



[Français](#)

Community Small Business Investment Funds Act, 1992

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PART I GENERAL

Interpretation

[1. \(1\)](#) In this Act,

“Canadian partnership” has the meaning assigned by section 102 of the *Income Tax Act* (Canada); (“société de personnes canadienne”)

“Class A share”, in respect of a corporation, means a share of a class of shares that entitle the holders thereof to,

- (a) receive notice of and, subject to the legislation under which the corporation is organized, to attend and vote at all meetings of the shareholders of the corporation,
- (b) receive dividends at the discretion of the board of directors of the corporation, and
- (c) receive, on dissolution of the corporation, all the assets of the corporation that remain after payment of all amounts payable to the holders of all other classes of shares of the corporation; (“action de catégorie A”)

“Class B share”, in respect of a corporation, means a share of a class of shares that do not entitle the holders thereof to receive dividends but do entitle the holders thereof to,

- (a) receive notice of and, subject to the legislation under which the corporation is organized, to attend and vote at all meetings of the shareholders of the corporation,
- (b) receive, on dissolution of the corporation, an amount equal to the amount of the equity capital received by the corporation on the issue of the Class B shares, and
- (c) in the case of a corporation registered under Part II or III, vote as a class to elect a majority of the board of directors of the corporation; (“action de catégorie B”)

“Commission”, “Director”, “material fact”, “misrepresentation” and “reporting issuer” have the meanings specified in the *Securities Act*; (“Commission”, “directeur”, “fait important”, “présentation inexacte des faits”, “émetteur assujetti”)

“common-law partner” has the meaning given to it in subsection 248 (1) of the *Income Tax*

Act (Canada); (“conjoint de fait”)

“community small business investment fund corporation” means a corporation registered under Part III.1; (“fonds communautaire de placement dans les petites entreprises”)

“distribution” has the meaning specified in the *Securities Act* and “distribute”, “distributed” and “distributing” have corresponding meanings; (“placement”, “placer”, “placé”)

“eligible business activity” means, except for the purposes of Parts III.1 and III.2, a business activity of a corporation or partnership that would be an “active business carried on by a corporation”, as defined in subsection 125 (7) of the *Income Tax Act* (Canada) if the business activity were carried on by a corporation; (“activité commerciale admissible”)

“eligible investment” means,

- (a) Repealed: 2011, c. 9, Sched. 7, s. 1.
- (b) in respect of a labour sponsored investment fund corporation, an investment in an eligible business that is an eligible investment under Part III,
- (c) in respect of a community small business investment fund corporation, an investment in an eligible business that is an eligible investment under Part III.1, and
- (d) in respect of an Ontario commercialization investment fund, an investment in an eligible business that is an eligible investment under Part III.2; (“placement admissible”)

“eligible investor” means an eligible investor as defined in Part II, III, III.1 or III.2, as the context requires; (“investisseur admissible”)

“employee organization” means,

- (a) a trade union,
- (b) an association or federation of trade unions, or
- (c) an association or federation of worker co-operatives; (“association d’employés”)

“equity capital”, in respect of a corporation, means the amount of consideration paid in money, calculated in the prescribed manner, for which shares of the corporation are issued; (“capitaux propres”)

“fiscal year”, in respect of a corporation or partnership, means the period for which the accounts of the business of the corporation or partnership have been ordinarily made up and accepted for the purposes of assessment under the *Income Tax Act* (Canada); (“exercice”)

“individual” has the meaning given to that term by subsection 248 (1) of the *Income Tax Act* (Canada); (“particulier”)

“investment corporation” means a corporation registered under Part II, III, III.1 or III.2; (“société de placement”)

“labour sponsored investment fund corporation” means a corporation registered under Part III; (“fonds de placement des travailleurs”)

“major shareholder”, in respect of a corporation, means a person who beneficially owns, directly or indirectly, 10 per cent or more of the voting rights attached to all voting shares of the corporation from time to time outstanding; (“actionnaire important”)

“Minister” means, unless the context indicates otherwise,

- (a) the Minister of Finance in Parts II, III and III.1 and in the application of the provisions of this Part, Part IV and the regulations to or in respect of an investment corporation registered or previously registered under Part II, III or III.1, or
- (b) the Minister of Research and Innovation in Part III.2 and in the application of the provisions of this Part, Part IV and the regulations to or in respect of an investment corporation registered or previously registered under Part III.2; (“ministre”)

“Ministry” means the Ministry of the Minister; (“ministère”)

“Ontario commercialization investment fund” means a corporation or partnership registered under Part III.2; (“fonds ontarien de financement de la commercialisation”)

“Ontario commercialization investment fund grant” means a grant for which an Ontario commercialization investment fund may apply under Part III.2; (“subvention ontarienne de financement de la commercialisation”)

“original purchaser” includes, where a Class A share is acquired by a trust governed by a registered retirement savings plan, the eligible investor whose investment corporation tax credit would take into account the amount of consideration paid to acquire or subscribe for the Class A shares held by the trust; (“premier acheteur”)

“permanent establishment” means,

- (a) in respect of a corporation, a permanent establishment as defined by subsection 1 (1) of the *Taxation Act, 2007*, or
- (b) in respect of a partnership, a permanent establishment determined under subsection 1 (1) of the *Taxation Act, 2007* as if the partnership were a corporation; (“établissement stable”)

“person” means, except where the context requires otherwise, an individual, corporation, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative; (“personne”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“qualifying corporation” means a corporation that is not,

- (a) an investment corporation, or
- (b) a qualifying financial institution or a specified corporation or insurance corporation related to the qualifying financial institution for the purposes of section 66.1 of the *Corporations Tax Act* or subdivision b of Division E of Part III of the *Taxation Act, 2007*; (“société admissible”)

“qualifying individual” means an individual who is ordinarily resident in Canada but does not include a trust; (“particulier admissible”)

“qualifying trust” has the same meaning as in subsection 127.4 (1) of the *Income Tax Act* (Canada); (“fiducie admissible”)

“registered retirement income fund” has the same meaning as in subsection 146.3 (1) of the *Income Tax Act* (Canada); (“fonds enregistré de revenu de retraite”)

“registered retirement savings plan” has the meaning assigned by subsection 146 (1) of the *Income Tax Act* (Canada); (“régime enregistré d’épargne-retraite”)

“regulations” means regulations made under this Act; (“règlements”)

“related group” has the meaning assigned by subsection 251 (4) of the *Income Tax Act* (Canada); (“groupe lié”)

“research oriented investment fund” means, with respect to a calendar year, a labour sponsored investment fund corporation that meets the requirements set out in subsection 16.1 (2); (“fonds de placement axé sur la recherche”)

“security” means a share of a class or series of shares of a corporation or a debt obligation; (“valeur mobilière”)

“stated capital” and “stated capital account” have the same meanings as in the *Business Corporations Act* or the *Canada Business Corporations Act*, as the case requires; (“capital déclaré”, “compte capital déclaré”)

“taxable Canadian corporation” has the meaning assigned by subsection 89 (1) of the *Income Tax Act* (Canada); (“société canadienne imposable”)

“trade” or “trading” includes the meaning specified in the *Securities Act*; (“opération”)

“trade union” means a provincial affiliate of a national or international trade union, a trade union holding province-wide bargaining rights, a certified provincial council of trade unions, a designated or certified provincial employee bargaining agency and a provincial organization of trade unions; (“syndicat”)

“voting share” means a share of a class or series of shares of a corporation carrying a voting right either under all circumstances or under circumstances that have occurred and are continuing, other than a share of a class or series that must vote separately by reason of a statutory requirement; (“action avec droit de vote”)

“worker co-operative” has the same meaning as in the *Co-operative Corporations Act*. (“coopérative de travail”) 1992, c. 18, s. 1 (1); 1994, c. 17, s. 76; 1997, c. 43, Sched. C, ss. 2 (1-9), 23 (2); 1998, c. 34, s. 12; 1999, c. 9, s. 50; 2000, c. 42, s. 1; 2004, c. 16, s. 1 (2); 2004, c. 31, Sched. 7, s. 1 (1-5); 2006, c. 9, Sched. C, s. 1; 2008, c. 19, Sched. V, s. 2 (1, 2); 2011, c. 9, Sched. 7, s. 1.

Interpretation, related persons

(2) Persons are related to each other if,

- (a) they are related for the purposes of the *Income Tax Act* (Canada);
- (b) one of them is a partnership and the other person is the majority interest partner of the partnership; or
- (c) each of them is a partnership and the same person is the majority interest partner of each. 1992, c. 18, s. 1 (2); 1997, c. 43, Sched. C, s. 2 (10); 2004, c. 16, s. 1 (2).

Interpretation, controlled corporations

(3) Unless otherwise prescribed, a person shall be deemed to control a corporation or partnership if the person has continuing power to determine the strategic operating, investing and financing policies of the corporation or partnership without the co-operation of another person. 1992, c. 18, s. 1 (3); 2004, c. 16, s. 1 (2).

Calculation of voting shares

(4) In calculating, for the purposes of this Act, the total number of voting shares of a corporation beneficially owned or controlled, the total number shall be calculated as the total of all voting shares actually owned or controlled, but each share that carries the right to more than

or less than one vote shall be calculated as the number of voting shares equalling the total number of votes carried. 1992, c. 18, s. 1 (4); 2004, c. 16, s. 1 (2).

Idem

(5) For the purposes of subsection (4), the total number of voting shares shall be deemed to include voting shares that would be owned following the exercise of an option, warrant or right, or a conversion right that is attached to a debt obligation or to a share of the corporation, but this subsection does not apply in respect of any corporation in respect of which the Minister determines that the option, warrant, right or conversion right is not reasonably likely to be exercised. 1992, c. 18, s. 1 (5); 2004, c. 16, s. 1 (2).

Calculation of shareholders

(6) In determining the number of shareholders of a corporation for the purposes of this Act, two or more persons holding the same share or shares jointly shall be counted as one shareholder. 1992, c. 18, s. 1 (6); 2004, c. 16, s. 1 (2).

Interpretation, majority interest partner

(7) A person is a majority interest partner in respect of a partnership if the person would be deemed to be a majority interest partner of the partnership under subsection 248 (1) of the *Income Tax Act* (Canada). 1992, c. 18, s. 1 (7); 2002, c. 22, s. 16; 2004, c. 16, s. 1 (2).

(8), (9) Repealed: 2011, c. 9, Sched. 7, s. 1.

Interpretation, Ontario commercialization investment fund

(10) A reference in this Act to an investment corporation shall be deemed to include a reference to a partnership that is registered as an Ontario commercialization investment fund and a reference to a shareholder of an investment corporation shall be deemed to include a reference to a partner in a partnership that is registered as an Ontario commercialization investment fund. 2004, c. 31, Sched. 7, s. 1 (6).

Register of investment corporations

2. The Minister shall maintain a register of all investment corporations and the register shall be open for public inspection during normal office hours. 1992, c. 18, s. 2; 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

PART II (ss. 3 to 11) Repealed: 2011, c. 9, Sched. 7, s. 2.

PART III

LABOUR SPONSORED INVESTMENT FUND CORPORATIONS

Definitions

12. (1) In this Part,

“eligible business” means a taxable Canadian corporation or Canadian partnership,

- (a) that is primarily engaged in eligible business activities,
- (b) that pays 50 per cent or more of its wages and salaries to employees whose ordinary place of employment is a permanent establishment of the corporation or partnership located in Ontario,
- (c) that has 50 per cent or more of its full-time employees employed in respect of eligible business activities carried on by the corporation or partnership in Ontario,
- (d) that, at the time the labour sponsored investment fund corporation makes the investment in the taxable Canadian corporation or Canadian partnership,

- (i) has total gross assets, together with the total gross assets of all related corporations and partnerships, not exceeding \$50,000,000, calculated in the prescribed manner, or such other amount as may be prescribed,
- (ii) together with all related corporations and partnerships, does not have more than 500 employees, or such other number as may be prescribed, and
- (iii) has been primarily engaged in eligible business activities for at least two years, or for the total length of time it has been carrying on any business if it has carried on business less than two years, and
- (e) that is not an investment corporation registered under Part III.1 or III.2; (“entreprise admissible”)

“eligible investment in a research business” means, with respect to a particular labour sponsored investment fund corporation, an investment described in subsection (3); (“placement admissible dans une entreprise de recherche”)

“eligible investor” means, in respect of a particular Class A share of a corporation registered under this Part,

- (a) an individual who subscribes for the share, but not an individual who is a trust,
- (b) an individual who is an annuitant (as defined in subsection 146 (1) of the *Income Tax Act* (Canada)) of a qualifying trust that subscribes for the share,
- (b.1) an individual who is a holder, as defined in subsection 146.2 (1) of the *Income Tax Act* (Canada), of a trust governed by a tax-free savings account that subscribes for the share, if the trust is a qualifying trust under subsection 127.4 (1) of that Act, or
- (c) a spouse or common-law partner of an individual described in clause (b); (“investisseur admissible”)

“qualifying debt obligation” means a debt obligation,

- (a) that, if secured, is secured,
 - (i) by a security interest in one or more assets of the entity and the terms of the debt obligation or any agreement relating to the debt obligation do not prevent the entity from dealing with its assets in the ordinary course of business before any default on the debt obligation,
 - (ii) by a guarantee, or
 - (iii) by both a security interest described in subclause (i) and a guarantee, and
- (b) that by its terms or by the terms of any agreement relating to the debt obligation does not entitle the holder of the debt obligation to rank ahead of any other secured creditor of the issuer in realizing on the same security unless,
 - (i) the debt obligation is prescribed to be a small business security for the purposes of paragraph (a) of the definition of “small business property” in subsection 206 (1) of the *Income Tax Act* (Canada), or
 - (ii) the other secured creditor is a shareholder of the corporation or a person related to the shareholder; (“créance admissible”)

“scientific research and experimental development expenses” means, with respect to expenses incurred by an entity in a fiscal year, the total of all expenses incurred by the entity in the

year that are described in subparagraph 37 (1) (a) (i), (i.1) or (ii) or 37 (1) (b) (i) or (ii) of the *Income Tax Act* (Canada). (“dépenses afférentes aux activités de recherche scientifique et de développement expérimental”) 1992, c. 18, s. 12; 1994, c. 17, s. 82; 1997, c. 43, Sched. C, s. 5 (1, 2); 1999, c. 9, s. 52; 2000, c. 42, s. 3 (1-3); 2004, c. 16, s. 1 (2); 2004, c. 31, Sched. 7, s. 3 (1); 2006, c. 9, Sched. C, s. 2; 2009, c. 18, Sched. 7, s. 1; 2009, c. 34, Sched. D, s. 1 (1).

Deemed eligible business, flow-through investment

(1.1) A taxable Canadian corporation or Canadian partnership that is not an eligible business under subsection (1) only because it is not primarily engaged in eligible business activities shall be deemed to be an eligible business for the purposes of this Part if, within a reasonable number of days after the labour sponsored investment fund corporation makes an investment in the corporation or partnership, the corporation or partnership invests all or substantially all of the amount of the investment in a corporation or partnership that meets the definition of “eligible business” under subsection (1). 2004, c. 31, Sched. 7, s. 3 (2).

Calculating number of employees

(2) For the purpose of determining the number of employees under subclause (d) (ii) of the definition of “eligible business”, an employee who normally works at least 20 hours per week shall be counted as one employee and an employee who normally works less than 20 hours per week shall be counted as half an employee. 1997, c. 43, Sched. C, s. 5 (3); 2004, c. 16, s. 1 (2); 2004, c. 31, Sched. 7, s. 3 (3).

Eligible investment in a research business

(3) For the purposes of this Part, an eligible investment in a research business by a labour sponsored investment fund corporation for a particular calendar year is an investment by the corporation in an entity that is a taxable Canadian corporation or a Canadian partnership and with respect to which the circumstances described in one or more of the following paragraphs exist:

1. At least 50 per cent, or such other percentage as may be prescribed, of the total expenses incurred by the entity during the entity’s most recent fiscal year ending before the day on which the investment was made and for which financial statements are available are scientific research and experimental development expenses.
2. If the entity was established in the calendar year or in the previous calendar year, or if it first began business in one of those calendar years,
 - i. the entity undertakes to incur scientific research and experimental development expenses in the fiscal year in which the investment is made, or in the following fiscal year, in an amount equal to at least 50 per cent, or such other percentage as may be prescribed, of its total expenses for the year, and
 - ii. the labour sponsored investment fund corporation accepts the undertaking.
3. The entity fulfilled an undertaking given in a previous year under paragraph 2.
4. The entity was formed to exploit intellectual property developed by a Canadian institution that is a university, college, research institute, hospital or other prescribed research institution and,
 - i. at least 10 per cent of the issued and outstanding voting shares of the entity or 10 per cent of the value of all partnership interests in the entity, as the case may be, are held by a Canadian institution that is a university, college, research institute, hospital or other prescribed research institution, and

- ii. the amount of the scientific research and experimental development expenses incurred by the entity in the entity's fiscal year in which the labour sponsored investment fund corporation makes its investment is equal to at least 50 per cent or such other percentage as may be prescribed of the amount invested by the corporation in the entity in the fiscal year. 2000, c. 42, s. 3 (4); 2002, c. 22, s. 20; 2004, c. 16, s. 1 (2); 2009, c. 34, Sched. D, s. 1 (2).

Date of Class A share redemption

(4) For the purpose of sections 14 and 14.1, when determining the date on which a Class A share of a labour sponsored investment fund corporation that was issued in February or March is redeemed, a redemption that occurs in February or on March 1 shall be deemed to occur on March 31. 2000, c. 42, s. 3 (4); 2004, c. 16, s. 1 (2).

Capital available for investment

(5) For the purposes of this Part, a labour sponsored investment fund corporation's capital available for investment at a particular time is the amount, if any, by which "A" exceeds "B" where,

"A" is the total cost of all investments and property held by the corporation at that time, each of which was an eligible investment as defined in section 18 or in subsection 204.8 (1) of the *Income Tax Act* (Canada) at the time the investment was made or is property maintained in a reserve as defined in subsection 19 (2), and

"B" is 20 per cent of the net value of the corporation's total assets at that time. 2000, c. 42, s. 3 (4); 2004, c. 16, s. 1 (2).

Application for registration of corporation

13. (1) An employee organization may make application under this Part for registration of a corporation as a labour sponsored investment fund corporation to make investments in eligible businesses if the corporation has a permanent establishment in Ontario and,

- (a) the corporation is incorporated under the *Business Corporations Act* or the *Canada Business Corporations Act*; or
- (b) the corporation is registered under Part X.3 of the *Income Tax Act* (Canada). 1992, c. 18, s. 13 (1); 2004, c. 16, s. 1 (2).

Proposal

(2) An application under this section shall be made by filing with the Minister a proposal setting out,

- (a) the name of the corporation;
- (b) the location of the registered office or permanent establishment in Ontario of the corporation;
- (c) an investment plan for the corporation specifying,
 - (i) the amount of equity capital to be raised on the issue of each class of shares of the corporation,
 - (ii) the classes and series of shares, the maximum number of shares that the corporation is authorized to issue of each class and series and the maximum aggregate consideration for which all shares of each class and series may be issued,
 - (iii) the amount of the stated capital account of each class and series of shares

issued and to be issued and the amount of equity capital for which the shares were or will be issued,

- (iv) the amounts and kinds of debt obligations, if any, issued by the corporation,
 - (v) any restrictions on ownership and voting rights of the shares of the corporation,
 - (vi) the terms and conditions for redemption of shares,
 - (vii) the estimated number of shareholders of the corporation,
 - (viii) details of the corporation's proposed investment policies,
 - (ix) that the corporation will update the value of its shares on a quarterly basis and setting out the method the corporation will use to calculate the updated value of its shares, and
 - (x) any other matter prescribed to be set out in the investment plan;
- (d) the number of directors of the corporation and the name in full and the residence address of each;
- (e) the names in full of the officers of the corporation and the residence address of each; and
- (f) any other matter prescribed to be set out in the proposal. 1992, c. 18, s. 13 (2); 2004, c. 16, s. 1 (2).

Updated value of shares

(3) The method of calculating the updated value of shares of a corporation shall not provide for a premium for control or a discount for minority interests and shall not take into consideration a tax credit under the *Income Tax Act*, the *Taxation Act, 2007* or the *Income Tax Act* (Canada) allowed in respect of the shares. 1992, c. 18, s. 13 (3); 2004, c. 16, s. 1 (2); 2008, c. 19, Sched. V, s. 2 (3).

Additional information

- (4) A proposal shall be accompanied by,
- (a) a certified copy of the articles of the incorporation;
 - (b) a true copy of all shareholders' agreements, partnership agreements and proposed agreements relating to the corporation to which the corporation is a party or of which an officer or director of the corporation or the employee organization, after making reasonable inquiry, has knowledge; and
 - (c) any other prescribed material. 1992, c. 18, s. 13 (4); 1994, c. 17, s. 83; 2004, c. 16, s. 1 (2).

Additional material

(5) The proposal shall be signed by two officers or one director and one officer of the corporation and shall contain a certificate in writing signed by one of them certifying that the information contained in the proposal is complete and accurate. 1992, c. 18, s. 13 (5); 2004, c. 16, s. 1 (2).

