

A Summary of the Cooperatives Act

April 2002

This is a general overview of the contents of the *Cooperatives Act*. It is not intended to replace or be used as an interpretation of the Act. Readers should refer to the applicable sections of the Act for specific details.

Section 1 – Interpretation

- Definitions

Section 2 - Cooperative Principles

- For the purposes of the Act this section lists the principles under which a cooperative is intended to be organized and operated.

Part 1 – Incorporating a Cooperative

Division 1 – Application to Incorporate - Sections 3 - 7

- Who may incorporate, how to apply and what must be included in the Articles of Incorporation

Division 2 – Bylaws and Amendments to Bylaws - Sections 8 - 15

- The contents of bylaws, the making and amending of bylaws, effective dates of bylaws and member proposals for bylaws amendments

Division 3 - Cooperative Names and Control over Names - Sections 16 - 21

- The rules and specifications for considering proper cooperative names.
- Prohibited names, change of names and improper use of protected names

Division 4 - Legal Capacity and Powers of Cooperatives - Sections 22 - 26

- Cooperatives have the capacity and rights of a natural person and may carry on business in accordance with the Act and the cooperative's articles and bylaws.

Division 5 – Registered Office, Records and Corporate Seal – Sections 27 - 31

- A cooperative must maintain a registered office in the place set out in its articles and submit a change of address to the Director of Cooperatives within 15 days following any change. The cooperative must prepare and maintain records as required by the Act, at its registered office or any other place in Alberta.

Part 2 – Membership in Cooperatives

Division 1 - Becoming a Member – Sections 32 - 35

- Membership is governed through the cooperative's bylaws and application for membership is based in accordance with those bylaws.
- Each member has one vote.
- Voting rights of delegates, and membership of persons under the age of 18 are addressed in this division

Division 2 – Cessation of Membership – Sections 36 – 46

- Membership withdrawal, including redemption of membership shares and loans, termination of membership by directors, a member's right of appeal and appeal to membership

Division 3 – Readmission and Transfer of Memberships – Sections 47 – 48

- The directors may readmit a member terminated by the directors.
- A member terminated by members can only be readmitted by a special resolution of the members.
- A transfer of a member's interest is valid if approved by directors and the transferee meets the requirements of the articles and bylaws.

Part 3 – Meetings –Section 49

- Meetings are covered under the regulation.

Part 4 – Directors and Officers of Cooperatives

Division 1 - Number, Qualification and Functions of Directors - Sections 50 - 56

- A cooperative must have at least three directors, of which two-thirds must be members and a majority of directors must be resident in Canada.
- After a cooperative comes into existence the incorporating directors must hold an organizational meeting.
- Outlines the disqualification of directors, directors' functions and duties.

Division 2 – Rules for Election of Directors – Sections 57 – 58

- Rules for the election of directors, and where necessary, a Court review of elections if there is a dispute over the election or appointment of a director or auditor.

Division 3 – Terms and Vacancies - Sections 59 - 64

- The terms and vacancies of directors, dealing with vacancies and unexpired terms of directors

Division 4 – Resignation and Termination of Directors - Sections 65 - 68

- Resignations or other circumstances where directors cease to hold or are removed from office. This division includes the “notice of change” of directors and including reporting requirements.

Division 5 – Meetings and Quorum of Directors – Sections 69 – 77

- Meetings of directors, including notice, time, location, and quorum provisions

Division 6 - Liability of Directors – Sections 78 – 79

- General and wage liability of directors and limitations of action in respect to liability

Division 7 – Disclosure of Interests – Sections 80 – 92

- What must be disclosed and when disclosure of interest must be made by directors and officers in relation to a material contract or transaction and the effect of disclosures

- Remuneration of officers, directors and employees of the cooperatives may be set by the directors unless the bylaws, articles or unanimous agreement provides otherwise

Division 8 – Officers of a Cooperative – Section 93

- The designation of the positions and functions within the cooperative including delegation of the managing of the business and affairs of the cooperative

Division 9 – Indemnification of Directors and Officers – Sections 94 – 95

- Provisions may be undertaken to indemnify a director or officer who acted honestly. Insurance may be purchased for this purpose by the cooperative.

