

(Consolidated up to 35/2007)

ALBERTA REGULATION 257/97

Livestock and Livestock Products Act

**LIVESTOCK PATRONS' CLAIMS REVIEW  
TRIBUNAL REGULATION**

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Definitions

1 In this Regulation,

- (a) “Act” means the Livestock and Livestock Products Act;
- (b) “Department” means the Department of Agriculture and Food;
- (c) “farming operations” means
  - (i) the maintenance of livestock for the purpose of propagation or the production of livestock products or both, or
  - (ii) the maintenance of feeder livestock for the purpose of growing or finishing or both;
- (d) “licensed livestock dealer” means a licensed livestock dealer within the meaning of that term in the Licensing and Bonding of Livestock Dealers and Livestock Dealers Agents Regulation (AR 450/83);
- (e) “protected livestock” means the classes or types of livestock prescribed by section 2;
- (f) “Tribunal” means the Livestock Patrons’ Claims Review Tribunal.

AR 257/97 s1;35/2007

Protected livestock

2 The classes or types of livestock in respect of which a payment may be made from the accounts of the Tribunal are live

- (a) cattle, excluding buffalo, and
- (b) horses.

Part 1

Claims to Tribunal - Non-payment  
by Licensed Livestock Dealers

Application of Part

3 This Part applies only in respect of claims of patrons who supply protected livestock to licensed livestock dealers on or after January 1, 1998.

Sale clarification

3.1(1) For the purposes of this Regulation and section 20 of the Act, a sale includes the delivery of protected livestock by a patron to a licensed livestock dealer for sale by the licensed livestock dealer, as an agent of the patron, to a buyer.

(2) For the purposes of this Regulation and section 20 of the Act, a sale includes the delivery of protected livestock by a licensed livestock dealer to a buyer pursuant to a sale to the buyer by the licensed livestock dealer, as an agent of a patron.

(3) For the purposes of this Regulation and section 20 of the Act, a sale of protected livestock by a patron, as an agent of a feeder association of which the patron is a member, to a licensed livestock dealer is deemed to be a sale by the patron.

AR 89/2001 s2;251/2001

Additional conditions on sale

3.2(1) In the case of a sale described in section 3.1(1), for a patron to be eligible to receive a payment from the accounts of the Tribunal,

- (a) the requirements of the Act and this Regulation must be met, and
- (b) the buyer must have paid the licensed livestock dealer for the protected livestock.

(2) In the case of a sale described in section 3.1(2), for a licensed livestock dealer to be eligible to receive a payment from the accounts of the Tribunal,

- (a) the requirements of the Act and this Regulation must be met, and
- (b) the licensed livestock dealer must have paid the patron an amount equal to the proceeds of the sale and must have delivered the protected livestock to the buyer.

(3) In the case of a sale described in section 3.1(3) for a patron to be eligible to receive a payment from the account of the Tribunal,

- (a) the requirements of the Act and this Regulation must be met, and
- (b) the patron must disclose that the patron sold the protected livestock as an agent for the feeder association.

(4) A payment under subsection (3) must be made jointly payable to the patron and the feeder association.

AR 89/2001 s2

Conditions for payment

4 A patron who sells protected livestock to a licensed livestock dealer and who does not receive payment for the value of the protected livestock supplied may receive a payment from the accounts of the Tribunal only if the requirements of the Act and the following conditions and requirements have been met:

(a) when the patron agreed to sell the protected livestock, the protected livestock were alive and in Alberta, Dawson Creek, British Columbia or Lloydminster, Saskatchewan;

(b) if the protected livestock came from the patron's farming operations outside of Alberta or if the protected livestock were sold in Dawson Creek, British Columbia or Lloydminster, Saskatchewan, the livestock were in Alberta for a minimum of 30 days immediately before the sale;

(c) the protected livestock were, for the purposes of the sale, inspected by

(i) an inspector as defined in the Livestock Identification and Brand Inspection Act, or

(ii) in the case of protected livestock sold in Dawson Creek, British Columbia or Lloydminster, Saskatchewan, an inspector appointed under legislation of the jurisdiction in which the sale took place;