Corporation qualifications

14. (1) No corporation shall be registered under this Part unless,

- (a) the corporation complies with all provisions of the legislation under which it is organized, the *Securities Act*, this Act and, in the case of a corporation referred to in

- clause 13 (1) (b), the *Income Tax Act* (Canada);
- (b) the corporation has never previously carried on business other than the business related to obtaining registration under this Act or the *Income Tax Act* (Canada);
- (c) the articles of the corporation provide that the authorized capital of the corporation shall consist only of,
- (i) Class A shares that are issuable to eligible investors only,
 - (ii) Class B shares that are issuable only to and may be held only by an employee organization, and
 - (iii) such additional classes of shares as may be authorized, if the rights, privileges, restrictions and conditions attached to the shares are approved by the board of directors of the corporation and by the Minister;
- (d) the articles of the corporation restrict the business of the corporation to,
- (i) assisting the development of eligible businesses, creating, maintaining and protecting jobs by providing financial and managerial advice to eligible businesses and by making eligible investments, and
 - (ii) incorporating and controlling such other corporations as the corporation may consider advisable to provide services to the corporation in connection with the distribution of the corporation's shares or to provide financial, investment or managerial advice and expertise;
- (e) Repealed: 2001, c. 23, s. 10 (2).
- (f) the articles of the corporation prohibit the corporation from lending money, guaranteeing a loan or providing other financial assistance to a shareholder of the corporation, to a person related to a shareholder of the corporation or to an employee organization;
- (g) Repealed: 1997, c. 43, Sched. C, s. 6.
- (h) the corporation provides an undertaking in a form satisfactory to the Minister that,
- (i) the value of its shares will be determined on an annual basis by means of a valuation carried out by an independent qualified person,
 - (ii) the corporation will provide to its shareholders an updated valuation of its shares and disclosure of all major decisions of the corporation that may materially affect that valuation in accordance with the practices of the mutual fund industry, and
 - (iii) the amount to be received by a shareholder on the redemption of a Class A share will be based on the value of the shares determined on the date of the redemption; and
- (i) the corporation meets all other prescribed conditions. 1992, c. 18, s. 14 (1); 1994, c. 17, s. 84 (1-12); 1997, c. 43, Sched. C, s. 6; 1999, c. 9, s. 53; 2000, c. 42, s. 4; 2001, c. 23, s. 10; 2004, c. 16, s. 1 (2).

Definition, eligible investors

(2) For the purposes of clause (1) (c), "eligible investors", of a corporation that is registered under Part X.3 of the *Income Tax Act* (Canada) and that has a permanent establishment in Ontario, means individuals who are ordinarily resident in Canada and who would be eligible

investors under this Part if they were ordinarily resident in Ontario but does not include trusts which are not qualifying trusts for individuals, as defined by subsection 127.4 (1) of the *Income Tax Act* (Canada). 1992, c. 18, s. 14 (2); 1994, c. 17, s. 84 (13); 2004, c. 16, s. 1 (2).

Interpretation, restrictions

(3) Restrictions on the issue, ownership or transfer of any class or series of shares of a corporation that are required by this Act or by Part X.3 of the *Income Tax Act* (Canada) to be contained in the articles of the corporation in order to entitle it to registration under this Act or under Part X.3 of the *Income Tax Act* (Canada), as the case requires, shall be deemed for the purpose of subsection 42 (2) of the *Business Corporations Act* to be restrictions necessary for the obtaining and holding of authority to engage in an activity necessary to the undertaking of the corporation. 1992, c. 18, s. 14 (3); 2004, c. 16, s. 1 (2).

Investments outside Ontario

(4) For the purposes of subclause (1) (d) (i), where a corporation is registered under Part X.3 of the *Income Tax Act* (Canada) and has a permanent establishment in Ontario, “eligible businesses” include businesses that are eligible for investment by investment corporations registered under that Part. 1994, c. 17, s. 84 (14); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Disposition of Class A shares

14.1 (1) This section applies if a Class A share of a labour sponsored investment fund corporation that was issued after May 6, 1996 is redeemed, acquired or cancelled by the corporation less than eight years after the day on which the share was issued. 2001, c. 23, s. 11; 2004, c. 16, s. 1 (2).

Tax payable

(2) Subject to subsection (3), the person who was the shareholder immediately before the redemption, acquisition or cancellation of the Class A share shall pay a tax under this Part equal to the amount calculated using the formula,

$$A \times B$$

in which,

“A” is,

- (a) if the corporation issued the share on or before March 1, 2010,
 - (i) 20 per cent if the corporation issued the share as a research oriented investment fund, or
 - (ii) 15 per cent in any other case,
- (b) if the corporation issued the share after March 1, 2010 and on or before March 1, 2011,
 - (i) 15 per cent if the corporation issued the share as a research oriented investment fund, or
 - (ii) 10 per cent in any other case,
- (c) if the corporation issued the share after March 1, 2011 and on or before February 29, 2012,
 - (i) 10 per cent if the corporation issued the share as a research oriented investment fund, or

(ii) 5 per cent in any other case, or

(d) 0, if the corporation issued the share after February 29, 2012, and

“B” is the lesser of,

- (a) the amount of equity capital received by the corporation on the issuance of the share, and
- (b) the amount that is payable by the corporation on the redemption, acquisition or cancellation of the share.

2001, c. 23, s. 11; 2004, c. 16, s. 1 (2); 2009, c. 34, Sched. D, s. 2.

Exception

(3) No amount is payable under subsection (2) if any of the following conditions is satisfied:

1. After the shareholder acquired the share, the shareholder became disabled and permanently unfit for work or became terminally ill.
 2. Within 60 days after the day on which the share was issued to the original purchaser,
 - i. the shareholder asks the corporation to redeem it, and
 - ii. the tax credit certificate referred to in subsection 25 (5) that was issued in respect of the share is returned to the corporation.
 3. The shareholder acquired the share from another person as a consequence of,
 - i. the death of the other person, or
 - ii. the death of an annuitant under a trust governing a registered retirement savings plan or registered retirement income fund that previously held the share.
 4. The shareholder is a trust governing a registered retirement savings plan or registered retirement income fund and, after the shareholder acquired the share, the annuitant under the plan or fund became disabled and permanently unfit for work or became terminally ill.
 5. No tax credit certificate was issued under this Act at any time in respect of the share.
- 2001, c. 23, s. 11; 2004, c. 16, s. 1 (2).

Withholding and remittance of tax

(4) If tax is payable under subsection (2) as a result of the redemption, acquisition or cancellation of a Class A share, the labour sponsored investment fund corporation that redeems, acquires or cancels the share shall,

- (a) withhold from the amount otherwise payable to the shareholder on the redemption, acquisition or cancellation of the share the amount of tax calculated under subsection (2); and
- (b) remit to the Minister on behalf of the shareholder the amount withheld under clause (a), and do so within 30 days after the redemption, acquisition or cancellation. 2001, c. 23, s. 11; 2004, c. 16, s. 1 (2).

Liability for failure to withhold or remit

(5) If the labour sponsored investment fund corporation fails to withhold or remit an amount under subsection (4), the corporation is liable to pay to the Minister as tax under subsection (2) on behalf of the shareholder the amount that the corporation failed to withhold or

remit. 2001, c. 23, s. 11; 2004, c. 16, s. 1 (2).

Same

(6) If the labour sponsored investment fund corporation paid an amount to the Minister under subsection (5) as tax under subsection (2) on behalf of the shareholder, the corporation is entitled to recover from the shareholder the amount remitted to the Minister but not withheld by the corporation. 2001, c. 23, s. 11; 2004, c. 16, s. 1 (2).

Definition

(7) In subsections (3) to (6),

“shareholder” means the person who was the shareholder immediately before the redemption, acquisition or cancellation of the Class A share. 2001, c. 23, s. 11; 2004, c. 16, s. 1 (2).

Entitlement to registration

15. (1) An employee organization is entitled to registration of a corporation by the Minister unless,

- (a) this Part has not been satisfied; or
- (b) the employee organization fails to file the material required by this Act or the regulations. 1992, c. 18, s. 15 (1); 2004, c. 16, s. 1 (2).

Refusal to register

(2) Subject to section 31, the Minister may refuse to register a corporation if, in the Minister’s opinion, the corporation is disentitled to registration under subsection (1). 1992, c. 18, s. 15 (2); 2004, c. 16, s. 1 (2).

Idem

(3) Subject to section 31, the Minister may refuse to register a corporation if, in the Minister’s opinion, the proposed investment or the actions of the corporation or the employee organization do not comply with the spirit and intent of this Act and the regulations. 1992, c. 18, s. 15 (3); 2004, c. 16, s. 1 (2).

Moratorium

(4) Despite subsection (1), the Minister may declare a registration moratorium during which no employee organization is entitled to registration of a corporation under this Part. 2004, c. 31, Sched. 7, s. 4.

Time

(5) A moratorium is effective for the period of time declared by the Minister, but the Minister may terminate or extend a moratorium if the Minister in his or her sole discretion considers the termination or extension necessary or advisable in the circumstances. 2004, c. 31, Sched. 7, s. 4.

Notice

(6) The Minister may impose, terminate or extend a moratorium without prior notice. 2004, c. 31, Sched. 7, s. 4.

Transitional

(7) Any moratorium declared by the Minister on or after May 18, 2004 and before subsection (4) comes into force shall be deemed to be a moratorium declared in accordance with this section, effective for the period of time declared by the Minister. 2004, c. 31, Sched. 7, s. 4.

Issuance of certificate of registration

16. (1) If the employee organization and the corporation comply with this Act, the Minister shall,

- (a) endorse on each duplicate of the proposal “Registered/Agr   ” and the day, month and year of the registration thereof;
- (b) file one of the duplicates in the Minister’s office;
- (c) place the name of the corporation in the register of investment corporations as a labour sponsored investment fund corporation; and
- (d) issue to the corporation a certificate of registration to which the Minister shall affix the other duplicate. 1992, c. 18, s. 16 (1); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Order by Minister

(2) If the Minister considers it appropriate in order to carry out the intent of this Act, the Minister may, at the request of a labour sponsored investment fund corporation, order that the corporation be deemed to have been registered under this Act on a date before the date of actual registration and the corporation shall be deemed to have been so registered. 1992, c. 18, s. 16 (2); 2004, c. 16, s. 1 (2).

Effective date

(3) An order may be made under subsection (2) even though the deemed date of registration is a date before this Act came into force. 1992, c. 18, s. 16 (3); 2004, c. 16, s. 1 (2).

Research oriented investment fund

16.1 (1) A labour sponsored investment fund corporation that intends to issue shares as a research oriented investment fund in an eligible year shall give notice of its intention to the Minister in a form approved by the Minister and shall do so by the end of the preceding year. 2000, c. 42, s. 6; 2004, c. 16, s. 1 (2); 2005, c. 31, Sched. 3, s. 3 (1).

Status of corporation

(2) A labour sponsored investment fund corporation that has given the notice required by subsection (1) for an eligible year is a research oriented investment fund during that year,

- (a) Repealed: 2001, c. 23, s. 12 (1).
- (b) if the corporation complied with the investment requirements and restrictions set out in sections 17 and 18.1 in the preceding year;
- (c) if the corporation conducted its business and affairs in accordance with this Act in the preceding year; and
- (d) if the aggregate cost of the corporation’s investments, each of which is an eligible investment in a research business that was held at the end of the preceding year, is equal to at least 50 per cent, or such other percentage as may be prescribed, of its capital available for investment at August 31 or December 31 of that year, whichever amount of capital is less, or if, instead, the corporation gives the undertaking described in subsection (5). 2000, c. 42, s. 6; 2001, c. 23, s. 12 (1); 2004, c. 16, s. 1 (2); 2004, c. 31, Sched. 7, s. 5 (1); 2005, c. 31, Sched. 3, s. 3 (2).

Penalty for unauthorized issuance

(3) If a labour sponsored investment fund corporation issues a Class A share as a research oriented investment fund during an eligible year but did not meet the requirements set out in subsection (2) when it did so, the corporation shall pay a penalty to the Minister equal to 10 per

cent of the value of the consideration received on its issuance. 2000, c. 42, s. 6; 2004, c. 16, s. 1 (2); 2005, c. 31, Sched. 3, s. 3 (3).

(4) Repealed: 2001, c. 23, s. 12 (2).

Undertaking re investments

(5) For the purposes of clause (2) (d), a labour sponsored investment fund corporation that has not made any investments may give the Minister a written undertaking that, before the end of the eligible year referred to in subsection (2), it will make one or more investments, each of which is an eligible investment in a research business and that the cost of those investments will equal at least 50 per cent, or such other percentage as may be prescribed, of the capital available for investment by the corporation at August 31 or December 31 of that year, whichever amount of capital is less. 2004, c. 31, Sched. 7, s. 5 (2); 2005, c. 31, Sched. 3, s. 3 (4).

Failure to comply with undertaking

(6) If a labour sponsored investment fund corporation fails to comply with its undertaking given under subsection (5), the corporation shall pay a penalty to the Minister equal to 10 per cent of the value of the consideration received on its issuance, during the applicable year, of Class A shares as a research oriented investment fund. 2000, c. 42, s. 6; 2004, c. 16, s. 1 (2).

Definition

(7) In this section,

“eligible year” means a calendar year after 2000 and before 2013. 2008, c. 7, Sched. D, s. 1.

Required investment levels

17. (1) On December 31 of each year, a labour sponsored investment fund corporation shall hold eligible investments that have an aggregate cost of not less than the amount determined using the formula,

$$A - B - C + D - E - F$$

in which,

“A” is 70 per cent of the aggregate amount of equity capital received by the corporation on the issue of Class A shares that are outstanding at the end of the applicable calendar year and that were issued before the sixty-first day of that year, but excluding Class A shares that have been outstanding,

(a) for at least five years, in the case of shares issued before May 7, 1996, and

(b) for at least eight years, in the case of shares issued after May 6, 1996;

“B” is 20 per cent of the aggregate amount of equity capital received by the corporation on the issue of Class A shares that were issued during the period beginning on the sixty-first day of the year preceding the applicable calendar year and ending on the sixtieth day of the applicable year and that are outstanding at the end of that year;

“C” is the aggregate amount of losses of the corporation that are realized on its eligible investments before the end of the applicable calendar year;

“D” is 70 per cent of the lesser of,

(a) the aggregate amount of gains of the corporation realized on its eligible investments before the end of the applicable calendar year, and

(b) the amount of “C”;

“E” is the total of all amounts that are permitted by subsections 24.1 (3) and (4) to be

applied against the investment requirement imposed by this subsection; and
 “F” is the amount determined under subsection (2).

1999, c. 9, s. 54 (1); 2004, c. 16, s. 1 (2); 2004, c. 31, Sched. 7, s. 6.

Amounts paid under a guarantee

(1.1) For the purposes of the definition of “C” in subsection (1), the amount of losses of a labour sponsored investment fund corporation that are realized on eligible investments includes any amount paid by the labour sponsored investment fund corporation under the terms of a guarantee it previously gave if an amount in respect of that guarantee was deemed to have been an eligible investment under subsection 18 (8) at the time the guarantee was given. 2006, c. 9, Sched. C, s. 3 (1).

Required investment levels, 2005 to 2012

(1.2) Despite subsection (1), at the end of the day on December 31 of each year after 2004 and before 2013, a labour sponsored investment fund corporation shall hold eligible investments that have a total cost of not less than the amount that would be determined under subsection (1) if, in the formula in that subsection,

“A” were 60 per cent of the aggregate amount of equity capital received by the corporation on the issue of Class A shares that are outstanding at the end of the applicable calendar year and that were issued before the 61st day of that year, but excluding Class A shares that have been outstanding for at least 94 months, and

“D” were 60 per cent of the lesser of,

- (a) the aggregate amount of gains of the corporation realized on its eligible investments before the end of that year, and
- (b) the amount of “C” for that year. 2006, c. 9, Sched. C, s. 3 (2); 2008, c. 7, Sched. D, s. 2 (1).

Required investment levels, 2013 and later years

(1.3) Despite subsections (1) and (1.2), at the end of the day on December 31 of each year after 2012, a labour sponsored investment fund corporation shall hold eligible investments that have a total cost of not less than the amount that would be determined under subsection (1) if, in the formula in that subsection,

“A” were 60 per cent of the aggregate amount of equity capital received by the corporation on the issue of Class A shares that are outstanding at the end of the applicable calendar year and that were issued before the 61st day of 2012, but excluding Class A shares that have been outstanding for at least 94 months,

“B” were nil, and

“D” were 60 per cent of the lesser of,

- (a) the aggregate amount of gains of the corporation realized on its eligible investments before the end of that year, and
- (b) the amount of “C” for that year. 2006, c. 9, Sched. C, s. 3 (2); 2008, c. 7, Sched. D, s. 2 (2).

Same

(2) The amount of the variable “F” in subsection (1) is calculated using the formula,

$$G + (H \times I/J)$$

in which,

- “G” is the aggregate amount of tax paid by the corporation under subsection 28 (3) that has not been refunded before the end of the applicable calendar year;
- “H” is the aggregate amount of tax and penalties that the corporation has paid under Part X.3 of the *Income Tax Act* (Canada) that have not been refunded before the end of the applicable calendar year;
- “T” is the aggregate amount of equity capital received by the corporation on the issue of Class A shares that were issued to shareholders who were ordinarily resident in Ontario when the shares were issued and that were outstanding when the taxes or penalties were paid under Part X.3 of the *Income Tax Act* (Canada); and
- “J” is the aggregate amount of equity capital received by the corporation on the issue of Class A shares that were outstanding when the taxes or penalties were paid under Part X.3 of the *Income Tax Act* (Canada).

1999, c. 9, s. 54 (3); 2004, c. 16, s. 1 (2).

[\(2.1\)](#) Repealed: 2006, c. 9, Sched. C, s. 3 (3).

Disposition of investment

[\(3\)](#) For the purposes of this section, the labour sponsored investment fund corporation shall be deemed to continue to hold the investment,

- (a) for 24 months after it disposed of the investment or, if a longer period of time is prescribed by the regulations, that period of time, if the disposition occurred on or after January 1, 2005; or
- (b) for nine months after it disposed of the investment, if the disposition occurred before January 1, 2005. 2006, c. 9, Sched. C, s. 3 (4); 2007, c. 7, Sched. 5, s. 2.

Application

[\(4\)](#) This section applies to a corporation registered under Part X.3 of the *Income Tax Act* (Canada) only in respect of,

- (a) equity capital received on the issue of Class A shares to shareholders of the corporation who were ordinarily resident in Ontario at the time the shares were issued; and
- (b) amounts paid as a return of capital of Class A shares issued to shareholders of the corporation who were ordinarily resident in Ontario at the time the shares were issued. 1996, c. 24, s. 5 (2); 1996, c. 29, s. 10 (2); 2004, c. 16, s. 1 (2).

Interpretation, eligible investment

[18. \(1\)](#) An investment of a labour sponsored investment fund corporation is an eligible investment if,

- (a) the investment is made in an eligible business;
- (b) the investment is the purchase from the eligible business by the labour sponsored investment fund corporation of,
 - (i) shares or a qualifying debt obligation issued by the eligible business in exchange for a consideration paid in money, if the eligible business is a corporation,
 - (ii) an ownership interest in the eligible business or a qualifying debt obligation

issued by the eligible business in exchange for a consideration paid in money, if the eligible business is a Canadian partnership, or

- (iii) Repealed: 2006, c. 9, Sched. C, s. 4 (1).
- (iv) an option or right granted by an eligible business that is a corporation, in conjunction with the issue of a share or a debt obligation that is an eligible investment, to acquire a share of the eligible business that would be an eligible investment if that share were issued at the time that the option or right was granted; and
- (c) Repealed: 2004, c. 31, Sched. 7, s. 7 (2).
- (d) the investment is not used or intended to be used by the eligible business for the purpose of,
 - (i) relending,
 - (ii) investment in land except land that is incidental and ancillary to the eligible business activity or activities in which the eligible business is primarily engaged,
 - (iii) reinvestment outside Canada,
 - (iv) Repealed: 1999, c. 9, s. 55 (2).
 - (v) financing the purchase or sale of goods or services provided to the eligible business by or through a shareholder of the labour sponsored investment fund corporation or a person related to a shareholder, unless the labour sponsored investment fund corporation is widely held,
 - (vi)-(viii) Repealed: 1999, c. 9, s. 55 (2).
 - (ix) the payment of the principal amount of outstanding liabilities owing to shareholders of the labour sponsored investment fund corporation or to persons related to such shareholders,
 - (x) carrying on a business outside Canada, or
 - (xi) any prescribed purpose or use.
- (e) Repealed: 1999, c. 9, s. 55 (4).

1992, c. 18, s. 18 (1); 1994, c. 17, s. 85 (1, 2); 1999, c. 9, s. 55 (1-4); 2004, c. 16, s. 1 (2); 2004, c. 31, Sched. 7, s. 7 (1, 2); 2006, c. 9, Sched. C, s. 4 (1).

Follow-on investments

(1.1) Despite subsection (1), an investment of a labour sponsored investment fund corporation is an eligible investment for the purposes of this Part if the following conditions are satisfied:

1. The investment is made after 2004 in a taxable Canadian corporation or Canadian partnership that is no longer an eligible business only because, at the time the investment is made, the corporation or partnership no longer satisfies the requirements of subclauses (d) (i) and (ii) of the definition of “eligible business” in subsection 12 (1).
2. The only reason the investment would not be an eligible investment under this section, in the absence of this subsection, is because the taxable Canadian corporation or

Canadian partnership is no longer an eligible business for the reason set out in paragraph 1.

3. The labour sponsored investment fund corporation made and continues to maintain a previous investment in the taxable Canadian corporation or Canadian partnership that was, at the time the investment was made, an eligible investment under the provisions of this section other than this subsection. 2006, c. 9, Sched. C, s. 4 (2).

Investments purchased in a wind-up

[\(1.2\)](#) Despite subsection (1), an investment of a labour sponsored investment fund corporation is an eligible investment for the purposes of this Part if,

- (a) the investment was acquired from a labour sponsored investment fund corporation that had previously given notice to the Minister of its proposal to dissolve or wind up;
- (b) the disposition of the investment was undertaken in the course of and by reason of the dissolution or wind-up; and
- (c) the investment was, for the purposes of this Part, an eligible investment of the other labour sponsored investment fund corporation immediately before the disposition. 2006, c. 9, Sched. C, s. 4 (2).

Same

[\(1.3\)](#) An eligible investment described in subsection (1.2) shall be deemed to have a cost to the labour sponsored investment fund corporation that acquired it equal to the fair market value of the investment at the time of the acquisition. 2006, c. 9, Sched. C, s. 4 (2).

Interpretation, widely held corporation

[\(2\)](#) For the purposes of this section, a labour sponsored investment fund corporation shall be deemed to be widely held if the corporation has ten or more shareholders and no shareholder or related group of which a shareholder is a member owns more than 10 per cent of the issued and outstanding voting shares of the corporation. 1992, c. 18, s. 18 (2); 2004, c. 16, s. 1 (2).

