

CHAPTER 47

British Columbia Resources

Investment Corporation Act

[Assented to 1st September, 1977.]

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

Interpre-
tation.

1. In this Act

"agent" means,

- (i) in respect of the Crown in right of the Province, or in right of Canada, or in right of another province, an agent of the Crown in that right, and includes a municipal or public body empowered to perform a function of government in Canada, a corporation empowered to perform a function or duty on behalf of the Crown in that right, or a corporation controlled directly or indirectly by the Crown in that right; but does not include a member of the Executive Council or a person performing a function or duty in connection with
 - (A) the administration or management of an estate or property of an individual, or
 - (B) the administration, management, or investment of a fund established to provide compensation, hospitalization, medical care, annuity, pension, or similar benefits to an individual or particular classes of individuals, or money derived from that fund, and
- (ii) in respect of the government of a foreign state or a political subdivision of it, a person empowered to perform a function or duty on behalf of the government of the foreign state or political subdivision;

"articles" means the articles of the company;

"board" means the board of directors of the company;

"business day" means a day on which a stock exchange designated by the board is open for trading in securities;

"charter", in relation to the company, means this Act together with the memorandum and articles of the company;

"company" means the company incorporated pursuant to section 2;

"member" means a subscriber of the memorandum of the company and includes every other person who agrees to become a member and whose name is registered in its register of members or a branch register of members;

"minister" means that member of the Executive Council charged by order of the Lieutenant-Governor in Council with the administration of this Act;

"non-resident of the Province" means

- (i) an individual who is not ordinarily resident in the Province, or
- (ii) a corporation having its head office outside the Province, or
- (iii) the Crown or its agent in right of a province outside the Province, the Crown or its agent in right of Canada, or the government of a foreign state or a political subdivision of it or an agent of either, or
- (iv) a corporation controlled directly or indirectly by non-residents of the Province as defined in this section, or
- (v) a trust
 - (A) established by a non-resident of the Province as defined in this section, other than a trust for the administration of a pension fund for the benefit of individuals, a majority of whom are residents of the Province, or
 - (B) in which non-residents of the Province as defined in this section have more than 50% of the beneficial interest, or
- (vi) a corporation of which the majority of the directors, or persons occupying the position of directors by whatever name called, are non-residents of the Province as defined in this section, or
- (vii) a corporation that is controlled directly or indirectly by a trust defined in this section as a non-resident of the Province;

"non-resident of Canada" means

- (i) an individual who is not ordinarily resident in Canada, or
- (ii) a corporation incorporated, formed, or otherwise organized elsewhere than in Canada, or
- (iii) the government of a foreign state or a political subdivision of it, or an agent of either, or
- (iv) a corporation that is controlled directly or indirectly by non-residents of Canada as defined in this section, or
- (v) a trust
 - (A) established by a non-resident of Canada as defined in this section, other than a trust for the administration of a pension fund for the benefit of individuals, a majority of whom are residents of Canada, or
 - (B) in which non-residents of Canada as defined in this section have more than 50% of the beneficial interest, or
- (vi) a corporation of which the majority of the directors, or persons occupying the position of directors by whatever name called, are non-residents of Canada as defined in this section, or
- (vii) a corporation that is controlled directly or indirectly by a trust defined in this section as a non-resident of Canada;

"person" includes the Government of the Province, any other government, and their respective agents;

- "resident of the Province" means a person who is not a non-resident of the Province;
- "resident of Canada" means a person who is not a non-resident of Canada;
- "securities" means bonds, debentures, notes, or other evidences of indebtedness;
- "shares of the company" means shares in the authorized share capital of the company;
- "voting share" means a share of the company that has attached to it a right to vote, whether on the happening of a stated event or otherwise.

PART I

BRITISH COLUMBIA RESOURCES
INVESTMENT CORPORATIONCompany
established.

2. (1) The Lieutenant-Governor in Council may appoint 5 individuals to incorporate a company under the *Companies Act*.
- (2) The name of the company shall be "British Columbia Resources Investment Corporation".
- (3) The individuals appointed under subsection (1) shall, in accordance with this Act and the *Companies Act*,
- (a) determine the contents of the memorandum and articles of the company,
 - (b) be the first directors of the company,
 - (c) while they remain in office, each be deemed to be the holder of one common share of the company on behalf of the Crown in right of the Province, and
 - (d) cease to hold office when the board is elected unless they are elected or appointed under this Act.

