

Farm Products Marketing Act

## **ONTARIO REGULATION 484/09**

### **GRAIN (GRAIN CORN, SOYBEANS AND WHEAT) — PLAN**

Consolidation Period: From March 23, 2010 to the e-Laws currency date.

Last amendment: O. Reg. 75/10.

This is the English version of a bilingual regulation.

#### **Definitions**

1. In this Regulation,

“board member” means a member of the local board elected or appointed under this Regulation; (“membre de la commission locale”)

“district” means a grain producing district established by section 5; (“district”)

“fiscal year” means the fiscal year of the local board; (“exercice”)

“geographic area” means a geographic area under the Territorial Division Act, 2002; (“zone géographique”)

“grain” means one or more of grain corn, soybeans and wheat; (“grain”)

“grain corn” means corn, other than seed corn, sweet corn or popping corn, produced in Ontario; (“maïs-grain”)

“licence fees” means the licence fees payable to the local board under Ontario Regulation 485/09 (Grain (Grain Corn, Soybeans and Wheat) — Licensing and Regulation) made under the Act; (“droits de permis”)

“producer” means a sole proprietor, corporation, partnership or joint venture that produces grain in Ontario; (“producteur”)

“soybeans” means soybeans produced in Ontario; (“soya”)

“wheat” means any variety of wheat produced in Ontario. (“blé”) O. Reg. 484/09, s. 1.

#### **Plan**

2. This Regulation establishes the plan for the control and regulation of the producing and marketing of grain within Ontario. O. Reg. 484/09, s. 2.

#### **Local board**

3. (1) A local board is established under the name “Grain Farmers of Ontario”. O. Reg. 484/09, s. 3 (1).

(2) The local board has the authority, and shall exercise the powers and perform the duties,

(a) that the Commission delegates to it under the Act; and

(b) that are given or assigned to it by this Regulation and by any other applicable regulation. O. Reg. 484/09, s. 3 (2).

(3) The local board has the following powers:

1. The local board has such powers of a natural person as are necessary for the local board to exercise its other powers and perform its duties under the Act, subject to any limitations set out in this Regulation or any other regulation that applies to the local board.
2. The local board may accept extra-provincial powers and rights.
3. Where authorized by by-law, and subject to Regulation 400 of the Revised Regulations of Ontario, 1990 (By-laws for Local Boards) made under the Act, the local board may,
  - i. borrow money on the credit of the local board,
  - ii. issue, sell or pledge debt obligations of the local board, or
  - iii. charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal movable or immovable property of the local board, including book debts, rights, powers, franchises and undertakings, to secure any debt obligations or any money borrowed or other debt or liability of the local board. O. Reg. 484/09, s. 3 (3).

(4) The local board shall not,

- (a) establish or acquire a controlling interest in a corporation or other entity;
- (b) exercise its powers and perform its duties, or purport to do so, through a corporation or other entity; or
- (c) indemnify or agree to indemnify any person in relation to any action or other proceeding except as permitted by Regulation 400 of the Revised Regulation of Ontario, 1990 (By-Laws for Local Boards) made under the Act. O. Reg. 484/09, s. 3 (4).

#### Composition of local board

4. (1) The local board shall be composed of 15 board members. O. Reg. 484/09, s. 4 (1).

(2) The board members shall be producers elected or appointed to represent the 15 districts established by section 5. O. Reg. 484/09, s. 4 (2).

(3) There shall be one board member elected or appointed in accordance with section 9 to represent each district. O. Reg. 484/09, s. 4 (3).

(4) A producer is eligible to be a board member for a district only if,

- (a) the producer is a member of the group of producers for the district, as determined under section 6; and
- (b) at the time of the producer's election or appointment to the board, the producer is a delegate to the District Grain Committee for the district, having been elected as such under section 7. O. Reg. 484/09, s. 4 (4).

#### Grain producing districts

5. For the purposes of elections to the local board and to the District Grain Committees, the following grain producing districts are established:

1. District 1, composed of the geographic area of Essex.
2. District 2, composed of the geographic area of Chatham-Kent.

3. District 3, composed of the geographic area of Lambton.
4. District 4, composed of the geographic area of Middlesex.
5. District 5, composed of the geographic areas of Elgin and Norfolk.
6. District 6, composed of the geographic areas of Brant, Haldimand, Hamilton and Niagara.
7. District 7, composed of the geographic areas of Oxford and Waterloo.
8. District 8, composed of the geographic area of Huron.
9. District 9, composed of the geographic area of Perth.
10. District 10, composed of the geographic areas of Bruce, Grey and Wellington.
11. District 11, composed of the geographic areas of Dufferin, Halton, Peel, Simcoe, Toronto and York.
12. District 12, composed of the geographic areas of Durham, Hastings, Kawartha Lakes, Northumberland and Peterborough.
13. District 13, composed of the geographic areas of Frontenac, Lanark, Leeds and Grenville, Lennox and Addington, Ottawa, Prince Edward and Renfrew.
14. District 14, composed of the geographic areas of Prescott and Russell and Stormont, Dundas and Glengarry.
15. District 15, composed of the geographic areas of Haliburton and the Territorial Districts of Algoma, Cochrane, Kenora, Manitoulin, Muskoka, Nipissing, Parry Sound, Rainy River, Sudbury, Thunder Bay and Timiskaming. O. Reg. 484/09, s. 5; O. Reg. 75/10, s. 1.