Idem

[\(3\)](#) In determining the percentage of shares of an eligible business held by a labour sponsored investment fund corporation or in determining whether a labour sponsored investment fund corporation is a majority partner of an eligible business,

- (a) a voting share of the eligible business held by a shareholder of the labour sponsored investment fund corporation or by a person related to the shareholder, shall be deemed to be held by the labour sponsored investment fund corporation;
- (b) a partnership interest in an eligible business that is a Canadian partnership owned by a shareholder of the labour sponsored investment fund corporation, or by a person related to the shareholder, shall be deemed to be owned by the labour sponsored investment fund corporation; and
- (c) an option, warrant or right in respect of a voting share of or a partnership interest in the eligible business issued by a person other than the eligible business and held by a shareholder of the labour sponsored investment fund corporation, or by a person related to the shareholder, shall be deemed to have been exercised and the voting share in respect thereof or the partnership interest shall be deemed to be held by the labour sponsored investment fund corporation. 1992, c. 18, s. 18 (3); 2004, c. 16, s. 1 (2).

[\(4\)](#) Repealed: 2011, c. 9, Sched. 7, s. 3.

(5)-(7) Repealed: 2004, c. 31, Sched. 7, s. 7 (3).

Deemed eligible investment

(8) If a labour sponsored investment fund corporation guarantees a qualifying debt obligation issued by an eligible business, the labour sponsored investment fund corporation shall be deemed to have made an eligible investment in the eligible business having a cost equal to 25 per cent of the amount of the debt that was guaranteed by the labour sponsored investment fund corporation at the time the guarantee was given. 2006, c. 9, Sched. C, s. 4 (3).

(8.1) Repealed: 2006, c. 9, Sched. C, s. 4 (3).

(9) Repealed: 2004, c. 31, Sched. 7, s. 7 (3).

Minister's order

(10) Upon application by a labour sponsored investment fund corporation, where the Minister is satisfied that it is in the public interest to do so, the Minister may, on such terms and conditions as the Minister considers necessary, order that the non-compliance with clause (1) (b), subclause (1) (d) (iii) or (x) or another prescribed provision does not preclude an investment by the corporation from being an eligible investment. 1994, c. 17, s. 85 (4); 1999, c. 9, s. 55 (6); 2004, c. 16, s. 1 (2); 2005, c. 28, Sched. C, s. 2.

Relending, etc., to holding company

(11) Despite subclause (1) (d) (i), in the case of an investment in a corporation or partnership described in subsection 12 (1.1), the investment may be used by the eligible business for the purpose of relending to an eligible business or to a related corporation or partnership, but only if the investment is not used or intended to be used by the recipient corporation or partnership in a manner that contravenes clause (1) (d). 2004, c. 31, Sched. 7, s. 7 (4).

Contravention of spirit and intent

(12) Despite subsection (1) and any order made under subsection (10), if the Minister is of the opinion that a labour sponsored investment fund corporation has directly or indirectly through a transaction or series of transactions contravened the spirit and intent of this Act, the Minister,

- (a) shall make an order that a particular investment is not an eligible investment as of the date of the transaction or the date of the first transaction in the series of transactions; and
- (b) may revoke the registration of the labour sponsored investment fund corporation in accordance with section 26 if the Minister has previously made an order referred to in clause (a) in respect of any investment made by the labour sponsored investment fund corporation. 2004, c. 31, Sched. 7, s. 7 (5).

Penalty, investment advisor

(13) If a labour sponsored investment fund corporation has, by reason of a transaction or series of transactions, contravened a provision of this Act or been found by the Minister under subsection (12) to have contravened the spirit and intent of this Act, the Minister may assess a penalty against every person, other than an employee of the labour sponsored investment fund corporation, who acted on behalf of the labour sponsored investment fund corporation in identifying, investigating, structuring, negotiating the transaction or any transaction in the series of transactions or in administering the investment affairs of the labour sponsored investment fund corporation and who knew or ought to have known that the transaction or series of transactions contravened this Act or was contrary to the spirit and intent of this Act and the amount of any penalty assessed by the Minister shall be,

- (a) 1.5 per cent of the amount paid by the labour sponsored investment fund corporation in the transaction or series of transactions, up to a maximum of \$50,000 on a first contravention; or
- (b) 3 per cent of the amount paid by the labour sponsored investment fund corporation in the transaction or series of transactions, up to a maximum of \$100,000 for each subsequent contravention. 2004, c. 31, Sched. 7, s. 7 (5).

Fundamental principles

(14) In determining whether an investment contravenes the spirit and intent of the Act, the Minister shall consider the factors that are, in his or her opinion, relevant, including but not limited to the following factors:

- 1. Whether the labour sponsored investment fund corporation provides direct financial, investment and managerial advice to small and medium-sized Ontario-owned and operated businesses, with the objective of supporting the growth of those businesses.
- 2. Whether the recipient business has unrestricted access to the capital invested for the operation and development of the business.
- 3. Whether a material portion of the economic value of the investment for the labour sponsored investment fund corporation is derived, directly or indirectly, from a business other than an eligible business.
- 4. If an investment has been made indirectly through a subsidiary of the labour sponsored investment fund corporation, whether the subsidiary made a reasonable attempt to invest in small or medium-sized Ontario businesses.
- 5. Whether a material portion of the investment proceeds were not used by the eligible business before the labour sponsored investment fund corporation disposed of its investment. 2004, c. 31, Sched. 7, s. 7 (5).

Investment levies

Definitions

18.1 (1) In this section,

“listed company” means, in relation to a labour sponsored investment fund corporation, a business described in subsection (6); (“société cotée”)

“small business” means a business that meets the requirements set out in subsection (11). (“petite entreprise”) 1999, c. 9, s. 56; 2001, c. 23, s. 13 (1, 2); 2004, c. 16, s. 1 (2).

(2)-(4) Repealed: 2001, c. 23, s. 13 (3).

Limit on investment in listed companies

(5) During 2004, a labour sponsored investment fund corporation shall not make investments in eligible businesses that are listed companies to the extent that the cost of those investments exceeds 25 per cent of the total cost of all investments made in eligible businesses by the corporation in 2004 or in 2003, whichever is greater. 2006, c. 9, Sched. C, s. 5 (1).

Status of listed company

(6) For the purposes of subsection (5), a business is a listed company in relation to a labour sponsored investment fund corporation if, when the corporation makes an eligible investment in the business, any of the shares of the business are listed on a stock exchange prescribed by Regulation 3200 or 3201 made under the *Income Tax Act* (Canada). 2001, c. 23, s. 13 (5); 2004, c. 16, s. 1 (2).

(7) Repealed: 2001, c. 23, s. 13 (5).

Required investment in small businesses

(8) At the end of each calendar year before 2005, a labour sponsored investment fund corporation shall hold eligible investments in small businesses, and the eligible investments must have an aggregate cost of not less than the amount determined using the formula,

$$D - E - F - G + H - I$$

in which,

“D” is 70 per cent of the sum of,

- (a) 10 per cent of the aggregate amount of equity capital received by the corporation on the issue of Class A shares that were issued after May 6, 1996 and before March 2, 1997, that are outstanding at the end of the applicable calendar year and that have been outstanding for less than eight years,
- (b) 15 per cent of the aggregate amount of equity capital received by the corporation on the issue of Class A shares that were issued after March 1, 1997 and before March 2, 1999, that are outstanding at the end of the applicable calendar year and that have been outstanding for less than eight years, and
- (c) 20 per cent of the aggregate amount of equity capital received by the corporation on the issue of Class A shares that were issued after March 1, 1999, that are outstanding at the end of the applicable calendar year and that have been outstanding for less than eight years;

“E” is 4 per cent of the equity capital received by the corporation on the issue of Class A shares that were issued during the period beginning on the sixty-first day of the preceding calendar year and ending on the sixtieth day of the applicable calendar year and that are outstanding at the end of the applicable calendar year;

“F” is the greater of,

- (a) 20 per cent of the realised investment losses relating to all eligible investments made after May 6, 1996, net of realised gains relating to all eligible investments made after that date, or
- (b) the amount of the realised investment losses relating to eligible investments made after May 6, 1996, net of realised gains relating to eligible investments made after that date in small businesses;

“G” is the total of all amounts permitted by subsections 24.1 (3) and (4) to be deducted from the investment requirement imposed by this subsection;

“H” is the amount required by subsection 24.1 (3.1) to be invested in small businesses;

“I” is the amount determined under subsection (9).

1999, c. 9, s. 56; 2004, c. 16, s. 1 (2); 2006, c. 9, Sched. C, s. 5 (2).

Same

(9) The variable “T” in subsection (8) is 20 per cent of the amount calculated using the formula,

$$J + (K \times L/M)$$

in which,

“J” is the aggregate amount of tax that the corporation has paid under subsection 28 (3) and that has not been refunded before the end of the applicable calendar year;

“K” is the aggregate amount of tax and penalties that the corporation has paid under Part X.3 of the *Income Tax Act* (Canada) and that have not been refunded before the end of the applicable calendar year;

“L” is the aggregate amount of equity capital received by the corporation on the issue of Class A shares that were issued to shareholders who were ordinarily resident in Ontario when the shares were issued and that were outstanding when the taxes or penalties were paid under Part X.3 of the *Income Tax Act* (Canada); and

“M” is the aggregate amount of equity capital received by the corporation on the issue of Class A shares that were outstanding when the taxes or penalties were paid under Part X.3 of the *Income Tax Act* (Canada).

1999, c. 9, s. 56; 2004, c. 16, s. 1 (2).

[\(9.1\)](#) Repealed: 2006, c. 9, Sched. C, s. 5 (3).

Disposal of investment in small business

[\(10\)](#) For the purposes of subsection (8) and subject to the regulations, a labour sponsored investment fund corporation that disposes of an investment in a small business shall be deemed to continue to hold the investment for nine months after the date of disposition. 1999, c. 9, s. 56; 2004, c. 16, s. 1 (2); 2005, c. 28, Sched. C, s. 3 (3).

Status of small business

[\(11\)](#) For the purposes of subsections (8) and (10), a business is a small business if it meets the following requirements when the labour sponsored investment fund corporation invests in it:

1. It is an eligible business.
 2. The total gross assets (as determined in the prescribed manner) of the business and of each corporation and partnership related to it do not exceed \$5 million.
 3. The total number of employees (as determined in the prescribed manner) of the business and of each corporation and partnership related to it does not exceed 50.
- 1999, c. 9, s. 56; 2004, c. 16, s. 1 (2).

Same, number of employees

[\(12\)](#) For the purposes of paragraph 3 of subsection (11), an employee who normally works at least 20 hours per week shall be counted as one employee and an employee who normally works less than 20 hours per week shall be counted as half an employee. 1999, c. 9, s. 56; 2004, c. 16, s. 1 (2).

Restriction re certain corporations

[\(13\)](#) If a labour sponsored investment fund corporation is registered under Part X.3 of the *Income Tax Act* (Canada), this section applies only with respect to,

- (a) equity capital received by the corporation on the issue of Class A shares to persons ordinarily resident in Ontario when the shares were issued; and
- (b) amounts paid as a return of capital for Class A shares issued to persons ordinarily resident in Ontario when the shares were issued. 1999, c. 9, s. 56; 2004, c. 16, s. 1 (2).

PART III.1**COMMUNITY SMALL BUSINESS INVESTMENT FUND CORPORATIONS****Definitions**

18.2 (1) In this Part,

“community sponsor” means an entity that may apply for registration of a community small business investment fund corporation under section 18.3; (“commanditaire communautaire”)

“eligible aboriginal community” means,

- (a) a First Nation, or
- (b) an aboriginal community, other than a First Nation, that is designated for the purposes of this Act as an eligible aboriginal community by an order given by the Minister under subsection 18.3 (6); (“collectivité autochtone admissible”)

“eligible business” means a taxable Canadian corporation or Canadian partnership that meets the criteria described in subsection (1.1) at the times specified in that subsection; (“entreprise admissible”)

“eligible business activity” means a business that would be an active business carried on by a corporation for the purposes of section 125 of the *Income Tax Act* (Canada) if carried on by a corporation, but does not include,

- (a) a business the principal purpose of which is to derive income from real property,
- (b) a business the principal purpose of which is to derive income from property, including interest, dividends, rents or royalties, and
- (c) a business that would be a personal services business as defined in subsection 125 (7) of the *Income Tax Act* (Canada) if that definition were read without reference to paragraphs (c) and (d) of the definition; (“activité commerciale admissible”)

“eligible investor” means,

- (a) a corporation registered under Part III as a labour sponsored investment fund corporation,
- (b) a qualifying financial institution or a specified corporation or insurance corporation related to the qualifying financial institution for the purposes of section 66.1 of the *Corporations Tax Act* or subdivision b of Division E of Part III of the *Taxation Act, 2007*,
- (b.1) an individual, a pension fund or a corporation that is not described in clause (a) or (b), or
- (c) a prescribed person or entity; (“investisseur admissible”)

“First Nation” means a band as defined in the *Indian Act* (Canada); (“Première Nation”)

“intellectual property” means a patent, licence, permit, know-how, commercial secret or other similar property constituting knowledge, including a trade mark, industrial design, copyright or other similar property constituting the expression of knowledge; (“propriété intellectuelle”)

“qualifying debt obligation” means a debt obligation that,

- (a) if secured, is secured solely by a floating charge on the assets of the entity or by a

guarantee given by an investment corporation,

(b) Repealed: 1999, c. 9, s. 57 (2).

(c) does not restrict the entity by the terms of the debt obligation or by the terms of any agreement related to that obligation from incurring other debts, and

(d) by its terms or by any agreement relating to that obligation is subordinate to all other debt obligations of the entity, other than debt obligations, if the entity is a corporation, that are prescribed to be small business securities for the purposes of paragraph (a) of the definition of “small business property” in subsection 206 (1) of the *Income Tax Act* (Canada); (“créance admissible”)

“qualifying financial institution” means a corporation that is a deposit-taking institution for the purposes of section 66.1 of the *Corporations Tax Act* or subdivision b of Division E of Part III of the *Taxation Act, 2007*; (“institution financière autorisée”)

“within the community” means, with respect to a community small business investment fund corporation or a community sponsor,

(a) within the geographical limits of the municipality if the community sponsor is a municipality,

(b) within the geographic limits of the reserve of the First Nation if the community sponsor is the council of a First Nation,

(c) within the geographic limits of the territory designated by the Minister for an eligible aboriginal community, if the community sponsor has been designated a community sponsor for the eligible aboriginal community by an order given by the Minister under subsection 18.3 (6),

(d) within the geographic limits of the territory designated by the Minister, if the community sponsor has been designated a community sponsor for territory without municipal organization by an order given by the Minister under subsection 18.3 (5),

(e) if the community sponsor is a university, a college, an Ontario Centre of Excellence that is an eligible research institute for the purposes of section 97 of the *Taxation Act, 2007*, or a research institute affiliated with a university or hospital,

(i) within a facility of the community sponsor, or

(ii) within a place of business in Ontario where intellectual property developed by the community sponsor, or its faculty, staff or graduates, is used in eligible business activities, or

(f) if a municipality and a university, college or research institute affiliated with a university or hospital are co-sponsors of a community small business investment fund corporation,

(i) within the geographic limits of the municipality that is a co-sponsor,

(ii) within a facility of the institutional co-sponsor, or

(iii) within a place of business in Ontario where intellectual property developed by the institutional co-sponsor or by its faculty, staff or graduates is used in eligible business activities. (“dans la collectivité”) 1997, c. 43, Sched. C, s. 10; 1998, c. 34, s. 15 (1); 1999, c. 9, s. 57 (1-3); 2002, c. 22, s. 22; 2004, c. 16, s. 1 (2); 2008, c. 19, Sched. V, s. 2 (4-6).

Eligible business

(1.1) A taxable Canadian corporation or Canadian partnership must meet the following criteria in order to be an eligible business in relation to a community small business investment fund corporation:

1. When the community small business investment fund corporation makes an investment in the corporation or partnership, the sum of the following amounts must exceed 1.5:
 - i. The percentage (expressed as a decimal fraction) that the wages and salaries paid by the corporation or partnership to employees employed in respect of its eligible business activities carried on within the community is of the total wages and salaries paid by it.
 - ii. The percentage (expressed as a decimal fraction) that the value of the gross assets of the corporation or partnership that are used in its eligible business activities carried on within the community is of the value of its total gross assets.
2. When the community small business investment fund corporation makes its initial investment in the corporation or partnership, the value of the total gross assets of the corporation or partnership, together with the total gross assets of all related corporations and partnerships, must not exceed \$1 million or such other amount as may be prescribed. For the purposes of this paragraph, the value of the total gross assets must be calculated in the prescribed manner. 1999, c. 9, s. 57 (4); 2004, c. 16, s. 1 (2).

Investment period

(2) The investment period for investing in a corporation registered under this Part ends on the first anniversary of the date of registration of the corporation. 1999, c. 9, s. 57 (5); 2004, c. 16, s. 1 (2).

(3) Repealed: 1999, c. 9, s. 57 (6).

Application for registration

18.3 (1) The following persons and organizations may apply under this Part as a community sponsor or sponsors for registration of a corporation as a community small business investment fund corporation to make investments in eligible businesses:

1. An upper-tier municipality, one or more lower-tier municipalities within an upper-tier municipality or a local municipality.
2. The council of a First Nation.
3. An organization designated under subsection (6) as a community sponsor for an aboriginal community, other than a First Nation, that is designated under that subsection as an eligible aboriginal community for the purposes of this Act.
4. One or more universities or colleges of applied arts and technology in Ontario, whose enrolment is counted for the purposes of calculating annual operating grants entitlements from the Government of Ontario.
5. One or more research institutes affiliated with an Ontario university referred to in paragraph 4 or a hospital approved as a public hospital under the *Public Hospitals Act*.
- 5.1 An Ontario Centre of Excellence that is an eligible research institute for the purposes of section 97 of the *Taxation Act, 2007*.

6. A person or organization designated as a community sponsor for all or part of territory without municipal organization in an order given by the Minister under subsection (5). 1997, c. 43, Sched. C, s. 10; 2002, c. 17, Sched. F, Table; 2002, c. 22, s. 23; 2004, c. 16, s. 1 (2); 2008, c. 19, Sched. V, s. 2 (7).

Proposal

(2) An application for registration under this Part may be made by filing with the Minister a proposal in duplicate setting out the following information:

1. The name of the corporation and the community sponsor or sponsors.
2. The location of the registered office and all permanent establishments in Ontario of the corporation and the community sponsor or sponsors.
3. An investment plan for the corporation specifying,
 - i. the rights and privileges attached to each class or series of shares of the corporation, the amount of the stated capital account of each class or series of shares issued and to be issued and the total amount of equity capital for which the shares were or will be issued,
 - ii. the amounts and kinds of debt obligations, if any, issued by the corporation,
 - iii. any restrictions on ownership and voting rights of the shares of the corporation,
 - iv. the proposed number of shareholders of the corporation,
 - v. details of the corporation's proposed investment policies, and
 - vi. any other matter prescribed to be set out in the investment plan.
4. The number of directors of the corporation and the name in full and the residence address of each of them.
5. The names in full of the officers of the corporation and the residence address of each of them.
6. Any other matter required by the regulations to be set out in the proposal. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Additional information

- (3) A proposal shall be accompanied by,
- (a) a certified copy of the articles of the corporation;
 - (b) a true copy of all shareholders' agreements, partnership agreements and proposed agreements relating to the corporation to which the corporation is a party or of which an officer or director of the corporation or a community sponsor, after making reasonable inquiry, has knowledge; and
 - (c) any other prescribed material. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Certificate

(4) The proposal shall be signed by two officers or one director and one officer of the corporation and shall contain a certificate in writing signed by one of them certifying that the information contained in the proposal is complete and accurate. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Territory without municipal organization

(5) Upon application by a person or organization to the Minister, the Minister may

designate the person or organization to be a community sponsor for all or part of territory without municipal organization and may impose terms and conditions considered to be appropriate by the Minister in connection with the designation. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Aboriginal community other than a First Nation

- (6) Upon application by an organization to the Minister, the Minister may,
- (a) designate an aboriginal community other than a First Nation as an eligible aboriginal community for the purposes of this Act;
 - (b) designate the geographic limits of the territory of the community;
 - (c) designate the organization as a community sponsor for the community; and
 - (d) impose terms and conditions considered to be appropriate by the Minister in connection with the designations. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Corporation qualifications

18.4 (1) No corporation may be registered under this Part unless,

- (a) the corporation was incorporated under the *Business Corporations Act* or the *Canada Business Corporations Act* and is in compliance with that Act and the *Securities Act*;
- (b) the corporation has never previously carried on business other than the business related to obtaining registration under this Act;
- (c) the articles of the corporation provide that the capital of the corporation shall consist of Class A shares issuable only to eligible investors under this Part and such other shares as may be authorized, if the rights, privileges, restrictions and conditions attached to the shares are approved by the board of directors of the corporation and the Minister;
- (d) the articles of the corporation restrict investment in shares of the corporation by a single investor or a related group to a maximum of \$5 million;
- (d.1) the articles of the corporation restrict the aggregate investment in shares of the corporation to a maximum of \$10 million;
- (d.2) the articles of the corporation specify that each eligible investor must invest at least \$25,000 in Class A shares of the corporation;
- (e) the articles of the corporation prohibit the payment of any fee or remuneration to a shareholder of the corporation or to any person related to a shareholder;
- (f) the articles of the corporation restrict the business of the corporation to,
 - (i) assisting the development of eligible businesses, creating, maintaining and protecting jobs by providing financial and managerial advice to eligible businesses and by making eligible investments, and
 - (ii) incorporating and controlling other corporations as the corporation may consider advisable to provide financial, investment or managerial advice and expertise;
- (g) the articles of the corporation provide that at least one member of the board of directors of the corporation shall be appointed by a community sponsor of the corporation; and

- (h) the corporation meets all other prescribed conditions. 1997, c. 43, Sched. C, s. 10; 1998, c. 34, s. 16; 1999, c. 9, s. 58; 2004, c. 16, s. 1 (2).

