

The Barley Development Plan Regulations

being

Chapter A-15.21 Reg 15 (effective May 30, 2013) as amended
by Saskatchewan Regulations [51/2017](#).

NOTE:

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

Table of Contents

	PART I		PART IV
	Title and Interpretation		Registration
1	Title	20	Registration of producers
2	Interpretation	21	Registration of buyers
	PART II	22	Suspension and cancellation of registrations
	Plan		PART V
3	Plan established		Levies
4	Application	23	Collection of levies
5	Purpose	24	Refund of levies
	PART III	25	Required notification
	Commission		PART VI
6	Commission		Commission Orders
7	Powers of the commission	26	Commission orders
8	Books and records		PART VII
9	Appointment of auditor		Elections
10	Committees	27	Eligibility
11	Chairperson and vice-chairperson	28	Repealed
12	Quorum	29	Nominations
13	Policies re conflict of interest and code of conduct	30	Returning officer and scrutineers
14	Conflicts of interest	31	Conduct of elections
15	Bank accounts	32	Failure to receive documents does not invalidate election
16	Investments	33	Election results
17	Fiscal year	34	Term of office, vacancy
18	Financial plan	35	Tie votes
19	Meetings of registered producers	36	Retention of election officers
		37	Challenge to election results
			PART VIII
			Transitional and Coming into Force
		38	Repealed
		39	Coming into force

CHAPTER A-15.21 REG 15

The Agri-Food Act, 2004

PART I

Title and Interpretation

Title

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

Interpretation

- 2 In these regulations:

- (a) “**Act**” means *The Agri-Food Act, 2004*;
- (b) “**barley**” means:
 - (i) any grain that is classified as *Hordeum Vulgare L*; and
 - (ii) the grain of a cereal grass grown in Saskatchewan and used for human or animal consumption, malt, or other commercial purposes;and includes barley products;
- (c) “**business day**” means a day other than a Saturday, Sunday or holiday;
- (d) “**buyer**” means any person who buys barley produced in Saskatchewan;
- (e) “**commission**” means the Saskatchewan Barley Development Commission established pursuant to section 6 and includes the interim commission;
- (f) “**director**” means a director of the commission elected or appointed in accordance with these regulations;
- (g) **Repealed.** 7 Jly 2017 SR 51/2017 s3.
- (h) “**plan**” means the Saskatchewan Barley Development Plan established pursuant to section 3;
- (i) “**producer**” means:
 - (i) any person engaged in the production, marketing, or production and marketing of barley, and includes the employer of that person;
 - (ii) a person who, under any lease or agreement, is entitled to a share of the barley or the proceeds of its sale; and
 - (iii) a person who takes possession of any barley under any form of security or legal proceedings for a debt;
- (j) “**registered producer**” means a producer who:
 - (i) is registered with the commission pursuant to section 20; and
 - (ii) has paid a levy pursuant to subsection 23(1).

PART II
Plan

Plan established

3 The Saskatchewan Barley Development Plan is established.

7 Jne 2013 cA-15.21 Reg 15 s3.

Application

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

- (a) throughout Saskatchewan; and
- (b) to all persons engaged in the production, marketing or production and marketing of barley in Saskatchewan.

7 Jne 2013 cA-15.21 Reg 15 s4.

Purpose

5(1) The purpose of the plan is to develop the barley industry in Saskatchewan.

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

- (a) to assist in the development and promotion of Saskatchewan-grown barley in the domestic and international marketplaces;
- (b) to conduct and encourage research on production, market development, processing and consumption of barley;
- (c) to advise governments on matters pertaining to barley policy, research and development;
- (d) to gather, compile and distribute information related to the production, promotion, consumption, market development and policy initiatives of barley;
- (e) to encourage the production of uniformly high quality barley;
- (f) to encourage communication within the barley industry;
- (g) to initiate and implement advertising programs, sales promotion programs and consumer education programs to expand awareness of and demand for barley;
- (h) to establish a system of collecting levies on the production, marketing or production and marketing of barley for the purposes of carrying out the objectives of the plan; and
- (i) to work in cooperation with any persons or organizations who have objectives similar to those of the plan.

