

Buying Dirt Part 3: Restrictions On Foreign Ownership & Acquisitions Of Farm Land In Saskatchewan



This article is part three of MLT Aikins's "Buying Dirt" series discussing restrictions on acquisitions of rural property across Western Canada by non-Canadian corporations, individuals, partnerships and other persons. This article discusses Saskatchewan.

- [Read part 1 – detailing Alberta's restrictions](#)
- [Read part 2– detailing Manitoba's restrictions](#)

In an effort to protect Saskatchewan's agricultural industry and prime agricultural lands, the provincial government in Saskatchewan has historically imposed significant restrictions on foreign or non-Canadian ownership of agricultural land in the province through *The Saskatchewan Farm Security Act*, SS 1988-89, c S-17.1 (the "**Act**") and *The Saskatchewan Farm Security Regulations*, c S-17.1, Reg 1 (the "**Regulations**").

Individuals, corporations, partnerships and other entities seeking to acquire farm lands and land holdings in Saskatchewan should be aware that such acquisition by non-Canadian individuals, corporations and other entities is restricted.

This article provides an overview of the restrictions on

ownership of farm land in Saskatchewan, available exemptions for non-Canadian individuals, corporations and other entities, and the offences that a non-Canadian person may be subject to under the Act and Regulations if found in violation. Being aware of these restrictions at the outset of your real estate transactions in Saskatchewan can save both time and legal expense, and avoid the possible financial consequences of fines and divesting land holdings if you are found to be non-compliant.

Definitions of farm land and land holdings

Part VI of the Act imposes restrictions on non-Canadian ownership of land holdings in Saskatchewan. The Act defines **“land holdings”** broadly to include not only farm land, but also interests in farm land which include:

- leasehold interests
- interests under an agreement for purchase and sale
- any interest under any agreement that directly or indirectly results in vesting of title to farm land, confers a right of possession, or confers any right of control normally accruing to an owner of farm land, and
- any shares (both voting or non-voting) in a corporation having a land holding that are legally or beneficially owned

“Farm land” is defined broadly to include all real property in Saskatchewan that is located outside of cities, towns, villages, hamlets and resort villages and that is used or capable of being used for the purposes of farming. Minerals, lands that are primarily used for extracting, storing, processing and transporting minerals, and lands used for extracting sand and gravel are all excluded from this definition.

Additionally, **“farming”** has been defined broadly to capture

common activities such as raising livestock and poultry, dairying, beekeeping and tilling soil, as well as those activities producing animals and primary agricultural produce.

Land does not need to be actively farmed to be captured under the definition of “farm land” – they merely need to be capable of being used for farming. Because lands that are capable of being used for farming are caught by the definition of “farm land”, it is easy to see how, for example, someone acquiring land previously used for a non-farming use in a rural area (e.g. a former roadway, outfitting business or other non-farming use) but which is now “capable of being farmed” may not anticipate the acquisition will be subject to the restrictions on foreign ownership when completing the purchase.

Restrictions on ownership by non-Canadian entities and exceptions to the restrictions

The Act and Regulations introduce several restrictions that limit the total acreage and assessed value of the land holdings that non-resident persons and non-Canadian-owned entities can have or acquire in Saskatchewan.

Under Section 77 of the Act, and subject to the exceptions noted in that section, a non-resident person is restricted from having or acquiring land holdings that, in the aggregate, bear an assessed value exceeding \$15,000 for property tax purposes (excluding the value of any buildings or land improvements). Corporations and other non-Canadian-owned entities face a similar restriction with respect to the total acreage of their land holdings. Section 84 of the Act limits a non-Canadian-owned entity from having or acquiring land holdings exceeding 10 acres in the aggregate.

Whether the restrictions on land holdings under the Act will

apply to a person, corporation or other entity depends on whether they are captured by the definitions of “non-Canadian-owned entity” or “non-resident person.”

Section 76(g) defines a “**non-Canadian-owned entity**” as any person or entity, which includes a corporation or other entity (such as a partnership, syndicate, joint venture, co-operative and association, etc.) that is not a Canadian-owned entity, or where the shares of such corporation or entity are listed on an exchange. To be considered a “Canadian-owned entity” under the Act, all of the shares or interests of a corporation or other entity must be legally and beneficially owned and all memberships held by resident persons or other Canadian-owned entities.

“**Resident persons**” are defined to include a Canadian citizen or a permanent resident within the meaning of the *Immigration and Refugee Protection Act*. Therefore, if a corporation seeking to acquire land in Saskatchewan has shares that are publicly traded on any exchange, such as the Toronto Stock Exchange or the New York Stock Exchange, or its ownership chain includes a corporation that has shares listed on an exchange, this corporation may be considered a “non-Canadian-owned entity” under the Act and its land holdings subject to the applicable limits prescribed by the Act.