Exception

(2) The fees and remuneration referred to in clause (1) (e) and any amounts paid on the purchase of goods and services are deemed not to include,

- (a) banking fees and other amounts normally charged by a bank to its customers for providing services in the ordinary course of the bank's business; and
- (b) reasonable salaries and wages paid to employees. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Entitlement to registration

18.5 (1) A community sponsor is entitled to registration of a corporation by the Minister if all of the following requirements are met:

1. The community sponsor applies for registration under this Part and files the required documents before January 1, 2004.
2. The other requirements of this Part are satisfied.
3. The corporation has received offers from eligible investors to subscribe for its shares for an aggregate amount of not less than \$2 million.
4. The corporation has received offers from eligible investors described in clauses (a) and (b) of the definition of "eligible investor" in subsection 18.2 (1) to subscribe for its shares for an aggregate amount greater than 25 per cent of the proposed capitalization of the corporation (as specified in the investment plan referred to in subsection 18.3 (2)). 1999, c. 9, s. 59; 2001, c. 23, s. 14; 2002, c. 22, s. 24; 2004, c. 16, s. 1 (2).

Refusal to register

(2) Subject to section 31, the Minister may refuse to register a corporation if, in the Minister's opinion, the corporation is not entitled to be registered. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Same

(3) Subject to section 31, the Minister may refuse to register a corporation if, in the Minister's opinion, the proposed investments or the actions of the corporation, its officers, directors or shareholders, or of a community sponsor, do not comply with the spirit and intent of this Act and the regulations. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Issuance of certificate of registration

18.6 On registration of a corporation under this Part, the Minister shall,

- (a) endorse on each duplicate of the proposal "Registered/Agréé" and the day, month and year of registration;
- (b) file one of the duplicate proposals in the Minister's office;
- (c) place the name of the corporation in the register of investment corporations as a registered community small business investment fund corporation; and
- (d) issue to the corporation a certificate of registration to which the Minister shall affix the other duplicate proposal. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Required investment levels

18.7 A community small business investment fund corporation shall invest in eligible investments,

- (a) by the end of the 30th month following the end of its investment period, an amount equal to at least 35 per cent of the amount of equity capital it received on the issue of its Class A shares; and
- (b) by the end of the 72nd month following the end of its investment period, an amount equal to at least 70 per cent of the amount of equity capital it received on the issue of its Class A shares. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Interpretation, eligible investment

18.8 (1) An investment made by a community small business investment fund corporation is an eligible investment if,

- (a) the investment is made in a business that is an eligible business when the investment is made;
- (b) the investment is,
 - (i) if the eligible business is a taxable Canadian corporation, the purchase from the eligible business by the community small business investment fund corporation of shares or a qualifying debt obligation issued by the eligible business in exchange for a consideration paid in money,
 - (ii) if the eligible business is a Canadian partnership, the purchase of an ownership interest in the eligible business or a qualifying debt obligation issued by the eligible business in exchange for a consideration paid in money,
 - (iii) the purchase of a guarantee provided by the community small business investment fund corporation in respect of a debt obligation that would, if the debt obligation had been issued to the community small business investment fund corporation at the time the guarantee was provided, have been a qualifying debt obligation issued by the eligible business, or
 - (iv) the purchase of an option or right granted by an eligible business that is a corporation, in conjunction with the issue of a share or a debt obligation that is an eligible investment, to acquire a share of an eligible business that would be an eligible investment if that share were issued at the time that the option or right was granted; and
- (c) the investment is not used or intended to be used by the eligible business for the purpose of,
 - (i) relending,
 - (ii) investment in land, except land that is incidental and ancillary to the eligible business activity or activities in which the eligible business is primarily engaged,
 - (iii) reinvestment or the acquisition of any securities of any person,
 - (iv) subject to subsection (1.1), financing the purchase or sale of goods or services provided to the eligible business by or through a shareholder of the community small business investment fund corporation or a person related to a shareholder,
 - (v) the payment of dividends,

- (vi) the payment of drawings to partners of the eligible business,
- (vii) the return of capital to a shareholder or partner of the eligible business,
- (viii) the payment of the principal amount of outstanding liabilities owing to shareholders of the community small business investment fund corporation or to persons related to such shareholders,
- (ix) carrying on a business outside Ontario, or
- (x) any prescribed purpose or use. 1997, c. 43, Sched. C, s. 10; 1998, c. 34, s. 18 (1-3); 1999, c. 9, s. 60 (1); 2004, c. 16, s. 1 (2).

Exception

[\(1.1\)](#) Subclause (1) (c) (iv) does not apply with respect to the purchase of goods or services from a shareholder who is a sponsor of the corporation described in paragraph 2, 3, 4 or 5 of subsection 18.3 (1) or from a person who is related to such a shareholder. 1998, c. 34, s. 18 (4); 2004, c. 16, s. 1 (2).

Amounts of guarantee included in investments

[\(2\)](#) For the purposes of section 18.7 and subsection 20 (5), 25 per cent of the amount of all guarantees provided by a community small business investment fund corporation in respect of debt obligations of an eligible business shall be included in calculating the amount of the investment made by a community small business investment fund in that particular eligible business. 1997, c. 43, Sched. C, s. 10; 1998, c. 34, s. 18 (5); 1999, c. 9, s. 60 (2); 2004, c. 16, s. 1 (2).

Deemed cost

[\(3\)](#) For the purposes of subsection 28.1 (1), the cost to a community small business investment fund corporation of an eligible investment that is a guarantee shall be deemed to be 25 per cent of the aggregate amount of the debt obligations in respect of which the guarantee is provided. 1998, c. 34, s. 18 (6); 2004, c. 16, s. 1 (2).

Dividends and return of capital

[18.9](#) A community small business investment fund corporation shall not pay dividends or authorize any return of capital to an eligible investor within six years after the end of the investment period of the corporation and until at least 70 per cent of the equity capital received by the corporation on the issue of its Class A shares has been invested in eligible investments. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Actions requiring approval

[18.10 \(1\)](#) A corporation that is or was registered under this Part and that has issued Class A shares shall not liquidate its assets or wind-up within 10 years after the date of its registration under this Part without the prior consent of the Minister. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

Same

[\(2\)](#) The Minister may give his consent subject to terms and conditions that the Minister considers reasonable in the circumstances. 1997, c. 43, Sched. C, s. 10; 2004, c. 16, s. 1 (2).

PART III.2

ONTARIO COMMERCIALIZATION INVESTMENT FUNDS

Interpretation

Definitions

18.11 (1) In this Part,

“eligible business” means a taxable Canadian corporation or Canadian partnership that meets the criteria described in subsection (2); (“entreprise admissible”)

“eligible business activity” and “intellectual property” have the meanings assigned by subsection 18.2 (1); (“activité commerciale admissible” et “propriété intellectuelle”)

“eligible investor” means an accredited investor, as defined in National Instrument 45-106 entitled “Prospectus and Registration Exemptions”, as adopted by the Ontario Securities Commission, or a sponsor or an entity related to a sponsor, but does not include, unless otherwise prescribed,

- (a) a corporation registered under Part III as a labour sponsored investment fund corporation,
- (b) a corporation registered under Part III.1 as a community small business investment fund corporation,
- (c) the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada),
- (d) the government of Canada or of any jurisdiction, or any crown corporation, instrumentality or agency of a Canadian federal, provincial or territorial government,
- (e) any Canadian municipality or any Canadian provincial or territorial capital city,
- (f) any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction or any instrumentality or agency thereof,
- (g) an individual who is not resident in Canada,
- (h) a corporation or partnership that does not have a permanent establishment in Canada,
- (i) an investor who is a prescribed person or who is a member of a prescribed class; (“investisseur admissible”)

“eligible research institute” has the meaning assigned by subsection 97 (27) of the *Taxation Act, 2007*; (“institut de recherche admissible”)

“sponsor” means an eligible research institute that qualifies to apply for registration of a corporation or partnership as an Ontario commercialization investment fund under subsection 18.13 (1). (“commanditaire”) 2004, c. 31, Sched. 7, s. 9; 2006, c. 9, Sched. C, s. 6; 2006, c. 33, Sched. F, s. 1 (1); 2008, c. 19, Sched. V, s. 2 (8).

Eligible business

(2) A taxable Canadian corporation or Canadian partnership must meet the following criteria in order to be an eligible business in relation to an Ontario commercialization investment fund:

1. At the time of initial investment by an Ontario commercialization investment fund, the corporation or partnership must be commencing activities as a new business and must be primarily engaged in or planning to be primarily engaged in one or more of the following activities:
 - i. the research, development and construction of a prototype,
 - ii. the development of a manufacturing process,
 - iii. the implementation of a marketing or distribution strategy for a product, or

- iv. a similar activity that is in respect of a service.
2. At the time of initial investment by an Ontario commercialization investment fund, the corporation or partnership has a reasonable expectation of profit.
 3. The corporation or partnership has a total revenue determined in accordance with generally accepted accounting principles of less than the prescribed amount or, if no amount is prescribed, \$500,000 from the time of its incorporation or formation until the time of the initial investment by an Ontario commercialization investment fund.
 4. The corporation or partnership was formed to exploit intellectual property developed by individuals who, at the time of the initial investment by an Ontario commercialization investment fund or within three years before the time of initial investment, are faculty, staff or students of a sponsor of the Ontario commercialization investment fund.
 5. During the period from January 1 of the year in which an initial or follow-on investment is made to the date of the particular investment, the corporation or partnership pays 50 per cent or more of its wages and salaries to employees whose ordinary place of employment is a permanent establishment of the corporation or partnership in Ontario.
 6. At the time of an initial or follow-on investment, at least 50 per cent of the full-time employees of the corporation or partnership are employed in respect of eligible business activities carried on by the corporation or partnership in Ontario.
 7. In the case of a taxable Canadian corporation, the value of the total tangible assets of the corporation, together with the total tangible assets of all related corporations and the total tangible assets of all partnerships in which the corporation or a related corporation is a member, as determined at the time of the initial investment by an Ontario commercialization investment fund, does not exceed the prescribed amount or, if no amount is prescribed, \$500,000.
 8. In the case of a Canadian partnership, the value of the total tangible assets of the partnership, together with the total tangible assets of all affiliated persons, within the meaning of section 251.1 of the *Income Tax Act* (Canada), as determined at the time of the initial investment by an Ontario commercialization investment fund, does not exceed the prescribed amount or, if no amount is prescribed, \$500,000.
 9. In the case of a taxable Canadian corporation, the corporation was incorporated under the *Business Corporations Act* or the *Canada Business Corporations Act*.
 10. In the case of a Canadian partnership, the partnership is in compliance with the laws of Ontario relating to partnerships. 2004, c. 31, Sched. 7, s. 9; 2006, c. 33, Sched. F, s. 1 (2-6).

New business

(3) For the purposes of subsection (2), a new business may include a business located in an existing incubator facility that provides workspace and business support services. 2004, c. 31, Sched. 7, s. 9.

Eligible investment

(4) An investment made by an Ontario commercialization investment fund is an eligible investment for the purposes of this Part if,

- (a) the investment is made before January 1, 2010 in a business that is an eligible

business when the investment is made;

- (b) in the case of an investment in an eligible business that is a taxable Canadian corporation, the investment is,
 - (i) the purchase from the eligible business by the Ontario commercialization investment fund of shares issued by the eligible business in exchange for a consideration paid in money, or
 - (ii) the purchase of a warrant, option or right granted by the eligible business, in conjunction with the issue of a share that is an eligible investment, to acquire a share of the eligible business that would be an eligible investment if that share were issued at the time that the warrant, option or right was granted;
- (b.1) in the case of an investment in an eligible business that is a Canadian partnership, the investment is the contribution of capital, paid in money, to the eligible business by the Ontario commercialization investment fund in exchange for an interest in the partnership; and
- (c) the investment is not used or intended to be used by the eligible business for the purpose of,
 - (i) relending,
 - (ii) investment in land, except land that is incidental and ancillary to the eligible business activity or activities in which the eligible business is primarily engaged,
 - (iii) reinvestment or the acquisition of any securities of any person,
 - (iv) subject to subsection (5) or (6), financing the purchase or sale of goods or services provided to the eligible business by or through a shareholder of or partner in the Ontario commercialization investment fund or a person related to the shareholder or partner,
 - (v) the payment of dividends,
 - (vi) the return of capital to a shareholder or partner of the eligible business or the payment of the principal amount of outstanding liabilities owing to a shareholder or partner of the eligible business by the eligible business,
 - (vii) the payment of the principal amount of outstanding liabilities owing to shareholders of the Ontario commercialization investment fund or to persons related to its shareholders, or to partners of the Ontario commercialization investment fund or to persons related to its partners,
 - (viii) carrying on a business primarily outside Ontario, or
 - (ix) any prescribed purpose or use. 2004, c. 31, Sched. 7, s. 9; 2006, c. 33, Sched. F, s. 1 (7-9); 2009, c. 34, Sched. D, s. 3.

Exception

(5) Subclause (4) (c) (iv) does not apply with respect to the purchase of goods or services from a shareholder or partner who is a sponsor of the corporation or from a person who is related to a shareholder or partner. 2004, c. 31, Sched. 7, s. 9.

Same

(6) Any amounts paid on the purchase of goods and services referred to in subclause (4)

(c) (iv) are deemed not to include,

- (a) banking fees and other amounts normally charged by a bank to its customers for providing services in the ordinary course of the bank's business; and
- (b) reasonable salaries and wages paid to employees. 2004, c. 31, Sched. 7, s. 9.

Meaning of "related"

(7) For the purposes of this Part,

- (a) two or more entities are related if they would be related under section 251 of the *Income Tax Act* (Canada); and
- (b) eligible investments made by an Ontario commercialization investment fund are related if the eligible businesses in which the investments are made are related. 2004, c. 31, Sched. 7, s. 9.

Policy intent

18.12 The policy intent of this Part is to,

- (a) raise the profile of venture capital support for commercialization at Ontario-based research institutes;
- (b) encourage research institutes to partner with investors in commercializing research developed by the faculty, staff, students and alumni of research institutes; and
- (c) encourage the investment of capital to support the growth and development of new entrepreneurial firms created as a result of research developed through research institutes. 2004, c. 31, Sched. 7, s. 9; 2006, c. 9, Sched. C, s. 7.

Application for registration

18.13 (1) An eligible research institute may, as a sponsor, apply for registration under this Part of a corporation or a partnership as an Ontario commercialization investment fund if,

- (a) the corporation or partnership has a permanent establishment in Ontario; and
- (b) the eligible research institute demonstrates that it will be actively involved in the business and affairs of the corporation or partnership. 2004, c. 31, Sched. 7, s. 9.

One or more sponsors permitted

(2) An application for registration of a corporation or partnership under this Part may be made by one or more eligible research institutes as sponsors and an eligible research institute may apply to the Minister in the form and manner specified by the Minister to be included as a sponsor of a corporation or partnership that is already registered under this Part. 2004, c. 31, Sched. 7, s. 9.

Institute may sponsor more than one corporation

(3) An eligible research institute may act as a sponsor of more than one corporation or partnership. 2004, c. 31, Sched. 7, s. 9.

Proposal

(4) An application for registration under this Part shall be made by filing with the Minister a proposal in duplicate setting out the following information:

1. The names of the corporation or partnership and the sponsor or sponsors.
2. The location of the registered office and all permanent establishments in Ontario of the corporation or partnership and the sponsor or sponsors.

3. In the case of a corporation, an investment plan for the corporation specifying,
 - i. the rights and privileges attached to each class or series of shares of the corporation, the amount of the stated capital account of each class or series of shares issued and to be issued and the total amount of equity capital for which the shares were or will be issued,
 - ii. the amounts and kinds of debt obligation, if any, issued by the corporation,
 - iii. any restrictions on ownership and voting rights of the shares of the corporation,
 - iv. the terms and conditions for redemption of shares,
 - v. the proposed number of shareholders of the corporation,
 - vi. details of the corporation's proposed investment objectives and policies, and
 - vii. any other matters prescribed to be set out in the investment plan.
4. In the case of a partnership, an investment plan for the partnership specifying,
 - i. the method of income or loss allocation to each partner,
 - ii. the capital contribution of each partner,
 - iii. the roles and responsibilities of each partner,
 - iv. how the partnership can be dissolved,
 - v. the amounts and kinds of debt obligation, if any, issued or payable by the partnership,
 - vi. the proposed number of partners in the partnership,
 - vii. details of the partnership's proposed investment objectives and policies, and
 - viii. any other matters prescribed to be set out in the investment plan.
5. A description of the active involvement that the sponsor will have in the conduct of the business and affairs of the corporation or partnership.
6. In the case of a corporation,
 - i. the number of directors of the corporation and the name in full and the residence address of each director, and
 - ii. the names in full of the officers of the corporation and the residence address of each of them.
7. In the case of a partnership, the number of partners in the partnership and the name in full and the address of each partner.
8. Any other matter required by the regulations to be set out in the proposal. 2004, c. 31, Sched. 7, s. 9.

Additional information

(5) A proposal shall be accompanied by,

- (a) in the case of a corporation,
 - (i) a certified copy of the articles of the corporation, and
 - (ii) a true copy of all shareholders' agreements, partnership agreements and proposed agreements relating to the corporation to which the corporation is a

party or of which an officer or director of the corporation or a sponsor, after making reasonable inquiry, has knowledge;

(b) in the case of a partnership,

(i) a certified copy of all partnership agreements for the partnership, and

(ii) a true copy of all proposed agreements relating to the partnership to which the partnership is a party or of which a partner of the partnership or a sponsor, after making reasonable inquiry, has knowledge; and

(c) any other prescribed material. 2004, c. 31, Sched. 7, s. 9.

Certificate

(6) The proposal and a certificate certifying that the information contained in the proposal is complete and accurate must be signed on behalf of the corporation or partnership by two officers or one director and one officer of the corporation or by a designated partner of the partnership, as the case may be. 2004, c. 31, Sched. 7, s. 9.

Signature by sponsor

(7) The proposal must be signed on behalf of each sponsor by the president or chief executive officer of the sponsor or by an individual in an equivalent position. 2004, c. 31, Sched. 7, s. 9.

Corporate qualifications

(8) No corporation may be registered under this Part unless,

(a) the corporation was incorporated under the *Business Corporations Act* or the *Canada Business Corporations Act* and is in compliance with that Act and the *Securities Act*;

(b) the corporation has never previously carried on business other than the business related to obtaining registration under this Act;

(c) the articles of the corporation specify that each shareholder must be an eligible investor and must invest at least \$25,000 in shares of the corporation;

(d) the corporation has demonstrated active involvement by the sponsor to the satisfaction of the Minister; and

(e) the corporation meets all other prescribed conditions. 2004, c. 31, Sched. 7, s. 9.

Partnership qualifications

(9) No partnership may be registered under this Part unless,

(a) the partnership is operating in compliance with the laws of Ontario relating to partnerships and the *Securities Act*;

(b) the partnership has never previously carried on business other than the business related to obtaining registration under this Act;

(c) the partnership agreement specifies that each partner must be an eligible investor and must invest at least \$25,000 in the partnership;

(d) the partnership has demonstrated active involvement by the sponsor to the satisfaction of the Minister; and

(e) the partnership meets all other prescribed conditions. 2004, c. 31, Sched. 7, s. 9.

Registration

Entitlement to registration

18.14 (1) A corporation or a partnership is entitled to be registered under this Part by the Minister if all of the following requirements are met:

1. The sponsor or sponsors of the corporation or partnership apply for registration under this Part and file the required documents before January 1, 2007.
2. The requirements of section 18.13 are satisfied. 2004, c. 31, Sched. 7, s. 9.

Refusal

(2) Subject to section 31, the Minister may refuse to register a corporation or a partnership if, in the Minister's opinion, the corporation or the partnership is not entitled to be registered. 2004, c. 31, Sched. 7, s. 9.

Same

(3) Subject to section 31, the Minister may refuse to register a corporation or a partnership if, in the Minister's opinion, the proposed investments or the actions of the corporation or the partnership, its officers, directors, shareholders, partners, or of a sponsor, do not comply with the policy intent of this Part. 2004, c. 31, Sched. 7, s. 9.

Issuance of certificate of registration

- (4)** On registration of a corporation or a partnership under this Part, the Minister shall,
- (a) endorse on each duplicate of the proposal "Registered/Agrée" and the day, month and year of registration;
 - (b) file one of the duplicates in the Minister's office;
 - (c) place the name of the corporation or partnership in the register of investment corporations as a registered Ontario commercialization investment fund; and
 - (d) issue to the corporation or partnership a certificate of registration to which the Minister shall affix the other duplicate proposal. 2004, c. 31, Sched. 7, s. 9.

Application for investment certificate and determination of grant

18.15 (1) An Ontario commercialization investment fund may apply to a person designated by the Minister for a certificate,

- (a) indicating that an investment that has been made or is proposed to be made by the fund is an eligible investment; and
- (b) specifying the amount of an Ontario commercialization investment fund grant that would be available in respect of the investment. 2004, c. 31, Sched. 7, s. 9; 2006, c. 9, Sched. C, s. 8.

Same

(2) An application under subsection (1) in respect of an investment is required for a follow-on investment in the same eligible business, even if a certificate has been obtained under this section for the initial investment. 2004, c. 31, Sched. 7, s. 9.

Additional information

(3) An Ontario commercialization investment fund that applies for a certificate shall provide to the designated person the information specified by the person for the purposes of determining if the investment or proposed investment is an eligible investment. 2004, c. 31, Sched. 7, s. 9.

Certificate

- (4)** If the designated person is satisfied that the business in which the investment by the

Ontario commercialization investment fund has been made or is proposed to be made is an eligible business and that the investment will be an eligible investment, the designated person shall issue to the fund a certificate,

- (a) stating that the investment or proposed investment is an eligible investment for the purposes of this Part; and
- (b) specifying the amount of an Ontario commercialization investment fund grant, if any, that would be available in respect of the investment. 2004, c. 31, Sched. 7, s. 9.

Amount of the grant

(5) Subject to subsections (6), (7) and (8), the amount of a grant under this Part is 30 per cent of the amount invested by an Ontario commercialization investment fund in an eligible investment. 2004, c. 31, Sched. 7, s. 9.

