



Small Business Venture Capital Act
SMALL BUSINESS VENTURE
CAPITAL REGULATION
B.C. Reg. 390/98

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This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

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B.C. Reg. 390/98

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Definitions and interpretation

1 (1) In this regulation:

“**Act**” means the *Small Business Venture Capital Act*;

“**direct sale**” means a contract between a supplier and a consumer for the supply of goods or services that is entered into in person at a place other than the supplier’s permanent place of business;

“**greenhouse gas**” has the same meaning as in the *Greenhouse Gas Reduction Targets Act*;

“**scale-up activity**” means an activity related to the expansion of a business, including the following activities:

(a) customer acquisition;

(b) brand building;

(c) development of sales brochures, website content and other marketing collateral to promote the business’s products and services;

“**special resolution**” means

(a) a resolution passed by a majority of not less than 1/2 of the votes cast by those shareholders of a company who, being entitled to do so, vote in person or by proxy at a general meeting of the company

(i) of which notice as the articles provide, and not being less than 21 days’ notice specifying the intention to propose the resolution as a special resolution, has been duly given, or

(ii) if every shareholder entitled to attend and vote at the meeting agrees, at a meeting of which less than 21 days’ notice has been given, or

(b) a resolution consented to in writing by every shareholder of a company who would have been entitled to vote in person or by proxy at a general meeting of the company.

(2) For the purpose of the definition of “special resolution” in subsection (1), a shareholder who is receiving, or is proposed to receive, any fees or remuneration from the corporation or whose associate or affiliate is receiving, or is proposed to receive, any fees or remuneration from the corporation is deemed to be not entitled to vote in person or by proxy at a general meeting in respect of a special resolution to approve or ratify the payment of any fees or remuneration by the corporation.

(3) In the Act and this regulation:

“**cash**” and “**money**” mean lawful currency of Canada;

“**common interest group**”, in relation to a corporation, means 2 or more persons, whether or not associated or affiliated, who, pursuant to an agreement,

commitment or understanding, exercise, or intend to exercise, in concert, any rights attached to or associated with their equity shares;

“persons engaged by a small business” includes

- (a) officers of the small business,
 - (b) persons who perform work or provide services under a contract with the small business other than a contract
 - (i) that relates to the provision of accounting, legal or other professional services on a temporary working or ad hoc consulting basis, or
 - (ii) where the small business purchases or hires equipment as the main purpose of the contract and the work and services are only incidental to that main purpose, and
 - (c) persons who perform work or provide services for a small business at its place of business and who were engaged or employed through a temporary help service.
- (3.1) A debt instrument that meets all of the following criteria is hereby prescribed as an investment that is an eligible investment for the purposes of the definition of “eligible investment” in section 1 of the Act:
- (a) if the debt instrument is secured by property, the property has a value that does not exceed 50% of the amount of the indebtedness under the debt instrument at the time of the investment;
 - (b) the debt instrument does not
 - (i) restrict the borrower from incurring other indebtedness, or
 - (ii) penalize the borrower for incurring other indebtedness;
 - (c) the outstanding balance from time to time under the debt instrument bears interest at a rate not exceeding 12% a year, calculated semi-annually not in advance;
 - (d) the debt instrument will be converted within 18 months after its issuance into one or more equity shares issued by a small business.
- (3.2) A limited partnership unit for which the following criteria are met is a limited partnership unit for the purposes of section 10 (1) (d) (iv) of the Act:
- (a) the limited partnership unit is issued by a limited partnership that
 - (i) is formed under section 51 of the *Partnership Act*,
 - (ii) is managed by general partner who, if an individual, resides in British Columbia or, if a corporation, has a permanent establishment, as determined under the *Income Tax Act* (Canada), that is located in British Columbia,
 - (iii) within the same period as that prescribed under section 8 (2) (a) of the Act will make eligible investments in small businesses in amounts that, in total, are at least twice the amounts, in total, that the limited

