



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

EGG FARMERS OF ALBERTA PLAN REGULATION

Alberta Regulation 258/1997

With amendments up to and including Alberta Regulation 26/2014

Office Consolidation

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(Consolidated up to 26/2014)

ALBERTA REGULATION 258/97

Marketing of Agricultural Products Act

EGG FARMERS OF ALBERTA PLAN REGULATION

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Definitions

- 1 In this Plan,
 - (a) “Act” means the *Marketing of Agricultural Products Act*;
 - (a.1) “assets” means economic resources controlled by the body as a result of past transactions and from which future economic benefits may be obtained;
 - (a.2) “auditor” means a person registered under the *Regulated Accounting Profession Act* or a firm or partnership of those persons;
 - (b) “Board” means the Egg Farmers of Alberta;
 - (c) “Canada Act” means

- (i) the *Farm Products Agencies Act* (Canada);
- (ii) the *Agricultural Products Marketing Act* (Canada);
- (d) “Council” means the Alberta Agricultural Products Marketing Council;
- (e) “eggs” includes any class of eggs or egg products produced from eggs laid by a hen;
- (f) “exempt producer” means a person
 - (i) who does not possess, whether by ownership or otherwise, more than 300 hens, or
 - (ii) whose productive capacity from that person’s production facilities does not exceed 300 hens;
- (f.1) “family member” means the spouse, adult interdependent partner, child, parent, sibling, son-in-law, daughter-in-law, father-in-law, mother-in-law, first cousin, aunt, uncle, niece or nephew of a registered producer;
- (g) “Federal-Provincial Agreement” means the agreement respecting the revision and consolidation of the comprehensive marketing program as agreed to by the parties for the purpose of regulating the marketing of eggs in Canada, as revised from time to time;
- (h) “hen” or “layer” means a female common domestic fowl of the species *Gallus domesticus* that is of an age specified in regulations made by the Board;
- (h.1) “investment” means a commitment of assets in order to gain a financial return but does not include an expenditure of assets for the purposes of research and development or current operations;
- (i) “marketing” means buying, owning, selling, offering for sale, storing, grading, assembling, packing, transporting, advertising or financing;
- (j) “person” means a person as defined in the *Interpretation Act* and includes
 - (i) a partnership as defined in the *Partnership Act*,
 - (ii) any unincorporated organization that is not a partnership referred to in subclause (i), and
 - (iii) any group of individuals who are carrying on an activity for a common purpose and are neither a

- partnership referred to in subclause (i) nor an unincorporated organization referred to in subclause (ii);
- (k) “Plan” means the Plan that is amended and continued under section 3;
- (l) “possession quota” means the quota issued by the Board to a registered producer prescribing the maximum number of hens that producer may possess at any one time;
- (m) “processor” means a person who
- (i) grades, packs or changes the nature of the regulated product by mechanical means or otherwise, or
 - (ii) markets the graded, packed or processed regulated product,
- or carries out one or more of those functions;
- (n) “producer” means a person who is engaged in the production of the regulated product;
- (o) “production” includes the possession of the regulated product;
- (p) “production facilities” includes the buildings and improvements in which the regulated product is produced and the parcel of land on which the buildings and improvements are located;
- (q) “production quota” means the quota issued by the Board to a registered producer prescribing the minimum number of eggs that shall be produced by that producer’s hens;
- (r) “pullet” means a female common domestic fowl of the species *Gallus domesticus* that is of an age specified in regulations made by the Board;
- (s) “quota” means the possession quota and production quota granted by the Board to a registered producer;
- (t) “registered producer” means a producer who
- (i) holds a producer’s licence, and
 - (ii) has been allotted quota;
- (u) “regulated product” means eggs;

- (v) “research facility” means an educational institution involved in bona fide scientific research in respect of eggs as approved by a resolution of the Board.

AR 258/97 s1;212/2005;28/2011;26/2014

Designation of agricultural products

- 2** Eggs, pullets, layers and hens are designated as agricultural products for the purposes of the Act.

Part 1 General Operation of Plan

Division 1 Plan

Plan continued

- 3(1)** The *Alberta Egg Producers Plan*, continued under Alberta Regulation 338/91, is hereby amended and continued under this Regulation with the name “*Alberta Egg Producers Plan*”.

- (2)** On and after January 1, 2014, the name of the plan continued under subsection (1) is changed to the “Egg Farmers of Alberta Plan”.