Company not
Crown agent.

3. The company is not an agent of the Crown.

Share
priority to
residents.

4. On any offering of shares of the company to the public at large, preference shall be given to orders received from residents of the Province.

PART II

CONDITIONS AFFECTING ACQUISITION
AND HOLDING OF VOTING SHARESCanadians to
hold shares.

5. No person other than a Canadian citizen or a person who is a resident of Canada is eligible to purchase, own, or hold voting shares of the company.

No trust for
non-Canadians.

6. No person shall purchase or hold voting shares of the company in right of or for the use or benefit of a non-resident of Canada unless the non-resident is a Canadian citizen.

Total share
entitlement.

7. (1) The total number of voting shares that may be held
- (a) in the name or right of or for the use or benefit of a person, or
 - (b) in the name or right of or for the use or benefit of that person and either or both of the following:
 - (i) members associated with that person;
 - (ii) any other persons who would be deemed under this Part to be associated with that person, if both he and the other persons were members.

shall not exceed 1% of the total number of the issued and outstanding voting shares of the company or such other percentage as may be prescribed by the Lieutenant-Governor in Council.

(2) Subsection (1) does not apply in respect of voting shares held by or on behalf of the Government.

(3) The total number of voting shares of the company that may be held

- (a) in the name or right of or for the use or benefit of the Crown in right of Canada, or
- (b) in the name or right of or for the use or benefit of the Crown in right of Canada and either or both of the following:
 - (i) an agent of the Crown in right of Canada;
 - (ii) a person associated with the Crown in right of Canada or with that agent.

shall not exceed 1% of the total number of the issued and outstanding voting shares of the company or such other percentage as may be prescribed by the Lieutenant-Governor in Council.

(4) The total number of voting shares of the company that may be held

- (a) in the name or right of or for the use or benefit of the Crown in right of a province other than British Columbia, or
- (b) in the name or right of or for the use or benefit of the Crown in right of a province other than British Columbia and either or both of the following:
 - (i) an agent of the Crown in right of that other province;
 - (ii) a person associated with the Crown in right of that other province or with that agent.

shall not exceed 1% of the total number of the issued and outstanding voting shares of the company or such other percentage as may be prescribed by the Lieutenant-Governor in Council.

(5) Notwithstanding subsection (1), the total number of voting shares that may be held

- (a) in the name or right of or for the use or benefit of a mutual fund trust or mutual fund corporation, each as defined in the *Income*

Tax Act (Canada), or a person investing money derived from funds established to provide compensation, hospitalization, medical care, annuity, pension, or similar benefits to an individual or particular classes of individuals, or

- (b) in the name or right of or for the use or benefit of such trust, corporation, or person and either or both of the following:
 - (i) members associated with that trust, corporation, or person;
 - (ii) any other persons who would be deemed under this Part to be associated with that trust, corporation, or person, if both the trust, corporation, or person and the other persons were members.

shall not exceed 3% of the total number of the issued and outstanding voting shares or such other percentage as may be prescribed by the Lieutenant-Governor in Council.

Crown agent
not to
hold shares.

8. No voting shares of the company shall be held in the name or right of or for the use or benefit of an agent of the Crown in right of the Province.

Associated
members.

9. (1) For the purposes of this Part, a member shall, except as provided in section 10, be deemed to be associated with another member if

- (a) one member is a corporation of which the other member is an officer or director, or
- (b) one member is a partnership of which the other member is a partner, or
- (c) one member is a corporation that is controlled directly or indirectly by the other member, or
- (d) both members are corporations and one member is controlled directly or indirectly by the same individual or corporation or the same government in Canada that controls directly or indirectly the other member, or
- (e) both members are members of a voting trust where the trust relates to voting shares of the company, or
- (f) both members are agents of the Crown in right of Canada, or
- (g) both members are persons performing on behalf of the Crown in right of Canada a function or duty in connection with the administration, management, or investment of a fund or money referred to in subparagraph (i) (B) of the definition of "agent", or
- (h) both members are agents of the Crown in right of the same province, or
- (i) both members are persons performing on behalf of the Crown in right of another province a function or duty in connection with the administration, management, or investment of a fund or money referred to in subparagraph (i) (B) of the definition of "agent", or

- (j) both members are associated with the same member within the meaning of paragraphs (a) to (i), or
- (k) both members are parties to an agreement or arrangement a purpose of which, in the opinion of the board, is to require the members to act in concert with respect to their interests in the company,

and "associated", when used with reference to a person, means a person deemed to be associated with him pursuant to this subsection.

