



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

Revised Statutes of Alberta 2000
Chapter M-4

Current as of December 15, 2017

Office Consolidation

© Published by Alberta Queen's Printer

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Marketing of Agricultural Products Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	<i>Amendments</i>
Marketing of Agricultural Products Act		
<i>Certain producer board regulations exempt from filing under Regulations Act: see AR 288/99</i>		
Alfalfa Seed Commission.....	223/2009	108/2014, 46/2019
Alfalfa Seed Commission Authorization.....	212/2009	110/2014, 129/2016
Alfalfa Seed Plan.....	181/2009	28/2011, 101/2014
Alberta Barley Commission	123/99	100/2003, 14/2004, 3/2009, 210/2009, 208/2013, 87/2017, 41/2019
Alberta Barley Commission Authorization	122/99	7/2004, 4/2009, 11/2014, 129/2016
Alberta Barley Plan	111/99	65/2004, 22/2009, 28/2011, 5/2014
Alberta Beef Producers Authorization	352/2003	9/2008, 81/2009, 23/2010, 86/2015, 129/2016
Alberta Beef Producers Commission	204/98	49/99, 279/2002, 40/2004, 260/2007,

		57/2009, 278/2009, 24/2010, 210/2010, 42/2013, 94/2015, 112/2015, 242/2017
Alberta Beef Producers Plan	286/2009	170/2010, 28/2011, 23/2013, 88/2015
Alberta Beef Producers Plebiscite.....	172/2018	189/2018
Alberta Beekeepers Commission	73/2006	166/2009, 99/2011, 100/2012, 76/2016, 129/2017
Alberta Beekeepers Commission Authorization	72/2006	112/2006, 81/2011, 183/2011, 75/2016, 129/2016
Alberta Beekeepers Commission Plan	59/2006	229/2006, 201/2009, 28/2011, 60/2011, 68/2016
Bison Producers of Alberta Authorization Repeal	154/2016	
Bison Producers of Alberta Plan Repeal	37/2016	
Alberta Canola Producers Commission Authorization	130/98	45/2003, 84/2008, 96/2013, 129/2016
Alberta Canola Producers Commission Federal Authorization Order	174/2005	88/2008
Alberta Canola Producers Marketing	142/98	33/2003, 85/2008, 74/2013, 132/2013, 80/2018
Alberta Canola Producers Marketing Plan	108/98	131/98, 44/2003, 173/2005, 87/2008, 242/2009, 28/2011, 95/2013, 125/2018
Alberta Chicken Producers Authorization	80/93	309/96, 240/2001, 96/2007, 83/2012, 216/2012, 129/2016
Alberta Chicken Producers Federal Authorization Order	230/99	246/2004
Alberta Chicken Producers Marketing	3/2000	62/2001, 118/2002, 124/2003, 290/2003, 43/2004, 226/2004, 68/2005, 105/2005, 153/2005, 35/2007, 97/2007, 65/2008, 68/2008, 83/2010, 128/2011, 31/2012,

		84/2012, 223/2012, 166/2015, 86/2017, 153/2017, 81/2018
Alberta Chicken Producers' Plan	70/93	208/96, 262/2001, 100/2007, 28/2011, 160/2011, 162/2012, 57/2018
Egg Farmers of Alberta Authorization	279/97	280/2002, 123/2009, 37/2014, 129/2016
Egg Farmers of Alberta Federal Authorization Order	27/2014	
Egg Farmers of Alberta Marketing	293/97	70/98, 279/98, 134/2000, 266/2001, 277/2002, 188/2003, 99/2004, 72/2005, 201/2006, 38/2009, 124/2009, 149/2012, 38/2014, 79/2016
Egg Farmers of Alberta Plan	258/97	218/2001, 204/2002, 111/2005, 212/2005, 51/2009, 130/2009, 28/2011, 26/2014, 33/2017
Hatching Egg Producers Negotiation and Arbitration Repeal	67/2010	
Alberta Elk Authorization	255/2002	12/2008, 82/2009, 12/2014, 129/2016
Alberta Elk Commission	256/2002	219/2003, 75/2005, 244/2007, 10/2008, 58/2009, 256/2009, 37/2010, 124/2011, 222/2011, 125/2014, 31/2016
Alberta Elk Plan	210/2002	112/2005, 16/2008, 45/2008, 302/2009, 37/2010, 20/2011, 28/2011, 6/2014, 188/2014, 10/2019
Alberta Hatching Egg Plan	283/96	205/2002, 16/2008, 131/2009, 59/2010, 13/2011, 28/2011, 61/2014
Alberta Hatching Egg Producers Authorization	278/97	307/2002, 12/2008, 125/2009, 66/2010, 67/2014, 129/2016
Hatching Eggs	280/97	145/99, 91/2001, 337/2002, 125/2003, 12/2005, 154/2005,

		11/2008, 48/2008, 126/2009, 68/2010, 93/2014, 156/2017
Alberta Lamb Producers.....	389/2003	108/2004, 18/2007, 261/2007, 5/2009, 129/2011, 24/2012, 41/2017
Alberta Lamb Producers Authorization.....	242/2001	8/2004, 212/2005, 22/2007, 6/2009, 111/2011, 23/2012, 129/2016, 155/2017
Alberta Lamb Producers Plan.....	263/2001	373/2003, 108/2004, 94/2007, 11/2009, 28/2011, 86/2011, 1/2012, 189/2014, 120/2017, 126/2018
Alberta Milk Authorization.....	152/2002	61/2003, 12/2008, 141/2008, 29/2014, 129/2016
Alberta Milk Federal Authorization Order	154/2002	
Alberta Milk Marketing	151/2002	285/2002, 58/2003, 167/2004, 152/2005, 92/2007, 164/2007, 254/2007, 29/2008, 125/2008, 74/2012, 124/2013, 171/2016, 34/2019
<i>NOTE: AR 34/2019 ss5(b), (c), 6(b), 7(b), 23 to 26 and 27(a) come into force on Aug 1, 2019</i>		
Alberta Milk Negotiation and Arbitration.....	153/2002	12/2008, 142/2008, 30/2014
Alberta Milk Plan.....	150/2002	73/2003, 254/2007, 16/2008, 147/2008, 152/2010, 175/2010, 28/2011, 46/2012, 170/2012, 138/2016
Alberta Oat Growers Commission	138/2012	148/2017
Alberta Oat Growers Commission Authorization	135/2012	129/2016, 154/2017
Alberta Oat Growers Commission Plan	133/2012	133/2017
Operation of Boards and Commissions.....	26/99	350/2003, 172/2009, 107/2010
Alberta Peace Region Forage Seed Growers.....	117/2004	83/2011, 113/2015
Alberta Peace Region Forage Seed Growers Authorization.....	112/2004	82/2011, 66/2016, 129/2016

