

CANADIAN PRESENCE REQUIREMENTS FOR REGISTRANTS

VERSION 1.2

POSTING DATE: OCTOBER 31, 2000

EFFECTIVE DATE: NOVEMBER 8, 2000

1. **Overview.** After public consultation, CIRA has determined that the .ca domain space should be developed as a key public resource for the social and economic development of all Canadians. Accordingly, persons who wish to register a .ca domain name or sub-domain name on and after November 8, 2000 must meet certain Canadian Presence Requirements.

While the Canadian Presence Requirements for Registrants set out below still require a connection to Canada, they will enable a much broader group of persons to register a .ca domain name than under the rules of the University of British Columbia (UBC) registry.

Existing Registrants under the UBC system will not have to meet these Canadian presence requirements when they apply to re-register with CIRA a domain name that is the subject of an existing registration. CIRA hopes this will make it easier for existing registrants of the registry operated by UBC when they apply to CIRA for a new registration.

CIRA is committed to reviewing these Canadian Presence Requirements from time to time in order to ensure they remain in the best interests of Canadians and the .ca registry.

2. **Canadian Presence Requirements.** On and after November 8, 2000 only the following individuals and entities will be permitted to apply to CIRA (through a CIRA certified registrar) for the registration of, and to hold and maintain the registration of, a .ca domain name:

- (a) **Canadian citizen.** A Canadian citizen of the age of majority under the laws of the province or territory in Canada in which he or she resides or last resided;
- (b) **Permanent resident.** A permanent resident as defined in the *Immigration Act* (Canada) R.S.C. 1985, c.I-2, as amended from time to time, who is ordinarily resident in Canada (as defined below) and of the age of majority under the laws of the province or territory in Canada in which he or she resides or last resided;
- (c) **Legal representative.** An executor, administrator or other legal representative of a Person listed in paragraph (a) and (b) above;
- (d) **Corporation.** A corporation under the laws of Canada or any province or territory of Canada;
- (e) **Trust.** A trust established and subsisting under the laws of a province or territory of Canada, more than 66 K % of whose trustees meet one of the conditions set out in paragraphs (a) to (d) above;

- (f) **Partnership.** A partnership, more than 66 K % of whose partners meet one of the conditions set out in paragraphs (a) to (e) above, which is registered as a partnership under the laws of any province or territory of Canada;
- (g) **Association.** An unincorporated organization, association or club:
 - (i) at least 80% of whose members: (A) are ordinarily resident in Canada (if such members are individuals); or (B) meet one of the conditions set out in paragraphs (a) to (f) above (if such members are not individuals); and
 - (ii) at least 80% of whose directors, officers, employees, managers, administrators or other representatives are ordinarily resident in Canada;
- (h) **Trade union.** A trade union which is recognized by a labour board under the laws of Canada or any province or territory of Canada and which has its head office in Canada;
- (i) **Political party.** A political party registered under a relevant electoral law of Canada or any province or territory of Canada;
- (j) **Educational institution.** Any of the following:
 - (i) a university or college which is located in Canada and which is authorized or recognized as a university or college under an Act of the legislature of a province or territory of Canada; or
 - (ii) a college, post-secondary school, vocational school, secondary school, pre-school or other school or educational institution which is located in Canada and which is recognized by the educational authorities of a province or territory of Canada or licensed under or maintained by an Act of Parliament of Canada or of the legislature of a province or territory of Canada;
- (k) **Library, Archive or Museum.** An institution, whether or not incorporated, that:
 - (i) is located in Canada; and
 - (ii) is not established or conducted for profit or does not form part of, or is not administered or directly or indirectly controlled by, a body that is established or conducted for profit, in which is held and maintained a collection of documents and other materials that is open to the public or to researchers;
- (l) **Hospital.** A hospital which is located in Canada and which is licensed, authorized or approved to operate as a hospital under an Act of the legislature of a province or territory of Canada;

- (m) **Her Majesty the Queen.** Her Majesty Queen Elizabeth the Second and her successors;
- (n) **Indian band.** Any Indian band as defined in the *Indian Act*, R.S.C. 1985, c. I-5, as amended from time to time, and any group of Indian bands;
- (o) **Aboriginal Peoples.** Any Inuit, First Nation, Metis or other people indigenous to Canada, any individual belonging to any Inuit, First Nation, Metis or other people indigenous to Canada and any collectivity of such Aboriginal peoples;
- (p) **Government.** Her Majesty the Queen in right of Canada, a province or a territory; an agent of Her Majesty the Queen in right of Canada, of a province or of a territory; a federal, provincial or territorial Crown corporation, government agency or government entity; or a regional, municipal or local area government;
- (q) **Trade-mark registered in Canada.** A Person which does not meet any of the foregoing conditions, but which is the owner of a trade-mark which is the subject of a registration under the *Trade-marks Act* (Canada) R.S.C. 1985, c.T-13 as amended from time to time, but in this case such permission is limited to an application to register a .ca domain name consisting of or including the exact word component of that registered trade-mark; or
- (r) **Official marks.** A Person which does not meet any of the foregoing conditions, but which is a Person intended to be protected by Subsection 9(1) of the *Trade-Marks Act* (Canada) at whose request the Registrar of Trade-marks has published notice of adoption of any badge, crest, emblem, official mark or other mark pursuant to Subsection 9(1), but in this case such permission is limited to an application to register a .ca domain name consisting of or including the exact word component of such badge, crest, emblem, official mark or other mark in respect of which such Person requested publications.

3. For the purposes of this policy:

- (a) **“ordinarily resident in Canada”** means an individual who resides in Canada for more than 183 days in the twelve month period immediately preceding the date of the applicable application for registration of the .ca domain name or sub-domain name and in each twelve month period thereafter for the duration of the domain name registration; and
- (b) **“Person”** includes an individual, a corporation, a partnership, a trust, an unincorporated organization, association or club, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity, a “person” as defined in the *Trade-marks Act* (Canada) and a Person intended to be protected by Subsection 9(1) of the *Trade-marks Act* (Canada).

4. Notwithstanding paragraph 1 above, each registrant of a .ca domain name or sub-domain name registration which is registered in the .ca registry operated by UBC prior to November 8, 2000 shall be deemed to satisfy the Canadian presence requirements described in paragraph 1 above with respect only to an application by such registrant to CIRA to register such .ca domain name or sub-domain name.