(2) For the purposes of this Part, where a share of the company is held jointly and one or more of the joint holders is a non-resident of Canada, the share shall be deemed to be held by a non-resident of Canada.

(3) For the purposes of this Part, a corporation shall be deemed to be controlled by another corporation, individual, trust, or government if at any time, in the opinion of the board, it is at that time in fact effectively controlled by the other corporation, individual, trust, or government either directly or indirectly through the holding of shares of the corporation or any other corporation, through the holding of a significant portion of the outstanding debt of a corporation, trust, or individual, or by any other means whether of the same or a different nature.

(4) For the purposes of this Act, where a corporation or trust that was at any time a resident of Canada becomes a non-resident of Canada, shares of the company acquired by the corporation or the trust while it was a resident of Canada and held by it while it is a non-resident of Canada shall be deemed to be shares held by a resident of Canada for the use or benefit of a non-resident of Canada.

**Declaration
of non-
association.**

10. Notwithstanding section 9 (1),

- (a) where one member who is a resident of Canada and who, but for this section, would be deemed to be associated with another member, submits to the company a declaration stating that none of the voting shares of the company held by him or to be held by him, is or will be, to his knowledge, held in the right of or for the use or benefit of himself or a person with whom, but for this section, he would be deemed to be associated, neither member shall be deemed to be associated with the other so long as the voting shares of the company from time to time held by the member who made the declaration are not held contrary to the statements made in the declaration, or
- (b) 2 members that are corporations and residents shall not be deemed to be associated with each other under section 9 (1) (j) by reason only that each is deemed under section 9 (1) (a) to be associated with the same member, or

- (c) where it appears from the register of members of the company that not more than 5 000 of the voting shares of the company are held by a member, he shall not be deemed to be associated with any other members, and no other members shall be deemed to be associated with him.

PART III

TRANSFER, VOTING AND REDEMPTION OF SHARES

Transfer
of shares.

11. (1) Subject to this section and the charter, the shares of the company are transferable in accordance with the *Companies Act*.

(2) A member of the company shall, on the request of the board made in accordance with the articles, submit a declaration to the company with respect to

- (a) his direct or indirect ownership of shares of the company,
- (b) whether or not he and the person in whose right or for whose use or benefit the share is held are residents of Canada or Canadian citizens,
- (c) whether or not he is associated with another shareholder,
- (d) whether or not he is a Canadian citizen,
- (e) if the member is a corporation or trust, information establishing that it is a resident of Canada, and
- (f) such other matters as the board may consider relevant for the purposes of determining whether the member complies with the conditions contained in Part II.

(3) Where

- (a) a declaration has been requested by the board from a member under this section, and
- (b) the member fails or neglects to submit to the board a declaration satisfactory to it within 30 days after the day the declaration was sent to the member,

the shares of the company held by that member shall be deemed to be held in contravention of the charter until a declaration satisfactory to the board has been submitted to it.

(4) It is a condition of every transfer of a share to be made or recorded in the register of members of the company and of every subscription for a share of the company that the transferee or subscriber shall, at the request of the board, submit to it a declaration to the same effect as the declaration referred to in subsection (2).

(5) Subject to subsection (7), where the board has requested a declaration pursuant to subsection (3), the board shall not accept a subscription for a share of the company or allow a transfer to be made or recorded in a register of members of the company unless

- (a) the declaration has been submitted to the board, and
- (b) it appears from the declaration that the subscriber or transferee would not, by the acceptance of the subscription for the shares being subscribed for or the entry in a register of members of the shares being transferred, hold those shares in contravention of the charter.

(6) Where, in the case of a subscription for or transfer of shares of the company, it appears to the board that the total number of shares held by the subscriber or the transferee, as shown by the register of members of the company, would not exceed 5 000 if the subscription were accepted or the transfer allowed, the board is entitled to assume

- (a) that the subscriber or the transferee is not and will not be associated with another holder of shares of the company, and
- (b) unless the address to be recorded in the register of members of the company for the subscriber or transferee is a place outside Canada, that the shares will not be held in contravention of the charter.

