



Province of Alberta

ALBERTA HOUSING ACT

MANAGEMENT BODY OPERATION AND ADMINISTRATION REGULATION

Alberta Regulation 243/1994

With amendments up to and including Alberta Regulation 40/2017

Office Consolidation

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(Consolidated up to 40/2017)

ALBERTA REGULATION 243/94

Alberta Housing Act

**MANAGEMENT BODY OPERATION AND
ADMINISTRATION REGULATION**

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Interpretation and application

1(1) In this Regulation,

- (a) “Act” means the *Alberta Housing Act*;
- (b) “board” means the board of a management body;
- (c) “housing accommodation” means housing accommodation provided under the Act;
- (d) “management body” means a management body established under the Act;
- (e) “reporting date” means the date specified as the reporting date in the order establishing a management body.

(2) Repealed AR 168/95 s2;

(3) The Minister may exempt a management body or any housing accommodation operated and administered by a management body from the application of any of the provisions of this Regulation, subject to any terms and conditions the Minister considers appropriate.

AR 243/94 s1;108/2004;176/2004

Board and Management Body Administration

Board's duties

2 A board is responsible for

- (a) ensuring that the management body it governs efficiently operates and administers the housing accommodation under its authority and provides accommodation for those persons in greatest need of that type of housing accommodation,
- (b) developing and evaluating the policies and programs of the management body, and
- (c) carrying out the powers, duties and functions expressly given to it under the Act.

Corporate status

3 An existing corporation that is established as a management body under section 6(2) of the Act shall maintain its corporate status and otherwise comply with its governing legislation.

Chief administrative officer

4 A management body shall appoint a person to act as the chief administrative officer of the management body and shall forthwith notify the Deputy Minister of the name and title of the person so appointed.

AR 243/94 s4;407/94

Definitions

5 In sections 5.1 to 5.92,

- (a) “corporation”, “director”, “distributing corporation”, “officer”, “shareholder”, “voting rights” and “voting shares” have the meanings given to them in the *Business Corporations Act*;
- (b) “member” means a member of a board;

- (c) “member’s family” means the member’s spouse, the member’s children, the parents of the member and the parents of the member’s spouse;
- (d) “spouse” means the husband or wife of a married person but does not include a spouse who is living separate and apart from the person if the person and spouse have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order.

AR 243/94 s5;168/95;155/2003

No quorum

5.1(1) The Minister may make an order described in subsection (2) in the following situations:

- (a) where vacancies on a board through resignations or disqualifications have reduced the number of members to less than a quorum;
- (b) where the number of members able to attend a board meeting is less than a quorum;
- (c) where members are required to abstain from voting on a matter or are permitted to abstain from voting on a matter and have decided to abstain and the number of remaining members able to vote is less than a quorum.

(2) If subsection (1) applies, the Minister may order that the remaining members constitute a quorum.

(3) In a situation described in subsection (1)(c), the Minister may, as an alternative to the option in subsection (2), order that all members may vote on the matter if otherwise eligible.

(4) A member is not disqualified for having voted on a matter in accordance with the Minister’s order under subsection (3).

AR 168/95 s3;108/2004;176/2004

Pecuniary interest

5.2(1) Subject to subsection (3), a member has a pecuniary interest in a matter if

- (a) the matter could monetarily affect the member or an employer of the member, or
- (b) the member knows or should know that the matter could monetarily affect the member’s family, including the adult interdependent partner of the member.

- (2)** For the purposes of subsection (1), a person is monetarily affected by a matter, if the matter monetarily affects
- (a) the person directly,
 - (b) a corporation, other than a distributing corporation, in which the person is a shareholder, director or officer,
 - (c) a distributing corporation in which the person beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the person is a director or officer, or
 - (d) a partnership or firm of which the person is a member.
- (3)** A member does not have a pecuniary interest by reason only of any interest
- (a) that the member, an employer of the member or a member of the member's family, including the adult interdependent partner of the member, may have as a tenant of the housing accommodation that is operated and administered by the management body,
 - (b) that the member or a member of the member's family, including the adult interdependent partner of the member, may have by reason of being appointed by the board as a director of a company incorporated for the purpose of carrying on business for and on behalf of the management body or by reason of being appointed as the representative of the board on another body,
 - (c) that the member or a member of the member's family, including the adult interdependent partner of the member, may have with respect to any allowance, honorarium, remuneration or benefit to which the member or member of the member's family, including the adult interdependent partner of the member, may be entitled by being appointed by the board to a position described in clause (b),
 - (d) that the member may have with respect to any allowance, honorarium, remuneration or benefit to which the member may be entitled by being a member,
 - (e) that the member or a member of the member's family, including the adult interdependent partner of the member, may have by being employed by the Government of Canada, the Government of Alberta or a federal or provincial Crown corporation or agency, except with respect to a matter directly affecting the department,

corporation or agency of which the member or member of the member's family, including the adult interdependent partner of the member, is an employee,

