the shares have been converted or changed.

(5) For the purposes of subsection (4), where a provincial corporation issues 2 classes or series of shares and there is attached to each class or series a right to convert a share of one class or series into a share of the other class or series, the amount of stated capital attributable to a share in either class or series is the amount obtained when the sum of the stated capital of both classes or series of shares is divided by the number of issued shares of both classes or series of shares immediately before the conversion.

(6) Shares or fractions of shares issued by a provincial corporation and purchased, redeemed or otherwise acquired by it shall be cancelled or restored to the status of authorized but unissued shares.

(7) For the purposes of this section, a provincial corporation holding shares in itself as permitted by section 61(3) and (4) is deemed not to have purchased, redeemed or otherwise acquired those shares.

(8) Where shares of a class or series are converted or changed into the same or another number of shares of another class or series, those shares become the same in all respects as the shares of the class or series into which they are converted or changed.

Repayment,
acquisition
and reissue
of debt
obligations

69(1) Debt obligations issued, pledged, hypothecated or deposited by a provincial corporation are not redeemed by reason only that the indebtedness evidenced by the debt obligations or in respect of which the debt obligations are issued, pledged, hypothecated or

deposited is repaid, and those obligations remain obligations of the corporation until they are discharged.

(2) Debt obligations issued by a provincial corporation and purchased, redeemed or otherwise acquired by it may be cancelled or, subject to any applicable trust indenture or other agreement, may be reissued, pledged or hypothecated to secure any obligation of the corporation then existing or thereafter incurred, and any such acquisition and reissue, pledge or hypothecation is not a cancellation of the debt obligations.

Enforceability
of contract to
purchase
shares

70(1) A contract with a provincial corporation providing for the purchase by it of its own shares is specifically enforceable against the corporation, except to the extent that it cannot perform the contract without contravening section 63 or 64.

(2) In any action brought on a contract referred to in subsection (1), the provincial corporation has the burden of proving that performance of the contract is prevented by section 63 or 64.

(3) Until the provincial corporation has fully performed a contract referred to in subsection (1), the other party to the contract retains the status of a claimant and is entitled

- (a) to be paid as soon as the corporation is lawfully able to perform the contract, or
- (b) in a liquidation, to be ranked subordinate to the rights of depositors, creditors, holders of subordinated notes and any class of shareholders whose rights were in priority to the rights given to the class of shares he contracted to sell to the corporation, but in priority to the rights of other shareholders.

Commission
on sale of
shares

71 The directors of a provincial corporation may authorize the corporation to pay a reasonable commission to any person in consideration of the person's

- (a) purchasing or agreeing to purchase shares of the corporation from it or from any other person, or
- (b) procuring or agreeing to procure purchasers for any such shares.

Payment of
dividend

72(1) The directors of a provincial corporation may declare, and a provincial corporation may pay, a dividend by issuing fully paid

shares of the corporation and, subject to subsection (3), a corporation may pay a dividend in money or property.

(2) If a provincial corporation issues shares of the corporation in payment of a dividend, it shall add to the stated capital account for the shares of the class or series issued the declared amount of the dividend, stated as an amount of money.

(3) The directors shall not declare and a provincial corporation shall not pay a dividend if there are reasonable grounds for believing that

- (a) the corporation is, or after the payment would be, unable to pay its liabilities as they become due,
- (b) the realizable value of the corporation's assets after the payment would be less than the aggregate of
 - (i) its liabilities, and
 - (ii) its stated capital of all classes,

or

- (c) the payment would cause the corporation to be in contravention of this Act or the regulations.

Lien on share **73(1)** The by-laws of a provincial corporation may provide that the corporation has a lien on a share registered in the name of a shareholder or the shareholder's personal representative for a debt of that shareholder to the corporation.

(2) A provincial corporation may enforce a lien referred to in subsection (1) in accordance with its by-laws.

Limited liability of shareholders **74** Except as otherwise provided in this Act, the shareholders of a provincial corporation are not, as shareholders, liable for any liability, act or default of the corporation.

Restrictions on issue, transfer **75** A provincial corporation shall not impose restrictions on the issue, transfer or ownership of shares of any class or series except to the extent that it is authorized to do so by its instrument of incorporation or this Act.

Interpretation **76(1)** For the purposes of this section and sections 77 to 81, a person is deemed to be related to

- (a) every body corporate the person controls and every affiliate of such a body corporate,
- (b) every partner of the person,
- (c) every trust or estate in which the person has a substantial beneficial interest or in respect of which the person serves as trustee or in a similar capacity,
- (d) the spouse of the person,
- (e) every relative of the person, or of his spouse, who has the same home as the person, and
- (f) every other person the Minister considers is acting in concert with the person to acquire and control voting shares of a provincial corporation and so designates by order as a related person.

(2) For the purpose of sections 77, 78 and 80, a person who, alone or with any related person,

- (a) controls a body corporate that does not control a provincial corporation but that holds or beneficially owns 10% or more of the total number of issued and outstanding voting shares of a class of voting shares of the corporation, or
- (b) holds or beneficially owns 10% or more of the total number of issued and outstanding voting shares of a class of voting shares of a body corporate that controls a provincial corporation

is deemed to be a holding body corporate, and the voting shares and transfer or issue of voting shares of those persons in the body corporate referred to in clause (a) or (b) are deemed to be shares or a transfer or issue of shares to which sections 77, 78 and 80 apply.

Minister's
consent to
transfer or
issue

77(1) The directors of a provincial corporation shall refuse to allow the transfer or issue of voting shares of the corporation to be entered in the securities register without the Minister's consent in either of the following circumstances:

- (a) if, in a case where a person and other persons related to that person hold or beneficially own immediately before the entry of the transfer or issue more than 10% of any class of the issued and outstanding voting shares of the

corporation, the entry of the transfer or issue would cause that percentage to increase, based on the number of issued and outstanding voting shares after the entry of the transfer or issue;

- (b) if, in a case where a person and other persons related to that person hold or beneficially own immediately before the entry of the transfer or issue 10% or less of any class of the issued and outstanding voting shares of the corporation, the entry of the transfer or issue would cause that percentage to increase to more than 10%, based on the number of issued and outstanding voting shares after the entry of the transfer or issue.

(2) Until the Minister's consent is obtained under subsection (1) no person shall in person or by proxy exercise the voting rights attaching to any of the voting shares that are held or beneficially owned by the person or related persons referred to in subsection (1).

(3) Notwithstanding subsection (1), where a consent is given under subsection (1) with respect to a person and other persons related to that person, no consent under subsection (1) is required with respect to those persons in respect of a subsequent transfer or issue of voting shares unless, as a result of the entry of the transfer or issue, the shareholdings or beneficial ownership of those persons calculated under subsection (1) would undergo an increase of more than 5% from the shareholdings or beneficial ownership calculated immediately after the previous consent was given.

(4) The exception set out in subsection (3) does not apply

- (a) to a transfer or issue of shares that would result in a change of control of the provincial corporation, or
- (b) where, since the previous consent was given under this section, the shareholdings or beneficial ownership of the person and other persons related to that person calculated under subsection (1) have decreased by more than 5% from the shareholdings or beneficial ownership calculated immediately after the previous consent was given.

(5) Where, on the date on which this section comes into force, a person and other persons related to that person hold or beneficially own more than 10% of any class of issued and outstanding voting shares of a corporation, the Minister is, for the purposes of this section, deemed to have given a consent in respect of that holding or ownership on the date this section comes into force.

(6) The consent of the Minister under this section is not required in respect of a transfer or issue of shares to an underwriter, as defined in the *Securities Act*, who receives them in that capacity.

(7) Where a consent is required under this section,

- (a) the person to whom the shares are to be transferred or issued, or
- (b) where the person referred to in clause (a) will not be the beneficial owner of the shares, that person and the beneficial owner jointly,

shall apply for the consent and shall provide the Minister with any information the Minister requires in support of the application.

(8) On an application under subsection (7), the Minister may refuse consent where

- (a) any of the holders or beneficial owners to whom the consent relates
 - (i) is or has been bankrupt,
 - (ii) has been convicted of a criminal offence, an offence under this Act or an offence under the *Securities Act* or comparable legislation of another jurisdiction in Canada,
 - (iii) is or has been subject to a cease trading order under the *Securities Act* or comparable legislation of another jurisdiction in Canada,
 - (iv) is the subject of a special examination under section 273,
 - (v) is contravening any provision of this Act or the regulations or of any comparable legislation of another jurisdiction or of any undertaking given to the Minister, or
 - (vi) fails to provide the information requested under subsection (7),

or

- (b) it would, in his opinion, be in the public interest to do so, having regard to the following:

- (i) the nature and sufficiency of the financial resources of the holders or beneficial owners to whom the consent relates as a source of continuing financial support for the provincial corporation;
- (ii) where the transfer or issue would result in a change in control of the provincial corporation, the soundness and feasibility of plans of the holders or beneficial owners to whom the consent relates for the future conduct and development of the business of the provincial corporation;
- (iii) the business record and experience of the holders or beneficial owners to whom the consent relates;
- (iv) whether the provincial corporation will be operated responsibly by persons who are fit as to character and are competent for that purpose;
- (v) the best interests of the financial system in Alberta.

(9) The consent of the Minister under this section takes effect on the date set out in the consent, and the effective date may be a date before the date the consent is given.

Minister's
right to
information

78(1) The Minister may in writing direct a provincial corporation to obtain from a person in whose name a share is registered in the securities register of the corporation or who is the beneficial owner of a share of the corporation a declaration containing any or all of the following information:

- (a) information concerning the ownership or beneficial ownership of the share;
- (b) information as to whether the share is held or beneficially owned by a person who is related to that person, and the name of the related person where applicable;
- (c) information as to the place in which the shareholder and any person for whose use or benefit the share is held are ordinarily resident;
- (d) information concerning the ownership or beneficial ownership of the shares of a holding body corporate;

- (e) information concerning any other matters specified by the Minister.

(2) The directors of a provincial corporation that is the subject of a direction under subsection (1) shall ensure that the corporation forthwith complies with the direction.

(3) A provincial corporation that is the subject of a direction under subsection (1) may request a person who has possession of or access to the information required to provide a declaration containing the information to the Minister, and that person shall forthwith comply with the request.

Exemption **79(1)** The Minister may by order exempt any provincial corporation or other person from the application of section 77 or 78 in whole or in part and on any terms and conditions set out in the order.

(2) The *Regulations Act* does not apply to an order under subsection (1).

By-laws re shareholder information **80(1)** The directors of a provincial corporation may make by-laws

- (a) requiring any person holding any voting share of the corporation to submit written declarations
 - (i) with respect to the ownership and beneficial ownership of a share of the corporation or of a holding body corporate,
 - (ii) with respect to the place in which the shareholder and any person for whose use or benefit the share is held are ordinarily resident,
 - (iii) as to whether the shareholder is related to other persons, and
 - (iv) with respect to any other matters the directors consider relevant for the purposes of sections 76 to 79,
- (b) prescribing the times at which and the manner in which any declarations required under clause (a) are to be submitted, and
- (c) requiring any person desiring to have a transfer of a share to him entered in the securities register of the

corporation to submit a declaration referred to in clause (a) as if he were a shareholder.

(2) Where under any by-law made under subsection (1) a declaration is required to be submitted by any shareholder or person in respect of the transfer of any share, the directors may refuse to allow the entry of the transfer of the share in the securities register of the provincial corporation until the required declaration has been submitted.

**Reliance on
information**

81 A director of a provincial corporation and any other person acting as proxy for a shareholder of the corporation may rely on a statement made in a declaration made pursuant to a by-law under section 80(1) and on their own knowledge of the circumstances for the purposes of determining

- (a) the residence of a person,
- (b) who controls a body corporate, or
- (c) any other circumstances relevant to the performance of their duties under sections 76 to 79,

and the director or other person is not liable in any action for anything done or omitted by him in good faith in reliance on that statement or that knowledge.

**Place of
annual
meeting**

82(1) Subject to the by-laws, a meeting of shareholders of a provincial corporation shall be held at any place in Canada that the directors determine, or in the absence of such a determination, at its principal place of business.

(2) Notwithstanding subsection (1), a meeting of shareholders of a provincial corporation may be held outside Canada if all the shareholders entitled to vote at that meeting so agree, and a shareholder who attends a meeting of shareholders held outside Canada is deemed to have so agreed except when the shareholder attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully held.

**Calling
meetings**

83(1) The directors of a provincial corporation shall call annual meetings of shareholders in accordance with this section.

(2) In the case of a provincial corporation incorporated under Part 2, the directors shall, after the meeting called pursuant to section 22, call an annual meeting, to be held not later than 4 months after

the end of the first fiscal year of the corporation, and subsequently not later than 4 months after the end of each fiscal year.

(3) In the case of a provincial corporation that is continued under section 327, the directors shall call an annual meeting not later than 4 months after the end of the fiscal year in which letters patent of continuance are issued, and subsequently not later than 4 months after the end of each fiscal year.

(4) In the case of an amalgamated provincial corporation, the directors shall call an annual meeting not later than 4 months after the date set out in the supplementary letters patent of amalgamation, and subsequently not later than 4 months after the end of each fiscal year.

(5) A provincial corporation may apply to the Court for an order extending the time within which the first or the next annual meeting of the corporation shall be held.

(6) Notice of any application under subsection (5) by a provincial corporation that is a reporting issuer shall be filed with the Chief of Securities Administration.

(7) If, on an application under subsection (5), the Court is satisfied that it is in the best interests of the provincial corporation, the Court may extend the time in which the first or the next annual meeting of the corporation shall be held, in any manner and on any terms it thinks fit.

(8) The directors of a provincial corporation may call a special meeting of shareholders at any time.

Record dates **84(1)** For the purpose of determining shareholders of a provincial corporation

- (a) entitled to receive payment of a dividend,
- (b) entitled to participate in a liquidation or distribution, or
- (c) for any other purpose except the right to receive notice of or to vote at a meeting,

the directors may fix in advance a date as the record date for that determination of shareholders, but the record date shall not precede by more than 50 days the date of the particular action to be taken.

(2) For the purpose of determining shareholders entitled to receive notice of or to vote at a meeting of shareholders, the directors may fix in advance a date as the record date for that determination of

shareholders, but that record date shall not precede by more than 50 days or by less than 21 days the date on which the meeting is to be held.

(3) If no record date is fixed,

- (a) the record date for the determination of shareholders entitled to receive notice of or to vote at a meeting of shareholders shall be
 - (i) at the close of business on the last business day immediately preceding the day on which the notice is sent, or
 - (ii) if no notice is sent, the day on which the meeting is held,

and

- (b) the record date for the determination of shareholders for any purpose other than to establish a shareholder's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the directors pass the resolution relating to that purpose.

(4) If a record date is fixed, unless notice of the record date is waived in writing by every holder of a share of the class or series affected whose name is set out in the securities register of the provincial corporation at the close of business on the day the directors fix the record date, notice of the record date shall be given not less than 7 days before the date so fixed

- (a) by advertisement in a newspaper published or distributed in the locality where the corporation has its principal place of business and in each place in Canada where it has a transfer agent or where a transfer of its shares may be recorded, and
- (b) by written notice to each stock exchange in Canada on which the shares of the corporation are listed for trading.

Notice of
meeting

85(1) Notice of the time and place of a meeting of shareholders of a provincial corporation shall be sent not less than 21 days and not more than 50 days before the meeting

- (a) to each shareholder entitled to vote at the meeting,
- (b) to each director, and

- (c) to the auditor of the corporation.
- (2) Notwithstanding section 320(2), a notice of a meeting of shareholders sent by mail to a shareholder, director or auditor in accordance with section 320(1) is deemed to be sent on the day on which it is deposited in the mail.
- (3) A notice of a meeting is not required to be sent to shareholders who were not registered on the securities register of the provincial corporation on the date determined under section 84(2) or (3), but failure to receive a notice does not deprive a shareholder of the right to vote at the meeting.
- (4) If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of less than 30 days, it is not necessary, unless the by-laws otherwise provide, to give notice of the adjourned meeting other than by announcement at the time of an adjournment.
- (5) If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of 30 days or more, notice of the adjourned meeting shall be given as for an original meeting, but unless the meeting is adjourned by one or more adjournments for an aggregate of more than 90 days, section 143(1) of the *Business Corporations Act* as incorporated into this Act by section 99 of this Act does not apply.
- (6) All business transacted at a special meeting of shareholders and all business transacted at an annual meeting of shareholders, except consideration of the financial statements and auditor's report, fixing the number of directors for the following year, election of directors and reappointment of the incumbent auditor, are deemed to be special business.
- (7) Notice of a meeting of shareholders at which special business is to be transacted shall state
 - (a) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment on that business, and
 - (b) the text of any special resolution or by-law to be submitted to the meeting.
- (8) The text of a special resolution may be amended at a meeting of shareholders if the amendments correct manifest errors or are not material.
- (9) A shareholder and any other person entitled to attend a meeting of shareholders of a provincial corporation may in any

manner waive notice of a meeting of shareholders, and attendance of any such person at a meeting of shareholders is a waiver of notice of the meeting, except where he attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

**Shareholder
proposals**

86(1) A shareholder of a provincial corporation who is entitled to vote at an annual meeting of shareholders may

- (a) submit to the corporation notice of any matter that he proposes to raise at the meeting, referred to in this section as a proposal, and
- (b) require that the matter be included in the next notice of meeting sent by the corporation as business to be transacted at that meeting.

(2) Where a provincial corporation receives notice of a proposal and the corporation solicits proxies, it shall set out the proposal in the management proxy circular required by section 144 of the *Business Corporations Act* as incorporated into this Act by section 99 of this Act, or it shall attach the proposal to the proxy circular.

(3) If so requested by a shareholder giving notice of a proposal, the provincial corporation shall include in the management proxy circular or attach to it a statement by the shareholder of not more than 200 words in support of the proposal, along with the name and address of the shareholder.

(4) A proposal may include nominations for the election of directors if the proposal is signed by one or more holders of shares representing in the aggregate not less than 5% of the shares, or 5% of the shares of a class or series of shares, of the provincial corporation entitled to vote at the meeting at which the proposal is to be presented, but this subsection does not preclude the making of nominations at a meeting of shareholders.

(5) A provincial corporation is not required to comply with subsections (2) and (3) where

- (a) the proposal is submitted to the corporation less than 90 days before the anniversary date of the previous annual meeting,
- (b) it clearly appears that the proposal is submitted by the shareholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in

any significant way to the business or affairs of the corporation,

- (c) the corporation, at the shareholder's request, included a proposal in a management proxy circular relating to a meeting of shareholders held within 2 years preceding the receipt of the request and the shareholder failed to present the proposal, in person or by proxy, at the meeting,
- (d) substantially the same proposal was submitted to shareholders in a management proxy circular or a dissident's proxy circular relating to a meeting of shareholders held within 2 years preceding the receipt of the shareholder's request and the proposal was defeated, or
- (e) the rights conferred by this section are being abused to secure publicity.

(6) No provincial corporation or person acting on its behalf incurs any liability by reason only of circulating a proposal or statement in compliance with this section.

(7) Where a provincial corporation refuses to include a proposal in a management proxy circular, it shall, within 10 days after receiving the proposal, send to the shareholder who submitted the proposal notice of its intention to omit the proposal from the management proxy circular and a statement of reasons for the refusal.

(8) On the application of a shareholder claiming to be aggrieved by a provincial corporation's refusal under subsection (7), the Court may restrain the holding of the meeting at which the proposal is sought to be presented and make any further order it thinks fit.

(9) A provincial corporation or any person claiming to be aggrieved by a proposal may apply to the Court for an order permitting the corporation to omit the proposal from the management proxy circular, and the Court, if it is satisfied that subsection (5) applies, may make any order it thinks fit.

(10) An applicant under subsection (8) or (9) shall give the Minister notice of the application, and the Minister is entitled to appear and be heard in person or by counsel.

Shareholder
list

87(1) A provincial corporation shall prepare a list of shareholders entitled to receive notice of a meeting, arranged in alphabetical

order and showing the number of shares held by each shareholder, which shall be prepared,

- (a) if a record date is fixed under section 84(2), not later than 10 days after that date, or
- (b) if no record date is fixed,
 - (i) at the close of business on the last business day immediately preceding the day on which the notice is sent,
 - or
 - (ii) where no notice is sent, on the day on which the meeting is held.

(2) Subject to sections 76 to 79, where a provincial corporation fixes a record date under section 84(2), a person named in the list prepared under subsection (1)(a) is entitled to vote the shares shown opposite his name at the meeting to which the list relates, except to the extent that

- (a) the person has transferred the ownership of the shares after the record date, and
- (b) the transferee of those shares
 - (i) produces properly endorsed share certificates, or
 - (ii) otherwise establishes ownership of the shares, and demands, not later than 10 days before the meeting, or any shorter period before the meeting that the by-laws of the corporation provide, that the transferee's name be included in the list before the meeting,

in which case the transferee is entitled to vote those shares at the meeting.

(3) Subject to sections 76 to 79, where a provincial corporation does not fix a record date under section 84(2), a person named in a list prepared under subsection (1)(b) is entitled to vote the shares shown opposite his name at the meeting to which the list relates, except to the extent that

- (a) the person has transferred the ownership of the shares after the date on which the list was prepared, and
- (b) the transferee of those shares

(i) produces properly endorsed share certificates,
or

(ii) otherwise establishes ownership of the shares,

and demands, not later than 10 days before the meeting,
or any shorter period before the meeting that the by-laws
of the corporation provide, that the transferee's name be
included in the list before the meeting,

in which case the transferee is entitled to vote those shares at the
meeting.

(4) A shareholder of a provincial corporation may examine the list
of shareholders

(a) during usual business hours at the principal place of
business of the corporation or at the place where its
securities register is maintained, and

(b) at the meeting of shareholders for which the list was
prepared.

Quorum

88(1) Unless the by-laws of the provincial corporation otherwise
provide, the holders of a majority of the shares entitled to vote at
a meeting of shareholders, whether present in person or represented
by proxy, constitute a quorum.

(2) If a quorum is present at the opening of a meeting of
shareholders, the shareholders present may, unless the by-laws
otherwise provide, proceed with the business of the meeting
notwithstanding that a quorum is not present throughout the
meeting.

(3) If a quorum is not present at the time appointed for a meeting
of shareholders, the shareholders present may adjourn the meeting
to a fixed time and place but may not transact any other business.

**Meeting by
electronic
means**

89 A shareholder or any other person entitled to attend a meeting
of shareholders may participate in the meeting by means of
telephone or other communication devices that permit all persons
participating in the meeting to hear each other if

(a) the by-laws so provide, or

(b) subject to the by-laws, all the shareholders entitled to
vote at the meeting consent,

and a person participating in such a meeting by those means is deemed for the purposes of this Act to be present at the meeting.

Majority vote	90 Unless the by-laws of the provincial corporation otherwise provide, all questions proposed for the consideration of the shareholders shall be determined by the majority of the votes cast, and the chairman presiding at the meeting shall not have a second or casting vote in case of an equality of votes.
One share, one vote	91 Unless the by-laws of the provincial corporation otherwise provide, each share of the corporation entitles the holder to one vote at a meeting of shareholders.
Corporate shareholder	92(1) Where a body corporate or association is a shareholder of a provincial corporation, the corporation shall recognize any individual authorized by a resolution of the directors or governing body of the body corporate or association to represent it at meetings of shareholders of the corporation. (2) An individual authorized in accordance with subsection (1) may exercise on behalf of the body corporate or association the individual represents all the powers it could exercise if it were an individual shareholder.
Joint ownership of share	93 Unless the by-laws of the provincial corporation otherwise provide, where 2 or more persons hold shares jointly, one of those holders present at a meeting of shareholders may in the absence of the others vote the shares, but if 2 or more of those persons are present, in person or by proxy, they shall vote as one on the shares jointly held by them.
Voting	94(1) Unless the by-laws of the provincial corporation otherwise provide, voting at a meeting of shareholders shall be by show of hands except where a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting. (2) A shareholder or proxyholder may demand a ballot either before or on the declaration of the result of a vote by show of hands.
Resolution instead of meeting	95(1) A resolution in writing signed by all the shareholders entitled to vote on that resolution is as valid as if it had been passed at a meeting of the shareholders.

(2) A resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders, and signed by all the shareholders entitled to vote at that meeting, satisfies all the requirements of this Act relating to meetings of shareholders.

(3) The provincial corporation shall keep a copy of every resolution referred to in subsection (1) or (2) with the minutes of the meetings of shareholders.

Meeting on
requisition of
shareholders

96(1) The holders of not less than 5% of the issued and outstanding shares of a provincial corporation that carry the right to vote at a meeting of shareholders sought to be held may requisition the directors to call a meeting of shareholders for the purposes stated in the requisition.

(2) The requisitioners shall give notice to the Minister of a requisition made under subsection (1).

(3) The requisition referred to in subsection (1) shall state the business to be transacted at the meeting and shall be sent to the principal place of business of the provincial corporation and to each director.

(4) On receiving the requisition referred to in subsection (1), the directors shall call a meeting of shareholders to transact the business stated in the requisition unless

- (a) a record date has been fixed under section 84(2) and notice of the record date has been given under section 84(4),
- (b) the directors have called a meeting of shareholders and have given notice of the meeting under section 85, or
- (c) the business of the meeting as stated in the requisition includes matters described in section 86(5)(b), (c) or (d).

(5) If the directors do not within 21 days after receiving the requisition referred to in subsection (1) call a meeting, any shareholder who signed the requisition may call a meeting.

(6) A meeting called under this section shall be called as nearly as possible in the manner in which meetings are to be called under the by-laws and this Part.

(7) The provincial corporation shall reimburse the shareholders for the expenses reasonably incurred by them in requisitioning, calling and holding the meeting unless the shareholders otherwise provide by a resolution passed at the meeting.

Meeting
called by
Court

97(1) The Court, on the application of a director or of a shareholder entitled to vote at a meeting of shareholders, may order a meeting to be called, held and conducted in the manner the Court directs if the Court

- (a) is satisfied that it is impracticable to call the meeting in the manner in which meetings of those shareholders may be called, or to conduct the meeting in the manner prescribed by the by-laws and this Act, or
- (b) considers it appropriate to so order for any other reason.

(2) Without restricting the generality of subsection (1), the Court may order that the quorum required by the by-laws or this Act be varied or dispensed with at a meeting called, held and conducted under this section.

(3) A meeting called, held and conducted under this section is for all purposes a meeting of shareholders of the provincial corporation duly called, held and conducted.

(4) A person applying under subsection (1) shall give notice of the application to the Minister before the hearing and shall deliver a copy of the Court's order, if any, to the Minister.

Disputed
elections and
appointments

98(1) A shareholder or director of a provincial corporation or the corporation may apply to the Court to determine any controversy with respect to an election or appointment of a director or auditor of the corporation.

(2) A person applying under subsection (1) shall give notice of the application to the Minister and shall deliver a copy of the Court's order, if any, to the Minister.

(3) On an application under this section, the Court may make any order it considers appropriate, including, without limitation, any one or more of the following orders:

- (a) an order restraining a director or auditor whose election or appointment is challenged from acting pending determination of the dispute;
- (b) an order declaring the result of the disputed election or appointment;
- (c) an order requiring a new election or appointment and including in the order directions for the management of

the business and affairs of the provincial corporation until a new election is held or appointment made;

- (d) an order determining the voting rights of shareholders and of persons claiming to own shares.

Application of
Business
Corporations
Act

99 Part 12 of the *Business Corporations Act* and the regulations made under that Act in relation to that Part apply to every provincial corporation as if it were a corporation within the meaning of that Act, and for the purposes of the application of that Part to a provincial corporation,

- (a) a reference in that Part to a prescribed form shall be read as if it were a reference to a form prescribed by the Minister for the purposes of this Act, and
- (b) a reference in that Part to a distributing corporation shall be read as if it were a reference to a reporting issuer.

Application of
Business
Corporations
Act

100 Part 16 of the *Business Corporations Act*, except section 188(3) of that Act, applies with respect to a provincial corporation as if it were a corporation within the meaning of that Act, and a reference in that Part to a section in that Act, other than to a section in that Part, is deemed to be a reference to the corresponding section in this Act that deals with the same subject-matter.

PART 6

DIRECTORS AND OFFICERS

Directors

101(1) The directors shall manage the business and affairs of a provincial corporation.

(2) A provincial corporation shall have at least 5 directors.

(3) Subject to section 109, a provincial corporation may by special resolution increase or decrease the number of directors or the minimum or maximum number of directors, but not so as to shorten the term of an incumbent director or to reduce the number of directors to fewer than 5.

