

The Saskatchewan Flax Development Plan Regulations

being

[Chapter A-15.2 Reg 5](#) (effective April 17, 1996) as amended by Saskatchewan Regulation [40/2001](#), [28/2007](#), [85/2008](#) and [23/2012](#).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER A-15.2 REG 5

The Agri-Food Act

SHORT TITLE AND INTERPRETATION

Title

- 1 These regulations may be cited as *The Saskatchewan Flax Development Plan Regulations*.

Interpretation

- 2 In these regulations:

- (a) **“Act”** means *The Agri-Food Act, 2004*;
- (a.1) **“business day”** means a day other than a Saturday, Sunday or holiday;
- (b) **“buyer”** means any person who buys or contracts to buy flax produced in Saskatchewan;
- (c) **“commission”** means the Saskatchewan Flax Development Commission established pursuant to section 6;
- (d) **“director”** means a director of the commission elected or appointed in accordance with sections 19 and 20;
- (e) **“flax”** means the seeds, straw, fibre, shives, or any part of the plant *linum usitatissimum*;
- (f) **Repealed.** 6 Jly 2001 SR 40/2001 s3.
- (g) **“plan”** means the Saskatchewan Flax Development Plan established pursuant to section 3;
- (h) **“processing”** means changing the nature, size, quality or condition of flax;
- (i) **“processor”** means any person engaged in the business of processing flax;
- (j) **“producer”** means:
 - (i) any person operating a farm in Saskatchewan who is engaged in the production and marketing of flax and includes the employer of that person;
 - (ii) a person who is entitled under any lease or agreement:
 - (A) to a share of the flax produced by a person mentioned in subclause (i); or
 - (B) to the proceeds from the sale of that flax; and
 - (iii) a person who takes possession of any flax under any form of security or legal proceedings for a debt;

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- (k) **“registered producer”** means a producer who:
- (i) is registered with the commission pursuant to section 13;
 - (ii) has paid a levy pursuant to subsection 15(1) in the last two years for which he or she has not received a refund pursuant to section 15.01.

26 Apr 96 cA-15.2 Reg 5 s2; 6 Jly 2001
 SR 40/2001 s3; 27 Apr 2007 SR 28/2007 s3; 26
 Sep 2008 SR 85/2008 s3; 27 Apr 2012 SR 23/
 2012 s3.

PLAN

Establishment

- 3(1)** The Saskatchewan Flax Development Plan is established.
- (2)** The plan continues until these regulations are repealed.

26 Apr 96 cA-15.2 Reg 5 s3.

Application

4 Subject to any exemptions made by the commission, the plan and the orders of the commission made pursuant to the plan apply to:

- (a) all of Saskatchewan, all flax and all grades, classes or varieties of flax; and
- (b) all persons engaged in the production or marketing of flax in Saskatchewan.

26 Apr 96 cA-15.2 Reg 5 s4.

Purposes

5(1) The general purpose and intent of the plan is to provide for the orderly and effective development of the flax industry in Saskatchewan.

(2) Without limiting the generality of subsection (1), the specific purposes of the plan are:

- (a) to promote and develop the flax industry in Saskatchewan;
- (b) to develop procedures to maximize returns to producers of flax;
- (c) to encourage the production of a uniform high-quality product;
- (d) to gather, compile and distribute information related to the production, consumption and marketing of flax;
- (e) to conduct or encourage research on the production, marketing, processing and consumption of flax;
- (f) to promote and improve understanding among individuals and organizations within the flax industry; and
- (g) to establish a system of levies on flax for the purpose of carrying out the objectives of the plan.

26 Apr 96 cA-15.2 Reg 5 s5.

COMMISSION

Administration of plan

6(1) The Saskatchewan Flax Development Commission is established as a development commission pursuant to section 4 of the Act.

(2) The commission shall administer the plan.

(3) The commission consists of a board of directors consisting of six registered producers elected or appointed in accordance with sections 19 to 20.

(4) **Repealed.** 6 Jly 2001 SR 40/2001 s4.