Alberta Peace Region Forage Seed Growers Plan.....	91/2004	28/2011, 61/2011, 97/2013, 67/2016
Alberta Pork Producers Development Corporation Federal Authorization	208/2002	
Alberta Pork Producers' Authorization	281/96	158/2001, 243/2002, 23/2007, 112/2011, 60/2013, 129/2016
Alberta Pork Producers' Commission.....	69/2015	
Alberta Pork Producers' Plan.....	219/2001	337/2003, 199/2004, 226/2005, 194/2010, 28/2011, 62/2011, 2/2012, 170/2012, 19/2013, 62/2014, 36/2016
Potato Growers of Alberta Authorization	299/2002	12/2008, 7/2009, 110/2011, 13/2014, 129/2016, 38/2019
Potato Growers of Alberta Commission	277/98	328/2000, 206/2001, 246/2001, 300/2002, 265/2004, 35/2007, 13/2008, 68/2008, 8/2009, 115/2009, 74/2011, 130/2011, 9/2014, 7/2015, 37/2019
Potato Growers of Alberta Plan.....	291/2002	212/2005, 16/2008, 23/2009, 28/2011, 87/2011, 7/2014, 24/2019
Potato Growers of Alberta Plebiscite	171/2018	
Alberta Pulse Growers Commission Authorization	128/99	347/2003, 173/2009, 109/2014, 129/2016
Alberta Pulse Growers Commission Federal Authorization Order	82/2005	
Alberta Pulse Growers Marketing.....	129/99	187/2003, 363/2003, 201/2007, 167/2009, 107/2014, 150/2018, 47/2019
Alberta Pulse Growers Marketing Plan	120/99	338/2003, 81/2005, 212/2005, 182/2009, 186/2010, 28/2011, 161/2011, 100/2014
Review and Appeal	199/2016	

Alberta Sugar Beet Growers Authorization	286/97	272/2002, 216/2007, 188/2008, 215/2013, 129/2016
Alberta Sugar Beet Growers Negotiation, Mediation and Arbitration.....	285/97	273/2002, 217/2007, 187/2008, 216/2013, 200/2018
Sugar Beet Marketing Plan	275/97	240/99, 265/2002, 230/2006, 214/2007, 193/2008, 14/2011, 28/2011, 163/2012, 214/2013, 45/2014
Sugar Beet Production and Marketing	287/97	274/2002, 126/2003, 218/2007, 179/2008, 86/2009, 217/2013, 64/2016, 135/2016, 3/2018
Alberta Turkey Producers Federal Authorization	154/2000	209/2002
Turkey Marketing.....	113/98	96/99, 89/2000, 81/2002, 276/2002, 127/2003, 1/2004, 51/2008, 86/2008, 102/2013, 135/2015, 156/2018
Turkey Producers Authorization	112/98	275/2002, 80/2008, 101/2013, 129/2016
Turkey Producers Plan	259/97	22/2001, 207/2002, 109/2003, 81/2008, 15/2011, 28/2011, 100/2013
Alberta Vegetable Growers (Processing) Authorization.....	159/2007	79/2015, 129/2016
Alberta Vegetable Growers (Processing) Marketing	160/2007	233/2008, 35/2015
Alberta Vegetable Growers (Processing) Negotiation and Arbitration	25/2008	78/2015
Alberta Vegetable Growers (Processing) Plan.....	273/97	206/2002, 137/2007, 15/2008, 28/2011, 57/2015
Alberta Wheat Commission	137/2012	62/2013, 131/2013 88/2017, 52/2018
Alberta Wheat Commission Authorization	136/2012	129/2016
Alberta Wheat Commission Plan	134/2012	50/2018

MARKETING OF AGRICULTURAL PRODUCTS ACT

Chapter M-4

Table of Contents

- 1 Definitions
- 2 Administration of Act

Part 1 Alberta Agricultural Products Marketing Council

- 3 Council
- 4 Council is corporation
- 5 Bylaws
- 6 Quorum
- 7 Staff
- 8 Appointment of experts
- 9 Evidence
- 10 Responsibilities of Council
- 11 Directions of Council
- 12 General regulations by Lieutenant Governor in Council
- 13 Council regulations
- 14 Annual report

Part 2 Establishment of Plans, Boards and Commissions and Governing of Boards and Commissions

- 15 Submission of a proposed plan
- 16 Plebiscite on a proposed plan
- 17 Establishing plan
- 19 Interim members of boards and commissions
- 20 Regulations governing boards and commissions

Part 3
Amendment, Continuation, Revision and
Termination of Plans

- 21 Petitions to amend, continue, revise or terminate plans
- 22 Request to amend, continue, revise or terminate plan
- 23 Amendment, continuation, revision or termination of plans
- 24 Plebiscite required
- 24.1 Plan termination
- 25 Conduct of plebiscite

Part 4
Operation of Plans

- 26 Regulations by boards and commissions
- 27 Regulations by boards
- 28 Conditions of Council
- 29 Regulations to be submitted to Council
- 30 Council's direction to amend regulations
- 31 Funds deemed held in trust
- 32 Advisory committees
- 33 Negotiations re marketing or production
- 34 Funds to indemnify against loss
- 35 Funds to equalize, adjust or stabilize financial returns

Part 5
Reviews and Appeals

- 36 Review and appeals of decisions
- 41 Confidential evidence
- 42 Determination by Court
- 43 Questions of law
- 43.1 Regulations re reviews and appeals

Part 6
Enforcement

- 44 Inspection
- 45 Court order
- 46 Seizure of agricultural product

Part 7
General

- 47 Liability
- 47.1 Witness exemption
- 48 Conflicts

- 49 Producers and processors
- 50 Delegation
- 51 Agreements
- 52 Service of documents
- 53 Copies of documents

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “agricultural product”
 - (i) means a natural product of agriculture or a primary food product designated by the Lieutenant Governor in Council as an agricultural product, and
 - (ii) includes a product resulting from the processing of a product designated as an agricultural product while the product is owned, controlled or regulated by a producer, board or commission;
- (b) “board” means a board established by regulation under section 17;
- (c) “Canada Act” means
 - (i) the *Farm Products Agencies Act* (Canada),
 - (ii) the *Agricultural Products Marketing Act* (Canada),
 - (ii.1) the *Canadian Dairy Commission Act* (Canada), or
 - (iii) any other Act of the Parliament of Canada designated by the Lieutenant Governor in Council,or any one or more of them, as the case may be;
- (d) “Canada Board” means
 - (i) the National Farm Products Council or an agency established pursuant to the *Farm Products Agencies Act* (Canada),
 - (i.1) the Canadian Dairy Commission or an agency established pursuant to the *Canadian Dairy Commission Act* (Canada), or

- (ii) the Governor General in Council,
as the case may be;
- (e) “commission” means a commission established by regulation under section 17(1)(b);
- (f) “Council” means the Alberta Agricultural Products Marketing Council;
- (g) “Court” means the Court of Queen’s Bench;
- (g.1) “dealer” means dealer as defined in the regulations with respect to a plan;
- (h) “designated agency” means an agency designated by a board as the agency by or through which a regulated product is to be marketed;
- (i) “marketing”
 - (i) means buying, owning, selling, offering for sale, storing, grading, assembling, packing, transporting, advertising or financing, and
 - (ii) includes any other function or activity designated as marketing by the Lieutenant Governor in Council;
- (j) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (k) “plan” means a plan established, continued, revised or amended under this Act;
- (l) “processing” means changing the nature or form of an agricultural product, and includes,
 - (i) in the case of eggs, the hatching of them, and
 - (ii) any function or activity designated as processing by the Lieutenant Governor in Council;
- (l.1) “processor” means processor as defined in the regulations with respect to a plan;
- (m) “producer” means
 - (i) a person who produces an agricultural product, and

- (ii) a producer as defined in the regulations with respect to a plan;
- (n) “record” includes
 - (i) any document, agreement, account, book, return, statement, report or other memorandum of financial or non-financial information whether in writing or in electronic form or represented or reproduced by any other means, and
 - (ii) the results of the recording of details of electronic data processing systems to illustrate what the systems do and how they operate;
- (o) “regulated product” means any agricultural product in respect of which a plan is established.