By-laws

102(1) Unless the instrument of incorporation, this Act or the by-laws otherwise provide, the directors may, by resolution, make,

amend or repeal by-laws that regulate the business or affairs of a provincial corporation.

(2) Where a by-law is made, amended or repealed under subsection (1), the directors shall submit the by-law, amendment or repeal to the shareholders at the next meeting of shareholders, and the shareholders shall confirm, reject or amend the by-law, amendment or repeal.

(3) Where a by-law is made, amended or repealed under subsection (1), the by-law, amendment or repeal is effective from the date of the resolution of the directors until it is confirmed, confirmed as amended or rejected by the shareholders under subsection (2) or until it ceases to be effective under subsection (4), and where the by-law is confirmed or confirmed as amended, it continues in effect in the form in which it was confirmed.

(4) If a by-law or an amendment or repeal of a by-law is rejected by the shareholders, or if the directors do not submit the by-law, amendment or repeal to the shareholders as required under subsection (2), the by-law, amendment or repeal ceases to be effective on the date on which it is rejected or on the date of the meeting of shareholders at which it should have been submitted, as the case may be, and no subsequent resolution of the directors to make, amend or repeal a by-law having substantially the same purpose or effect is effective until it is confirmed or confirmed as amended by the shareholders.

(5) If a shareholder proposal to make, amend or repeal a by-law is made in accordance with section 86 and is adopted by shareholders at a meeting, the by-law, amendment or repeal is effective from the date of its adoption and requires no further confirmation.

Unaffiliated
directors

103(1) In this section, “significant borrower” means

- (a) an entity that has outstanding indebtedness for money borrowed from the provincial corporation and from any affiliate of the provincial corporation in an aggregate principal amount that exceeds a prescribed amount, and
- (b) an individual who has outstanding indebtedness for money borrowed from the provincial corporation and any affiliate of the provincial corporation, other than a loan secured by a mortgage on the principal residence of that person, in an aggregate principal amount that exceeds a prescribed amount.

(2) Not more than 1/3 of the directors of a provincial corporation may be persons who are, or within the preceding 2 years have been, remunerated officers or employees of the corporation or any of its affiliates.

(3) At least 1/3 of the directors of a provincial corporation shall be unaffiliated directors.

(4) An individual is not eligible to be an unaffiliated director of a provincial corporation for the purposes of subsection (3) if the individual

- (a) holds or beneficially owns more than 5% of the issued and outstanding voting shares of the corporation or of any of its affiliates,
- (b) is an officer or employee of the corporation or any of its affiliates or has been an officer or employee of the corporation or any of its affiliates within 2 years of the date on which the individual would become or become a director,
- (c) holds or beneficially owns
 - (i) 10% or more of the issued and outstanding voting shares of a significant borrower that is a body corporate, or
 - (ii) a 10% or greater interest in a significant borrower that is an entity other than a body corporate,
- (d) is a significant borrower,
- (e) has a loan from the corporation that is more than a prescribed number of days in arrears of repayment of principal or interest,
- (f) is a director, officer or employee of an entity that has a loan from the corporation that is in arrears within the meaning of clause (e),
- (g) is the spouse of an individual described in clause (a), (b), (c), (d), (e) or (f),
- (h) is a relative of an individual described in clause (a), (b), (c), (d), (e) or (f) who has the same home as the individual, or
- (i) is a professional adviser to the corporation.

Residency **104** At least 3/4 of the directors of a provincial corporation must be ordinarily resident in Canada.

Persons disqualified from being a director **105(1)** The following persons are disqualified from being or remaining as directors of a provincial corporation:

- (a) a person who is not an individual;
- (b) an individual who is less than 18 years of age;
- (c) an individual who
 - (i) is a dependent adult as defined in the *Dependent Adults Act* or is the subject of a certificate of incapacity under that Act,
 - (ii) is a formal patient as defined in the *Mental Health Act*, or
 - (iii) has been found to be a person of unsound mind by a court elsewhere than in Alberta;
- (d) an individual who has the status of bankrupt;
- (e) an individual who is a director of a corporation that is not affiliated with the provincial corporation of which the individual is or wishes to become a director;
- (f) an individual who, within the immediately preceding 5 years,
 - (i) has been convicted of an indictable offence that is of a kind that is related to the qualifications, functions or duties of a corporate director, and either the time for making an appeal has expired without an appeal having been made or the appeal has been finally disposed of by the courts, or
 - (ii) has been convicted of an offence against this Act;
- (g) an individual who is disqualified by, or fails to meet any other qualification requirements of, the by-laws.

(2) Subsection (1)(e) does not prevent a director of a corporation that is in the process of amalgamating with a provincial corporation from being a director of the provincial corporation.

Consent to
election or
appointment

106(1) A person who is elected or appointed a director of a provincial corporation is not a director unless

- (a) that person was present at the meeting when he was elected or appointed and did not refuse to act as a director, or
- (b) if that person was not present at the meeting when he was elected or appointed,
 - (i) he consented to act as a director in writing before his election or appointment or within 10 days after it, or
 - (ii) he has acted as a director pursuant to the election or appointment.

(2) A person who is elected or appointed as a director and refuses under subsection (1)(a) or fails to consent or act under subsection (1)(b) shall be deemed not to have been elected or appointed as a director.

Shareholding
not required

107 Unless the instrument of incorporation or the by-laws otherwise provide, a director of a provincial corporation is not required to hold shares issued by the corporation.

Election and
appointment
of directors

108(1) The shareholders of a provincial corporation shall elect, at each annual meeting of shareholders, directors to hold office for a term expiring not later than the close of the next annual meeting of shareholders following the election.

(2) A director ceases to hold office at the close of the first annual meeting of shareholders following the election of the director.

(3) Notwithstanding this section, if directors are not elected at a meeting of shareholders, the incumbent directors continue in office until their successors are elected.

(4) If a meeting of shareholders fails to elect the number of directors required by the by-laws or by section 101(2) by reason of the disqualification, incapacity or death of one or more candidates, the directors elected at that meeting, if they constitute a quorum, may exercise all the powers of the directors of the provincial

corporation pending the holding of a meeting of shareholders in accordance with section 114(2).

(5) On the election of a director, the provincial corporation shall give notice of the election to the Minister in the prescribed form.

**Cumulative
voting**

109(1) Where the by-laws provide for cumulative voting,

- (a) the by-laws shall require a fixed number and not a minimum and maximum number of directors,
- (b) each shareholder entitled to vote at an election of directors has the right to cast a number of votes equal to the number of votes attached to the shares held by the shareholder multiplied by the number of directors to be elected, and may cast all of those votes in favour of one candidate or distribute them among the candidates in any manner,
- (c) a separate vote of shareholders shall be taken with respect to each candidate nominated for director unless a resolution is passed unanimously permitting 2 or more persons to be elected by a single resolution,
- (d) if a shareholder has voted for more than one candidate without specifying the distribution of votes among the candidates, the shareholder is deemed to have distributed the votes equally among the candidates for whom the shareholder voted,
- (e) if the number of candidates nominated for director exceeds the number of positions to be filled, the candidates who receive the least number of votes shall be eliminated until the number of candidates remaining equals the number of positions to be filled,
- (f) each director ceases to hold office at the close of the first annual meeting of shareholders following the election of the director,
- (g) a director may not be removed from office if the votes cast against removal would be sufficient to elect a director if they were voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the by-laws were being elected, and
- (h) the number of directors required by the by-laws may not be decreased if the votes cast against the motion to

decrease would be sufficient to elect a director if they were voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the by-laws were being elected.

(2) Where the by-laws of a provincial corporation provide for cumulative voting, no holders of any class of shares of the corporation shall have an exclusive right to elect one or more directors.

Ceasing to
hold office

110(1) A director of a provincial corporation ceases to hold office when the director

- (a) dies or resigns,
- (b) is removed in accordance with section 111, or
- (c) becomes disqualified under section 105.

(2) A resignation of a director becomes effective at the time a written resignation is received by the provincial corporation or at the time specified in the resignation, whichever is later.

(3) On receipt of the resignation of a director, the provincial corporation shall send notice of the resignation to the Minister together with a copy of any statement submitted under section 112(2) or (3).

Removal of
directors

111(1) Subject to section 109, the shareholders of a provincial corporation may by ordinary resolution at an annual or special meeting remove any director from office.

(2) Where the holders of any class or series of shares of a provincial corporation have an exclusive right to elect one or more directors, a director so elected may be removed only by resolution at a meeting of the shareholders of that class or series.

(3) Subject to section 109, a vacancy created by the removal of a director may be filled at the meeting of the shareholders at which the director is removed or, if not so filled, may be filled in accordance with section 114.

Director's
statement

112(1) A director of a provincial corporation is entitled to receive notice of and to attend and be heard at every meeting of shareholders.

(2) A director of a provincial corporation who

- (a) resigns,
- (b) receives a notice or otherwise learns of a meeting of shareholders called for the purpose of removing him from office, or
- (c) receives a notice or otherwise learns of a meeting of directors or shareholders at which another person is to be appointed or elected to fill the office of director, whether because of his resignation or removal or because his term of office has expired or is about to expire,

may submit to the corporation a written statement giving the reasons for his resignation or the reasons, if any, why he opposes any proposed action or resolution, as the case may be.

(3) Where a director of a provincial corporation resigns because of a disagreement with an action or omission of the board of directors or of the management of the corporation and the director knows or believes that, as a result of the action or omission,

- (a) the corporation or any shareholder, director, officer or employee of the corporation is or will be in contravention of this Act or the regulations, the *Criminal Code* (Canada), the *Securities Act* or legislation of another jurisdiction that is comparable to this Act or the *Securities Act*, or
- (b) there has been or will be a change in the circumstances of the corporation that might materially and adversely affect the financial position of the corporation,

the director shall submit to the corporation a written statement giving the reasons for the resignation.

(4) A provincial corporation shall forthwith send a copy of the statement referred to in subsection (2)

- (a) to all other directors, and
- (b) unless the directors of the provincial corporation consider on reasonable grounds that sending the statement would materially and adversely affect the financial viability of the provincial corporation, to every shareholder entitled to receive notice of a meeting referred to in subsection (1).

(5) Where the directors decide, under subsection (4)(b), not to send a copy of the statement to the shareholders, they shall

forthwith notify the Minister in writing to that effect, and the Minister may, notwithstanding that decision, order the provincial corporation to send the statement to the shareholders.

(6) No provincial corporation or person acting on its behalf incurs any liability by reason only of circulating a director's statement in compliance with subsection (4).

(7) A person who in good faith submits a statement under subsection (3) shall not be liable in any civil action arising out of the statement.

(8) A director who resigns as director of a provincial corporation shall forthwith give notice to the Minister of the resignation together with a copy of any written statement given under this section.

(9) Forthwith on receipt of the written request of the Minister, a director who gives a notice under subsection (8) shall provide the Minister with any information related to the resignation that is asked for in the request.

Notice of
change of
directors

113(1) A provincial corporation shall send to the Minister notice in the prescribed form of any change in the membership of its board of directors within 15 days after the effective date of the change.

(2) Where a provincial corporation contravenes subsection (1), the Minister or any interested person may apply to the Court for an order requiring the corporation to send the notice to the Minister, and the Court may so order and may make any other order it considers appropriate.

Filling
vacancies

114(1) Subject to subsections (3) and (4), a quorum of directors may fill a vacancy among the directors, except a vacancy resulting from

- (a) an increase in the number or minimum number of directors, or
- (b) a failure to elect the number or minimum number of directors required to be elected by section 101(2) or the by-laws.

(2) If there is not a quorum of directors, or if there has been a failure to elect the number or minimum number of directors required by section 101(2) or the by-laws, the directors then in office shall forthwith call a special meeting of shareholders to fill

the vacancy, and if they fail to call a meeting or if there are no directors then in office, any shareholder may call the meeting.

(3) Where the holders of any class or series of shares of a provincial corporation have an exclusive right to elect one or more directors and a vacancy occurs among those directors,

- (a) subject to subsection (4), the remaining directors elected by that class or series may fill the vacancy, except a vacancy resulting from an increase in the number or minimum number of directors for that class or series or from a failure to elect the number or minimum number of directors for that class or series, or
- (b) if there are no such remaining directors, any holder of shares of that class or series may call a meeting of the holders of those shares for the purpose of filling the vacancy.

(4) The by-laws may provide that a vacancy among the directors shall be filled only by

- (a) a vote of the shareholders, or
- (b) a vote of the holders of any class or series of shares having an exclusive right to elect one or more directors, if the vacancy occurs among the directors elected by that class or series.

(5) A director appointed or elected to fill a vacancy holds office for the unexpired term of the director's predecessor.

Meetings of
directors

115 Unless the by-laws of a provincial corporation otherwise provide, the directors may meet at any place and on any notice they determine.

Meeting
called by
Minister

116(1) Where in the Minister's opinion it is necessary, the Minister may, by notice in writing, require a provincial corporation to hold a meeting of directors to consider the matters set out in the notice.

(2) The Minister may attend and be heard at a meeting referred to in subsection (1).

Meetings
called by
board

117 In addition to any provision in the by-laws for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business

the general nature of which is specified in the notice calling the meeting.

**Notice of
meeting**

118(1) Subject to the by-laws, notice of the time and place for the holding of the meeting called under section 117 shall be given to each director by sending the notice at least 10 days before the date of the meeting to the last address of the director as shown on the records of the provincial corporation.

(2) A director may in any manner waive a notice of a meeting of directors, and attendance of a director at a meeting of directors is a waiver of notice of the meeting except where the director attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

**Adjourned
meetings**

119 Notice of an adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting.

**Meetings by
electronic
means**

120 A director may participate in a meeting of directors by means of telephone or other communication devices that permit all persons participating in the meeting to hear each other if

- (a) the by-laws so provide, or
- (b) subject to the by-laws, all the directors participating in the meeting consent,

and a director participating in a meeting by those means is deemed for the purposes of this Act to be present at that meeting.

Quorum

121(1) Subject to the by-laws and this section, a majority of the number of directors appointed or elected constitutes a quorum at any meeting of directors.

(2) At least one of the directors present at a meeting of directors must be an unaffiliated director.

(3) Subject to the instrument of incorporation and the by-laws, where there is a vacancy in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office.

Resident
Canadian
requirement

122(1) Directors shall not transact business at a meeting of directors unless a majority of the directors present are ordinarily resident in Canada.

(2) Notwithstanding subsection (1), directors may transact business at a meeting of directors when fewer than a majority of the directors present are ordinarily resident in Canada if

- (a) a director who is ordinarily resident in Canada and who is unable to be present approves in writing or by telephone or other communication device the business transacted at the meeting, and
- (b) the number of directors who are ordinarily resident in Canada and are present at the meeting, together with any director who gives his approval under clause (a), totals a majority of the directors present at the meeting.

Majority vote

123 The concurrence of a majority of the directors present at a meeting of the directors is necessary to pass any resolution.

Executive
committee

124(1) The shareholders of a provincial corporation may, by special resolution and subject to subsection (2), authorize the directors to delegate any of their powers to an executive committee consisting of not fewer than 3 persons to be appointed by the directors from their number.

(2) No executive committee has authority to

- (a) submit to the shareholders any question or matter requiring the approval of the shareholders,
- (b) fill a vacancy among the directors or in the office of auditor,
- (c) issue securities except in the manner and on the terms authorized by the directors,
- (d) declare dividends,
- (e) purchase, redeem or otherwise acquire shares issued by the provincial corporation, except in the manner and on the terms authorized by the directors,
- (f) authorize the payment of a commission under section 71,
- (g) approve a management proxy circular,

- (h) approve any financial statements under section 158,
- (i) adopt, amend or repeal by-laws, or
- (j) approve the written procedures described in section 175 or 197.

Officers

125(1) The directors of a provincial corporation shall elect from among themselves a chairman of the board.

(2) The directors of a provincial corporation

- (a) may designate the offices of the corporation and may appoint officers to those offices and specify their duties, and
- (b) may delegate to the officers of the corporation the power to manage the business and affairs of the corporation.

(3) The directors shall not delegate to the officers of the provincial corporation any power that, under section 124(2), cannot be exercised by an executive committee.

(4) Where the regulations prescribe qualifications for appointment as an officer, the directors shall not appoint a person who does not have those qualifications.

**Delegation of
fiduciary
powers**

126(1) Notwithstanding any law related to fiduciaries, the shareholders of a provincial trust corporation, by special resolution, may authorize the directors to delegate to the chief executive officer any powers of the corporation under a deed, will or other document creating a trust, and such a delegation may authorize the chief executive officer to further delegate any such powers to any other officer or officers of the corporation.

(2) The exercise of a power by a person to whom it is delegated under subsection (1) constitutes an exercise of the power by the provincial trust corporation.

(3) Before any powers are delegated pursuant to a special resolution described in subsection (1), the provincial trust corporation shall establish written procedures related to the exercise of the powers by a delegate.

(4) The procedures referred to in subsection (3) shall be developed by the investment committee and shall be reviewed at least once each year by the investment committee.

(5) The investment committee shall report on its review under subsection (4) and shall give its recommendations, if any, with respect to the procedures referred to in subsection (3) to the board of directors.

(6) The procedures referred to in subsection (3) shall be subject to the approval of the board of directors and, on receipt of recommendations from the investment committee, the board shall review the procedures and make any changes it considers to be necessary.

(7) This section applies to an extra-provincial trust corporation with respect to the delegation of powers under any deed, will or other document creating a trust governed by the law of Alberta if the corporation is not prevented by the law of the jurisdiction in which it is incorporated from making such a delegation.

Committees

127(1) The directors of a provincial corporation shall appoint from their number an audit committee, a conduct review committee and an investment committee to carry out the duties and exercise the powers imposed or conferred on them by this Act and the regulations.

(2) Each committee appointed under subsection (1) shall consist of at least 3 members, and at least 2/3 of the members on the audit committee and the conduct review committee shall be unaffiliated directors.

(3) A committee appointed under subsection (1) shall not transact any business at a meeting unless a majority of the members present at the meeting are unaffiliated directors.

Irregularities

128 An act of the board of directors, a committee, a director or an officer of a provincial corporation is valid notwithstanding

- (a) an irregularity in the election or appointment, or
- (b) a defect in the qualifications

of a director or officer.

**Resolution
instead of
meeting**

129(1) A resolution in writing signed by all the directors of a provincial corporation entitled to vote on that resolution at a meeting of directors or a committee of directors is as valid as if it had been passed at a meeting of directors or a committee of directors.

(2) A resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of directors or a committee of directors of a provincial corporation and signed by all the directors entitled to vote at that meeting satisfies all the requirements of this Act relating to meetings of directors or committees of directors.

(3) A provincial corporation shall keep a copy of every resolution referred to in subsections (1) and (2) with the minutes of the proceedings of the directors or committee of directors.

Disclosure of
interest

130(1) This section applies to a director or officer of a provincial corporation who

- (a) is required by section 176 to make a disclosure, or
- (b) is a director or officer of, or holds or beneficially owns 10% or more of the issued and outstanding shares of, a body corporate that is or is to be a party to a material contract or proposed material contract with the provincial corporation, whether or not other persons are or will also be parties to the contract.

(2) A director or officer described in subsection (1) shall, forthwith after becoming aware of the facts that bring him within the application of subsection (1), disclose in writing to the provincial corporation in detail, and request to have entered in the minutes of a board meeting, the nature of the transaction, guarantee or material contract, the nature and extent of his relationship with it and with any person referred to in subsection (1)(b) and the interest of any such person in the material contract.

(3) The director or officer shall not

- (a) vote or attempt in any way to influence the voting on any resolution to approve the transaction, guarantee or material contract, or
- (b) be present while the subject-matter of the resolution is being discussed or the vote is being conducted.

(4) Where the director or officer complies with subsection (2) and the transaction, guarantee or material contract is approved by resolution of the board, is reasonable and fair to the provincial corporation or the subsidiary at the time it is so approved and does not contravene Part 10,

- (a) the transaction, guarantee or material contract is neither void nor voidable by reason only of the circumstances

bringing the director or officer within the application of subsection (1), or by reason only that he was present at or was counted to determine the presence of a quorum at any meeting that authorized the transaction, guarantee or material contract, and

- (b) if a profit accrues to the director or officer as a result of the making of the transaction, guarantee or material contract, he is not liable to account to the provincial corporation for that profit by reason only of the circumstances bringing him within the application of subsection (1).

(5) If a person who is required to comply with this section fails to do so, the Court may, on the application of the provincial corporation or a shareholder of the corporation, set aside the transaction on any terms it thinks fit.

(6) Nothing in this section entitles any person to enter into any transaction into which he is not otherwise legally entitled to enter.

**Liability of
directors and
others**

131(1) Directors of a provincial corporation who vote for or consent to a resolution authorizing the issue of a share for a consideration other than money are jointly and severally liable to the corporation to make good any amount by which the consideration received is less than the fair equivalent of the money that the corporation would have received if the share had been issued for money on the date of the resolution.

(2) Subsection (1) does not apply if the shares are, on allotment, held in escrow pursuant to an escrow agreement required by the Chief of Securities Administration and are surrendered for cancellation pursuant to that agreement.

(3) A director is not liable under subsection (1) if he proves that he did not know and could not reasonably have known that the share was issued for a consideration less than the fair equivalent of the money that the provincial corporation would have received if the share had been issued for money.

(4) Directors of a provincial corporation who vote for or consent to a resolution authorizing

- (a) an investment, transaction or guarantee that is contrary to Part 9, 10 or 11 and involves any payment or distribution of property by the provincial corporation,
- (b) a purchase, redemption or other acquisition of shares contrary to section 63, 64 or 65,

- (c) a reduction in the stated capital of the corporation contrary to section 67,
- (d) the payment of a commission contrary to section 71,
- (e) the payment of a dividend contrary to section 72,
- (f) the payment of an indemnity contrary to section 135,
- (g) a payment to a shareholder contrary to an order under section 292,
- (h) a payment contrary to section 25, or
- (i) any other payment to a shareholder, director or officer the effect of which is to reduce the capital base of the corporation to an amount that is less than that required under this Act,

are jointly and severally liable to restore to the corporation any amounts so paid and the value of any property so distributed and not otherwise recovered by it.

(5) A director is not liable under subsection (4)(a) if he proves that he did not know and could not reasonably have known that the investment, transaction or guarantee was contrary to Part 9, 10 or 11.

(6) A director who has satisfied a judgment rendered under this section is entitled to contribution from the other directors who voted for or consented to the unlawful act on which the judgment was founded.

(7) If money or property of a provincial corporation is paid or distributed to a shareholder or other recipient contrary to any of the provisions referred to in subsection (4), the corporation, any director or shareholder of the corporation, or any person who was a creditor of the corporation at the time of the payment or distribution, is entitled to apply to the Court for an order under subsection (8).

(8) On an application under subsection (7), the Court may, if it is satisfied that it is equitable to do so, do any or all of the following:

- (a) order a shareholder or other recipient to restore to the provincial corporation any money or property that was paid or distributed to him contrary to any of the provisions referred to in subsection (4);

- (b) order the provincial corporation to return or issue shares to a person from whom the corporation has purchased, redeemed or otherwise acquired shares;
- (c) make any further order it considers appropriate.

(9) A director who relies in good faith on

- (a) financial statements of the provincial corporation represented to the Director by an officer of the corporation or in a written report of the auditor of the corporation as fairly reflecting the financial condition of the corporation, or
- (b) an opinion or report of a professional adviser

is not liable under this section or section 132.

(10) No action under subsection (1) or (4) shall be commenced more than 2 years after the facts on which the action is based first came to the attention of the plaintiff.

**Duty of care
of directors
and officers**

132(1) Every director and officer of a provincial corporation, in exercising powers and in discharging duties,

- (a) shall act honestly and in good faith with a view to the best interests of the corporation, and
- (b) shall exercise the care, diligence and skill that a reasonably prudent person would exercise under comparable circumstances.

(2) In considering whether a particular transaction or course of action is in the best interests of the provincial corporation,

- (a) a director or officer shall have due regard to the interests of the depositors, the shareholders and the persons for whom the corporation acts in a fiduciary capacity, and
- (b) a director who is elected or appointed by the holders of a class or series of shares may give special, but not exclusive, consideration to the interests of those holders.

(3) Every director and officer of a provincial corporation shall comply with this Act and the regulations and the corporation's instrument of incorporation and by-laws.

Relief from
duty
ineffective

133 No provision in a contract, the instrument of incorporation, the by-laws or a resolution relieves a director or officer of a provincial corporation from the duty to act in accordance with this Act and the regulations or relieves the director or officer from liability for a breach of either of them.

Dissent by
director

134(1) A director of a provincial corporation who is present at a meeting of directors or a committee of directors is deemed to have consented to any resolution passed or action taken at the meeting unless the director

- (a) requests that his abstention or dissent be, or his abstention or dissent is, entered in the minutes of the meeting,
- (b) sends his written dissent to the secretary of the meeting before the meeting is adjourned,
- (c) sends his dissent by registered mail or delivers it to the principal place of business of the corporation immediately after the meeting is adjourned, or
- (d) otherwise proves that he did not consent to the resolution or action.

(2) A director who votes for or consents to a resolution or action is not entitled to dissent under subsection (1).

Indemnifica-
tion

135(1) Except in respect of an action by or on behalf of the provincial corporation or body corporate to procure a judgment in its favour, a provincial corporation may, by resolution of the board, indemnify a present or former director or officer of the corporation or a person who acts or acted at the corporation's request as a director or officer of a body corporate of which the corporation is or was a shareholder or creditor, and his heirs and legal representatives, against costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonably incurred by him with respect to a civil, criminal or administrative action or proceeding to which he is made a party by reason of his holding such a position if

- (a) he acted honestly, in good faith and with a view to the best interests of the corporation, and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he had reasonable grounds for believing that the conduct was lawful.

(2) A provincial corporation may, with the approval of the Court, indemnify a person referred to in subsection (1) in respect of an action by or on behalf of the corporation or body corporate to procure a judgment in its favour to which that person is made a party by reason of his holding such a position, against all costs, charges and expenses reasonably incurred by him in connection with the action if he fulfils the conditions set out in subsection (1)(a) and (b).

(3) Notwithstanding anything in this section, a person referred to in subsection (1) is entitled to indemnity from the provincial corporation in respect of all costs, charges and expenses reasonably incurred by him with respect to the defence of any civil, criminal or administrative action or proceeding to which he is made a party by reason of his holding such a position if he

- (a) was substantially successful on the merits in his defence of the action or proceeding,
- (b) fulfils the conditions set out in subsection (1)(a) and (b), and
- (c) is fairly and reasonably entitled to indemnity.

(4) A provincial corporation may purchase and maintain insurance for the benefit of any person referred to in subsection (1) against any liability incurred by him

- (a) in his capacity as a director or officer of the corporation, except when the liability relates to his failure to act honestly and in good faith with a view to the best interests of the corporation, or
- (b) in his capacity as a director or officer of another body corporate if he acts or acted in that capacity at the corporation's request, except when the liability relates to his failure to act honestly and in good faith with a view to the best interests of the body corporate.

(5) A provincial corporation or a person referred to in subsection (1) may apply to the Court for an order approving an indemnity under this section, and the Court may so order and make any further order it considers appropriate.

(6) An applicant under subsection (5) shall give the Minister notice of the application, and the Minister is entitled to appear and be heard.

(7) On an application under subsection (5) the Court may order notice to be given to any interested person, and that person is entitled to appear and be heard in person or by counsel.

Remuneration of directors **136(1)** A provincial corporation shall make by-laws respecting the remuneration of directors.

(2) Subject to the by-laws, a provincial corporation may provide remuneration to its directors.

Records of meetings **137(1)** A provincial corporation shall keep a record of the total number of meetings of the directors and of the audit, conduct review and investment committees and the number of meetings attended by each director.

(2) A provincial corporation shall send a summary of the record kept under subsection (1) to the Minister and to each shareholder with the notice of the annual meeting.

PART 7

INSIDER TRADING

Definitions **138** In this Part,

- (a) “provincial corporation” does not include a provincial corporation that is a reporting issuer;
- (b) “insider” means, with respect to a provincial corporation,
 - (i) the corporation, in respect of the purchase or other acquisition by it of shares issued by it or any of its affiliates,
 - (ii) a director or officer of the corporation,
 - (iii) a person who, with respect to at least 10% of the voting rights attached to the voting shares of the corporation,
 - (A) beneficially owns voting shares carrying those voting rights,
 - (B) exercises control or direction over those voting rights, or

- (C) beneficially owns voting shares carrying some of those voting rights and exercises control or direction over the remainder of those voting rights,
- (iv) a person employed by the corporation or retained by it on a professional or consulting basis,
- (v) an affiliate of the corporation,
- (vi) a person who receives specific confidential information from a person described in this clause or in section 140 and who has knowledge that the person giving the information is a person described in this clause or in section 140, and
- (vii) a person who receives specific confidential information from the first-mentioned person in subclause (vi) and who has knowledge that that person received that knowledge in the manner described in that subclause.