(5) **Repealed.** 6 Jly 2001 SR 40/2001 s4.

26 Apr 96 cA-15.2 Reg 5 s6; 6 Jly 2001
SR 40/2001 s4; 26 Sep 2008 SR 85/2008 s4.

Powers of commission

7(1) Subject to the other provisions of these regulations, the commission may exercise the following powers that are set out in subsection 8(1) of the Act:

- (a) the power to carry out educational, research and developmental programs related to flax;
- (b) the power to require any or all persons engaged in the production, marketing or production and marketing of flax to register with the commission;
- (c) the power to set and collect registration fees and charges for services rendered by the commission from any person engaged in the production, marketing or production and marketing of flax;
- (d) the power to set and collect a levy from any person engaged in the production, marketing or production and marketing of flax;
- (e) the power to categorize into groups persons engaged in the production, marketing or production and marketing of flax for the purpose of setting and collecting the fees, charges or levies mentioned in clauses (c) and (d);
- (f) the power to set and collect penalties from any person who:
 - (i) is engaged in the production, marketing or production and marketing of flax; and
 - (ii) contravenes an order of the commission;
- (g) the power to recover any unpaid fees, charges, levies or penalties mentioned in clause (c), (d) or (f) by an action in a court of competent jurisdiction;
- (h) the power to require any person engaged in the production, marketing or production and marketing of flax to furnish the commission with any information or records relating to that production or marketing that the commission considers necessary;
- (i) the power to market, grade or insure flax, either as principal or agent;

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- (j) the power to:
 - (i) employ any officers and employees that it considers necessary to administer the plan; and
 - (ii) determine the duties, conditions of employment and remuneration of its officers and employees;
- (k) the power to establish or support a group insurance plan, a pension plan or any other employee benefit programs for its officers and employees mentioned in clause (j) and their dependants;
- (l) the power to use any money received by the commission to carry out the purposes of the plan and to pay the expenses of the commission;
- (m) the power to borrow, raise or secure the payment of money in any manner that the commission considers appropriate for the purpose of administering the plan;
- (n) the power to draw, make, accept, endorse, execute, issue, hypothecate or assign promissory notes, bills of exchange or other negotiable or transferable instruments;
- (o) subject to subsection (3), the power to make grants or loans to any person, organization, agency, institution or body within or outside Saskatchewan, for the purposes of the plan;
- (p) subject to subsection (3), the power to give financial guarantees respecting the indebtedness of any person if the commission considers it necessary or advisable for the purposes of the plan;
- (q) the power to purchase, take on lease or exchange or otherwise acquire real and personal property related to the business of the commission, and to insure, sell or otherwise dispose of any of its property;
- (r) the power to grant a mortgage or security interest in any of the commission's real or personal property;
- (s) subject to section 35 of the Act, the power to enter into any agreement with any person, agency, organization, institution or body within or outside Saskatchewan for any purpose related to the exercise of any of the powers or the carrying out of any of the duties of the commission in relation to the plan;
- (t) the power to:
 - (i) require any person who owes money to a registered producer with respect to the sale by the registered producer of flax to pay the money to the commission; and
 - (ii) distribute the money paid to the commission pursuant to subclause (i), in the manner determined by the commission, to the registered producer to whom the money is owing;

- (u) the power to:
 - (i) purchase or acquire by any other means, in the open market or otherwise, any securities of any corporation; and
 - (ii) hold membership in any corporation;
 - (v) the power to:
 - (i) hold, sell, transfer or otherwise deal with any of the securities mentioned in clause (u); and
 - (ii) exercise any rights, including the right to vote, as:
 - (A) an owner of the securities mentioned in clause (u); or
 - (B) a member;
 - (w) the power to register a business name pursuant to *The Business Names Registration Act*;
 - (x) the power to prescribe the manner in which reimbursement for expenses of the directors is to be determined and paid.
- (2) The commission shall not regulate or control in any way the production, marketing or production and marketing of flax.
- (3) Neither the sum of the loans nor the sum of the financial guarantees mentioned in clauses (1)(o) and (p) shall exceed 10% each of the commission's current assets as reported in the audited financial statement in the commission's most recent annual report at the time the loan or financial guarantee is made or given.

