



Province of Alberta

MARKETING OF AGRICULTURAL PRODUCTS ACT

POTATO GROWERS OF ALBERTA PLAN REGULATION

Alberta Regulation 291/2002

With amendments up to and including Alberta Regulation 24/2019

Current as of February 13, 2019

Office Consolidation

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(Consolidated up to 24/2019)

ALBERTA REGULATION 291/2002

Marketing of Agricultural Products Act

POTATO GROWERS OF ALBERTA PLAN REGULATION

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Definitions

1 In this Regulation,

- (a) “Act” means the *Marketing of Agricultural Products Act*;
- (b) “area” means an area referred to in section 7;

- (b.1) “assets” means economic resources controlled by the body as a result of past transactions and from which future economic benefits may be obtained;
- (b.2) “auditor” means a professional accounting firm registered under the *Chartered Professional Accountants Act* and authorized to perform an audit engagement;
- (c) “Canada Act” means
 - (i) the *Farm Products Agencies Act* (Canada);
 - (ii) the *Agricultural Products Marketing Act* (Canada);
 - (iii) the *Advance Payments for Crops Act* (Canada);
- (d) “Commission” means the Potato Growers of Alberta referred to in section 8;
- (e) “Council” means the Alberta Agricultural Products Marketing Council;
- (f) “dealer” means any person engaged in the business of marketing potatoes that are purchased or received from a licensed producer;
- (f.1) “investment” means a commitment of assets in order to gain a financial return but does not include an expenditure of assets for the purposes of research and development or current operations;
- (g) “licensed producer” means a producer who holds a producer’s licence and
 - (i) grows potatoes on one or more parcels of land that in the aggregate exceed 5 acres, or
 - (ii) grows potatoes by means of an undertaking that consists of a facility or operation made up of one or more greenhouses or laboratories or any combination of greenhouses and laboratories where the annual gross income, sales and transfers arising from potatoes derived from that undertaking exceeds \$10 000;
- (h) “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;
- (i) “person” means a person as defined in the *Interpretation Act* and includes
 - (i) a partnership as defined in the *Partnership Act*;
 - (ii) an unincorporated organization that is not a partnership referred to in subclause (i);
 - (iii) any group of individuals who are carrying on an activity for a common purpose and are neither a partnership referred to in subclause (i) nor an unincorporated organization referred to in subclause (ii);
- (j) “Plan” means the Plan referred to in section 3;
- (k) “potatoes” means a vegetable of the species *Tuberosum*, and all related tissue, that is grown in Alberta;
- (l) “processing”
 - (i) means changing by any means including dehydration the nature or form of potatoes from their raw or natural state, and
 - (ii) includes any function or activity designated as processing by the Lieutenant Governor in Council;
- (m) “processor” means a person engaged in the business of processing potatoes;
- (n) “producer” means a person who grows potatoes;
- (o) “regulated product” means potatoes;
- (p) “representative” means an individual appointed as a representative under section 18;
- (q) “voters list” means a list of individuals entitled to vote in an election provided for in this Plan.

AR 291/2002 s1;28/2011;24/2019

Designation of agricultural product

2 Potatoes are designated as an agricultural product for the purposes of the Act.

Part 1 General Operation of Plan

Division 1 Plan

Plan continued

3 The Alberta Potato Marketing Plan, established under Alberta Regulation 208/88 and amended and continued under Alberta Regulation 274/97, is hereby revised, amended and continued under this Regulation with the name “Potato Growers of Alberta Plan”.

Termination of Plan

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

Application of Plan

5(1) This Plan applies

- (a) to all of Alberta;
- (b) to all persons who produce or market or produce and market potatoes;
- (c) for the purposes of section 10(b), (c), (d), (e) and (g), to processors and dealers.