**Deemed
insiders**

139 For the purposes of this Part,

- (a) a director or an officer of a body corporate that is an insider of a provincial corporation is deemed to be an insider of the corporation,
- (b) a director or an officer of a subsidiary of a provincial corporation is deemed to be an insider of the corporation,
- (c) a person is deemed to own beneficially shares beneficially owned by a body corporate controlled by him directly or indirectly, and
- (d) a body corporate is deemed to own beneficially shares beneficially owned by its affiliates.

**Deemed
insiders**

140(1) In this section, “business combination” means an acquisition of all or substantially all the assets of one body corporate by another or an amalgamation of 2 or more bodies corporate.

(2) For the purposes of this Part,

- (a) if a body corporate becomes an insider of a provincial corporation or enters into a business combination with the corporation, a director or officer of the body corporate is deemed to have been an insider of the corporation for the preceding 6 months or for any shorter period during which that person was a director or officer of the body corporate, and
- (b) if a provincial corporation becomes an insider of a body corporate or enters into a business combination with a body corporate, a director or an officer of the body corporate is deemed to have been an insider of the corporation for the preceding 6 months or for any shorter period during which that person was a director or officer of the body corporate.

Civil liability
of insiders

141(1) An insider who sells to or purchases from a shareholder of the provincial corporation or of any of its affiliates a security of the corporation or of any of its affiliates and in connection with that sale or purchase makes use of any specific confidential information for the insider's own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of the security

- (a) is liable to compensate any person for any direct loss suffered by that person as a result of the transaction, unless the information was known or in the exercise of reasonable diligence should have been known to that person at the time of the transaction, and
- (b) is accountable to the corporation for any direct benefit or advantage received or receivable by the insider as a result of the transaction.

(2) An action to enforce a right created by this section may be commenced only within 2 years after the date of completion of the transaction that gave rise to the cause of action.

PART 8

AUDITORS AND FINANCIAL STATEMENTS

Qualifications
of auditor

142(1) A person is disqualified from being an auditor of a provincial corporation unless the person

- (a) is
 - (i) an individual permitted by law to engage in an audit, otherwise than under the direct supervision of another person, that is intended to be relied on by third parties, or
 - (ii) a firm on whose behalf individuals referred to in subclause (i) engage in such audits,

and

- (b) is independent of
 - (i) the corporation and its affiliates, and
 - (ii) the directors and officers of the corporation and its affiliates.

(2) For the purposes of this section,

- (a) independence is a question of fact, and
- (b) a person shall be deemed not to be independent if
 - (i) the person, the person's partner, the spouse of the person or partner, or a relative of, or a relative of the spouse of, the person or partner who has the same home as the person or partner,
 - (A) is a partner, director or officer of the provincial corporation or any of its affiliates,
 - (B) beneficially owns or exercises control or direction over any of the voting shares of the provincial corporation or any of its affiliates, or
 - (C) has been a receiver, a receiver and manager, a liquidator or a trustee in bankruptcy of the provincial corporation or any of its affiliates within 2 years of his proposed appointment as auditor of the corporation,

or

- (ii) the person or the person's partner is an employee of the provincial corporation or any of its affiliates.

(3) No person shall be disqualified from acting as the auditor of a provincial corporation solely on the grounds that the person is a depositor in the corporation.

(4) An auditor who becomes disqualified under this section shall resign forthwith on becoming aware of the disqualification.

(5) An interested person may apply to the Court for an order declaring an auditor to be disqualified under this section and the office of auditor to be vacant.

Appointment
of auditor

143(1) The shareholders of a provincial corporation at their first annual meeting shall appoint an auditor to hold office until the close of the next annual meeting and, if the shareholders fail to do so, the directors shall forthwith make the appointment.

(2) The shareholders of a provincial corporation shall at each annual meeting appoint an auditor to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

(3) The remuneration of the auditor may be fixed by resolution of the shareholders or, if not so fixed, may be fixed by the directors.

Auditor
ceasing to
hold office

144(1) An auditor ceases to hold office when

- (a) he dies or resigns, or
- (b) he is removed pursuant to section 145.

(2) A resignation of an auditor becomes effective at the time a written resignation is received by the provincial corporation or at the time specified in the resignation, whichever is later.

Removal of
auditor

145(1) The shareholders of a provincial corporation may by ordinary resolution at a special meeting remove the auditor from office, other than an auditor appointed by the Court under section 148.

(2) A vacancy created by the removal of an auditor may be filled at the meeting at which the auditor is removed or, if not so filled, may be filled under section 146.

**Filling
vacancies**

146(1) Subject to subsection (3), the directors shall forthwith fill a vacancy in the office of auditor.

(2) If there is not a quorum of directors, the directors then in office shall, within 21 days after a vacancy in the office of auditor occurs, call a special meeting of shareholders to fill the vacancy, and if they fail to call a meeting or if there are no directors, the meeting may be called by any shareholder.

(3) The by-laws of a provincial corporation may provide that a vacancy in the office of auditor may be filled only by vote of the shareholders.

Term of office

147 An auditor appointed to fill a vacancy holds office for the unexpired term of the auditor's predecessor.

**Court-
appointed
auditor**

148 If a provincial corporation does not have an auditor, the Court may, on the application of a shareholder or, if the corporation is a reporting issuer, the Chief of Securities Administration, appoint an auditor to hold office until an auditor is appointed by the shareholders, and fix the remuneration of that auditor.

**Notice to
Minister**

149 A provincial corporation shall give notice to the Minister forthwith on the appointment of a person as auditor or the occurrence of a vacancy in the office of auditor.

**Rights and
liabilities of
auditor and
former auditor**

150(1) The auditor of a provincial corporation is entitled to receive notice of every meeting of shareholders and, at the expense of the corporation, may attend and be heard at any such meeting on matters relating to his duties as auditor.

(2) If any director or shareholder of a provincial corporation, whether or not the shareholder is entitled to vote at the meeting, gives written notice at least 10 days before a meeting of shareholders to the auditor or a former auditor of the corporation, the auditor or former auditor shall attend the meeting at the expense of the corporation and answer questions relating to his duties as auditor.

(3) A director or shareholder who sends a notice referred to in subsection (2) shall concurrently send a copy of the notice to the provincial corporation.

(4) An auditor is not required to comply with subsection (2) where the audit committee is satisfied that the request under subsection (2) is made primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the provincial corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the duties of the auditor.

(5) The auditor is entitled to attend and be heard at meetings of the board of directors on matters relating to his duties as auditor.

(6) The board of directors, the conduct review committee and the audit committee of a provincial corporation shall give reasonable notice of their meetings to the auditor.

(7) No person shall accept an appointment or consent to be appointed as auditor of a provincial corporation if he is replacing an auditor who has resigned or been removed, or whose term of office has expired or is about to expire, until the person has requested and received from that auditor a written statement of the circumstances surrounding and the reasons, in that auditor's opinion, for the replacement.

(8) Notwithstanding subsection (7), a person who is otherwise qualified may accept appointment or consent to be appointed as auditor of a provincial corporation if, within 15 days after making the request referred to in that subsection, the person does not receive the statement.

(9) A person receiving a statement under subsection (7) shall forthwith deliver a copy of the statement to the Minister and, if no statement is received from the auditor from whom a statement is requested within 15 days after making the request, the person requesting the statement shall promptly give notice to the Minister of that fact.

(10) Any interested person may apply to the Court for an order declaring the office of auditor of a provincial corporation to be vacant if the auditor fails to comply with subsection (7), unless subsection (8) applies.

Auditor's
statement
privileged

151(1) An auditor or former auditor who in good faith makes an oral or written statement or report under this Act shall not be liable in any civil action arising from the statement or report.

(2) Subsection (1) does not relieve an auditor or former auditor from liability in connection with his report on the financial statements referred to in section 156.

Auditor's duty
to examine

152(1) The auditor of a provincial corporation shall conduct an audit of the financial statements of the corporation and its subsidiaries for the preceding fiscal year and shall make the examination that in his opinion is necessary to enable him to make his report on them.

(2) On the demand of the auditor of a provincial corporation, the present and former directors, officers, employees and agents of the corporation and any of its subsidiaries and holding bodies corporate, and the former auditors of the corporation, its subsidiaries and holding bodies corporate, shall furnish any

- (a) information and explanations, and
- (b) access to records, documents, books, accounts and vouchers of the corporation or any of its subsidiaries or holding bodies corporate

that are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report referred to in subsection (1) and that the directors, officers, employees, agents and former auditors are reasonably able to furnish.

(3) On the demand of the auditor of a provincial corporation, the directors of the corporation shall

- (a) to the extent that they are reasonably able to do so, obtain from the present and former directors, officers, employees, agents and auditors of any subsidiary or holding body corporate of the corporation the information and explanations that the present or former directors, officers, employees, agents or auditors are reasonably able to furnish and that are, in the opinion of the auditor, necessary to enable the auditor to make the examination and report referred to in subsection (1), and
- (b) furnish the information and explanations so obtained to the auditor.

Protection
from liability

153 A person who in good faith makes an oral or written communication under section 152(2) or (3) shall not be liable in any civil action arising from it.

Errors and
misstate-
ments

154(1) A director or an officer of a provincial corporation shall forthwith notify the audit committee and the auditor, or the former auditor if applicable, of any error or misstatement of which the director or officer becomes aware in a financial statement that the auditor or a former auditor has reported on, if the error or misstatement appears to the director or officer to be material.

(2) If the auditor or a former auditor of a provincial corporation is notified or becomes aware of an error or misstatement in a financial statement on which he has reported, and if in his opinion the error or misstatement is material, he shall inform each director and the Minister.

(3) When under subsection (2) the auditor or former auditor informs the directors of an error or misstatement in a financial statement, the directors shall prepare and issue revised financial statements or otherwise inform the shareholders.

Auditor to
report
changes

155(1) Where the auditor of a provincial corporation considers that there has been a change in the circumstances of the corporation or of any of its subsidiaries that might reasonably be expected to affect the financial position of the corporation materially and adversely, the auditor shall, in accordance with the regulations, forthwith report in writing to the corporation's audit committee and to the Minister what the auditor considers to be the circumstances that constitute that change and why the auditor considers that those circumstances constitute such a change.

(2) An auditor is not required to make a report under this section unless he becomes aware of the change or contravention described in subsection (1) in the ordinary course of his duties as auditor.

Annual
financial
statements

156(1) The directors of a provincial corporation shall place before each annual meeting of shareholders

- (a) annual financial statements of the provincial corporation for the fiscal year preceding the annual meeting and the auditor's report on them, and
- (b) any other documents or information required by the corporation's instrument of incorporation or by-laws or by this Act or the regulations.

(2) Where, as a result of the application of section 157, the financial statements required by subsection (1) are required to be on a consolidated basis, subsection (1) shall be interpreted as also requiring, where the provincial corporation is a holding body

corporate or a subsidiary, separate financial statements and auditor's report in respect of them.

Generally
accepted
accounting
principles and
auditing
standards

157(1) Subject to this Act, the regulations and any order of the Minister under subsection (3),

- (a) with respect to the preparation of the financial statements of a provincial corporation, the provincial corporation and any other person responsible for their preparation shall apply generally accepted accounting principles, including the accounting recommendations of the Canadian Institute of Chartered Accountants set out in the Handbook published by that Institute as amended from time to time, and
- (b) with respect to the auditor's examination of the financial statements of a provincial corporation for the purposes of the auditor's report, and with respect to the report itself, the auditor shall apply generally accepted auditing standards, including the auditing recommendations contained in that Handbook, as so amended.

(2) Notwithstanding subsection (1)(a), the Minister may prescribe policies or rules that are to apply with respect to the preparation of the financial statements of a provincial corporation, and a person referred to in subsection (1) shall apply those policies or rules accordingly.

(3) The Minister may order a provincial corporation to apply or ensure that there are applied any accounting principles, policies or rules that are specified or referred to in the order instead of generally accepted accounting principles or instead of policies or rules contained in regulations made with reference to subsection (2).

(4) The Minister may order a provincial corporation to ensure that its auditor

- (a) applies any auditing procedures additional to those contained in generally accepted auditing standards, or
- (b) prepares any audit reports additional to the reports required by subsection (1)(b)

that are specified or referred to in the order.

(5) The *Regulations Act* does not apply to generally accepted accounting principles or auditing standards, or to policies, rules or

procedures specified or referred to in an order under subsection (3) or (4).

Approval of
annual
financial
statements

158(1) The directors of a provincial corporation shall approve the annual financial statements of the corporation, and the approval shall be evidenced by the signature of 2 or more directors.

(2) One of the directors signing the annual financial statements under subsection (1) must be a member of the audit committee.

(3) A provincial corporation shall not issue, publish or circulate copies of its annual financial statements unless the financial statements are

- (a) approved and signed in accordance with subsections (1) and (2), and
- (b) accompanied by the report of the auditor of the corporation.

Copies of
financial
statements -
provincial
corporation

159(1) A provincial corporation shall, not less than 21 days before each annual meeting of shareholders or before the signing of a resolution under section 95 instead of the annual meeting, send a copy of the material referred to in section 156 to each shareholder, except to a shareholder who has informed the corporation in writing that he does not wish to receive a copy of it.

(2) Subject to subsection (3), a provincial corporation shall, without charge, send or deliver a copy of the material referred to in section 156 to every depositor of the corporation who in writing requests a copy.

(3) Where as a result of the application of section 157 the annual financial statements referred to in section 156 are on a consolidated basis, subsection (2), insofar as it applies to financial statements, applies only to the consolidated financial statements.

Copies of
financial
statements -
registered
extra-
provincial
corporation

160(1) Subject to subsection (2), a registered extra-provincial corporation shall, on the written request of a depositor of the corporation who has a deposit in a branch of the corporation in Alberta send or deliver a copy of its most recent annual financial statements and auditor's report to the depositor without charge.

(2) Where the annual financial statements referred to in subsection (1) are prepared on a consolidated basis, subsection (1) applies only to the consolidated financial statements.

**Duties of
audit
committee**

161(1) The audit committee of a provincial corporation shall meet at least twice each year to review

- (a) any annual financial statements distributed to the shareholders,
- (b) the annual return of the corporation sent to the Minister under section 46,
- (c) matters under section 150(4),
- (d) all reports of the auditor under section 155, and
- (e) any reports or transactions required by the regulations to be reviewed by the audit committee.

(2) In the case of statements and returns that under this Act must be approved by the board of directors of a provincial corporation, the audit committee shall report to the board on those statements and returns before the approval is given.

(3) The auditor of a provincial corporation is entitled to attend and be heard at all meetings of the audit committee and shall attend at least one of its meetings each year.

(4) The auditor, a member of the audit committee or a director may call a meeting of the audit committee at any time.

PART 9

RESTRICTED PARTY TRANSACTIONS

Interpretation

162(1) This Part does not apply to a provincial trust corporation whose registration is subject to a term, condition or restriction prohibiting it from carrying on the deposit-taking business, except to the extent that this Part is made applicable by the regulations.

(2) In this Part, "guarantee" includes an acceptance, indemnity, letter of credit, endorsement or standby letter of credit, repurchase agreement or similar arrangement issued or made by a provincial corporation or its subsidiary on behalf of a restricted party of the provincial corporation.

(3) For the purposes of this Part, a transaction, guarantee or investment is made or entered into if an existing transaction, guarantee or investment, including one made or entered into before the coming into force of this section, is modified, added to, extended or renewed.

(4) Where a transaction is required by or under this Part to be at fair market rate, that requirement is satisfied, subject to subsection (5), if the transaction is not at fair market rate but is at a rate and terms that are more financially advantageous to the provincial corporation or subsidiary than actual fair market rate.

(5) Subsection (4) does not apply where the transaction is between a provincial corporation or its subsidiary and an affiliate of the corporation.

Designation
of restricted
party

163(1) For the purposes of this Part, the Minister may

- (a) designate any person as a restricted party of a provincial corporation if the Minister is of the opinion that
 - (i) the person is acting or has acted jointly or in concert with a restricted party of the corporation with respect to the entering into of a transaction, guarantee or investment that would be prohibited or restricted under this Part if entered into by or with respect to the restricted party, or
 - (ii) there exists or has existed between the person and the corporation an interest or relationship that might reasonably be expected to affect or that has affected the exercise by the corporation of its best judgment with respect to a transaction, guarantee or investment,

and

- (b) designate as restricted parties of a provincial corporation 2 or more persons who have agreed, pursuant to any agreement, commitment or understanding, whether formal or informal, oral or written, to act jointly or in concert in respect of
 - (i) shares of the corporation that they beneficially own,
 - (ii) shares or ownership interests that they beneficially own of any entity that beneficially owns shares of the corporation, or
 - (iii) shares or ownership interests that they beneficially own of any entity that controls any entity that beneficially owns shares of the corporation.

(2) Without limiting the generality of subsection (1)(b), any agreement, commitment or understanding by or between 2 or more persons referred to in subsection (1)(b)

- (a) whereby any of them or their nominees may veto any proposal put before the board of directors of the corporation, or
- (b) pursuant to which no proposal put before the board of directors of the corporation may be approved except with the consent of any of them or their nominees,

is deemed to be an agreement, commitment or understanding referred to in subsection (1)(b).

(3) For the purposes of subsection (1)(b), persons shall not be presumed to have agreed to act jointly or in concert solely by reason of the fact that

- (a) one is the proxyholder of one or more of the others in respect of shares or ownership interests referred to in subsection (1)(b), or
- (b) they vote the voting rights attached to shares or ownership interests referred to in subsection (1)(b) in the same manner.

(4) On application by the restricted party or the provincial corporation affected by a designation made under subsection (1), the Minister may revoke the designation.

Prohibited
transactions,
guarantees
and
investments

164(1) Except as provided in this Act,

- (a) no provincial corporation or its subsidiary shall, directly or indirectly, enter into any transaction with a restricted party of the corporation,
- (b) no restricted party of a provincial corporation shall, directly or indirectly, enter into any transaction with the corporation or its subsidiary,
- (c) no provincial corporation or its subsidiary shall, directly or indirectly, enter into any guarantee on behalf of a restricted party of the corporation, and
- (d) no provincial corporation or its subsidiary shall, directly or indirectly, make an investment in any securities of a restricted party of the corporation.

(2) This Part does not apply to

- (a) the payment of remuneration
 - (i) to the auditor of a provincial corporation, or
 - (ii) to the directors of a provincial corporation or its subsidiary if the remuneration has been approved by the shareholders of the corporation or subsidiary,
- or
- (b) the granting of indemnification in accordance with section 135.

Person
previously a
restricted
party

165(1) No provincial corporation or its subsidiary shall, directly or indirectly, during the 12-month period after a person ceases to be a restricted party of the corporation,

- (a) enter into any transaction with,
- (b) enter into any guarantee on behalf of, or
- (c) make an investment in any securities of

that person that would have been prohibited or that would have required the prior approval of the board of directors of the corporation had that person been a restricted party of the corporation at the time of the transaction, guarantee or investment, unless the proposed transaction, guarantee or investment

- (d) has been authorized by the board of directors of the corporation, and
- (e) is at fair market rate.

(2) A person referred to in subsection (1) shall disclose in writing to the provincial corporation the nature of the person's interest in that transaction, guarantee or investment forthwith after becoming aware of the facts that bring him within the application of that subsection.

(3) The board of directors of the provincial corporation shall ensure that a disclosure under subsection (2) is entered in the minutes of the first board meeting held after the making of the disclosure.

Type of
approval
required

166 Where this Part requires that a transaction, guarantee or investment have the prior approval of the board of directors of a provincial corporation, the approval must be given in writing and in accordance with procedures established under section 175, and the approval may be given with respect to a specific transaction, guarantee or investment or with respect to a class of transactions, guarantees or investments.

Board
approval
required -
general

167 Subject to the prior approval of the board of directors of a provincial corporation, the corporation or its subsidiary may

- (a) enter into a written contract with a restricted party for the provision of management services to or by the corporation or subsidiary if it is reasonable that the corporation or the subsidiary obtain or supply the services, and so long as the consideration is reasonable for the services provided and is at fair market rate,
- (b) enter into a written lease of real estate or personal property with a restricted party so long as
 - (i) the rent is at fair market rate,
 - (ii) the term of the lease and all renewals does not exceed
 - (A) 5 years in the case of a lease of personal property, or
 - (B) 20 years in the case of a lease of real estate,and
 - (iii) the terms of the lease are otherwise competitive and reasonable,
- (c) enter into a written contract with a restricted party at fair market rate for pension and benefit plans, stock options, incentive benefits and other reasonable commitments incidental to employment,
- (d) enter into a written contract with a restricted party respecting the provision of goods or services, or providing for a networking arrangement for the provision of goods and services, other than management services, so long as the price paid for those goods or services is at fair market rate and the term of the contract and all renewals does not exceed 5 years in total,

- (e) acquire from or sell to a restricted party prescribed securities, other than securities issued by the restricted party, so long as the transaction is at fair market rate,
- (f) acquire beneficial ownership of shares of a body corporate as permitted by section 207(4),
- (g) make a loan to or guarantee the obligations of an entity, other than a financial institution, in which the corporation beneficially owns shares as permitted by section 207(4), if the loan or guarantee is at fair market rate and meets prescribed conditions, and
- (h) enter into any other transaction that the regulations permit it to enter into with the prior approval of the board of directors of the corporation.

Board
approval not
required -
general

168(1) A provincial corporation or a subsidiary of the corporation, without the prior approval of the board of directors of the corporation, may

- (a) enter into a transaction with a restricted party that involves minor or general expenditures by the corporation or the subsidiary,
- (b) enter into a transaction with a restricted party for
 - (i) the sale of goods, or
 - (ii) the provision of financial services

that are normally sold or provided to the public by the corporation or the subsidiary in the ordinary course of business, so long as the prices and rates charged by the corporation or subsidiary are at fair market rate,
- (c) enter into a transaction by which it takes a deposit from a restricted party, other than a financial institution, so long as the deposit is made at fair market rate,
- (d) enter into a transaction by which it takes a security interest in securities of a restricted party as collateral for a loan or guarantee or for the performance of any other obligation, and
- (e) enter into any other transaction that the regulations permit it to enter into without the prior approval of the board of directors of the corporation.

(2) The conduct review committee of a provincial corporation shall, subject to any prescribed limits, develop criteria as to what constitutes minor or general expenditures for the purposes of subsection (1)(a).

Directors,
officers,
employees,
etc.

169(1) Subject to the prior approval of the board of directors of a provincial corporation, the corporation or its subsidiary may

- (a) make a loan to
 - (i) a director, officer or prescribed employee of the corporation,
 - (ii) the spouse of a director or officer of the corporation, or
 - (iii) a relative of, or a relative of the spouse of, a director or officer of the corporation who has the same home as the director or officer

on the security of the residence of the person to whom the loan is made if the loan qualifies as an investment under section 201 and, except in the case of a loan to a prescribed employee, an officer or a director who is an officer or prescribed employee, the loan is at fair market rate,

- (b) make a personal loan to
 - (i) an officer or a prescribed employee of the corporation,
 - (ii) the spouse of an officer of the corporation, or
 - (iii) a relative of, or a relative of the spouse of, an officer of the corporation who has the same home as the officer

if the loan qualifies as an investment under section 199 and

- (iv) except in the case of a loan to an officer or prescribed employee of the corporation, the loan is at fair market rate, and

- (v) the loan is fully secured, other than by promissory note,
- (c) enter into an employment contract with a director or officer of the corporation or subsidiary, and
- (d) enter into any other transaction with a person referred to in this subsection that the regulations permit it to enter into with the prior approval of the board of directors of the corporation.

(2) Notwithstanding subsection (1)(a) and (b), a provincial corporation or its subsidiary may make a loan to a prescribed employee of the corporation who is not a director or officer of it without obtaining the approval of the board of directors of the corporation if the loan qualifies as an investment under section 201 or 199, as the case may be, and does not exceed the prescribed amount.

Financial
institutions

170(1) A provincial corporation or a subsidiary of the corporation may, with the prior approval of the board of directors of the corporation,

- (a) make a loan to a restricted party that is a financial institution in which the corporation beneficially owns shares as permitted under section 207(4), if the loan is at fair market rate, is fully secured by securities that meet prescribed qualifications and is for prescribed purposes,
- (b) enter into a transaction with a restricted party that is a financial institution if the transaction consists of a disposition by the corporation or subsidiary of assets for which the consideration is fully paid in money and is at fair market rate,
- (c) guarantee the obligations of a restricted party that is a financial institution, and
- (d) enter into any other transaction with a restricted party that is a financial institution that the regulations permit it to enter into with the prior approval of the board of directors of the corporation.

(2) A provincial corporation or a subsidiary of the corporation may, without the approval of the board of directors of the corporation, enter into a transaction with a restricted party that is a financial institution if

- (a) the transaction consists of a deposit made at fair market rate and for a prescribed purpose, or
- (b) the transaction consists of the acquisition at fair market rate of prescribed securities from a securities dealer who is not an underwriter within the meaning of the *Securities Act* in the distribution of those securities and is not selling them as their principal.

Prescribed limits

171 No provincial corporation or subsidiary shall enter into a transaction or guarantee or make an investment under this Part in excess of the prescribed limits.

Consent to prohibited or restricted transaction

172 The Minister may give prior consent to a provincial corporation or its subsidiary to

- (a) enter into a transaction or class of transactions with,
- (b) enter into a guarantee or class of guarantees on behalf of, or
- (c) make an investment in securities or a class of securities of,

a restricted party of the corporation that would otherwise be prohibited or restricted by this Act or the regulations if the Minister is satisfied that the transaction, guarantee or investment is in the best interests of the corporation and is not prejudicial to the interests of its depositors or persons in respect of whom the corporation acts in a fiduciary capacity and would not contravene section 173.

Transaction involving trust and estate funds

173(1) A provincial trust corporation shall not participate in or enter into a transaction with a restricted party or a guarantee on behalf of a restricted party using funds, other than deposits, held by the corporation as a fiduciary.

(2) Except as provided in this section, a provincial trust corporation shall not invest funds, other than deposits, held by the corporation as a fiduciary in securities of the corporation or its restricted parties.

(3) A provincial trust corporation may act as a fiduciary of a trust or estate that owns securities of the corporation or its restricted parties if the securities were acquired before the corporation assumed responsibility as a fiduciary.

(4) Where a provincial trust corporation acts as a fiduciary of a trust or estate holding securities of the corporation,

- (a) the securities shall not be sold or voted, and
- (b) an offer for the securities shall not be refused

except with the approval of the board of directors, and the reasons for those actions shall be entered in the minutes of the next meeting of the board of directors.

(5) Each year the board of directors shall approve a report on the securities of the provincial trust corporation and its restricted parties held by the corporation as fiduciary, and the reasons for their retention or sale.

(6) Nothing in this section authorizes a provincial trust corporation to perform any act as a fiduciary that is otherwise prohibited.

(7) Nothing in this section prevents a provincial trust corporation from

- (a) fulfilling a specific direction or permission of a court or of an instrument creating a fiduciary duty ordering or empowering the corporation to purchase or sell securities of the corporation or its restricted parties or to enter into a transaction with a restricted party or a guarantee on behalf of a restricted party, but a general power to invest in the discretion of the fiduciary shall not be considered to be a specific direction or permission for the purposes of this clause,
- (b) investing funds held by it as a fiduciary in the securities of its restricted parties for which there is a published market within the meaning of the regulations, or
- (c) entering into an investment that a co-fiduciary or the co-fiduciaries of the corporation may direct to be made without the agreement of the corporation, where the co-fiduciary or co-fiduciaries have made such a direction.

Delegation

174(1) The board of directors may by resolution delegate to a committee of directors the power given to the board under this Part to approve transactions, guarantees or investments.

(2) Section 127(2) applies to a committee established under subsection (1).

**Review
procedures**

175(1) A provincial corporation shall establish written review and approval procedures to be followed by the corporation to ensure compliance with this Part.