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- partnership has received from a venture capital corporation as investments made by it under section 10, and
- (iv) will keep the eligible investments described in subparagraph (iii) for at least the same period as that prescribed under section 8 (2) (b) of the Act;
- (b) the venture capital corporation investing in a limited partnership by acquiring the limited partnership unit as a limited partner has satisfied the administrator through agreements to which the venture capital corporation is a party, or by other documentary evidence, that
- (i) the venture capital corporation, or
- (ii) any of its shareholders or their associates
- will not claim or take advantage of any benefits, rights or entitlements, including, but not limited to, any benefits, rights or entitlements that are or may be available under the *Income Tax Act* (Canada), for the purpose of reducing the impact of any loss the venture capital corporation or a shareholder may sustain in holding or disposing of the limited partnership unit.
- (4) For the purpose of applying the formulas in sections 9 to 11 to determine whether a proposed investment by a venture capital corporation in a small business is an eligible investment, the calculation period ends immediately before the venture capital corporation proposes to make the investment.
- (5) For the purposes of section 13 (1) of the Act, the person or persons referred to in that section (the “controller”) controls a small business if the controller has any direct or indirect influence that, if exercised, would result in control in fact of the small business.
- (6) For the purposes of section 15 of the Act, amounts received indirectly by a small business from venture capital corporations include amounts received by an affiliate of the small business from venture capital corporations.
- (7) For the purposes of sections 19 (8) (a) and 20 (4) of the Act, the business or affairs of a venture capital corporation are conducted in a manner contrary to the spirit and intent of the Act if the form or substance of any investment made or held by or any other transaction entered into by the venture capital corporation or any of its directors, officers or shareholders is contrary to the spirit and intent of the Act, notwithstanding that the investment or transaction complies with the technical requirements of the Act including, without limitation, the definition of “eligible investment” under the Act.

[am. B.C. Regs. 145/2003, s. 1; 267/2004, s. (a); 209/2008, s. 1; 182/2019, Sch. 2, s. 1 and Sch. 3, s. 1; 64/2021, s. 8.]

Prescribed criteria for investing entities

- 2 (1) In this section:

“**contributor**”, in relation to a pension plan, means an individual member of the pension plan pursuant to an agreement under which

- (a) the member makes direct financial payments to the plan, or
- (b) the member’s employer alone makes financial payments to the plan as part of the employment relationship;

“**registered pension plan**” has the same meaning as in section 248 (1) of the *Income Tax Act* (Canada).

- (2) In this section “**small business investment corporation**”, “**small business investment limited partnership**” and “**small business investment trust**” have the same meanings as in Part LI of the *Income Tax Regulations* (Canada), except that, for the purposes of this section, each reference in section 5101 (1) (a) of the *Income Tax Regulations* (Canada) to “registered pension plans” must be treated as a reference to “registered pension plans, none of the contributors to which is beneficially interested in more than 1% of the assets of the plan to which the contributor contributes”.
- (3) For the purposes of this section, a contributor is beneficially interested in the assets of a registered pension plan if the contributor has any right, other than one arising on marriage breakdown or death, whether immediate or future, absolute or contingent or conditional on or subject to the exercise of a discretionary power by any person or persons, to receive any of the assets of the plan either directly from it or indirectly through one or more entities or persons.
- (4) An entity or person is an investing entity for the purposes of section 20 of the Act if, at the time of purchasing equity shares in a venture capital corporation, the entity or person
- (a) is a registered pension plan, none of the contributors to which is beneficially interested in more than 1% of the assets of the plan,
 - (b) is a small business investment corporation,
 - (c) is a small business investment limited partnership, each of the limited partners in which is
 - (i) a registered pension plan, none of the contributors to which is beneficially interested in more than 1% of the assets of the plan, or
 - (ii) a small business investment corporation, or
 - (d) is a small business investment trust, each of the beneficiaries of which is
 - (i) a registered pension plan, none of the contributors to which is beneficially interested in more than 1% of the assets of the plan, or
 - (ii) a small business investment corporation.

