

Law Reform Commission Of British Columbia

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Backgrounder

LRC 144—Report on Conflict of Interest: Directors and Societies

Date: August 1995

Introduction

Incorporation as a society is probably the most familiar form organizations in the non-profit sector will take. The rise of the non-profit sector represents a major shift in structure and approach for delivering community services. The array of services provided by the non-profit sector is astonishing, as is the amount of money that is being placed in its hands. But the rules for non-profit agencies, and the relationship among the non-profit sector, government and the for-profit sector has yet to be clearly delineated. Nor are all of the structures and support services that government and commerce regard as essential for their purposes yet present for the non-profit sector, although they are being developed.

Many questions concerning conflicts of interest rules for government and for business have been worked out. In contrast, the rules for the non-profit sector are largely amorphous. Work in devising appropriate conflicts rules for non-profit organizations should be regarded as part of the necessary process of (a) defining relationships within the non-profit sector, (b) defining relationships among the non-profit sector, government and business, and (c) developing support services for the non-profit sector. This work must be carried out if the non-profit sector is to be expected to fulfil the mandate entrusted to it.

This project was referred to the Law Reform Commission (“Commission”) in 1993 with the goal of reviewing whether the general rules that govern conflicts of interest in relation to societies and their officers continue to meet public expectations. The focus of our study has been societies, but the issues and the responses to them are not strictly confined to those bodies.

Objectives

The objectives of the project are to:

- Carry out reviews and make recommendations as to whether there was a need to revise the conflicts of interest rules that apply to directors of societies.
- Generate a consultation paper for comments and review as well as a report containing concrete, balanced recommendations in relation to the issue.

Rationale for the Project

The Honourable E.N. (Ted) Hughes, Commissioner of Conflicts of Interest, was asked by the Victoria Commonwealth Games Society to inquire into its rules for awarding contracts. One of the recommendations Mr. Hughes made to the Attorney General and the Minister of Recreation was to ask the Law Reform Commission to consider whether there was a need to revise the conflicts of interest rules that apply to directors of societies.

Currently, a director of a society may enter into a transaction with the society so long as the director's interest is disclosed and the transaction is approved by the other directors. The rules permit a director to profit personally from the connection with the society. Many people have doubted the appropriateness of such a result and the effectiveness of the existing conflict of interest rules, particularly when the society is funded by what is, in substance, public money.