(d) if the patron and dealer are bodies corporate, the patron and the dealer were not affiliated with each other within the meaning of "affiliated" under section 2 of the Business Corporations Act;

(e) if the patron or the dealer is a body corporate, the body corporate was not controlled by the other party to the sale, within the meaning of "controlled" under section 2 of the Business Corporations Act;

(f) if the patron or the dealer is a partnership, the other party to the sale was not a partner in the partnership;

(g) the sale was not made in a year in respect of which the patron is ineligible to receive payments from the Tribunal under section 6 or 7;

(h) if the patron received a cheque in payment of the protected livestock supplied, the patron presented the cheque for deposit or for cash within a reasonable time after having received the cheque.

#### Levies

5(1) In this section, "eligible sale" means a sale by a patron of protected livestock to a licensed livestock dealer

(a) in which the protected livestock were alive and in Alberta when the agreement to sell the livestock was made, or

(b) in which the protected livestock were alive and in Dawson Creek, British Columbia or Lloydminster, Saskatchewan when the agreement to sell the livestock was made.

(2) Subject to this section, a patron who makes an eligible sale shall pay or cause to be paid to the Tribunal a levy in an amount established by the Tribunal from time to time for each head of protected livestock sold.

(3) A patron shall pay the levies in the manner and at the times specified by the Tribunal.

(4) A patron who makes a sale of protected livestock in a year in respect of which the patron is ineligible to receive a payment from the Tribunal under section 6 or 7 and who maintains an account with the Department for the payment of inspection fees under the Livestock Identification and Brand Inspection Act is not required to pay a levy on that sale.

(5) A patron who makes

(a) a private sale of protected livestock at a place other than a market as defined in the Livestock Identification and Brand Inspection Act, or

(b) a sale of protected livestock at a country sale as defined in the Livestock Identification and Brand Inspection Act where permission has been given under that Act for the country sale to be held without inspection,

in a year in respect of which the patron is ineligible to receive a payment from the Tribunal under section 6 or 7 is not required to pay a levy on that sale.

(6) A patron is not required to pay a levy on an eligible sale if the patron does not satisfy the conditions for making a payment from the Tribunal under section 4(b), (d), (e) or (f) in respect of that sale.

#### Withdrawing from protection

6(1) A patron who wants to withdraw from the protection offered by the Tribunal under this Part may provide the Administrator with a declaration to that effect and a patron who provides the Administrator with a declaration is ineligible to receive payments from the Tribunal under this Part in respect of sales of protected livestock made in the years following the year the declaration was provided, unless the patron cancels the declaration under section 7.

(2) Notwithstanding subsection (1), if a patron who sells protected livestock to a licensed livestock dealer for the first time wants to withdraw from the protection offered by the Tribunal under this Part in respect of sales to licensed livestock dealers made in the year of the first sale and later years, the patron may provide the Administrator with a declaration to that effect.

(3) If the patron's declaration referred to in subsection (2) is received by the Administrator within 30 days after the date of the first sale, the patron is ineligible to receive payments from the Tribunal under this Part in the year of the first sale and later years, unless the patron cancels the declaration under section 7.

#### Cancelling declaration

7(1) A patron who has made a declaration under section 6 of this Regulation or section 6 of the Livestock Patron's Assurance Fund Regulation (AR 418/91) may, by a written notice to the Administrator, cancel the declaration.

(2) A patron who cancels a declaration under subsection (1) remains ineligible to receive payments from the Tribunal under this Part in respect of sales made in the year the notice of cancellation was provided to the Administrator.

#### Refund of levies

8(1) If a patron is, under section 6 or 7, ineligible to receive a payment from the Tribunal under this Part in respect of sales of protected livestock to licensed livestock dealers made in a year, referred to in this section as an ineligible year, the patron may apply for a refund of levies paid in respect of sales made in the ineligible year.

(2) A patron is not entitled to a refund of levies paid in an ineligible year unless

(a) the patron submits a written application to the Administrator that sets out the total number of protected livestock sold by the patron to licensed livestock dealers in the ineligible year for which levies were paid,

(b) the Administrator receives the application by March 31 of the year following the ineligible year, and

(c) the patron provides the Administrator with any information that the Administrator requests to verify the number of protected livestock sold.