RSA 2000 cM-4 s1;2002 c11 s3;2017 c22 s35

Administration of Act

- 2** The Minister is charged with the administration of this Act.

1987 cM-5.1 s2;1994 cG-8.5 s88

Part 1 Alberta Agricultural Products Marketing Council

Council

- 3(1)** The Alberta Agricultural Products Marketing Council is continued and shall consist of not fewer than 3 persons appointed by the Lieutenant Governor in Council.
- (2)** The Lieutenant Governor in Council shall designate one member of the Council as the chair and another member as the vice-chair of the Council.
- (3)** The term of office of a member of the Council, other than the chair, shall not exceed 3 years.
- (4)** A member of the Council may, subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, be reappointed for one additional term of office but is then not eligible to be appointed again as a member of Council until 2 years have expired from the time that the member’s last appointment to the Council has terminated.
- (5)** The members and the chair of the Council shall be paid remuneration and expenses prescribed by the Lieutenant Governor in Council.

(6) If regulations under the *Alberta Public Agencies Governance Act* apply in respect of remuneration or expenses to be paid to the members or the chair of the Council, those regulations prevail, to the extent of any conflict or inconsistency, over any regulations made under subsection (5).

RSA 2000 cM-4 s3;2009 c6 s2;2009 cA-31.5 s57

Council is corporation

4 The Council is a corporation.

1987 cM-5.1 s4

Bylaws

5(1) The Council may, with the approval of the Minister, make bylaws governing

- (a) the conduct of the business and affairs of the Council in carrying out its responsibilities, and
- (b) the calling and conducting of and procedure at meetings of the Council.

(2) The *Regulations Act* does not apply to a bylaw made under subsection (1).

1987 cM-5.1 s5

Quorum

6 A quorum at meetings of the Council is a majority of the members of the Council then holding office.

1987 cM-5.1 s6

Staff

7(1) In accordance with the *Public Service Act*, there may be appointed a General Manager of the Council and any other employees required to conduct the business of the Council.

(2) Any appointment of a person as the General Manager is subject to the approval of the Minister.

1987 cM-5.1 s7

Appointment of experts

8 The Council may appoint experts or persons having special, technical or other knowledge to advise it on any matter relating to the production or marketing, or both, of an agricultural product, and may pay them remuneration and expenses as the Council prescribes.

1987 cM-5.1 s8

Evidence

9(1) For the purposes of section 34 of the *Alberta Evidence Act*, any record in the possession of the Council is deemed to be in the possession of the Minister.

(2) Section 34 of the *Alberta Evidence Act* applies to a member of the Council in the same manner as if the member were an employee of the Government.

1987 cM-5.1 s9

Responsibilities of Council

10 The Council is responsible for the following:

- (a) advising the Minister on matters relating to the establishment, operation and control of boards and commissions;
- (b) reviewing each proposed plan submitted to it and deciding whether to hold public hearings or meetings in respect of a proposed plan;
- (c) making recommendations to the Minister respecting the establishment, amendment and termination of a plan;
- (d) conducting votes on plans for the establishment, amendment or termination of plans and of boards and commissions;
- (e) supervising the operation of boards and commissions;
- (f) administering the regulations made under this Act;
- (g) performing any other duties and functions necessary in exercising the authority given to it under this Act and the regulations;
- (h) carrying out any other duty assigned to it by the Minister or the Lieutenant Governor in Council.

1987 cM-5.1 s10

Directions of Council

11 The Council may, with the approval of the Minister, do the following:

- (a) require a board, commission or producer or a person who markets or processes a regulated product to furnish to the Council any information or record relating to the production, marketing or processing of a regulated product that the Council considers necessary;

- (b) direct a board or commission to carry out any purposes of a plan that the Council considers necessary or advisable;
- (c) make any direction necessary to a board, commission or person for the purpose of administering this Act, the regulations or a plan.

1987 cM-5.1 s11

General regulations by Lieutenant Governor in Council**12** The Lieutenant Governor in Council may make regulations

- (a) designating agricultural products for the purpose of this Act and the regulations;
- (b) designating any function or activity as marketing for the purpose of this Act and the regulations;
- (c) designating any function or activity as processing for the purpose of this Act and the regulations;
- (c.1) defining producer, processor and dealer with respect to a plan;
- (d) requiring that a regulation or class of regulation made by a board or commission under section 26 or 27, as the case may be, not be filed in accordance with the *Regulations Act* unless it is approved by the Lieutenant Governor in Council;
- (e) providing for boards or commissions to co-operate with or act as agents of the Canada Board;
- (f) subject to Part 3, governing the winding-up and disposition of the assets of a board or commission whose establishment is terminated;
- (g) authorizing the Council to levy assessments and charge fees in respect of any service or function it performs under this Act for any person, board or commission;
- (h) exempting from the operation of a plan
 - (i) any person or class of person,
 - (ii) any class, variety, size, grade, kind or number of an agricultural product, or
 - (iii) any method of selling any class, variety, size, grade, kind or number of an agricultural product;
- (i) notwithstanding this or any other Act, providing for

- (i) the carrying out by the Council or a trustee of any or all of the duties of a board or commission;
- (ii) the vesting of the assets of a board or commission in the Council or a trustee;
- (iii) with respect to any or all of the assets that are owned or in the custody of a board or commission,
 - (A) subject to paragraph (B), the disposition of the assets, and
 - (B) the return to the producers of any assets that are identified as being the property of or owing to the producers;
- (j) authorizing the disclosure of information, including personal information, that relates to the administration of a plan, this Act and the regulations or orders and directives of a board or commission that has been
 - (i) collected or used by a public body, within the meaning of the *Freedom of Information and Protection of Privacy Act*, to a board or commission for use by the board or commission in carrying out its powers and duties;
 - (ii) collected or used by a board or commission to a public body, within the meaning of the *Freedom of Information and Protection of Privacy Act*, for use by the public body in carrying out its powers and duties.

RSA 2000 cM-4 s12;2002 c11 s3;2009 c6 s3

Council regulations

13 The Council may, with the approval of the Minister, make regulations

- (a) subject to Parts 2 and 3, governing plebiscites held under this Act;
- (b) respecting any matter necessary or advisable to carry out the intent and purpose of this Act.

1987 cM-5.1 s13

Annual report

14(1) The Council shall, as soon as practicable after the end of the fiscal year of the Council, prepare a report summarizing the affairs of the Council for that fiscal year and forward the report to the Minister.

(2) When the Minister receives the report, the Minister shall lay a copy of it before the Assembly if it is then sitting, and if it is not then sitting, within 15 days from the day of commencement of the next sitting of the Assembly.

1987 cM-5.1 s14

Part 2

Establishment of Plans, Boards and Commissions and Governing of Boards and Commissions

Submission of a proposed plan

15(1) A group of producers may submit to the Council a proposed plan to establish a plan to be administered by a board or commission to do one or more of the following:

- (a) if the plan is to be administered by a board, to control and regulate the marketing or production, or both, of an agricultural product;
- (b) to initiate and carry out projects or programs to commence, stimulate, increase or improve the production or marketing, or both, of an agricultural product.