(2) The procedures referred to in subsection (1) shall deal with at least the following matters:

- (a) the formalities governing transactions, guarantees and investments in respect of a restricted party;
- (b) the obligations of the provincial corporation or subsidiary and the restricted party to disclose information;
- (c) the protection of confidential information held by the provincial corporation or subsidiary relating to its business associates, and the conduct of the corporation or subsidiary in cases where the interests of the corporation or subsidiary or of a person affiliated with either of them may be in conflict with the interests of its business associates.

(3) The procedures referred to in subsection (1) shall be developed by the conduct review committee and shall be reviewed at least once each year by the conduct review committee.

(4) The conduct review committee shall report on its review under subsection (3) and shall give its recommendations, if any, with respect to the procedures to the board of directors.

(5) The procedures shall be subject to the approval of the board of directors and the board, on receipt of any recommendation from the conduct review committee, shall review the procedures and make any changes it considers necessary.

(6) The auditor of a provincial corporation is entitled to attend and be heard at all meetings of the conduct review committee.

**Disclosure by
restricted
party**

176(1) A restricted party of a provincial corporation who knows or has reason to believe that he is a restricted party of the corporation and proposes to enter into a transaction or guarantee with the corporation or its subsidiary for which the approval of the board of directors of the corporation is required shall disclose in writing to the corporation the nature of his interest in the proposed transaction or guarantee forthwith after becoming aware of the facts that bring him within the application of this subsection.

(2) Where the restricted party is a director or officer of the provincial corporation, the disclosure must be made in accordance with section 130.

(3) Where, with respect to a proposed transaction or guarantee referred to in subsection (1), a provincial corporation knows or has reason to believe that a party is a restricted party of the corporation, the corporation shall take all reasonable steps to obtain from that other party full disclosure in writing of any interest or relationship, direct or indirect, that would make that other party a restricted party of the corporation.

(4) The board of directors of the provincial corporation shall ensure that a disclosure under subsection (1) or (3) is entered in the minutes of the first board meeting held after the making of the disclosure.

(5) Where a provincial corporation does not receive full disclosure as required by this section in respect of a proposed transaction or guarantee, the corporation or its subsidiary, as the case may be, shall not enter into the transaction or guarantee.

Duty to report
contraven-
tions

177(1) The auditor of a provincial corporation shall promptly report to the board of directors and the Minister any material breach of this Part of which the auditor is aware or is made aware under subsection (2).

(2) Any person undertaking professional services for a provincial corporation who, in providing the professional services, becomes aware of a breach of this Part shall promptly report the breach to the board of directors and the auditor of the corporation, unless he has already reported the breach under subsection (1).

(3) Nothing in this section abrogates any privilege that may exist between a solicitor and his client.

(4) A person who in good faith makes a report under subsection (1) or (2) shall not be liable in any civil action arising from it.

(5) Where a provincial corporation or its subsidiary has made an investment or entered into a transaction or guarantee

(a) that is prohibited under this Part, or

(b) without the approvals required under this Part,

the provincial corporation shall, on becoming aware of that fact, forthwith notify the auditor and the Minister of that fact.

Onus of proof **178** For the purposes of this Part, the onus is on the restricted party and the provincial corporation or its subsidiary to establish that a transaction or guarantee between the corporation or subsidiary and the restricted party or an investment by the corporation or subsidiary in the securities of the restricted party is permitted under this Part.

Applications to Court **179(1)** Where a transaction, guarantee or investment that is prohibited under this Part takes place, any interested person, including the Minister, may apply to the Court for an order

- (a) setting aside the transaction, guarantee or investment and directing that the restricted party account to the provincial corporation for any profit or gain realized, and
- (b) that each person who participated in or facilitated the transaction, guarantee or investment pay to the provincial corporation on a joint and several basis
 - (i) the damages suffered,
 - (ii) the face value of the transaction, guarantee or investment, or
 - (iii) the amount expended by the provincial corporation in the transaction, guarantee or investment

and on the application, the Court may so order or make any other order it thinks fit, including an order for compensation for the loss or damage suffered by the provincial corporation and punitive or exemplary damages from the restricted party.

(2) A person who is not a director is not liable under subsection (1)(b) unless the person knew or ought reasonably to have known that the transaction, guarantee or investment took place in contravention of this Part.

PART 10

CAPACITY AND POWERS

Application **180** This Part does not apply to a provincial trust corporation whose registration is subject to a term, condition or restriction prohibiting it from carrying on the deposit-taking business, except to the extent that this Part is made applicable by the regulations.

General
powers

181(1) Subject to this Act and the regulations, a registered corporation shall not engage in or carry on any business other than business generally appertaining to the business of providing financial services.

(2) Notwithstanding subsection (1),

- (a) a registered trust corporation may exercise the fiduciary powers referred to in section 1(1)(pp)(i), and
- (b) a registered corporation may
 - (i) engage in the provision of real property brokerage services, and
 - (ii) acquire, hold, maintain, improve, develop, repair, serve, lease, dispose of or otherwise deal with real property.

Restriction on
engaging in
deposit-taking
business

182(1) No person other than a registered corporation shall engage in the deposit-taking business.

(2) Subsection (1) does not apply to a person who engages in the deposit-taking business pursuant to any enactment that expressly requires or permits it to do so.

(3) A provision in an enactment that gives a person the capacity, rights, powers or privileges of an individual or that otherwise operates as a general enabling provision shall not be considered to be an express requirement or permission for the purposes of subsection (2).

(4) The fact that a deposit is taken in contravention of this section does not affect any civil liability arising in respect of the deposit or the money deposited.

Restriction on
fiduciary
activities

183(1) No body corporate other than a registered trust corporation may carry on the business of offering its services to the public as or accepting or executing the office of

- (a) executor or administrator or trustee, or
- (b) guardian or trustee of a minor's estate or of the estate of a mentally incompetent person.

(2) Subsection (1) does not apply to

- (a) a professional corporation within the meaning of the *Legal Profession Act*,
- (b) an unregistered extra-provincial corporation in respect of the administration of property in Alberta under a grant to it of probate or administration granted or resealed in Alberta, or
- (c) any other prescribed body corporate carrying on any prescribed activity in accordance with any prescribed terms and conditions.

Restriction on
loan
corporations

184 No registered loan corporation may carry on business as

- (a) a receiver, liquidator or sequestrator, or
- (b) a custodian of property.

Appointment
as executor,
etc.

185(1) The liability of a registered trust corporation to persons interested in an estate held by the corporation as executor, administrator, trustee, receiver, liquidator, sequestrator, assignee, guardian or committee is the same as if the estate were held by an individual in that capacity, and the corporation's powers are the same as an individual's would be.

(2) A registered trust corporation is a trust corporation for the purposes of the Court of Queen's Bench, and every court having authority to appoint a person to an office in a representative capacity referred to in subsection (1) may, with the consent of the corporation, appoint the corporation to exercise that office in respect of any estate or person under the authority of the Court, and may grant to the corporation probate of any will in which the corporation is named as an executor.

(3) A registered trust corporation may be appointed to be a sole trustee, notwithstanding that but for this Act it would be necessary to appoint more than one trustee.

(4) A registered trust corporation may be appointed to an office in a representative capacity referred to in subsection (1) jointly with another person.

(5) An appointment may be made under this section whether the trustee is required under any deed, will or document creating a trust or the appointment is under the *Trustee Act* or otherwise.

(6) Notwithstanding any rule or practice or any provision of any Act requiring security, it is not necessary for a registered trust

corporation to give any security on an appointment under this section.

**Securities
restrictions**

186(1) Subject to subsection (2), a registered corporation may carry on securities activities.

(2) A registered corporation may not, other than as principal, carry on any securities activities in respect of which filing a prospectus or registration under the *Securities Act* is required.

**Leasing
restriction**

187 A registered corporation shall not engage in any leasing activity that a financial leasing corporation within the meaning of the regulations is not permitted to engage in.

**Receiving
deposits**

188(1) A provincial loan corporation and any other registered loan corporation that has capacity to do so may, for the purposes of investment and on a debtor and creditor basis, receive money

- (a) repayable on demand or after notice, or
- (b) repayable on a fixed date or on the expiry of a specified term,

and the corporation may issue debentures or other evidences of indebtedness in respect of the money that are appropriate to the debtor and creditor relationship created by the receipt of the money.

(2) A provincial trust corporation and any other registered trust corporation that has capacity to do so may, for the purpose of investment, receive money

- (a) repayable on demand or after notice, or
- (b) repayable on a fixed date or on the expiry of a specified term,

and the corporation may issue investment certificates or other evidences of the receipt of the money that are appropriate to the trust relationship created by the receipt of the money.

(3) Money received by a provincial trust corporation under subsection (2) and the interest payable to the depositor in respect of the money shall be deemed to be held by the corporation in trust for the depositor, notwithstanding any agreement to the contrary.

(4) Notwithstanding subsection (3), a provincial trust corporation may retain the interest and profit resulting from the investment of money received by it under subsection (2) in excess of the amount of interest payable to the depositor in respect of the money received.

(5) A provincial trust corporation receiving money under subsection (2) shall earmark in respect of it securities, or cash and securities, equal to the full aggregate amount of the money received.

(6) For the purposes of subsection (5),

(a) "cash" includes money on deposit;

(b) "securities" includes

(i) investments authorized under section 199, 200, 201, 203 or 207(4), and

(ii) other loans that the provincial trust corporation is authorized to make and that are not subject to any restrictions or limitations under this Act or the regulations.

(7) The cash and securities that are earmarked under subsection (5) shall be referred to as the "depositors' liability fund".

(8) Assets from time to time comprising a provincial trust corporation's depositors' liability fund are held by the corporation in trust for the benefit of the depositors to the extent of the corporation's liability to them.

(9) A registered corporation is not bound to see to the execution of any trust, whether express, implied or constructive, to which any of its deposits are subject, other than a trust to which the corporation is a party.

(10) The receipt of the person in whose name any deposit stands in the books of the registered corporation is a sufficient discharge to the corporation for any payment made in respect of the deposit, and a direction to transfer signed by such a person is sufficient authority to the corporation for any transfer made in respect of the deposit, notwithstanding any trust to which the deposit may then be subject, and whether or not the corporation has or had notice of the trust.

(11) A registered corporation is not bound to see to the application of any money paid on a receipt under subsection (10).

(12) No registered corporation shall exercise the powers set out in subsection (1) or (2) unless

- (a) it is a member of the Canada Deposit Insurance Corporation, or
- (b) its deposits are insured by another public agency prescribed by the Minister.

(13) A provincial corporation may, with the approval of the Minister, borrow money from the Canada Deposit Insurance Corporation or a public agency referred to in subsection (12) and, for those purposes, the corporation may mortgage to the Corporation or agency the cash and securities in its depositors' liability fund.

Capital base **189(1)** A provincial corporation shall maintain a capital base that meets the leverage ratio and risk weighted average ratio requirements and any other requirements as to the adequacy of the corporation's capital base set out in the regulations.

(2) A registered corporation shall maintain its capital base at not less than the levels required under section 35(b).

Borrowing by subordinated notes **190(1)** A provincial corporation may borrow money by way of the issue of subordinated notes having a denomination not less than the prescribed amount.

(2) The following provisions apply to subordinated notes:

- (a) the consideration for the subordinated note must be in money or in some other form approved by the Minister;
- (b) a subordinated note is not a deposit of the issuing corporation and is not insured by the Canada Deposit Insurance Corporation or any similar public agency;
- (c) in the event of the insolvency or dissolution of the corporation, the indebtedness evidenced by each subordinated note ranks equally with the indebtedness evidenced by all other subordinated notes of the corporation and is subordinated in right of payment to all other indebtedness of the corporation;
- (d) a subordinated note shall be evidenced by a certificate in a form approved for the corporation by the Minister.

(3) No provincial corporation or person acting on its behalf, in any offering circular, advertisement, correspondence or literature relating to a subordinated note issued or to be issued by the corporation, shall refer to the note otherwise than as a subordinated note or other prescribed term, and the corporation or person, as the case may be, shall indicate clearly in such a document that the subordinated note is not a deposit that is insured by the Canada Deposit Insurance Corporation or other similar public agency.

**Pledging
assets**

191(1) In this section,

- (a) “corporation’s own assets” means the provincial corporation’s own funds and all other real and personal property owned by the corporation as the absolute and sole owner and not in a trust or representative capacity or in the right of another person;
- (b) “corporation’s own funds” means money owned by the provincial corporation as the absolute and sole owner and not in a trust or representative capacity or in the right of another person.

(2) This section does not apply to a pledge of assets

- (a) to the Government of Canada with respect to the sale of Canada Savings Bonds,
- (b) in respect of a borrowing under section 188(13), or
- (c) in respect of other transactions that are permitted by the regulations.

(3) Except as is provided in this Act, no provincial corporation shall directly or indirectly pledge any part of its total assets.

(4) A provincial corporation may pledge any of the corporation’s own assets as security for a debt obligation of the corporation if

- (a) the debt obligation is issued in respect of money borrowed to enable the corporation to meet short-term requirements for liquid funds arising from its operations, and
- (b) the total debt obligation of the corporation in relation to which assets are so pledged will not exceed 50% of the corporation’s capital base.

(5) A provincial corporation that pledges an asset under subsection (4) shall notify the Minister in writing of that fact at the prescribed time and in the prescribed manner.

(6) Any agreement under which a creditor of a provincial corporation is authorized, by reason of the failure of the corporation to make payment in respect of a debt obligation, to appoint a receiver or acquire control of the corporation or of any asset of the corporation, other than an asset pledged under this section, is void.

Guarantees

192(1) A provincial corporation shall not guarantee on behalf of any person other than itself the payment or repayment of any sum of money unless

- (a) the sum of money is a fixed sum of money, with or without interest, and
- (b) the person on whose behalf the guarantee is given has an unqualified obligation to reimburse the corporation for the full amount of the payment or repayment to be guaranteed.

(2) Subsection (1) does not apply in respect of an indemnification given under section 135.

**Limit on
borrowing
by trust
corporation**

193 A provincial trust corporation shall not borrow money except from an eligible financial institution, the Bank of Canada or another person approved by the Minister unless

- (a) it is borrowing by way of subordinated notes, or
- (b) it is borrowing as authorized by section 191.

**Other
prohibited
activities**

194 Except as permitted under this Act, no registered corporation shall

- (a) carry on business as a securities dealer,
- (b) carry on business as an insurer,
- (c) carry on business as an investment counselling corporation, except insofar as is necessary to enable the corporation to exercise the fiduciary powers specified in section 183,

- (d) carry on business as a portfolio management corporation, except insofar as is necessary to enable the corporation to exercise the fiduciary powers specified in section 183,
- (e) carry on business as a mutual fund distribution corporation within the meaning of the regulations,
- (f) carry on business as an information management corporation within the meaning of the regulations, except in relation to the main business of a loan or trust corporation, or
- (g) carry on any other activity that is prescribed for the purposes of this subsection.

PART 11

INVESTMENTS

Application	<p>195(1) This Part does not apply to a provincial trust corporation whose registration is subject to a term, condition or restriction prohibiting it from carrying on the deposit-taking business, except to the extent that this Part is made applicable by the regulations.</p> <p>(2) Sections 196 to 210 do not apply to funds, other than deposits, held by a provincial corporation as a fiduciary.</p>
Prudent investment standards	<p>196(1) A provincial corporation shall adhere to prudent investment standards in making investment decisions and in managing its total investments.</p> <p>(2) For the purposes of this Act, prudent investment standards are those which, in the overall context of an investment portfolio, a reasonably prudent person would apply to investments made on behalf of another person with whom there exists a fiduciary relationship to make such investments without undue risk of loss or impairment and with a reasonable expectation of fair return or appreciation.</p> <p>(3) The fact that a provincial corporation is in compliance with the other provisions of this Act relating to investments does not of itself mean that the corporation is in compliance with subsection (1).</p>
Review procedures	<p>197(1) A provincial corporation shall on the recommendation of the investment committee establish policies and procedures to</p>

ensure that the corporation applies prudent investment standards in making investment decisions and in managing its total investments.

(2) The investment committee shall review the procedures established under subsection (1) at least twice each year.

(3) The investment committee shall report on its review under subsection (2) and shall give its recommendations, if any, with respect to the procedures to the board of directors.

Liquidity

198 A provincial corporation shall at all times have and keep available in the prescribed manner and amounts securities of a prescribed kind or cash, or both securities and cash, for liquidity purposes.

**Personal
loans**

199(1) A provincial corporation may make personal loans to individuals in amounts not exceeding prescribed amounts, including financing in the form of leasing, letters of credit, guarantees and other prescribed instruments.

(2) For the purposes of subsection (1), "personal loan" does not include financing provided to an individual in an amount exceeding the prescribed aggregate amount referred to in section 200(1)(k).

**Commercial
loans**

200(1) For the purposes of this section, "commercial loan" means financing, including, without limitation, financing in the form of loans, leasing, letters of credit, guarantees and other prescribed instruments, but does not include the following:

- (a) a residential mortgage loan referred to in section 201(2);
- (b) a mortgage loan on improved real estate in Canada, other than a residential mortgage loan, where the amount advanced on that mortgage, together with the amount of indebtedness under any other mortgage on the real estate that ranks equally with or prior to that mortgage loan is 75% or less of the market value of the real estate at the time that mortgage is granted;
- (c) the acquisition of bankers' acceptances;
- (d) the acquisition of securities that are widely distributed;
- (e) loans to, or loans that are fully secured by securities issued or guaranteed by,

- (i) the Government of Canada,
 - (ii) the government of a province,
 - (iii) a government that is a member of the Organization for Economic Cooperation and Development, or
 - (iv) an agent of a government referred to in subclause (i), (ii) or (iii);
- (f) the acquisition of securities that are issued or guaranteed by
- (i) the Government of Canada,
 - (ii) the government of a province,
 - (iii) a government that is a member of the Organization for Economic Cooperation and Development, or
 - (iv) an agent of a government referred to in subclause (i), (ii) or (iii);
- (g) the granting of letters of credit, guarantees and other prescribed instruments that are secured by any of the assets referred to in clause (c), (e)(i) or (ii), (f)(i) or (ii), (h) or (i) or any other prescribed assets;
- (h) the making of deposits in, or the making of loans that are fully secured by deposits in or debt securities guaranteed by, a prescribed financial institution;
- (i) the making of loans to, or the acquisition of securities issued or guaranteed by, a university, municipality, hospital board or school board;
- (j) the acquisition of common shares in a body corporate;
- (k) financing provided to an individual, up to a prescribed aggregate amount;
- (l) any other prescribed form of financing.
- (2) Subject to this section, a provincial corporation may make commercial loans.

(3) Subject to subsection (4), the aggregate amount of all loans made under subsection (2) shall not exceed 5% of the total assets of the provincial corporation.

(4) Where the Minister is satisfied as to the experience and solvency of the corporation he may, on application, increase the percentage referred to in subsection (3) to an amount he considers appropriate.

Mortgage
lending

201(1) Subject to this section, a provincial corporation may purchase or make loans on the security of a mortgage, in this section called the “investment mortgage”, on improved real estate in Canada.

(2) Where the investment mortgage is a residential mortgage, the amount paid for or advanced on the investment mortgage, together with the amount of indebtedness under any other mortgage on the improved real estate that ranks equally with or prior to the investment mortgage, must not exceed 75% of the market value of the real estate at the time the investment mortgage is granted, unless the excess amount is guaranteed or insured by the Government of Alberta, the Government of Canada, the government of another province, an agency of any of those governments or an insurance policy issued by an insurance corporation authorized to carry on business in Canada.

(3) Subsection (2) does not apply where the provincial corporation makes a loan to the purchaser of improved real estate that the corporation acquired to protect its investment and is disposing of.

Real estate
acquired by
realization of
security

202 Where, on or after December 8, 1988, a provincial corporation acquires improved real estate by means of realizing security held on the real estate, the provincial corporation may retain that real estate for a period not to exceed 7 years or any longer period allowed by the Minister, and on the date marking the expiry of that period the real estate is, for the purposes of section 203(3), deemed to have been acquired under that section at a value equal to its market value on that date.

Investment in
real estate

203(1) Subject to subsection (3), a provincial corporation may

- (a) acquire improved real estate in Canada for the purpose of producing income, and
- (b) acquire improved real estate in Canada that is or is to be occupied by the corporation for its own use.

(2) Real estate that is acquired by a subsidiary of a provincial corporation and is occupied and used by the subsidiary for its own purposes, or for both its own purposes and the purposes of the corporation, shall be deemed to be real estate acquired by the corporation under subsection (1)(b).

(3) The total value of real estate acquired under this section shall not exceed the prescribed limits.

**Prohibited
investments**

204(1) No provincial corporation shall directly or indirectly make loans to or other investments in

- (a) any person, or
- (b) any 2 or more persons that to the knowledge of the corporation are connected,

in an aggregate amount exceeding a prescribed amount.

(2) This section does not apply so as to restrict investments in

- (a) securities issued or guaranteed by the government of Canada or any province,
- (b) mortgages that are
 - (i) insured under the *National Housing Act* (Canada) or through an agency of the government of Canada or a province, or
 - (ii) insured by a policy of mortgage insurance issued by an insurance company licensed or registered under the *Canadian and British Insurance Companies Act* (Canada), the *Foreign Insurance Companies Act* (Canada) or the *Insurance Act* or any similar legislation of another province,

or

- (c) any other prescribed investment vehicles.

**Acquisition of
assets in
default**

205(1) Except to protect the value of an existing asset, no provincial corporation shall acquire assets that are in default because of non-payment of interest, principal or dividends.

(2) Subsection (1) does not apply to assets acquired

- (a) as part of an amalgamation, or
- (b) in any other circumstances prescribed by the Minister.

Equity in
unincorpor-
ated entity

206(1) Subject to subsections (2) and (4), no provincial corporation may beneficially own more than a 10% interest in a partnership, trust, fund or other unincorporated association or organization.

(2) Subsection (1) does not apply where the partnership, trust, fund or other unincorporated association or organization is carrying on a business that may be carried on by a body corporate referred to in section 207(4) and is carrying on that business in the same way as if it were such a body corporate.

(3) For the purposes of subsection (1), an interest beneficially owned by a subsidiary of a provincial corporation is deemed to be beneficially owned by the provincial corporation.

(4) Notwithstanding subsection (1), a provincial corporation may, through realization of a security interest held by the corporation or, subject to the approval of the Minister, by means of a loan workout procedure, beneficially own more than a 10% interest in a partnership, trust, fund or other unincorporated association or organization, but the corporation shall dispose of the excess interest within

- (a) 2 years after acquiring the excess interest, or
- (b) any longer period the Minister allows.

Limitation on
shareholding

207(1) Subject to this section and except as otherwise provided in the regulations, no provincial corporation may beneficially own shares to which are attached more than 10% of the voting rights attached to all of the issued and outstanding voting shares of a body corporate.

(2) For the purposes of subsection (1), shares beneficially owned by a subsidiary of a provincial corporation are deemed to be beneficially owned by the provincial corporation, except as otherwise provided in the regulations.

(3) Notwithstanding subsection (1), a provincial corporation may, through realization of a security interest held by the corporation or, subject to the approval of the Minister, by means of a loan workout procedure, beneficially own shares to which are attached more than 10% of the voting rights attached to all of the issued and

outstanding voting shares of a body corporate, but the provincial corporation shall dispose of the excess shares within

- (a) 2 years after acquiring the excess shares, or
- (b) any longer period the Minister allows.

(4) Notwithstanding subsections (1) and (3), a provincial corporation may beneficially own shares to which are attached more than 10% of the voting rights attached to all of the issued and outstanding voting shares of any of the following bodies corporate:

- (a) with the approval of the Minister, a loan or trust corporation incorporated and regulated by or under an Act of Canada or a province,
- (b) a financial leasing corporation,
- (c) a body corporate that is a securities dealer,
- (d) a body corporate that is an insurer, other than a broker or adjuster,
- (e) a real property brokerage corporation or a real property corporation,
- (f) a factoring corporation,
- (g) a mutual fund distribution corporation that is registered as a mutual fund dealer under the *Securities Act* or in a similar capacity under comparable legislation in another jurisdiction in Canada,
- (h) an investment counselling corporation that is registered as an investment counsel under the *Securities Act* or in a similar capacity under comparable legislation in another jurisdiction in Canada,
- (i) a portfolio management corporation that is registered as a portfolio manager under the *Securities Act* or in a similar capacity under comparable legislation in another jurisdiction in Canada,
- (j) a service corporation that does not hold shares of a body corporate referred to in this subsection,
- (k) an information management corporation,
- (l) a bank, or

(m) a prescribed body corporate.

(5) Notwithstanding subsection (4), a provincial corporation may not beneficially own shares in a body corporate referred to in subsection (4) to which are attached more than 10% of the voting rights attached to all of the issued and outstanding voting shares of the body corporate if that body corporate beneficially owns shares in another body corporate, that is not a body corporate referred to in subsection (4), to which are attached more than 10% of the voting rights attached to all of the issued and outstanding voting shares of that other body corporate.

Divestment
order

208 Where a provincial corporation beneficially owns shares in a body corporate as permitted under section 207(4) and

- (a) the body corporate is carrying on business in an unsound manner that may imperil the corporation's investment if continued, or
- (b) in the case of a body corporate that is a subsidiary, the subsidiary fails to provide information to the Minister pursuant to an undertaking under section 31(3)(b),

the Minister may, by order, require the corporation to divest itself of all or part of its beneficial ownership within the time specified in the order.

Collateral
security

209 A provincial corporation may take real or personal property as collateral security for any advance or for any debt due to the corporation, in addition to any other security for the advance or debt required under this Act.

Allocation of
security

210 A loan that

- (a) is secured by 2 or more assets or classes of assets, and
- (b) would, but for this section, not be a permitted investment of the provincial corporation under this Act

may be divided into different amounts and considered as separate loans with respect to the different assets or classes of assets for the purposes of determining whether the loan is permitted under this Act.

Common
trust funds

211(1) Notwithstanding this or any other Act, a provincial trust corporation and any other registered trust corporation that has

capacity to do so may, unless the trust instrument otherwise directs, invest money held by it as a fiduciary, other than deposits, in one or more common trust funds of the trust corporation.

(2) Where a trust corporation holds trust money as a co-trustee, it shall not invest the trust money in a common trust fund without the consent of its co-trustees.

(3) A common trust fund shall not include any money held in a trust established exclusively for a savings plan registered under the *Income Tax Act* (Canada).

(4) A trust corporation that establishes or operates a common trust fund shall do so in accordance with the regulations.

Passing
accounts

212(1) A registered trust corporation may, at any time, and shall, when required in writing by the Minister to do so under subsection (2), file and pass an account of its dealings with respect to a common trust fund in the Court, and the Court, on the passing of the account, has, subject to this section, the same duties and powers as in the case of the passing of executors' accounts.

(2) An account filed with the Minister in accordance with the regulations is, except so far as mistake or fraud is shown, binding and conclusive on all interested persons as to all matters shown in the account and as to the trust corporation's administration of the common trust fund for the period covered by the account, unless within 6 months after the date on which the account is so filed the Minister requires in writing that the account be filed and passed in the Court.

(3) Notwithstanding any other Act or law, a trust corporation shall not be required to render an account of its dealings with a common trust fund except as provided in this section or the regulations.

(4) On the filing of an account in the Court under this section, the Court shall fix a time and place for the passing of the account, and the trust corporation shall

- (a) cause a written notice of the appointment and a copy of the account to be served on the Minister, and
- (b) cause a notice of the appointment and any other information that is prescribed to be published in the prescribed manner

at least 14 days before the date fixed for the passing of the account.

(5) For the purposes of an accounting under this section, an account may be filed in the same form as audited accounts that are filed with the Minister in accordance with the regulations.

(6) On the passing of an account under this section, the Minister shall represent all persons having an interest in the funds invested in the common trust fund, but any such person has the right, at his own expense, to appear personally or by counsel.

(7) Where an account filed under this section has been approved by the Court, the approval, except as far as mistake or fraud is shown, is binding and conclusive on all interested persons as to all matters shown in the account and as to the trust corporation's administration of the common trust fund for the period covered by the account.

(8) The costs of passing an account under this section shall be charged against the income of the common trust fund, and if the income is insufficient to meet the costs, the excess amount shall be charged against the principal of the common trust fund as directed by the Court.

Notice by
registered
extra-
provincial
trust
corporation

213 A registered extra-provincial trust corporation that intends to pass an account of its dealings in a court in another jurisdiction shall give reasonable notice of the date and particulars of the appointment

- (a) to the Minister, and
- (b) in the prescribed manner to any other interested persons in Alberta.

PART 12

FUNDAMENTAL CHANGES AND ARRANGEMENTS

Amalgama-
tion

214(1) A provincial corporation shall not amalgamate with another corporation except as authorized under this Act.