(2) Notwithstanding subsection (1), this Plan does not apply to persons who

- (a) grow potatoes on one or more parcels of land that do not in the aggregate exceed 5 acres, or
- (b) grow potatoes by means of an undertaking that consists of a facility or operation made up of one or more greenhouses or laboratories or any combination of greenhouses and laboratories where the annual gross income, sales and transfers arising from potatoes derived from that undertaking does not exceed \$10 000.

(3) Notwithstanding subsection (1), this Plan does not apply to a greenhouse, laboratory or field potato production or marketing operation that is owned or operated by the Crown in right of Alberta or Canada.

Purpose of Plan**6** The purposes of this Plan are

- (a) to provide for the initiation, support and conduct of programs for stimulating, increasing and improving the economic well-being of the potato industry in Alberta;
- (b) to provide for the initiation, support or conduct of studies and research and development in connection with
 - (i) the sustainable production of potatoes,
 - (ii) the processing and marketing of potatoes,
 - (iii) the industrial use of potatoes and by-products of potatoes,
 - (iv) consumer needs and demands with respect to potatoes, and
 - (v) components of potatoes for food, pharmaceuticals, nutraceuticals and medical purposes;
- (c) to provide assistance in the education of producers with respect to the proper and profitable methods of production, marketing and processing of potatoes;
- (d) to provide for the initiation, support and conduct of promotional activities in respect of the production, marketing and processing of potatoes;
- (e) to work with any organization that has similar objectives to those of the Commission;
- (f) to develop industry alliances with other marketing boards and commissions, grower associations and co-operatives and other persons to increase producer participation in the industry;
- (g) to provide market information to producers, to encourage the exchange of information among producers and to encourage communication among producers;
- (h) to encourage fair and ethical practices among producers;
- (i) to co-operate with the Government of Canada and the Government of Alberta with respect to the production, marketing and processing of potatoes.

AR 291/2002 s6;23/2009;28/2011

Areas

7 For the purposes of this Plan, Alberta is divided into 2 areas as follows:

- (a) Alberta North consisting of all of that area of Alberta that is north of the 7th base line;
- (b) Alberta South consisting of all of that area of Alberta that is south of the 7th base line.

Division 2 Operation of Plan By the Commission

Board continued as a commission

8 The board known as the “Potato Growers of Alberta” is hereby continued under this Plan as a commission known as the “Potato Growers of Alberta”.

Functions of the Commission

9 The Commission is responsible for the operation, regulation, supervision and enforcement of this Plan and, without limiting the generality of the foregoing, the Commission,

- (a) must open one or more accounts in a bank, trust company, treasury branch, credit union or other secured depository;
- (a.1) when investing its assets must make prudent investments in accordance with the requirements of section 3 of the *Trustee Act* respecting the investment of assets and may delegate to an agent in accordance with section 5(1) to (3) of that Act;
- (a.2) must establish policies respecting the management of its assets as required by the *Operation of Boards and Commissions Regulation* (AR 26/99);
- (b) must designate those officers, employees and other persons as are necessary to sign cheques and transact the Commission’s business with its bank, trust company, treasury branch, credit union or other secured depository;
- (c) must cause books and records, including financial records, to be maintained,
 - (i) from time to time as may be required under the Act, the regulations or by order of the Council, or
 - (ii) as may be determined by the Commission;

- (d) must open its books and records for inspection at all reasonable times at the office of the Commission on the written request of any licensed producer;
- (e) must maintain an office, the location of which at all times is to be made known to the Council and each licensed producer, dealer and processor;
- (f) may enter into an operating line of credit or other loan agreement with its bank, trust company, treasury branch, credit union or other lending institution;
- (g) may designate those officers, employees and other persons as are necessary to transact the Commission's business;
- (h) may appoint officers, employees and agents, prescribe their duties and fix their remuneration;
- (i) may, subject to the Act, the regulations and any orders of the Council, issue general orders governing the Commission's internal operation as it may from time to time determine;
- (j) may become a member of any organization that promotes the interests of producers;
- (k) may contribute funds to any organization that promotes the interests of producers;
- (l) may, in accordance with section 50 of the Act, with respect to the production or marketing, or both, of potatoes, be authorized to perform any function or duty and exercise any power imposed or conferred on the Commission by or under any Canada Act;
- (m) may retain earnings and revenues from year to year to finance the purposes of the Plan.