- (f) that a member of the member's family, including the adult interdependent partner of the member, may have by having an employer, other than the management body, that is monetarily affected by a decision of the management body,
- (g) that the member or a member of the member's family, including the adult interdependent partner of the member, may have by being a member or director of a credit union, a co-operative association or a non-profit organization formed under an enactment or a service club,
- (h) of the member, an employer of the member or a member of the member's family, including the adult interdependent partner of the member, that is held in common with the majority of the tenants of the housing accommodation that is operated and administered by the management body,
- (i) that is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member, or
- (j) that a member may have by discussing or voting on a matter that applies to businesses or business activities when the member, an employer of the member or a member of the member's family, including the adult interdependent partner of the member, has an interest in a business, unless the only business affected by the matter is the business of the member, employer of the member or the member's family, including the adult interdependent partner of the member.

(4) Subsection (3)(g) does not apply to a member who is an employee of a credit union, co-operative association or organization referred to in that clause.

AR 168/95 s3;155/2003;108/2004;176/2004

Statement of disclosure

5.3 A board may by resolution

- (a) require that each member file with the chief administrative officer a statement of the name or names of
 - (i) the members of the member's family, including the adult interdependent partner of the member,

- (ii) the employers of the member,
- (iii) each corporation, other than a distributing corporation, in which the member is a shareholder, director or officer,
- (iv) each distributing corporation in which the member beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the member is a director or officer, and
- (v) each partnership or firm of which the member is a member,

and

- (b) require the chief administrative officer to compile a list of all the names reported on the statements filed with the chief administrative officer and give a copy of the list to the employees of the management body indicated in the bylaw.

AR 168/95 s3;155/2003;108/2004;176/2004

Disclosure of pecuniary interest

5.4(1) When a member has a pecuniary interest in a matter before the board, a board committee or any other body to which the member is appointed as a representative of the board, the member must, if present,

- (a) disclose the general nature of the pecuniary interest prior to any discussion of the matter,
- (b) abstain from voting on any question relating to the matter,
- (c) subject to subsection (3), abstain from any discussion of the matter, and
- (d) subject to subsections (2) and (3), leave the room in which the meeting is being held until discussion and voting on the matter are concluded.

(2) If the matter with respect to which the member has a pecuniary interest is the payment of an account for which funds have previously been committed, it is not necessary for the member to leave the room.

(3) If the matter with respect to which the member has a pecuniary interest is a question on which the member as a tenant in the

housing accommodation that is operated and administered by the management body has a right to be heard by the board,

- (a) it is not necessary for the member to leave the room, and
- (b) the member may exercise a right to be heard in the same manner as a person who is not a member.

(4) If a member is temporarily absent from a meeting when a matter in which the member has a pecuniary interest arises, the member must immediately on returning to the meeting, or as soon as the member becomes aware that the matter has been considered, disclose the general nature of the member's interest in the matter.

(5) The abstention of a member under subsection (1) and the disclosure of a member's interest under subsection (1) or (4) must be recorded in the minutes of the meeting.

(6) If a member has disclosed a pecuniary interest at a board committee meeting and the board considers a report of the committee in respect of which the member disclosed a pecuniary interest, the member must disclose the pecuniary interest at the board meeting and subsection (1) applies to the member.

AR 168/95 s3;108/2004;176/2004

Effect of pecuniary interest in agreements

5.5 No agreement with a management body under which a member of the management body has a pecuniary interest is binding on the management body unless

- (a) the agreement is for work in an emergency,
- (b) the agreement is for the sale of goods or the provision of services to the management body or to persons contracting with the management body at competitive prices by a dealer in those goods or services and the agreement is incidental to or in the ordinary course of the dealer's business,
- (c) the proposed agreement is approved by the board before the agreement is signed by the management body, or
- (d) the agreement was entered into before the term of the member started.