(2) Two or more provincial corporations may amalgamate and continue as one provincial corporation.

(3) One or more provincial corporations may, with the approval of the Minister, amalgamate with one or more extra-provincial corporations and continue as one provincial corporation.

(4) With the approval of the Minister, one or more provincial corporations may under the laws of another jurisdiction amalgamate with one or more extra-provincial corporations for the purpose of continuing as one extra-provincial corporation.

Special
approval

215(1) With the approval of the Minister, a body corporate that is not a provincial corporation may amalgamate with a provincial corporation and become a provincial corporation.

(2) Where the Minister gives an approval under subsection (1), the approval shall specify the provisions of this Part, varied as the Minister considers appropriate, that are applicable to the amalgamation, and may prescribe additional provisions or rules in order to carry out the amalgamation effectively.

(3) Subsection (2) does not authorize the Minister to waive or vary the application of section 219(4)(a) to an amalgamation approved under this section.

Purchase or
sale of assets

216(1) A provincial corporation may sell all or substantially all of its assets to a corporation incorporated in Canada if the purchasing corporation assumes all or substantially all of the liabilities of the provincial corporation.

(2) A provincial corporation may purchase all or substantially all of the assets of a corporation incorporated in Canada if the provincial corporation assumes all or substantially all of the liabilities of the vendor corporation.

(3) Notwithstanding subsections (1) and (2), a provincial corporation may, with the approval of the Minister, enter into an agreement to sell or purchase assets under subsection (1) or (2) where less than all or substantially all of the liabilities of the provincial corporation or vendor corporation, as the case may be, are assumed.

Agreement re
amalgamation
or purchase
and sale

217(1) Where corporations propose to amalgamate under section 214(2) or (3) or to purchase or sell assets under section 216, they shall enter into an agreement setting out the terms of and means of effecting the amalgamation or purchase and sale.

(2) An agreement referred to in subsection (1) does not take effect until all approvals required by this Part have been given.

(3) An amalgamation agreement referred to in subsection (1) shall set out

- (a) the proposed effective date of the amalgamation,
- (b) the proposed name of the amalgamated corporation,
- (c) the classes and any maximum number of shares that the amalgamated corporation may issue and the rights, privileges, restrictions and conditions attaching to each class of share,
- (d) the full name, residential address, citizenship and occupation of
 - (i) each of the first directors of the amalgamated corporation, and
 - (ii) every person who immediately after the amalgamation will hold or beneficially own 10% or more of any class of the issued and outstanding shares of the amalgamated corporation,
- (e) the manner of converting or exchanging any shares, and
- (f) any other details that are necessary to complete the amalgamation and to provide for the management and operation of the amalgamated corporation.

(4) Where one of the amalgamating corporations owns shares of another of the amalgamating corporations, other than in a fiduciary capacity, the agreement shall provide for the cancellation of those shares on the amalgamation's becoming effective, without any repayment of capital in respect of them, and no provision shall be made in the agreement for the conversion of those shares into shares or other securities of the amalgamated corporation.

Shareholder
approval of
agreement

218(1) The directors of the corporations affected by an agreement under section 217 shall submit the agreement for approval to a meeting of the holders of voting shares of the corporations of which they are directors, and the meeting shall be held only for the purposes of considering the agreement.

(2) Each corporation required by subsection (1) to hold a meeting shall give notice of the meeting and a copy of the agreement

- (a) in accordance with section 85 to its shareholders entitled to vote on the agreement, and
- (b) to the Minister at least 21 days before the meeting.

(3) If, at a meeting required by subsection (1), the holders of at least 50% of the voting rights attached to the issued and outstanding voting shares of the corporation are present in person or represented by proxy and the agreement is approved by a resolution carried by at least a 75% majority of the voting rights at the meeting, that fact shall be certified on the agreement by the secretary of the corporation.

(4) In the case of a proposed purchase of assets, the Minister may dispense with the approval of the agreement by the shareholders of the purchaser corporation if the Minister is satisfied that the shareholders entitled to vote on the agreement have approved a general resolution or by-law authorizing the purchase of the assets of any corporation on the basis and within the limits specified in the agreement.

Approval of
agreement by
Minister

219(1) If an agreement is approved and certified as required by this Part, the agreement, together with the certificate required under section 218(3), shall be filed with the Minister.

(2) In the case of an amalgamation, an agreement filed under subsection (1) shall be accompanied by an application for initial registration under section 29 for the amalgamated corporation and by an application for supplementary letters patent of amalgamation.

(3) Where the Minister receives an agreement under subsection (1), the Minister

(a) shall require the parties to the agreement to publish notice of the agreement, containing any information the Minister requires, in The Alberta Gazette and in a newspaper having general circulation in the locality where the principal place of business of each corporation is located and, in the case of an amalgamation, in the locality where the principal place of business of the amalgamated corporation is to be located, and

(b) may require the parties to the agreement to provide any information, material and evidence the Minister considers necessary, in addition to the information, material and evidence required to be provided under any other provision of this Act.

(4) The Minister shall refuse to approve the agreement unless the Minister is satisfied that,

(a) in the case of an amalgamation,

- (i) the amalgamated corporation meets the capital account and capital base requirements referred to in section 35(b),
 - (ii) it is in the public interest to amalgamate the corporations,
 - (iii) the proposed management is fit, both as to character and as to competence, to manage the amalgamated corporation,
 - (iv) the proposed capital structure of the amalgamated corporation and the rights, privileges, restrictions and conditions attaching to each class of shares are acceptable to the Minister,
 - (v) each person who immediately after the amalgamation will hold or beneficially own 10% or more of any class of the issued and outstanding shares of the amalgamated corporation can demonstrate the adequacy of his financial resources and is fit as to character to hold or own those shares,
 - (vi) each proposed first director is fit as to character and as to competence to be a director of the amalgamated corporation,
 - (vii) the depositors of the amalgamated corporation will be adequately protected,
 - (viii) the proposed plan of operation for the amalgamated corporation is feasible, and
 - (ix) the amalgamated corporation intends to offer to the public the services set out in the amalgamation agreement and the applicant has the capability to provide those services,
- (b) in the case of a purchase and sale of assets,
- (i) the purchase and sale is in the public interest, and
 - (ii) the proposed plan of operation for the purchasing corporation on the closing of the purchase agreement is feasible,

and

- (c) in the case where one of the parties to the agreement is a trust corporation and the amalgamated or purchasing corporation is a loan corporation, the arrangements referred to in section 223(2) are adequate to protect the persons in relation to whom the trust corporation acted in a fiduciary capacity before the approval of the agreement.

Effect of
agreement to
purchase or
sell

220 The following applies in the case of an agreement to purchase or sell all or substantially all of the assets of a corporation under this Part:

- (a) the assets purchased from the vendor corporation become vested in the purchaser corporation on and from the date of the approval of the Minister without any further conveyance, and on and from that date the purchasing corporation becomes and is responsible for the liabilities of the vendor corporation assumed under the agreement;
- (b) in dealing with the assets of the vendor corporation, it is sufficient for the purchaser corporation to cite the agreement, the approval of the Minister, and the date of the approval;
- (c) the rights of creditors of the vendor corporation remain unaffected;
- (d) the agreement is deemed to contain, in relation to the liabilities assumed under the agreement, an agreement with each creditor of the vendor corporation that the purchaser corporation will pay to the creditor the amount of the vendor corporation's liability to the creditor in the same manner as it would have been payable had the agreement to purchase or sell not been made;
- (e) where the vendor corporation is a provincial corporation, the vendor corporation is dissolved from the date of the approval of the agreement by the Minister, except so far as is necessary to give full effect to the agreement or unless the Minister orders otherwise.

Effect of
amalgamation

221(1) The following applies in the case of an amalgamation under this Part:

- (a) if the amalgamated corporation is a provincial corporation, the parties to the amalgamation shall, from the date set out in the supplementary letters patent of

amalgamation, continue as one provincial corporation under the name stated in the letters patent,

- (b) the property of each amalgamating corporation continues to be the property of the amalgamated corporation,
- (c) the amalgamated corporation continues to be liable for the obligations of each amalgamating corporation,
- (d) an existing cause of action, claim or liability to prosecution is unaffected,
- (e) a civil, criminal or administrative action or proceeding pending by or against an amalgamating corporation may be continued by or against the amalgamated corporation,
- (f) a conviction against, or ruling, order or judgment in favour of or against, an amalgamating corporation may be enforced by or against the amalgamated corporation, and
- (g) the supplementary letters patent of amalgamation are deemed to be the instrument of incorporation of the amalgamated corporation.

(2) Where the amalgamating corporations are to continue as one extra-provincial corporation and one or more, but not all, parties to the amalgamation agreement are provincial corporations, the parties to the amalgamation agreement may apply to the proper officer of the jurisdiction specified in the amalgamation agreement for an instrument amalgamating and continuing them as one corporation under the laws of that jurisdiction and, incidental to the application, every provincial corporation that is a party to the agreement may apply to the proper officer of that jurisdiction for an instrument continuing the amalgamated corporation as if it had been incorporated under the laws of that jurisdiction.

Purchase of
shares for
amalgamation
or purchase
of assets

222(1) In addition to its powers under sections 214 to 216, for the purpose of either acquiring the assets of another corporation in Canada or amalgamating with any such corporation under this Part, a provincial corporation may purchase voting shares to which are attached not less than 67% of the voting rights attached to all of the issued and outstanding voting shares of any such corporation, subject to the following:

- (a) no such purchase shall be made except with the prior approval of the Minister;

- (b) the Minister shall refuse approval unless it is shown to the Minister's satisfaction that
 - (i) the purchase is in the public interest,
 - (ii) the management of the purchaser corporation is fit both as to character and as to competence to manage the corporation as it will exist after it completes the purchase of the assets or the amalgamation,
 - (iii) each person who holds or beneficially owns 10% or more of any class of issued and outstanding shares of the purchaser corporation can demonstrate the adequacy of his financial resources and is fit as to character to hold or own those shares,
 - (iv) each director is fit as to character and as to competence to be a director of the corporation as it will exist after it completes the purchase of the assets or the amalgamation, and
 - (v) the proposed plan of operation for the corporation as it will exist after it completes the purchase of the assets or the amalgamation is feasible;
 - (c) the Minister may not approve the purchase until
 - (i) an offer to purchase shares has been accepted
 - (A) in writing by the holders of voting shares of the other corporation to which are attached at least 67% of the voting rights attaching to all of the issued and outstanding voting shares of that other corporation, or
 - (B) by resolution carried by the affirmative vote of the holders of voting shares of each class of the other corporation to which are attached at least 67% of the voting rights attaching to all of the issued and outstanding voting shares of each class of the other corporation at a general meeting of its shareholders,
- and

- (ii) the offer to purchase has been submitted to a general meeting of the shareholders of the purchaser corporation at which the holders of at least 50% of the voting rights attached to the issued and outstanding voting shares of the corporation are present in person or represented by proxy, and the purchase is approved by resolution carried by at least a 75% majority of the voting rights at the meeting;
 - (d) a corporation may purchase shares under this section notwithstanding any other provision of this Act so long as the provisions of this section are complied with;
 - (e) where a corporation has purchased shares under this section, it shall, within a period of 2 years after the purchase has been approved by the Minister or any further period allowed by the Minister, proceed under this Part either to acquire the assets of the other corporation or to amalgamate with the other corporation;
 - (f) after the expiration of the period referred to in clause (e) the Minister may direct the corporation to dispose of the shares.
- (2) The consideration for the shares acquired under this section may be
- (a) cash or securities of the purchasing corporation,
 - (b) partly cash and partly securities of the purchasing corporation, or
 - (c) any other consideration agreed on by the corporations.
- (3) Nothing in this section shall be construed as authorizing a corporation to purchase or acquire its own shares.
- (4) A corporation purchasing shares under this section shall file an application for the approval required by subsection (1) with the Minister.
- (5) The Minister, on receiving an application for the approval required by subsection (1),
- (a) shall require the applicant to publish notice of the proposed purchase, containing any information the Minister requires, in *The Alberta Gazette* and in a newspaper having general circulation in the locality

where the principal place of business of each corporation is located and, in the case of an amalgamation, in the locality where the principal place of business in Alberta of the amalgamated corporation is to be located, and

- (b) may require the corporations to provide any information, material and evidence the Minister considers necessary, in addition to the information, material and evidence required to be provided under any other provision of this Act.

Continuation
of fiduciary
obligations

223(1) In this section,

- (a) “acquiring corporation” means
 - (i) the amalgamated corporation resulting from the amalgamation of one or more corporations, or
 - (ii) a corporation that purchases the assets of another corporation,under this Part;
- (b) “agreement” means an agreement to amalgamate or for the purchase and sale of assets under this Part;
- (c) “instrument” includes
 - (i) a will, codicil or other document taking effect on the death of any person,
 - (ii) a settlement, trust deed or other document creating a trust,
 - (iii) an agreement, transfer, assignment, mortgage, encumbrance, charge, certificate of title or certificate of registration,
 - (iv) letters probate, letters of administration of any kind, or a judgment, order, direction or appointment of any court, judge or other constituted authority,
 - (v) a pleading, notice or document in an action or other proceeding in a court, and
 - (vi) a document registered, filed, lodged or deposited by or with a registrar;

- (d) “registrar” means the Registrar of Land Titles, the Registrar of Personal Property designated under the *Personal Property Security Act*, a mining recorder, a Minister of the Crown, a clerk of a court or the chief officer of any registry established by or pursuant to an Act of the Legislature.

(2) Before filing an agreement under section 219(1), where one or more of the corporations that is a party to an agreement is a trust corporation and the acquiring corporation is to be a loan corporation, the parties to the agreement shall make any arrangements that are necessary to transfer to another trust corporation the business in relation to which the trust corporation is acting in a fiduciary capacity, but this subsection does not apply so as to require a trust corporation to transfer to another trust corporation money received by it as deposits.

(3) Where the acquiring corporation is a trust corporation and one of the parties to the agreement is a loan corporation,

- (a) deposits received by the loan corporation under section 188(1)(a) are deemed to be deposits received under section 188(2)(a), and
- (b) deposits received by the loan corporation under section 188(1)(b) are deemed to be deposits received under section 188(2)(b).

(4) Where the acquiring corporation is a loan corporation and one of the parties to the agreement is a trust corporation,

- (a) deposits received by the trust corporation under section 188(2)(a) are deemed to be deposits received under section 188(1)(a), and
- (b) deposits received by the trust corporation under section 188(2)(b) are deemed to be deposits received under section 188(1)(b).

(5) Where the Minister approves an agreement under section 219,

- (a) in a case to which subsection (2) of this section applies, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding on the transferor trust corporation in respect of the transferred business referred to in that subsection are vested in and bind and may be enforced against the transferee trust corporation as fully and effectually as if it were originally named or appointed as a fiduciary in the instrument creating the trust,

- (b) an instrument naming or appointing the vendor corporation or amalgamating corporation as a fiduciary shall be read, construed and enforced as if the acquiring corporation were so named or appointed, and the acquiring corporation has, in respect of the instrument, the same rights, obligations and status as the vendor or amalgamating corporation had,
- (c) all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding on the vendor corporation or an amalgamating corporation are vested in and bind and may be enforced against the acquiring corporation as fully and effectually as if it were originally named or appointed as a fiduciary in the instrument creating the trust, and
- (d) when the vendor corporation or an amalgamating corporation is referred to in a document that is registered, filed, lodged or deposited by or with a registrar and that is uncanceled or undischarged as of the effective date of the approval, the document shall thereafter be dealt with by the registrar as though it named the acquiring corporation instead of the vendor or amalgamating corporation, without the necessity of filing a copy of the approval or any other document, or of making any entry in the registrar's records or of paying any fees to the registrar.

Arrangements 224(1) In this section, "arrangement" means

- (a) a division of the business carried on by a provincial corporation, and
 - (b) an exchange of securities of a provincial corporation held by security holders for property, money or other securities of the corporation or for property, money or securities of another body corporate that is not a take-over bid within the meaning of Part 16 of the *Business Corporations Act* as adopted by section 100 of this Act.
- (2) An application may be made to the Court by a provincial corporation or a security holder or creditor of the corporation for an order approving an arrangement in respect of the corporation.
- (3) If an arrangement may be effected under any other provision of this Act, an application may not be made under this section unless it is impractical to effect the arrangement under that other provision.

(4) In connection with an application under this section, the Court, unless it dismisses the application,

- (a) shall order the holding of a meeting of shareholders or a class or classes of shareholders to vote on the proposed arrangement,
- (b) shall order a meeting of persons who are creditors or holders of debt obligations of the provincial corporation or of options or rights to acquire securities of the corporation, or any class of those persons, if the Court considers that those persons or that class of persons is affected by the proposed arrangement,
- (c) may, with respect to any meeting referred to in clause (a) or (b), give any directions in the order respecting
 - (i) the calling of and the giving of notice of the meeting,
 - (ii) the conduct of the meeting,
 - (iii) subject to subsection (6), the majority required to pass a resolution at the meeting, and
 - (iv) any other matter it considers appropriate,

and

- (d) may make an order appointing counsel to represent, at the expense of the provincial corporation, the interests of the shareholders or any of them.

(5) The notice of a meeting referred to in subsection (4)(a) or (b) shall contain or be accompanied by

- (a) a statement explaining the effect of the arrangement, and
- (b) if the application is made by the provincial corporation, a statement of any material interests of the directors of the corporation, whether as directors, security holders or creditors, and the effect of the arrangement on those interests.

(6) A direction in an order made under subsection (4)(c)(iii) in respect of any meeting may not provide for any majority that is less than the following:

- (a) in the case of a vote of the shareholders or a class of shareholders, a majority of at least 2/3 of the votes cast by the shareholders voting on the resolution;
- (b) in the case of a vote of creditors or a class of creditors, a majority in number representing at least 2/3 of the amount of their claims;
- (c) in the case of a vote of the holders of debt obligations or a class of those holders, a majority in number representing at least 2/3 of the amount of their claims;
- (d) in the case of a vote of holders of options or rights to acquire securities, the majority that would be required under clause (a) or (c) if those holders had acquired ownership of the securities.

(7) Notwithstanding anything in subsections (4) to (6), if a resolution required to be voted on pursuant to the order under subsection (4) is in writing and signed by all the persons entitled to vote on the resolution,

- (a) the meeting required to be held by the order need not be held, and
- (b) the resolution is as valid as if it had been passed at a meeting.

(8) After the holding of the meetings required by an order under subsection (4) or the submission to it of written resolutions that comply with subsection (7), the Court shall hear the application and may in its discretion

- (a) approve the arrangement as proposed by the applicant or as amended by the Court, or
- (b) refuse to approve the arrangement,

and make any further order it considers appropriate.

(9) An arrangement approved by the Court is binding on the provincial corporation and all other persons.

PART 13

LIQUIDATION AND DISSOLUTION

Staying
proceedings

225 Any proceedings taken under this Part to dissolve or to liquidate and dissolve a provincial corporation shall be stayed if the

corporation is at any time found to be insolvent in a proceeding under the *Winding-up Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or any other Act of Canada or Alberta that provides for the dissolution of a body corporate.

No property
and no
liabilities

226(1) A provincial corporation that has no property and no liabilities may, if authorized by

- (a) a special resolution of the shareholders or, if it has issued more than one class of shares, by special resolution of the shareholders of each class, or
- (b) a resolution of the directors if there are no shareholders,

apply for letters patent dissolving the corporation by sending a statement of intent to dissolve in the prescribed form to the Minister.

(2) On the recommendation of the Minister that all the circumstances so warrant, the Lieutenant Governor in Council may issue letters patent dissolving the provincial corporation.

(3) A provincial corporation in respect of which letters patent are issued under subsection (2) ceases to exist on the day stated in the letters patent.

Proposing
liquidation

227(1) The voluntary liquidation and dissolution of a provincial corporation, other than a corporation referred to in section 226(1),

- (a) may be proposed by its directors, or
- (b) may be initiated by way of a proposal in accordance with section 86 made by a shareholder who is entitled to vote at an annual meeting of the shareholders.

(2) Notice of any meeting of shareholders at which voluntary liquidation and dissolution is to be proposed shall set out the terms of the proposal.

(3) A provincial corporation proposing voluntary liquidation and dissolution may, if authorized by a special resolution of the shareholders or, if it has issued more than one class of shares, by special resolution of the holders of each class, apply for letters patent dissolving the corporation by sending a statement of intent to dissolve in the prescribed form to the Minister.

Certificate of intent to dissolve required	228 No action directed toward the voluntary liquidation and dissolution of a provincial corporation shall be taken by a corporation, other than as provided in section 227, until the Minister issues a certificate of intent to dissolve under section 229.
Issue of certificate	229 Where the Minister is satisfied on the basis of an application made pursuant to section 227(3) that the circumstances warrant the voluntary liquidation and dissolution of a corporation, the Minister may issue a certificate of intent to dissolve in the prescribed form.
Effect of certificate	230 Where the Minister issues a certificate of intent to dissolve, the provincial corporation shall not carry on business except to the extent necessary to complete its voluntary liquidation.
Revocation of certificate of intent to dissolve	<p>231(1) At any time after the issue of a certificate of intent to dissolve and before the issue of letters patent of dissolution, the provincial corporation may apply to have the certificate of intent to dissolve revoked</p> <ul style="list-style-type: none"> (a) by sending to the Minister a statement of revocation of intent to dissolve in the prescribed form and approved in the same manner as the resolution under section 227(3), and (b) by publishing the statement in the prescribed manner. <p>(2) On receipt of a statement of revocation of intent to dissolve, the Minister shall issue a certificate of revocation of intent to dissolve.</p> <p>(3) The revocation is effective, and the provincial corporation may continue to carry on its business, on the date shown in the certificate of revocation of intent to dissolve.</p>
Liquidation process	<p>232 Where the Minister issues a certificate of intent to dissolve, the provincial corporation shall</p> <ul style="list-style-type: none"> (a) cause notice of the issuance of the certificate to be sent to each known claimant against and creditor of the corporation, (b) publish notice of the issuance of the certificate <ul style="list-style-type: none"> (i) in The Alberta Gazette, and

- (ii) once in a newspaper having general circulation in the locality where the principal place of business of the corporation is located,

and take reasonable steps to give notice of the issuance of the certificate in every jurisdiction where the corporation carried on business within the preceding 12 months,

- (c) proceed to collect its property, dispose of property that is not to be distributed in kind to its shareholders, discharge all its obligations and do all other acts required to liquidate its business,
- (d) in the case of a provincial trust corporation, make any arrangements that are necessary to transfer to another trust corporation the business in relation to which the provincial trust corporation acted in a fiduciary capacity, other than deposits, and
- (e) after giving the notice required under clauses (a) and (b) and adequately providing for the payment or discharge of all its obligations, distribute its remaining property, either in money or in kind, among its shareholders according to their rights.

Letters patent
of dissolution

233 Unless the Court has made an order in accordance with section 235, the Minister may, if satisfied that the provincial corporation has complied with section 232 and that all the circumstances so warrant, recommend to the Lieutenant Governor in Council that the Lieutenant Governor in Council issue letters patent dissolving the corporation, and the Lieutenant Governor in Council may issue the letters patent accordingly.

Dissolution

234 A provincial corporation in respect of which letters patent are issued under section 233 is dissolved and ceases to exist on the date stated in the letters patent.

Application
for Court
supervision

235(1) The Minister or any interested person may, at any time during the liquidation of a provincial corporation, apply to the Court for an order that the liquidation be continued under the supervision of the Court in accordance with this Part, and on the application the Court may so order and make any further order it considers appropriate.

(2) An application to the Court to supervise a voluntary liquidation under subsection (1) shall state the reasons, verified by

an affidavit of the applicant, why the Court should supervise the liquidation.

**Notice to
Minister**

236 Where a person other than the Minister makes an application under section 235, the person shall give the Minister notice of the application, and the Minister may appear and be heard in person or by counsel.

**Effect of
order**

237 When the Court makes an order applied for under section 235, the liquidation of the provincial corporation continues under the supervision of the Court in accordance with this Part.

**Commence-
ment of
liquidation**

238 The liquidation of a provincial corporation under an order made pursuant to section 235 commences on the day the order is made.

**Powers of
Court**

239 The Court may make any order it considers appropriate in connection with the liquidation and dissolution of a provincial corporation, including, without limitation, any or all of the following orders:

- (a) an order to liquidate;
- (b) an order appointing a liquidator, with or without security, fixing a liquidator's remuneration and replacing a liquidator;
- (c) an order appointing inspectors or referees, replacing inspectors or referees, specifying their powers and fixing their remuneration;
- (d) an order determining the notice to be given to any interested person or dispensing with notice to any person;
- (e) an order determining the validity of any claims made against the corporation;
- (f) an order, at any stage of the proceedings, restraining the directors and officers from
 - (i) exercising any of their powers, or
 - (ii) collecting or receiving any debt or other property of the corporation, and from paying

out or transferring any property of the corporation,

except as permitted by the Court;

- (g) an order determining and enforcing the duty or liability of any present or former director, officer or shareholder
 - (i) to the corporation, or
 - (ii) for an obligation of the corporation;
- (h) an order approving the payment, satisfaction or compromise of claims against the corporation and the retention of assets for that purpose, and determining the adequacy of provisions for the payment, discharge or transfer of any trust obligation or other obligation of the corporation, whether liquidated, unliquidated, future or contingent;
- (i) with the concurrence of the Minister, an order providing for the disposal or destruction of the documents and records of the corporation;
- (j) on the application of a creditor, an inspector or the liquidator, an order giving directions on any matter arising in the liquidation;
- (k) after notice has been given to all interested parties, an order relieving the liquidator from any omission or default on any terms the Court considers appropriate and confirming any act of the liquidator;
- (l) subject to section 249, an order approving any proposed, interim or final distribution to shareholders, if any, or to incorporators, in money or in property;
- (m) an order disposing of any property belonging to creditors or shareholders who cannot be found;
- (n) on the application of any director, officer, shareholder, creditor or the liquidator,
 - (i) an order staying the liquidation on any terms and conditions the Court thinks fit,
 - (ii) an order continuing or discontinuing the liquidation, or

(iii) an order to the liquidator to restore to the corporation all its remaining property;

(o) after the liquidator has rendered his final account to the Court, an order directing the corporation to apply for letters patent dissolving the corporation.

**Effect of
order for
liquidation**

240(1) If the Court makes an order for the liquidation of a provincial corporation,

- (a) the corporation continues in existence but shall cease to carry on business, except the business that is, in the opinion of the liquidator, required for an orderly liquidation,
- (b) the powers of the directors, officers and shareholders, if any, cease and vest in the liquidator, except as specifically authorized by the Court,
- (c) no civil, criminal or administrative action or proceeding may be commenced or continued against the corporation without leave of the Court, and then only in accordance with the terms and conditions imposed by the Court, and
- (d) an attachment, sequestration, distress or execution that is in force or levied against the property of the corporation after the date of the order is void.

(2) The liquidator may delegate any of the powers vested in him by subsection (1)(b) to a director, officer or shareholder.

**Appointment
of liquidator**

241 When making an order for the liquidation of a provincial corporation or at any time thereafter, the Court may appoint any person, including a director, officer or shareholder of the corporation or any other corporation, as liquidator of the corporation.

**Vacancy in
liquidator's
office**

242 Where an order for the liquidation of a provincial corporation has been made and the office of liquidator is or becomes vacant, the property of the corporation is under the control of the Court until the office of liquidator is filled.

**Duties of
liquidator**

243 A liquidator shall

- (a) forthwith after his appointment give notice of the appointment to the Minister and to each claimant and creditor known to the liquidator,
- (b) forthwith after his appointment publish notice in The Alberta Gazette and once a week for 2 consecutive weeks in a newspaper having general circulation in the locality where the principal place of business of the provincial corporation is located, and take reasonable steps to give notice in each province where the corporation carries on business, and the notice shall require
 - (i) any person indebted to the corporation to render an account and pay to the liquidator at the time and place specified any amount owing,
 - (ii) any person possessing property of the corporation to deliver it to the liquidator at the time and place specified, and
 - (iii) any person having a claim against the corporation, whether liquidated, unliquidated, future or contingent, to present particulars of the claim in writing to the liquidator not later than 2 months after the first publication of the notice,
- (c) take into his custody and control the property of the provincial corporation,
- (d) in the case of a provincial trust corporation, make any arrangements that are necessary to transfer to another trust corporation the business in relation to which the provincial trust corporation acted in a fiduciary capacity, other than deposits,
- (e) open and maintain a trust account for the money of the provincial corporation,
- (f) keep accounts of the money of the provincial corporation received and paid out by the liquidator,
- (g) maintain separate lists of any creditors, shareholders and other persons having claims against the provincial corporation,
- (h) if at any time the liquidator determines that the provincial corporation is unable to pay or adequately

provide for the discharge of its obligations, apply to the Court for directions,

- (i) submit to the Court and the Minister
 - (i) financial statements of the provincial corporation each year, and
 - (ii) any other financial information the Court or the Minister requests, within a reasonable time after the request is made,
- and
- (j) after the final accounts are approved by the Court, distribute any remaining property of the provincial corporation among the shareholders, if any, or among the incorporators, according to their rights.