(2) A proposed plan shall identify the following terms under which the plan is intended to operate:

- (a) if the plan is to be administered by a board,
 - (i) whether the plan will permit the board to control and regulate the marketing or production, or both, of the agricultural product,
 - (ii) the methods, if any, by which the production or marketing, as the case may be, of the agricultural product will be owned, controlled or regulated, and
 - (iii) the regulation-making powers the board might exercise pursuant to an authorization under sections 26 and 27;
- (b) if the plan is to be administered by a commission,
 - (i) the regulation-making powers that the commission might exercise pursuant to an authorization under section 26, and
 - (ii) the circumstances, if any, under which a service charge may be refunded to a producer;

- (c) the agricultural product to which the plan will apply and any class, variety, size, grade or kind of the agricultural product that is exempt from the plan,
- (d) whether the plan will terminate at the conclusion of a specific period of time and, if so, the method, if any, for winding up the plan,
- (e) the projects or programs, if any, that will be carried out for the purpose of commencing, stimulating, increasing or improving the production or marketing, or both, of the agricultural product,
- (f) whether the plan will apply to all of Alberta and, if not, those parts of Alberta to which the plan will apply,
- (g) any persons that will be exempted from the plan,
- (h) the methods by which the operation of the plan will be financed,
- (i) whether the board or commission intends to establish a fund under section 34 or 35 and, if so, the methods by which the fund will be financed,
- (j) the composition of the board or commission,
- (k) the manner in which members of the board or commission will be elected, and
- (l) the method by which an election of the members of a board or commission may be reviewed.

RSA 2000 cM-4 s15;2009 c6 s4;2009 c28 s2

Plebiscite on a proposed plan

16(1) A plan is not to be established until

- (a) the proposed plan is submitted to a plebiscite of the producers to determine whether the plan should be established, and
- (b) the vote conducted under the plebiscite is in favour of the plan.

(2) The Lieutenant Governor in Council may exempt a proposed plan from the operation of subsection (1) if

- (a) the plan is to be administered by a commission, and

- (b) the service charges collected under that plan may be refunded.

(3) For the purpose of conducting a plebiscite of producers to determine whether a plan shall be established, the Council shall by regulation which shall be subject to the approval of the Minister determine what constitutes

- (a) an eligible producer,
- (b) a sufficient number of eligible producers, and
- (c) a sufficient portion of the total agricultural product that is marketed or is capable of being produced by the eligible producers.

(4) When

- (a) a sufficient number of eligible producers have voluntarily registered with the Council in order for a plebiscite to be held, and
- (b) the eligible producers so registered market or are capable of producing a sufficient portion of the agricultural product,

the Council shall cause a plebiscite to be held.

(5) A plebiscite shall be considered to be in favour of a plan being established if the proposed plan is approved by a majority vote of the eligible producers who have registered with the Council for the purpose of voting in the plebiscite.

RSA 2000 cM-4 s16;2009 c6 s5

Establishing plan

17(1) When a vote is in favour of establishing a plan under section 15 or a plan is exempted from a vote under section 16(2), the Lieutenant Governor in Council may make regulations

- (a) establishing a plan setting out provisions that provide for
 - (i) in the case of a plan to be administered by a board, the control and regulation of the marketing or the production, or both, of an agricultural product,
 - (ii) the carrying out of projects or programs to commence, stimulate, increase or improve the production or marketing, or both, of an agricultural product,

- (iii) the number of members the board or commission is to consist of and the name of office by which those members are to be known,
- (iv) the manner in which members are to be elected to the board or commission,
- (v) the method by which vacancies on the board or commission are to be filled, and
- (vi) the other terms referred to in section 15(2) under which the plan is to operate,

and

- (b) establishing or continuing a board or commission to administer the plan.

(2) A board or commission established under subsection (1)(b) is a corporation.

(3) Every member of a board or commission must be a producer.

RSA 2000 cM-4 s17;2009 c6 s6

18 Repealed 2009 c6 s6.

Interim members of boards and commissions

19(1) The Council may appoint the required members to a board or commission, who may act until members are elected in accordance with this Act, if

- (a) there has yet to be an election for a newly established board or commission, or
- (b) a member is unable or unwilling to act and the regulations do not provide an effective method to fill the vacancy.

(2) An election must be held to elect a member in place of an appointed member no later than one year from the date of appointment.

RSA 2000 cM-4 s19;2002 c11 s3;2009 c6 s7

Regulations governing boards and commissions

20 The Council may, with the approval of the Minister, make regulations

- (a) prescribing bylaws governing

- (i) the conduct of the business and affairs of boards and commissions in carrying out their responsibilities, and
 - (ii) the calling and conducting of and procedure at meetings of boards and commissions;
- (b) authorizing a board or commission to pay remuneration and expenses to its members.

1987 cM-5.1 s20

Part 3

Amendment, Continuation, Revision and Termination of Plans

Petitions to amend, continue, revise or terminate plans

21(1) The producers under a plan may submit a petition to the Council requesting that the plan be amended, continued, revised or terminated.

(2) The Council shall not accept a petition under subsection (1) unless the petition

- (a) clearly states the intent of the petition,
- (b) is signed by at least 20% of the producers under the plan,
- (c) sets forth
 - (i) in a legible manner the name and address, and
 - (ii) the signature,of each petitioner, and
- (d) is submitted to the Council within 12 months from the date that the first petitioner signed the petition.

1987 cM-5.1 s21;1998 c20 s3

Request to amend, continue, revise or terminate plan

22 The Council may, pursuant to

- (a) a petition submitted under section 21,
- (b) a resolution of Council whether or not it has received a petition under section 21, or
- (c) a request of a board or commission,

apply to the Lieutenant Governor in Council to amend, continue, revise or terminate a plan.

1987 cM-5.1 s22;1998 c20 s4

Amendment, continuation, revision or termination of plans

23(1) The Lieutenant Governor in Council,

- (a) on receiving an application from the Council to do so, where a plebiscite is not required to be conducted under this Part, or
- (b) pursuant to a plebiscite conducted under this Part,

may make regulations amending, continuing, revising or terminating a plan.

(2) Where a plan is continued or revised under subsection (1), the plan

- (a) shall include at least those terms referred to in section 15(2),
- (b) shall include a provision that the plan is continued, and
- (c) may include a provision that the board or commission is continued.

(3) Where a plan is to be continued or revised, that plan may be amended, continued and revised in the same regulation.

(4) and **(5)** Repealed 2017 c5 s2.

RSA 2000 cM-4 s23;2009 c28 s3;2017 c5 s2

Plebiscite required

24(1) A plan shall not be

- (a) amended, in the case of a plan that is administered by a board, if the amendment relates directly to the control or regulation of the production or marketing, or both, of a regulated product under the plan, or
- (b) terminated if the plan was
 - (i) established pursuant to a plebiscite of the producers conducted under Part 2, or
 - (ii) in operation immediately before July 27, 1987,

unless a plebiscite of the producers is conducted to determine whether the plan should be amended or terminated, as the case may

be, and the vote conducted under the plebiscite is in favour of the amendment or termination.

(2) Where a plan that is administered by a board is to be continued or revised and the effect of the proposed continuation or revision of the plan or any amendment to the plan that is to be included in the proposed continuation or revision is, in the opinion of the Council, to substantially change from the existing plan the way in which the production or marketing, or both, of the regulated product is to be controlled or regulated, that plan must not be continued or revised as proposed unless a plebiscite of the producers is conducted to determine whether the plan should be continued or revised in the manner being proposed and the vote conducted under the plebiscite is in favour of the plan being continued or revised in the manner being proposed.