Equity share – prescribed rights

- 3 (1) Subject to the Act, prescribed rights and restrictions, for the purposes of the definition of “equity share” in the Act, are rights and restrictions attached to the

share or rights and restrictions contained in or forming part of an agreement, commitment or understanding in respect of the share that

- (a) create a debt between the holder or beneficial owner of the share and any other person,
 - (b) impair or will impair the ability of a venture capital corporation to maintain the levels of equity capital invested in eligible investments required by section 8 of the Act,
 - (c) impair or will impair the ability of a corporation, in which a venture capital corporation has made an eligible investment, to carry on an ongoing business with a reasonable expectation of profit, or
 - (d) will entitle the holder or beneficial owner of the share to reduce the impact of any loss the holder or beneficial owner of the share will sustain in holding or disposing of the share.
- (2) Notwithstanding subsection (1), prescribed rights and restrictions do not include rights and restrictions that become operative upon the death, permanent disability, bankruptcy or other similar hardship of a shareholder of the venture capital corporation or the small business in which the venture capital corporation makes an eligible investment if that shareholder is a party to a contract with the venture capital corporation and the small business.
- (3) For the purpose of subsection (2), “**similar hardship**” means a hardship that, in the opinion of the administrator, warrants overriding the considerations referred to in subsection (1).

[am. B.C. Reg. 64/2021, s. 2.]

Eligible business corporation – permitted share transfers

3.1 The following circumstances are prescribed for the purposes of section 28.6 (5) (d) of the Act:

- (a) the transfer is a direct transfer of shares or convertible rights by the purchaser to the purchaser’s retirement savings plan or registered retirement income fund;
- (a.1) the transfer is a direct transfer of shares or convertible rights by the purchaser to the purchaser’s TFSA;
- (b) the transfer is a direct transfer of shares or convertible rights by the purchaser to a spousal retirement savings plan or registered retirement income fund;
- (c) the transfer is a transfer of a share or a convertible right to an executor or estate due to the death of a purchaser;
- (d) in the case of a share transfer, the share transfer occurs as the result of a company share exchange right, share reorganization, acquisition or amalgamation and
 - (i) the eligible business corporation remains registered under section 28.2 of the Act, and

- (ii) the registered owner of the share is the same after the share transfer takes place;
- (e) the transfer occurs as the result of the exercise of a warrant, option or right entitling the holder to purchase or acquire an equity share of an eligible business corporation as defined paragraph (a) of the definition of “equity share” in section 1 of the Act and the registered owner of the equity share so purchased or acquired is the same as the registered holder of the warrant, option or right.

[en. B.C. Reg. 145/2003, s. 2; am. B.C. Regs. 267/2004, s. (b); 182/2019, Sch. 3, s. 2.]

Minimum capital requirements

- 3.2** (1) For the purposes of section 8 (2) (a) of the Act, a venture capital corporation must have invested in eligible investments
- (a) an amount at least equal to 40% of the equity capital it has raised during any fiscal year, by the end of its first following fiscal year, and
 - (b) an amount at least equal to 80% of the equity capital it has raised during any fiscal year, by the end of its second following fiscal year.
- (2) For the purposes of section 8 (2) (b) of the Act, the a venture capital corporation must keep the amounts referred to in subsection (1) invested in eligible investments for at least 5 years after the date of the applicable investment.
- (3) An amount referred to in subsection (a) or (b) is reduced by the amount of any dividend paid from the venture capital corporation to its shareholders or associates if the dividend is not one that is paid from the venture capital corporation’s
- (a) net income, or
 - (b) retained earnings
- calculated in accordance with generally accepted accounting principles.

[en. B.C. Reg. 145/2003, s. 2.]

Additional information for application

- 4** The information or documents the administrator may request under section 2 (3) of the Act may include a share subscription agreement in a form and containing information satisfactory to the administrator.

Additional conditions for registration

- 5** (1) The articles of a company applying for registration under the Act must provide that fees or remuneration of any kind to any shareholder, director or officer of the company, or to any affiliate or associate of those persons, are prohibited except as permitted by an annual special resolution.
- (2) Repealed. [B.C. Reg. 267/2004, s. (c).]

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- (3) It is a condition under section 3 (1) (g) of the Act that the articles of the venture capital corporation state that a majority of the directors of the corporation must be ordinarily resident in British Columbia.
- (4) It is a condition under section 3 (1) (g) of the Act that the articles of the venture capital corporation state that on registration of the company under the *Small Business Venture Capital Act* the company is subject to the *Small Business Venture Capital Act*.
- (5) Despite the *Business Corporations Act*, a venture capital corporation, subject to its memorandum and articles,
- (a) may allot or issue fractional shares for any purpose, and
 - (b) may purchase or redeem any of its fractional shares and need not consolidate them into whole shares.
- [am. B.C. Regs. 145/2003, s. 3; 267/2004, s. (c); 68/2021, s. (b).]