(3) If the Administrator is satisfied that a patron is entitled under this section to a refund of \$1000 or less, the Administrator shall pay to the patron the amount from the accounts of the Tribunal.

(4) If the Administrator refuses to give a refund or if the Administrator pays a refund that is less than the refund applied for, the patron who applied for the refund may appeal the Administrator's decision to the Tribunal and the Tribunal may

(a) confirm the Administrator's decision, or

(b) direct the Administrator to pay from the Tribunal's accounts an amount determined by the Tribunal.

(5) An application by a patron for a refund exceeding \$1000 must be referred to the Tribunal and if the Tribunal is satisfied that the patron is entitled under this section to a refund, the Tribunal shall pay to the patron an amount determined by the Tribunal from its accounts.

#### Maximum amount of payment from Tribunal

9(1) Subject to subsection (2), the maximum amount that a patron may receive from the Tribunal under this Part in respect of a claim by a patron is an amount that, together with the amount that the patron receives under section 14 of the Act, equals 80% of the patron's proven claim.

(2) The maximum amount that a patron who cancels a declaration under section 7 of this Regulation or section 7 of the Livestock Patron's Assurance Fund Regulation (AR 418/91) may receive from the Tribunal under this Part in respect of a sale made in the year following the year the notice cancelling the declaration was provided to the Administrator or Minister is

(a) 25% of the maximum amount under subsection (1) if the sale occurred in the first quarter,

(b) 50% of the maximum amount under subsection (1) if the sale occurred in the 2nd or 3rd quarter, and

(c) 75% of the maximum amount under subsection (1) if the sale occurred in the 4th quarter.

AR 257/97 s9;251/2001

## Part 2

### Claims to Tribunal - Non-payment

#### by Non-licensed Buyers

#### Definition

10 In this Part, “non-licensed buyer” means a patron who is a resident of Alberta and who is not a licensed livestock dealer.

#### Application of Part

11 This Part applies only in respect of claims of licensed livestock dealers who supply protected livestock to non-licensed buyers on or after January 1, 1998.

#### Notice of non-payment

12(1) A licensed livestock dealer who sells protected livestock to a non-licensed buyer and does not receive payment for the value of the protected livestock supplied shall

(a) notify the Administrator of the non-payment as soon as is reasonably possible after the dealer knows of the non-payment, and

(b) provide the Administrator with any information specified by the Administrator relating to the sale.

(2) If the Administrator receives a notice under subsection (1), the Administrator may require the non-licensed buyer identified in the notice to provide the Administrator with any information specified by the Administrator relating to the sale and the non-licensed buyer shall comply with the request.

#### Publication

13(1) If the Administrator receives a notice under section 12(1) and the Administrator is satisfied that the failure of the non-licensed buyer identified in the notice to pay a licensed livestock dealer for the value of protected livestock supplied is not based on a contract dispute between the buyer

and the dealer or if a non-licensed buyer has not provided the Administrator with information under section 12(2), the Administrator may publish a warning setting out

(a) that the non-licensed buyer has failed to pay a licensed livestock dealer for the value of protected livestock supplied, and

(b) that licensed livestock dealers may not be eligible to receive a payment from the Tribunal if they sell protected livestock to the non-licensed buyer in the future.

(2) The Administrator may

(a) publish the warning in as many publications as the Administrator considers appropriate that circulate in the district in which the dealing in protected livestock by the non-licensed buyer is carried on, and

(b) take such other steps that the Administrator considers appropriate to bring the failure to pay by the non-licensed buyer to the attention of licensed livestock dealers who may sell protected livestock to the non-licensed buyer.