7 Jne 2013 cA-15.21 Reg 15 s5.

PART III
Commission

Commission

- 6(1)** The Saskatchewan Barley Development Commission is established consisting of six directors elected in accordance with Part VII.
- (2) If fewer than six directors are elected pursuant to Part VII, the commission may appoint registered producers as directors as it considers necessary to fill those positions.
- (3) The commission shall administer the plan.

7 Jne 2013 cA-15.21 Reg 15 s6.

Powers of the commission

- 7(1)** Subject to other provisions of these regulations, the commission may exercise the following powers that are set out in subsection 8(1) of the Act:
- (a) the power to carry out educational, research and developmental programs related to barley;
 - (b) the power to require any or all persons engaged in the production, marketing or production and marketing of barley to register with the commission;
 - (c) the power to set and collect registration fees and charges for services rendered by the commission from any person engaged in the production, marketing or production and marketing of barley;
 - (d) the power to set and collect a levy from any person engaged in the production, marketing or production and marketing of barley;
 - (e) the power to categorize into groups persons engaged in the production, marketing or production and marketing of barley for the purpose of setting and collecting fees, charges or levies mentioned in clauses (c) and (d);
 - (f) the power to set and collect penalties from any person who:
 - (i) is engaged in the production, marketing or production and marketing of barley; and
 - (ii) contravenes an order of the commission;
 - (g) the power to recover any unpaid fees, charges, levies or penalties mentioned in clause (c), (d) or (f) by an action in a court of competent jurisdiction;
 - (h) the power to require any person engaged in the production, marketing or production and marketing of barley to furnish the commission with any information or records relating to that production or marketing that the commission considers necessary;
 - (i) the power to market, grade or insure barley, either as principal or agent;
 - (j) the power to:
 - (i) employ any officers and employees that it considers necessary to administer the plan; and
 - (ii) determine the duties, conditions of employment and remuneration of its officers and employees;

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

- (w) the power to register a business name pursuant to *The Business Names Registration Act*;
 - (x) the power to prescribe the manner in which reimbursement for expenses of the directors is to be determined and paid.
- (2) The commission shall not regulate or control in any way the production, marketing or production and marketing of barley.
- (3) Neither the sum of the loans mentioned in clause (1)(o) nor the sum of the financial guarantees mentioned in clause (1)(p) shall exceed 10% each of the commission's current assets as reported in the audited financial statement in the commission's most recent annual report at the time the loan or the financial guarantee is made or given.

7 Jne 2013 cA-15.21 Reg 15 s7.

Books and records

- 8(1) The commission shall:
- (a) maintain any books and records that may be required for the administration of the plan; and
 - (b) keep those books and records open for inspection by the council at any reasonable time.
- (2) The commission shall maintain a registered office and head office in Saskatchewan.
- (3) The commission shall prepare an annual report containing:
- (a) a copy of the audited financial statement of the commission for its previous fiscal year;
 - (b) a description of:
 - (i) the state of the industry; and
 - (ii) the activities of the commission for its previous fiscal year; and
 - (c) a list of the names and addresses of the directors.
- (4) The commission shall make the annual report available:
- (a) to the council;
 - (b) at the annual general meeting of registered producers; and
 - (c) on request to:
 - (i) any registered producer;
 - (ii) any registered buyer; or
 - (iii) any other interested person.

7 Jne 2013 cA-15.21 Reg 15 s8.

Appointment of auditor

9(1) The registered producers:

- (a) shall, at each annual general meeting, appoint an auditor to audit the books, records and financial statements of the commission for the current fiscal year; and
 - (b) may, at any special general meeting, appoint an auditor to audit the books, records and financial statements of the commission for the current fiscal year.
- (2) If the registered producers fail to appoint an auditor pursuant to clause (1)(a) for a fiscal year, the council shall appoint an auditor to audit the books, records and financial statements of the commission for that fiscal year.
- (3) Any person appointed as auditor pursuant to this section must:
- (a) be independent of:
 - (i) the commission; and
 - (ii) the directors and officers of the commission; and
 - (b) be a member in good standing of a recognized accounting profession that is regulated by an Act.

7 Jne 2013 cA-15.21 Reg 15 s9.

Committees

- 10(1)** The commission may appoint any committee that it considers necessary or desirable for the proper operation of the plan.
- (2) The members of a committee appointed pursuant to this section are entitled to any remuneration and reimbursement for expenses that the commission may determine.