AR 291/2002 s9;28/2011

Regulations to operate Plan

10 For the purposes of enabling the Commission to operate this Plan, the Commission may be empowered by the Council, pursuant to section 26 of the Act, to make regulations

- (a) requiring producers engaged in the production or marketing, or both, of the regulated product to register their names and addresses with the Commission;

- (b) requiring any person who produces, markets or processes the regulated product to furnish to the Commission any information or record relating to the production, marketing or processing of the regulated product that the Commission considers necessary;
- (c) requiring persons to be licensed under this Plan before they become engaged in the production, marketing and processing, or any one or more of those functions, of the regulated product;
- (d) prohibiting persons from engaging in the production, marketing or processing, as the case may be, of the regulated product except under the authority of a licence issued under this Plan;
- (e) governing the issuance, suspension or cancellation of a licence issued under this Plan;
- (f) providing for
 - (i) the assessment, charging and collection of service charges, licence fees or levies, as the case may be, from producers from time to time for the purposes of this Plan,
 - (ii) the taking of legal action to enforce payment of the service charges, licence fees or levies, as the case may be, and
 - (iii) repealed AR 24/2019 s3;
- (g) requiring any person who receives any of the regulated product from a producer
 - (i) to deduct from the money payable to the producer any service charges, licence fees or levies, as the case may be, payable by the producer to the Commission, and
 - (ii) to forward the amount deducted to the Commission;
- (h) providing for the use of any class of service charges, licence fees, levies or other money payable to or received by the Commission for the purpose of paying its expenses and administering this Plan and the regulations made by the Commission;
- (i) providing for the payment to a Canada Board of money that is payable under a Canada Act.

AR 291/2002 s10;7/2014;24/2019

Financing of the Plan

11 In accordance with the regulations,

- (a) the Plan is to be financed
 - (i) by the charging and collection of service charges from producers, and
 - (ii) by any other money payable to or received or accrued by the Commission;
- (b) the Commission may, from time to time, change the amount of the service charges, but the change is not effective until it has been approved by a majority of the producers present at an annual Commission meeting or a special Commission meeting.

AR 291/2002 s11;23/2009

11.1 Repealed AR 24/2019 s4.

Remuneration

12 The members of the Commission are to receive remuneration and expenses as the Commission considers proper.

Auditor

13 The auditor for the Commission is to be appointed at each annual meeting.

Indemnification fund

14 The Commission shall not establish and operate a fund under section 34 or 35 of the Act.

Honorary memberships

15 The Commission may establish non-voting associate, patron, industry, affiliate or honorary memberships under this Plan to provide interested individuals or organizations the opportunity to contribute to the activities and goals of the Commission.

Part 2 Governance of Plan

Division 1 Producers

General rights of producers

16 In accordance with and subject to this Plan, a licensed producer is entitled, as a matter of right,

- (a) to attend annual meetings and special meetings;
- (b) to make representations on any matter pertaining to this Plan, the Commission and the members of the Commission;
- (c) to vote on any matter under this Plan;
- (d) to vote in elections held under this Plan;
- (e) to hold office under this Plan;
- (f) to vote in any plebiscites of producers held under the Act in respect of this Plan.

Producers who are individuals

17(1) Where a licensed producer is an individual, that individual may, subject to this Plan, exercise the rights referred to in section 16.

(2) Subject to subsections (3), (4) and (5), an individual who is a producer is not to cast a vote under this Plan unless that person's name appears on the current list of licensed producers.