(7) Where there is a subscription for shares of the company pursuant to an offer of shares by way of rights granted by the company to holders of its shares to purchase additional shares, the company may count as shares issued and outstanding all the shares included in the offer.

No voting
rights if
excess share
holdings.

12. (1) Where any of the shares of the company are held in contravention of the charter, the voting rights attaching to those shares shall not be exercised.

(2) Shares held in contravention of the charter include shares that are deemed to be so held.

(3) The validity of

- (a) a transfer of shares of the company that has been made or recorded in a register of members of the company, or
- (b) the acceptance of a subscription for shares of the company

is not affected by the fact that those shares are held in contravention of the charter.

(4) Where voting rights pertaining to shares of the company held in contravention of the charter are exercised at a general meeting of the shareholders of the company, no proceeding, matter, or thing at the meeting is void for that reason; but the proceeding, matter, or thing is, at any time within one year after the commencement of the general meeting at which the voting rights were exercised, voidable at the option of the board by a resolution of the board.

Order for
disposal
of excess
share
holdings.

13. (1) Where voting shares of the company are held in contravention of the charter, the company may, on notice to such persons and in such manner as may be directed by the board, require the holder of the voting share to

dispose of it to another person who may hold voting shares of the company, within such period, not less than 60 days, as may be limited by the notice.

(2) Where voting shares referred to in subsection (1) have not been disposed of within the time limited by the notice, the company may, at its option and at any time while those shares continue to be held in contravention of the charter, redeem them for cancellation on

- (a) deposit by the company of the amount of their redemption price in a special account with a savings institution, and
- (b) giving notice of redemption to the persons and in the manner prescribed by the articles, including notice of the deposit referred to in paragraph (a),

and, on the giving of the notice, the rights of the holder and beneficial owner of them shall cease, except the right of a beneficial owner to receive out of the amount so deposited, without interest, the redemption price payable with respect to the shares on presentation and surrender of the certificates representing the shares.

(3) Interest payable by the savings institution on the deposit made under subsection (2) (a) shall be paid to the company.

(4) Notwithstanding the *Companies Act*, the company

- (a) is not bound to see to the application of the amount deposited or to the execution of a trust, whether express, implied, or constructive in respect of voting shares redeemed for cancellation under this section, and
- (b) is not estopped by certificates outstanding in respect of voting shares redeemed for cancellation.

(5) The powers of the company under this section may be exercised at its option; but where voting shares of the company have, to its knowledge, been held in contravention of the charter for 10 years or such lesser period as may be fixed by the articles, the company shall, in the manner provided by this section, redeem those voting shares for cancellation.

(6) For the purposes of this section, the redemption price of voting shares of the company shall be the lesser of

- (a) the issue price per share on the initial issue of shares of that class, or
- (b) the closing price per share of the shares of that class on the stock exchange designated by the board on the business day immediately preceding the date of giving notice of redemption, or
- (c) if there is no sale of them on that stock exchange on that business day, the average of the closing asked price and the closing bid price of them on that exchange on that business day, or
- (d) if no bid price and asked price of them on that exchange are quoted for that business day, the last closing sale price of them on that exchange recorded before that business day.

(7) This section and section 7 shall be set out in each share certificate issued by the company representing a voting share or by a writing attached to the share certificate.

(8) Shares redeemed under this section do not reduce the total number of issued and outstanding voting shares for the purposes of sections 7 and 16.

Determination
of excess
share
holdings.

14. In determining for the purposes of this Act whether or not

- (a) shares are held in contravention of the charter, or
- (b) a person is a resident of Canada, or
- (c) an individual is a Canadian citizen, or
- (d) a member is associated with another member, or
- (e) a corporation is directly or indirectly controlled by persons who are not residents of Canada,

or any other circumstances relevant to the performance of the duties of the board under this Act, the company and a director, officer, employee, or agent of the company may rely on

- (f) a statement made in a declaration submitted under section 11, or
- (g) the knowledge of a director or officer of the circumstances,

and the company, directors, officers, employees, or agents are not liable in an action for anything done or omitted by them in good faith as a result of conclusions made by them on the basis of the statement or knowledge.

PART IV

DIRECTORS

Director
to be
Canadian
citizen.