When grant is available

(6) No grant is available to an Ontario commercialization investment fund unless it has made at least three eligible investments, each of which is an investment in an eligible business that is not related to either of the other two eligible businesses. 2004, c. 31, Sched. 7, s. 9.

Maximum grant for investment in eligible business

(7) The total amount of grants available to one or more Ontario commercialization investment funds under this Part in respect of eligible investments in a particular eligible business and all businesses related to the eligible business is,

- (a) \$225,000 if the Minister has not specified an amount under clause (b); or
- (b) such amount, if any, in excess of \$225,000 as may be specified by the Minister, if the Minister is satisfied that an increase in the total amount of grants under this Part is justified to better meet the objectives of this Part. 2004, c. 31, Sched. 7, s. 9.

Maximum grants under this Part

(8) The maximum amount of grants available under this Part is \$36 million and no additional grant shall be allowed under this Part after the total amount of grants allowed under this Part reaches \$36 million. 2004, c. 31, Sched. 7, s. 9.

Application for Ontario commercialization investment fund grant

18.16 (1) An Ontario commercialization investment fund that meets the conditions described in section 18.15 may, not later than March 31 of the year following the year in which the fund satisfied the conditions, apply for its first Ontario commercialization investment fund grant in respect of all eligible investments made by the end of the year in which the conditions were satisfied. 2004, c. 31, Sched. 7, s. 9.

Application for subsequent grants

(2) An Ontario commercialization investment fund that has met the conditions described in section 18.15 before the beginning of a year and has previously applied for a grant under subsection (1) may apply during the year for an Ontario commercialization investment fund grant in respect of eligible investments for which it has not previously applied for a grant under subsection (1) or this subsection. 2004, c. 31, Sched. 7, s. 9.

Time for applying

(3) An application under subsection (2) for a grant in respect of an eligible investment shall be made not later than March 31 of the year following the year in which the fund made the eligible investment. 2004, c. 31, Sched. 7, s. 9.

Form and manner of application

(4) An application under subsection (1) or (2) must be made in the form and manner approved by the Minister and shall contain such information as the Minister may require to verify the amount of the investment and to confirm that the investment was an eligible investment at the time it was made. 2004, c. 31, Sched. 7, s. 9.

Grant payment

(5) Subject to subsections (6) and 18.15 (6), (7) and (8), the Minister shall pay Ontario commercialization investment fund grants to Ontario commercialization investment funds in the amounts determined under subsection 18.15 (5). 2004, c. 31, Sched. 7, s. 9.

No grant payable

(6) The Minister shall not pay an Ontario commercialization investment fund grant to an Ontario commercialization investment fund if,

- (a) the fund is not in compliance with this Act; or
- (b) the Minister is of the opinion that the fund is conducting its business and affairs in a manner that is contrary to the policy intent of this Part, whether or not there has been a contravention of this Act or the regulations. 2004, c. 31, Sched. 7, s. 9.

Demand for repayment of grant

18.17 If the Minister determines that an Ontario commercialization investment fund received a grant to which it was not entitled or received a grant in an amount in excess of the amount to which it was entitled, the Minister shall demand repayment of the grant or excess amount of the grant in accordance with subsection 30 (1). 2004, c. 31, Sched. 7, s. 9.

Annual report to the Minister

18.18 Every Ontario commercialization investment fund shall provide annually to the Minister, in a form and in a manner approved by the Minister, such information with respect to its eligible investments as the Minister may require. 2004, c. 31, Sched. 7, s. 9.

PART IV ASSETS, CREDITS AND ADMINISTRATION

Form of assets

- 19. (1)** An investment corporation shall maintain its assets in one or more of,
- (a) investments that are eligible investments for the particular investment corporation;
 - (b) reserves;
 - (c) investments that were eligible investments at the time they were acquired by the investment corporation;
 - (d) the shares of any corporation the investment corporation is otherwise permitted under this Act to hold;
 - (d.1) investments purchased from a labour sponsored investment fund corporation,
 - (i) if the investment corporation purchasing and holding the investments is a labour sponsored investment fund corporation, and
 - (ii) if, immediately before they were purchased, the investments were eligible investments of the labour sponsored investment fund corporation that sold them; and
 - (e) any other prescribed form. 1992, c. 18, s. 19 (1); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2); 2009, c. 34, Sched. D, s. 4.

Exception

(1.1) Despite subsection (1), the Minister may permit an investment corporation to maintain assets in an investment that is not an eligible investment,

- (a) if the investment is an additional investment in a business that was an eligible business when the corporation first invested in the business;
- (b) if the additional investment is made in order to facilitate a financial restructuring of the business; and
- (c) if the corporation undertakes (in a form satisfactory to the Minister) to dispose of the additional investment within 36 months after it is made or within such other period as the Minister approves. 1998, c. 34, s. 19 (1); 2004, c. 16, s. 1 (2).

Definition, reserves

(2) For the purposes of subsection (1),

“reserves” means,

- (a) property described in any of paragraphs (a), (b), (c), (f) and (g) of the definition of “qualified investment” in section 204 of the *Income Tax Act* (Canada),
 - (a.1) shares that are a qualified investment under paragraph (d) or (h) of the definition of “qualified investment” in section 204 of *Income Tax Act* (Canada), but only if the investment corporation is a labour sponsored investment fund corporation, or
- (b) any other prescribed investments.
- (c) Repealed: 2002, c. 8, Sched. I, s. 6.

1992, c. 18, s. 19 (2); 1997, c. 43, Sched. C, s. 11; 1998, c. 34, s. 19 (2, 3); 2002, c. 8, Sched. I, s. 6; 2004, c. 16, s. 1 (2, 3); 2006, c. 9, Sched. C, s. 9.

No other restrictions

(2.1) Subsection (1) does not apply to limit the investments that can be made or maintained by an Ontario commercialization investment fund. 2004, c. 31, Sched. 7, s. 10.

Annual expenses

(3) The annual expenses of an investment corporation shall not exceed a prescribed amount, determined in the prescribed manner. 1992, c. 18, s. 19 (3); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Investment restriction

20. (1) An investment corporation shall not invest or maintain an investment in a business that is or was at any time an eligible business if the eligible business does not deal at arm’s length from the corporation or any of the directors of the corporation unless,

- (a) the eligible business would deal at arm’s length with the corporation but for the corporation’s interest as the holder of investments in the eligible business; or
- (b) the investment was approved by special resolution of the shareholders of the corporation before the investment was made. 1997, c. 43, Sched. C, s. 12 (1); 2004, c. 16, s. 1 (2).

Exception

(1.1) Clause (1) (b) does not apply to an investment corporation registered under Part III.1. 1997, c. 43, Sched. C, s. 12 (1); 2004, c. 16, s. 1 (2).

Same

[\(1.2\)](#) Subsection (1) does not apply to a community small business investment fund corporation operating within an eligible aboriginal community as defined in subsection 18.2 (1). 1997, c. 43, Sched. C, s. 12 (1); 2004, c. 16, s. 1 (2).

Definition

[\(1.3\)](#) In subsection (1),

“arm’s length” has the meaning set out in subsection 251 (1) of the *Income Tax Act* (Canada). 1997, c. 43, Sched. C, s. 12 (1); 2004, c. 16, s. 1 (2).

Labour sponsored investment fund corporation

[\(2\)](#) A labour sponsored investment fund corporation (the “corporation”) shall not invest or maintain an investment in a business that is or was at any time an eligible business for the purposes of Part III if the aggregate of all investments made by the corporation in the business and any related business exceeds \$20 million or, if a different amount is prescribed, the prescribed amount. 2004, c. 31, Sched. 7, s. 11 (1); 2005, c. 28, Sched. C, s. 4; 2006, c. 9, Sched. C, s. 10.

[\(3\)](#) Repealed: 2004, c. 31, Sched. 7, s. 11 (2).

[\(4\)](#) Repealed: 2011, c. 9, Sched. 7, s. 3.

Investment restriction

[\(5\)](#) A community small business investment fund corporation shall not invest more than 20 per cent of the equity capital it receives on the issue of its Class A shares in a business that is an eligible business for the purposes of Part III.1. 1999, c. 9, s. 61 (3); 2004, c. 16, s. 1 (2).

[\(6\)](#) Repealed: 1999, c. 9, s. 61 (3).

Material change in investments

[21. \(1\)](#) An investment corporation shall notify the Minister in the form approved by the Minister of any material change in any of its investments within thirty days of the occurrence of the material change. 1992, c. 18, s. 21 (1); 1997, c. 19, s. 11 (1); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Effect of material change

[\(2\)](#) If there is a material change, the investment by an investment corporation shall remain an eligible investment, with respect to investments made before the material change, for a period of twelve months from the date of the material change. 1992, c. 18, s. 21 (2); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Effect of material change, labour sponsored investment fund corporation

[\(2.1\)](#) Despite subsection (2), if there is a material change, the investment by a labour sponsored investment fund corporation shall remain an eligible investment, with respect to investments made before the material change,

(a) for a period of 24 months or, if a longer period of time is prescribed, that period of time, if the material change occurred on or after January 1, 2005; or

(b) for a period of 12 months, in any other case. 2006, c. 9, Sched. C, s. 11.

Interpretation

[\(3\)](#) In this section, a material change occurs if the investment made by an investment corporation ceases to be an eligible investment. 1992, c. 18, s. 21 (3); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Returns

22. (1) Every investment corporation shall, within six months after the end of each fiscal year of the corporation, complete and file with the Minister a return in the form approved by the Minister setting out as of the end of the fiscal year the information required by the return. 1992, c. 18, s. 22 (1); 1997, c. 19, s. 11 (1); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Enlargement of time

(2) The Minister may, in his or her discretion, enlarge the time for filing a return under this section. 1992, c. 18, s. 22 (2); 2004, c. 16, s. 1 (2).

Returns required by Minister

23. The Minister may at any time by notice require an investment corporation or a corporation or partnership in which the investment corporation has invested to file within the time specified in the notice a return upon any subject connected with the affairs of the investment corporation and, in the opinion of the Minister, relevant to the administration or enforcement of this Act. 1992, c. 18, s. 23; 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Tax credit

24. (1) The Minister may allow a tax credit under the *Income Tax Act*, the *Corporations Tax Act* or the *Taxation Act, 2007* or an investment credit with respect to equity capital invested by eligible investors in Class A shares issued by an investment corporation. 1992, c. 18, s. 24 (1); 1997, c. 43, Sched. C, ss. 13 (1), 23 (1); 2004, c. 16, s. 1 (2); 2008, c. 19, Sched. V, s. 2 (9).

Exception

(1.1) Subsection (1) does not apply in respect of an investment corporation that is an Ontario commercialization investment fund corporation. 2004, c. 31, Sched. 7, s. 12.

Refusal of tax credit

(2) Subject to section 31, if the Minister is of the opinion that the investment corporation or its officers, directors or shareholders are conducting their business and affairs in a manner that is contrary to the spirit and intent of this Act or for the purpose of enabling a person to obtain a tax credit or investment credit to which they would not otherwise be entitled, the Minister may refuse to allow a tax credit under the *Income Tax Act*, the *Corporations Tax Act* or the *Taxation Act, 2007* or to allow an investment credit under this Act. 1997, c. 43, Sched. C, s. 13 (2); 2004, c. 16, s. 1 (2); 2008, c. 19, Sched. V, s. 2 (10).

Small business investment credit, labour sponsored investment fund

24.1 (1) A labour sponsored investment fund corporation may set aside funds after June 30, 1997 and before January 1, 2001 for the purpose of making an investment in a community small business investment fund corporation and may make the investment after registration of the community small business investment fund corporation under Part III.1. 1997, c. 43, Sched. C, s. 14; 1999, c. 9, s. 62 (1); 2004, c. 16, s. 1 (2).

Investment deadlines

(2) The following deadlines apply for investing funds set aside under subsection (1):

1. Funds set aside before May 5, 1998 must be invested in a community small business investment fund corporation not later than December 31, 1998.
2. Funds set aside after May 4, 1998 and before January 1, 1999 must be invested in a community small business investment fund corporation not later than December 31, 1999.
3. Funds set aside after December 31, 1998 and before January 1, 2000 must be invested

in a community small business investment fund corporation not later than December 31, 2000.

4. Funds set aside after December 31, 1999 and before January 1, 2001 must be invested in a community small business investment fund corporation not later than December 31, 2001. 1999, c. 9, s. 62 (2); 2004, c. 16, s. 1 (2).

Investment tax credit

[\(3\)](#) Upon application, the Minister may allow a labour sponsored investment fund corporation to do one of the following things if the corporation sets aside funds for investment in a community small business investment fund corporation, or if the corporation invests in such a corporation before January 1, 2004:

1. The corporation may treat twice the amount set aside or invested as an amount invested in an eligible business that is a small business, for the purpose of determining whether the corporation meets the small business investment requirements of section 18.1; and it may treat the amount set aside or invested as an amount invested in an eligible investment for the purpose of determining whether the corporation meets the requirements of subsection 17 (1).
2. The corporation may reduce the amount of tax owing under subsection 28 (3) for the calendar year in which the funds are set aside or invested. The amount of the tax reduction is twice the amount set aside or invested. 1999, c. 9, s. 62 (2); 2001, c. 23, s. 15; 2002, c. 22, s. 25; 2004, c. 16, s. 1 (2).

Cancellation of credit

[\(3.1\)](#) The following rules apply if a labour sponsored investment fund corporation that sets aside funds does not meet the applicable investment deadline set out in subsection (2):

1. On the following date, paragraph 1 of subsection (3) ceases to apply with respect to the funds that are not invested in a community small business investment fund corporation:
 - i. December 31, 1998, if the investment deadline for the funds set aside is December 31, 1998.
 - ii. December 31, 1999, if the investment deadline for the funds set aside is December 31, 1999.
 - iii. December 31, 2000, if the investment deadline for the funds set aside is December 31, 2000.
 - iv. December 31, 2001, if the investment deadline for the funds set aside is December 31, 2001.

The labour sponsored investment fund corporation is then required to invest the funds, together with any interest earned on them, in eligible investments that are small businesses and to maintain the investments as required by section 18.1.

2. Once the applicable investment deadline has passed, paragraph 2 of subsection (3) shall be deemed never to have applied with respect to the funds set aside by the labour sponsored investment fund corporation. 1999, c. 9, s. 62 (2); 2004, c. 16, s. 1 (2).

Additional credit

[\(4\)](#) If a community small business investment fund corporation makes one or more eligible investments under Part III.1 in a particular year, the Minister may, at the end of the

calendar year in which the investment is made, allow the labour sponsored investment fund corporation a credit against the investment requirements of that corporation under subsection 17 (1) and a credit against the small business investment requirements of that corporation under section 18.1, equal to the percentage of the Class A shares of the community small business investment fund corporation held by the labour sponsored investment fund corporation multiplied by the amount invested by the community small business investment fund corporation in eligible investments. 1997, c. 43, Sched. C, s. 14; 1998, c. 34, s. 20 (3); 1999, c. 9, s. 62 (3); 2004, c. 16, s. 1 (2).

Definition

[\(5\)](#) In this section,

“small business” has the same meaning as in subsection 18.1 (1). 1999, c. 9, s. 62 (4); 2004, c. 16, s. 1 (2).

Tax credits and incentives

[25. \(1\)](#)-(2.2) Repealed: 2011, c. 9, Sched. 7, s. 3.

Issuance of tax credit certificates

[\(3\)](#) Subject to subsection (11), a labour sponsored investment fund corporation shall issue a tax credit certificate on behalf of the Minister to each eligible investor who has subscribed for a Class A share of the corporation during a calendar year ending before 2012 or within 60 days after the end of that calendar year in respect of an investment corporation tax credit to be claimed by the eligible investor in respect of that share under the *Income Tax Act* or the *Taxation Act, 2007*. 2005, c. 31, Sched. 3, s. 4 (1); 2008, c. 7, Sched. D, s. 3 (1); 2008, c. 19, Sched. V, s. 2 (11).

Form of certificate

[\(3.1\)](#) A labour sponsored investment fund corporation shall issue a tax credit certificate in a form approved by the Minister and must indicate in the certificate the taxation year in respect of which the tax credit may be claimed. 2004, c. 31, Sched. 7, s. 13 (1).

Amount of tax credit

[\(4\)](#) The amount of the tax credit referred to in subsection (3) that may be claimed for a taxation year shall be determined in accordance with the following rules:

1. The amount of the tax credit deductible in determining the amount of tax payable under the *Income Tax Act* for the 1991 taxation year is 20 per cent of the lesser of,
 - i. the total amount of equity capital received by the corporation from the eligible investor after November 6, 1991 and before March 1, 1992 for Class A shares issued by the corporation, and
 - ii. \$3,500.
2. The amount of the tax credit deductible in determining the amount of tax payable under the *Income Tax Act* for the 1992 taxation year is 20 per cent of the lesser of,
 - i. the total amount of equity capital received by the corporation from the eligible investor between January 1, 1992 and March 1, 1993 for Class A shares issued by the corporation, other than any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for 1991, and
 - ii. if the Class A shares were paid for during the first 60 days of 1992, \$3,500 if a tax credit was deducted in determining the amount of tax payable under the *Income Tax Act* for the 1991 taxation year in respect of those Class A shares

and \$5,000 otherwise.

3. The amount of the tax credit deductible in determining the amount of tax payable under the *Income Tax Act* for the 1993, 1994 or 1995 taxation year is 20 per cent of the lesser of,
 - i. the total amount of equity capital received by the corporation from the eligible investor between January 1 of the taxation year and the 60th day of the following year for Class A shares issued by the corporation, other than any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the previous taxation year, and
 - ii. \$5,000.
4. The amount of the tax credit deductible in determining the amount of tax payable under the *Income Tax Act* for the 1996 taxation year is the sum of,
 - i. the lesser of \$1,000 and the amount equal to 20 per cent of the equity capital received by the corporation from the eligible investor after 1995 and before May 7, 1996 for Class A shares issued by the corporation, other than any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the 1995 taxation year, and
 - ii. the lesser of,
 - A. the amount by which \$525 exceeds the amount, if any, determined under subparagraph i, and
 - B. the amount equal to 15 per cent of the equity capital received by the corporation from the eligible investor after May 6, 1996 and before March 2, 1997 for Class A shares issued by the corporation.
5. The amount of the tax credit deductible in determining the amount of tax payable under the *Income Tax Act* for the 1997 taxation year is the lesser of,
 - i. \$525, and
 - ii. an amount equal to 15 per cent of the equity capital received by the corporation from the eligible investor after 1996 and before March 2, 1998 for Class A shares issued by the corporation, excluding any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the 1996 taxation year.
6. The amount of the tax credit deductible in determining the amount of tax payable under the *Income Tax Act* for the 1998, 1999 or 2000 taxation year is the lesser of,
 - i. \$750, and
 - ii. an amount equal to 15 per cent of the equity capital received by the corporation from the eligible investor, or from a qualifying trust for the eligible investor, after the end of the preceding taxation year and before the day that is 61 days after the end of the taxation year for Class A shares issued by the corporation, excluding any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the preceding year.
7. If the corporation is a research oriented investment fund during the calendar year in which it issues the Class A shares referred to in subsection (3), the amount of the tax credit deductible in determining the amount of tax payable under the *Income Tax Act*

for any taxation year that is after 2000 but ends before 2007 is the lesser of,

- i. \$1,000, and
- ii. an amount equal to 20 per cent of the equity capital received by the corporation from the eligible investor, or from a qualifying trust for the eligible investor, for Class A shares issued by the corporation that are purchased after the end of the preceding taxation year and before the day that is 61 days after the end of the taxation year, excluding any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the preceding year.

7.0.1 If the corporation is a research oriented investment fund during the calendar year in which it issues the Class A shares referred to in subsection (3), the amount of the tax credit deductible in determining the amount of tax payable under the *Income Tax Act* or the *Taxation Act, 2007* for any taxation year that is after 2006 but ends before 2010 is the lesser of,

- i. \$1,500, and
- ii. an amount equal to 20 per cent of the equity capital received by the corporation from the eligible investor, or from a qualifying trust for the eligible investor, for Class A shares issued by the corporation that are purchased after the end of the preceding taxation year and before the day that is 61 days after the end of the taxation year, excluding any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the preceding year.

7.1 If the corporation is a research oriented investment fund during the calendar year in which it issues the Class A shares referred to in subsection (3), the amount of the tax credit deductible in determining the amount of tax payable under the *Taxation Act, 2007* for the 2010 taxation year is the lesser of,

- i. \$1,125, and
- ii. an amount equal to 15 per cent of the equity capital received by the corporation from the eligible investor, or from a qualifying trust for the eligible investor, for Class A shares issued by the corporation that are purchased after the end of the preceding taxation year and before the day that is 61 days after the end of the taxation year, excluding any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the preceding year.

7.2 If the corporation is a research oriented investment fund during the calendar year in which it issues the Class A shares referred to in subsection (3), the amount of the tax credit deductible in determining the amount of tax payable under the *Taxation Act, 2007* for the 2011 taxation year is the lesser of,

- i. \$750, and
- ii. an amount equal to 10 per cent of the equity capital received by the corporation from the eligible investor, or from a qualifying trust for the eligible investor, for Class A shares issued by the corporation that are purchased after the end of the preceding taxation year and before the day that is 61 days after the end of the taxation year, excluding any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the preceding year.

8. If the corporation is not a research oriented investment fund during the calendar year in which it issues the Class A shares referred to in subsection (3), the amount of the tax

credit deductible in determining the amount of tax payable under the *Income Tax Act* for any taxation year that is after 2000 but ends before 2007 is the lesser of,

- i. \$750, and
- ii. an amount equal to 15 per cent of the equity capital received by the corporation from the eligible investor, or from a qualifying trust for the eligible investor, for Class A shares issued by the corporation that are purchased after the end of the preceding taxation year and before the day that is 61 days after the end of the taxation year, excluding any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the preceding year.