27 Apr 2007 SR 28/2007 s4.

Books and records

- 8(1) The commission shall maintain any books and records that may be required for the proper administration of the plan and keep those books and records open for inspection by the council at any reasonable time.
- (2) The commission shall maintain its head office in Saskatchewan.
- (3) The commission shall prepare an annual report containing:
- (a) a copy of the audited financial statement of the commission for its previous fiscal year;
 - (b) a description of the activities of the commission for its previous fiscal year; and
 - (c) a list of the names and addresses of the directors of the commission.

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(4) The commission shall submit the annual report to the council and make it available at the annual general meeting of registered producers and, on request, to any registered producer or buyer.

(5) **Repealed.** 27 Apr 2007 SR 28/2007 s5.

26 Apr 96 c.A-15.2 Reg 5 s8; 27 Apr 2007 SR 28/2007 s5.

Appointment of auditor

8.1(1) The registered producers:

(a) shall, at each annual general meeting, appoint an auditor to audit the books, records and financial statements of the commission for the current fiscal year; and

(b) may, at any special general meeting, appoint an auditor to audit the books, records and financial statements of the commission for the current fiscal year.

(2) If the registered producers fail to appoint an auditor pursuant to clause (1)(a) for a fiscal year, the council shall appoint an auditor to audit the books, records and financial statements of the commission for that fiscal year.

(3) Any person appointed as auditor pursuant to this section must:

(a) be independent of:

(i) the commission; and

(ii) the directors and officers of the commission; and

(b) be a member in good standing of a recognized accounting profession that is regulated by an Act.

27 Apr 2007 SR 28/2007 s6.

Committees

9(1) The commission may appoint any committees that it considers necessary or desirable for the proper operation of the plan.

(2) The members of a committee appointed pursuant to this section are entitled to any remuneration and reimbursement for expenses that the commission may determine.

26 Apr 96 cA-15.2 Reg 5 s9; 27 Apr 2007 SR 28/2007 s7.

Chairperson and vice-chairperson

10(1) The commission shall elect a chairperson and vice-chairperson from among the directors of the commission at their first meeting in each year after new directors have been elected or appointed.

(2) The chairperson or, in the absence of the chairperson, the vice-chairperson shall preside at all meetings of the commission.

6 Jly 2001 SR 40/2001 s5; 26 Sep 2008 SR 85/2008 s5.

Quorum

10.1 For the transaction of business at a meeting of the commission:

- (a) a majority of the directors constitutes a quorum; and
- (b) a decision of a majority of those directors comprising a quorum is a decision of the commission.

6 Jly 2001 SR 40/2001 s5.

Policies re conflict of interest and code of conduct

10.2 Within 18 months after the coming into force of this section, the commission shall prepare and submit to the council:

- (a) a conflict of interest policy for the directors; and
- (b) a policy respecting a code of conduct for the directors.

27 Apr 2007 SR 28/2007 s8.

Conflicts of interest

10.3(1) No director shall:

- (a) fail to disclose to the commission any conflict of interest that the director may have; or
- (b) vote on any matter with respect to which the director has any direct or indirect financial interest that is different from the financial interest of other producers.

(2) If the commission is uncertain whether or not a director has a conflict of interest mentioned in clause (1)(a) or (b), the commission must adjourn the matter until the conflict of interest issue is resolved pursuant to the policies mentioned in section 10.2.

27 Apr 2007 SR 28/2007 s8.

Orders of commission generally

11(1) Every order issued by the commission must:

- (a) be signed by the chairperson or, in the absence of the chairperson, the vice-chairperson;
- (b) clearly describe the program or policy established by the order; and

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- (c) be published in the Gazette and any other media determined by the commission.
- (2) Every order issued by the commission and approved by the council pursuant to section 12 of the Act must be kept open for inspection by any producer, marketer of flax or person designated by the council.
- (3) The commission shall annually review all orders issued by it.