Division 10 – Unanimous Agreements - Sections 96 – 99

- Execution or termination of unanimous agreement including the reporting requirement to the Director of Cooperatives
- If no annual meeting of investment shareholders is held because of a provision in an unanimous agreement, the cooperative must send to any investment shareholder who requests, a comparative financial statement and report of the auditor and other information be required by bylaws or unanimous agreement.

Part 5 – Capital Structure

Division 1 - Membership Capital - Sections 100 - 102

- Membership capital with or without membership shares and issuance by the cooperative to members including specific cooperatives under Part 18

Division 2 – Certificates - Sections 103 – 107

- Unless the bylaws require, no certificate in regards to membership needs to be issued. Membership shares can be issued with or without par value.
- Articles may provide for payment of all debts and liabilities on dissolution including declared and unpaid dividends, the amount to be paid on investment shares and final distribution. Some exclusions apply under Part 18.

Division 3 – Investment Shares – Sections 108 - 113

- Article requirements if a cooperative decides to issue investment shares
- Investment shares must be in registered form and without par value.
- Directors may authorize cooperatives to pay reasonable commissions.

Division 4 – Constraints – Sections 114 - 116

- Distributing cooperatives may limit the number of shares owned by a person if its ability to attain or maintain a level of Canadian ownership will be affected.
- Election of directors by shareholders, meeting for the purpose of electing directors and, if articles allow, requirements for cumulative voting
- Investment shareholders' abilities with respect to amendment of articles and voting proposals

Division 5 – Corporate Finance – Sections 117 - 139

- Power to issue investment shares and payment for the same
- Borrowing provisions and stated capital accounts
- Holding own shares including exemptions
- Redemption of membership shares and acquisition of investment shares
- Adjustments of stated capital account, dividends, and patronage returns

Division 6 - Loans and Guarantees - Sections 140 - 143

- The cooperative's ability to give financial assistance and requirements relating to disclosure

Part 6 - Proxies – Sections 144 - 151

- Only applicable to investment shareholders and do not apply to a member or membership share
- Requirements for an investment shareholder appointing a proxy holder, attendance at meeting
- Soliciting proxies
- Intermediary or a nominee of an intermediary's duties

Part 7 - Insider Trading – Sections 152 - 154

- Insider trading not allowed
- Interpretation of insider trading, specified insider, and the prohibition on short sale of shares

Part 8 – Compulsory Acquisition – Sections 155 –157

- Rights to acquire shares and the rights of a dissenting offeree to a take-over bid. Notice provisions and actions that can be undertaken relating to those notices.

Part 9 – Security Certificates, Registers and Transfers

Division 1 – Interpretation and Application – Sections 158 – 159

Division 2 – Security Certificates –Sections 160 – 166

- Bylaws can determine if a security or security certificate needs to be issued.
- Fees for transfers of any securities, joint ownership, contents of certificates and fractional shares

Division 3 – Registers – Sections 167 - 178

- Registers must be maintained by the cooperative regarding security certificates and the cooperative must treat the person on that register as the rightful owner.
- Heirs to estates must provide proof of death to confirm they are entitled to ownership.
- A cooperative may appoint an agent to maintain the securities on its behalf.

Division 4 – Proceedings – Section 179

- The rules of an action on a security

Division 5 – Delivery – Section 180

- Securities may be delivered in bearer form, registered form, endorsed to the person, or blank.

Division 6 - General – Sections 181 – 227

- Securities and handling securities

Part 10 - Financial Disclosure - Sections 228 - 246

- Specifies the financial information directors must approve and produce for members and investment shareholders at annual meetings.
- Auditor qualifications, appointing and removing auditors, and if necessary Court-appointed auditors
- Auditor's rights to information

Part 11 – Trust Indentures

Division 1 – Interpretation and Application – Sections 247 - 248

Division 2 – General – Sections 249 – 258

- Specifies the qualifications, roles, duties and requirements of trustees with respect to trust indentures. Trustee must be a trust corporation.

Part 12 – Fundamental Changes – Sections 259 – 280

- Application and requirements for continuance, between other legislation (not including the *Co-operative Associations Act*) and this Act, and between jurisdictions. Includes restrictions, amendment of articles or restated articles, rights to dissent and amalgamation issues.
- Defines arrangement

Part 13 – Investigation and Inspections

Division 1 – Inspections – Sections 281 – 288

- The details surrounding the performance of an inspection of the cooperative to ensure compliance with the Act, which could include an inspection under a Court order
- The Director of Cooperative's power following the inspection
- The Director is not compelled to undertake an inspection.