7 Jne 2013 cA-15.21 Reg 15 s10.

Chairperson and vice-chairperson

- 11(1)** The commission shall elect a chairperson and a vice-chairperson from among the directors at their first meeting in each year following the annual general meeting.
- (2) The chairperson and vice-chairperson hold office at the pleasure of the commission.
- (3) The chairperson, or in the absence of the chairperson the vice-chairperson, shall preside over all meetings of the commission.

7 Jne 2013 cA-15.21 Reg 15 s11; 7 Jly 2017 SR 51/2017 s4.

Quorum

- 12** For the transaction of business at a duly called meeting of the commission:
- (a) a majority of the commission constitutes a quorum; and
 - (b) a decision of a majority of those directors constituting a quorum is a decision of the commission.

7 Jne 2013 cA-15.21 Reg 15 s12.

Policies re conflict of interest and code of conduct

13 Within 18 months after the coming into force of these regulations, the commission shall prepare and submit to the council:

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

7 Jne 2013 cA-15.21 Reg 15 s13.

Conflicts of interest

14(1) No director shall:

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

(2) If the commission is uncertain whether or not a director has a conflict of interest mentioned in clause (1)(a) or (b), the commission must adjourn the matter until the conflict of interest issue is resolved pursuant to the policies mentioned in section 13.

7 Jne 2013 cA-15.21 Reg 15 s14.

Bank accounts

15 The commission may open accounts in the name of the commission in a bank, credit union or trust corporation licensed pursuant to *The Trust and Loan Corporations Act, 1997* and appoint signing officers.

7 Jne 2013 cA-15.21 Reg 15 s15.

Investments

16 The commission may:

- (a) invest any money in its possession or control that is not immediately required for a purpose of the plan or its operations in any security or class of securities authorized for investment of money in the general revenue fund pursuant to *The Financial Administration Act, 1993*; and
- (b) dispose of any investment made pursuant to clause (a) in any manner, on any terms and in any amount that the commission considers expedient.

7 Jne 2013 cA-15.21 Reg 15 s16.

Fiscal year

17 The fiscal year of the commission is the period commencing on August 1 in one year and ending on July 31 in the following year.

7 Jne 2013 cA-15.21 Reg 15 s17.

Financial plan

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

7 Jne 2013 cA-15.21 Reg 15 s18.

Meetings of registered producers

19(1) An annual general meeting of registered producers:

- (a) is to be held in each year within six months after the end of the commission's fiscal year; and
- (b) is to be held at a place and time determined by the commission.

(2) The commission:

- (a) may call a special general meeting of registered producers at any time; and
- (b) shall call a special general meeting on the written request of not less than 20 registered producers.

(3) The commission shall notify all registered producers, in writing:

- (a) for an annual general meeting of registered producers, of the date, time, location and agenda not less than 30 days before the date on which the annual general meeting commences; and
- (b) for a special general meeting of registered producers, of the date, time, location and agenda not less than 15 days before the date on which the special general meeting commences.

(4) The notice mentioned in subsection (3) may be sent:

- (a) by ordinary or registered mail; or
- (b) at the request of a registered producer, by facsimile or electronic mail.

(5) If a notice is sent pursuant to clause (4)(b), it is deemed to have been received on the next business day after it was sent.

(6) The quorum at an annual or special general meeting of registered producers is 25 registered producers.

(7) The commission shall present to the annual general meeting of registered producers:

- (a) the annual report for the preceding fiscal year;
- (b) the financial plan it has approved for the current fiscal year; and
- (c) an outline of programs and activities it has planned for the current fiscal year.

(8) Any change to the remuneration to be paid to the directors is to be determined by motion of the commission and approved by a vote of registered producers at the next annual general meeting or special general meeting.

(9) At an annual general meeting or special general meeting, registered producers may debate and take a vote by a show of hands on any questions or resolutions respecting the purposes of the plan.

7 Jne 2013 cA-15.21 Reg 15 s19.

PART IV Registration

Registration of producers

20(1) Every producer shall register with the commission at the time and in the manner determined by order of the commission.

(2) The commission shall keep and maintain at its head office a register containing the name and address of every registered producer.

(3) Registration remains in effect until:

- (a) the registered producer applies for and the commission approves a refund pursuant to section 24;
- (b) the commission has not received a levy payment from the registered producer for two consecutive fiscal years;
- (c) the death of a registered producer who is an individual; or
- (d) the dissolution of a corporation, association, society or other designation.