#### District group of producers

6. (1) A producer is a member of the group of producers for a district if,
  - (a) in the case of a sole proprietor, the producer resides in the district;
  - (b) in the case of a corporation or partnership, the producer's head office is located in the district; and
  - (c) in the case of a joint venture, the producer indicates by written notice to the District Grain Committee for the district that the producer is a member of the group of producers for the district. O. Reg. 484/09, s. 6 (1).
- (2) A producer who produces grain in an area not included in any of the districts established by section 5 is a member of the group of producers for,
  - (a) in the case of a sole proprietor, the district that is nearest to the producer's residence;
  - (b) in the case of a corporation or partnership, the district that is nearest to the location of the producer's head office; and
  - (c) in the case of a joint venture, the district that the producer selects by written notice to the District Grain Committee for the district. O. Reg. 484/09, s. 6 (2).

#### District Grain Committee

7. (1) A committee known as the “District Grain Committee” is established in each district. O. Reg. 484/09, s. 7 (1).

(2) After January 5 and on or before February 15 of each year, the members of the group of producers for each district shall elect delegates to the District Grain Committee for the district. O. Reg. 484/09, s. 7 (2).

(3) A District Grain Committee shall be composed of eight delegates from the district and the number of additional delegates from the district, if any, determined for the district under section 8. O. Reg. 484/09, s. 7 (3).

(4) A producer is eligible to be elected as a delegate for a district if the producer is a member of the group of producers for the district. O. Reg. 484/09, s. 7 (4).

(5) The delegates to a District Grain Committee shall be elected for a term that begins on the day following their election and ends on the day of the election of delegates to the Committee in the following year. O. Reg. 484/09, s. 7 (5).

#### Allocation of additional delegates

8. (1) In this section,

“provincial yield” means, in respect of grain corn, soybeans or wheat, its average annual provincial yield per acre, as determined by Agricorp. O. Reg. 484/09, s. 8 (1).

(2) Thirty additional delegates shall be apportioned among the districts in accordance with this section. O. Reg. 484/09, s. 8 (2).

(3) On or before December 15 of each year, the local board shall determine, in accordance with the following rules, the number of additional delegates that shall be elected in each district in the following year’s elections to District Grain Committees, subject to subsections (5) to (8):

1. Estimate the acres of grain on which licence fees were collected by the local board for the district for the fiscal year ending in the calendar year in which the determination is being made and the two immediately preceding fiscal years, by adding the following amounts for each of the three fiscal years:

i. The tonnes of grain corn on which licence fees were collected for the district in the fiscal year, as determined by the local board, divided by the provincial yield for grain corn for the calendar year in which the fiscal year commenced.

ii. The tonnes of soybeans on which licence fees were collected for the district in the fiscal year, as determined by the local board, divided by the provincial yield for soybeans for the calendar year in which the fiscal year commenced.

iii. The tonnes of wheat on which licence fees were collected for the district in the fiscal year, as determined by the local board, divided by the provincial yield for wheat for the calendar year in which the fiscal year commenced.

2. Add the acres of grain on which licence fees were collected for the district, as estimated under paragraph 1, for each of the three fiscal years and divide the sum by three to obtain the average.

3. Divide the average obtained under paragraph 2 by the sum of the averages obtained under that paragraph for all of the districts, and multiply the result by 100.

4. Subtract 6.67 from the number obtained under paragraph 3.

5. If the amount calculated under paragraph 4 is zero or less than zero, no additional delegates shall be elected in the district.

6. If the amount calculated under paragraph 4 is greater than zero, the number of additional delegates that shall be elected in the district shall be determined in accordance with paragraphs 7 and 8.

7. If paragraph 6 applies in respect of the district, divide the amount calculated under paragraph 4 by the sum of the amounts obtained under paragraph 4 for all of the districts to which paragraph 6 applies, and multiply the result by the number of additional delegates referred to in under subsection (2).

8. The amount calculated under paragraph 7, rounded to the nearest whole number, is the number of additional delegates who shall be elected in the district. O. Reg. 484/09, s. 8 (3).

(4) On or before January 5 of each year, the local board shall give written notice to the District Grain Committee for each district of the number of additional delegates that shall be elected in each district in the elections for the year. O. Reg. 484/09, s. 8 (4).