Register to contain additional information

- 6 In addition to the information referred to in section 4 (3) of the Act, the register of the venture capital corporation must also include the following information:
- (a) the principal place of business of the venture capital corporation;
 - (b) the total amount of equity capital approved under sections 3 (4) and 9 of the Act;
 - (c) the amount of equity capital, to the knowledge of the administrator, that the venture capital corporation has raised;
 - (d) the amount that the venture capital corporation has, to the knowledge of the administrator, invested in eligible investments.

Calculation period

- 7 For the purposes of sections 9 to 11, “**calculation period**” means
- (a) where a small business or affiliate of a small business has been in business for a period of less than one year as at the date of the calculation, that entire period, or
 - (b) where a small business or affiliate of a small business has been in business for one year or longer, the 52 weeks just ended at the date of the calculation.

Deemed amount of investment

- 8 (1) For the purposes of section 8 (2) of the Act, the amount of equity capital invested by a venture capital corporation in an eligible investment is deemed to be zero as at the date the investment was made if an agreement, commitment or understanding in respect of that investment may result in the acquisition of that investment from the venture capital corporation within 5 years or such shorter time as the administrator specifies.

- (2) Subsection (1) does not apply with respect to an agreement, commitment or understanding authorizing the acquisition of the investment on the death, permanent disability, bankruptcy or similar hardship of a shareholder of the venture capital corporation or the small business in which the venture capital corporation makes an eligible investment if that shareholder is a party to a contract with the venture capital corporation and the small business.
- (3) For the purposes of subsection (2), “**similar hardship**” means a hardship that, in the opinion of the administrator, warrants overriding subsection (1).

Small business – number of employees

- 9** (1) The number of employees of a corporation must be calculated, at the option of the venture capital corporation, in accordance with either of the following formulas:

$$(a) \text{ Number of Employees} = \frac{\text{Total Hours}}{40 \times w}$$

where

Total Hours = the total hours worked by all employees each of whom worked for at least 20 hours (counting all time worked by each employee whether for the small business, any of its affiliates or both) during any week of the calculation period, and

w = the number of weeks in the calculation period;

$$(b) \text{ Number of Employees} = \frac{\text{Employee Costs} \times 52}{w} \div 45\,000$$

where

Employee Costs = all amounts paid or payable by the small business to or on behalf of employees for work performed or services provided by them during the calculation period, and

w = the number of weeks in the calculation period.

- (2) For the purpose of section 10 (1) (a) of the Act, the number of employees of a small business together with its affiliates, is the sum of the number of employees calculated pursuant to subsection (1) of this section for the small business and each of its affiliates.

[am. B.C. Reg. 145/2003, s. 4.]

Determination of wages and salaries

- 10** (1) The percentage of wages and salaries that are paid to employees of a corporation or corporations for the purposes of section 10 (1) (b) of the Act must be determined in accordance with the following formula:

$$\text{Percentage of wages and salaries} = \frac{\text{Wages (B.C.)}}{\text{Total Wages}} \times 100$$

where

Wages (B.C.) = the total remuneration that was paid to employees, of the corporation or corporations, who regularly reported to work at operations located in British Columbia during the calculation period, and

Total Wages = the total remuneration that was paid to all employees, of the corporation or corporations, during the calculation period.

- (2) In the case of a small business engaged in the export of goods from British Columbia or in the provision of services outside British Columbia, the percentage of wages and salaries required by section 10 (1) (b) (i) and (ii) of the Act is deemed to be at least 50%.

Business activities

- 11** (1) The following are business activities for the purposes of sections 9 (c), 10 (1) (c) and 28.3 (3) of the Act:
- (a) the manufacture and processing of goods within British Columbia, including services that are directly associated with the export of the goods and are provided inside or outside of British Columbia;
 - (b) the development and operation of a destination tourist resort, a tourist attraction or a tourist service, if 50% or more of the gross revenue of the resort, attraction or service is derived from tourists;
 - (c) the research and development of proprietary technologies produced within British Columbia including services that are directly associated with the export of the technology and are provided inside or outside of British Columbia;
 - (d) an activity
 - (i) that is carried on by a business located in a region outside the Metro Vancouver Regional District or the Capital Regional District, and
 - (ii) that promotes community diversification within the region;
 - (e) the development within British Columbia for commercial exploitation of interactive digital media product that
 - (i) educates, informs or entertains the user,
 - (ii) presents information using at least 2 of the mediums of text, sound or visual images,
 - (iii) is not developed for internal use for the promotion of the qualifying business including its products or services,
 - (iv) is not used primarily for interpersonal communication, and