(3) The Lieutenant Governor in Council may, whether or not an application is made under section 22 to amend, continue, revise or terminate a plan, direct the Council to conduct a plebiscite of the producers under a plan for the purpose of determining whether the plan should be amended, continued, revised or terminated.

RSA 2000 cM-4 s24;2009 c28 s4

Plan termination

24.1(1) If a board or commission

- (a) has failed to file the minutes of its meetings, annual financial statement, annual auditor's report on the financial statement and annual general report of the board's or commission's operation for 2 consecutive years after the documents or statements were required to be so filed with the Council, and
- (b) the Council has reasonable cause to believe that the board or commission is no longer operating under the plan,

the Council must serve notice on the board or commission that it must file the documents or statements that have not been filed and notify the Council that it is carrying out the purposes of the plan.

(2) Notwithstanding section 24, if within 60 days after the notice under subsection (1) is served,

- (a) the board or commission fails to file with the Council the documents or statements referred to in subsection (1)(a), or
- (b) the last known member of the board or commission notifies the Council that it is not carrying out the purposes of its plan,

the Council must publish a notice in The Alberta Gazette that, with the approval of the Lieutenant Governor in Council, the plan may be terminated 60 days after the date of publication of the notice without holding a plebiscite under section 24.

(3) The Lieutenant Governor in Council may approve the termination of a plan under this section without a plebiscite of the producers under this Part being held.

2002 c11 s3;2009 c6 s8

Conduct of plebiscite

25(1) The Council shall with the approval of the Lieutenant Governor in Council arrange to conduct a plebiscite of the producers under a plan if

- (a) the Council considers it appropriate to determine the opinion of the producers under the plan as to whether the plan should be amended, continued, revised or terminated,
- (b) a proposed amendment to a plan relates directly to the control or regulation of the production or marketing, or both, of a regulated product under the plan, or
- (c) repealed 2009 c28 s5,
- (d) it is proposed to terminate a plan referred to in section 24(1)(b).

(2) Where the Lieutenant Governor in Council considers it appropriate to determine the opinion of the producers on a matter, the Lieutenant Governor in Council may direct the Council to conduct a plebiscite of the producers in respect of that matter.

(3) For the purposes of conducting a plebiscite of the producers under a plan with respect to the amendment, continuation, revision or termination of the plan, the Council shall by regulation that shall be subject to the approval of the Minister determine what constitutes

- (a) an eligible producer,
- (b) a sufficient number of eligible producers, and
- (c) a sufficient portion of the total agricultural product that is marketed or is capable of being produced by the eligible producers.

(4) When

- (a) a sufficient number of eligible producers have voluntarily registered with the Council in order for a plebiscite to be held, and
- (b) the eligible producers so registered market or are capable of producing a sufficient portion of the agricultural product,

the Council shall cause a plebiscite to be held.

(5) A plebiscite shall be considered to be in favour of the question voted on if the majority of eligible producers who have registered with the Council for the purpose of voting in the plebiscite vote to amend, continue, revise or terminate the plan.

RSA 2000 cM-4 s25;2009 c28 s5

Part 4

Operation of Plans

Regulations by boards and commissions

26(1) For the purpose of enabling a board or commission to operate a plan, the Council, with the approval of the Minister, may by regulation authorize a board or commission to make regulations

- (a) requiring producers engaged in the production or marketing, or both, of a regulated product to register their names and addresses with the board or commission;
- (a.1) providing for classifying producers, processors and others into groups for the purposes of a plan;
- (b) requiring any person who produces, markets or processes a regulated product to furnish to the board or commission any information or record relating to the production, marketing or processing of the regulated product that the board or commission 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 a regulated product;
- (d) prohibiting persons from engaging in the production, marketing or processing, as the case may be, of a regulated product except under the authority of a licence issued under the plan;
- (e) governing the issuance, suspension or cancellation of a licence issued under the plan;

- (f) providing for
 - (i) the assessment, charging and collection of service charges, levies and licence fees, as the case may be, from producers for the purposes of the plan, and
 - (ii) the taking of legal action to enforce payment of the service charges, levies and licence fees, as the case may be;
 - (g) respecting the circumstances, if any, under which a service charge may be refunded to a producer;
 - (h) requiring any person who receives a 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 or commission, and
 - (ii) to forward the amount deducted to the board or commission;
 - (i) providing for the use of any class of service charges, licence fees, levies or other money payable to or received by the board or commission for the purpose of paying its expenses and administering the plan and the regulations made by the board or commission;
 - (j) requiring persons who produce, market or process a 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 or commission;
 - (k) providing for the payment to a Canada Board of money that is payable under a Canada Act;
 - (l) permitting the board or commission to exercise any one or more of the powers that are vested in a co-operative association under the *Co-operative Associations Act* or a cooperative under the *Cooperatives Act*.
- (2) A board or commission may make administrative orders and directives respecting the carrying out of any or all of its powers and duties under this section.

(3) The *Regulations Act* does not apply to an administrative order or directive under subsection (2).

RSA 2000 cM-4 s26; 2001 cC-28.1 s459; 2001 c23 s1(12);
2002 c11 s3; 2009 c6 s9

26.1 Repealed 2017 c5 s3.

Regulations by boards

27(1) For the purpose of enabling a board to operate a plan, the Council, with the approval of the Minister, may, in addition to an authorization made under section 26, by regulation authorize a board to make regulations

- (a) requiring that the production or marketing, or both, of a 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 a regulated product on any basis that the board considers appropriate;
- (b.1) respecting the regulation of the supply of a regulated product by producers to processors, including but not restricted to the transportation, delivery and supply of the regulated product to processors, entitlement of processors to the regulated product and transferring of the regulated product among processors;
- (b.2) permitting or prohibiting the transfer of the regulated product from one producer to another and permitting or prohibiting the transfer of the regulated product from one processor to another;
- (c) governing the transferability or non-transferability of quotas;
- (d) establishing

- (i) a formula for determining the volume, weight, components, contents, amount or number of a 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 purposes of determining the amount of a 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 the plan to furnish to the board any information requested by the board;
- (g) determining the quantity, weight and volume of each class, variety, size, grade, kind, components and contents of the regulated product that shall be produced or marketed, or both, by each producer;
- (h) requiring a producer who produces a 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 any 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 any agricultural product considered to be surplus to market requirements;
- (m) determining or respecting the determination of the minimum price or prices that shall be paid to producers for the regulated product or any class, variety, size, grade, volume, weight, components, contents or kind of the regulated product and determining different prices for different parts of Alberta;
- (m.1) governing the priority of use of a regulated product or any class, variety, size, grade, volume, weight or kind of the regulated product;
- (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 or processor of the money payable or owing for the regulated product or agricultural product, less any service charges and levies owing to the board by the producer or processor, and fixing the time or times at which or within which the payments shall be made;
- (o.01) regulating and controlling agreements entered into by producers of a regulated product with persons engaged in marketing or processing of the regulated product, including to prohibit any provision in the agreements;
- (o.1) providing for the terms and conditions on which a person may market the regulated product in excess of the quota fixed and allocated to the person;
- (o.2) respecting the amount, manner and time of payments to producers by processors and requiring the making of statements and other documents accompanying payments and respecting the information to be contained in the statements and other documents;
- (o.3) respecting the payment to the producer of the money payable or owing for the regulated product, less the cost of any inspection, grading or testing costs and other costs required to ensure the proper operation of the plan;
- (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 disbursements and expenses with respect to the operation of the pool;
- (iii) for the deduction of service charges and levies, including but not restricted to inspection costs, transportation, testing and grading costs and other costs required to ensure the proper operation of the plan;
- (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 a 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 a regulated product from producing or marketing, as the case may be, any of the regulated product;
- (t) prohibiting a producer to whom a quota has been fixed and allotted for the production or marketing, or both, of a regulated product from producing or marketing, as the case may be, any of the regulated product in excess of that quota;
- (u) prohibiting any person from purchasing or otherwise acquiring any regulated product from a producer that is 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 of the regulated product that has not been sold by or through the board or a designated agency;