AR 258/97 s3;26/2014

Termination of Plan

- 4** This Plan does not terminate at the conclusion of a specific period of time and shall remain in force unless otherwise terminated pursuant to the Act.

Application of Plan

- 5(1)** This Plan applies

- (a) to all persons who produce and market the regulated product in Alberta, and
- (b) for the purpose of section 9(1)(b), (c), (d), (e), (f), (g) and (i), (2)(f), (i), (k), (l), (n), (o), (q), (r), (u), (v) and (w) and (3), to processors,

but does not apply to an exempt producer.

- (2)** Notwithstanding subsection (1), where an exempt producer markets the producer’s regulated product through a processor, this Plan and any regulations made in respect of this Plan respecting the

payment of levies and service charges apply to that producer and to that regulated product.

(3) No person shall possess, whether by ownership or otherwise, more than 300 hens except in accordance with this Plan and regulations made in respect of this Plan.

(4) The Board may exempt the owner of an approved hatchery supply flock pursuant to the *Hatchery Supply Flock Approval Regulation* (AR 183/97) or successors to that Regulation from regulations made by the Board.

(5) If the Board exempts an owner under subsection (4), the owner may sell the regulated product in accordance with an exemption granted by the Board.

(5.1) Notwithstanding subsection (4), where an owner exempted under subsection (4) sells the regulated product in accordance with an exemption granted by the Board, any regulations made in respect of this Plan respecting the payment of levies and service charges apply to that owner and to that regulated product.

(6) The Board may refuse to exempt an owner under subsection (4) if, in the Board's opinion,

- (a) the owner does not have a confirmed market for the owner's hatching eggs,
- (b) the marketing of the regulated product by the owner will adversely affect marketing the regulated product in Alberta, or
- (c) the exemption would place the Board in a position of non-compliance with the Federal-Provincial Agreement.

(7) The Board may exempt a research facility from this Plan or part of this Plan or any regulation or part of any regulation made by the Board in respect of this Plan.

AR 258/97 s5;51/2009;26/2014

Purpose of Plan

6 The purpose of the Plan is to provide for the effective promotion, control and regulation in all respects of the production and marketing of the regulated product in Alberta, and without limitation, to accomplish the following:

- (a) to establish quotas for the production and marketing of the regulated product;
- (b) to establish quotas for the possession of hens;

- (c) to maintain a fair and stabilized price for the regulated product;
- (d) to develop and maintain the orderly marketing of the regulated product;
- (e) to provide a uniform, high quality of the regulated product for the market;
- (f) to provide for the initiation, support and conduct of promotional activities in respect of the production, marketing and processing of the regulated product;
- (g) to ensure a continuous, year-round supply of the regulated product;
- (h) to work with any organization that has similar objectives to those of the Board;
- (i) to acquire as principal, the regulated product produced in Alberta and dispose of the regulated product through whatever means the Board considers expedient;
- (j) to provide for the prohibition of production or marketing of the regulated product in whole or in part where the regulated product is not marketed under or pursuant to a quota;
- (k) to fund, initiate, conduct or carry on research and development and studies with respect to the production, handling, marketing and processing of the regulated product, including research and studies concerning the development and use of the regulated product.

AR 258/97 s6;28/2011

Division 2 Administration of Plan by Board

Board continued

7(1) The Alberta Egg Producers Board is hereby continued.

(2) On and after January 1, 2014, the name of the board continued under subsection (1) is changed to the “Egg Farmers of Alberta Plan”.

AR 258/97 s7;26/2014

Functions of the Board

8 The Board

- (a) subject to the Act, is responsible for the operation, regulation, supervision and enforcement of this Plan;
- (b) shall
 - (i) open one or more accounts in a bank, trust company, treasury branch, credit union or other depository, and
 - (ii) designate those officers, employees and other persons necessary to sign cheques and transact the Board's business with its bank, trust company, treasury branch, credit union or other depository;
- (b.1) when investing its assets must make prudent investments in accordance with the requirements of section 3 of the *Trustee Act* respecting the investment of assets and may delegate to an agent in accordance with section 5(1) to (3) of that Act;
- (b.2) must establish policies respecting the management of its assets as required by the *Operation of Boards and Commissions Regulation* (AR 26/99);
- (c) shall cause books and records, including financial records, to be maintained
 - (i) from time to time as may be required under the Act, the regulations or by order of the Council, or
 - (ii) as may be determined by the Board;
- (d) shall open its books and records for inspection at all reasonable times at the office of the Board on the written request of
 - (i) 5 registered producers, or
 - (ii) any member of the Council;
- (e) shall maintain an office and notify each registered producer, each processor and the Council of the location of the office;
- (f) may appoint officers and agents, prescribe their duties and fix and provide for their remuneration;
- (g) may
 - (i) enter into an operating line of credit or other loan agreement with its bank, trust company, treasury branch, credit union or other lending institution, and