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- (v) is not, based on inquiries the administrator considers adequate and appropriate, a product for which public financial support would be contrary to public policy;
 - (f) the manufacture and processing and research and development within British Columbia for commercial exploitation of technologies that
 - (i) increase energy efficiency and conservation,
 - (ii) reduce greenhouse gas emissions, or
 - (iii) reduce the environmental impact of energy production, generation, storage, transmission, delivery, provision or conversion;
 - (g) advanced commercialization that
 - (i) involves the use of digital technology tools to assist other businesses with scale-up activities, and
 - (ii) is carried on by a business located in a region outside the Metro Vancouver Regional District or the Capital Regional District;
 - (h) a scale-up activity
 - (i) related to the expansion of a business that is or was engaged in a business activity described in paragraphs (a) to (g) of this subsection, and
 - (ii) that is carried on by that business.
- (2) Despite subsection (1), a business activity prescribed or described under subsection (1) does not include
- (a) primary resource exploration or extraction,
 - (b) financial services such as providing loans, selling insurance or real estate or trading in securities,
 - (c) property management or the rental or leasing of land or improvements,
 - (d) the development of or improvement to land,
 - (e) agricultural activities other than non-traditional agricultural activities such as
 - (i) game farming,
 - (ii) specialized small crops, livestock and poultry production, or
 - (iii) high technology enterprises,
 - (f) retail and commercial services other than
 - (i) services referred to in subsection (1) (a) and (b),
 - (ii) services referred to in subsection (1) (b) that are provided by a small business that derives more than 50% of its gross revenue from the provision of services to tourists,
 - (iii) an activity referred to in subsection (1) (d), or
 - (iv) advanced commercialization referred to in subsection (1) (g),
 - (g) restaurant or food services, or

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- (h) the lease of tangible or intangible personal property to a person for the person's personal consumption or use.
- (2.1) The administrator may exercise the administrator's discretion to the extent required in reaching a conclusion that a business activity is one described in subsection (1) or (2).
- (2.2) Despite subsection (1), advanced commercialization under subsection (1) (g) does not include any of the following:
- (a) direct sales;
 - (b) traditional advertising services such as print, radio, television, mail, email, telephone and outdoor advertising;
 - (c) multi-level marketing, pyramid-selling, network marketing or other forms of referral marketing;
 - (d) public relations;
 - (e) business strategy, advisory or consulting services;
 - (f) the operation of a call centre.
- (2.3) Despite subsection (1), a scale-up activity under subsection (1) (h) does not include an activity related to the expansion of
- (a) a small business, other than an eligible business corporation, unless
 - (i) for the 2 previous years the small business has been substantially engaged in a business activity described in subsection (1) (a) to (g), and
 - (ii) it is more than 2 years after the first investment in the small business under section 10 of the Act, or
 - (b) an eligible business corporation, unless
 - (i) for the 2 previous years the eligible business corporation has been substantially engaged in a business activity described in subsection (1) (a) to (g), and
 - (ii) it is more than 2 years after the eligible business corporation first raised additional equity capital under Part 2 of the Act.
- (3) For the purposes of sections 9 (c), 10 (1) (c) and 28.3 (3) of the Act, a small business is substantially engaged in a business activity prescribed or described under subsection (1)
- (a) if the result obtained from the following formula is greater than 0.5:

$$\frac{\textit{Activity Assets} + \textit{Activity Expenses}}{\textit{Total Assets} + \textit{Total Expenses}}$$

where, for the purposes of this paragraph,

<i>Activity Assets</i>	=	the value of assets of the small business used in British Columbia in the business activity,
<i>Total Assets</i>	=	the total value of all assets of the small business,
<i>Activity Expenses</i>	=	all expenses incurred during the calculation period with respect to the portion of the business activity carried on in British Columbia, and
<i>Total Expenses</i>	=	the total of all expenses incurred during the calculation period with respect to all operations of the small business,

(b) if the small business' permanent establishment as determined under the *Income Tax Act* (Canada) is located in British Columbia, and

(c) if not more than 20% of the small business' assets are located outside of British Columbia.