(3) If an individual is not on the list of licensed producers, that individual is not to cast a vote in an election unless the individual

- (a) has signed a declaration stating that the individual
 - (i) is or qualifies as a licensed producer under this Plan, and
 - (ii) resides within the area for which the election is to be held,and
- (b) files the declaration signed under clause (a) with the returning officer or deputy returning officer at the meeting

at which the election is to be held but prior to the casting of the ballots.

(4) An individual who is eligible to vote may appoint any person as a proxy to vote on the individual's behalf if the individual appointing the proxy deposits with the returning officer at least 2 days before the day on which the vote is to be held the document under which the proxy is appointed.

(5) A person may not act as a proxy for more than one individual in respect of the same vote.

Producers that are not individuals

18(1) Where a licensed producer is not an individual, that producer may, only in accordance with this section, exercise the rights referred to in section 16.

(2) A licensed producer to which this section applies must appoint an individual to be the representative of the licensed producer.

(3) A representative appointed by a licensed producer under this section is to

- (a) represent that licensed producer in any matter pertaining to this Plan,
- (b) attend meetings on behalf of this licensed producer, and
- (c) vote and hold office, as the case may be, on behalf of the licensed producer.

(4) If a licensed producer is

- (a) a corporation, it must appoint an individual who is a director, shareholder, member, officer or employee of the corporation as its representative,
- (b) a partnership, it must appoint an individual who is a partner or employee of the partnership as its representative, or
- (c) an organization, other than a corporation or a partnership, it must appoint an individual who is a member, officer or employee of the organization as its representative.

(5) An appointment of a representative under this section is to be

- (a) in writing, and

- (b) in the case where a vote is to be taken at a meeting, filed with the returning officer prior to the calling to order of the meeting at which a vote is to take place.
- (6) A representative of a licensed producer shall not cast a vote under this Plan unless the individual who is the representative
- (a) presents a document signed by the licensed producer indicating the name of the person who may vote for the licensed producer, or
 - (b) makes a statutory declaration stating that the individual
 - (i) is a representative of the licensed producer, and
 - (ii) has not previously voted in the election or on the matter in respect of which the individual wishes to cast a vote.
- (7) A statutory declaration made under subsection (6)(b) must be made in writing before the returning officer prior to the votes' being cast.
- (8) An individual cannot at any one time be a representative under this section for more than one licensed producer.
- (9) A representative shall not vote or hold office before that person's appointment is filed in accordance with subsection (5).
- (10) A representative of a licensed producer who is eligible to vote may appoint any person as a proxy to vote on the representative's behalf if the representative appointing the proxy deposits with the returning officer at least 2 days before the day on which the vote is to be held the document under which the proxy is appointed.
- (11) A person may not act as a proxy for more than one representative in respect of the same vote.

AR 291/2002 s18;212/2005

Division 2 Commission

Members of the Commission

19 The Commission is to consist of 7 members as follows:

- (a) 2 members elected from Alberta North;
- (b) 2 members elected from Alberta South;
- (c) 3 members elected at large.

Chair

20(1) The members of the Commission, at their first meeting following the election of members to the Commission, are to elect from the members of the Commission

- (a) a chair of the Commission, and
- (b) a vice-chair of the Commission.

(2) Where the chair's position becomes vacant, the vice-chair is to assume the position of chair and the members of the Commission are to elect from among themselves one member to serve as vice-chair.

(3) During their term of office, the chair and vice-chair serve at the pleasure of the members of the Commission.

Commission meetings

21 The Commission may, at the call of the chair or of not less than 3 members, conduct a meeting of the members of the Commission.

Quorum re meeting of members

22 The quorum necessary for the conduct of business at a meeting of the members of the Commission is a majority of the Commission members then holding office.

Term of office

23(1) Subject to subsection (2), each member of the Commission is to be elected for a term of 3 years.