8.0.1 If the corporation is not a research oriented investment fund during the calendar year in which it issues the Class A shares referred to in subsection (3), the amount of the tax credit deductible in determining the amount of tax payable under the *Income Tax Act* or the *Taxation Act, 2007* for any taxation year that is after 2006 but ends before 2010 is the lesser of,

- i. \$1,125, and
- ii. an amount equal to 15 per cent of the equity capital received by the corporation from the eligible investor, or from a qualifying trust for the eligible investor, for Class A shares issued by the corporation that are purchased after the end of the preceding taxation year and before the day that is 61 days after the end of the taxation year, excluding any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the preceding year.

8.1 If the corporation is not a research oriented investment fund during the calendar year in which it issues the Class A shares referred to in subsection (3), the amount of the tax credit deductible in determining the amount of tax payable under the *Taxation Act, 2007* for the 2010 taxation year is the lesser of,

- i. \$750, and
- ii. an amount equal to 10 per cent of the equity capital received by the corporation from the eligible investor, or from a qualifying trust for the eligible investor, for Class A shares issued by the corporation that are purchased after the end of the preceding taxation year and before the day that is 61 days after the end of the taxation year, excluding any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the preceding year.

8.2 If the corporation is not a research oriented investment fund during the calendar year in which it issues the Class A shares referred to in subsection (3), the amount of the tax credit deductible in determining the amount of tax payable under the *Taxation Act, 2007* for the 2011 taxation year is the lesser of,

- i. \$375, and
 - ii. an amount equal to 5 per cent of the equity capital received by the corporation from the eligible investor, or from a qualifying trust for the eligible investor, for Class A shares issued by the corporation that are purchased after the end of the preceding taxation year and before the day that is 61 days after the end of the taxation year, excluding any portion of the equity capital that was taken into consideration in determining the amount of a tax credit for the preceding year.
- 1996, c. 24, s. 7; 1998, c. 34, s. 21 (1); 2000, c. 42, s. 7 (2); 2004, c. 16,

s. 1 (2); 2005, c. 31, Sched. 3, s. 4 (2-5); 2008, c. 7, Sched. D, s. 3 (2-13); 2008, c. 19, Sched. V, s. 2 (12-17).

Tax credit, qualifying financial institution

(4.1) Where a qualifying financial institution, or a specified corporation or insurance corporation related to a qualifying financial institution for the purposes of section 66.1 of the *Corporations Tax Act*, is the beneficial and registered owner of Class A shares of a community small business investment fund corporation purchased directly from the community small business investment fund corporation before January 1, 2004, the qualifying financial institution may, subject to the approval of the Minister, make an application in a form approved by the Minister for a tax credit under the *Corporations Tax Act*, and the Minister may allow a tax credit to the financial institution equal to 30 per cent of the amount of equity capital paid to the community small business investment fund corporation on the issue of Class A shares. 1997, c. 43, Sched. C, s. 15; 1998, c. 34, s. 21 (2); 1999, c. 9, s. 63 (1); 2001, c. 23, s. 16 (1); 2002, c. 22, s. 26 (2); 2004, c. 16, s. 1 (2).

Additional credit

(4.2) If a community small business investment fund corporation makes one or more eligible investments under Part III.1 in a particular year, the Minister may allow a tax credit under the *Corporations Tax Act* or the *Taxation Act, 2007* to the qualifying financial institution equal to 30 per cent of the amount calculated using the formula,

$$A \times B$$

in which,

“A” is the amount invested in the year by the community small business investment fund corporation in eligible investments, and

“B” is the percentage of Class A shares of the community small business investment fund corporation that are held by the qualifying financial institution or by a specified corporation or insurance corporation related to the qualifying financial institution for the purposes of section 66.1 of the *Corporations Tax Act* or subdivision b of Division E of Part III of the *Taxation Act, 2007*.

1998, c. 34, s. 21 (3); 2004, c. 16, s. 1 (2); 2008, c. 19, Sched. V, s. 2 (18, 19).

Investment incentive

(4.3) A qualifying individual or qualifying corporation may apply for an investment incentive if the individual or corporation is the beneficial and registered owner of Class A shares of a community small business investment fund corporation purchased directly from the corporation before January 1, 2004. 1999, c. 9, s. 63 (2); 2001, c. 23, s. 16 (2); 2002, c. 22, s. 26 (3); 2004, c. 16, s. 1 (2).

Additional incentive

(4.4) A qualifying individual or qualifying corporation may apply for an additional investment incentive if the individual or corporation holds Class A shares of a community small business investment fund corporation that makes one or more eligible investments under this Part. 1999, c. 9, s. 63 (2); 2004, c. 16, s. 1 (2).

Application for incentive

(4.5) An application for an investment incentive or an additional investment incentive shall be made to the Minister and shall be in a form approved by the Minister. 1998, c. 34, s. 21 (4); 2004, c. 16, s. 1 (2).

Same

[\(4.6\)](#) The Minister may authorize a community small business investment fund corporation to apply on behalf of its shareholders for investment incentives and additional investment incentives, and may impose conditions with respect to the authorization. 1998, c. 34, s. 21 (4); 2004, c. 16, s. 1 (2).

Payment of incentives

[\(4.7\)](#) Subject to subsection (4.8), the Minister shall pay the investment incentive and, if applicable, the additional investment incentive to the qualifying individual or qualifying corporation if the Minister is satisfied of the following:

1. That the community small business investment fund corporation and its eligible investors are complying with the corporation's approved investment plan.
2. That the shares to which the incentive relates do not constitute a type of security that entitles the holder to receive any other financial assistance from a government, municipality or public authority in respect of the acquisition of those shares.
3. That the incentive relates to shares purchased by the individual or corporation directly from the corporation issuing the shares.
4. That such other requirements as may be prescribed are met. 1998, c. 34, s. 21 (4); 1999, c. 9, s. 63 (3, 4); 2004, c. 16, s. 1 (2).

Exception

[\(4.8\)](#) The Minister shall not pay the investment incentive and, if applicable, the additional investment incentive to the qualifying individual or qualifying corporation if the Minister considers that the community small business investment fund corporation, or its directors, officers or shareholders, are conducting the affairs of the corporation in a manner contrary to the spirit and intent of this Act, whether or not this Act or the regulations have been contravened. 1998, c. 34, s. 21 (4); 1999, c. 9, s. 63 (5); 2004, c. 16, s. 1 (2).

Amount of incentive

[\(4.9\)](#) The amount of the investment incentive referred to in subsection (4.3) is the lesser of,

- (a) \$37,500; and
- (b) 7.5 per cent of the amount paid by the qualifying individual or qualifying corporation before January 1, 2004 to the community small business investment fund corporation on the issue of Class A shares. 1998, c. 34, s. 21 (4); 1999, c. 9, s. 63 (6); 2001, c. 23, s. 16 (3); 2002, c. 22, s. 26 (4); 2004, c. 16, s. 1 (2).

Amount of additional incentive

[\(4.10\)](#) The amount of the additional incentive referred to in subsection (4.4) is the lesser of,

- (a) \$37,500; and
- (b) 7.5 per cent of the amount invested by the community small business investment fund corporation in eligible investments under Part III.1 multiplied by the percentage of Class A shares of the corporation that are held by the qualifying individual or qualifying corporation. 1998, c. 34, s. 21 (4); 1999, c. 9, s. 63 (7); 2004, c. 16, s. 1 (2).

[\(5\)](#), (6) Repealed: 2011, c. 9, Sched. 7, s. 3.

Qualifications

(7) The Minister or a labour sponsored investment fund corporation, as applicable, shall not issue a tax credit certificate under this section unless the Minister or the labour sponsored investment fund corporation, as the case may be, is satisfied that,

- (a) the corporation and its eligible investors are complying with the corporation's investment plan;
- (b) unless permitted by the regulations, the Class A shares to which the tax credit relates do not constitute a type of security that entitles the holder, in respect of the acquisition of those shares,
 - (i) to claim against tax otherwise payable a tax credit under the *Income Tax Act*, the *Income Tax Act* (Canada), the *Corporations Tax Act*, or the *Taxation Act, 2007*, other than a labour sponsored investment fund corporation tax credit under the *Income Tax Act*, the *Taxation Act, 2007* or section 127.4 of the *Income Tax Act* (Canada),
 - (ii) to claim a deduction from income under the *Income Tax Act*, the *Income Tax Act* (Canada), the *Corporations Tax Act*, or the *Taxation Act, 2007*, or
 - (iii) to receive any other financial assistance from any government, municipality or public authority;
- (c) no tax credit has been previously allowed under the *Income Tax Act*, the *Corporations Tax Act* or the *Taxation Act, 2007* in respect of the shares to which the tax credit certificate relates;
- (d) the Class A shares to which the tax credit certificate relates were purchased and acquired directly from the investment corporation issuing the shares; and
- (e) there has been compliance with any other prescribed conditions. 1992, c. 18, s. 25 (7); 1997, c. 43, Sched. C, s. 23 (1, 2); 2002, c. 22, s. 26 (5); 2004, c. 16, s. 1 (2); 2004, c. 31, Sched. 7, s. 13 (3-6); 2008, c. 19, Sched. V, s. 2 (20); 2011, c. 9, Sched. 7, s. 4 (1).

(8) Repealed: 2011, c. 9, Sched. 7, s. 4 (2).

Agent

(9) The Minister may enter into an arrangement with a community small business investment fund corporation upon such terms and conditions as the Minister considers advisable to authorize the corporation as agent for the Minister to issue tax credit certificates under this section on behalf of the Minister. 2004, c. 31, Sched. 7, s. 13 (8); 2011, c. 9, Sched. 7, s. 4 (3).

Minister may establish terms and conditions

(10) The Minister shall establish, and a labour sponsored investment fund corporation shall comply with, such terms and conditions as the Minister considers necessary relating to the issuance by the labour sponsored investment fund corporation of tax credit certificates under subsection (3) on behalf of the Minister. 2004, c. 31, Sched. 7, s. 13 (8).

Order to stop issuing certificates

(11) The Minister shall order the labour sponsored investment fund corporation to stop issuing tax credit certificates until further notice if the Minister is of the opinion,

- (a) that the labour sponsored investment fund corporation has contravened subsection (3.1) or (7) or has failed to comply with a term or condition established under

subsection (10); or

- (b) that the corporation or its directors, officers or shareholders are conducting the business or affairs of the labour sponsored investment fund corporation in a manner that is contrary to the spirit and intent of this Act, whether or not there has been a contravention of this Act or the regulations. 2004, c. 31, Sched. 7, s. 13 (8).

Research investment incentive

25.0.1 (1) An eligible investor may apply for a research investment incentive if the investor, or a qualifying trust for the eligible investor, purchases Class A shares issued by a research oriented investment fund after 2000 and before March 2, 2001. 2000, c. 42, s. 8; 2004, c. 16, s. 1 (2).

Application by eligible investor

(2) An application for a research investment incentive shall be made to the Minister and shall be in a form approved by the Minister. 2000, c. 42, s. 8; 2004, c. 16, s. 1 (2).

Same, by corporation

(3) The Minister may authorize a labour sponsored investment fund corporation to apply on behalf of its shareholders for research investment incentives and may impose conditions with respect to the authorization. 2000, c. 42, s. 8; 2004, c. 16, s. 1 (2).

Payment of incentive

(4) Subject to subsection (5), the Minister shall pay the research investment incentive to the eligible investor in an amount that is the lesser of,

- (a) \$250; and
- (b) 5 per cent of the amount paid by the eligible investor, or by the qualifying trust for the eligible investor, after 2000 and before March 2, 2001 to the labour sponsored investment fund corporation on the issue of the Class A shares. 2000, c. 42, s. 8; 2004, c. 16, s. 1 (2).

Exception

(5) The Minister shall not pay the research investment incentive to the eligible investor if the Minister considers that the labour sponsored investment fund corporation that issued the Class A shares, or its directors, officers or shareholders, are conducting the business and affairs of the corporation in a manner that is contrary to the spirit and intent of this Act, whether or not this Act or the regulations have been contravened. 2000, c. 42, s. 8; 2004, c. 16, s. 1 (2).

Certificate of compliance

25.1 (1) On or before January 31, each labour sponsored investment fund corporation shall give the Minister a certificate setting out the status of the corporation's compliance with the investment requirements of this Act during the previous calendar year. 1999, c. 9, s. 64 (1); 2004, c. 16, s. 1 (2).

Same

(1.1) The certificate must be in a form approved by the Minister. 1999, c. 9, s. 64 (1); 2004, c. 16, s. 1 (2).

Proof of compliance

(2) At the request of the Minister, a labour sponsored investment fund corporation shall give the Minister information and documents sufficient to allow the Minister to determine whether the corporation is complying with this Act. 1999, c. 9, s. 64 (1); 2004, c. 16, s. 1 (2).

Same

[\(2.1\)](#) The information referred to in subsection (2) must be given to the Minister in a form approved by the Minister. 1999, c. 9, s. 64 (1); 2004, c. 16, s. 1 (2).

Failure to deliver certificate

[\(3\)](#) Despite section 25, if a corporation fails to deliver to the Minister a certificate required under subsection (1) at the time required by subsection (1) or the additional information or documentation required under subsection (2) by the date specified in the Minister's request,

(a) the corporation shall be considered not to be in compliance with sections 17 and 18.1 as of the following date:

1. In the case of a failure to give the Minister the certificate required by subsection (1), January 1 of the year in which the certificate should have been given to him or her.
2. In the case of a failure to give information or documents required by subsection (2) to the Minister, the date on which the information or documents should have been given to him or her;

(b) no further tax credit certificates shall be issued under section 25 in respect of Class A shares issued after the date of the failure to deliver the certificate, information or documentation until the corporation delivers the certificate or provides the information or documentation. 1996, c. 24, s. 8; 1996, c. 29, s. 13 (1); 1999, c. 9, s. 64 (2); 2004, c. 16, s. 1 (2).

Order to stop issuing certificates

[\(4\)](#) If the Minister is of the opinion that a labour sponsored investment fund corporation is not in compliance with section 17 or 18.1 at any particular time, the Minister may order the corporation to stop issuing tax credit certificates in respect of Class A shares issued by the corporation after the date of the order until the corporation provides proof to the satisfaction of the Minister that the corporation is in compliance with sections 17 and 18.1. 2004, c. 31, Sched. 7, s. 14 (1).

Penalty

[\(5\)](#) If a corporation is not in compliance with section 17 or 18.1 or is considered under clause (3) (a) not to be in compliance with either of those sections, the Minister may order the corporation to pay to the Minister a penalty in an amount equal to,

- (a) 30 per cent of the equity capital received on the issue of Class A shares by the corporation during the time of the non-compliance, if the corporation is not a research oriented investment fund; or
- (b) 40 per cent of the equity capital received on the issue of Class A shares by the corporation during the time of the non-compliance, if the corporation is a research oriented investment fund. 2004, c. 31, Sched. 7, s. 14 (2).

Declaration of non-application

[\(5.1\)](#) The Minister may declare that subsections (3), (4) and (5) do not apply to a corporation if the corporation has reduced its tax liability under subsection 28 (3) for a calendar year to nil as a result of a reduction described in paragraph 2 of subsection 24.1 (3). 1998, c. 34, s. 22; 1999, c. 9, s. 64 (4); 2004, c. 16, s. 1 (2).

Same

[\(5.2\)](#) The declaration applies with respect to such period as the Minister specifies, but the

period shall expire no earlier than the end of the calendar year after the calendar year referred to in subsection (5.1). 1998, c. 34, s. 22; 2004, c. 16, s. 1 (2).

Revocation of declaration

(5.3) The Minister may revoke the declaration if the Minister considers that the corporation set aside funds as described in subsection 24.1 (1) for the primary purpose of avoiding the application of subsections (3), (4) and (5). 1998, c. 34, s. 22; 2004, c. 16, s. 1 (2).

Penalty upon revocation

(5.4) If the Minister revokes the declaration, the corporation shall pay a penalty equal to the total amount of all investment corporation tax credits for which it issued tax credit certificates while the declaration was in effect. 1998, c. 34, s. 22; 2004, c. 16, s. 1 (2).

(6) Repealed: 1999, c. 9, s. 64 (5).

Saving

(7) If a labour sponsored investment fund corporation can provide proof to the satisfaction of the Minister that a tax credit certificate in respect of a tax credit was issued at a time when the corporation was in compliance with sections 17 and 18.1, the amount of any penalty payable under this section shall be determined without reference to the tax credit. 1996, c. 24, s. 8; 2004, c. 16, s. 1 (2).

Section 31 does not apply

(8) Section 31 does not apply to any action taken by the Minister under this section. 1996, c. 24, s. 8; 2004, c. 16, s. 1 (2).

Revocation of registration of corporation

26. (1) Subject to section 31, the Minister may revoke the registration of an investment corporation if,

- (a) the investment corporation is registered under Part III and fails to maintain the required level of eligible investments;
- (b) the investment corporation fails to meet the requirements imposed by its articles;
- (b.1) the investment corporation fails to comply with section 14.1;
- (c) Repealed: 2011, c. 9, Sched. 7, s. 5 (2).
- (d) the investment corporation fails to comply with or contravenes this Act or the regulations;
- (e) the Minister is of the opinion that the investment corporation, its officers, directors or shareholders, or the employee organization, community sponsor or sponsor connected with it, are conducting their business or affairs in a manner that is contrary to the spirit and intent of this Act or for the purpose of enabling a person to obtain a tax credit or investment credit or grant to which the person would not otherwise be entitled.
- (f) Repealed: 2011, c. 9, Sched. 7, s. 5 (2).

1992, c. 18, s. 26 (1); O.C. 354/93; 1994, c. 17, s. 89; 1997, c. 43, Sched. C, ss. 16, 23 (1); 2001, c. 23, s. 17; 2002, c. 22, s. 27; 2004, c. 16, s. 1 (2); 2004, c. 31, Sched. 7, s. 15; 2011, c. 9, Sched. 7, s. 5.

Ministerial discretion

(2) If an investment corporation does not comply with this Act or the regulations, but the

Minister is of the opinion that the corporation is meeting the spirit and intent of this Act, the Minister may, for such time as the Minister considers appropriate, refrain from revoking the registration of the corporation. 1992, c. 18, s. 26 (2); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Surrender of registration

(3) Upon the request of a corporation registered under this Act, the Minister may accept the surrender of the registration of the corporation if,

- (a) the corporation pays to the Minister the amount, if any, required to be paid under section 27;
- (a.1) the corporation pays an amount equal to the amount, if any, that would be owing under subsection 28 (3) calculated as if the year has ended immediately before the corporation's registration is surrendered; and
- (b) the corporation files with the Minister the prescribed information and meets all other prescribed conditions. 1992, c. 18, s. 26 (3); 1999, c. 9, s. 65; 2004, c. 16, s. 1 (2).

Payment of tax credits, special cases

27. (1) Repealed: 2011, c. 9, Sched. 7, s. 6 (1).

Repayment of tax credits

(2) A labour sponsored investment fund corporation whose registration is revoked by the Minister shall immediately pay to the Minister an amount of money equal to the lesser of,

- (a) the sum of,
 - (i) 15 per cent of the equity capital received by the corporation in respect of all Class A shares of the corporation,
 - (A) that were then outstanding less than eight years immediately preceding the date of revocation, surrender of registration, winding-up or dissolution, and
 - (B) that were issued on or before March 1, 2010,
 - (ii) 10 per cent of the equity capital received by the corporation in respect of all Class A shares of the corporation,
 - (A) that were then outstanding less than eight years immediately preceding the date of revocation, surrender of registration, winding-up or dissolution, and
 - (B) that were issued after March 1, 2010 and on or before March 1, 2011, and
 - (iii) 5 per cent of the equity capital received by the corporation in respect of all Class A shares of the corporation,
 - (A) that were then outstanding less than eight years immediately preceding the date of revocation, surrender of registration, winding-up or dissolution, and
 - (B) that were issued after March 1, 2011 and on or before February 29, 2012; and
- (b) the total amount that would be determined for the purposes of clause (a) if the equity capital received by the labour sponsored investment fund corporation on the issue of each of the shares had been an amount equal to the fair market value of the shares at

the date of the revocation, surrender of registration, winding-up or dissolution, and not the amount of equity capital actually received by the corporation. 2004, c. 31, Sched. 7, s. 16 (1); 2009, c. 34, Sched. D, s. 5 (1).

Repayment of tax credits re surrender of registration, wind up, etc.

(2.1) A labour sponsored investment fund corporation that makes a request under section 26 to surrender its registration under this Act or that proposes to wind up or dissolve shall immediately pay to the Minister an amount of money equal to the sum of,

- (a) the total of all amounts, each of which is the amount in respect of a Class A share of the capital stock of the particular corporation originally acquired on or before March 1, 2010 and outstanding immediately before the particular time that is determined using the formula,

$$A \times B$$

in which,

“A” is,

- (a) if the original acquisition of the share was before May 7, 1996 and less than five years before the particular time, 4 per cent of the consideration received by the particular corporation for the issue of the share,
- (b) if the original acquisition of the share was after May 6, 1996 and less than eight years before the particular time, 1.875 per cent of the consideration received by the particular corporation for the issue of the share, or
- (c) in any other case, nil, and

“B” is,

- (a) if the original acquisition of the share was before May 7, 1996, the number obtained when the number of whole years throughout which the share was outstanding before the particular time is subtracted from five, or
- (b) in any other case, the number obtained when the number of whole years throughout which the share was outstanding is subtracted from eight;
- (b) the total of all amounts, each of which is the amount in respect of a Class A share of the capital stock of the particular corporation originally acquired after March 1, 2010 and on or before March 1, 2011 and outstanding immediately before the particular time that is determined using the formula,

$$C \times D$$

in which,

“C” is 1.25 per cent, and

“D” is the number obtained when the number of whole years throughout which the share was outstanding is subtracted from eight; and

- (c) the total of all amounts, each of which is the amount in respect of a Class A share of the capital stock of the particular corporation originally acquired after March 1, 2011 and on or before February 29, 2012 and outstanding immediately before the particular time that is determined using the formula,

$$E \times F$$

in which,

“E” is 0.625 per cent, and

“F” is the number obtained when the number of whole years throughout which the share was outstanding is subtracted from eight.

2009, c. 34, Sched. D, s. 5 (2); 2011, c. 9, Sched. 7, s. 6 (2).