Powers of
liquidator

244 A liquidator may

- (a) retain professional advisers he considers necessary to assist and advise him,
- (b) bring, defend or take part in any civil, criminal or administrative action or proceeding in the name and on behalf of the provincial corporation,
- (c) carry on the business of the provincial corporation as required for an orderly liquidation,
- (d) sell by public auction or private sale any property of the provincial corporation,
- (e) do all acts and execute any documents in the name and on behalf of the provincial corporation,
- (f) subject to section 245, borrow money on the security of the property of the provincial corporation,
- (g) settle or compromise any claims by or against the provincial corporation, and
- (h) do all other things necessary for the liquidation of the provincial corporation and distribution of its property.

Prohibition

245 A liquidator shall not purchase, directly or indirectly, any part of the property of the provincial corporation or borrow money

on the security of its property without the prior approval of the Court.

Reliance on
statements

246 A liquidator is not liable if he relies in good faith on

- (a) financial statements of the provincial corporation represented to him by an officer of the corporation or in a written report of the auditor of the corporation to reflect fairly the financial condition of the corporation, or
- (b) an opinion, a report or a statement of a professional adviser retained by the liquidator.

Examination
of others

247 If a liquidator has reason to believe that any property of the provincial corporation is in the possession or under the control of a person or that a person has concealed, withheld or misappropriated any such property, the liquidator may apply to the Court for an order requiring that person to appear before the Court at the time and place designated in the order and to be examined.

Restoration
and
compensation

248 If the examination referred to in section 247 discloses that a person has concealed, withheld or misappropriated property of the provincial corporation, the Court may order that person to restore the property or pay compensation to the liquidator.

Final
accounts and
discharge of
liquidator

249(1) A liquidator shall pay the costs of the liquidation out of the property of the provincial corporation and shall pay or make adequate provision for all claims against the provincial corporation.

(2) Within one year after his appointment, and after paying or making adequate provision for all claims against the provincial corporation, the liquidator shall apply to the Court

- (a) for approval of his final accounts and for an order permitting him to distribute in money or in kind the remaining property of the provincial corporation to its shareholders, if any, or to its incorporators, according to their rights, or
- (b) for an extension of time, setting out the reasons for the extension.

(3) A liquidator shall give notice of his intention to make an application under subsection (2) to

- (a) the Minister,
- (b) an inspector appointed under section 239,
- (c) each shareholder or incorporator, and
- (d) each person who provided a security or fidelity bond for the liquidator.

(4) If a liquidator fails to make the application required by subsection (2), a shareholder, if any, or an incorporator of the provincial corporation may apply to the Court for an order for the liquidator to show cause why a final accounting and distribution should not be made.

(5) If the Court approves the final accounts rendered by a liquidator, the Court shall make an order

- (a) directing the provincial corporation to send to the Minister an application for letters patent dissolving the provincial corporation,
- (b) directing the custody or disposal of the documents and records of the provincial corporation, and
- (c) discharging the liquidator.

(6) The liquidator shall forthwith send or deliver a certified copy of the order referred to in subsection (5) to the Minister.

Shareholder's
right to
distribution in
money

250(1) If, in the course of liquidation of a provincial corporation, the shareholders resolve or the liquidator proposes to

- (a) exchange all or substantially all the property of the corporation for securities of another body corporate that are to be distributed to the shareholders, or
- (b) distribute all or part of the property of the corporation to the shareholders in kind,

a shareholder may apply to the Court for an order requiring the distribution of the property of the corporation to be in money.

(2) On an application under subsection (1), the Court may order that

- (a) all the property of the provincial corporation be converted into and distributed in money, or

- (b) the applicant be paid the fair value of his shares, in which case the Court
 - (i) may determine whether any other shareholder is opposed to the resolution or proposal and, if so, join that shareholder as a party,
 - (ii) may appoint one or more appraisers to assist the Court in fixing the fair value of the shares,
 - (iii) shall fix the fair value of the shares of the applicant and the other shareholders joined as parties as of a date determined by the Court,
 - (iv) shall give judgment in the amount of the fair value against the provincial corporation and in favour of each of the shareholders who are parties to the application, and
 - (v) shall fix the time within which the liquidator must pay the amount referred to in subclause (iv) to a shareholder after delivery of his shares to the liquidator, if they have not already been delivered to the Court or to the liquidator at the time the order is pronounced.

Letters patent
of dissolution

251(1) On receiving an application under section 249(5), the Minister shall recommend to the Lieutenant Governor in Council that the Lieutenant Governor in Council issue letters patent dissolving the provincial corporation, and the Lieutenant Governor in Council may issue the letters patent accordingly.

(2) The provincial corporation ceases to exist on the date stated in the letters patent issued under subsection (1).

Existing rights
unaffected by
dissolution

252(1) In this section, “shareholder” includes the personal representatives of a shareholder.

(2) Notwithstanding the dissolution of a provincial corporation under this Act,

- (a) a civil, criminal or administrative action or proceeding commenced by or against the corporation before its dissolution may be continued as if the corporation had not been dissolved,
- (b) a civil, criminal or administrative action or proceeding may be brought against the corporation within 2 years

after its dissolution as if the corporation had not been dissolved, and

- (c) any property that would have been available to satisfy any judgment or order if the corporation had not been dissolved remains available for that purpose.

(3) Service of a document on a provincial corporation after its dissolution may be effected by serving the document on a person shown in the most recent notice of directors filed under this Act.

(4) Notwithstanding the dissolution of a provincial corporation under this Act, a shareholder or incorporator to whom any of its property has been distributed in the liquidation is liable to any person claiming under subsection (2) to the extent of the amount received by that shareholder or incorporator on the distribution, and an action to enforce that liability may be brought within 2 years after the date of the dissolution of the corporation.

(5) The Court may order an action referred to in subsection (4) to be brought against the persons who were shareholders or incorporators as a class, subject to any conditions the Court thinks fit, and if the plaintiff establishes his claim, the Court may refer the proceedings to a referee or other officer of the Court, who may

- (a) add as a party to the proceedings before him each person who the plaintiff establishes was a shareholder or incorporator of the class,
- (b) determine, subject to subsection (4), the amount that each person who was a shareholder or incorporator shall contribute towards satisfaction of the plaintiff's claim, and
- (c) direct payment of the amounts so determined.

**Unknown
claimants**

253(1) On the dissolution of a provincial corporation under this Act, the portion of the property distributable to a creditor, shareholder or other claimant who cannot be found shall be converted into money and paid to the Provincial Treasurer.

(2) A payment under subsection (1) is deemed to be in satisfaction of a debt or claim of the creditor, shareholder or claimant.

(3) If at any time a person establishes entitlement to any money paid to the Provincial Treasurer under this Act, the Provincial Treasurer shall pay an equivalent amount to that person out of the General Revenue Fund.

(4) No interest is payable on money paid to a claimant under subsection (3).

Custody of
documents,
etc.

254 A person who has been granted custody of the documents and records of a dissolved provincial corporation remains liable to produce those documents and records for 6 years following the date of dissolution or until the expiry of any shorter period that may be ordered under section 249(5).

Revival

255(1) Any interested person may, by an application in the prescribed form, apply to the Minister to revive a dissolved provincial corporation, other than one dissolved pursuant to an order of the Court.

(2) On receipt of the application, the Minister may

- (a) issue a certificate of revival, or
- (b) direct that the application be made to the Court under subsection (3).

(3) Any interested person may apply to the Court for an order reviving a dissolved provincial corporation

- (a) where the corporation was dissolved pursuant to an order of the Court, or
- (b) where the Minister makes a direction under subsection (2)(b),

and the applicant shall give notice of the application to the Minister.

(4) If an order is made under subsection (3), the applicant shall forthwith send a certified copy of it to the Minister, who shall register the order and issue a certificate of revival.

(5) The Minister or the Court, as the case may be, may order that the provincial corporation be revived

- (a) for the purposes of carrying out the acts, and
- (b) for the period,

specified in the order and, in that case, the revival is effective only subject to those restrictions.

(6) Notwithstanding subsection (5), the Minister or the Court, as the case may be, may, on application by any interested person, extend the period of time referred to in subsection (5)(b).

(7) The Minister or the Court, as the case may be, may make any order the Minister or the Court considers appropriate respecting actions to be taken by the provincial corporation and the return of its property.

(8) A provincial corporation is revived on the date shown in the certificate of revival, and subject to any order under this section and to rights acquired by any person prior to the revival, the corporation is deemed to have continued in existence as if it had not been dissolved.

(9) A provincial corporation that is revived under this section is dissolved on the expiry of the period referred to in subsection (5) or on the expiry of any extension of that period granted under subsection (6).

PART 14

ADMINISTRATION AND ENFORCEMENT

Extension of
time for filing

256 Where a person is required to provide the Minister with any document or information under this Act or the regulations, the Minister may, on written application made before the expiration of the last day for providing it, extend the time for its provision for any period he considers appropriate.

Confidentiality
of information

257(1) Subject to this section, where, as a result of administering this Act, the Minister obtains information or documents, other than information or documents kept in a register under section 28, regarding the business or affairs of a registered corporation or persons dealing with a registered corporation, the Minister shall not disclose that information or provide those documents or disclose any information contained in, or allow access to, those documents, to any person other than the registered corporation.

(2) The Minister may in any manner communicate or provide information and copies of documents referred to in subsection (1) whose disclosure the Minister considers to be required

- (a) for the proper administration of this Act, to persons acting under the Minister's direction or authority in the administration of this Act,

- (b) for the purpose of enabling the auditor of a registered corporation to fulfil his functions as such, to that auditor, or
 - (c) for regular law enforcement purposes, to a law enforcement authority.
- (3) The Minister may in any manner communicate information and provide copies of documents referred to in subsection (1), or allow inspection of or access to any such documents,
- (a) to the government of any other province or of Canada, or an agency of such a government,
 - (b) for the purposes of the administration or enforcement of
 - (i) the *Securities Act*, to the Chief of Securities Administration,
 - (ii) the *Insurance Act*, to the Superintendent of Insurance, or
 - (iii) the *Credit Union Act*, to any employee in the public service of Alberta who is involved in the administration of that Act,
- or
- (c) for any prescribed purpose, to any other prescribed person.
- (4) Subject to subsection (5), a person to whom information or a document is communicated or provided under subsection (2) or (3)(b) or (c) shall comply with subsection (1) in respect of it.
- (5) Subsection (4) does not apply to any disclosure made by the recipient referred to in that subsection
- (a) for the relevant purpose referred to in subsection (2)(b) or (c) or (3)(b) or (c), or
 - (b) to another person acting under the recipient's direction or authority or otherwise associated with the recipient in achieving that purpose.
- (6) Where, for the purposes of the administration of this Act, the Minister receives information communicated to him by, or is allowed inspection of or access to any document provided by, the government of or a public body of Canada or any other province, the Minister shall not disclose the information or the contents of

the document other than with the consent of that government or public body.

(7) Subject to subsections (4) and (5), duties under this section apply not only to a person referred to in this section, but also to any other person acting under that person's direction or authority or to whose notice information or a document comes as a result of any relationship with that person.

Delegation of powers

258 The Minister may delegate in writing any power, duty or function imposed on the Minister by this Act or the regulations, other than the power to make regulations, to any employee under the Minister's administration or any member, officer or employee of an agent of the Crown in right of Alberta.

Agreements

259 The Minister may on behalf of the Government of Alberta enter into agreements with any entity for the purpose of carrying out this Act.

Indemnity agreements

260(1) The Minister may, on behalf of the Government and with the approval of the Lieutenant Governor in Council, enter into agreements with the government of another province or a body corporate that is an agent of the government of another province for any purpose in connection with an enactment of that province that provides for the insuring of the deposits and investment money, or any class thereof, of a provincial corporation registered or licensed as a loan or trust corporation in that province.

(2) An agreement made pursuant to subsection (1) may contain an undertaking by the Government to indemnify the government of the other province, or its agent body corporate, for any loss to that government or body corporate occurring by reason of its obligation to make payment in respect of any deposits or investment money insured by that government or body corporate when that obligation arises during the period specified in the agreement for that purpose.

(3) The Minister may, on behalf of the Government and with the approval of the Lieutenant Governor in Council, enter into agreements with the Canada Deposit Insurance Corporation under the *Canada Deposit Insurance Corporation Act* (Canada) for any purpose in connection with the issue of policies of deposit insurance under that Act to provincial corporations.

(4) An agreement made pursuant to subsection (3) may contain an undertaking by the Government to indemnify the Canada Deposit Insurance Corporation for any loss to that Corporation occurring by reason of its obligation to make payment in respect of any deposit

insured by a policy of deposit insurance when that obligation arises during the period specified in the agreement for that purpose.

Approvals
and consents

261(1) Where this Act provides for the giving of an approval or consent by the Minister, he may make the approval or consent subject to any terms and conditions he considers appropriate.

(2) The approval or consent must be in writing.

(3) Before refusing an approval or consent or granting an approval or consent subject to terms and conditions, the Minister shall give the person seeking the approval or consent notice of his intention and an opportunity to be heard on the matter.

Orders, etc.,
binding on
successors

262 Where

- (a) an order, consent, undertaking, voluntary compliance program or approval is made or given under this Act, or
- (b) a term, condition or restriction is imposed on the registration of a registered corporation,

the order, consent, undertaking, voluntary compliance program, approval, term, condition or restriction is binding on the successors of the person or corporation to whom it relates.

Matters under
oath

263 For the purposes of carrying out this Act, the Minister may

- (a) require that a document or a fact stated in a document required by this Act or the regulations to be sent to the Minister be verified under oath or by statutory declaration, and
- (b) receive affidavits, take declarations and depositions and examine witnesses under oath.

Recording of
evidence

264 Oral evidence taken before the Minister or before a review board established under section 266 may be recorded by a stenographer or otherwise recorded, and copies of a transcript of the evidence shall be furnished to the parties to the proceeding on request and on the terms and for the same fees as are applicable to transcripts in proceedings in the Court.

Notification of Minister's decision **265** Forthwith on making a decision referred to in section 266(1), the Minister shall serve on each person who is directly affected by the decision a written notice of the decision setting out

- (a) the findings of fact on which the decision is based, and
- (b) the reasons for the decision.

Review by review board **266(1)** A person who receives notice under section 265 of

- (a) the making of a permanent order under section 278(7),
- (b) the Minister's refusal, by reason of section 20(1), to recommend the issuing of letters patent or supplementary letters patent,
- (c) the Minister's recommendation to issue supplementary letters patent under section 20(3),
- (d) the Minister's refusal, by reason of section 34, to register a corporation,
- (e) an order of the Minister under section 34(4),
- (f) the Minister's rejection of an application for registration solely on the basis of section 35(b) or (d),
- (g) the Minister's refusal of consent under section 62 or 77(8)(a),
- (h) the Minister's designation, or refusal to revoke the designation, of a person as a restricted party under section 163,
- (i) an order of the Minister under section 208,
- (j) the Minister's refusal to approve an agreement under section 219 solely on the basis of section 219(4)(a)(i),
- (k) the Minister's refusal to issue a certificate of intent to dissolve under section 229, or
- (l) any other prescribed decision of the Minister

and who feels aggrieved by the decision may object to the decision by serving on the Minister a notice of objection, specifying the decision objected to and the grounds for the objection, within 90 days after being served with the notice under section 265.

(2) The Minister shall, within 30 days of being served with the notice of objection, appoint a review board to conduct a review of the matter objected to, unless the Minister decides within that period to reverse the decision.

(3) A review board shall consist of one person designated by the Minister as presiding officer and not fewer than 2 nor more than 4 other persons, but the Minister shall not appoint to the review board persons who are employed in a part of the public service of Alberta under the Minister's administration.

(4) The Minister may pay fees and travelling and living expenses that he considers proper to the members of a review board.

(5) The Minister shall set a period, not exceeding 90 days, within which the review board is to conduct the review and give its written decision, and may extend that period or any extension of that period, before its expiry, by further periods not exceeding 45 days.

(6) Sections 3, 4, 7, 8, 9, 10 and 11 of the *Public Inquiries Act* apply to a review under this section.

(7) The review board may confirm, rescind or vary the decision reviewed.

(8) The review board shall, forthwith after making its decision, serve a copy of its decision, including the reasons for it, on the objector and the Minister.

(9) Subject to this section and the regulations, a review board may make rules governing its own procedure and business.

Consent to
apply directly
to Court

267(1) An objector may, in a notice of objection under section 266, apply to the Minister for consent to apply directly to the Court under section 268 without having a review conducted under section 266, and if the Minister considers the matter should go directly to the Court, he may, by notice in writing to that party, consent to a direct application to the Court.

(2) Where the Minister gives consent under subsection (1), the objector shall be treated as having waived his right to the review.

(3) Where

- (a) any period established under section 266(5) expires without having been extended or further extended under that subsection, and

(b) the review board has not made its decision,

the objector has a right to elect to apply directly to the Court pursuant to section 268 or to allow the review board to give its decision after the expiration of that period.

Application

268(1) An objector who receives a copy of a review board's decision under section 266, the Minister and an objector to whom section 267 applies may apply to the Court for an order under this section.

(2) Where the application is made by an objector to whom section 267 applies, the application shall be accompanied by the consent given under that section.

(3) An application under this section shall

(a) be filed in the office of the clerk of the Court and served on the other persons who received a copy of the decision within 30 days after the applicant received the decision or the expiry of the period referred to in section 266(5), as the case may be, or within any longer period the Court allows, and

(b) be made returnable within 90 days after the date of filing of the application.

(4) On hearing the application the Court may confirm, rescind or vary the decision of the review board and may make any other order it considers appropriate.

Stay

269(1) Subject to this section, neither an objection nor an application to the Court operates as a stay of the decision objected to or appealed from.

(2) The review board or the Court, as the case may be, may grant a stay in respect of a decision referred to in section 266(1)(a), (c), (e), (h) or (i) or any other prescribed decision.

(3) Where a review board decides against the Minister in the case of a decision referred to in section 266(1)(b), (c), (d), (f) or (l) and the Minister applies to the Court under section 268 in respect of the decision, the Minister need not act under the provisions referred to in those clauses pending the Court's decision.

Duty to co-operate with examinations, etc.

270 No person shall interfere with any person doing anything that that person is authorized under sections 271 to 288 to do.

Demand for information

271(1) The Minister may, for any purpose related to an examination under this Part or for the purpose of inquiring or facilitating inquiries into

- (a) a registered corporation's condition and ability to meet its obligations,
- (b) the conduct by a registered corporation of its business or affairs, or
- (c) any complaint made by a creditor of a registered corporation or a person for whom the corporation acts in a fiduciary capacity,

direct the corporation, a subsidiary of the corporation, a restricted party of the corporation, an individual who controls the corporation's holding body corporate, or a present or former director, auditor, officer, employee, agent, depositor, borrower or creditor of the corporation, its subsidiary or its holding body corporate to provide or produce, within a reasonable period of time that is stipulated in the direction, any information or document.

(2) Where a person served with a direction under this section does not provide or produce the information or document in accordance with the direction, then, without affecting any other liability that the person may be subject to under this Act, the Minister, on 2 days' written notice to that person, may apply to the Court for an order under subsection (3).

(3) The Court may order the person to provide or produce the information or document subject to any conditions the Court considers appropriate, if the Court is satisfied that the information or document is in the possession or under the control of the person and is relevant to a purpose provided for in subsection (1).

(4) If the information or document is produced by a person under this section, the Minister, on giving a receipt for it, may remove it for the purpose of making copies of or extracts from it.

Periodic examination

272(1) The Minister may examine any aspect of the business or affairs of a registered corporation or its subsidiaries in order to determine, for purposes related to the administration of this Act,

- (a) the corporation's condition and ability to meet its obligations,
- (b) whether the corporation is following sound business and financial practices,
- (c) the procedures and standards of the management of the corporation, and
- (d) whether or not the corporation is in compliance with this Act, the regulations, any order under this Act and any term, condition or restriction of registration.

(2) For the purposes of an examination under subsection (1), the Minister shall attend at the principal place of business of the registered corporation and may attend at any branch or office of the corporation.

(3) If the Minister is satisfied that an examination of a registered extra-provincial corporation conducted by the government of Canada or of any province of Canada, or an agency of any such government, complies with the standards required by the Minister for the examination of a registered corporation under this section, the Minister may accept that examination, in whole or in part, as if it were an examination conducted by the Minister under this section.

**Special
examination**

273(1) The Minister may, if satisfied that

- (a) the business or affairs of a registered corporation or a subsidiary require investigation in order to safeguard the interests of the registered corporation's creditors or of persons for whom the registered corporation acts in a fiduciary capacity, or to safeguard the assets of the registered corporation or of a subsidiary, or
- (b) the registered corporation or a subsidiary may have contravened this Act or the regulations,

order that a special examination of the matter specified in the order be made by a special examiner appointed by the Minister.

(2) The person making the special examination shall, on being so ordered by the Minister,

- (a) make any written report that is required by the order, and

- (b) produce a copy of the report to any person specified in the order.

Powers of
person
conducting
examination

274(1) For the purposes of an examination under this Part, the person conducting the examination may investigate, inquire into and examine the business and affairs of the registered corporation or subsidiary or the matter in respect of which the examination is being conducted and, at all reasonable times and for any purpose related to the examination, may

- (a) inspect or examine records or documents of or in the possession of the corporation or subsidiary relating to the business or affairs or matter in question,
- (b) require the production for inspection or examination of all records or documents that are or may be relevant to the examination and make copies of or take extracts from them,
- (c) examine property of the corporation or subsidiary or any property or matter relating to the corporation or subsidiary an examination of which may assist the person in ascertaining the information that is or should be in the records of the corporation or subsidiary, and
- (d) communicate to the corporation or subsidiary orally or in writing any findings made during the examination and any conclusions and recommendations based on those findings.

(2) Where the person conducting the examination believes on reasonable grounds that the records, documents or property described in subsection (1) are likely to be found in any premises or place, he may at any reasonable time

- (a) subject to subsection (3), enter into the premises or place, and
- (b) require the owner or manager of the premises or place and any other person on the premises or at the place to give him all reasonable assistance and to make reasonable efforts to answer all proper questions relating to the examination and, for that purpose, require the owner or manager to attend at the premises or place with him.

(3) When the premises or place referred to in subsection (2) is a dwelling-house, the person conducting the examination shall not

enter the dwelling-house without the consent of the occupant of the dwelling-house.

(4) If the person conducting the examination

- (a) is refused entry into premises or a place referred to in subsection (2),
- (b) is not given consent to enter a dwelling-house,
- (c) has reasonable grounds to believe that
 - (i) he will be refused entry into premises or a place referred to in subsection (2), or
 - (ii) he will not be given consent to enter a dwelling-house,

or

- (d) is impeded or has reasonable grounds to believe that he will be impeded in the conducting of the examination,

he may apply to the Court for an order authorizing him to

- (e) enter the premises, place or dwelling-house, and
- (f) carry out his examination.

(5) An application under this section shall be by way of an originating notice.

(6) On the filing of an originating notice with the clerk of the Court, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice and make an interim order granting such relief as the Court considers appropriate pending the determination of the application.

(7) An interim order under subsection (6) may be made ex parte if the Court considers it appropriate in the circumstances.

(8) On hearing an application, the Court may do one or more of the following:

- (a) authorize the person conducting the examination to enter the premises, place or dwelling-house and carry out his duties;
- (b) direct any occupant to assist the person conducting the examination in any manner the Court prescribes;

- (c) restrain any person from impeding the person conducting the examination from entering the premises, place or dwelling-house or from carrying out his duties;
- (d) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (e) award costs in respect of the matter.

(9) A person who in good faith makes and communicates findings, conclusions and recommendations under subsection (1)(d) is not liable in any civil action arising from them.

Examination
of other
persons

275 Where the Minister considers that a person other than a registered corporation is carrying on business as a loan corporation or trust corporation contrary to this Act, the Minister may investigate, inquire into and examine the business and affairs of the person and for that purpose may exercise powers under section 274 as if the person were a registered corporation to which that section applied.

Powers on
special
examination

276 A person conducting a special examination under section 273 may summon witnesses and take evidence under oath, and generally, for the purposes of the examination, has the powers of a commissioner under the *Public Inquiries Act*, which Act applies as if the examination were an inquiry under that Act.

Appraisal of
property

277(1) In this section, “lending value” means a percentage of the market value of real estate, not to exceed 75%, that a registered corporation has determined in accordance with its prudent investment standards to be appropriate in the circumstances.

(2) If, with respect to a registered corporation or its subsidiaries, the Minister considers that

- (a) the value placed on any of the real estate owned by the corporation or any of its subsidiaries is too great,
- (b) the amount secured by mortgage on any real estate, together with interest due and accrued on the mortgage, is greater than the lending value of the real estate, or that the real estate is not sufficient security for the loan and interest, or
- (c) the market value of any other investment is less than the amount shown in the books of the corporation or any of its subsidiaries,

the Minister may require the corporation to secure an appraisal of the assets by one or more competent valuers, or the Minister may arrange for the appraisal at the expense of the corporation.

(3) Having regard to the appraised value, the Minister may

- (a) substitute the appraised value of the assets for the corporation's valuation,
- (b) write down the value of a loan referred to in subsection (2)(b) by such amount as the Minister considers appropriate, or
- (c) recalculate the leverage ratio and risk weighted average ratio for the purposes of section 189,

and, where he takes such action, he shall direct the corporation to adjust the book value of the assets or the loan accordingly.

Minister's
order to
comply

278(1) Where, in the Minister's opinion, a registered corporation or other person is committing any act or pursuing any course of conduct that

- (a) is in contravention of this Act or the regulations,
- (b) places the corporation in a position where it is carrying on business in an unsound manner,
- (c) might reasonably be expected, if continued, to result in a state of affairs that would be in contravention of this Act or the regulations,
- (d) is in contravention of a voluntary compliance program under section 279,
- (e) is in contravention of an undertaking given under this Act, or
- (f) might prejudice or adversely affect the interests of depositors or of persons for whom the corporation acts in a fiduciary capacity,

the Minister may give notice to the corporation or other person of the Minister's intention to make a permanent order ordering the corporation or other person

- (g) to cease doing any act or pursuing any course of conduct specified in the notice, or

(h) to perform acts specified in the notice that, in the Minister's opinion, are necessary to remedy the situation.

(2) Where, in the Minister's opinion, the public interest may be prejudiced or adversely affected by any delay in the issuance of a permanent order, the Minister may, without notice, make a temporary order under subsection (1), which shall take effect immediately on its making.

(3) Where an order under this section would ultimately require compliance by a subsidiary whose business activities are regulated by or under or are otherwise subject to supervision under the *Insurance Act* or the *Securities Act*, the Minister shall not give a notice under subsection (1) or make a temporary order under subsection (1) without the prior consent in writing of the Superintendent of Insurance or the Chief of Securities Administration, as the case may be.

(4) The Minister shall forthwith give notice to the registered corporation or other person of a temporary order made under subsection (1).

(5) A registered corporation or person who receives

- (a) notice of intention under subsection (1) to make a permanent order, or
- (b) notice that a temporary order has been made under subsection (1)

may, by written notice served on the Minister within 15 days of receipt of the notice referred to in clause (a) or (b), request a hearing before the Minister.

(6) A temporary order made under subsection (1) becomes a permanent order at the end of the 15th day after it is made unless the registered corporation or person to whom it is directed requests a hearing under subsection (5)(b).

(7) Where

- (a) no hearing is requested in accordance with subsection (5)(a), or
- (b) a hearing is held pursuant to a request in accordance with subsection (5) and the Minister is of the opinion that a permanent order should be made,

the Minister shall make a permanent order, which takes effect immediately on its making or at a later date specified in the order.

(8) A request for a hearing under subsection (5) shall be in writing and served on the Minister.

(9) Where a hearing is requested under subsection (5)(b), the Minister may extend the temporary order until the hearing is concluded.

(10) The Minister shall give a copy of an order under this section in respect of a registered corporation to each director of the corporation.