(2) The term of office of a member,

- (a) if elected at the annual meeting, commences on the conclusion of the annual meeting at which the member was elected, or
- (b) if elected at an area meeting commences on the conclusion of the next following annual meeting

and expires on the conclusion of the annual meeting that takes place in the year that member's term of office is to expire.

(3) A person shall not serve as a member of the Commission for more than 2 consecutive terms.

(4) Notwithstanding subsection (3), where a person has served as a member of the Commission for 2 consecutive terms, that person is

once again eligible to serve as a member of the Commission once 3 years have expired from the conclusion of that person's last term of office.

Term of office re national or industry group or association

23.1(1) Notwithstanding section 23(3), a member, with the approval of Council, may be elected to serve an additional consecutive term in order to enable the Commission to fulfil its commitments to a national or industry group or association of which the Commission is a member.

(2) Notwithstanding section 23(4), where a person is permitted under subsection (1) to serve as a member of the Commission for an additional term, that person

- (a) is not eligible to serve as a member of the Commission for more than 9 consecutive years, and
- (b) is once again eligible to serve as a member of the Commission once 3 years have expired from the conclusion of that person's last term of office.

AR 23/2009 s4

Resignation and removal from office

24(1) A person who resigns as a member of the Commission ceases to be a member of the Commission on the day that the resignation takes effect.

(2) A member of the Commission who ceases to be a licensed producer or a representative of a licensed producer during that person's term of office, ceases to be a member of the Commission effective on the day the producer ceases to be a licensed producer unless that person sooner resigns as a member.

(3) Where a member of the Commission is absent from 3 consecutive meetings of the Commission, without providing reasons that the Commission considers satisfactory, that person's position on the Commission as a member is deemed to be vacant at the conclusion of the 3rd consecutive meeting from which that person is absent.

(4) When a vacancy occurs on the Commission under this section, the Commission may appoint, with the approval of the Council, a licensed producer or a representative of a licensed producer to fill the position from among the persons who are eligible to be elected to that position.

(5) A person appointed under subsection (4) is to serve for that portion of the term that runs to the next annual meeting following the person's appointment, at which time

- (a) the person ceases to hold office, and
- (b) an election is to be held to fill the office for the unexpired portion, if any, of the term of the vacant position.

Removal from office

24.1 The Commission may, on a motion passed by 2/3 of the Commission members currently in office at a Commission meeting, remove a member from office if the member fails to abide by any of the Commission's policies, administrative directives or orders.

AR 7/2014 s3

Division 3
General Meetings of Producers

Annual meetings

25 An annual meeting of the licensed producers is to be held

- (a) once in each year, and
- (b) within 15 months following the date of the commencement of the last annual meeting.

Special meetings

26(1) A special meeting of the licensed producers

- (a) may be called by the Council,
- (b) may be called by the Commission, and
- (c) must be called by the Commission on the written request of not less than 10% of the licensed producers.

Area meetings

27(1) The Commission is to organize and finance one area meeting in each area within a reasonable period of time prior to the annual meeting of licensed producers.

(2) The purpose of an area meeting, when required, is to elect a member of the Commission to represent the area.

Notification of meetings

28(1) The Commission is to set the time, place and date of annual meetings, special meetings and area meetings.

(2) Not less than 15 days prior to the day on which the meeting referred to in subsection (1) is to take place, the Commission is to send to all licensed producers who are entitled to vote on any matter at that meeting a written notice setting out the following:

- (a) the time, place and date and purpose of the meeting;
- (b) if special or extraordinary business is to be transacted at the meeting, the nature of the business;
- (c) if the meeting is an area meeting, the names of the persons nominated up to the date of the notice who have been nominated to stand for election as members of the Commission to represent the area.
- (d) repealed AR 23/2009 s5.

(3) Any notice under subsection (2) may be conveyed to the licensed producer

- (a) by ordinary mail sent to the licensed producer's last address shown on the records of the Commission, or
- (b) by facsimile, e-mail or other electronic means sent to the licensed producer's last electronic address shown on the records of the Commission.