26 Apr 96 cA-15.2 Reg 5 s11; 27 Apr 2007 SR
28/2007 s9.

Financial provisions

- 12(1)** The commission may open accounts in a bank, credit union or trust corporation in the name of the commission and appoint signing officers.
- (2) The commission may invest any money in its possession or control that is not immediately required for the purposes of its operations in securities approved for the investment of the general revenue fund pursuant to *The Financial Administration Act, 1993* and may sell any securities so acquired by it and reinvest any of the proceeds of those securities in a similar manner.
- (3) The fiscal year of the commission is the crop year from August 1 to July 31.
- (4) When the plan has been disestablished, any assets of the commission remaining after all of the liabilities of the commission have been settled are to be distributed to one or more research or development institutes that, in the opinion of the commission, will use those assets to contribute to the development of the flax industry in Saskatchewan.

26 Apr 96 cA-15.2 Reg 5 s12.

Financial plan

- 12.1** The commission shall prepare and approve a financial plan of its operations at the beginning of each fiscal year.

27 Apr 2007 SR 28/2007 s10.

REGISTRATION**Registration of producers**

- 13(1)** Producers shall register with the commission at the time and in the manner required by the commission.
- (2) The commission may register as producers persons who have met the definition of “producer” at any time within the two years prior to registration.
- (3) The commission shall maintain at its head office a register containing the name and address of each registered producer.

26 Apr 96 cA-15.2 Reg 5 s13.

Registration of buyers and processors

- 14(1) Buyers and processors shall register with the commission at the time and in the manner determined by the commission.
- (2) The commission shall maintain at its head office a register containing the name and address of each registered buyer and processor.

26 Apr 96 cA-15.2 Reg 5 s14.

LEVIES

Collection of levies

- 15(1) Every producer engaged in the production, marketing, or production and marketing of flax shall pay to the commission, at the times and in the manner determined by the commission, a levy calculated in accordance with this section.
- (2) Subject to subsections (3) and (4), the levy mentioned in subsection (1):
- (a) is to be determined by order of the commission; and
 - (b) is to be based on a fixed rate for every tonne of flax marketed by a producer.
- (3) For the purposes of clause (2)(b) a different rate may be fixed for each of the various parts of the plant *linum usitatissimum*.
- (4) The commission shall provide registered producers with:
- (a) an opportunity to discuss the rate of levy at annual general meetings and special general meetings; and
 - (b) at least 10 business days' notice that the rate of the levy is to be discussed at an annual general meeting or special general meeting.
- (5) The commission may require any processor or buyer of flax to:
- (a) deduct the levy mentioned in subsection (1), and other fees and charges on flax levied pursuant to these regulations, from any payment made to a producer; and
 - (b) forward the levy and other fees and charges to the commission.
- (6) The commission may recover in a court of competent jurisdiction the levies, fees and charges mentioned in this section from producers, buyers or processors.

27 Apr 2012 SR 23/2012 s5.

A-15.2 REG 5 SASKATCHEWAN FLAX DEVELOPMENT PLAN**Refund of levies**

15.01(1) The commission shall make a refund of levies only if:

- (a) the commission receives a written request for the refund from the producer:
 - (i) with respect to levies paid between February 1 and July 31 in any year, not later than August 31 of that year; and
 - (ii) with respect to levies paid between August 1 in any year and January 31 in the following year, not later than February 28 of that year; and
 - (b) the request has been verified by the commission.
- (2) If the commission receives and verifies a written request for a refund of levies paid to the commission by the producer:
- (a) between February 1 and July 31 in any year, the commission shall make the refund of those levies to the producer not later than October 31 of that year; and
 - (b) between August 1 in any year and January 31 in the following year, the commission shall make the refund of those levies to the producer not later than April 30 of that year.

27 Apr 2012 SR 23/2012 s5.

Required notification

15.1 If, for any one fiscal year, 35% or more of the producers representing 35% or more of the levy for that fiscal year request a refund of levies pursuant to subsection 15.01(1), the commission shall immediately notify the council.