AR 168/95 s3;108/2004;176/2004

Disqualification of board members

5.6(1) A board member is disqualified from the board if

- (a) the member becomes a judge of a court or a member of the Senate or House of Commons of Canada or of the Legislative Assembly of Alberta,
- (b) the member is absent from 2 consecutive regular board meetings, unless subsection (2) applies,
- (c) the member is convicted of an offence punishable by imprisonment for 5 or more years,
- (d) the member does not vote on a matter at a board meeting at which the member is present, unless the member is required or is permitted to abstain from voting under this or any other enactment,
- (e) the member discloses information the member is required to keep in confidence under this or any other enactment,
- (f) the member contravenes section 5.4,
- (g) the member has a pecuniary interest in an agreement that is not binding on the management body by reason of the operation of section 5.5,
- (h) the member uses information obtained through being on the board to gain a pecuniary benefit in respect of any matter,
- (i) the member becomes an employee of the management body, unless subsection (3) applies,
- (j) the member becomes liable to the management body under section 21(2), or
- (k) the member acts contrary to an order or direction of the Minister under the Act or any other enactment.

(2) A board member is not disqualified by being absent from regular board meetings under subsection (1)(b) if the absence is authorized by the board any time before the end of the next regular meeting of the board immediately following the second meeting missed.

(3) A board member is not disqualified by reason of the operation of subsection (1)(i) if the board authorizes the member's continued membership any time before the end of the next regular board meeting occurring after the member became an employee of the management body.

AR 168/95 s3;108/2004;176/2004

Resignation on disqualification

5.7(1) A member who is disqualified must resign immediately.

(2) If a member does not resign immediately,

- (a) the board may apply to a judge of the Court of Queen's Bench for
 - (i) an order determining whether the person was never qualified to be or has ceased to be qualified to remain a member, or
 - (ii) an order declaring the person to be disqualified from the board,

or

- (b) a tenant of housing accommodation operated and administered by a management body who
 - (i) files an affidavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a member of the board of the management body, and
 - (ii) pays into court the sum of \$500 as security for costs,may apply to a judge of the Court of Queen's Bench for an order declaring the person to be disqualified from the board.

(3) An application under this section may only be made within 3 years of the date the disqualification is alleged to have occurred.

(4) An application under this section may be started or continued whether or not an election has been held or a reappointment has been made between the time the disqualification is alleged to have occurred and the time the application is or was commenced and whether or not the person in respect of whom the application is being brought

- (a) was re-elected in the election or was reappointed,
- (b) was not re-elected or did not run in the election or was not reappointed, or
- (c) has completed a term of office.

AR 168/95 s3;164/2010

Decision on disqualification application

5.8(1) After hearing an application under section 5.7 and any evidence, either oral or by affidavit, that is required, the judge may

- (a) declare the person to be disqualified and a position on the board to be vacant,
- (b) declare the person able to remain a member, or
- (c) dismiss the application.

(2) If a judge declares a person disqualified because information obtained through being on the board was used to gain a pecuniary benefit, the judge may order the person to pay to the management body a sum of damages determined by the court.

AR 168/95 s3;108/2004;176/2004

Inadvertence or genuine error

5.9 A judge who hears an application under section 5.7 and finds that the person is disqualified under section 5.6(1)(d), (g) or (h) may still dismiss the application if the judge is of the opinion that the disqualification arose inadvertently or by reason of a genuine error in judgment.

AR 168/95 s3

Appeal

5.91(1) The decision of a judge under section 5.8 may be appealed to the Court of Appeal.

(2) A person who is declared disqualified under section 5.8 and appeals that declaration remains disqualified until the appeal is finally determined.

(3) If, on the final determination of the appeal, the disqualification is set aside,

- (a) the Court must reinstate the person as a member for any unexpired portion of the term of office for which the person was elected or appointed and require any person who has been elected or appointed to fill the balance of that term to vacate the office, and
- (b) the Court may order that any money paid to the management body under section 5.8(2) be repaid.

(4) If on the final disposition of the appeal the disqualification is set aside but the term of office for which the person was elected or appointed has expired, the person must not be reinstated but is

eligible to be elected at the next election or reappointed, as the case may be, if otherwise qualified.