AR 291/2002 s28;23/2009

Quorum

29 The quorum necessary under this Plan,

- (a) in the case of an area meeting, is 10% of the licensed producers who reside within the area;
- (b) in the case of an annual meeting or special meeting, is 10% of the licensed producers.

Division 4 Eligibility, Voting and Elections

Eligibility to vote

30(1) A person is eligible to vote

- (a) on any question put to a vote at an annual meeting or special meeting, or

(b) in an election for a member,

if the person

(c) is a licensed producer or a representative of a licensed producer, or

(d) is a person appointed by a licensed producer or a representative of a licensed producer as a proxy in accordance with section 17(4) or 18(10)

and is present at the annual meeting or special meeting of the licensed producers.

(2) If a person who is appointed as a proxy is also a licensed producer or a representative of a licensed producer, that person is entitled to vote in that person's own right as a licensed producer or as a representative of a licensed producer and on behalf of the individual who appointed that person as a proxy.

(3) A person who is eligible to vote or who holds a proxy pursuant to section 17(4) or 18(10) may

(a) vote once on each matter, and

(b) in the case of an election of members of the Commission, vote for any number of candidates the person chooses, not exceeding the number of members to be elected to the Commission,

notwithstanding that the person may manage, operate, own, lease or hold equity in one or more operations that are licensed separately with the Commission.

(4) Notwithstanding subsection (1), a person who is eligible to vote in an election for a member at large may do so without being in attendance at the annual meeting or special meeting at which the election is to be held if that person completes the ballot and forwards that completed ballot by mail or by electronic means to the Commission's office.

(5) The returning officer is to consider any ballot forwarded to the Commission's office under subsection (4) as being cast in the election if the ballot is received in the Commission's office at least 3 days before the annual meeting or special meeting at which the election is to be conducted.

Election of area members

31(1) Subject to this Plan, the licensed producers who reside within an area are to elect the members to represent the area.

- (2) Nominations for candidates to represent an area must be made to the returning officer pursuant to subsection (3), prior to or during the area meeting.
- (3) A nomination for a candidate to represent an area as a member must
- (a) be in writing or on a form that is provided by or is satisfactory to the Commission,
 - (b) name a licensed producer or a representative of a licensed producer from the area in respect of which the nomination is being made,
 - (c) be made only by a licensed producer who resides within the area in respect of which the nomination is being made, and
 - (d) be accompanied by or have endorsed on the written nomination the consent of the person being nominated.
- (4) One of the current members of the Commission representing the area must be the chair of the area meeting unless that member is a candidate for election as a member of the Commission representing the area, in which case a chair is to be elected from among those licensed producers present at the meeting who are not candidates in that election.
- (5) The chair of the area meeting
- (a) is to vote only in the case of a tie, and
 - (b) must forward the results of the election held at the area meeting to the Commission within 5 days from the day that the area meeting was held, together with a signed statement affirming that the requirements of this section have been met.
- (6) The election for a member to represent an area
- (a) is to be held at the area meeting;
 - (b) may, notwithstanding clause (a), be held at the annual meeting if
 - (i) no nominations were received prior to or during the area meeting, or
 - (ii) the Council has determined pursuant to section 36 that an area election is invalid;

- (c) is to be determined by votes cast only by persons, or on behalf of persons, who reside in the area in respect of which the vote is being held;
- (d) is to be conducted by means of a secret ballot.

AR 291/2002 s31;23/2009

Election of members at large

32(1) Three members of the Commission are to be elected by means of a secret ballot as members at large,

- (a) one of whom is to be elected at each annual meeting, and
- (b) for whom nominations are to be received by the Commission from the floor of each area meeting in accordance with subsection (2) or who are nominated at the annual meeting of the Commission.