AR 257/97 s13;199/98

Conditions for payment

14 A licensed livestock dealer who sells protected livestock to a non-licensed buyer and who does not receive payment for the value of the protected livestock supplied may receive a payment from the accounts of the Tribunal only if the following conditions and requirements have been met:

(a) the dealer submits an application to the Administrator;

(b) the Administrator is satisfied that the failure to pay is not based on a contract dispute between the dealer and the non-licensed buyer;

(c) the dealer notified the Administrator of the non-payment

(i) as soon as was reasonably possible after the dealer knew or should have known of the non-payment, and

(ii) within 90 days after the protected livestock were supplied to the non-licensed buyer;

(d) if there is more than one claim against the non-licensed buyer, the Tribunal is satisfied that the dealer sold the protected livestock to the non-licensed buyer before

the dealer knew or ought to have known that the buyer had failed to pay for protected livestock supplied by other dealers;

(e) the dealer did not extend credit to the non-licensed buyer in the sale of the protected livestock that is the basis of the claim;

(f) the failure to pay was not based on collusion between the dealer and the non-licensed buyer;

(g) when the dealer agreed to sell the protected livestock, the protected livestock were alive and in Alberta;

(h) if the protected livestock came from the dealer's farming operations outside of Alberta, the livestock were in Alberta for a minimum of 30 days immediately before the sale;

(i) the protected livestock were, for the purposes of the sale, inspected by an inspector as defined in the Livestock Identification and Brand Inspection Act;

(j) if the dealer and non-licensed buyer are bodies corporate, the dealer and the buyer were not affiliated with each other within the meaning of "affiliated" under section 2 of the Business Corporations Act;

(k) if the dealer or non-licensed buyer is a body corporate, the body corporate was not controlled by the other party to the sale, within the meaning of "controlled" under section 2 of the Business Corporations Act;

(l) if the dealer or non-licensed buyer is a partnership, the other party to the sale was not a partner in the partnership;

(m) the dealer meets the requirements of this Part with respect to the payment of levies;

(n) the sale was not made in a year in respect of which the dealer is ineligible to receive payments from the Tribunal under section 19 or 20;

(o) if the dealer received a cheque in payment of the protected livestock supplied, the dealer presented the cheque for deposit or for cash within a reasonable time after having received the cheque.

AR 257/97 s14;199/98

Claims to Tribunal

15 After the Tribunal is notified by the Administrator that a licensed livestock dealer has made an application under section 14 in respect of protected livestock and the dealer has provided any material required by the Tribunal in respect of the claim, the Tribunal shall

(a) determine whether the dealer is entitled to a payment from the accounts of the Tribunal based on the requirements of this Part, and

(b) serve the dealer with its written decision and reasons.

#### Appeal to Court of Appeal

16(1) A licensed livestock dealer may appeal a decision of the Tribunal under section 15 by filing a notice of appeal with the Court of Appeal within 90 days of the Tribunal's decision.

(2) An appeal under this section must be based on a question of law or jurisdiction.

(3) The dealer may not appeal an amount of a payment awarded by the Tribunal under this Part.

(4) The provisions of the Alberta Rules of Court (AR 390/68) relating to appeals to the Court of Appeal apply, with the necessary modifications, to an appeal under this section.

(5) A notice of appeal filed under this section must be served on the Administrator.

(6) The Court of Appeal may make any decision that the Tribunal may make or may refer the matter back to the Tribunal.

#### Payments by Tribunal

17(1) The Tribunal may make payments to licensed livestock dealers under this Part once in each calendar year.

(2) Payments to a licensed livestock dealer under this Part may only be made from those funds in the Tribunal's accounts that are

(a) levies received from licensed livestock dealers that have been paid on the sale of protected livestock to non-livestock buyers, and

(b) interest on those levies.

(3) The Tribunal, when making a payment from its accounts under this Part, may impose any terms and conditions it considers appropriate.

#### Levies

18(1) In this section, "eligible sale" means a sale by a licensed livestock dealer of protected livestock to a non-licensed buyer in which the protected livestock were alive and in Alberta when the agreement to sell the livestock was made.

(2) Subject to this section, a licensed livestock dealer who makes an eligible sale shall pay or cause to be paid to the Tribunal a levy in an amount established by the Tribunal from time to time for each head of protected livestock sold.

(3) A licensed livestock dealer shall pay the levies in the manner and at the times specified by the Tribunal.

(4) A licensed livestock dealer who makes a sale of protected livestock in a year in respect of which the dealer is ineligible to receive a payment from the Tribunal under section 19 or 20 and who maintains an account with the Department for the payment of inspection fees under the Livestock Identification and Brand Inspection Act is not required to pay a levy on that sale.