AR 168/95 s3;108/2004;176/2004

Reimbursement of costs and expenses

5.92 The board may reimburse the person in respect of whom an application under section 5.7 was made for any costs and expenses that the board considers reasonable, other than costs that have already been awarded to the person by the judge, if

- (a) the application is dismissed, or
- (b) an order is issued declaring the person able to remain a member.

AR 168/95 s3

6 Repealed AR 168/95 s3.

Board meetings

7(1) A board shall hold as many meetings in each year as are required in order to adequately deal with the business of the management body.

(2) A board, at any meeting at which all the members of the board are present, may decide to hold regular meetings of the board and the resolution shall state the day, hour and place of every such meeting and no notice of any such meeting is necessary.

(3) The chair of the board may call special meetings of the board whenever the chair considers it expedient to do so, and shall call a special meeting of the board when requested in writing by a majority of the members of the board.

(4) Written notice of a special meeting stating the time and place at which it is to be held and stating in general terms the nature of the business to be transacted at the meeting shall be given to each member of the board by mailing the notice to the member's address at least 6 days before the day of the meeting or by personally delivering the notice to the member or any adult person at the member's residence at least 3 days before the date of the meeting.

(5) The chair may orally or by notice in writing call a special meeting of the board on shorter notice than that required under subsection (4), but the special meeting may not be held unless

- (a) the notice states the time and place at which the meeting is to be held and in general terms the nature of the business to be transacted at the meeting, and

(b) at least 2/3 of the members of the board give written consent to the holding of the meeting.

(6) No business other than that stated in the notice shall be transacted at any special meeting of the board unless all the members of the board are present, in which case, by unanimous consent any other business may be transacted.

(7) When a special meeting is requested by a majority of the members of the board, the meeting shall be held within 14 days of the date on which the request in writing was delivered to the chair under subsection (3).

AR 243/94 s7;108/2004;176/2004

Quorum

8(1) A majority of the members of the board in office is a quorum of the board.

(2) A decision, rule or policy of a board is not valid unless passed at a board meeting at which there is a quorum present.

Annual and public meetings

9(1) A management body may provide for the holding of an annual meeting of the tenants of the housing accommodation it operates and administers.

(2) Where a management body holds an annual meeting it shall give adequate prior notice of the annual meeting to all tenants personally or by advertisement or other public notice.

(3) Where a management body operates and administers housing accommodation at more than one location, it may hold a combined annual meeting in respect of more than one housing accommodation project.

(4) All tenants and any other person are entitled to attend the annual meeting.

Right to information

10 Subject to section 11, every person has a right to obtain information in the possession of a management body relating to the activities and affairs of the management body unless there is a reason why the information should not be disclosed.

Information to be provided

11(1) Subject to this section, a management body must on the request of any person and within a reasonable time

- (a) provide information in the possession of the management body, and
- (b) provide copies of the information on payment of a reasonable fee established by the management body.

(2) The management body must withhold the following information in the possession of the management body unless its disclosure is required by this or any other enactment or by an order of the court or its disclosure is consented to by the person to whom the information relates:

- (a) commercial information, the disclosure of which would
 - (i) likely prejudice the commercial position of the person who supplied it,
 - (ii) reveal a trade secret,
 - (iii) likely prejudice the management body's ability to carry out its activities or negotiations, or
 - (iv) allow the information to be used for improper gain or advantage;
- (b) information that is subject to obligations of confidence, the disclosure of which would
 - (i) likely prejudice the future supply of similar information or advice,
 - (ii) likely prejudice the management body's ability to carry out its activities or negotiations,
 - (iii) place board members or employees of the management body at risk of improper pressure or harassment,
 - (iv) breach legal professional privilege, or
 - (v) prejudice measures protecting health and safety;
- (c) personal information, including personnel information, unless its disclosure
 - (i) is for the purpose for which the information was obtained or for a consistent purpose,
 - (ii) is required so that the management body can carry out its duties and functions, or

- (iii) is in a statistical or other form so that the names of persons are not revealed or made identifiable;
- (d) information of a deliberative kind and draft reports that are likely to be released to the public in a final form in due course except when the information or draft report is placed before a meeting held in public;
- (e) information the disclosure of which could prejudice security and the maintenance of the law;
- (f) information placed before a board or board committee meeting that is closed to the public, except when the information is later placed before a meeting held in public;
- (g) information that is prohibited from being released by this or any other enactment.

(3) Despite subsection (2), the management body must provide information on the salaries of board members, the person appointed under section 4 and the other officers of the management body designated by the board for the purposes of this subsection.