- (x) establishing grades for a regulated product, respecting the grading of the regulated product and providing for deductions from price based on grade, and providing for netting out, in conjunction with pools, all amounts payable among producers, processors and a board;
- (y) respecting the use of a regulated product based on the class, weight or volume available of the regulated product;
- (z) requiring purchasers of a regulated product and processors of the regulated product and agricultural products to provide information in a form acceptable to the board respecting the source, weight and volume of the regulated product and of the agricultural products used to process and produce additional agricultural products and the class, volume, contents, components, weight and amount of those agricultural products and providing for the assessment, charging and collection of service charges respecting the verification of the information.

(1.1) The *Insurance Act* does not apply to pools operated by boards pursuant to subsection (1)(p).

(2) Where an agricultural product is not a regulated product under the plan but is instrumental with respect to the production of the regulated product, the Council may, with the approval of the Minister, authorize a board to make regulations

- (a) governing that agricultural product in the same manner as if the agricultural product were a regulated product under the plan;
- (b) governing, with respect to that agricultural product, the producers of the regulated product under the plan in the same manner as if the agricultural product were a regulated product under the plan;
- (c) establishing and governing a formula for determining the amount or number of a regulated product produced or deemed to have been produced from that agricultural product.

(3) Where a board makes regulations under subsection (2), those regulations shall apply with respect to the agricultural product only while that agricultural product is in the possession or under the control of the producer of the regulated product.

(4) If an agricultural product is not a regulated product under the plan but is used to produce an agricultural product, the Council

may, with the approval of the Minister, authorize the board to make regulations

- (a) governing, with respect to that agricultural product, the producers and processors of the regulated product under the plan in the same manner as if the agricultural product were a regulated product under the plan;
- (b) establishing and governing a formula for determining the size, volume, weight, components or number of agricultural product produced or deemed to have been produced from the size, volume, weight, components or number of the regulated product.

(5) If a board makes regulations under subsection (4), those regulations apply with respect to the agricultural product only while the agricultural product is owned or controlled by a processor or while payment with respect to the regulated product is still owing to a producer, processor or board or if verification of the ultimate use of the regulated product is required to determine money owing to a producer, processor or board in respect of the regulated product.

(6) A board may make administrative orders and directives respecting the carrying out of any or all of its powers and duties under this section.

(7) The *Regulations Act* does not apply to an administrative order or directive under subsection (6).

RSA 2000 cM-4 s27;2002 c11 s3;2009 c6 s10

Conditions of Council

28 The Council, with the approval of the Minister, may, in respect of any authorization made under section 26 or 27,

- (a) prescribe conditions or restrictions, or
- (b) limit the authority of the board or commission,

with respect to the making of regulations by a board or commission under that authorization.

1987 cM-5.1 s28

Regulations to be submitted to Council

29(1) A regulation made by a board or a commission under section 26 or 27, as the case may be, shall not be filed in accordance with the *Regulations Act* unless it is submitted to and approved by the Council.

(2) Within 90 days from the day the Council receives a copy of a regulation from a board or commission for approval, it shall

- (a) approve the regulation,
- (b) request the board or commission to vary the regulation and to re-submit the regulation to the Council under this section, or
- (c) disapprove the regulation,

and notify the board or commission of its action.

(3) If the Council does not comply with subsection (2), the Council is deemed to have approved of the regulation.

(4) This section does not apply if the regulation referred to in subsection (1) is, pursuant to a regulation made under section 12(d), required to be approved by the Lieutenant Governor in Council before it is filed in accordance with the *Regulations Act*.

RSA 2000 cM-4 s29;2009 c6 s11;2009 c28 s7;2017 c5 s4

Council's direction to amend regulations

30(1) At any time after a regulation made by a board or commission under section 26 or 27, including a regulation approved by the Lieutenant Governor in Council pursuant to a regulation made under section 12(d), is filed in accordance with the *Regulations Act*, the Council may request in writing the board or commission, as the case may be,

- (a) to amend the regulation as directed by the Council, or
- (b) to repeal the regulation.

(2) If a board or commission does not comply with a request of the Council made under subsection (1) within 45 days from the day the board or commission is served with the request, the Council may, with the approval of the Minister, amend or repeal the regulation in accordance with the request it made to the board or commission.

(3) If a review of a request under subsection (1) is applied for under section 36(4), the time period referred to in subsection (2) is suspended until the Council gives its decision.

RSA 2000 cM-4 s30;2009 c6 s12;2009 c28 s8;2017 c5 s5

Funds deemed held in trust

31 Where a person has the possession of or control over funds that are

- (a) owing to a producer for a regulated product sold to the person by the producer,
- (b) owing to a board or commission, or
- (c) payable to a board or commission on behalf of a producer,

that person holds those funds in trust for the producer, board or commission, as the case may be, and the producer, board or commission may collect those funds by legal action or otherwise.

1987 cM-5.1 s31

Advisory committees

32(1) The Council or a board or commission may by order establish advisory committees to advise and make recommendations with respect to the production or marketing, or both, of a regulated product.

(2) The order establishing an advisory committee may

- (a) prescribe the terms of reference of the advisory committee,
- (b) provide for the membership of the advisory committee,
- (c) provide for the conduct of the affairs of the advisory committee, and
- (d) provide for the payment of remuneration and expenses to the members of the advisory committee.

(3) A board or commission shall establish an advisory committee when directed to do so by the Council, subject to those terms and conditions, if any, prescribed by the Council.