15. (1) Subject to the *Companies Act*, an individual who

- (a) is a Canadian citizen, and
- (b) otherwise qualifies under the articles,

is qualified to be a director of the company.

(2) An individual ceases to be a director if he ceases to be qualified under subsection (1).

(3) At least 60% of the members of the board shall at all times be residents of the Province.

(4) No member of the Legislative Assembly is eligible to be appointed as a senior officer, as defined in the *Companies Act*, or to be elected or appointed or to act as a director of the company.

Crown
appointment
of directors.

16. (1) So long as the Government owns or controls 10% or more of the issued and outstanding voting shares of the company, notwithstanding the *Companies Act* or the charter, the Government shall not vote its shares for the election of directors; but the minister may annually, with the approval of

the Lieutenant-Governor in Council and effective at the time the annual general meeting is held, by notice in writing to the company, appoint

- (2) one director if the number of directors on the board is 4 or less,
- (b) 2 directors if the number of directors on the board is 5, 6, 7, or 8, and
- (c) 3 directors if the number of directors on the board is more than 8,

and may, by similar notice, remove those persons so appointed.

(2) An appointment under subsection (1) shall be made by notice in writing to the company at least 45 days before the date of the annual general meeting.

(3) Where a director appointed to the board under this section ceases to be a director the minister may, by notice in writing, appoint a person to replace that director.

(4) Directors appointed under this section cease to hold office, unless reappointed for a further term, at the time the directors elected at the next annual general meeting assume office.

(5) For the purpose of this section, the board shall notify the minister at least 56 days before the date of the annual general meeting.

(6) If the Government holds less than 10% of the voting shares, it may vote its shares in the ordinary way for the election of directors.

PART V

TRANSFER OF GOVERNMENT ASSETS AND REDEMPTION OF SHARES

Transfer of
property
for shares.

17. (1) The Government shall transfer, convey and dispose of to the company on the coming into force of this section the assets and rights in the Schedule, on the terms and conditions and at the price, if any, prescribed by the Lieutenant-Governor in Council, and shall accept the equivalent value in shares or securities of the company.

(2) A share or security held by or for the Government other than those referred to in section 2 (3) shall be registered in the records of the company in the name of Her Majesty the Queen in the right of British Columbia, and the voting rights attached to the shares or securities shall be exercised by the minister or his proxy in accordance with this Act and the regulations.

(3) The Minister of Finance may, with the approval of the Lieutenant-Governor in Council, dispose of a share or security held by or for the Government.

**Government
share
holdings.**

18. The company may, notwithstanding the *Companies Act*, redeem for cancellation voting shares of the company held by or on behalf of the Government at a price per share agreed on between the company and the Minister of Finance and approved by the Lieutenant-Governor in Council.

PART VI**GENERAL****Winding-up.**

19. Proceedings to wind up the company under Part 9 of the *Companies Act* are, notwithstanding the *Companies Act*, invalid unless approved by the Lieutenant-Governor in Council.

**This Act
paramount.**

20. Where there is a conflict between this Act and

- (a) the *Companies Act* as it applies to the company, or
- (b) the articles, or
- (c) the memorandum of the company,

this Act prevails.

**Securities
Act**

21. The registration provisions of the *Securities Act* do not apply to savings institutions in the Province in respect of the primary distribution to the public of the first offering of shares of the company.

**Authorized
investments**

22. Shares of the company are an authorized investment for trust funds by

- (a) a trust company under the *Trust Companies Act*, or
- (b) a Provincial company under the *Insurance Act*, or
- (c) a trust in which
 - (i) a corporate trustee is the sole trustee, or
 - (ii) one of the trustees is a corporate trustee.

Regulations.

23. The Lieutenant-Governor in Council may make regulations.

Commencement.

24. This Act comes into force on a day to be fixed by Proclamation.

SCHEDULE

1. Shares and securities representing the interest of the Government in
 - (a) Canadian Cellulose Company Ltd.,
 - (b) Plateau Mills Ltd.,
 - (c) Kootenay Forest Products Ltd.,
 - (d) Westcoast Transmission Company Limited.
2. Notwithstanding the *Petroleum and Natural Gas Act, 1965*, such leases, licences, reservations, or permits respecting petroleum or natural gas rights as the Lieutenant-Governor in Council may determine, on such terms and conditions as he may approve.