(11) The Minister may, after giving the registered corporation or other person named in an order under this section an opportunity to be heard, modify or revoke the order.

**Voluntary
compliance
program**

279(1) Where, in the Minister's opinion, a registered corporation or other person is committing any act or pursuing any course of conduct that

- (a) is in contravention of this Act or the regulations,
- (b) places the corporation in a position where it is carrying on business in an unsound manner,
- (c) might reasonably be expected, if continued, to result in a state of affairs that would be in contravention of this Act or the regulations,
- (d) is in contravention of an undertaking given under this Act, or
- (e) might prejudice or adversely affect the interests of depositors or of persons for whom the corporation acts in a fiduciary capacity,

the corporation or other person may enter into a program of voluntary compliance related to the act or course of conduct.

(2) A voluntary compliance program shall be in writing and shall bind the registered corporation or other person from the time it is approved by the Minister.

(3) The fact that a voluntary compliance program is entered into does not prevent the Minister from making orders or taking other action under this Act against the registered corporation or other person

- (a) on matters not covered by the program,

- (b) on matters covered by the program where the program is not complied with,
- (c) on matters covered by the program where all the facts related to the matters covered by the program were not known by the Minister at the time the program was entered into, or
- (d) if there has been a deterioration in the condition of the corporation.

(4) As long as the registered corporation or person who is the subject of a voluntary compliance program complies with the terms of the program, no prosecution under this Act may be brought against the corporation or person in respect of the matters that gave rise to the program.

(5) The Minister may, on the request of the registered corporation or person who is the subject of a voluntary compliance program, approve the amendment of the terms of the program.

Suspension
and
revocation of
registration

280(1) Where

- (a) a registered corporation or other person denies the Minister or a person appointed by the Minister access to any information, records, documents or property that the Minister or the appointed person is authorized by this Act to have access to,
- (b) the holding body corporate of a registered corporation fails to forward to the Minister its financial statements and auditor's report in accordance with a notice under section 46(5),
- (c) a registered corporation or other person contravenes
 - (i) an order of the Minister,
 - (ii) a decision of a review board under section 266, or
 - (iii) an order of the Court under section 268 or 283,
- (d) grounds exist for the possession and control of a registered corporation by the Minister,
- (e) a registered corporation's authority to carry on business has been cancelled or suspended, or terms or conditions

have been imposed on its authority to carry on business, under a law of Canada or of any province of Canada, or

- (f) a registered corporation does not, for a period of 5 years or more,
 - (i) engage in the deposit-taking business, or
 - (ii) in the case of a trust corporation, carry on any of the activities referred to in section 183(1),

the Minister may revoke or suspend the registration of the corporation, or impose terms, conditions or restrictions on its registration.

(2) Where the Minister proposes to act under subsection (1), he shall give notice of his intention to act to the registered corporation.

(3) Section 278(2) and (4) to (11) apply where the Minister gives a notice under subsection (2) of this section.

(4) The Minister shall publish in The Alberta Gazette notice of an order under this section revoking or suspending the registration of a registered corporation.

(5) Where the Minister revokes the registration of a registered corporation under this section, the corporation shall cease to carry on business in Alberta, except so far as is necessary for the winding-up of its business in Alberta.

(6) Where the Minister suspends the registration of a registered corporation under this section, the corporation shall cease to carry on business in Alberta in accordance with the terms and conditions set out in the suspension.

Protection
from liability

281 No action lies against a person conducting an examination under this Part, or any person lawfully assisting such a person, for any act done, or alleged neglect or default occurring, in good faith in the course of exercising powers or carrying out duties under the examination.

Order to
freeze
property

282(1) The Minister may,

- (a) where he is about to order an examination under section 273 or 275 or during or after such an examination,

- (b) where he is about to revoke or suspend or has revoked or suspended the registration of a registered corporation, or
- (c) where proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against a registered corporation or other person that, in the Minister's opinion, are connected with or arise out of any business conducted by the corporation or other person,

by any method that provides a written or printed copy,

- (d) direct any person having on deposit or under his control or for safekeeping any funds, securities or assets of the registered corporation or other person to hold the funds, securities or other assets, or
- (e) direct the registered corporation or other person
 - (i) to refrain from withdrawing such funds, securities or assets from any person who has them on deposit or under his control or for safekeeping, or from otherwise dealing with them, or
 - (ii) to hold all funds, securities or assets in its or his control

until the Minister in writing revokes the direction or consents to the release of the funds, securities or assets.

(2) A direction issued under subsection (1) does not apply to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a direction to an eligible financial institution, the direction applies only to the offices, branches or agencies of the eligible financial institution that are named in the direction.

(3) Any person named in a direction issued under subsection (1), if in doubt as to the application of the direction to particular funds, securities or assets, may apply to the Minister for an order of clarification.

(4) On the application of a person directly affected by a direction issued under subsection (1), the Minister may make an order on any terms and conditions he considers appropriate revoking the direction or consenting to the release of any funds, securities or assets.

(5) In any of the circumstances mentioned in subsection (1)(a), (b) or (c), the Minister may by any method that provides a written or printed copy notify the Registrar under the *Land Titles Act* that action is being or is about to be taken that may affect land belonging to the registered corporation or other person referred to in the notice, and the Registrar shall register the notice against the title to the land in the name of the registered corporation or person in the land registration district in which the notice is registered.

(6) A notice registered under subsection (5) has the same effect as a certificate of *lis pendens*, and the Minister may in writing revoke or modify the notice.

Order for
compliance

283 Where it appears to the Minister that a registered corporation or other person has contravened

- (a) a consent or approval given or an order made under this Act,
- (b) a voluntary compliance program entered into, or
- (c) a term, condition or restriction imposed on the registration of a corporation,

the Minister may apply to the Court for an order

- (d) directing the corporation or person to comply with the consent, approval, order, program or term, condition or restriction or restraining the corporation or person from contravening the consent, approval, order, program or term, condition or restriction, and
- (e) directing the directors and officers of the corporation, or of the person, where the person is a body corporate, to cause the corporation or person to comply with or to cease contravening the consent, approval, order, program or term, condition or restriction,

and the Court may make any order it considers appropriate.

Order
imposing
conditions
or for
possession
and control

284(1) Notwithstanding any other provision of this Act, the Minister, without holding a hearing, may

- (a) order that a registered corporation's registration shall be subject to any terms, conditions and restrictions that are set out in the order, or

- (b) in the case of a provincial corporation, take possession and control of the assets of the corporation,

where, in the opinion of the Minister, one or more of the following circumstances exist:

- (c) in the case of a provincial corporation, there has been a transfer or issue of shares to which section 77 applies or a purchase, acquisition or redemption to which section 62 applies and consent has not been obtained as required by those sections;
- (d) the corporation has defaulted on payment of any of its liabilities;
- (e) the corporation is in contravention of this Act or the regulations;
- (f) the corporation contravenes an order of the Minister or the Court under this Act;
- (g) the corporation's assets are not satisfactorily accounted for;
- (h) the corporation's assets are not sufficient, having regard to all the circumstances, to give adequate protection to the corporation's depositors;
- (i) there exists any practice of or state of affairs within the corporation that is or may be prejudicial to the public interest or to the interests of the corporation's creditors or shareholders or to persons in respect of whom the corporation acts in a fiduciary capacity.

(2) The Minister shall forthwith give a copy of an order made under subsection (1) to the registered corporation and, in a case where the corporation is a provincial corporation, to each director.

(3) An order under subsection (1) shall take effect on the day it is made, and no such order shall be stayed, varied or set aside by any court.

(4) For the purposes of this section, the Minister may appoint a person to value and appraise the assets and liabilities of the registered corporation and to report on its condition and its ability to meet its liabilities.

(5) Nothing in this section affects the right of the Minister to vary or rescind, at any time, an order made under subsection (1).

**Powers of
Minister**

285(1) Where the Minister takes possession and control of the assets of a provincial corporation under section 284, the Minister shall manage the business and affairs of the corporation and

- (a) shall perform all the duties and functions and may exercise all the powers of the board, and
- (b) may perform all the duties and functions and exercise all the powers of the committees of the board, the officers, employees and agents and the shareholders in general meeting.

(2) The Minister generally has all the powers and shall do all things that are necessary or expedient to protect the rights and interests of the shareholders, creditors and persons in respect of whom the provincial corporation acts in a fiduciary capacity and to conserve the assets of the corporation.

(3) For the purposes of carrying out duties under this section, the Minister may appoint one or more persons to manage the business and affairs of the provincial corporation, and each person so appointed is a representative of the Minister.

(4) The Minister may fix the remuneration and expenses of a person appointed under subsection (3), other than a person who is employed in the public service of Alberta or by a Provincial agency within the meaning of the *Financial Administration Act*.

(5) Subject to subsection (7), the directors shall not exercise any of their powers or perform any of their duties or functions while the assets of the provincial corporation are under the possession and control of the Minister, except to the extent that they are requested to do so in writing by the Minister.

(6) A provincial corporation shall ensure that an ordinary or special resolution or a resolution of any of the committees of the board passed while the assets of the corporation are under the possession and control of the Minister is approved in writing by the Minister before it is acted on, and such a resolution is ineffective until it is so approved.

(7) Each director, officer and employee shall give the Minister and any person appointed by the Minister under subsection (3) all information and assistance that they require in the performance of their duties and functions.

**Termination
of possession
and control**

286(1) If the Minister believes that a provincial corporation whose assets are under the Minister's possession and control meets the requirements of this Act and that it is otherwise proper for the

corporation to resume possession and control of its assets and the conduct of its business, the Minister may relinquish to the corporation the possession and control of its assets, and in that case the powers of the Minister under section 285 cease.

(2) If the Minister believes that further efforts to rehabilitate a provincial corporation whose assets are under his possession and control would be futile, the Minister may

- (a) apply to the Court for an order liquidating and dissolving the corporation, or
- (b) relinquish to the corporation the possession and control of its assets in order that the corporation may engage in a course of action agreed to by the Minister,

and in that case the powers of the Minister under section 285 cease.

Application to
Court

287(1) Notwithstanding any other provision of this Act, where the Minister has taken possession and control of a provincial corporation under section 284, the Minister may apply to the Court for an order

- (a) authorizing some other person to conduct the business of the corporation on the terms and conditions the Court considers appropriate,
- (b) authorizing and directing the sale of the assets of the corporation in whole or in part,
- (c) appointing an interim or permanent substitute trustee in respect of all or any part of the fiduciary obligations and duties of the corporation,
- (d) staying any civil proceedings against the corporation while the Minister is in possession and control of the assets of the corporation, or
- (e) authorizing or directing any other action the Court considers appropriate and in the best interests of the shareholders, the creditors and the persons in respect of whom the corporation acts in a fiduciary capacity.

(2) Where the Court makes an order under subsection (1)(c), the fiduciary duties vest in, bind and may be enforced against the substituted trustee as fully and effectually as if the substituted trustee were originally named as trustee.

Payment of expenses of proceedings	288 The Minister may recover from the registered corporation that is the subject of the order the expenses of the Government incurred in carrying out sections 284 to 287.
Dissolution by Court	<p>289 Where a provincial corporation has contravened this Act or the regulations, the Court may</p> <ul style="list-style-type: none"> (a) on the application of the Minister or any other interested person, and (b) if it is satisfied that it is in the public interest that the corporation be liquidated and dissolved, <p>make an order for the liquidation and dissolution of the corporation.</p>
Definitions	<p>290 In sections 291 to 295,</p> <ul style="list-style-type: none"> (a) “action” means an action under this Act or any other law; (b) “complainant” means <ul style="list-style-type: none"> (i) the Minister, (ii) a registered holder or beneficial owner, or a former registered holder or beneficial owner, of a security of a provincial corporation or of any of its affiliates, (iii) a director or an officer or a former director or officer of a provincial corporation or of any of its affiliates, or (iv) any other person who, in the opinion of the Court, is a proper person to make an application under section 291 or 292.
Derivative action	<p>291(1) Subject to subsection (2), a complainant may apply to the Court for leave to</p> <ul style="list-style-type: none"> (a) bring an action in the name and on behalf of a provincial corporation or any of its subsidiaries, or (b) intervene in an action to which a provincial corporation or any of its subsidiaries is a party, for the purpose of

prosecuting, defending or discontinuing the action on behalf of the corporation or subsidiary.

(2) No leave may be granted under subsection (1) unless the Court is satisfied that

- (a) the complainant has given reasonable notice to the directors of the provincial corporation or its subsidiary of the complainant's intention to apply to the Court under subsection (1) if the directors of the corporation or its subsidiary do not bring, diligently prosecute, defend or discontinue the action,
- (b) the complainant is acting in good faith, and
- (c) it appears to be in the interests of the provincial corporation or its subsidiary that the action be brought, prosecuted, defended or discontinued.

(3) In connection with an action brought or intervened in under this section, the Court may at any time make any order it thinks fit including, without limiting the generality of the foregoing, any or all of the following:

- (a) an order authorizing the complainant or any other person to control the conduct of the action;
- (b) an order giving directions for the conduct of the action;
- (c) an order directing that any amount adjudged payable by a defendant in the action shall be paid, in whole or in part, directly to a former or present security holder of the provincial corporation or its subsidiary instead of to the corporation or its subsidiary;
- (d) an order requiring the provincial corporation or its subsidiary to pay reasonable legal fees incurred by the complainant in connection with the action.

Relief by
Court from
oppression or
unfairness

292(1) A complainant may apply to the Court for an order under this section.

(2) Where, on an application under subsection (1), the Court is satisfied that in respect of a provincial corporation or any of its affiliates,

- (a) any act or omission of the corporation or any of its affiliates effects or threatens to effect a result,

- (b) the business or affairs of the corporation or any of its affiliates are, have been or are threatened to be carried on or conducted in a manner, or
- (c) the powers of the directors of the corporation or any of its affiliates are, have been or are threatened to be exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any security holder, creditor or person in respect of whom the corporation acts in a fiduciary capacity, the Court may make an order to rectify the matters complained of.

(3) On an application under subsection (1), the Court may make any interim or final order it considers appropriate, including, without limitation, any or all of the following orders:

- (a) an order restraining the conduct complained of;
- (b) an order to regulate the provincial corporation's affairs by amending its by-laws;
- (c) an order appointing directors in place of or in addition to all or any of the directors then in office;
- (d) an order directing an issue or exchange of securities;
- (e) an order directing the provincial corporation to purchase securities of a security holder;
- (f) an order directing the provincial corporation or any other person to pay to a security holder any part of the money paid by the security holder for securities;
- (g) an order directing the provincial corporation, subject to section 72(3), to pay a dividend to its shareholders or a class of its shareholders;
- (h) an order varying or setting aside a transaction or contract to which the provincial corporation is a party and compensating the corporation or any other party to the transaction or contract;
- (i) an order requiring the provincial corporation, within a time specified by the Court, to produce to the Court or an interested person financial statements or an accounting in any other form the Court determines;
- (j) an order compensating an aggrieved person;

- (k) an order directing rectification of the registers or other records of the provincial corporation;
- (l) an order requiring the trial of any issue;
- (m) an order for the liquidation and dissolution of the provincial corporation.

Notice of
application

293 Where a person other than the Minister makes an application under section 291 or 292, that person shall give notice of the application to the Minister, and the Minister may appear and be heard in person or by counsel.

Costs

294(1) A complainant is not required to give security for costs in any application made or action brought or intervened in under section 291 or 292.

(2) In an application made or an action brought or intervened in under section 291 or 292, the Court may at any time order the provincial corporation or its subsidiary to pay to the complainant interim costs, including legal fees and disbursements, but the complainant may be held accountable for the interim costs on final disposition of the application or action.

Stay, etc. of
application or
action

295(1) An application made or an action brought or intervened in under section 291 or 292 shall not be stayed or dismissed by reason only that it is shown that an alleged breach of a right or duty owed to the provincial corporation or its subsidiary has been or may be approved by the shareholders of the corporation or the subsidiary, but evidence of approval by the shareholders may be taken into account by the Court in making an order under section 291 or 292.

(2) An application made or an action brought or intervened in under section 291 or 292 shall not be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the Court given on any terms the Court considers appropriate, and if the Court determines that the interests of any complainant may be substantially affected by the stay, discontinuance, settlement or dismissal, the Court may order any party to the application or action to give notice to the complainant.

PART 15

OFFENCES AND PENALTIES

Deemed
carrying on
business

296 For the purposes of a prosecution under this Act, an extra-provincial corporation is deemed to be carrying on business in Alberta if

- (a) its name, or any name under which it carries on business, is listed in a telephone directory for any part of Alberta,
- (b) its name, or any name under which it carries on business, appears or is announced in any advertisement in which an address in Alberta is given for the extra-provincial corporation,
- (c) it has a resident agent or representative or an office or place of business in Alberta,
- (d) it solicits business in Alberta, or
- (e) it otherwise carries on business in Alberta.

Prohibition re
use of name

297(1) No person, other than a registered trust corporation, shall use "trust" or "fiducie" together with "corporation", "company", "compagnie" or "société" in its name in conjunction with its business or undertakings.

(2) No person, other than a registered loan corporation shall use "loan" or "prêts" together with "corporation", "company", "compagnie" or "société" in its name in conjunction with its business or undertakings.

(3) The Minister may exempt from the operation of subsection (1) or (2) a body corporate that is not itself a trust corporation or loan corporation but is a subsidiary of a registered trust corporation or a registered loan corporation if he is satisfied that the name of the body corporate will not mislead the general public into believing that the body corporate is a trust corporation or a loan corporation.

(4) Subsections (1) and (2) do not apply where the name was legally in use on the coming into force of this section.

Holding out

298 No corporation other than a registered corporation shall hold itself out to the public as a registered corporation.

Activities by promoters, etc.	299 No promoter, organizer, manager, director, officer, collector, agent, employee or other person acting on behalf of a corporation that is not registered shall undertake or transact in Alberta any business on behalf of that corporation.
Exemption	300 Sections 297(1) and (2), 298 and 299 do not apply to an unregistered extra-provincial corporation in respect of the administration of property in Alberta under a grant of probate or administration granted or resealed in Alberta or in respect of the disposition in Alberta of property held as security.
Misuse of confidential information	<p>301(1) A restricted party of a provincial corporation shall not enter into a transaction in which he would make use of information that is confidential to the provincial corporation or any subsidiary in order to obtain a direct or indirect benefit or advantage for himself.</p> <p>(2) A person who contravenes subsection (1) is guilty of an offence.</p> <p>(3) A restricted party is not guilty of an offence under subsection (1) where</p> <ul style="list-style-type: none"> (a) the primary purpose of the transaction was the direct or indirect benefit or advantage of the provincial corporation or subsidiary, and any benefit or advantage received by the restricted party as a result of the transaction was incidental to the benefit or advantage received by the provincial corporation or subsidiary, or (b) he did not know and ought not reasonably to have known that he would receive a benefit or advantage as a result of the transaction.
Representations prohibited	<p>302(1) No registered corporation shall make, print, publish, circulate or authorize or be a party to the making, printing, publishing, circulating or authorization of any statement or representation that its solvency or financial standing is vouched for by the Government or the Minister.</p> <p>(2) No registered corporation and no director, officer, employee or agent of a registered corporation shall publish, distribute or make any statement that the repayment by the corporation of any deposits or investment money received by the corporation is guaranteed by the Crown in right of Alberta or the Government of Alberta.</p>

**False or
deceptive
statements**

303(1) A person who makes any wilfully false or deceptive statement in any register, book of account, accounting record, minute, financial statement or other record or document respecting the affairs of a registered corporation or in any statement, return, report or reply to the Minister is guilty of an offence.

(2) A director, officer or employee of a registered corporation and every member or employee of a firm of accountants appointed as the corporation's auditors who

- (a) prepares, signs, approves or concurs in any register, book of account, accounting record, minute, financial statement or other record or document respecting the affairs of the corporation, or any statement, return, report or reply to the Minister, that is known by him to contain a false or deceptive statement, or
- (b) uses a record or document referred to in clause (a) with intent to deceive or mislead any person,

is guilty of an offence.

**Other
offences**

304 A person who

- (a) contravenes section 14(2), 44, 45, 56(3), 130, 181(1), 182, 183, 184, 186, 187, 194, 270, 297, 298, 299 or 302 or Part 9,
- (b) contravenes a written undertaking given or a voluntary compliance program entered into under this Act,
- (c) contravenes an order made under this Act,
- (d) fails to report to the Minister as required under this Act, or
- (e) being a registered corporation, contravenes any term, condition or restriction imposed on its registration

is guilty of an offence.

Penalties

305(1) A person who is convicted of an offence referred to in section 304(a), (b) or (e) is liable to a fine of not more than

- (a) \$100 000 for the first conviction, and
- (b) \$200 000 for each subsequent conviction.

(2) A person who is convicted of an offence referred to in section 304(c) or (d) is liable to a fine of not more than \$250 for each day or part of a day during which the offence continues.

(3) A person who is convicted of an offence under section 301 is liable to a fine that is not more than the greater of

- (a) \$100 000, and
- (b) an amount equal to 3 times the profit made by the person as a result of the offence.

(4) A person who is convicted of an offence referred to in section 303 is liable

- (a) to a fine of not more than
 - (i) \$100 000 for the first conviction, and
 - (ii) \$200 000 for each subsequent conviction,

or

- (b) to imprisonment for not more than 2 years,

or to both fine and imprisonment.

Continuing
offence

306 Where a contravention of this Act is stated to be an offence and the contravention is of a continuing nature, the contravention constitutes a separate offence in respect of each day or part of a day on which it continues.

Defence

307 No person is guilty of an offence under Part 10 if the facts that constituted the offence were unknown to him and in the exercise of reasonable diligence could not have been known to him.

Liability of
directors and
officers

308 If a body corporate commits an offence under this Act, then, whether or not the body corporate has been prosecuted or convicted in respect of the offence, any director or officer of the body corporate who knowingly authorizes, permits or acquiesces in the commission of the offence is guilty of an offence and liable to a fine of not more than

- (a) \$100 000 for the first conviction, and
- (b) \$200 000 for each subsequent conviction.

Limitation on prosecution	309 A prosecution in respect of an offence against this Act may not be commenced later than 3 years after the facts that constitute the alleged offence become known to the Minister.
Order to comply and make restitution	<p>310 Where a court convicts a person of an offence under this Act, the court, in addition to any other penalty it may impose, may</p> <ul style="list-style-type: none"> (a) order that person to comply with the provision of this Act for the contravention of which he was convicted, and (b) order the person convicted to make compensation or restitution in relation to the contravention.
Penalty for late information	<p>311(1) Where a body corporate contravenes section 32(3) or (4), 39(5), 46, 47(5) or 113, it is liable to a civil penalty in the prescribed amount in respect of each day or part of a day on which it so fails, and the Minister may serve a notice assessing that civil penalty on it.</p> <p>(2) Where any amount of the penalty is not paid, that amount bears interest at the prescribed rate from the serving of the notice.</p> <p>(3) Penalties and interest payable under this section are debts due to the Government and are recoverable by an action in debt.</p> <p>(4) Evidence that a notice has been served under this section is prima facie proof that the penalty or interest is owing by the body corporate to the Government in the amount stated in the notice.</p>

PART 16

GENERAL

Priority of Government claim	<p>312(1) If, with respect to any provincial corporation, the Government pays money</p> <ul style="list-style-type: none"> (a) to the Canada Deposit Insurance Corporation by reason of its liability to the Corporation under an agreement made pursuant to section 260, (b) to the government of a province or to a body corporate that is an agent of such a government by reason of its
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liability to that government or body corporate under an agreement of indemnity made pursuant to section 260, or

- (c) by way of expenditure certified by the Minister as having been incurred by the Government in the course of the Minister's administration of this Act and directly relating to that provincial corporation,

the money so paid may be recovered by the Government from the provincial corporation as a debt.

(2) Claims by the Government against a provincial corporation

- (a) in respect of any money referred to in subsection (1),
- (b) in respect of any loans to the corporation by the Government and interest on those loans, or
- (c) in respect of money paid by the Government as a result of its liability under a guarantee of a loan to the corporation,

shall, on the winding-up of the corporation, rank immediately after the remuneration of the liquidator and of the receiver and manager, if any, and before any other claims.

Unclaimed
deposits

313 Where a registered corporation has, in accordance with the regulations, paid over unclaimed deposits to the Government, the Government may, in accordance with the regulations, pay from the General Revenue Fund the deposits so received to the persons who establish that they are entitled to them.

Contracts
with minors,
etc.

314 A registered corporation may, without the intervention of any other person,

- (a) accept a deposit from any person whether or not the person is qualified by law to enter into contracts, and
- (b) pay all or part of the principal of the deposit and all or part of the interest on it to or to the order of that person.

Certificate of
Minister as
evidence

315(1) When this Act requires or authorizes the Minister to issue a certificate or to certify any fact, the certificate shall be signed by the Minister.

(2) A certificate referred to in subsection (1) or a certified copy of it, when introduced as evidence in any civil, criminal or

administrative action or proceeding, is conclusive proof of the facts so certified without proof of the signature or official character of the person appearing to have signed it.

(3) A certificate of the Minister that on a stated day a body corporate mentioned in the certificate was or was not registered or was registered subject to terms, conditions or restrictions, or that the registration of a corporation was revoked on a stated day, is prima facie proof of the facts stated in the certificate.

Published
notice as
evidence

316 A notice published in The Alberta Gazette over the name of the Minister is, without further proof, prima facie proof of the facts stated in the notice.

Copies of
documents as
evidence

317 Copies of, or extracts from, any book, record, instrument or document in the office of the Minister or of or from any instrument or document issued under this Act, if certified by the Minister to be true copies or extracts, shall be held as authentic and are prima facie proof of and have the same legal effect as the original.

Certificate of
corporation
as evidence

318(1) A certificate issued on behalf of a provincial corporation stating any fact that is set out in the by-laws, in the minutes of the meetings of the directors, a committee of directors or the shareholders, or in a contract to which the corporation is a party, may be signed by a director, an officer or a transfer agent of the corporation.

(2) When introduced as evidence in any civil, criminal or administrative action or proceeding,

- (a) a fact stated in a certificate referred to in subsection (1),
- (b) a certified extract from a securities register of a provincial corporation, or
- (c) a certified copy of minutes or of an extract from minutes of a meeting of directors, a committee of directors or the shareholders of a provincial corporation,

is, in the absence of evidence to the contrary, proof of the facts so certified without proof of the signature or official character of the person appearing to have signed the certificate.

(3) An entry in a securities register of, or a security certificate issued by, a provincial corporation is, in the absence of evidence to the contrary, proof that the person in whose name the security

is registered is the owner of the securities described in the register or in the certificate.

Photocopies
of documents

319 If a notice or document is required to be sent to the Minister or filed with the Chief of Securities Administration under this Act, the Minister or the Chief of Securities Administration may accept a copy of the notice or document.

Notices to
directors,
shareholders

320(1) A notice or document required by this Act, the regulations or the by-laws of a provincial corporation to be given or sent to a shareholder or director of a provincial corporation may be delivered personally to the shareholder or director or sent by mail addressed to

- (a) the shareholder at the shareholder's latest address as shown in the records of the corporation or its transfer agent, or
- (b) the director at the director's latest address as shown in the records of the corporation or of the Minister.

(2) A notice or document sent by mail in accordance with subsection (1) to a shareholder or director is deemed to be received by the shareholder or director at the time it would be delivered in the ordinary course of mail unless there are reasonable grounds for believing that the shareholder or director did not receive the notice or document at the time or at all.

(3) If a provincial corporation sends a notice or document to a shareholder in accordance with subsection (1) and the notice or document is returned on 3 consecutive occasions because the shareholder cannot be found, the corporation is not required to send any further notices or documents to the shareholder until he informs the corporation in writing of his new address.

Notices to
corporation

321(1) A notice or document is sufficiently given to a provincial corporation if it is delivered personally or sent by registered mail to its principal place of business.

(2) A notice or document is sufficiently given to a registered extra-provincial corporation if it is delivered personally or sent by registered mail to the agent named in its power of attorney filed under section 32.

(3) A notice or document sent by registered mail to a corporation in accordance with subsection (1) or (2) is deemed to be received or served at the time it would be delivered in the ordinary course

of mail unless there are reasonable grounds for believing that the corporation did not receive the notice or document at that time or at all.

**Waiver of
notice**

322 If a notice or document is required by this Act or the regulations to be given or sent, the giving or sending of the notice or document may be waived or the time for giving or sending the notice or document may be waived or abridged at any time with the consent in writing of the person entitled to receive it.