(5) A licensed livestock dealer who makes

(a) a private sale of protected livestock at a place other than a market as defined in the Livestock Identification and Brand Inspection Act, or

(b) a sale of protected livestock at a country sale as defined in the Livestock Identification and Brand Inspection Act where permission has been given under that Act for the country sale to be held without inspection,

in a year in respect of which the dealer is ineligible to receive a payment from the Tribunal under section 19 or 20 is not required to pay a levy on that sale.

(6) A licensed livestock dealer is not required to pay a levy on an eligible sale if the patron does not satisfy the conditions for making a payment from the Tribunal under section 14(h), (j), (k) or (l) in respect of that sale.

#### Withdrawing from protection

19(1) A licensed livestock dealer who wants to withdraw from the protection offered by the Tribunal under this Part may provide the Administrator with a declaration to that effect and a dealer who provides the Administrator with a declaration is ineligible to receive payments from the Tribunal under this Part in respect of sales of protected livestock made in the years following the year the declaration was provided, unless the dealer cancels the declaration under section 20.

(2) Notwithstanding subsection (1), if a licensed livestock dealer who sells protected livestock to a non-licensed buyer for the first time wants to withdraw from the protection offered by the Tribunal under this Part in respect of sales to non-licensed buyers made in the year of the first sale and later years, the dealer may provide the Administrator with a declaration to that effect.

(3) If the licensed livestock dealer's declaration referred to in subsection (2) is received by the Administrator within 30 days after the date of the first sale, the dealer is ineligible to receive payments from the Tribunal under this Part in the year of the first sale and later years, unless the dealer cancels the declaration under section 20.

#### Cancelling declaration

20(1) A licensed livestock dealer who has made a declaration under section 19 may, by a written notice to the Administrator, cancel the declaration.

(2) A licensed livestock dealer who cancels a declaration under subsection (1) remains ineligible to receive payments from the Tribunal under this Part in respect of sales made in the year the notice of cancellation was provided to the Administrator.

#### Refund of levies

21(1) If a licensed livestock dealer is, under section 19 or 20, ineligible to receive a payment from the Tribunal under this Part in respect of sales of protected livestock to non-licensed buyers made in a year, referred to in this section as an ineligible year, the dealer may apply for a refund of levies paid in respect of sales made in the ineligible year.

(2) A licensed livestock dealer is not entitled to a refund of levies paid in an ineligible year unless

(a) the dealer submits a written application to the Administrator that sets out the total number of protected livestock sold by the dealer to non-licensed buyers in the ineligible year for which levies were paid,

(b) the Administrator receives the application by March 31 of the year following the ineligible year, and

(c) the dealer provides the Administrator with any information that the Administrator requests to verify the number of protected livestock sold.

(3) If the Administrator is satisfied that a licensed livestock dealer is entitled under this section to a refund of \$1000 or less, the Administrator shall pay to the dealer the amount from the accounts of the Tribunal.

(4) If the Administrator refuses to give a refund or if the Administrator pays a refund that is less than the refund applied for, the licensed livestock dealer who applied for the refund may appeal the Administrator's decision to the Tribunal and the Tribunal may

(a) confirm the Administrator's decision, or

(b) direct the Administrator to pay from the Tribunal's accounts an amount determined by the Tribunal.

(5) An application by a licensed livestock dealer for a refund exceeding \$1000 must be referred to the Tribunal and, if the Tribunal is satisfied that the dealer is entitled under this section to a refund, the Tribunal must pay to the dealer an amount determined by the Tribunal from its accounts.

#### Maximum amount of payment from Tribunal

22(1) Subject to subsection (2), the maximum amount that a licensed livestock dealer may receive from the Tribunal under this Part is 80% of the dealer's proven claim.

(2) The maximum amount that a licensed livestock dealer who cancels a declaration under section 20 may receive from the Tribunal under this Part in respect of a sale made in the year following the year the notice cancelling the declaration was provided to the Administrator is

(a) 25% of the maximum amount under subsection (1) if the sale occurred in the first quarter,

(b) 50% of the maximum amount under subsection (1) if the sale occurred in the 2nd or 3rd quarter, and

(c) 75% of the maximum amount under subsection (1) if the sale occurred in the 4th quarter.