(2) A person may be nominated for election as a member at large of the Commission at an area meeting if

- (a) that person is a licensed producer or a representative of a licensed producer, and
- (b) that person has consented to be nominated.

AR 291/2002 s32;23/2009

Vacancy

32.1 If a vacancy occurs on the Commission or if no nominations are received to elect a commission member, the Commission may, with the approval of the Council, appoint an individual to fill the position from among the eligible producers.

AR 7/2014 s4

Election results

33(1) In the case of an election held under section 31 or 32,

- (a) the candidate receiving the largest number of votes in the election is the person who is elected to the position for which the election is held, but
- (b) if only one person is nominated for the position that is to be filled, that person is deemed to have been elected to the position.

(2) In the case of an election held under section 32, if a tie vote occurs among the candidates receiving the most votes, the returning officer, immediately following the tabulation of the votes,

is to conduct a draw of names of the tied candidates and the candidate whose name is drawn is deemed to have been elected.

Returning officer

34(1) The Commission must appoint a returning officer for the purpose of and in connection with any election or vote taken under this Plan.

(2) The returning officer is to

- (a) compile and maintain a voters list of persons who are entitled to vote under this Plan;
- (b) ensure that each person who votes in an election is on the voters list, has signed a declaration pursuant to section 17 or 18 or has been appointed as a proxy pursuant to section 17(4) or 18(10);
- (c) permit scrutiny by a scrutineer of all the actions of the returning officer in respect of the conduct of an election held under this Plan.

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

Result of invalid election

35(1) If an election is held under this Plan and there is in attendance at the meeting at which the election is held an insufficient number of persons who are eligible to vote at the election,

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

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

(3) If a position is vacant under subsection (1), the Commission may, with the approval of the Council, fill the position by appointing, from persons eligible to be elected to that position, a person to fill that position.

(4) A person appointed under subsection (3) is to serve for that portion of the term that runs to the next annual meeting following the person's appointment, at which time

- (a) the person ceases to hold office, and
- (b) an election shall be held to fill the office for the unexpired portion, if any, of the term of the vacant position.

Controverted election**36(1)** If a licensed producer

- (a) questions
 - (i) the eligibility of a candidate,
 - (ii) the eligibility of a voter,
 - (iii) any matter relating to a ballot or the tabulation of ballots, or
 - (iv) any irregularity with respect to the conduct of an election,

and

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

that person must, not later than 30 days after the day on which the election was held, apply in writing to the Council to have the election declared invalid and the position declared vacant.

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

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

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

or

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

(4) Notwithstanding that an election is declared void and a position is declared vacant under subsection (3)(c), the term of office of the position declared vacant is nevertheless deemed to have commenced on the day that the term of office would have commenced if the election had not been voided.

(5) If the Council declares an election to be void and the position vacant, the Council may

- (a) order that, within the time that the Council considers proper, a special meeting be held and an election be conducted to fill the vacant position, or
- (b) appoint, from among the persons who are eligible to be elected to the position, a person to fill the vacant position.

(6) A person elected under subsection (5)(a) is to hold office for the unexpired portion of the term.

(7) A person appointed under subsection (5)(b) is to serve for that portion of the term that runs to the next annual meeting following that person's appointment, at which time

- (a) that person ceases to hold office, and
- (b) an election is to be held to fill the unexpired portion, if any, of the term.

Service for unexpired term of office

37 When, pursuant to section 24, 35 or 36, a person fills a vacancy for an unexpired term of office that is for a period of less than 18 months, that unexpired term of office that is served by that person is not to be considered as a term of office for the purposes of section 23(2).

Part 3 Review and Repeal

38 Repealed AR 7/2014 s6.

Review

39 In compliance with the ongoing regulatory review initiative, this Regulation must be reviewed on or before March 31, 2024.

AR 291/2002 s39;16/2008;23/2009;7/2014;24/2019

Repeal

40 The *Potato Growers of Alberta Plan Regulation* (AR 274/97) is repealed.



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