**Transfer on
death of
depositor**

323(1) A person who has deposits with a registered corporation may in writing signed by him and deposited with the corporation nominate any person to receive the deposits, or part of them, on the depositor's death, in an amount not to exceed the prescribed amount.

(2) On receiving a statutory declaration as to the death of a person who has made a nomination under subsection (1), the registered corporation may substitute on its books the name of the nominee in place of the name of that person or may forthwith pay to the nominee the amount due.

(3) Where a depositor described in subsection (1) dies without making a nomination in accordance with that subsection, the deposit or a part of it not exceeding the prescribed amount may, without letters probate or letters of administration being taken out, be paid or transferred

- (a) to the person who appears to the registered corporation to be entitled under the will of the depositor or, in the case of intestacy, under the law relating to devolution of property, to receive it, or
- (b) to any person who appears to the registered corporation to be equitably entitled to it by reason of having incurred expense for the support, medical attendance or burial of the depositor,

on receipt by the corporation of the statutory declaration of the person so claiming stating the time and place of death of the depositor and the facts supporting the claim.

**Payments by
mistake**

324 Where a registered corporation, after the death of a depositor, has paid or transferred a deposit to the person who at the time appeared to be entitled to it, the payment or transfer is valid with respect to any demand from any other person as legatee, next of kin or personal representative of the deceased against the

corporation, but the legatee, next of kin or representative is entitled to recover the amount of the deposit from the recipient or transferee.

Regulations 325(1) The Lieutenant Governor in Council may make regulations

- (a) exempting persons or classes of persons from the application of any of the provisions of this Act, and respecting the terms and conditions to which such an exemption is subject;
- (b) requiring the disclosure of registered corporations' service charges;
- (c) prescribing the information to be maintained in the Loan Corporations Register and the Trust Corporations Register;
- (d) governing the custody and safekeeping of securities, property or trust assets registered in the name of or held by a registered corporation;
- (e) respecting, for the purposes of section 156(1)(b), documents or information that must be placed before an annual meeting of shareholders;
- (f) requiring a registered corporation to make public any information set out in the regulations, and respecting the manner of publication;
- (g) respecting
 - (i) required leverage ratios and risk weighted average ratios, and the manner of calculating them, and
 - (ii) other requirements as to the adequacy of a provincial corporation's capital basefor the purposes of section 189;
- (h) respecting the method of calculating the total assets of a provincial corporation, including the manner in which the value of any assets shall be calculated or determined for that purpose;
- (i) respecting permitted transactions or classes of transactions for the purposes of sections 167(h), 168(1)(e), 169(1)(d), 170(1)(d) and 191(2)(c);

- (j) prescribing quantitative limits on investments that may be made by a provincial corporation or its subsidiary, and where a limit has been imposed by this Act, prescribing limits that are
 - (i) less restrictive than that limit in the case of an investment referred to in section 207, and
 - (ii) more restrictive than that limit in the case of any other investment;
- (k) imposing terms and conditions subject to which a provincial corporation or its subsidiary may make investments, give guarantees or enter into other transactions, and imposing restrictions on the manner in which investments, guarantees and other transactions may be made, given or entered into;
- (l) prescribing investments, guarantees and other transactions that a provincial corporation or its subsidiary may not make, give or enter into;
- (m) for the purposes of Part 11, classifying loans as personal loans, commercial loans, loans on the security of real estate or loans for other purposes;
- (n) setting out circumstances in which investments, guarantees or other transactions of a subsidiary of a provincial corporation are deemed to be investments, guarantees or transactions of the corporation;
- (o) respecting the issue of subordinated notes;
- (p) respecting the establishment and operation of common trust funds and the investment of trust money in those funds;
- (q) respecting the filing with the Minister of accounts with respect to a trust corporation's administration of a common trust fund, for the purposes of section 212;
- (r) providing that any or all of the provisions in Parts 9, 10 and 11 apply, with or without modifications, to a provincial trust corporation whose registration is subject to a term, condition or restriction prohibiting it from carrying on the deposit-taking business, or making other provisions in that regard with respect to such corporations;

- (s) requiring the bonding of directors, officers, agents and employees of a registered corporation and insurance coverage for those directors, officers, agents and employees and for property of the corporation or property held by it;
- (t) governing the activities of a registered corporation in dealing with persons who act as agents for the corporation and governing the relationships between the corporation and its agents;
- (u) respecting the protection of customers and the public in their dealings with registered corporations, including the making of representations by registered corporations to them;
- (v) respecting the confidentiality of information possessed by registered corporations or their subsidiaries or affiliates concerning their customers or clients, and prohibiting or restricting solicitations based on, or the giving of access to, any such information;
- (w) respecting networking arrangements between registered corporations and other persons providing products or services, prohibiting or restricting networking arrangements and governing the conduct of registered corporations that have networking arrangements;
- (x) prohibiting or restricting the engaging in tied selling practices by a registered corporation;
- (y) respecting terms and conditions for the establishment and operation of subsidiaries by a provincial corporation;
- (z) requiring and respecting the provision of information to security holders of a registered corporation and to persons on whose behalf a registered corporation holds securities of a body corporate as fiduciary or agent;
- (aa) respecting the treatment by registered corporations of unclaimed deposits;
- (bb) respecting the procedure to be followed when the auditor of a provincial corporation resigns or when it is proposed to remove or replace the auditor, including the auditor's right to make a statement respecting the resignation, removal or replacement and the circulation of statements and notices respecting the resignation, removal or replacement;

- (cc) respecting reports by auditors;
- (dd) respecting the making of appraisals for the purposes of section 277;
- (ee) respecting the procedure before review boards under section 266;
- (ff) respecting duties of audit committees, conduct review committees and investment committees;
- (gg) respecting the transmission of information and access to information between the Minister and the auditors, directors, officers and audit committees of registered corporations;
- (hh) defining terms for the purposes of this Act and the regulations;
- (ii) prescribing any matter that is required or permitted by this Act to be prescribed by the regulations, other than matters that are required or permitted by this Act to be prescribed by regulations made by the Minister;
- (jj) providing, with respect to any provisions in the regulations under this subsection, that their contravention constitutes an offence, and prescribing penalties for those offences.

(2) The Minister may make regulations

- (a) requiring the payment of a fee in respect of the filing, examination or copying of any document, or in respect of any action that the Minister is required or authorized to take under this Act, and prescribing the amount of the fee;
- (b) requiring the payment of an annual fee by a registered corporation and prescribing the amount of the fee or the manner in which it is to be calculated;
- (c) respecting the records, papers and documents to be retained by registered corporations and the length of time they must be retained;
- (d) respecting words, expressions or symbols that are prohibited in the name of a registered corporation and prescribing other conditions respecting the use of names by registered corporations;

- (e) providing for the issuing of letters patent or supplementary letters patent to a corporation or the registering of a corporation that has a name that would otherwise contravene section 20(1) or 34(1), subject to any terms or conditions that the regulations prescribe;
- (f) prescribing any matter that is required or permitted by this Act to be prescribed by regulations made by the Minister;
- (g) providing, with respect to any provisions in the regulations under this subsection, that their contravention constitutes an offence, and prescribing penalties for those offences.

PART 17

TRANSITIONAL, CONSEQUENTIAL, REPEAL AND COMMENCEMENT

Extension of
time

326 *Where in sections 327 to 333 something is required to be done within a certain period of time, the Minister may, on the application of the person who must do the thing, made before the expiration of the period of time, extend the time within which the thing must be done.*

Letters patent
of
continuance

327(1) *A provincial company within the meaning of the Trust Companies Act that is registered under that Act on the date this section comes into force shall, within one year after the coming into force of this section, apply to the Minister for letters patent continuing it as a provincial trust corporation under this Act.*

(2) *An application under subsection (1) shall be in the prescribed form and accompanied by evidence satisfactory to the Minister that a special resolution of the shareholders of the provincial company has been passed authorizing the directors to apply for the letters patent.*

(3) *Except with the written consent of all shareholders entitled to vote thereon under section 17(3) the application shall not contain anything that would result in a change from the provincial company's by-laws, if the change is of a kind referred to in that subsection.*

(4) *Where an application effects a change of a kind referred to in subsection (3), the provincial company shall, before letters patent continuing the company are issued, provide the Minister with proof*

satisfactory to the Minister that the consent required by subsection (3) has been given.

(5) On receipt of the documents referred to in subsection (2) the Minister shall recommend to the Lieutenant Governor in Council that the Lieutenant Governor in Council issue letters patent continuing the provincial company as a provincial trust corporation under this Act, and the Lieutenant Governor in Council shall issue the letters patent accordingly.

(6) Sections 9 and 10 apply to the issuance of letters patent under this section as if they were letters patent incorporating a provincial trust corporation.

(7) On the date specified in letters patent issued under this section

- (a) the provincial company becomes a provincial trust corporation to which this Act applies as if it had been incorporated under this Act,*
- (b) the letters patent continuing the provincial company are the letters patent of the provincial trust corporation, and*
- (c) the by-laws of the provincial company, except those by-laws that are inconsistent with this Act, continue as the by-laws of the provincial trust corporation.*

(8) When a provincial company is continued as a provincial trust corporation under this Act,

- (a) the property of the provincial company continues to be the property of the provincial trust corporation,*
- (b) the provincial trust corporation continues to be liable for the obligations of the provincial company,*
- (c) an existing cause of action, claim or liability to prosecution is unaffected,*
- (d) a civil, criminal or administrative action or proceeding pending by or against the provincial company may be continued to be prosecuted by or against the provincial trust corporation, and*
- (e) a conviction against, or ruling, order or judgment in favour of or against, the provincial company may be enforced by or against the provincial trust corporation.*

(9) A provincial company that does not, within the period specified in subsection (1) or any extension of that period, make an

application for letters patent that is sufficient to enable the Minister to recommend the issuance of letters patent is dissolved on the expiry of that time.

Registration
of continued
provincial
trust
corporation

328(1) *On being advised of the issuance of letters patent under section 327 the Minister shall, subject to subsections (2) to (4), register the provincial trust corporation in the Trust Corporations Register.*

(2) *If a provincial trust corporation is not in compliance with section 35(b) at the time of its registration under subsection (1), the corporation*

- (a)** *shall comply with section 35(b) within one year from the date of registration, and*
- (b)** *shall comply with the unimpaired capital requirements under the Trust Companies Act until it meets the requirements of section 35(b).*

(3) *Section 36(1), except as it relates to section 35(b), applies in the case of the registration of a provincial trust corporation under this section.*

(4) *Sections 33 and 37(2) do not apply in the case of the registration of a provincial trust corporation under this section.*

Existing
registered
extra-
provincial
companies

329(1) *Subject to this section, the Minister shall record in the Trust Corporations Register the name of every extra-provincial company within the meaning of the Trust Companies Act, including a federal company within the meaning of that Act, that is registered under that Act on the date this section comes into force.*

(2) *If an extra-provincial company is not in compliance with section 35(b) at the time of its registration under subsection (1), the extra-provincial company*

- (a)** *shall comply with section 35(b) within one year from the date of its registration, and*
- (b)** *shall comply with the unimpaired capital requirements under the Trust Companies Act until it meets the requirements of section 35(b).*

(3) *Section 36(1), except as it relates to section 35(b), applies in the case of the registration of an extra-provincial company under this section.*

(4) Sections 33 and 37(2) do not apply in the case of the registration of an extra-provincial company under this section.

Extra-provincial
loan
corporations

330 *An extra-provincial loan corporation that*

- (a) is carrying on business as a loan corporation in Alberta on the coming into force of this section, or*
- (b) commences carrying on business as a loan corporation in Alberta after the coming into force of this section*

shall, within one year after the date on which this section comes into force or the date the extra-provincial loan corporation commences carrying on business in Alberta, as the case may be, apply for registration under Part 3.

Existing
directors and
auditors

331 *Notwithstanding any other provision of this Act, the board of directors and the auditor of a provincial company within the meaning of the Trust Companies Act that are in office when the provincial company is continued under this Act may continue in office until the first annual meeting of the provincial corporation held after the issue of the letters patent of continuance.*

Committees

332 *Where a provincial company within the meaning of the Trust Companies Act is continued under this Act, the directors shall appoint the committees required by section 127 before the end of the fiscal year in which letters patent of continuance are issued.*

Grandfather-
ing provision
re
investments

333(1) *Where, on the date specified in letters patent issued under section 327 in respect of a provincial trust corporation, the corporation has made loans in an amount that exceeds the allowable limit for that class of loans established under Part 9 or 11 and the regulations, the corporation may, subject to subsection (4), retain those loans but may not after that date*

- (a) increase the amount owing in respect of those loans,*
- (b) renew or extend the term of any of those loans, or*
- (c) make any further loans of that class*

while the limit established in respect of that class of loans is exceeded.

(2) Where, on the date specified in letters patent issued under section 327 in respect of a provincial trust corporation, the corporation

(a) beneficially owns more shares in a body corporate than are permitted under section 207, or

(b) is otherwise in contravention of prescribed limits with respect to investments referred to in section 207,

the corporation shall bring itself into compliance with section 207 or the prescribed limits, as the case may be, within 5 years after that date.

(3) Where, on the date specified in letters patent issued under section 327 in respect of a provincial trust corporation, the corporation has an investment, other than an investment referred to in subsection (1), (2) or (5), that would not be permitted under this Act and the regulations if it were entered into after the coming into force of this section, the corporation may, subject to subsection (4), retain the investment but may not increase the amount of the investment without the prior consent of the Minister.

(4) Where a loan or investment referred to in subsection (1) or (3) was made after December 8, 1988, the provincial trust corporation may not retain the loan or investment unless it obtains the consent of the Minister.

(5) Where, on the date specified in letters patent issued under section 327 in respect of a provincial trust corporation, the corporation is a party to a lease under section 134 of the Trust Companies Act that would not be permitted under this Act and the regulations if it were entered into after the coming into force of this section, the corporation may retain the lease but may not renew or extend it.

Calculation
of time

334 *In calculating time for the purposes of section 280(1)(f), no regard shall be taken of any period of time before the date on which letters patent of continuance are issued.*

Consequen-
tial
amendments

335(1) *Notwithstanding anything in this section, where this section repeals or changes a reference in a provision to a trust company or to the Trust Companies Act, the provision, insofar as it relates to a provincial company that has not been issued letters patent of continuance under section 327, shall, after the coming into force of this section, be read as if it had not been so repealed or changed.*

(2) The Alberta Art Foundation Act is amended in section 7(i) by striking out “company” wherever it occurs and substituting “corporation”.

(3) The Alberta Heritage Foundation for Medical Research Act is amended in section 15(1)(h) by striking out “or trust company” and substituting “, loan corporation or trust corporation”.

(4) The Alberta Heritage Savings Trust Fund Act is amended

- (a) in section 6(7.1)(c) by striking out “or trust company” and substituting “, loan corporation or trust corporation”;*
- (b) by repealing section 10(1)(d) and substituting the following:*
 - (d) certificates of deposit, deposit receipts or other evidences of indebtedness given by a bank, loan corporation, trust corporation or treasury branch in consideration of a deposit or deposits made with the bank, loan corporation, trust corporation or treasury branch;*
- (c) in section 10(1.1)(c) by striking out “or trust company” and substituting “, loan corporation or trust corporation”.*

(5) The Alberta Opportunity Fund Act is amended in section 1(a) by striking out “a trust company” and substituting “loan corporation, trust corporation”.

(6) The Bulk Sales Act is amended by repealing section 1(i)(ii) and substituting the following:

- (ii) a trust corporation,*

(7) The Business Corporations Act is amended

- (a) in section 46(2)(a) by striking out “trust companies registered under the Trust Companies Act” and substituting “trust corporations”;*
- (b) in section 79 by striking out “trust company registered under the Trust Companies Act” and substituting “trust corporation”;*
- (c) in section 265(1)(b) by striking out “Trust Companies Act” and substituting “Loan and Trust Corporations Act”.*

(8) The Cancer Programs Act is amended by repealing section 29 and substituting the following:

29 Notwithstanding anything in the *Loan and Trust Corporations Act*, the Foundation shall not be considered to be a trust corporation for the purposes of that Act.

(9) The Cemeteries Act is amended in section 1(a) by striking out "trust company" and substituting "trust corporation".

(10) The Collection Practices Act is amended by repealing section 10(1)(c) and substituting the following:

(c) a loan corporation or trust corporation, or

(11) The Colleges Act is amended by repealing section 1(e.1)(iii) and substituting the following:

(iii) a loan corporation or trust corporation, or

(12) The Companies Act is amended in section 70

(a) in subsection (1) by striking out "registered trust company under the *Trust Companies Act*" and substituting "trust corporation";

(b) in subsection (2) by striking out "trust company" wherever it occurs and substituting "trust corporation".

(13) The Condominium Property Act is amended in section 11(2) by striking out "trust company" and substituting "loan corporation, trust corporation".

(14) The Corrections Act is amended by repealing section 20(a)(iii) and substituting the following:

(iii) a loan corporation or trust corporation, or

(15) The Credit Union Act is amended

(a) in the following provisions by striking out "*Trust Companies Act*" and substituting "*Loan and Trust Corporations Act*":

section 3(4);
section 4(2)(a);
section 16(3)(b)(ii);

(b) in section 46(4)(b)(i) by striking out "trust company within the meaning of the *Trust Companies Act*" and

substituting "corporation within the meaning of the Loan and Trust Corporations Act".

(16) *The Dependent Adults Act is amended in section 26*

- (a) by repealing subsection (1)(b) and substituting the following:*
 - (b) a trust corporation, or*
- (b) in subsection (2) by striking out "trust company" wherever it occurs and substituting "trust corporation".*

(17) *The Election Finances and Contributions Disclosure Act is amended in section 1(1)(i) by striking out "a trust company" and substituting "a loan corporation, a trust corporation".*

(18) *The Employment Pension Plans Act is amended in section 39*

- (a) by repealing subsection (1)(b)(i) and substituting the following:*
 - (i) a trust corporation, or*
- (b) in subsection (3)(a) by striking out "trust company referred to in subsection (1)(b)(i)" and substituting "trust corporation".*

(19) *The Employment Standards Code is amended in section 24(4)(b) and (c) by striking out "trust company" and substituting "loan corporation, trust corporation".*

(20) *The Financial Administration Act is amended*

- (a) in section 1(1)(t)(v) by striking out "or trust company" and substituting ", loan corporation or trust corporation";*
- (b) in section 1(1)(t)(vii) by striking out "trust company" and substituting "loan corporation, trust corporation";*
- (c) in section 50(1)*
 - (i) in clause (c) by adding ", loan corporation, trust corporation" after "bank" wherever it occurs;*
 - (ii) by repealing clause (e);*
- (d) in section 57(2)(c) by striking out "or trust company" and substituting ", loan corporation or trust corporation".*

(21) The Franchises Act is amended in section 48(1) by striking out “loan or trust company” and substituting “loan corporation or trust corporation”.

(22) The Hospitals Act is amended by repealing section 76 and substituting the following:

76 Notwithstanding anything in the *Loan and Trust Corporations Act*, a foundation shall not be considered to be a trust corporation for the purposes of that Act.

(23) The Hydro and Electric Energy Act is amended by repealing section 21(e) and substituting the following:

(e) a loan corporation or trust corporation,

(24) The Insurance Act is amended

(a) in section 186(1) by striking out “registered trust company” and substituting “trust corporation”;

(b) in section 222(6) and (7) by striking out “trust company” wherever it occurs and substituting “trust corporation”.

(25) The Interpretation Act is amended in section 25(1)

(a) by adding the following after clause (1.1):

(1.2) “loan corporation” means a loan corporation registered under the *Loan and Trust Corporations Act*;

(b) by repealing clause (x) and substituting the following:

(x) “trust corporation” means a trust corporation registered under the *Loan and Trust Corporations Act*;

(26) The Land Titles Act is amended in section 30

(a) by repealing subsection (1)(b) and substituting the following:

(b) a loan corporation or trust corporation,

(b) by repealing subsection (2)(b) and substituting the following:

(b) the member of the Executive Council responsible for the administration of the *Loan*

and Trust Corporations Act that a corporation is a loan corporation or trust corporation,

- (c) *in subsections (2) and (3) by striking out “Director of Trust Companies” and substituting “member of the Executive Council responsible for the administration of the Loan and Trust Corporations Act”;*
- (d) *by repealing subsection (4)(a) and substituting the following:*
 - (a) that is a loan corporation or trust corporation,
or

(27) *The Legal Profession Act, RSA 1980 cL-9, is amended*

- (a) *in the following provisions by striking out “trust company” wherever it occurs and substituting “trust corporation”:*
 - section 51(3);
 - section 79(a);
- (b) *in section 107(6) and 110(1) and (2) by striking out “trust company” wherever it occurs and substituting “loan corporation, trust corporation”.*

(28) *The Legal Profession Act, SA 1990 cL-9.1, is amended*

- (a) *in section 89(a) by striking out “trust company” and substituting “trust corporation”;*
- (b) *in section 122(1) and (2) by striking out “trust company” wherever it occurs and substituting “trust corporation, loan corporation”.*

(29) *The Livestock and Livestock Products Act is amended in section 6*

- (a) *in subsection (2)(a) by striking out “trust companies” and substituting “loan corporations, trust corporations”;*
- (b) *in subsection (3) by striking out “trust company” and substituting “loan corporation, trust corporation”.*

(30) *The Mines and Minerals Act is amended by repealing section 24(2)(e) and substituting the following:*

- (e) a loan corporation or trust corporation,

(31) *The Mortgage Brokers Regulation Act is amended*

- (a) *by repealing section 2(d) and substituting the following:***
 - (d) a loan corporation or trust corporation;**
- (b) *in sections 4.4(1)(b) and 7.1(1) by striking out “trust company” and substituting “loan corporation, trust corporation”;***
- (c) *in section 18(2)(b) by striking out “or a loan or trust company” and substituting “, a loan corporation or a trust corporation”.***

(32) *The Motor Vehicle Administration Act is amended in section 36(3)(b)(ii) by striking out “Trust Companies Act” and substituting “Loan and Trust Corporations Act”.*

(33) *The Municipal Government Act is amended*

- (a) *by repealing section 389 and substituting the following:***
 - 389(1)** Instead of trustees the council may appoint a trust corporation.
 - (2)** On its appointment the trust corporation has all the power and authority conferred on trustees by this Act and sections 382 to 388 with respect to trustees apply insofar as they are applicable to the corporation.
- (b) *in section 391 by striking out “trust company” and substituting “trust corporation”;***
- (c) *in section 398 by striking out “investment certificates as defined in the Trust Companies Act and issued or entered into by a trust company registered under that Act” and substituting “of a loan corporation or trust corporation”.***

(34) *The Oil and Gas Conservation Act is amended by repealing section 15(e) and substituting the following:*

- (e) a loan corporation or trust corporation, or**

(35) *The Pipeline Act is amended in section 27(1)(d) by striking out “Trust Companies Act” and substituting “Loan and Trust Corporations Act”.*

(36) *The Prearranged Funeral Services Act is amended*

(a) *by repealing section 1(f) and substituting the following:*

(f) “trust corporation” means a trust corporation that is an approved corporation under the *Trustee Act*.

(b) *in the following provisions by striking out “trust company” wherever it occurs and substituting “trust corporation”:*

section 4(2);
section 6(1);
section 7(1);
section 8(2);
section 9;
section 15(a);
section 18(a).

(37) *The Provincial General Hospitals Act is amended by repealing section 29 and substituting the following:*

29 Notwithstanding anything in the *Loan and Trust Corporations Act*, a foundation shall not be considered to be a trust corporation for the purposes of that Act.

(38) *The Public Auctions Act is amended in section 14(1)(a) by striking out “or trust company” and substituting “, loan corporation or trust corporation”.*

(39) *The Public Health Act is amended by repealing section 22.7 and substituting the following:*

22.7 Notwithstanding anything in the *Loan and Trust Corporations Act*, a foundation shall not be considered to be a trust corporation for the purposes of that Act.

(40) *The Real Estate Agents’ Licensing Act is amended*

(a) *by repealing section 2(1)(b) and substituting the following:*

(b) a bank, loan corporation, trust corporation or insurance company trading in real estate owned or administered by it,

(b) *in section 13(1)(d) by striking out “trust company” and substituting “loan corporation, trust corporation”;*

(c) *in section 14(4) by striking out “trust company” and substituting “loan corporation, trust corporation”;*

- (d) *in section 15.7(1)(f) by striking out “or trust company” and substituting “, loan corporation or trust corporation”;*
- (e) *by repealing section 15.8(1) and substituting the following:*

15.8(1) Notwithstanding anything in the *Loan and Trust Corporations Act*, the Foundation shall not be considered to be a trust corporation for the purposes of that Act.

- (f) *in section 15.91(2) and (3)(a) by striking out “trust company” and substituting “loan corporation, trust corporation”;*
 - (g) *in section 15.92(1), (2) and (3) by striking out “trust company” and substituting “loan corporation, trust corporation”;*
 - (h) *in section 23(2)(b)(i) and (5)(b) by striking out “trust company” and substituting “loan corporation, trust corporation”;*
 - (i) *in section 23(9) by striking out “trust company registered under the Trust Companies Act” and substituting “trust corporation”;*
 - (j) *in section 23(10) by striking out “A trust company licensed under this Act and registered under the Trust Companies Act” and substituting “A trust corporation that is licensed under this Act” and by striking out “the company” and substituting “the corporation”;*
 - (k) *in section 27(2) by striking out “trust company” and substituting “loan corporation, trust corporation”;*
 - (l) *in section 57(g) by striking out “trust company” and substituting “loan corporation, trust corporation”.*
- (41)** *The Regional Municipal Services Act is amended in section 7(d) by striking out “trust company” and substituting “loan corporation, trust corporation”.*
- (42)** *The Securities Act is amended*
- (a) *in section 1(g.2) by striking out “trust company” and substituting “loan corporation, trust corporation”;*

(b) *in section 1(q)(ii)(B) by striking out “section 102(1) of the Trust Companies Act” and substituting “section 1(1)(g) of the Loan and Trust Corporations Act”;*

(c) *in the following provisions by striking out “trust company” wherever it occurs and substituting “trust corporation”:*

section 1(q)(ii);
section 65(1)(y.2) and (2)(a);
section 66(b);
section 107(2)(a).

(43) The Small Business Equity Corporations Act is amended in section 12(2) by striking out “trust company” and substituting “loan corporation, trust corporation”.

(44) The Students Loan Guarantee Act is amended in section 1(b) by striking out “or a trust company” and substituting “, loan corporation or trust corporation”.

(45) The Technical Institutes Act is amended by repealing section 1(d)(iii) and substituting the following:

(iii) a loan corporation or trust corporation, or

(46) The Trust Companies Act is amended

(a) *by repealing section 111 and substituting the following:*

111 Every company shall for liquidity purposes at all times have and keep available in the manner and amounts prescribed in the regulations securities of a kind prescribed in the regulations or cash, or both.

(b) *in section 153 by adding the following after clause (e):*

(e.1) prescribing, for the purposes of section 111, the amounts and kinds of securities and the manner in which they must be kept;

(c) *by adding the following before section 163:*

162.1 On and after the coming into force of the *Loan and Trust Corporations Act*, no extra-provincial company may be registered under this Act.

(d) *by repealing sections 171, 172 and 172.1 and substituting the following:*

171 Every registered company shall file with the Director at the times prescribed by the Director any financial or other information prescribed by the Director.

(47) *The Trustee Act is amended*

(a) *in section 2(a)*

(i) *by adding the following after subclause (i):*

(i.1) *a loan corporation,*

(ii) *in subclause (iii) by striking out “trust company” and substituting “trust corporation”;*

(b) *in section 4(3) by striking out “trust company or a” and substituting “trust corporation, loan corporation or”;*

(c) *in section 5(g) by striking out “trust company” and substituting “trust corporation”;*

(d) *in section 9(2) by striking out “trust company” and substituting “trust corporation”.*

(48) *The University Hospitals Foundation Act is amended by repealing section 5.1 and substituting the following:*

5.1 Notwithstanding anything in the *Loan and Trust Corporations Act*, the Foundation shall not be considered to be a trust corporation for the purposes of that Act.

(49) *The Workers' Compensation Act is amended in section 86(2) by striking out “trust company” and substituting “loan corporation, trust corporation”.*

Repeal

336(1) *The Deposits Regulation Act is repealed.*

(2) *The Trust Companies Act is repealed on Proclamation.*

**Coming into
force**

337(1) *Subject to subsection (2), this Act comes into force on Proclamation.*

(2) *Section 335(47) comes into force on the date of assent to this Act.*