- (ii) designate those officers, employees and other persons as are necessary to transact the Board's business;
- (h) may, subject to the Act, the regulations and any orders of the Council, issue general orders governing the Board's internal operation as it may from time to time determine;
- (i) may become a member of any organization that promotes the interests of producers;
- (j) may contribute funds to any organization that promotes the interests of producers;
- (k) may, in accordance with section 50 of the Act, with respect to the production or marketing, or both, of the regulated product, be authorized to perform any function or duty and exercise any power imposed or conferred on the Board by or under any Canada Act;
- (l) may retain earnings and revenues from year to year to finance the purposes of the Plan.

AR 258/97 s8;28/2011

Regulations to operate Plan

9(1) For the purposes of enabling the Board to operate this Plan, the Board may be empowered by the Council, pursuant to section 26 of the Act, to make regulations

- (a) requiring producers engaged in the production or marketing, or both, of the regulated product to register their names and addresses with the Board;
- (b) requiring any person who produces, markets or processes the regulated product to furnish to the Board any information or record relating to the production, marketing or processing of the regulated product that the Board considers necessary;
- (c) requiring persons to be licensed under the Plan before they become engaged in the production, marketing and processing, or any one or more of those functions, of the regulated product;
- (d) prohibiting persons from engaging in the production, marketing or processing, as the case may be, of the regulated product except under the authority of a licence;
- (e) governing the issuance, suspension or cancellation of a licence;

- (f) providing for
 - (i) the assessment, charging and collection of service charges and licence fees, as the case may be, from producers from time to time for the purposes of this Plan, and
 - (ii) the taking of legal action to enforce payment of the service charges and licence fees, as the case may be;
 - (g) requiring any person who receives the regulated product from a producer
 - (i) to deduct from the money payable to the producer any service charges, licence fees or levies, as the case may be, payable by the producer to the Board, and
 - (ii) to forward the amount deducted to the Board;
 - (h) providing for the use of any class of service charges, licence fees, levies or other money payable to or received by the Board for the purpose of paying its expenses and administering this Plan and the regulations made by the Board;
 - (i) requiring persons who produce, market or process the regulated product to mark the containers of their products to show the place of origin or place of production to the satisfaction of the Board;
 - (j) providing for the payment to a Canada Board of money that is payable under a Canada Act;
 - (k) permitting the Board to exercise any one or more powers that are vested in a cooperative under the *Cooperatives Act*.
- (2)** For the purposes of enabling the Board to operate this Plan, the Board may be empowered by the Council, pursuant to section 27(1) of the Act, to make regulations
- (a) requiring that the production or marketing, or both, of the regulated product be conducted pursuant to a quota;
 - (b) governing
 - (i) the fixing and allotting of quotas,
 - (ii) the increase or reduction of quotas,
 - (iii) the cancelling of quotas, and

- (iv) the refusal to fix and allot quotas,
to producers for the production or marketing, or both, of the regulated product on any basis the Board considers appropriate;
- (c) governing the transferability or non-transferability of quotas;
- (d) establishing
 - (i) a formula for determining the amount or number of regulated product deemed to have been produced or marketed by a producer, and
 - (ii) the period of time in respect of which the formula is to be applied,
for the purpose of determining the amount of regulated product produced or marketed by a producer during a period of time;
- (e) providing for
 - (i) the assessment, charging and collection of a levy from any producer whose production or marketing, or both, of the regulated product is in excess of the quota that has been fixed and allotted to that producer, and
 - (ii) the taking of legal action to enforce payment of the levy;
- (f) requiring any person who provides an agricultural product to a producer under this Plan to furnish to the Board any information requested by the Board;
- (g) determining the quantity of each class, variety, size, grade and kind of the regulated product that shall be produced or marketed, or both, by each producer;
- (h) requiring a producer who produces the regulated product to market the regulated product through the Board or through a designated agency;
- (i) directing, controlling or prohibiting, as the case may be, the production or marketing, or both, of the regulated product or any class, variety, size, grade or kind of the regulated product in a manner that the Board considers appropriate;