(4) For the purpose of the calculation in subsection (3) (a) of this section, the value of assets and expenses must be determined in accordance with generally accepted accounting principles.

[am. B.C. Regs. 478/98, s (a); 219/99, s. 1; 215/2000, s. 1; 145/2003, s. 5; 209/2008, s. 2; 265/2010, Sch. s. 1; 182/2019, Sch. 1 and Sch. 2, s. 2; 64/2021, s. 3.]

Prescribed aggregate amount

11.1 (1) For the purposes of section 15 (1) (a) of the Act, the prescribed amount is \$10 million.

(2) For the purposes of section 15 (1) (b) of the Act,

(a) the prescribed amount is \$10 million, and

(b) the prescribed period is the previous 2 years.

[en. B.C. Reg. 62/2007; am. B.C. Reg. 407/2008.]

Annual expense limits

12 (1) A venture capital corporation may incur annual expenses of no more than 20% of its equity capital raised under section 9 of the Act, other than expenses paid out of retained earnings, if

(a) the expenses are reasonable and are incurred for

(i) share issuance,

(ii) office occupancy,

(iii) legal fees,

(iv) preparation of financial accounts by an external accountant,

(v) preparation of the annual return under section 20, or

(vi) a management fee of no more than 3% per annum of the equity capital raised, and

(b) any expenses paid to a person who controls directly or indirectly, or who belongs to a group that controls directly or indirectly, the venture capital corporation have been specifically approved by special resolution in advance of payment and are made to a person whose business it is to provide the services or things in respect of which the expenses were incurred.

(2) For the purposes of subsection (1), retained earnings and expenses must be determined in accordance with generally accepted accounting principles.

[am. B.C. Reg. 145/2003, s. 6.]

Calculation re section 19 (9) of the Act

13 An amount authorized under section 19 (9) of the Act to be paid out of the investment protection account must be the lesser of

- (a) 30% of the amount for which the share acquired was originally issued, or
- (b) the amount deposited in the investment protection account in respect of the share acquired.

Notice to administrator

14 A venture capital corporation or eligible business corporation must within 30 days notify the administrator

- (a) of ceasing to maintain a place of business, or a permanent establishment, as defined in the *Income Tax Act*, in British Columbia,
- (b) of changing its registered office under the *Business Corporations Act*,
- (c) of acquiring a different or additional place of business or permanent establishment, as defined in the *Income Tax Act*, in British Columbia or elsewhere,
- (d) of changing its fiscal year end,
- (e) of failing to comply with section 8 (2), 12 (1), 13 (1), 14, 15, 16 (1), 17, 18 (1) or (2), 19, 28.3, 28.4, 28.5, 28.6 (3), 28.6 (4) or 28.93 of the Act,
- (f) if an investment held by a venture capital corporation or eligible business corporation ceases to meet the criteria set out in section 10 (1) (b) or (c) of the Act,
- (g) of directly or indirectly acquiring, redeeming or canceling one of its own shares,
- (h) of passing a resolution referred to in section 23 (a) to (c) or 24 (1) (a) or (b) of the Act, or
- (i) of taking or having taken against it action referred to in section 25 (b) to (h) of the Act.

[am. B.C. Regs. 145/2003, s. 7; 68/2021, s. (b).]

Fair market value

- 15** The onus of demonstrating that goods and services are sold for fair market value to a small business in accordance with sections 12 (1) (e) and 28.93 (e) of the Act is on the venture capital corporation and the small business.

[am. B.C. Reg. 145/2003, s. 8.]

Other prohibited investments

- 16** Section 12 (1) (g) (iv) of the Act does not apply where all or part of the proceeds of the investment referred to in that section are directly or indirectly used, or intended to be used, by the small business to purchase any assets of a proprietorship, partnership, joint venture, trust or corporation
- (a) for utilization in a business or activity that is neither the same as nor similar to any business or activity that the seller of the assets to the small business carried on before, or at the time of, the sale of the assets to the small business,
 - (b) that is the subject of a proposal to, or arrangement with, its creditors that has been approved by the court under the *Bankruptcy and Insolvency Act* (Canada), or
 - (c) if all or substantially all of the purchased assets are under the control of a receiver, receiver manager, sequestrator or trustee in bankruptcy.