27 Apr 2012 SR 23/2012 s5.

MEETINGS**Meetings of registered producers**

16(1) An annual general meeting of registered producers:

- (a) is to be held in each year within six months of the end of the commission's fiscal year; and
 - (b) is to be held at a place and time determined by the commission.
- (2) The commission:
- (a) may call a special general meeting of registered producers at any time; and
 - (b) shall call a special general meeting on the written request of not less than 50 registered producers.

- (3) The commission shall notify all registered producers, in writing:
 - (a) for an annual general meeting of registered producers, of the date, time, location and agenda not less than 30 days before the date on which the annual general meeting commences; and
 - (b) for a special general meeting of registered producers, of the date, time, location and agenda not less than 15 days before the date on which the special general meeting commences.
- (4) The notice mentioned in subsection (3) may be sent:
 - (a) by ordinary or registered mail; or
 - (b) at the request of a registered producer, by facsimile or electronic mail.
- (5) If a notice is sent pursuant to clause (4)(b), it is deemed to be received on the next business day after it was sent.
- (6) The quorum at an annual or special general meeting of registered producers is 20 registered producers.
- (7) The commission shall present to the annual general meeting:
 - (a) the financial plan it has approved for the current fiscal year; and
 - (b) an outline of programs and activities it has planned for the current fiscal year.
- (8) Any change to the remuneration to be paid to the directors of the commission is to be determined by motion of the commission and approved by a vote of registered producers at the next annual general meeting or special general meeting.
- (9) At an annual or special general meeting, registered producers may debate and take a vote by show of hands on any questions or resolutions respecting the purposes of the plan.

27 Apr 2007 SR 28/2007 s12; 27 Apr 2012 SR
23/2012 s6.

ELECTIONS

Eligibility

- 17(1) Every registered producer is eligible to vote for any purpose under the plan.
- (2) A registered producer that is a corporation, association, society or other designation is entitled to vote or hold office:
 - (a) only through a designated representative appointed in writing; and
 - (b) only if notice of that appointment has been filed with the commission in a form and manner acceptable to the commission.
- (3) Except as provided in subsection (2), voting by proxy is prohibited.
- (4) Every registered producer is entitled to one vote.

27 Apr 2007 SR 28/2007 s13.

A-15.2 REG 5 SASKATCHEWAN FLAX DEVELOPMENT PLAN**Election of first board**

18 Repealed. 6 Jly 2001 SR 40/2001 s9.

Conduct of elections

19(1) The commission shall arrange for the conduct of elections, fix a date for receiving nominations and, at least 30 days before that date, send to each registered producer a notice stating that nominations are being accepted for the election of directors and giving the date fixed for receiving nominations.

(1.1) Subject to subsection 20(6), every registered producer is eligible to hold office as a director of the commission.

(2) The commission shall appoint a returning officer and a scrutineer who are not producers or employees of the commission.

(3) Every nomination is to be in writing, in the form prescribed by the commission, signed by three registered producers or their representatives and delivered to the returning officer not later than the date fixed for receiving nominations.

(4) If not more than the maximum number of candidates are nominated, the candidates nominated are to be declared elected by acclamation.

(2) If more than the required number of candidates are nominated, the commission shall:

- (a) fix a date for the completion of the election; and
- (b) at least 15 business days before the date fixed pursuant to clause (a), send by ordinary or registered mail to every registered producer:
 - (i) the ballot and a plain envelope;
 - (ii) a profile of every candidate;
 - (iii) a certificate of eligibility to vote; and
 - (iv) a notice that states the time, date and place to which the ballot and certificate of eligibility to vote are to be returned.

(6) All voting is to be by ballot, and the ballot, sealed in the plain envelope provided, is to be returned to the returning officer appointed by the commission either in person or by mail, together with the certificate of eligibility to vote signed by the producer casting the ballot.

(7) No qualified voter shall vote for more than the specified number of candidates required to fill the vacancies.

(8) Those candidates receiving the most votes, up to the number of director's positions to be filled, are elected as directors.

(9) Ties are to be decided by the drawing of lots.