7 Jne 2013 cA-15.21 Reg 15 s20; 7 Jly 2017 SR
51/2017 s5.

Registration of buyers

21(1) Every buyer shall register with the commission at the time and in the manner determined by order of the commission.

(2) The commission shall keep and maintain at its head office a register containing the name and address of every registered buyer.

7 Jne 2013 cA-15.21 Reg 15 s21.

Suspension and cancellation of registrations

22(1) The commission may cancel or suspend a registration if the registered producer has contravened:

- (a) the Act;
- (b) the plan;
- (c) these regulations; or
- (d) an order or direction of the commission.

- (2) The commission shall establish, by order, procedures respecting the cancellation or suspension of a registration pursuant to this section.
- (3) If the commission suspends or cancels a registration pursuant to this section, the commission must advise the registered producer in writing of its decision.

7 Jne 2013 cA-15.21 Reg 15 s22.

PART V Levies

Collection of levies

23(1) Every producer engaged in the production, marketing, or production and marketing of barley shall pay to the commission, at the times and in the manner determined by the commission, a levy calculated in accordance with this section.

- (2) Subject to subsection (3), the levy mentioned in subsection (1):
- (a) is to be determined by order of the commission; and
 - (b) is to be based on a fixed rate for every net tonne of barley marketed by a producer, not including barley marketed for seed in Saskatchewan.
- (3) The commission shall provide registered producers with:
- (a) an opportunity to discuss the rate of levy at annual general meetings and special general meetings; and
 - (b) at least 10 business days' notice that the rate of the levy is to be discussed at an annual general meeting or special general meeting.
- (4) The commission may require any buyer to:
- (a) deduct the levy mentioned in subsection (1), and other fees and charges on barley levied pursuant to these regulations, from any payment made to a producer; and
 - (b) forward the levy and other fees and charges to the commission.
- (5) The commission may require any producer to:
- (a) deduct the levy mentioned in subsection (1), and other fees and charges on barley levied pursuant to these regulations, from any payment from another producer; and
 - (b) forward the levy and other fees and charges to the commission.
- (6) The commission may recover in a court of competent jurisdiction the levies, fees and charges mentioned in this section from producers and buyers.

7 Jne 2013 cA-15.21 Reg 15 s23.

Refund of levies

24(1) The commission shall make a refund of levies only if:

(a) the commission receives a written request for the refund from the producer with respect to the levy paid in a fiscal year, not later than August 31 of the following fiscal year; and

(b) the request has been verified by the commission.

(2) If the commission receives and verifies a written request for a refund of the levy that was paid to the commission by the producer in a fiscal year, the commission shall make the refund of that levy to the producer not later than November 30 of the following fiscal year.

7 Jne 2013 cA-15.21 Reg 15 s24; 7 Jly 2017 SR
51/2017 s6.

Required notification

25 If, for any one fiscal year, 35% or more of the producers representing 35% or more of the levy for that fiscal year request a refund of levies pursuant to subsection 24(1), the commission shall immediately notify the council.

7 Jne 2013 cA-15.21 Reg 15 s25.

PART VI Commission Orders

Commission orders

26(1) The chairperson, or in the absence of the chairperson the vice-chairperson, shall sign every order issued by the commission pursuant to section 12 of the Act.

(2) The commission shall number in consecutive order, retain and make available for inspection at its head office by any registered producer, registered buyer or any other person designated by the council, original copies of all orders that have been approved by the council pursuant to section 12 of the Act.

(3) The commission shall:

(a) cause all orders of the commission to be published in the Gazette and in any other media it considers appropriate; and

(b) annually review the orders of the commission and consolidate them.

7 Jne 2013 cA-15.21 Reg 15 s26.

PART VII
Elections

Eligibility

- 27(1)** Every registered producer is eligible to hold office as a director.
- (2) If a registered producer is a corporation, partnership or other organization, it must appoint an individual who is a director, partner, shareholder, member, officer or employee as its representative.
- (3) Appointment of a representative pursuant to subsection (2) must be filed with the commission in a form and manner acceptable to the commission.
- (4) A corporation, partnership or other organization is entitled to hold office only through a representative appointed pursuant to subsections (2) and (3).
- (5) Voting by proxy is prohibited.
- (6) Every registered producer is entitled to one vote.