Exception

[\(2.2\)](#) Subsection (2.1) does not apply if,

- (a) the request to surrender registration is related to a purchase or sale referred to in section 27.1;
- (b) the labour sponsored investment fund corporation notifies the Minister in writing after August 29, 2005 and before February 1, 2007 that it proposes to dissolve or wind up after that day and,
 - (i) the request to surrender registration is made after the notice is given to the Minister, and
 - (ii) the labour sponsored investment fund corporation no longer has any outstanding Class A shares at the time it surrenders its registration; or
- (c) the labour sponsored investment fund corporation notifies the Minister in writing after January 31, 2007 that it proposes to dissolve or wind up after that day and,
 - (i) the request to surrender registration is made after the notice is given to the Minister,
 - (ii) the labour sponsored investment fund corporation no longer has any outstanding Class A shares at the time it surrenders its registration, and
 - (iii) the rules in subsection 27.2 (5) apply to the labour sponsored investment fund corporation. 2006, c. 9, Sched. C, s. 12.

Repayment of grants, registration revoked

[\(3\)](#) An Ontario commercialization investment fund whose registration is revoked by the Minister shall immediately pay to the Minister an amount of money equal to the total amount of all grants under Part III.2 received by the fund in respect of eligible investments made within the 48 months immediately preceding the date of revocation of registration. 2004, c. 31, Sched. 7, s. 16 (3).

[\(4\)](#) Repealed: 2011, c. 9, Sched. 7, s. 6 (3).

Same

[\(4.1\)](#) If a person as the holder of a Class A share issued by a labour sponsored investment fund corporation receives an amount in respect of the reduction of the stated capital account attributable to the Class A shares, the person shall immediately pay to the Minister an amount of money equal to the sum of,

- (a) 20 per cent of the amount received in respect of Class A shares issued within the immediately preceding five years and before May 7, 1996;
- (b) 15 per cent of the amount received in respect of Class A shares issued within the immediately preceding eight years and within the period commencing May 7, 1996

and ending March 1, 2010;

- (c) 10 per cent of the amount received in respect of Class A shares issued within the immediately preceding eight years and within the period commencing March 2, 2010 and ending March 1, 2011; and
- (d) 5 per cent of the amount received in respect of Class A shares issued within the immediately preceding eight years and within the period commencing March 2, 2011 and ending February 29, 2012. 1997, c. 43, Sched. C, s. 17 (3); 2004, c. 16, s. 1 (2); 2009, c. 34, Sched. D, s. 5 (3).

Liability of corporation

(5) The investment corporation is jointly and severally liable with its shareholder for all amounts payable by the shareholder under this section and is entitled to deduct or withhold from any amount paid or payable to the shareholder or to otherwise recover from the shareholder all amounts paid by it under this section. 1997, c. 43, Sched. C, s. 17 (3); 2004, c. 16, s. 1 (2).

Reduction of liability

(6) An amount required by the articles of an investment corporation to be deducted and remitted to the Minister on the redemption of a Class A share of the corporation may be reduced by amounts paid under this section that may reasonably be considered to relate to the share being redeemed. 1997, c. 43, Sched. C, s. 17 (3); 2004, c. 16, s. 1 (2).

Debt to the Crown

(7) An amount required to be paid to the Minister under this Act is a debt due to the Crown in right of Ontario. 1992, c. 18, s. 27 (7); 2004, c. 16, s. 1 (2).

Rebate of payments to the Minister

(8) If the Minister is satisfied that an investor has not received all or part of the benefit of an investment corporation tax credit under the *Income Tax Act*, the *Taxation Act, 2007* or a tax credit under section 127.4 of the *Income Tax Act* (Canada), the Minister may make a rebate or payment of all or part of any amount paid or payable to the Minister under this Act, in respect of Class A shares to which the tax credit relates, in such amount and to such person or persons as the Minister considers to be entitled to receive the rebate or payment. 1992, c. 18, s. 27 (8); 1997, c. 43, Sched. C, s. 23 (2); 1999, c. 9, s. 66 (3); 2004, c. 16, s. 1 (2); 2008, c. 19, Sched. V, s. 2 (21).

Set-off

(9) If an Ontario commercialization investment fund that is entitled to a grant under Part III.2 is liable or is about to become liable to make a payment to the Crown in right of Ontario, the Minister may apply all or part of the amount of the grant to that liability instead of paying the grant to the fund. 2004, c. 31, Sched. 7, s. 16 (4).

Notice of business combination

27.1 (1) A labour sponsored investment fund corporation that has issued Class A shares shall notify the Minister in writing if it proposes to,

- (a) amalgamate with another corporation;
- (b) enter into an arrangement for the purchase of substantially all of the assets of another labour sponsored investment fund corporation; or
- (c) enter into an arrangement for the sale to another labour sponsored investment fund corporation of substantially all of its assets. 2004, c. 31, Sched. 7, s. 17 (1).

Same

(2) The notice must be given at least 30 days before the proposed amalgamation, purchase or sale and must be accompanied by such information and documents as the Minister may request. 2004, c. 31, Sched. 7, s. 17 (1).

Effect of amalgamation

(3) The following rules apply for the purposes of this Act on an amalgamation of a labour sponsored investment fund corporation with another corporation:

1. The new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation.
2. The new corporation shall be deemed to have been registered under Part III on the earliest date on which any of the predecessor corporations was registered under Part III.
3. The new corporation shall be deemed to have issued all Class A shares issued by a predecessor corporation for the amount of equity capital received by the predecessor corporation on the issue of those shares.
4. If a predecessor corporation was authorized to issue a class of shares to which subclause 14 (1) (c) (iii) applies, the new corporation shall be deemed to have received the Minister's approval to issue substantially similar shares at the time of the amalgamation.
5. Each of the new shares issued by the new corporation on the amalgamation in replacement of shares that were issued by a predecessor corporation shall be deemed to have been issued at the time that the predecessor corporation issued the replaced shares.
6. The new corporation shall be deemed to have made all the investments made by the predecessor corporations,
 - i. on the same date as the predecessor corporations made the investments, and
 - ii. at the same historic cost used by the predecessor corporations.
7. An eligible investment of a predecessor corporation that is in a research business under subsection 16.1 (2) or in a listed company or small business as defined in subsection 18.1 (1) shall be deemed to be an eligible investment of the new corporation of the same type. 2004, c. 31, Sched. 7, s. 17 (1).

Effect of purchase and sale

(4) The following rules apply for the purposes of this Act on the purchase of all or substantially all of the assets of a labour sponsored investment fund corporation by another labour sponsored investment fund corporation:

1. The vendor shall not issue any Class A shares after the purchase.
2. The vendor shall surrender its registration within a reasonable amount of time after the purchase.
3. Each new share issued by the purchaser and received by a shareholder of the vendor in replacement of a share that was issued by the vendor shall be deemed to have been issued at the time that the vendor issued the replaced share.
4. If the vendor was authorized to issue a class of shares other than Class A shares and if the rights, privileges, restrictions and conditions attached to those shares were approved by the board of directors of the vendor and by the Ministry, the purchaser

shall be deemed to have received the Ministry's approval to issue substantially similar shares as replacement shares.

5. The equity capital received by the purchaser on the issue of a Class A share in exchange for assets of the vendor shall be deemed to be the price of the assets at the time of the purchase, as negotiated between the purchaser and vendor, divided by the number of Class A shares issued in respect of the purchase.
6. The equity capital paid by the shareholder on the issue of a Class A share of the purchaser in exchange for a Class A share issued by the vendor shall be deemed to be the price of the Class A share of the purchaser at the time of the purchase.
7. Each investment of the vendor purchased by the purchaser that is an eligible investment at the time of the purchase shall be deemed to be an eligible investment of the purchaser.
8. An eligible investment of the vendor that is in a research business under subsection 16.1 (2) or in a listed company or small business as defined in subsection 18.1 (1) shall be deemed to be an eligible investment of the purchaser of the same type.
9. An investment by the vendor in an investment corporation registered under Part III.1 that is purchased by the purchaser shall be treated as if it had originally been made by the purchaser.
10. The cost of an eligible investment purchased by the purchaser shall be deemed to be the price of the eligible investment at the time of purchase, as negotiated between the purchaser and vendor.
11. The purchaser and vendor are jointly and severally liable to the Minister,
 - i. for any amount payable but not paid under this Act by the vendor before the purchase of the assets by the purchaser, and
 - ii. for any amount that becomes payable under this Act by the vendor after the purchase of the assets by the purchaser, if the amount becomes payable as a result of any act or omission of the vendor occurring before the purchase of the assets by the purchaser. 2004, c. 31, Sched. 7, s. 17 (1); 2009, c. 34, Sched. D, s. 6.

Effect of certain types of non-compliance

(5) The rules set out in subsection (6) apply,

- (a) if, immediately after the amalgamation, the articles of the new corporation do not meet the requirements of clause 14 (1) (c), (d) or (f);
- (b) if the new corporation does not comply with subsection 13 (1);
- (c) if, immediately before the amalgamation, the registration of a predecessor corporation under this Act was revoked; or
- (d) if the new corporation distributed any property other than its Class A shares to shareholders in exchange for Class A shares of a predecessor corporation. 2004, c. 31, Sched. 7, s. 17 (1).

Same

(6) Subject to subsection (7), the following rules apply in any of the circumstances described in subsection (5):

1. The new corporation shall be deemed to have surrendered its registration under this Act immediately after the amalgamation.
2. The new corporation shall promptly pay to the Minister the amount of money that each predecessor corporation would have been required to pay under subsection 27 (2.1) if it had surrendered its registration under this Act immediately before the amalgamation. 2004, c. 31, Sched. 7, s. 17 (1).

Exception

[\(7\)](#) The Minister may exempt a new corporation or a labour sponsored investment fund corporation from any rule in this section upon such conditions as he or she considers appropriate. 2004, c. 31, Sched. 7, s. 17 (1).

Definitions

[\(8\)](#) In this section,

“new corporation” means the corporation that results from the amalgamation of a predecessor corporation and one or more other corporations; (“nouvelle société”)

“predecessor corporation” means a corporation that is amalgamated and that is or was a labour sponsored investment fund corporation. (“société remplacée”) 2004, c. 31, Sched. 7, s. 17 (1).

Regulations

[\(9\)](#) The Minister may make regulations prescribing rules that apply,

- (a) if an Ontario commercialization investment fund winds up or is involved in a corporate reorganization;
- (b) if two or more Ontario commercialization investment funds are involved in a business combination;
- (c) if the assets of an Ontario commercialization investment fund are purchased by another person;
- (d) if two or more labour sponsored investment fund corporations are involved in a business combination. 2004, c. 31, Sched. 7, s. 17 (2); 2005, c. 28, Sched. C, s. 5.

[\(10\)](#) Repealed: 2006, c. 9, Sched. C, s. 13.

Notice of dissolution, etc.

[27.2 \(1\)](#) A labour sponsored investment fund corporation that has issued Class A shares shall notify the Minister in writing if it proposes to dissolve or wind up. 1999, c. 9, s. 67; 2004, c. 16, s. 1 (2).

Same

[\(2\)](#) The notice must be given at least 30 days before the proposed dissolution or wind-up and it must be accompanied by such information and documents as the Minister may request. 1999, c. 9, s. 67; 2004, c. 16, s. 1 (2).

Public notice deemed to be notice to the Minister

[\(3\)](#) If a labour sponsored investment fund corporation publicly announces that it proposes to dissolve or wind up, the announcement shall be deemed to be notice given to the Minister in writing on the day the announcement is made that the corporation proposes to dissolve or wind up and the corporation shall provide to the Minister such information and documents as the Minister may request. 2006, c. 9, Sched. C, s. 14.

Rules applicable on wind-up, notice given before February 1, 2007

(4) Subject to subsection (8), the following rules apply if a labour sponsored investment fund corporation gives a notice of proposal to wind up or dissolve to the Minister in accordance with subsection (1) after August 29, 2005 and before February 1, 2007:

1. The labour sponsored investment fund corporation shall not issue any tax credit certificates on or after the day the notice is given to the Minister, except with the consent of the Minister and only for the purpose of issuing a duplicate certificate to replace a certificate issued before that day.
2. Section 14.1 does not apply if the redemption, acquisition or cancellation of the Class A share is part of the dissolution or wind-up of the labour sponsored investment fund corporation and occurs within a reasonable period of time before the labour sponsored investment fund corporation surrenders its registration.
3. Section 17 does not apply to the labour sponsored investment fund corporation,
 - i. for 2004 and later years if the notice is given before February 1, 2006, or
 - ii. for 2006 and later years if the notice is given after January 31, 2006 and before February 1, 2007.
4. Section 21 does not apply to the labour sponsored investment fund corporation if a material change occurs after the notice is given.
5. Subsection 27 (4.1) does not apply if the amount is paid by the labour sponsored investment fund corporation after the notice is given and is paid in the course of and by reason of the dissolution or wind-up.
6. Subsection 28 (3) does not apply to the labour sponsored investment fund corporation for any calendar year when sections 17 and 18.1 do not apply to the corporation.
7. The labour sponsored investment fund corporation shall not be eligible under subsection 28 (4) for a refund of any tax paid under subsection 28 (3) unless the Minister is satisfied that the corporation qualified for the refund before it gave the notice. 2006, c. 9, Sched. C, s. 14.

Rules applicable on wind-up of certain LSIFs, notice given after January 31, 2007

(5) Subject to subsection (8), the following rules apply if a labour sponsored investment fund corporation gives a notice of proposal to wind up or dissolve to the Minister in accordance with subsection (1) after January 31, 2007, but only if the labour sponsored investment fund corporation satisfies the requirements of subsection (6):

1. The rules in paragraphs 1, 2, 4, 5, 6 and 7 of subsection (4) apply.
2. Section 17 does not apply to the labour sponsored investment fund corporation,
 - i. for the calendar year in which the notice is given,
 - ii. for the calendar year immediately before the year in which the notice is given, if the notice is given in the first 31 days of the year, and
 - iii. for calendar years after the year in which the notice is given. 2006, c. 9, Sched. C, s. 14.

Same

(6) The rules in subsection (5) apply to a labour sponsored investment fund corporation that gives a notice of proposal to wind up or dissolve to the Minister in accordance with subsection (1) after January 31, 2007 only if, on the day the notice under subsection (1) is given,

the percentage determined in respect of the labour sponsored investment fund corporation using the following formula is less than 20 per cent:

$$\frac{A}{B - C} \times 100$$

where,

- “A” is the amount of equity capital received by the labour sponsored investment fund corporation on the issue of Class A shares that were issued within the 24 months immediately before that day and are still outstanding on that day,
- “B” is the total amount of equity capital received by the labour sponsored investment fund corporation on the issue of Class A shares that are still outstanding on that day, and
- “C” is the amount of equity capital received by the labour sponsored investment fund corporation on the issue of Class A shares that, as of that day, have been outstanding for at least eight years.

2006, c. 9, Sched. C, s. 14.

Same

[\(7\)](#) For the purposes of subsection (6), the references to Class A shares shall exclude any Class A shares that were issued within the 24 months immediately before that day by reason of an arrangement for the purchase of substantially all of the assets of another labour sponsored investment fund corporation referred to in clause 27.1 (1) (b). 2006, c. 9, Sched. C, s. 14.

Consent to extend time for dissolution or wind-up

[\(8\)](#) On application by a labour sponsored investment fund corporation, the Minister may consent to an extension of time for dissolution or wind up of the corporation if,

- (a) the application for the extension is received by the Minister at least 14 days before the day specified in the notice of proposal to dissolve or wind up; and
- (b) the Minister is satisfied that the extension is reasonable in the circumstances. 2006, c. 9, Sched. C, s. 14.

Rules on failure to dissolve or wind up

[\(9\)](#) If a labour sponsored investment fund corporation fails to dissolve or wind up on or before the day specified in the notice of proposal to dissolve or wind up or in a consent to an extension given by the Minister under subsection (8),

- (a) subsection (4) or (5), whichever subsection would otherwise apply, does not apply to the corporation in respect of the period after the notice of proposal to dissolve or wind up was given to the Minister;
- (b) the Minister may revoke the registration of the labour sponsored investment fund corporation; and
- (c) subsection 27 (2) applies to the labour sponsored investment fund corporation if the Minister revokes the corporation's registration under clause (b). 2006, c. 9, Sched. C, s. 14.

Investment level tax

[28. \(1\)](#) Repealed: 2011, c. 9, Sched. 7, s. 7.

Rebate

[\(2\)](#) Upon receipt of an application from an investment corporation that has paid a tax

under subsection (1) in respect of a fiscal year, the Minister may rebate the tax without interest to the corporation if,

- (a) the application is received within three years after the end of the fiscal year in respect of which the tax was imposed; and
- (b) the Minister is satisfied that no later than the end of the second fiscal year ending after the fiscal year in respect of which the tax was imposed the investment corporation maintained throughout a full fiscal year and continues to maintain the level of eligible investments required by this Act to be maintained by the corporation. 1992, c. 18, s. 28 (2); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Investment level tax, labour sponsored investment fund corporation

(3) A labour sponsored investment fund corporation that does not meet or maintain the level of eligible investments required by section 17 to be held by the corporation at the end of a particular calendar year or that does not comply with the investment restrictions and meet the requirements for eligible investments specified by section 18.1 shall pay to the Minister a tax for the year equal to the amount by which the greater of,

- (a) 15 per cent of the amount by which the amount of the corporation's equity capital received on the issue of its Class A shares that is required by this Act to be maintained in eligible investments as of the end of the calendar year exceeds the total of all amounts, each of which is the cost to the corporation of an eligible investment held by the corporation at the end of the calendar year; and
- (b) the aggregate of,
 - (i) Repealed: 2001, c. 23, s. 18 (1).
 - (i.1) 15 per cent of the amount by which "C" exceeds "D" where,
 - "C" is the amount invested by the corporation during the calendar year in eligible businesses that are listed companies, and
 - "D" is the limit on investments in listed companies that is imposed by subsection 18.1 (5), and
 - (ii) 15 per cent of the amount by which the amount of the corporation's equity capital received on the issue of Class A shares after May 6, 1996 that is required by subsection 18.1 to be invested at the end of the calendar year in eligible businesses that are small businesses exceeds the total of all amounts, each of which is a cost to the corporation of an eligible investment in an eligible business that is a small business held by the corporation at the end of the calendar year,

exceeds,

- (c) the amount of any tax paid by the corporation under this subsection, other than an amount described in subclause 28 (3) (b) (i.1), in respect of any preceding year that has not been rebated to the corporation under subsection (4). 1996, c. 29, s. 14 (4); 1999, c. 9, s. 68 (2, 3); 2001, c. 23, s. 18 (1-3); 2004, c. 16, s. 1 (2).

Same

(3.1) The corporation shall pay the tax required by subsection (3) no later than the day on which it is required to give the Minister the certificate required by subsection 25.1 (1) or the information required by subsection 25.1 (2), whichever applies. 1999, c. 9, s. 68 (4); 2004,

c. 16, s. 1 (2).

Rebate

(4) Upon receipt of an application from a labour sponsored investment fund corporation that has paid a tax under subsection (3) with respect to a calendar year, the Minister may rebate the tax without interest to the corporation if,

- (a) the application is received within three years after the end of the calendar year with respect to which the tax was imposed; and
 - (b) the Minister is satisfied that the corporation is maintaining the level of eligible investments required by section 17 and is complying with the investment restrictions and meeting the requirements for eligible investments specified by section 18.1.
- 1996, c. 29, s. 14 (4); 1998, c. 34, s. 23; 1999, c. 9, s. 68 (5); 2004, c. 16, s. 1 (2).

Definitions

(5) In this section,

“listed company” and “small business” have the same meaning as in subsection 18.1 (1). 2001, c. 23, s. 18 (4); 2004, c. 16, s. 1 (2).

Investment level tax, shareholder in community small business investment corporation

28.1 (1) Subject to subsection (1.1), a shareholder in a community small business investment fund corporation that does not meet the level of eligible investments required by section 18.7 to be held by the corporation at the end of a particular year shall immediately pay to the Minister a tax for the year equal to the amount determined using the formula,

$$T = [(P \times A) - B] \times C/D$$

where,

“T” is the tax payable by the shareholder under this subsection;

“P” is,

- (a) 15 per cent if the shareholder is a labour sponsored investment fund corporation,
- (b) 30 per cent if the shareholder is a qualifying financial institution or a specified corporation or insurance corporation related to the qualifying financial institution for the purposes of section 66.1 of the *Corporations Tax Act* or subdivision b of Division E of Part III of the *Taxation Act, 2007*, or
- (c) 7.5 per cent if the shareholder is a qualifying individual or qualifying corporation;

“A” is the amount by which,

- (a) the amount of the community small business investment fund corporation’s equity capital received on the issue of its Class A shares that is required by this Act to be invested in eligible investments at the end of the year,

exceeds,

- (b) the total of all amounts, each of which is the cost to the corporation of an eligible investment held by the corporation at the end of the year;

“B” is the amount of any tax paid by the shareholder under this subsection in respect of any prior year that has not been rebated to the shareholder under subsection (2);

“C” is percentage of the equity capital received by the corporation on the issue of its

Class A shares that are held by the shareholder; and

“D” is the percentage of the equity capital received by the corporation on the issue of all Class A shares that are held by eligible investors.

1997, c. 43, Sched. C, s. 18; 1998, c. 34, s. 24 (1, 2); 1999, c. 9, s. 69 (1, 2); 2004, c. 16, s. 1 (2); 2008, c. 19, Sched. V, s. 2 (22).

Maximum amount

(1.1) A shareholder who is a qualifying individual or qualifying corporation is not required to pay tax under subsection (1) in an amount greater than \$37,500 less the total of all amounts paid under that subsection that have not been rebated. 1998, c. 34, s. 24 (3); 1999, c. 9, s. 69 (3); 2004, c. 16, s. 1 (2).

Tax rebate

(2) Upon receipt of an application from a shareholder of a community small business investment fund corporation who has paid a tax under subsection (1) with respect to a year, the Minister may rebate the tax without interest to the shareholder if the corporation meets the investment requirements for the year within the year following the year in respect of which the tax was imposed. 1997, c. 43, Sched. C, s. 18; 2004, c. 16, s. 1 (2).