(4) If a management body withholds information, it must give a written notice, within a reasonable time of receiving the request, that the information is withheld and the reason why it is withheld to the person who requested it.

(5) Despite subsection (2)(d), a management body may release information when public interest considerations outweigh a reason for withholding it, unless the release is prohibited by this or any other enactment.

AR 243/94 s11;407/94;108/2004;176/2004

Appeal

12(1) A written appeal may be made to the board

- (a) by a person who receives a written notice that information is withheld, within 15 days of receiving the notice, or
- (b) by a person who does not receive the requested information and does not receive a written notice that the information is withheld, within 60 days of requesting the information.

(2) The only grounds for an appeal are that the released information was not complete, that the information has been withheld without any reason being stated or that the reason for withholding the information was insufficient or wrong.

(3) A board may not consider an appeal unless the persons to whom the information relates and the persons who would be directly affected by the release of the information have been notified or reasonable attempts have been made to notify them of the appeal.

(4) A board's decision to withhold or release information must be in writing and is final.

Records retention

13(1) A management body shall, on or before its reporting date give to the Minister all records in its possession that are the property of the Crown and

- (a) were created before March 31, 1987, and
- (b) relate to the management body's or its predecessor's activities under the *Senior Citizens Housing Act* or the *Alberta Mortgage and Housing Corporation Act*

including, without limitation, documents, manuscripts, maps, plans, photographs and magnetic tapes.

(2) A management body shall on the Minister's request give to the Minister all records of a kind referred to in subsection (1) in its possession that are the property of the Crown and were created after March 31, 1987.

(3) Until otherwise ordered by the Minister, a management body shall retain in its possession the following records created prior to the time the management body was established or deemed to have been established under this Act

- (a) all contracts, agreements and leases, including master agreements and management agreements under the *Senior Citizens Housing Act*, to which the management body or its predecessor is a party or which regulated the activities of the management body or its predecessor;
- (b) general ledgers and minutes of board meetings of a predecessor of the management body under the *Senior Citizens Housing Act* or the *Alberta Mortgage and Housing Corporation Act*;
- (c) Orders in Council, Ministerial Orders, by-laws and other constitutional documents relating to a predecessor of the management body.

(4) A management body shall retain in its possession in Alberta all records, books, documents and accounts created under the Act for not less than 7 years.

AR 243/94 s13;407/94;108/2004;176/2004

Delegation of authority

14(1) Subject to subsection (2), a board may delegate any of its powers, functions or duties to an employee, officer or agent of the management body.

(2) A board may not delegate any of its powers functions or duties under section 2, 11(3), 12, 17, 18, 19, 20, 21, 23, 27 or 28.

(3) A board, when delegating a matter to an employee, officer or agent, may authorize the employee, officer or agent to further delegate the matter.

Business and Financial Operation and Administration

Fiscal year

15 The fiscal year of a management body is the calendar year.

Business plans

16(1) A management body shall prepare a business plan for each 3-fiscal-year period with the objective of planning the process through which the purpose of the Act can best be achieved.

(2) The business plan shall include the following:

- (a) short and long term property and building maintenance plans;
- (b) an estimate of projected revenues for the 3-fiscal-year period;
- (c) an estimate of operating expenditures for the 3-fiscal-year period;
- (d) an estimate of capital expenditures for the 3-fiscal-year period.

(3) A board shall provide the Deputy Minister with a copy of its first business plan on its reporting date, and a copy of each business plan thereafter at least 90 days prior to the end of every following 3-fiscal-year period.

AR 243/94 s16;108/2004;176/2004

Operating budget

17(1) A board must adopt an operating budget for each fiscal year and must submit a copy of the operating budget to the Minister for approval not less than 90 days before the start of the fiscal year to which the budget relates.

(2) An operating budget must include the estimated amount of the following expenditures and transfers:

- (a) the amount needed to provide for the management body's policies and programs;
- (b) the amount needed to pay any debt obligations in respect of borrowings made to acquire, construct or improve capital property;
- (c) the amount to be transferred to reserves;
- (d) the amount to be transferred to the capital budget;
- (e) the estimated annual operating costs and revenues associated with capital property referred to in section 18(2)(a);

and may include any other information relating to the operation and administration of the housing accommodation that the board considers relevant.