- (j) regulating and controlling the production or marketing, or both, of the regulated product, including the times and places at which the regulated product may be produced or marketed;
- (k) providing for the purchase or acquisition of any of the regulated product that the Board considers advisable and the sale or disposition of it;
- (l) providing for the establishment and operation of one or more programs for the disposition of
 - (i) any agricultural product, or
 - (ii) the regulated productconsidered to be surplus to market requirements;
- (m) determining from time to time the minimum price or prices that shall be paid to producers for the regulated product or any class, variety, grade, size or kind of the regulated product and determining different prices for different parts of Alberta;
- (n) requiring that the money payable or owing to a producer for the regulated product be paid to or through the Board;
- (o) providing for the payment to a producer of the money payable or owing for the regulated product, less any service charges and levies owing to the Board by the producer, and fixing the time or times at which or within which the payments shall be made;
- (p) providing
 - (i) for the operation of one or more pools for the distribution of all money payable to the producers from the sale of the regulated product, and
 - (ii) for the deduction of reasonable and proper disbursement and expenses with respect to the operation of the pool;
- (q) providing for the collection from any person by legal action of money owing to a producer for the regulated product;
- (r) governing
 - (i) the furnishing of security or proof of financial responsibility by any person engaged in the

production, marketing or processing of the regulated product, and

- (ii) the administration and disposition of any money or securities so furnished;
- (s) prohibiting a person to whom a quota has not been fixed and allotted for the production or marketing, or both, of the regulated product from producing or marketing, as the case may be, any regulated product;
- (t) prohibiting a producer to whom a quota has been fixed and allotted for the production or marketing, or both, of the regulated product from producing or marketing, as the case may be, any regulated product in excess of that quota;
- (u) prohibiting any person from purchasing or otherwise acquiring from a producer any regulated product in excess of the quota that has been fixed and allotted to the producer for the production or marketing, or both, of the regulated product;
- (v) prohibiting any person from purchasing or otherwise acquiring any regulated product from a person to whom a quota has not been fixed and allotted for the production or marketing, or both, of the regulated product;
- (w) prohibiting any person from marketing or processing any regulated product that has not been sold by or through the Board or a designated agency.

(3) For the purposes of enabling the Board to operate this Plan, the Board may be empowered by the Council, pursuant to section 27(2) of the Act, to make regulations

- (a) governing any agricultural product that is not the regulated product in the same manner as if that agricultural product was the regulated product under this Plan;
- (b) governing, with respect to any agricultural product that is not the regulated product, the producers of the regulated product under this Plan in the same manner as if that agricultural product was the regulated product under this Plan;

- (c) establishing and governing a formula for determining the amount or number of the regulated product produced or deemed to have been produced from any agricultural product that is not the regulated product.

AR 258/97 s9;130/2009;26/2014

Financing of Plan

10 In accordance with the regulations, this Plan shall be financed

- (a) by the charging and collection of service charges, licence fees and levies from registered producers, and
- (b) by any other money payable to or received or accrued by the Board.

Remuneration

11 Any change in the amount of remuneration to be paid to the Chairperson of the Board and to the other members of the Board shall be fixed by a vote of the registered producers at an annual meeting or special meeting of the registered producers.

Auditor

12 The auditor for the Board shall be appointed at each annual meeting.

Indemnification fund, etc.

13 The Board may establish and operate funds under sections 34 and 35 of the Act.

Funding of indemnification fund, etc.

14(1) The Board may, subject to the Act and the regulations, assess, charge and collect amounts required for the maintenance and operation of the funds referred to in section 13 from the producers under this Plan.

(2) Payments made into a fund established under this section shall not form part of a licence fee, service charge or levy charged under this Plan.

(3) If

- (a) a fund is established under this section, and
- (b) a producer under this Plan does not wish to receive any indemnity or protection from the fund,

the producer shall, on the application to the Board for an exemption, be exempted from making payment under subsection (1).

(4) A producer shall not, with respect to any period of time that the producer did not participate in a fund established under this section, be charged any amount for or in relation to that fund.

(5) The *Insurance Act* does not apply to a fund established or operated under this section.

Part 2 Governance of Plan

Division 1 Board

Members of Board

15(1) The Board shall be made up of 6 members elected in accordance with this Plan.

(2) Subject to section 33, the election of members of the Board shall be conducted at the annual meeting.