(10) The returning officer shall announce the names of the persons elected as directors at the close of the first annual general meeting of registered producers after the election.

(11) A registered producer is deemed to have received any notice, nomination paper or ballot that is posted to the registered producer at his or her last address registered with the commission, and the failure of any person to receive that notice, nomination paper or ballot does not invalidate the election.

(12) The returning officer shall:

- (a) retain all ballots in his or her possession; and
- (b) not destroy any ballot or other record respecting an election of directors until 91 days after the annual general meeting of registered producers at which the returning officer announced the results of the election.

26 Apr 96 cA-15.2 Reg 5 s19; 6 Jly 2001
SR 40/2001 s10; 27 Apr 2007 SR 28/2007 s14;
26 Sep 2008 SR 85/2008 s7; 27 Apr 2012 SR 23/
2012 s7.

Challenge to election results

19.1(1) Any registered producer may challenge the results of an election of directors, as announced by the returning officer pursuant to subsection 19(10), by submitting a written objection to the council.

(2) A written objection submitted pursuant to subsection (1) must:

- (a) set out the grounds for the objection; and
- (b) be received by the council within 90 days after the annual general meeting of registered producers at which the returning officer announced the results of the election.

(3) If the council receives a written objection in accordance with this section and is satisfied that the objection is neither frivolous nor vexatious, the council may appoint a vote recount officer to conduct a recount of the votes cast in the election.

(4) If the council appoints a vote recount officer pursuant to subsection (3), the results of the election as determined by the vote recount officer are final.

27 Apr 2007 SR 28/2007 s15.

Terms of office, vacancy

20(1) Subject to subsection (4), a director of the commission holds office:

- (a) for a term of three years after he or she is elected; and
- (b) until the director's successor is elected.

(2) Subject to subsection (6), a director is eligible for re-election.

(3) If a director has completed three consecutive terms, the director is not eligible for re-election or appointment until one year has passed since the completion of the director's third consecutive term.

(4) The office of a director becomes vacant if a director:

- (a) ceases to qualify as a registered producer;
- (b) resigns, dies or is unable to act;
- (c) is absent from two consecutive meetings of the commission without being excused by a resolution of the commission; or
- (d) fails to fulfil his or her duties as established by the policy of the commission that is approved by the council.

(4.1) If fewer than the required number of directors are elected in accordance with section 19 and this section, the commission may appoint a registered producer as a director to fill the vacancy for the term mentioned in subsection (1).

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(5) If the office of a director becomes vacant, the commission may appoint a director to fill the vacancy for the remainder of the term for that office.

(6) A director who is removed from office pursuant to clause (4)(c) or (d) is disqualified from standing for election as a director for a period of three years following the date on which the director is removed from office.

27 Apr 2007 SR 28/2007 s16; 26 Sep 2008 SR 85/2008 s8.

Transitional - staggered terms

20.1(1) Notwithstanding any other provision in these regulations, the term of office of every director of the first commission elected after the coming into force of *The Saskatchewan Flax Development Plan Amendment Regulations, 2008*:

- (a) commences on the day on which the director is declared by the returning officer to be elected; and
 - (b) ends on December 31:
 - (i) in the case of the two directors receiving the largest number of votes, of the third year following the year in which the election is held;
 - (ii) in the case of the two directors receiving the next largest number of votes, of the second year following the year in which the election is held; and
 - (iii) in the case of the two directors receiving the next largest number of votes, of the first year following the year in which the election is held.
- (2) If fewer than the required number of directors are elected in accordance with subsection (1), the commission may appoint a registered producer as a director to fill the vacancy:
- (a) in the case where there are up to two vacancies, for the term mentioned in subclause (1)(b)(iii);
 - (b) in the case where there are up to four vacancies:
 - (i) for the term mentioned in subclause (1)(b)(ii) for the first and second appointments; and
 - (ii) for the term mentioned in subclause (1)(b)(iii) for the third and fourth appointments.

26 Sep 2008 SR 85/2008 s9.

Appendix

Repealed. 6 Jly 2001 SR 40/2001 s12.