Other permitted investments

- 17** For purposes of section 18 (1) (e) of the Act, securities, as defined by the *Trustee Act*, that are issued by the government of British Columbia or Canada, are permitted investments.

Permitted investment in a security

- 18** A venture capital corporation must not make an investment in a security under section 18 (1) (c) of the Act unless the security is issued directly to the venture capital corporation by the small business.

- 19** Repealed. [B.C. Reg. 478/98, s. (b).]

Reporting requirements

- 20** For the purposes of section 29 of the Act, a venture capital corporation must, with respect to its most recently ended fiscal year, include the following information in its annual return:
- (a) the amount of equity capital raised by the venture capital corporation;
 - (b) the aggregate value at cost of investments made by the venture capital corporation, the name of each small business the equity shares of which the venture capital corporation sold and the value at cost of those equity shares;
 - (c) the balance held in the investment protection account of the venture capital corporation at the end of the fiscal year;

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- (d) the aggregate amount of expenses incurred by the venture capital corporation and the amount paid as management fees;
 - (e) whether any fees or remuneration were paid to the shareholders, officers or directors of the venture capital corporation or to any associate or affiliate of any of them by a small business in which the venture capital corporation made an eligible investment;
 - (f) whether the articles of the venture capital corporation were amended in a manner that changed the authorized share structure of the venture capital corporation or altered any rights or restrictions attached to any share of the venture capital corporation;
 - (g) the amount of all dividends received by the venture capital corporation in respect of an eligible investment made by it in a small business;
 - (h) whether the venture capital corporation redeemed any of its shares;
 - (i) whether a share redemption referred to in paragraph (h) was reported to the administrator;
 - (j) in relation to a share redemption referred to in paragraph (h) that was not reported to the administrator, the name of each investor whose shares were redeemed, the date of each redemption, the number of shares redeemed in each redemption, the investor's cost of each share redeemed in each redemption and the consideration paid by the venture capital corporation in respect of the redemption;
 - (k) whether the venture capital corporation paid any expenses to any person or group of persons who, at the time the payment was made, directly or indirectly controlled the venture capital corporation;
 - (l) whether the venture capital corporation notified the administrator of the occurrence of any events referred to in section 14.

[en. B.C. Reg. 63/2007, s. 1 (a); am. B.C. Reg. 182/2019, Sch. 3, s. 3.]

Annual maximum venture capital incentive

- 21** (1) For the purposes of section 29.1 (1) of the Act, the annual maximum venture capital tax credit is
- (a) \$41 000 000 for the 2022, 2023 and 2024 calendar years, and
 - (b) \$38 500 000 for the 2025 calendar year and each subsequent year.
- (2) The following portions of the annual maximum venture capital tax credit are allocated as follows:
- (a) \$3 000 000 to business activities described in section 11 (1) (d) or in section 11 (1) (h) that relate to the expansion of a business that is or was engaged in business activities described in section 11 (1) (d);
 - (b) \$5 000 000 to business activities described in section 11 (1) (e) or in section 11 (1) (h) that relate to the expansion of a business that is or was engaged in business activities described in section 11 (1) (e);

- (c) to business activities described in section 11 (1) (f) or in section 11 (1) (h) that relate to the expansion of a business that is or was engaged in business activities described in section 11 (1) (f),
 - (i) \$10 000 000 for the 2022, 2023 and 2024 calendar years, and
 - (ii) \$7 500 000 for the 2025 calendar year and each subsequent year;
- (d) \$3 000 000 to eligible new corporations.

[en. B.C. Reg. 265/2010, Sch. s. 2; am. B.C. Regs. 228/2012, s. 2; 93/2015; 116/2016; 46/2017; 182/2019, Sch. 2, s. 3; 124/2022.]

Application to Supreme Court

- 22** An application for an order under section 31 (3) of the Act shall be made in accordance with the Supreme Court Civil Rules.

[am. B.C. Reg. 168/2010.]

FORM 1

Repealed. [B.C. Reg. 478/98, s. (c).]

FORM 2

Repealed. [B.C. Reg. 63/2007, s. 1 (b).]

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