Chairperson

16 The members of the Board shall, at their first meeting following each election of members to the Board, elect from the members of the Board, one member to serve as Chairperson of the Board and one member to serve as Vice-chairperson.

Board meetings

17 The Board may, at the call of the Chairperson or 3 other members of the Board, conduct meetings of the members of the Board.

Quorum

18 The quorum for a meeting of the Board is a majority of the members of the Board.

Term of office

19(1) Each member of the Board shall be elected for a term of 3 years.

(2) The term of office of a member

- (a) commences on the conclusion of the annual meeting during which the member was elected, and
- (b) expires on the conclusion of the annual meeting that takes place in the year that the member's term of office is to expire.

(3) A person shall not serve as a member of the Board for more than 6 consecutive years, and if the person serves for 6 consecutive years, that person is not eligible to serve again as a member of the Board until the next annual general meeting following the expiry of that person's last term.

(4) A person may be nominated for election to the Board if that person

- (a) is a registered producer or a representative of a registered producer,
- (b) has consented to the nomination, and
- (c) is a resident of Alberta.

(4.1) The membership of the Board shall not include more than one member who is a director of the same organization when that organization

- (a) is involved in egg marketing, egg processing, or both, or
- (b) is directly or indirectly involved in the management or control of another organization that is involved in egg marketing, egg processing, or both.

(5) Nominations for the purpose of an election may be received from the floor at the annual meeting of the Board.

(6) Where

- (a) a person is appointed or elected as provided for under section 21 or 33(6) to fill a vacancy on the Board, and
- (b) the term of office served by the person who filled the vacancy is not greater than 18 months,

the time served as a member in respect of that term of office is not to be taken into consideration for the purposes of subsection (3).

AR 258/97 s19;218/2001;204/2002;111/2005;51/2009;26/2014

Term of office re Canada Board

19.1(1) In this section "Canada Board" means the Canadian Egg Marketing Agency.

(2) Notwithstanding section 19(3), with the approval of the Board and the registered producers, a member of the Board may be permitted to serve as a member of the Board for one additional 3-year term in order to enable the Board to fulfill commitments to the Canada Board.

(3) Notwithstanding section 19(3), where a person is permitted under subsection (2) to serve as a member of the Board for an additional term of office, that person

- (a) is not eligible to serve as a member of the Board for more than 9 consecutive years, and
- (b) is not eligible to serve again as a member of the Board until one year has expired following the expiry of that person's last term of office.

AR 204/2002 s3;51/2009

Removal from office

20(1) A member of the Board is disqualified from continuing to act as a member if

- (a) the person ceases to be a registered producer;
- (b) in the case of a person who is a representative of a registered producer under section 28,
 - (i) the person ceases to be a representative of a registered producer, or
 - (ii) the production facilities or all of the shares of the registered producer are sold or otherwise transferred to a person other than the representative;
- (b.1) the person is not a resident of Alberta;
- (c) the person has been found to be of unsound mind by a court in Canada or elsewhere;
- (d) the person is bankrupt;
- (e) the person is, without the approval of the Board, which can be given before or after the absence occurs, absent for 3 consecutive meetings of the Board;
- (f) the person is ineligible to become a member by virtue of section 19(4.1).

(2) A person who is disqualified under subsection (1)(a) or (b) shall tender the person's resignation to the Board forthwith on the effective date of

- (a) the person's ceasing to be a registered producer,
- (b) the person's ceasing to be a representative of a registered producer,
- (b.1) the person ceasing to be a resident of Alberta, or
- (c) the sale or other transfer,

as the case may be.

(3) The Board may, on a motion passed unanimously by the members in attendance at a Board meeting, remove a member from office if the member fails to abide by any of the Board's policies, administrative directives or orders.

AR 258/97 s20;218/2001;111/2005;26/2014

Vacancy

21(1) If a vacancy occurs on the Board, the Board may, subject to section 19(3) and with the Council's approval, appoint from among its registered producers an individual to act as a member until the date of the next annual meeting.

(2) If the Board is unable to fill the vacancy from among registered producers who are eligible to serve as a member of the Board, the Board may in writing petition the Council requesting that a special exemption be granted by the Council allowing a registered producer who is ineligible by virtue of section 19(3) to be appointed by the Board to act as a member to serve until the date of the next annual meeting.

