

ALBERTA *Cooperatives Act*

The *Cooperatives Act* (Act) governs all types of cooperatives except utility cooperatives and credit unions. A wide range of traditional cooperatives operate in Alberta and each offers a different service to its members. These include retail, transportation, breeder, feeder, seed cleaning, grazing and marketing cooperatives. There are also specialty cooperatives for housing and employment, and multi-stakeholder and new generation cooperatives, which have additional requirements.

The Cooperatives Regulation has been adopted on a general basis so it can be customized to suit the varying needs of all types of cooperatives. Some sections specify that articles or by-laws may make other provisions, keeping in mind good business practices and the cooperative principles.

The Act sets out specific guidelines and procedures that must be adhered to. However, it does allow for some variance by giving cooperatives the option of being more elaborate or restrictive, depending on the type of entity. The Act outlines details including the legal responsibilities of cooperatives, procedures for incorporation, roles and responsibilities of members, officers and directors, penalties for violation and procedures for dissolution.

The Director of Cooperatives is appointed under Part 15, Division I of the Act. The Director is responsible for administering Alberta's cooperative legislation. The Director can be reached at:

Alberta Government Services
Consumer Services & Land Titles Division
3 rd Floor, Commerce Place
10155-102 St.
Edmonton, Alberta T5J 4L4
Telephone: (780) 427-5210
Fax: (780) 427-3033
Website: <http://www.gov.ab.ca/gs>

For a copy of the *Cooperatives Act* and Regulations, please contact the Queen's Printer Bookstore in Edmonton at (780) 427-4952 or Calgary at (403) 297-6251, or visit <http://www.gov.ab.ca/qp>. The e-mail address is qp@gov.ab.ca. A summary of the legislation can also be found on Alberta Government Services' website at <http://www.gov.ab.ca/gs>.

Unless otherwise specified, the information below refers to cooperatives governed by the *Cooperatives Act*.

Capital Structure

Cooperatives may be incorporated with or without membership shares. If there is share capital, the articles of incorporation shall state whether the number is limited or unlimited. If limited, and they have a par value, the maximum number that may be issued must be indicated with their par value. If they have no par value, the articles must provide whether the shares are to be issued and redeemed at a fixed price or at a price determined in accordance with the formula to be used to establish the price. Regardless of the number of membership shares held, each member has only one vote.

If there is no membership share capital, the articles should state whether there is an annual or one-time membership fee. Capital of a cooperative may also be in the form of member loans, the terms of which should be outlined in the articles.

Cooperatives also have the power to issue investment shares. The articles must set out whether they may be issued to non-members, whether the number is unlimited and, if not, the maximum number that may be issued. Also required are the different classes of investment shares, along with their rights and restrictions.

Incorporation

Three or more persons, over the age of 18, who intend to be members of a cooperative, may apply to the Director of Cooperatives to become incorporated. Also, one or more cooperatives, with or without persons who intend to be members of the new cooperative, may apply to become incorporated.

A cooperative must carry on its business, in whole or in part, in Alberta and it must have a registered office in Alberta. Any subsequent address changes must be filed with the Director of Cooperatives.

Membership

Membership is governed by the cooperative's by-laws, unless the Act or the articles provide otherwise. Subject to the Board of Directors' approval, individuals under the age of 18 may become members.



Cooperative Governance and Board of Directors

The Board of Directors runs a cooperative and is accountable to its members. The Board's function is to manage or to supervise the management of the cooperative's business and its affairs, subject to the Act, the regulation, the articles, by-laws, any unanimous agreement(s) and policy decisions. The Board of Directors is responsible for making sure all required reports are filed with the Director of Cooperatives.

A cooperative must have at least 3 directors; however, the articles can specify more than the legislated minimum. A director has to be 18 years of age.

Typically, officers of the Board of Directors will include a chair, vice-chair, secretary and treasurer or secretary/treasurer. The Board may hire a manager and appoint committees to which tasks can be assigned.

The first annual meeting of a cooperative must be held within 180 days of incorporation. Subsequent annual meetings must be held by the earlier of the following two dates: 15 months after the preceding annual meeting; or 6 months after the end of the preceding financial year. Special meetings may be called at anytime.

At the first annual meeting, and at each annual meeting thereafter, the members must appoint an auditor by ordinary resolution. The auditor must be an individual totally independent of the cooperative.

A register of all shareholder and membership information must be kept. Members are entitled to view the register and receive copies of the articles, bylaws, policies and any unanimous agreement(s) and amendments to them.

Within 6 months of its fiscal year-end, the cooperative must send its annual return to the Director of Cooperatives. The annual return form is automatically generated, based on the cooperative's registered fiscal year-end date, and mailed to the address on record.

Liquidation and Dissolution

The liquidation and dissolution of a cooperative cannot be considered if the cooperative is insolvent within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or is bankrupt within the meaning of that Act.

A cooperative that has no property and no liabilities may be dissolved by a special resolution of the members and by a special resolution of its investment shareholders. A special resolution requires a motion to be passed by at least 2/3 of the votes cast.

Members and investment shareholders may dissolve a cooperative with property and/or liabilities on passing of a special resolution, if the resolution also authorizes the directors to cause the cooperative to distribute the property and discharge liabilities.

The cooperative must send to the Director of Cooperatives, Articles of Dissolution. If membership is reduced to a number less than the number of members required to incorporate, the Director of Cooperatives may require the cooperative to liquidate or dissolve.

The director of a cooperative or a member may make a proposal to voluntarily liquidate and dissolve the cooperative. An interested person may, at any time during the liquidation process, apply to the Courts for an Order so that the liquidation can be continued under the supervision of the Court. Court ordered dissolution can be made by an interested person for non-compliance by the cooperative or for questionable activities. The Cooperatives Act also outlines the power of the Court with respect to liquidation and dissolution of a cooperative.

Special Provision for Specific Cooperatives

The Cooperatives Act also contains provisions for four types of specific cooperatives:

- Multi-stakeholder cooperatives
- Employment cooperatives
- Housing cooperatives
- New Generation cooperatives