1987 cM-5.1 s32

Negotiations re marketing or production

33(1) With the approval of the Minister, the Council may in respect of a plan administered by a board make regulations

- (a) providing for the establishment, in connection with any plan established under Part 2, of negotiating agencies that may be empowered to adopt or settle by agreement or to establish, by agreement, a method to determine any or all of the following matters:
 - (i) minimum prices for the regulated product or for any class, variety, size, volume, weight, components, grade or kind of the regulated product;

- (ii) terms, conditions and forms of agreements relating to the production or marketing of the regulated product;
 - (iii) any charges, costs or expenses relating to the production or marketing of the regulated product;
 - (iv) supply of regulated product and agricultural product to processors, entitlement of processors to regulated product and agricultural product and transfer of regulated product and agricultural product among processors;
 - (v) method and timing of payment to a producer or processor of money payable or owing for regulated product or agricultural product and payment to the board for service charges and levies owing to a board with respect to the regulated product or agricultural product;
 - (vi) the furnishing of security or proof of financial responsibility by any person engaged in the production, marketing or processing of regulated product and agricultural product and the administration and disposition of any security or proof of financial responsibility that is furnished;
- (a.1) determining the composition of negotiation agencies;
 - (b) providing for the arbitration by an arbitrator or arbitration board of any matter not adopted or settled by agreement under clause (a);
 - (c) providing for the arbitration by an arbitrator or arbitration board of any dispute arising out of
 - (i) any agreement adopted or settled under clause (a), or
 - (ii) any award made under clause (b);
 - (d) respecting the appointment of arbitrators or arbitration boards;
 - (d.1) regulating the practice and procedures of a negotiation agency, arbitrator or arbitration board, including the practices and procedures that apply if a mediator is used by a negotiating agency;
 - (d.2) respecting an agreement entered into by a negotiation agency or an award of an arbitrator or arbitration board, including

- (i) the terms or conditions that apply to an agreement or an award, and
- (ii) prohibiting the inclusion of a provision or type of provision in an agreement or award;

(e) repealed 2009 c6 s13.

(2) Every agreement and award made under the regulations referred to in subsection (1)

- (a) shall be filed with the Council forthwith after it is made;
- (b) subject to clause (c), remains in force for one year or for the period provided in the agreement or award or re-negotiated agreement or award;
- (c) may at any time, on the direction of the Council, be re-negotiated in whole or in part in a manner that the Council determines.

(2.1) Subject to a regulation authorized under section 26 or 27, every agreement and award made under the regulations referred to in subsection (1) is binding on and enforceable against the producers, processors and the board of the plan with respect to which the agreement is made.

(3) Repealed 2009 c6 s13.

RSA 2000 cM-4 s33;2002 c11 s3;2009 c6 s13

Funds to indemnify against loss

34(1) A board or commission may, if the plan under which it operates so provides, establish, maintain and operate one or more funds that may be used to indemnify or protect producers under the plan against financial loss suffered by them or on their behalf in the production or marketing, or both, of a regulated product.

(2) When a fund is established under subsection (1), the board or commission may, subject to this Act and the regulations, assess, charge and collect amounts required for the maintenance and operation of the fund from the producers under the plan.

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

(4) If

- (a) a fund is established under this section, and

- (b) a producer under a plan does not wish to receive any indemnity or protection from the fund,

the producer shall, on application to the board or commission for an exemption, be exempted from making any payment under subsection (2).

(5) 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.

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

1987 cM-5.1 s34

Funds to equalize, adjust or stabilize financial returns

35(1) A board or commission may, if the plan under which it operates so provides, establish, maintain and operate one or more funds that may be used for the purpose of equalizing, adjusting or stabilizing the financial returns to producers under the plan from the marketing of a regulated product.

(2) When a fund is established under subsection (1), the board or commission may, subject to this Act and the regulations, assess, charge and collect amounts required for the maintenance and operation of the fund from those producers under the plan

- (a) who have voluntarily applied to the board or commission to participate in the fund, and
- (b) whose applications to participate in the fund have been accepted.

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

(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.

1987 cM-5.1 s35

Part 5 Reviews and Appeals

Review and appeals of decisions

36(1) A person affected by a decision of a board, commission or the Council may apply to the decision maker to review its decision within 60 days from the day the person is notified of the decision or served with the decision, whichever is sooner.

(2) A decision made by a board or commission pursuant to a review under subsection (1) may be appealed to an appeal tribunal within 60 days from the day the party requesting the review was served with the review decision.

(3) An application under subsection (1) or (2) must be made in accordance with the regulations.

(4) Despite subsection (1), if the decision being reviewed is a request of the Council made under section 30(1), the application must be served on the Council within 15 days of the day the board or commission was served with the request.

RSA 2000 cM-4 s36;2009 c6 s14

37 to 40 Repealed 2009 c6 s14.

Confidential evidence

41(1) If a person, board or commission is of the opinion that certain evidence to be received by the appeal tribunal should not be disclosed to the other parties to the appeal because

- (a) the evidence is of a confidential nature,
- (b) the information would provide an unfair advantage to other persons, or
- (c) the information required includes information that is not associated with the appeal,

that person, board or commission may, on prior notice to the other parties to the appeal, apply to the appeal tribunal to have the evidence received confidentially and without being disclosed to the other parties.

(2) On considering an application under subsection (1), the appeal tribunal may

- (a) receive the evidence confidentially and without disclosing it to other parties to the appeal,

- (b) receive the evidence confidentially or in a restricted manner subject to the conditions that it considers appropriate, or
- (c) refuse to receive the evidence confidentially.

RSA 2000 cM-4 s41;2009 c6 s15

Determination by Court

42(1) If a party to an appeal before an appeal tribunal considers a decision of the appeal tribunal under section 41 to be unfair or prejudicial to the party's interests, the party may apply to the Court for a determination of the matter.

(2) In hearing an application under this section, the Court shall receive the evidence that is the subject of the application in private and in the absence of the parties not presenting that evidence.

(3) In determining an application under this section, the Court may

- (a) confirm, vary or rescind the decision made under section 41(2) by the appeal tribunal, or
- (b) in substitution for the decision of the appeal tribunal, make any decision that the appeal tribunal could have made under section 41(2).

RSA 2000 cM-4 s42;2009 c53 s107

Questions of law

43 At any stage of any proceedings before an appeal tribunal it may, and if so directed by the Court it shall, state in the form of a special case for the opinion of the Court any question of law arising in the course of the proceedings.

1987 cM-5.1 s43

Regulations re reviews and appeals

43.1 The Minister may make regulations

- (a) providing for or establishing an appeal tribunal;
- (b) respecting reviews and appeals, including the charging of a fee and the recovery of costs.

2009 c6 s16

Part 6 Enforcement

Inspection

44(1) For the purpose of ensuring that this Act, a plan or the regulations are being complied with, a member of the Council or of a board or a commission, or a person authorized by any one or more of them, may during ordinary business hours enter the

business premises of any person engaged in the production, marketing or processing of a regulated product or an agricultural product, and do one or more of the following:

- (a) inspect
 - (i) those premises, and
 - (ii) any record, object or thing that relates to the production, marketing or processing of that regulated product or agricultural product;
- (b) make copies or take photographs of any record, object or thing referred to in clause (a)(ii);
- (b.1) remove the record, object or thing referred to in clause (a)(ii) for the sole purpose of making copies of it or taking extracts from it;
- (b.2) take any quantities of any lot of an agricultural product that may be reasonably required for the purpose of testing and analysis;
- (b.3) determine and audit the source and ultimate use of agricultural products used in the processing or production of additional agricultural products;
- (c) make inquiries of any person with respect to the production, marketing or processing of that regulated product or agricultural product;
- (d) receive information under oath or by affidavit with respect to the production, marketing or processing of that regulated product or agricultural product;
- (e) administer oaths for the purposes of clause (d).

(2) The Council or the board or commission, as the case may be, shall furnish to a person acting under this section a certificate of that person's designation or appointment, signed by the chair of the designating or appointing entity, and the person shall, on request, show the certificate to any person having a proprietary interest in or the custody of any premises to be entered or documents to be inspected.

(3) No person shall obstruct or hinder a person in the exercise of any power conferred by this section, and every person shall, when required to do so by the Council or a board or commission, or anyone designated or appointed to act for it, produce any documents required for inspection.