Additionally, the Act expressly prohibits any person (which includes a corporation or entity) from acquiring a land holding on behalf of a non-resident person or non-Canadian-owned entity where acquiring the land holding on their behalf would contravene the Act.

Further, Section 89(1) expressly restricts pension plans, a trust other than a trust with less than 10 beneficiaries that are all resident persons, and anyone prescribed in the Regulations, among other specifically enumerated classes of persons, from acquiring any land holdings in Saskatchewan, regardless of acreage and assessed value.

Available exemptions, the exemption process and exceptions

Despite the restrictions and limitations on farm land ownership imposed by the Act and Regulations, there are several listed exceptions. Section 6 of the Regulations, and Sections 82 and 83 of the Act, detail those circumstances, corporations and entities where Part VI of the Act is expressly stated not to apply, some of which include:

- the Saskatchewan Wildlife Federation and its land holdings, up to 104,000 acres
- land holdings acquired under a Framework Agreement, as defined in *The Treaty Land Entitlement Implementation Act*
- acquisitions by a non-resident person through intestacy or devise, provided that such non-resident person disposes of land in excess of the permitted acreage within five years
- land holdings transferred to a spouse, or a parent, grandparent, son, daughter, grandson, granddaughter, brother, sister, nephew or niece, or the spouse of any of the foregoing if the transferor was a resident person during the 5 years prior to the transfer and was a resident person at the time of acquiring the land holding.

Additionally, where a non-Canadian-owned entity or non-resident person is seeking to acquire land holding(s) in Saskatchewan exceeding the acreage and assessed value limits under the Act, Sections 84(2) and 91 provide an avenue for such entity or non-resident person to seek an exemption order from the Farm Land Security Board (the “**Board**”) to exempt the non-Canadian-owned entity and non-resident person from the application of the Act. The Board is authorized to grant such exemption order, on any terms and conditions they deem fit, where the Board determines such exemption is appropriate,

which includes considering whether the exemption is in the best interests of agriculture in Saskatchewan.

The costs of applying to the Board for an exemption order are relatively inexpensive, beginning at \$50 for the first 640 acres or four quarter sections, plus \$10 for each 160 acres or quarter section involved in the application, up to a maximum of \$200. The application process does not normally exceed six weeks.

Penalties and consequences for violating the Act and Regulations

If any person, corporation or other entity is found in violation of the Act or Regulations with respect to having or acquiring land holdings, the consequence under the Act range from fines and imprisonment, to forced divestiture:

- Where an individual violates Part VI of the Act or the Regulations and no specific penalty is provided, such individual may be found guilty of an offence and liable on summary conviction to a fine up to \$50,000, a prison term up to six months, or both,
- Where a corporation, partnership or other entity violates Part VI of the Act or the Regulations, it may be found guilty of an offence and liable to a fine up to \$500,000. Additionally, directors, officers or agents of such corporation or other entity may also be found guilty of the offence if they have directed or acquiesced in the act or omission, and may be personally liable for the penalties provided for the offence committed.
- The Board may issue an administrative penalty up to \$10,000 where they have found a person (including a corporation) contravened Part VI of the Act or the Regulations.
- Section 94(1) requires any person with a land holding

contravening the Act to immediately reduce their aggregate land holdings to become compliant with the Act. If such person fails to divest their land holdings, the Board may issue an order forcing them to do so.

To enforce compliance in Saskatchewan with the restrictions under the Act and Regulations, Section 90(1) of the Act enables the Board to require any person, corporation or entity who acquires or proposes to acquire a land holding to complete a statutory declaration setting out the following information:

- their name and address
- a statement that they are or are not a resident person
- the legal description of the farm lands being acquired
- the source of any funding used to acquire the farm lands, and
- a statement that the person acquiring or proposing to acquire the farm lands obtained independent legal advice about the application of Part VI of the Act restricting non-Canadian ownership of land holdings in Saskatchewan

The power to request a statutory declaration be completed is in addition to the investigate powers granted under Section 95(1) of the Act, which allow the Board to investigate the acquisition or potential acquisition of a land holding where the Board has reason to believe it may violate the Act.

Any person required to provide a statutory declaration to the Board and who fails to do so may be found guilty of an offence and liable on summary conviction to a fine up to \$1,000.

Things to consider before acquiring land in Saskatchewan

Non-Canadian individuals, corporations and other entities that are considering acquiring farm land, including land that is capable of being farmed, in Saskatchewan must be mindful of the restrictions on ownership of farm land in the province.

Considering the potential impact of the Act and Regulations on such a transaction at an early stage, including before entering into any agreement to acquire an interest in farm land, can save both time and the potential, and costly, process of divesting any land holdings that have been acquired in violation of the Act and Regulations.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Authors: [Natasha Hepp](#), [Bob Kasian](#), [Kayla Romanow](#), [Samer Awadh](#), [Scott Exner](#)

MLT Aikins LLP