(3) An operating budget must include the estimated amount of each of the following sources of revenue and transfers:

- (a) the amount of rents and all other payments or contributions received from all tenants;
- (b) the amounts received from all other revenue generating activity of the management body;
- (c) the amount received from all other sources, including contributions from reserves;
- (d) the amount of requisitions, or other contributions, received from municipalities;
- (e) an estimate of the amount, if any, required by the management body as financial assistance under the Act to fulfil its obligations during the following fiscal year.

(4) The estimated revenue under subsection (3) must be at least sufficient to pay the estimated expenditures under subsection (2).

(5) The Minister may by notice in writing require a management body to submit any further information respecting the operating budget that the Minister requires.

Capital budget

18(1) A board must adopt a capital budget for each fiscal year and must submit a copy of the capital budget to the Minister for approval not less than 90 days before the start of the fiscal year to which the budget relates.

(2) A capital budget must include the estimated amount for the following:

- (a) the amount needed to acquire, construct or improve capital property;
- (b) if necessary, the amount needed to remove capital property after its useful life is over;
- (c) the amount to be transferred to reserves;
- (d) the anticipated sources and amounts of money to pay the costs referred to in clauses (a) and (b);
- (e) the amount to be transferred from the operating budget.

Revised budget

19(1) If the Minister does not approve an operating or capital budget submitted under section 17 or 18, the Minister shall, within 60 days of receiving the budget, advise the board in writing of the items for which revision is necessary.

(2) On revising the budget in accordance with the advice received under subsection (1), the board shall prepare and submit to the Minister for approval a revised budget within the time specified by the Minister.

Amendment

20 The board may amend an approved operating or capital budget but no such amendment is effective without the prior approval of the Minister.

Expenditure of money

21(1) A board may only initiate or pay an expenditure that is

- (a) included in an operating or capital budget that has been approved by the Minister,

- (b) for an emergency, or
- (c) otherwise authorized by the Minister.

(2) Members of a board who vote for an expenditure that is not authorized under subsection (1) are jointly and severally liable to the management body for the amount of the expenditure.

Transfer to Minister

22(1) A management body shall transfer to the Minister all or any portion of the surplus from its operating or capital budgets in each fiscal year as required by the Minister.

(2) That portion of the surplus transferable to the Minister pursuant to subsection (1) is deemed to be held in trust by the management body for the Minister until it is paid to the Minister, and the management body shall not use any portion of the transferable surplus.

(3) Revenue or income received by the management body by way of a gift made to the management body shall not be considered as surplus for the purposes of this section.

Limits on reserve funds

23(1) Unless the Minister requires surplus funds to be transferred to him under section 22, a board may use any portion of a surplus from its operating or capital budgets for the creation and maintenance of reserve funds.

(2) A board may create a reserve fund only with the prior approval of the Minister.

(3) A reserve fund may be invested only in the securities referred to in section 26.

(4) The aggregate amount in capital reserve funds shall not exceed at any time in a year the reasonable estimated capital cost of replacing all of the housing accommodation owned, or otherwise operated and administered, by the management body in that year.

(5) The aggregate amount in operating reserve funds shall not exceed at any time in a year an amount reasonably estimated to be the equivalent of 6 months operating expenditures for the management body in that year.

(6) Notwithstanding subsections (4) and (5), the Minister may authorize a board to maintain in a reserve fund a greater amount that would otherwise be permitted under those subsections.

(7) Any surplus amount in excess of the maximum amount permitted under subsection (4), (5) or (6) that the board allows to remain in a reserve fund is deemed to be held in trust for the Minister until it is paid to the Minister, and the management body shall not use any of that surplus amount.

Exception

24 Notwithstanding sections 22 and 23, where in a year

- (a) the Minister provides financial assistance under the Act to a management body, and
- (b) one or more municipalities have made payments to the management body under section 7 of the Act or contributions to the management body under section 8 of the Act,

the Minister and a majority of such municipalities may agree to a disposition of surplus that is different from how the surplus would be treated under sections 22 and 23.

Borrowing

25(1) Subject to subsection (2), a management body may borrow any sums required to carry out its powers, functions and duties under the Act.

(2) A sum borrowed under this section must be repaid, or the loan must be otherwise retired, within the fiscal year in which the loan is made unless

- (a) the Minister approves otherwise, or
- (b) the Minister has, on the request of the management body, established a borrowing limit in respect of the management body and the borrowing is within the borrowing limit.