7 Jne 2013 cA-15.21 Reg 15 s27; 7 Jly 2017 SR
51/2017 s7.

Election of first commission

- 28 Repealed.** 7 Jly 2017 SR 51/2017 s8.

Nominations

- 29(1)** Any registered producer is eligible to be nominated for election as a director.
- (2) The commission shall:
- (a) fix the last date for receipt of nominations for election to the commission; and
 - (b) at least 30 days before the last date for receipt of nominations, notify registered producers that nominations are being accepted for the commission and of the last date for receipt of nominations.
- (3) Every nomination must:
- (a) be made in writing in the form required by the commission;
 - (b) be signed by:
 - (i) two registered producers;
 - (ii) two representatives of registered producers mentioned in subsection 27(2); or
 - (iii) any combination of the persons mentioned in subclauses (i) and (ii) totalling two persons;
 - (c) include a candidate profile, as required by the returning officer; and
 - (d) be delivered to the returning officer on or before the date fixed pursuant to clause (2)(a) as the last date for receipt of nominations.

(4) Any information provided pursuant to subsection (3) shall be considered confidential and is not to be disclosed to any person until after the date fixed pursuant to clause (2)(a).

(5) After the date fixed pursuant to clause (2)(a), the returning officer shall forward copies of all nominations to the commission.

7 Jne 2013 cA-15.21 Reg 15 s29; 7 Jly 2017 SR 51/2017 s9.

Returning officer and scrutineers

30(1) Subject to subsection (2), the commission shall appoint a returning officer to conduct an election pursuant to section 31.

(2) Producers, buyers and officers and employees of the commission are not eligible to be appointed pursuant to subsection (1).

(3) The returning officer appointed pursuant to subsection (1) is responsible for all administrative procedures relating to conducting an election.

(4) Any registered producer nominated pursuant to section 29 may provide a scrutineer to scrutinize the ballot verification and vote count that follow the close of an election.

7 Jly 2017 SR 51/2017 s10.

Conduct of elections

31(1) If not more than the required number of candidates are nominated pursuant to section 29, the candidates nominated are deemed to be elected by acclamation.

(2) If more than the required number of candidates are nominated pursuant to section 29, the commission shall:

(a) fix a date for the completion of the election;

(b) at least 15 business days before the date fixed pursuant to clause (a), provide to every registered producer:

(i) a numbered ballot;

(ii) the candidate profile submitted pursuant to clause 29(3)(c); and

(iii) a notice that states the date and time by which and the place to which the ballot is to be returned; and

(c) if the commission provides ballots pursuant to subclause (b)(i) in paper form, provide an envelope with the ballot.

(3) Every registered producer that wishes to vote in an election shall:

(a) complete the ballot provided by the commission; and

(b) return the ballot to the returning officer in the manner stated in the notice sent pursuant to subclause (2)(b)(iii) by the date fixed for them to be returned.

- (4) If a tie does not occur between candidates, the returning officer shall prepare and submit a written report to the chairperson that declares those candidates receiving the greatest number of votes, up to the number of director positions to be filled, to be directors.
- (5) The ballot of a registered producer is not valid if:
- (a) the registered producer votes for more than the specified number of candidates;
 - (b) it is defaced;
 - (c) it is marked in any way other than to vote for candidates;
 - (d) it is not the original ballot provided by the commission; or
 - (e) the individual who voted on behalf of the registered producer voted more than once on behalf of that registered producer.
- (6) If the number of candidates nominated pursuant to section 29 is greater than the number of director positions to be filled, the commission shall not advertise in any manner any funding announcement, new program or new service provided by or delivered on behalf of the commission during the period from the date fixed pursuant to clause 29(2)(a) to the date fixed pursuant to clause (2)(a).

7 Jne 2013 cA-15.21 Reg 15 s31; 7 Jly 2017 SR
51/2017 s11.

Failure to receive documents does not invalidate election

32 The failure of any registered producer to receive the documents mentioned in clause 31(2)(b) does not invalidate the election.