Disposition of eligible investment, repayment of grant

28.2 (1) An Ontario commercialization investment fund that disposes of an eligible investment in respect of which a grant under section 18.16 was obtained shall pay to the Minister not later than the 31st day after the date of disposition an amount of money equal to 30 per cent of the lesser of,

- (a) the original cost of the investment to the fund; and
- (b) the fair market value of the investment at the time of the disposition. 2004, c. 31, Sched. 7, s. 18.

Exception

(2) Subsection (1) does not apply if the fund disposes of the eligible investment more than 365 days after the day on which it acquired the eligible investment. 2004, c. 31, Sched. 7, s. 18.

Limit on grant recapture

(3) The amount of money that an Ontario commercialization investment fund shall pay to the Minister under subsection (1) in respect of the disposition of an eligible investment shall not exceed the total of all Ontario commercialization investment fund grants that the fund received in the year of disposition or in any preceding year. 2004, c. 31, Sched. 7, s. 18.

Tax payable

29. (1) An amount payable under this Act to the Minister or the Crown by an investment corporation or any other corporation shall be deemed to be a tax imposed on the corporation under Part II of the *Corporations Tax Act* or Part III of the *Taxation Act, 2007*, payable on the date the liability arises, for the purposes of collection and enforcement under that Act. 1992, c. 18, s. 29 (1); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2); 2008, c. 19, Sched. V, s. 2 (23).

***Corporations Tax Act* applies**

(2) For the purposes of subsection (1), sections 98 to 108 of the *Corporations Tax Act* apply and for the purpose,

- (a) “corporation” means person; and
- (b) “tax” means an amount payable under this Act to the Minister or the Crown in right of Ontario. 1992, c. 18, s. 29 (2); 2004, c. 16, s. 1 (2).

Notice of demand

30. (1) If an amount is payable to the Minister or the Crown or is deemed to be so payable under this Act, the Minister may, by notice of demand in writing to the person by whom the payment is owing or claimed to be owing, demand payment immediately or in such number of days as are specified in the demand, and, if the payment is not made as demanded, the Minister may recover and collect the amount by any of the remedies or procedures provided for in this Act. 1992, c. 18, s. 30 (1); 2004, c. 16, s. 1 (2).

Effect

(2) Even if an objection or other proceeding under section 31 has been commenced or may be commenced, every amount demanded under subsection (1) remains payable and recoverable until the demand therefor is revoked in writing by the Minister. 1992, c. 18, s. 30 (2); 2004, c. 16, s. 1 (2).

Notice of proposal by Minister

31. (1) The Minister shall serve notice of a proposal by the Minister,

- (a) to refuse to register a corporation under this Act;
- (b) to revoke the registration of an investment corporation;
- (c) Repealed: 1999, c. 9, s. 70.
- (d) to refuse to make a rebate under section 28;
- (e) to refuse to issue a tax credit certificate or allow an investment credit under this Act;
- (f) to make an order that a particular investment is not an eligible investment;
- (g) to impose a penalty under subsection 18 (13);
- (h) to order a labour sponsored investment fund corporation to cease issuing tax credit certificates; or
- (i) to refuse to pay a grant under section 18.16. 1992, c. 18, s. 31 (1); 1997, c. 43, Sched. C, ss. 19, 23 (1); 1999, c. 9, s. 70; 2004, c. 16, s. 1 (2); 2004, c. 31, Sched. 7, s. 19 (1).

Service of notice of proposal

(2) The Minister shall serve the notice under subsection (1) upon the corporation in the prescribed manner, together with written reasons for the proposal. 1992, c. 18, s. 31 (2); 2004, c. 16, s. 1 (2).

Deemed service

(3) If the Minister has not registered a corporation under this Act within four months of the date on which all material and information required by this Act to be filed as part of or with the application, the Minister shall be deemed to have served a notice of proposal under subsection (1) to refuse to register the corporation. 1992, c. 18, s. 31 (3); 2004, c. 16, s. 1 (2).

Notice of objection

(4) A person or group served with a notice of proposal under subsection (1) or required to pay a tax under section 28 or 28.1 may serve on the Minister a notice of objection in duplicate in the form approved by the Minister setting out the reasons for the objection and all relevant facts.

2004, c. 31, Sched. 7, s. 19 (2).

Service

- (4.1) A notice of objection must be served on the Minister within 60 days after,
- (a) the day of mailing of the proposal;
 - (b) the day when the Minister is deemed to have assessed the tax under section 28 or 28.1; or
 - (c) the day upon which the Minister has been deemed under subsection (3) to have refused registration. 2004, c. 31, Sched. 7, s. 19 (2).

Service of notice of objection

(5) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. 1992, c. 18, s. 31 (5); 2004, c. 16, s. 1 (2).

Idem, acceptance

(6) The Minister may accept a notice of objection under this section even though it was not served in the required manner. 1992, c. 18, s. 31 (6); 2004, c. 16, s. 1 (2).

When Minister may carry out proposal

(7) If notice of objection is not served under subsection (4), the Minister may carry out the proposal stated in the notice under subsection (1). 1992, c. 18, s. 31 (7); 2004, c. 16, s. 1 (2).

Reconsideration by Minister

(8) Upon receipt of the notice of objection, the Minister shall with all due dispatch reconsider the proposal objected to and confirm, vary or abandon the proposal, and the Minister shall notify the person making the objection of the Minister's action by registered mail. 1992, c. 18, s. 31 (8); 2004, c. 16, s. 1 (2).

Decision

(9) A decision of the Minister under subsection (8) is final and is not subject to appeal except if the decision involves the interpretation of a provision of this Act, or involves an issue solely of law. 1992, c. 18, s. 31 (9); 2004, c. 16, s. 1 (2).

Application to Divisional Court

(10) In a dispute over a decision or action of the Minister under subsection (8), the Minister may, if the dispute involves the interpretation of a provision of this Act or involves an issue solely of law in which no facts are in dispute or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Divisional Court to have the issue in dispute determined, and, if the Minister does not make the application within ten weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined. 1992, c. 18, s. 31 (10); 2004, c. 16, s. 1 (2).

Audit and inspection

32. (1) For any purpose related to the administration or enforcement of this Act or the regulations, a person authorized by the Minister may, at all reasonable times, enter any premises or place where a business is carried on or property is kept or anything is done in connection with an investment corporation or an eligible business, or books and records of an investment corporation or an eligible business are or should be kept and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram, or other document that relates or may relate to the registration, operations, expenditures

or investments of an investment corporation or an eligible business;

- (b) examine any property, process or matter, an examination of which may assist in the determination of any question related to the registration, operations, expenditures or investments of an investment corporation or an eligible business; and
- (c) require the president, manager, secretary, or any officer, director, agent, partner, employee or representative of an investment corporation or an eligible business to provide reasonable assistance with the audit or examination, and to answer questions relating to the audit or examination either orally or, if required, in writing, on oath or by statutory declaration. 1992, c. 18, s. 32 (1); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Demand for information

(2) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by registered letter or by demand served personally, require from a person, partnership, syndicate, trust or corporation, or from an officer or agent thereof, the production of letters, accounts, invoices, statements, financial or otherwise, ledgers, journals, computer programs and data files, minute books, or other books of account, documents or information in the possession or control of such person, partnership, syndicate, trust or corporation which may assist the Minister in determining whether an investment corporation or an eligible business has complied with the requirements of this Act or the regulations, and production thereof shall be made within such reasonable time as is stipulated in the letter or demand. 1992, c. 18, s. 32 (2); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Search warrant

(3) Where an officer or employee of the Ministry of Finance has reasonable and probable grounds to believe that a contravention of this Act or the regulations has occurred, the person may secure a search warrant pursuant to section 158 of the *Provincial Offences Act*. 1992, c. 18, s. 32 (3); 1994, c. 17, s. 91 (1); 2004, c. 16, s. 1 (2).

Powers of inquiry

(4) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, authorize any person, whether or not that person is an officer of the Ministry of Finance, to make such inquiry as that person deems necessary with reference to the administration or enforcement of this Act or the regulations. 1992, c. 18, s. 32 (4); 1994, c. 17, s. 91 (1); 2004, c. 16, s. 1 (2).

Application of *Public Inquiries Act*, 2009

(5) Section 33 of the *Public Inquiries Act*, 2009 applies to an inquiry under subsection (4). 2009, c. 33, Sched. 6, s. 47.

Copies

(6) If a book, record, or other document has been examined or produced under this section, or has been seized under section 158 of the *Provincial Offences Act*, the person by whom it is seized or examined, or to whom it is produced or any officer of the Ministry of Finance may make, or cause to be made, one or more certified copies thereof, and a copy certified by a person authorized by the Minister pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. 1992, c. 18, s. 32 (6); 1994, c. 17, s. 91 (1); 2004, c. 16, s. 1 (2).

Definition, eligible business

(7) For the purposes of this section and sections 33 and 34,

“eligible business” includes a corporation and partnership referred to in section 11. 1992, c. 18, s. 32 (7); 2004, c. 16, s. 1 (2).

(8) Repealed: 1994, c. 17, s. 91 (2).

Requirement to keep books and records

33. (1) Every investment corporation and every eligible business shall keep records and books of account at its permanent establishment in Ontario, or at such other place as is designated by the Minister, in such form and containing such information as will enable the Minister to verify that the investment corporation or eligible business has complied with this Act and the regulations. 1992, c. 18, s. 33 (1); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Order to keep records and books of account

(2) The Minister may require an investment corporation or eligible business that has failed to prepare and maintain adequate records and books of account for the purposes of this Act to prepare and maintain such records and books of account as the Minister specifies. 1992, c. 18, s. 33 (2); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Compliance with order

(3) The investment corporation or eligible business shall prepare and maintain the records and books of account specified in the order by the Minister. 1992, c. 18, s. 33 (3); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Retention of books and records

(4) Every investment corporation and every eligible business required by this Act to keep records and books of account shall, until permission for their disposal is obtained from the Minister, retain every such record or book of account and every document or voucher necessary to verify the information in such records and books of account. 1992, c. 18, s. 33 (4); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Offence

34. (1) Every person is guilty of an offence who,

- (a) makes, or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in light of the circumstances under which it was made, is false or misleading in respect of any material fact, or that omits to state any material fact the omission of which makes the statement false or misleading;
- (b) makes, or assists in making false or misleading entries in the records or books of account of an investment corporation or an eligible business;
- (c) knowingly fails to record material particulars in the records or books of account of an investment corporation or an eligible business;
- (d) fails to comply with an order, decision, direction, requirement or demand made under this Act or the regulations; or
- (e) contravenes this Act or the regulations. 1992, c. 18, s. 34 (1); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Penalty

(2) Every person who is guilty of an offence under subsection (1) is liable on conviction to a fine of not less than \$1,000 and not more than \$20,000, or to imprisonment for a term of not more than two years, or to both such fine and imprisonment. 1992, c. 18, s. 34 (2); 2004,

c. 16, s. 1 (2).

(3) Repealed: 2011, c. 9, Sched. 7, s. 7.

Exception

(4) No person is guilty of an offence under clause (1) (a) or (b) if the person did not know that the statement or entry was false or misleading, and in the exercise of reasonable diligence could not have known that the statement or entry was false or misleading. 1992, c. 18, s. 34 (4); 2004, c. 16, s. 1 (2).

Failure to comply with demand

(5) Every person who fails to comply with a demand issued under subsection 32 (2) is guilty of an offence and is liable on conviction to a fine of \$200 for each day on which the offence occurs or continues. 1992, c. 18, s. 34 (5); 2004, c. 16, s. 1 (2).

Failure to file return

(6) Every investment corporation that fails to file a return at the time and in the manner required by section 22 or 23 is guilty of an offence and is liable on conviction to a fine of \$200 for each day on which the offence occurs or continues. 1992, c. 18, s. 34 (6); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Compliance

(7) Every person who hinders, molests, or interferes with a person authorized by the Minister to perform a duty under this Act or the regulations, or who prevents or attempts to prevent a person authorized by the Minister from doing anything which that person is authorized to do, is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$10,000. 1992, c. 18, s. 34 (7); 2004, c. 16, s. 1 (2).

Failure to keep records

(8) A investment corporation or an eligible business that fails to comply with a requirement by the Minister to prepare or maintain records and books of account is guilty of an offence and on conviction is liable to a fine of \$200 for each day on which the offence occurs or continues. 1992, c. 18, s. 34 (8); 1997, c. 43, Sched. C, s. 23 (1); 2004, c. 16, s. 1 (2).

Officers, etc., of corporations

(9) If a corporation commits an offence against this Act, an officer, director, employee, shareholder or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in the commission of the offence is guilty of the offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. 1992, c. 18, s. 34 (9); 2004, c. 16, s. 1 (2).

Limitation period

(10) A proceeding in respect of an offence under this Act shall not be commenced later than six years after the date when the offence was, or is alleged to have been, committed. 1992, c. 18, s. 34 (10); 2004, c. 16, s. 1 (2).

Application to court by Minister

35. (1) The Minister may apply to the Superior Court of Justice for an order against a person who fails to comply with or contravenes this Act or the regulations. 1992, c. 18, s. 35 (1); 2004, c. 16, s. 1 (2); 2006, c. 19, Sched. C, s. 1 (1).

Nature of order

(2) An order under subsection (1) may direct the person to comply with, or may restrain the person from contravening, one or more specific provisions of this Act or the regulations, or the court may make such further or other order as the court considers appropriate in the

circumstances. 1992, c. 18, s. 35 (2); 2004, c. 16, s. 1 (2).

Persons affected by order

- (3) An order under subsection (1) may be directed also to any one or more of,
- (a) the directors and senior officers of the person if the person is a corporation;
 - (b) the partners, if the person is a partnership;
 - (c) the members who comprise the person, if the person is an unincorporated association, unincorporated syndicate, unincorporated organization or a trust;
 - (d) the directors and senior officers of a corporation that is a partner or member mentioned in clause (b) or (c); and
 - (e) the partners of a partnership that is a member mentioned in clause (c). 1992, c. 18, s. 35 (3); 2004, c. 16, s. 1 (2).

Effect of other remedy or penalty

(4) An order may be made under subsection (1) despite any other remedy or penalty under this Act or the *Securities Act*. 1992, c. 18, s. 35 (4); 2004, c. 16, s. 1 (2).

Appeal

(5) An appeal lies to the Divisional Court from an order under subsection (1). 1992, c. 18, s. 35 (5); 2004, c. 16, s. 1 (2).

36. Repealed: 2011, c. 9, Sched. 7, s. 7.

37., **38.** Repealed: 1994, c. 17, s. 93.

39., **40.** Repealed: 2011, c. 9, Sched. 7, s. 7.

Delegation by Minister

41. The Minister may delegate in writing any of the Minister's duties or powers under this Act to a public servant employed under Part III of the *Public Service of Ontario Act, 2006*. 1992, c. 18, s. 41; 2004, c. 16, s. 1 (2); 2006, c. 35, Sched. C, s. 18.

No action against Commission, etc.

42. (1) No action or other proceeding for damages shall be instituted against the Commission, the Director, any member, employee or agent of the Commission, or any person delegated to carry out any of the Minister's duties or powers under this Act for any act done in good faith in the execution or intended execution of his or her duty or for any alleged neglect or default in the execution in good faith of his or her duty. 1992, c. 18, s. 42 (1); 2004, c. 16, s. 1 (2).

Liability of Crown

(2) Subsection (1) does not by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act* relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1992, c. 18, s. 42 (2); 2004, c. 16, s. 1 (2).

Immunity re compliance

43. No person has any right or remedy and no proceeding lies or shall be brought against another person for an act or omission of such other person done or omitted in compliance with this Act, the regulations or a direction, decision, order, ruling or other requirement made or given under this Act or the regulations. 1992, c. 18, s. 43; 2004, c. 16, s. 1 (2).

44. Repealed: 2011, c. 9, Sched. 7, s. 7.

Regulations

45. (1) The Lieutenant Governor in Council may make regulations,

- (a) Repealed: 1997, c. 19, s. 11 (2).
- (b) requiring any person to make information returns respecting any class of information required in assessing compliance with this Act;
- (c) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (d) prescribing conditions that a corporation must meet prior to registration;
- (e) prescribing the method of determining the amount of equity capital of an investment corporation;
- (f) prescribing the method of calculation to be used in determining the percentage of wages and salaries paid in Ontario for the purposes of determining whether an investment is an eligible investment or a business is an eligible business;
- (g), (h) Repealed: 2011, c. 9, Sched. 7, s. 7.
- (i) prescribing any rate of interest that is to be prescribed or the method by which the rate and the interest are to be calculated;
- (j) Repealed: 2011, c. 9, Sched. 7, s. 7.
- (k) prescribing any matter required or permitted by this Act to be prescribed by the regulations;
- (k.1) prescribing circumstances in which the period of eight years set out in subsection 14.1 (1) does not apply, providing that a period less than eight years applies and prescribing rules for determining when a period of less than eight years applies and the length of the period of time that applies for the purposes of section 14.1 in respect of a labour sponsored investment fund corporation or a class of labour sponsored investment fund corporations;
- (k.2) prescribing circumstances in which a new investment by a labour sponsored investment fund in a taxable Canadian corporation or Canadian partnership that was previously an eligible business for the purposes of Part III but is no longer an eligible business will be an eligible investment for the purposes of that Part;
- (k.3) prescribing circumstances in which the period of 24 months set out in subsection 17 (3) does not apply, providing that a period of more than 24 months applies and prescribing rules for determining when a period of more than 24 months applies and the length of the period that applies in respect of a labour sponsored investment fund corporation or a class of labour sponsored investment fund corporations;
- (k.4) prescribing circumstances in which the period of 24 months set out in clause 21 (2.1) (a) does not apply, providing that a period of more than 24 months applies and prescribing rules for determining when a period of more than 24 months applies and the length of the period that applies in respect of a labour sponsored investment fund corporation or a class of labour sponsored investment fund corporations;
- (l) providing that the amount of the tax credit in respect of any of the 1997 or a subsequent taxation year shall not be determined in accordance with paragraph 5 of

subsection 25 (4) and prescribing the rules for determining the tax credit for that year;

- (m) providing that the tax payable under subsection 28 (3) shall not be equal to the amount determined by the formula set out in that subsection and prescribing the rules for determining the tax payable under that subsection;
- (n) providing that the required investment level for labour sponsored investment fund corporations under subsection 17 (1) shall not be determined using the formula in that subsection and subsection 17 (2) or the rule set out in subsection 17 (3) and prescribing rules for determining the required investment level;
- (o) prescribing circumstances in which a labour sponsored investment fund corporation may apply to the Minister for an order that failure to comply with a prescribed provision of the Act or the regulations does not preclude an investment by the corporation from being an eligible investment;
- (p) prescribing entities or classes of entities that are eligible investors for the purposes of Part III.2;
- (q), (r) Repealed: 2006, c. 9, Sched. C, s. 15 (2).
- (s) prescribing an amount in excess of \$20 million for the purposes of subsection 20 (2) and providing that the prescribed amount applies for the purposes of that subsection instead of \$20 million;
- (t) exempting any person, class of persons or class of shares of a labour sponsored investment fund corporation, in whole or in part, with or without conditions, from this Act, the *Business Corporations Act*, the *Securities Act* or a regulation made under any of those Acts, if the Minister determines that the person, class of persons or class of shares complies with the intent of this Act;
- (u) varying the application of this Act in respect of any person, class of persons or class of shares of a labour sponsored investment fund corporation, if the Minister determines that the person, class of persons or class of shares complies with the intent of this Act. 1992, c. 18, s. 45 (1); 1996, c. 24, s. 10; 1997, c. 19, s. 11 (2); 1997, c. 43, Sched. C, ss. 21, 23 (1); 2004, c. 16, s. 1 (2); 2005, c. 28, Sched. C, s. 6 (1); 2005, c. 31, Sched. 3, s. 6 (1); 2006, c. 9, Sched. C, s. 15 (1-3).

Idem

[\(2\)](#) The Minister may make regulations,

- (a) Repealed: 1997, c. 19, s. 11 (2).
- (b) prescribing any matter required or permitted by this Act to be prescribed by the Minister. 1992, c. 18, s. 45 (2); 1997, c. 19, s. 11 (2); 2004, c. 16, s. 1 (2).

[\(3\)](#) Repealed: 2011, c. 9, Sched. 7, s. 7.

Idem, retroactivity

[\(4\)](#) A regulation is, if it so provides, effective with reference to a period before it was filed. 1992, c. 18, s. 45 (4); 2004, c. 16, s. 1 (2).

[\(5\)](#) Repealed: 2006, c. 9, Sched. C, s. 15 (4).

General or particular

[\(6\)](#) A regulation made under this Act may be general or particular. 2005, c. 31, Sched. 3, s. 6 (2).

Note: Subsection 45 (6) was enacted as subsection 45 (5) in source law, Statutes of Ontario, 2005, chapter 31, Schedule 3, subsection 6 (2). The subsection is renumbered in this consolidation to distinguish it from existing subsection 45 (5), enacted by Statutes of Ontario 2005, chapter 28, Schedule C, subsection 6 (2).

Forms, etc.

[45.1 \(1\)](#) The Minister may approve the use of forms for any purpose of this Act and the forms may provide for such information to be furnished as the Minister may require. 1997, c. 19, s. 11 (3); 2004, c. 16, s. 1 (2).

Fees

[\(2\)](#) The Minister may establish and charge fees for anything that the Minister or the Ministry is required or authorized to do under this Act. 1997, c. 19, s. 11 (3); 2004, c. 16, s. 1 (2).

Money

[46.](#) The money required for the purposes of this Act shall, until the 31st day of March, 1992 and subject to the approval of the Treasury Board, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the money appropriated therefor by the Legislature. 1992, c. 18, s. 46; 2004, c. 16, s. 1 (2).

PART V (ss. 47-54) Repealed: 1997, c. 43, Sched. C, s. 22.

PART VI (ss. 55, 56) Repealed: 2002, c. 22, s. 30.

PART VII (ss. 57-59) Repealed: 2002, c. 22, s. 31.

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