(3) Where a vacancy on the Board is filled under subsection (1) or (2), that position on the Board shall at the next annual meeting be declared vacant and shall be filled by means of an election held in accordance with this Plan.

(4) A person elected as a member of the Board pursuant to subsection (3) shall hold office for the unexpired portion of the term.

(5) Where a person is appointed to act as a member of the Board under subsection (2), nothing in this section shall be construed so as to allow that registered producer to be eligible to serve for another year following the year in which the person was appointed.

Division 2 Meetings of Producers

Annual meetings

22 Annual meetings of the registered producers shall be held once in each calendar year and not more than 15 months may elapse between annual meetings.

Special meetings

23 Special meetings of the registered producers

- (a) may be called by the Board at any time, and
- (b) shall be called by the Board on the written request of the Council or of 25 or more registered producers.

Time, place and date of meetings

24 The Board shall set the time, place and date of any annual meeting and of any special meeting.

Notification of meetings

25(1) The Board shall, not less than 14 days prior to an annual meeting or a special meeting, send to all the registered producers written notice of the meeting setting out

- (a) the time, date, location and purpose of the meeting, and
- (b) if special business is to be transacted at the meeting, the nature of the business.

(2) Any notice given under subsection (1) may be conveyed to a registered producer

- (a) by ordinary mail mailed to the last known address of the registered producer as shown on the records of the Board, or
- (b) by facsimile, e-mail or other electronic means to be received at the last fax number, e-mail address or other electronic receiving number of the registered producer as shown on the records of the Board.

Quorum

26 The quorum for an annual meeting or special meeting is 25 registered producers.

Division 3 Eligibility, Voting and Elections

Registered producers who are individuals

27(1) A registered producer who is an individual may, subject to this Plan,

- (a) make representations on any matter pertaining to this Plan,
- (b) attend meetings held under this Plan,
- (c) vote on any matter under this Plan,
- (d) vote at an election under this Plan, and
- (e) hold office under this Plan.

(2) An individual who is a producer shall not cast a vote under this Plan unless that person's name appears on the current list of registered producers.

Registered producers that are not individuals

28(1) This section only applies in respect of a registered producer that is not an individual.

(2) If a registered producer is not an individual and

- (a) makes representations on any matter pertaining to this Plan,
- (b) attends meetings held under this Plan,
- (c) votes on any matter under this Plan,
- (d) votes at an election under this Plan, or
- (e) holds office under this Plan,

the registered producer shall do so in accordance with this section.

(3) A registered producer to which this section applies shall appoint an individual to be the representative of the registered producer and

- (a) if the registered producer is a corporation, the corporation must appoint an individual who is a director, shareholder, member, officer or employee of the corporation or a family member of a shareholder as its representative,

- (b) if the registered producer is a partnership, the partnership must appoint an individual who is a partner or an employee of the partnership or a family member of a partner as its representative, or
 - (c) if the registered producer is an organization other than a corporation or a partnership, the organization must appoint an individual who is a member, officer or employee of the organization as its representative.
- (4) A representative appointed by a registered producer under this section shall
- (a) represent the registered producer in any matter pertaining to the Plan,
 - (b) attend meetings on behalf of the registered producer, and
 - (c) vote and hold office, as the case may be, on behalf of the registered producer.
- (5) An appointment of a representative under this section shall
- (a) be in writing, and
 - (b) in the case where a vote is to be taken at a meeting, be filed with the returning officer prior to when a vote is to take place.
- (6) An individual who is a representative of a registered producer shall not cast a vote under this Plan unless that individual
- (a) presents a document signed by the registered producer indicating the name of the individual who may vote for the registered producer, or
 - (b) makes a statutory declaration in writing stating that the individual
 - (i) is a representative of the registered producer, and
 - (ii) has not previously voted in the election or on the matter in respect of which the individual wishes to cast a vote.
- (7) A statutory declaration made under subsection (6)(b) shall be made in writing and provided to the returning officer or the deputy returning officer prior to the vote being cast.
- (8) An individual may not be a representative under this section for more than one registered producer.

(9) An individual who is a representative shall not vote or hold office before the individual's appointment is filed in accordance with subsection (5).

AR 258/97 s28;26/2014

Eligibility re voting

29(1) A person is entitled to vote

- (a) on any question put to a vote at an annual meeting or special meeting, or
- (b) in an election for a member,

if the person

- (c) is a registered producer or representative of a registered producer, and
- (d) is present at the annual meeting or special meeting.