7 Jne 2013 cA-15.21 Reg 15 s32.

Election results

- 33(1)** The chairperson shall read the written report prepared pursuant to subsection 31(4) at the first annual general meeting of registered producers after the election, immediately after the minutes of the previous meeting have been dealt with.
- (2) The reading of the written report pursuant to subsection (1) is deemed to be the declaration of the election of the directors.
- (3) The commission shall:
- (a) within 10 business days of receiving the returning officer's written report, provide to candidates notification of the election results including total vote counts for all candidates; and
 - (b) make the written report of the returning officer available on request to any registered producer.

7 Jne 2013 cA-15.21 Reg 15 s33; 7 Jly 2017 SR
51/2017 s12.

Term of office, vacancy

- 34(1)** Subject to subsection (6), a director holds office:
- (a) in the case of an elected director, for a term of four years commencing with the declaration of the director's election by the chairperson or returning officer, as the case may be, and until the director's successor is elected or appointed; or
 - (b) in the case of an appointed director, until the next election is held after he or she is appointed and until the director's successor is elected or appointed, as the case may be.
- (2) **Repealed.** 7 Jly 2017 SR 51/2017 s13.
- (3) **Repealed.** 7 Jly 2017 SR 51/2017 s13.
- (4) Subject to subsection (5), a director is eligible for re-election or reappointment.
- (5) If a director has completed two consecutive terms, he or she is not eligible for re-election or reappointment until two years have passed since the completion of the director's second consecutive term.
- (6) The office of director becomes vacant if a director:
- (a) ceases to qualify as a registered producer;
 - (b) resigns, dies or is unable to act;
 - (c) is absent from two consecutive meetings of the commission without being excused by resolution of the commission; or
 - (d) fails to fulfil his or her duties as established by the policy of the commission and approved by the council.
- (7) Notwithstanding subsection 6(1), if the office of a director becomes vacant, the commission may appoint a registered producer as a director to fill the vacancy until the next election.

7 Jne 2013 cA-15.21 Reg 15 s34; 7 Jly 2017 SR 51/2017 s13.

Tie votes

- 35(1)** If a tie occurs between candidates, the successful candidate is to be determined by a vote of registered producers conducted at the next annual general meeting of registered producers.
- (2) Voting pursuant to subsection (1) is to be by secret ballot.
- (3) Subject to subsection 27(2), only registered producers who are in attendance at the annual general meeting of registered producers are entitled to vote pursuant to subsection (1), and each of those registered producers is entitled to one vote for that purpose.
- (4) The returning officer shall count the votes cast pursuant to subsection (1) and declare the winner of the tie vote before proceeding with any further business at the annual general meeting of registered producers.

7 Jne 2013 cA-15.21 Reg 15 s35.

Retention of election records

36 The returning officer shall:

- (a) retain the following in his or her possession:
 - (i) the original nominations submitted pursuant to clause 29(3)(a);
 - (ii) the original candidate profiles submitted pursuant to clause 29(3)(c);
 - (iii) the ballots; and
- (b) not destroy any nomination, candidate profile, ballot or other record respecting an election of directors until 35 days after the annual general meeting of registered producers at which the results of the election were declared.

7 Jly 2017 SR 51/2017 s14.

Challenge to election results

37(1) Any registered producer nominated pursuant to section 29 may submit a written objection to the council to challenge any of the following:

- (a) the results of an election of directors, as provided pursuant to clause 33(3)(a);
 - (b) the results of a vote to break a tie, as declared by the returning officer pursuant to subsection 35(4).
- (2) A written objection submitted pursuant to subsection (1) must:
- (a) set out the grounds for the objection; and
 - (b) be received by the council within 30 days after notification of the election results pursuant to clause 33(3)(a).
- (3) If the council receives a written objection in accordance with this section and is satisfied that the objection is neither frivolous nor vexatious, the council may appoint a vote recount officer to conduct a recount of the votes cast in the election.
- (4) If the council appoints a vote recount officer pursuant to subsection (3), the results of the election as determined by the vote recount officer are final.

7 Jne 2013 cA-15.21 Reg 15 s37; 7 Jly 2017 SR 51/2017 s15.

PART VIII Transitional and Coming into Force

Interim commission

38 Repealed. 7 Jly 2017 SR 51/2017 s16.

Coming into force

39 These regulations come into force on the day on which they are filed with the Registrar of Regulations.

7 Jne 2013 cA-15.21 Reg 15 s39.