(5) Subsection (3) applies, with the following modifications, to the determination of the number of additional delegates that shall be elected in each district for the purposes of the elections to District Grain Committees in 2010:

1. The local board shall make its determination on or before January 4, 2010.

2. The local board shall estimate the acres of grain on which licence fees were collected for a district by adding the following amounts:

i. The tonnes of grain corn on which licence fees were collected by the Ontario Corn Producers' Association for the district in the fiscal year of the Ontario Corn Producers' Association that ended in 2009, as determined by the local board, divided by the provincial yield for grain corn for 2008.

ii. The tonnes of soybeans on which licence fees were collected by the Ontario Soybean Growers for the district in the fiscal year of the Ontario Soybean Growers that ended in 2009, as determined by the local board, divided by the provincial yield for soybeans for 2008.

iii. The tonnes of wheat on which licence fees were collected by The Ontario Wheat Producers' Marketing Board for the district in the fiscal year of The Ontario Wheat Producers' Marketing Board that ended in 2009, as determined by the local board, divided by the provincial yield for wheat for 2008.

3. Paragraphs 1 and 2 of subsection (3) do not apply.

4. Paragraphs 3 to 8 of subsection (3) apply with necessary modifications. O. Reg. 484/09, s. 8 (5).

(6) Subsection (3) applies, with the following modifications, to the determination of the number of additional delegates that shall be elected in each district for the purposes of the elections to District Grain Committees in 2011:

1. The local board shall estimate the acres of grain on which licence fees were collected for a district by adding the following amounts:

i. The sum of the tonnes of grain corn on which licence fees were collected by the Ontario Corn Producers' Association for the district during the period of June 1, 2009 to December 31, 2009 and the tonnes of grain corn on which licence fees were collected by the local board for the district during the period of January 1, 2010 and May 31, 2010, as determined by the local board, divided by the provincial yield for grain corn for 2009.

ii. The sum of the tonnes of soybeans on which licence fees were collected by the Ontario Soybean Growers for the district during the period of June 1, 2009 to December 31, 2009 and the tonnes of soybeans on which licence fees were collected by the local board for the district during the period of January 1, 2010 and May 31, 2010, as determined by the local board, divided by the provincial yield for soybeans for 2009.

iii. The sum of the tonnes of wheat on which licence fees were collected by The Ontario Wheat Producers' Marketing Board for the district during the period of June 1, 2009 to December 31, 2009 and the tonnes of wheat on which licence fees were collected by the local board for the district during the period of January 1, 2010 and May 31, 2010, as determined by the local board, divided by the provincial yield for wheat for 2009.

2. Paragraphs 1 and 2 of subsection (3) do not apply.

3. Paragraphs 3 to 8 of subsection (3) apply with necessary modifications. O. Reg. 484/09, s. 8 (6).

(7) Subsection (3) applies, with the following modifications, to the determination of the number of additional delegates that shall be elected in each district for the purposes of the elections to District Grain Committees in 2012:

1. Paragraph 1 of subsection (3) applies only with respect to the fiscal year ending in 2011.

2. Paragraph 2 of subsection (3) does not apply.

3. Paragraphs 3 to 8 of subsection (3) apply with necessary modifications. O. Reg. 484/09, s. 8 (7).

(8) Subsection (3) applies, with the following modifications, to the determination of the number of additional delegates that shall be elected in each district for the purposes of the elections to District Grain Committees in 2013:

1. Paragraph 1 of subsection (3) applies only with respect to the fiscal year ending in 2011 and the fiscal year ending in 2012.

2. Paragraphs 2 to 8 of subsection (3) apply with necessary modifications. O. Reg. 484/09, s. 8 (8).

Election, term, first meeting of board members

9. (1) On or before March 1 of each year, the District Grain Committee for each district shall elect one board member. O. Reg. 484/09, s. 9 (1).

(2) If a District Grain Committee fails to elect a board member on or before March 1, the other board members shall, within seven days, appoint a board member for the district. O. Reg. 484/09, s. 9 (2).

(3) The first meeting of the local board shall be held on or before March 16, once all of the board members have been elected or appointed. O. Reg. 484/09, s. 9 (3).

(4) A board member takes office on the day of the first meeting of the local board, and holds the office until his or her successor takes office. O. Reg. 484/09, s. 9 (4).

First local board

10. Within five days after the day this Regulation comes into force, the Commission shall appoint 15 members to the local board to hold office until their successors are elected or appointed in accordance with section 9. O. Reg. 484/09, s. 10.

Vacancies on local board

11. (1) If, before the expiry of a board member's term, the board member dies, resigns, ceases to be a producer or otherwise becomes unable to act, the remaining delegates to the District Grain Committee to which the board member is or was a delegate may, within 30 days of the applicable event, appoint a replacement board member to fill the vacancy for the remainder of the term. O. Reg. 484/09, s. 11 (1).