Division 2 – Court-Ordered Investigations – Sections 289 – 298

- An interested party may apply to the Court for an order directing an investigation.
- The conditions for a Court order and the powers of the Court. A copy of the order must be sent to the Director of Cooperatives.

Part 14 – Winding-up, Liquidation and Dissolution of Cooperatives

Division 1 – Receivers and Receiver-managers – Sections 299 – 303

- The appointment, duties and obligations of a receiver or receiver-manager including Court ordered and related directions

Division 2 – Liquidation and Dissolution – Sections 304 – 330

- The liquidation and dissolution of a cooperative, proposals, dissolution by the Director of Cooperatives and Court-ordered dissolutions
- Application to the Court and Powers of the Court are identified.
- Duties, powers and costs of the liquidator
- Revival processes

Part 15 – Administration Matters and Regulations

Division 1 – Director’s Appointment and Delegation – Section 331

- The Minister may appoint a Director of Cooperatives.

Division 2 – Document Filing, Appeals – Sections 332 –345

- Filing of Annual Returns
- Other filing requirements for the Director of Cooperatives and issuance of the appropriate certificates
- Appealing the Director of Cooperatives’ decisions
- Public access to records, other than an inspector’s reports, maintained by the Director of Cooperatives is available for a fee.

Division 3 – Notices and Service of Documents – Sections 346 - 348

- Notice provisions and waiver of notices

Division 4 – Certificates, Declarations and Copies – Sections 349 – 350

- Certificates issued by the cooperative may be signed by a director, officer or transfer agent of the cooperative.
- Declarations of incorporators, or directors for purposes of the Act may be relied upon by the Director of Cooperatives.

Division 5 – Regulations – Sections 351 – 352

- Lieutenant Governor in Council may by regulation exempt any cooperative.
- Ministerial regulation provisions

Part 16 – Remedies, Offences and Penalties

Division 1 – Court Intervention – Sections 353 – 360

- Application to Court by originating notice, commencing or intervening legal proceeding and powers of the Court
- Orders imposed by the Court for not abiding by the Act
- Application to the Court to rectify records
- Appealing Court orders

Division 2 – Offences and Penalties –Sections 361 – 364

- Identifies offence sections of the Act
- Cooperative director’s liability
- Alternative resolution of disputes

Part 17 – Extra-provincial Cooperatives

- Definitions and criteria extra-provincial cooperatives - Sections 365 - 366

Division 1 – Registration of Extra-provincial Cooperatives – Sections 368 - 375

- Requirements, application and alternative method of registration
- Names of extra-provincial cooperatives including pseudonyms
- Cancelling registration

Division 2 – Information - Sections 376 - 382

- Use of name, attorney for service, changes in charter, head office or directors
- Filing amalgamation, notice of liquidation, and annual and other returns

Division 3 – Legal Capacity, Disabilities and Penalties Applicable to Extra-provincial Cooperatives – Sections 383 - 384

- Validity of acts of the extra-provincial cooperative
- Capacity to start and maintain legal proceedings

Part 18 – Specific Cooperatives

Division 1 Housing Cooperatives - Sections 385 - 405

- Definitions, additional name requirements, articles, including amendments to articles and special restrictions on non-profit housing cooperatives
- Non-profit continuing housing cooperatives requirements
- Termination of membership and termination procedure including appeals
- Non-profit home ownership cooperative requirements

Division 2 – Employment Cooperatives – Sections 406 - 416

- Articles, bylaws and name requirements
- Non-member employees, permanent employees
- Termination appeals and lay-off provisions

Division 3 – Multi-stakeholder Cooperatives – Sections 417 – 421

- Membership and Articles of Incorporation provisions
- Passing of resolutions
- Directors

Division 4 – New Generation Cooperatives – Sections 422 - 429

- Names, membership shares
- Articles of Incorporation and capital structure for investment shares.
- Bylaws

Part 19 – Transitional Provisions – Sections 431 - 446

- Limited continuation under former Act and prohibition for any new incorporation under the Co-operatives Association Act
- Continuance requirements to the Cooperatives Act
- Director of Co-operative Activities becomes Director of Cooperatives.
- New bylaws need to be made and filed.
- Name of an association can continue
- Shares, appointment of directors and auditor provisions