#### Subrogation

23 If the Tribunal pays an amount to a licensed livestock dealer under this Part, the Tribunal is subrogated to the rights of the dealer against the non-licensed buyer in respect of the amount, and the Tribunal may maintain an action, in the name of the dealer or in the name of the Tribunal, against the non-licensed buyer for the recovery of the amount.

### Part 3

#### Livestock Patrons' Claims

#### Review Tribunal

#### Definition

24 In this Part, "designated association" means an association or other entity that is authorized under this Part to appoint members to the Tribunal.

#### Composition of Tribunal

25 Subject to section 29, the Tribunal is composed of the following members:

- (a) one member appointed by the Alberta Auction Markets Association;
- (b) one member appointed by the Alberta Cattle Commission;
- (c) one member appointed by the Alberta Cattle Feeders Association;
- (d) one member appointed by the Feeders Associations of Alberta;
- (e) one member appointed by the Alberta Livestock Dealers and Order Buyers Association;
- (f) one member appointed by the Western Stock Growers Association;
- (g) members appointed by associations or entities designated under section

26.

#### Designating other associations

26(1) The Tribunal may, by a resolution passed by a majority of its members, designate an association or entity for the purposes of subsection (2).

(2) An association or entity that is designated under subsection (1) is authorized to appoint one member to the Tribunal.

(3) The resolution referred to in subsection (1) does not come into force until it has been filed with the Administrator.

#### Alternate members

27(1) Each designated association must appoint an alternate member.

(2) An alternate member appointed by a designated association may act in place of a member representing the designated association when the member is absent or unable to act or when there is no member.

#### Appointments filed with Administrator

28 The appointment of a member or an alternate member does not come into force until it has been filed with the Administrator.

#### Revocation of designation

29(1) If a designated association refuses to appoint a member or an alternate member or if the member and alternate member of a designated association refuse to attend a meeting of the Tribunal, the members of the remaining designated associations may by unanimous resolution revoke the authority of the association or entity to appoint a member and an alternate member to the Tribunal.

(2) Section 32 does not apply to a resolution passed under subsection (1).

(3) The Tribunal may, by a unanimous resolution of its members, reinstate the authority of an association or entity to appoint a member and an alternate member.

(4) A resolution passed under this section does not come into force until it has been filed with the Administrator.

#### Chair

30(1) The chair of the Tribunal is to be determined by the members of the Tribunal.

(2) The chair is entitled to vote on all matters that are voted on by the members of the Tribunal.

(3) In the event of a tie, the chair has an additional vote to break the tie.

#### Rules and procedures

31 The rules and procedures of the Tribunal are to be determined by the Tribunal.

#### Quorum

32 The quorum for a meeting of the members of the Tribunal is 100% of the members.

#### Part 4

#### Consequential Amendment, Expiry and Coming into Force

#### Consequential amendment

33 The Licensing and Bonding of Livestock Dealers and Livestock Dealers Agents Regulation (AR 450/83) is amended by repealing section 2(3) and (3.1) and substituting the following:

(3) Where an amount has been paid out of the Livestock Patron's Assurance Fund or the accounts of the Livestock Patrons' Claims Review Tribunal pursuant to the Act with respect to a claim against a licensed livestock dealer, the Minister may refuse to grant a licence under this Regulation to

(a) that dealer, or

(b) any person who was directly or indirectly involved in the operation of the dealer's business in respect of which the payment from the Fund or the Tribunal's accounts was made,

unless a payment in an amount determined under subsection (3.1) to the Tribunal's accounts has been arranged.

(3.1) The amount that an applicant may be required to pay is the portion of the amount paid out that the Minister determines reflects the degree of control or influence that the applicant had in the business of the licensed livestock dealer who defaulted.

Expiry

34 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be re-passed in its present or an amended form following a review, this Regulation expires on October 31, 2008.

AR 257/97 s34;199/98;63/2003

Coming into force

35 This Regulation comes into force on January 1, 1998.

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