(2) If the remaining delegates of the District Grain Committee do not appoint a replacement board member under subsection (1) within the specified time, the Commission may do so. O. Reg. 484/09, s. 11 (2).

Review of districts by the local board

12. (1) The local board shall, in accordance with this section,

(a) conduct a review of the methodology set out in this Regulation for determining producer representation on the local board; and

(b) develop and submit to the Commission recommendations respecting improvements to the methodology, including recommendations as to whether any changes are required to the following and, if so, what the changes should be:

(i) the number of districts,

(ii) the district boundaries,

(iii) the minimum number of delegates required for a district, as set out in subsection 7 (3), and the number of additional delegates that are apportioned among the districts under subsection 8 (2), and

(iv) the number of board members. O. Reg. 484/09, s. 12 (1).

(2) Before submitting recommendations to the Commission, the local board shall obtain approval of the recommendations from a majority of the delegates holding office under section 7 at the time the approval is sought. O. Reg. 484/09, s. 12 (2).

(3) A review shall be conducted and the resulting recommendations submitted to the Commission,

(a) in the first instance, on or before the third anniversary of the day on which this Regulation comes into force; and

(b) in every subsequent instance, on or before the fifth anniversary of the day on which the previous recommendation was submitted to the Commission. O. Reg. 484/09, s. 12 (3).

(4) In conducting a review for the purposes of this section, the local board shall,

(a) determine, in accordance with subsection (5), each district's proportion of the total number of producers in Ontario;

(b) determine, in accordance with subsection (6), each district's proportion of the total number of estimated acres of grain on which licence fees are collected in Ontario; and

(c) determine whether any changes in the proportions referred to in clauses (a) and (b) warrant a change to any of the matters listed in clause (1) (b). O. Reg. 484/09, s. 12 (4).

(5) A district's proportion of the total number of producers in Ontario shall be determined by,

(a) adding the number of producers in the district in respect of whom licence fees were paid for each of the previous three fiscal years and dividing the sum by three to obtain the average;

(b) adding the number of producers in all of the districts in respect of whom licence fees were paid for each of the previous three fiscal years and dividing the sum by three to obtain the average; and

(c) dividing the average obtained under clause (a) by the average obtained under clause (b) and multiplying the result by 100. O. Reg. 484/09, s. 12 (5).

(6) A district's proportion of the total number of estimated acres of grain on which licence fees are collected in Ontario shall be determined by making the calculations described in paragraphs 1, 2 and 3 of subsection 8 (3). O. Reg. 484/09, s. 12 (6).

(7) The local board shall ensure that the recommendations it submits under this section comply with the following requirements:

1. A district shall be composed of at least one geographic area.

2. If a district is composed of more than one geographic area, the geographic areas shall be contiguous.

3. Subject to paragraphs 4 and 5, a district shall include at least five per cent, but not more than 15 per cent, of the total number of producers in Ontario, as determined under clause (5) (b), and at least five per cent, but not more than 15 per cent, of the total number of estimated acres of grain on which licence fees are collected in Ontario, as determined under subsection (6).

4. The portion of Ontario lying north of the 45th parallel of latitude and including those geographic areas that are intersected by the 45th parallel of latitude shall be represented by at least one district.

5. The portion of Ontario lying east of the line that is formed by the eastern boundaries of the geographic areas of Simcoe, Toronto and York and south of the 45th parallel of latitude shall be represented by at least two districts. O. Reg. 484/09, s. 12 (7).

(8) For the purposes of the first review and recommendations submitted to the Commission, this section applies with such modifications as the Commission specifies. O. Reg. 484/09, s. 12 (8).

#### Dissolution of Ontario Soybean Growers

13. (1) The Ontario Soybean Growers is dissolved. O. Reg. 484/09, s. 13 (1).

(2) All assets and liabilities of the Ontario Soybean Growers are vested in and assumed by the local board. O. Reg. 484/09, s. 13 (2).

(3) All records of information in any form that are in the possession of the Ontario Soybean Growers immediately before its dissolution shall be transferred to the local board. O. Reg. 484/09, s. 13 (3).

#### Dissolution of The Ontario Wheat Producers' Marketing Board

14. (1) The Ontario Wheat Producers' Marketing Board is dissolved. O. Reg. 484/09, s. 14 (1).

(2) All assets and liabilities of The Ontario Wheat Producers' Marketing Board are vested in and assumed by the local board. O. Reg. 484/09, s. 14 (2).

(3) All records of information in any form that are in the possession of The Ontario Wheat Producers' Marketing Board immediately before its dissolution shall be transferred to the local board. O. Reg. 484/09, s. 14 (3).

15. Omitted (revokes other Regulations). O. Reg. 484/09, s. 15.

16. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 484/09, s. 16.