AR 243/94 s25;407/94;108/2004;176/2004

Investments

26(1) In this section, “securities” includes bonds, debentures, trust certificates, guaranteed investment certificates or receipts, certificates of deposit, deposit receipts, bills, notes and mortgages of real estate or leaseholds and rights or interests in respect of such securities.

(2) A management body may only invest its money in the following:

- (a) securities that are issued or guaranteed by the Crown in right of Canada or a province, or an agent of the Crown;
- (b) securities of a municipality, school division, school district, hospital district, health region under the *Regional Health Authorities Act* or regional services commission in Alberta;
- (c) securities that are issued or guaranteed by a bank, treasury branch, credit union or trust corporation;
- (d) units in pooled funds in any of the investments described in clauses (a) to (c);
- (e) shares of a corporation incorporated or continued under the *Canada Business Corporations Act* or incorporated, continued or registered under the *Business Corporations Act*, if the investment is approved by the Minister.

(3) The Minister may give an approval under subsection (2)(e) subject to any terms and conditions the Minister considers appropriate.

(4) A management body may not acquire shares of a corporation under subsection (2)(e) if the acquisition would result in the management body's controlling the corporation.

(5) Nothing in this section prevents a management body from acquiring a share or membership in a non-profit organization.

Accounts

27(1) Only a person authorized by a board may open or close accounts to hold, administer or invest money of the management body.

(2) Money of a management body must be kept in a financial institution designated by the board.

(3) All revenue of a management body must be paid into one or more accounts of the management body.

Signing authority

28 Agreements, cheques and other negotiable instruments must be signed by 2 persons authorized by the Board for that purpose.

AR 243/94 s28;407/94

Operation and Administration of Housing Accommodation

Property maintenance

29 A management body shall

- (a) ensure that the housing accommodation it operates and administers is maintained in a condition so as to provide adequate housing accommodation to its tenants, and
- (b) ensure that the housing accommodation meets the requirements of enactments and bylaws applicable to the construction and operation of the housing accommodation.

Building reports

30(1) A management body shall, with respect to housing accommodation that it operates and administers and that is owned by the Crown, submit to the Deputy Minister a property condition and inspection report at the times required by the Minister.

(2) A property condition and inspection report must be completed by a person who has qualifications acceptable to the Minister and must be in a form acceptable to and contain information required by the Minister.

AR 243/97 s30;250/97

Repairs to housing accommodation

31(1) Where as a result of an inspection under section 9 of the Act,

- (a) the Minister considers that repairs to the housing accommodation are necessary in order to ensure that housing accommodation will be provided, operated and maintained in accordance with the Act and the regulations, and
- (b) the management body responsible for the operation and administration of the housing accommodation refuses or neglects to carry out the repairs,

the Minister or his designate, together with any workers that are necessary, may enter the housing accommodation and carry out the repairs.

(2) The Minister or his designate shall give reasonable notice of his intention to carry out repairs under subsection (1) to

- (a) the management body, and

- (b) the tenants of the housing accommodation who are affected by the repairs.

(3) The management body and the tenants of housing accommodation in respect of which a person is exercising powers under subsection (1) shall

- (a) give that person all reasonable assistance to enable that person to exercise those powers, and
- (b) furnish all information relative to the exercising of those powers that the person may reasonably require.

(4) The cost of repairs carried out under this section are the responsibility of the management body and constitute a debt owing to the Crown.

Contents of housing accommodation

32(1) Where building contents, including, without limitation, furniture, equipment, supplies and appliances, have been supplied, sold, leased or otherwise provided to a management body by the Crown for the purpose of providing housing accommodation, the management body shall maintain those contents in housing accommodation operated and administered by the management body unless the Minister directs or agrees otherwise.

(2) A management body shall provide to the Deputy Minister on a date that is not later than its reporting date and at any other time required by the Minister by notice in writing a report in a form satisfactory to the Minister listing the building contents referred to in subsection (1) of all housing accommodation operated and administered by the management body.

AR 243/94 s32;407/94;108/2004;176/2004

Termination of obligations

33(1) Where the Crown owns the housing accommodation that is operated and administered by a management body, the management body may, on giving at least 3 months' written notice of its intention to the Minister and to the tenants of the housing accommodation, terminate its operation and administration of any of the housing accommodation and deliver up the housing accommodation to the Crown.

(2) The housing accommodation must be delivered up in good repair, excepting normal wear and tear and damage caused by natural disasters and other accidents beyond the control of the management body.