(2) A registered producer who is eligible to vote may vote once on each matter notwithstanding that the registered producer may manage or operate or own, lease or hold equity in 2 or more operations that are registered separately with the Board.

Election results

30 In the case of an election under this Plan,

- (a) the candidate receiving the largest number of votes in the election is the person who is elected to the position for which the election is held;
- (b) if only one person is nominated for the position that is to be filled, that person is deemed to have been elected to the position;
- (c) if there are more than 2 nominations for the position and a tie vote occurs between 2 or more of the candidates that received the largest number of votes, the candidates with the smaller number of votes shall be eliminated and a 2nd election for the position shall be immediately held among the tied candidates;
- (d) if there are only 2 nominations for the position and a tie vote occurs, the returning officer shall immediately select, by draw, the candidate for the position and that person is deemed to have been elected to the position.

Returning officer

31(1) Subject to subsection (2), the General Manager of the Board shall be the returning officer for the purposes of an election or vote taken under this Plan.

(2) The Board may appoint an individual other than the General Manager to act as returning officer for the purposes of an election or vote taken under this Plan.

(3) The returning officer may appoint individuals as deputy returning officers to assist in the conduct of elections and votes under this Plan.

(4) The returning officer shall

- (a) ensure that a person does not cast a vote except in accordance with this Plan, and
- (b) permit scrutiny of the actions of the returning officer and of the deputy returning officers by a scrutineer in respect of the conduct of a vote taken under this Plan.

(5) Unless otherwise directed by the Council, no returning officer or other person shall destroy any records or ballots in respect of a vote or election held under this Plan until 90 days have elapsed from the date the vote was taken.

Result of invalid election

32(1) If an election is held under this Plan and there is in attendance at the meeting at which the election is held an insufficient number of individuals who are eligible to vote at the election,

- (a) the election is void, and
- (b) the position for which the election was held is vacant.

(2) Notwithstanding that a position is vacant by reason of subsection (1), the term of office of the position is deemed to have commenced as if an individual had been elected to the position.

Controverted election

33(1) If a registered producer

- (a) questions
 - (i) the eligibility of a candidate,
 - (ii) the eligibility of a voter,

- (iii) any matter relating to a ballot or the tabulation of ballots, or
- (iv) any other irregularity with respect to the conduct of an election,

and

- (b) seeks to have the election declared invalid and the position declared vacant,

that person shall, not later than 30 days after the date of the election, apply in writing to the Council to have the election declared invalid and the position declared vacant.

(2) If, within the 30-day period referred to in subsection (1), the Council has not received an application under subsection (1), a person elected at that election is deemed to be duly elected.

(3) The Council shall not consider an application under subsection (1) that is not received by the Council within 30 days after the date of the election.

(4) On receipt of an application under subsection (1), the Council shall consider the matter and may

- (a) declare the election to be proper and the position filled if, in the opinion of the Council, there is no basis for the application,
- (b) declare the election to be proper and the position filled notwithstanding that there is a basis for the application if, in the opinion of the Council,
 - (i) the basis for the application did not materially affect the result of the election, and
 - (ii) the election was conducted substantially in accordance with this Plan and the Act,

or

- (c) declare the election to be void and the position vacant if, in the opinion of the Council, there is a basis for the application and the basis is sufficient to or did affect the result of the election.

(5) Notwithstanding that an election is declared void and a position is declared vacant under subsection (4)(c), the term of office of the position declared vacant is deemed to have commenced on the date that the election that was declared void was held.

(6) Notwithstanding section 21, if the Council declares an election to be void and the position vacant, the Council shall

- (a) order that, within the time that Council considers proper, a special meeting be held and an election conducted to fill the vacant position, or
- (b) have the Board appoint, from among individuals who are eligible to be elected to the position, an individual to fill the vacant position in accordance with section 21.

(7) A person elected under subsection (6)(a) shall hold office for the unexpired portion of the term.

(8) A person appointed under subsection (6)(b) shall hold office until the next annual meeting following the appointment, at which time the person ceases to hold office and an election shall be held to fill the office for the unexpired portion of the term.

Part 3 Review, Transitional Provision and Repeal

Review

34 In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before September 30, 2019.
AR 258/97 s34;204/2002;130/2009;26/2014

Transitional

35 Where a person is a member of the Board immediately before the coming into force of this Regulation, that person shall continue to be a member of the Board under this Regulation.

Repeal

36 Alberta Regulation 338/91 is repealed.



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