(4) Notwithstanding anything in subsection (1), no person is required to produce for inspection to a board or commission, or a person acting on its behalf, a record relating to an agricultural product if the record relates to a period of time subsequent to the time at which the agricultural product was owned, controlled or regulated by a producer or a board or commission, unless

- (a) payment is still owing to a producer, processor or board for the regulated product or agricultural product for the transaction in question, or
- (b) verification of the ultimate use of the regulated product or agricultural product is required to determine money owing to a producer, processor or board in respect of the regulated product or agricultural product.

RSA 2000 cM-4 s44;2002 c11 s3

Court order

45(1) If the Council is of the opinion that a board or commission or a person is not complying with

- (a) this Act,
- (b) a plan,
- (c) a regulation made by the Lieutenant Governor in Council or the Council under this Act, or
- (d) an order or direction made by the Council under this Act or the regulations,

the Council may apply to the Court for an order directing that board, commission or person to comply with this Act or the plan, regulation, order or direction.

(2) If in the opinion of a board or commission a person is not complying with

- (a) a plan administered by the board or commission,
- (b) a regulation made by the board or commission,
- (c) an order or direction made by the board or commission, or
- (d) this Act,

the board or commission may apply to the Court for an order directing that person to comply with the plan, regulation, order or direction or this Act, as the case may be.

(3) Repealed 2009 c53 s107.

(4) On an application being filed with the clerk of the Court, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice and make an interim order granting any relief that the Court considers appropriate pending the determination of the application.

(5) An interim order under subsection (4) may be made ex parte if the Court considers it appropriate to do so in the circumstances.

(6) On hearing an application, the Court may do one or more of the following:

- (a) direct a board, commission or person, as the case may be, to comply with this Act or the plan, regulation, order or direction;
- (b) direct a board, commission or person, as the case may be, to cease carrying out any action that in the opinion of the Court does not comply with this Act or the plan, regulation, order or direction;
- (c) give those directions that it considers necessary in order to ensure that this Act or the plan, regulation, order or direction will be complied with;
- (d) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (e) award costs in respect of the matter.

(7) An application under subsection (2) shall not be brought against the Council, its members or the employees under its administration.

RSA 2000 cM-4 s45;2009 c53 s107

Seizure of agricultural product

46(1) If a board is of the opinion that a person is producing or marketing an agricultural product, or both, in contravention of a regulation made by the board, the board may apply to the Court for an order directing a civil enforcement agency to seize, detain or dispose of the agricultural product in accordance with the order.

(2) Repealed 2009 c53 s107.

(3) On an application being filed with the clerk of the Court, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice and make an interim order

granting any relief that the Court considers appropriate pending the determination of the application.

(4) An interim order under subsection (3) may be made ex parte if the Court considers it appropriate to do so in the circumstances.

(5) On hearing an application, the Court may do one or more of the following:

- (a) direct a civil enforcement agency to seize and detain the regulated product;
- (b) direct a civil enforcement agency to dispose of the regulated product;
- (c) give directions respecting the seizure, detention or disposal of the regulated product;
- (d) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (e) award costs in respect of the matter.

RSA 2000 cM-4 s46;2009 c53 s107

Part 7 General

Liability

47 A member of the Council or of a board or a commission or an employee of a board or a commission or of the Government is not personally liable for anything done by the member or employee in good faith in carrying out the member's or employee's duties under this Act or a plan or any regulation, order or direction made under this Act.

1987 cM-5.1 s47

Witness exemption

47.1(1) No member or employee of the Council or of a board or a commission shall, in any civil suit to which the member's or employee's Council, board or commission is not a party, be required to give testimony with regard to information obtained by the member or employee in the discharge of the member's or employee's official duties under this Act.

(2) Despite subsection (1), a court may issue an order requiring the member or employee to give testimony with regard to information if in the opinion of the court that information may relate to proceedings before the court.

2002 c11 s3

Conflicts

48 In the case of a conflict between

- (a) regulations made or a plan established by the Lieutenant Governor in Council or regulations made by the Council, and
- (b) regulations made by a board or commission,

the regulations referred to in clause (a) prevail.

1987 cM-5.1 s48

Producers and processors

49(1) Any person who is a producer and a processor is, in his or her respective capacities as producer and processor, entitled to all the rights and privileges, and subject to all the duties and obligations, of a producer and of a processor.

(2) A person who is a producer and a processor is deemed

- (a) to have received in his or her capacity as a processor from himself or herself in his or her capacity as a producer any regulated product or agricultural product produced by him or her that he or she processes, and
- (b) to have contracted, in his or her capacity as a processor, with himself or herself in his or her capacity as a producer, for the marketing of the regulated product or agricultural product on the condition that the regulations, orders, directions and agreements under this Act apply.

RSA 2000 cM-4 s49;2002 c11 s3

Delegation

50 With the approval of the Lieutenant Governor in Council,

- (a) the Council may authorize a board or commission, with respect to the production or marketing, or both, of a regulated product, to perform any function or duty and exercise any power imposed or conferred on it by a Canada Board or by or under a Canada Act;
- (b) the Council may, with respect to the production or marketing, or both, of a regulated product, delegate to the Canada Board any function or duty that the Council may authorize a board or a commission to do under this Act;
- (c) the Council may, with respect to any function or duty it has authorized a board or commission to carry out under this Act or the regulations, authorize or direct that board or

commission to delegate that function or duty to a Canada Board.

RSA 2000 cM-4 s50;2002 c11 s3

Agreements

51(1) The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements with another government, a Canada Board or a corporation with respect to the production or marketing, or both, of an agricultural product.

(2) The Council may, with the approval of the Minister, become a party to agreements under subsection (1).

(3) Without limiting the powers of a board or commission under section 16(a)(ii) of the *Interpretation Act* to contract or be contracted with, if a board or commission becomes a party to an agreement referred to in subsection (1),

- (a) the board or commission may exercise and perform the powers and duties conferred or imposed on it by the regulations under this Act,
- (b) the board or commission may exercise and perform the powers and duties conferred or imposed on it by the agreement, and
- (c) the Lieutenant Governor in Council may, by regulation, confer on the board or commission any additional powers that are necessary for the board or commission to carry out its obligations and functions under the agreement.

RSA 2000 cM-4 s51;2002 c11 s3

Service of documents

52(1) Unless otherwise specified, a document required to be served under this Act may be served

- (a) by personal service,
- (b) by registered mail, or
- (c) subject to subsection (2), by electronic means.

(2) A document may be served by electronic means only if the electronic method provides

- (a) the sender with proof of having electronically sent the document, and
- (b) the recipient with the ability to have a printed copy of the document.

(3) If a partnership or corporation is required to be served under this Act, the document will be considered to be served on the partnership or corporation if the document is served

- (a) by personal service on a partner, officer, director or adult employee of the partnership or corporation, or
- (b) by registered mail or electronic means to the head office or chief place of business of the partnership or corporation.

(4) A document served by registered mail is deemed to have been served 10 days from the date the document is mailed.

RSA 2000 cM-4 s52;2002 c11 s3;2009 c6 s17

Copies of documents

53 A copy of any rule, order, resolution, determination, minute or direction of the Council or a board or commission certified by a member or officer of the Council or the board or commission as a true copy shall, without proof of the signature of the person signing the certificate, be accepted in evidence in place of the original.

1987 cM-5.1 s53

54 Repealed 2009 c6 s18.



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