- (3)** Where a management body owns the housing accommodation that it operates and administers, it may terminate its operation and administration of any of the housing accommodation
- (a) on giving at least 6 months' notice of its intentions to the Minister,
 - (b) on giving to the tenants of the housing accommodation the same period of notice of its intentions as would be required if it were terminating the tenancies,
 - (c) if the housing accommodation has been sold or otherwise transferred by the Crown to the management body, on meeting any terms and conditions provided for in the sale or transfer agreement, and
 - (d) if the management body has received financial assistance under the Act in any prior year or in the current year, by meeting the terms and conditions applicable to the provision of the financial assistance.
- (4)** Where a management body terminates its operation and administration of housing accommodation under this section,
- (a) unless otherwise agreed to by the Minister, all improvements made by the management body during the period it operated and administered the housing accommodation become the property of the Crown and the management body has no right to compensation in respect of those improvements, and
 - (b) the management body must return to the Minister all financial assistance under the Act that was given in respect of the housing accommodation in the year in which notice under subsection (1) or (3) was given.

AR 243/94 s33;407/94;108/2004;176/2004

Insurance

34(1) A management body shall, without limiting its obligations or liabilities, insure its operation and administration of housing accommodation under a contract of comprehensive general liability insurance with an insurer licensed in Alberta an amount not less than \$1 000 000 per occurrence, with a general aggregate of at least \$2 000 000, against bodily injury and property damage, including loss of use of the property.

(2) Insurance referred to in subsection (1) must include coverage for blanket written contractual liability, employees as additional insureds and contingent employers' liability.

- (3) Where a management body operates and administers housing accommodation at more than one location, subsection (1) applies in respect of each location separately.
- (4) A management body shall insure the housing accommodation it operates and administers, other than housing accommodation that is the property of the Crown, with an insurer licensed in Alberta in an amount sufficient to compensate for the loss and replacement of the housing accommodation.
- (5) A management body shall insure the contents of the housing accommodation it operates and administers, other than contents that are the property of the Crown or of tenants, with an insurer licensed in Alberta in an amount sufficient to compensate for the loss and replacement of the contents.
- (6) A management body shall maintain an automobile liability insurance policy in an amount not less than \$1 000 000 per occurrence in respect of the use and operation of each automobile owned or leased by the management body.
- (7) A management body shall obtain crime insurance, including a fidelity bond, in an amount covering the management body's exposure for loss resulting from theft, fraud and other similar offences, whether committed by its employees or by other persons.
- (8) A management body shall provide evidence of the coverage required under this section to the Minister on request.

AR 243/94 s34;407/94;168/95;108/2004;176/2004

Indemnification of board members

- 35(1)** Section 124 of the *Business Corporations Act* applies to a management body as if it were a corporation within the meaning of that Act.
- (2) A management body may not indemnify a board member under the authority of subsection (1) unless a majority of the other members of the board then in office agree to it.
- (3) An indemnity must be evidenced in writing.

AR 243/94 s35;251/2001

Claims by and against management body

- 36(1)** A management body shall immediately notify the Deputy Minister of any claim made against it or by it that could reasonably make the Crown liable to or place the Crown under an obligation to some other person.

(2) Subsection (1) does not apply to any liability or obligation arising under the *Residential Tenancies Act*.

Loss or damage to property

37(1) Where housing accommodation, or any part of it, that is operated and administered by a management body is destroyed or damaged, the management body

- (a) shall continue to be responsible for that property,
- (b) shall take whatever emergency action is necessary to prevent further loss or damage, and
- (c) shall immediately notify the Deputy Minister of the nature and extent of the damage.

(2) Where the damage incurred to the property referred to in subsection (1) is such that the Minister determines it cannot be repaired, the Minister may, on providing at least 30 days' notice in writing to the management body, remove the property from the application of the Act.

(3) Notwithstanding this section, all obligations, duties and liabilities of a management body arising out of the operation and administration of housing accommodation before the housing accommodation is removed from the application of the Act continue, and the Minister has no liabilities or obligations except those the Minister in writing agrees to or otherwise assumes from the date the Minister assumes responsibility for the property.

AR 243/94 s37;108/2004;176/2004

Expiry

38 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on September 30, 2017.

AR 94/2002 s3;108/2004;176/2004;163/2007;307/2009;
49/2012;40/2017



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