

**Alberta Regulation 175/2017**

**Environmental Protection and Enhancement Act  
EMISSIONS TRADING AMENDMENT REGULATION**

Filed: October 5, 2017

For information only: Made by the Lieutenant Governor in Council (O.C. 305/2017) on October 4, 2017 pursuant to sections 37, 122 and 239 of the Environmental Protection and Enhancement Act.

**1 The *Emissions Trading Regulation* (AR 33/2006) is amended by this Regulation.**

**2 Section 53(1)(a)(ii) is repealed and the following is substituted:**

(ii) as a chartered professional accountant under the *Chartered Professional Accountants Act*,

**3 Section 59 is amended by striking out “November 30, 2017” and substituting “November 30, 2021”.**

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**Alberta Regulation 176/2017**

**Expropriation Act**

**EXPROPRIATION ACT RULES OF PROCEDURE AND PRACTICE  
(EXPIRY DATE EXTENSION) AMENDMENT REGULATION**

Filed: October 5, 2017

For information only: Made by the Lieutenant Governor in Council (O.C. 306/2017) on October 4, 2017 pursuant to sections 28, 60 and 72 of the Expropriation Act.

**1 The *Expropriation Act Rules of Procedure and Practice Regulation* (AR 187/2001) is amended by this Regulation.**

**2 Section 20 is amended by striking out “November 30, 2017” and substituting “November 30, 2022”.**

**Alberta Regulation 177/2017**

**Expropriation Act**

**EXPROPRIATION ACT FORMS (EXPIRY DATE  
EXTENSION) AMENDMENT REGULATION**

Filed: October 5, 2017

For information only: Made by the Lieutenant Governor in Council (O.C. 307/2017) on October 4, 2017, pursuant to section 72 of the Expropriation Act.

**1 The *Expropriation Act Forms Regulation* (AR 188/2001) is amended by this Regulation.**

**2 Section 3 is amended by striking out “November 30, 2017” and substituting “November 30, 2022”.**

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**Alberta Regulation 178/2017**

**Forests Act  
Mines and Minerals Act  
Public Lands Act**

**METALLIC AND INDUSTRIAL MINERALS EXPLORATION  
AMENDMENT REGULATION**

Filed: October 5, 2017

For information only: Made by the Lieutenant Governor in Council (O.C. 308/2017) on October 4, 2017 pursuant to sections 4, 5 and 9 of the Forests Act, Mines and Minerals Act and the Public Lands Act, respectively.

**1 The *Metallic and Industrial Minerals Exploration Regulation* (AR 213/98) is amended by this Regulation.**

**2 Section 46 is repealed.**

**Alberta Regulation 179/2017**

**Insurance Act**

**COMPLAINT RESOLUTION AMENDMENT REGULATION**

Filed: October 12, 2017

For information only: Made by the Lieutenant Governor in Council (O.C. 312/2017) on October 11, 2017 pursuant to section 511 of the Insurance Act.

**1 The *Complaint Resolution Regulation* (AR 259/2004) is amended by repealing section 7.**

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**Alberta Regulation 180/2017**

**Motor Vehicle Accident Claims Act**

**MOTOR VEHICLE ACCIDENT CLAIMS AMENDMENT REGULATION**

Filed: October 12, 2017

For information only: Made by the Lieutenant Governor in Council (O.C. 313/2017) on October 11, 2017 pursuant to section 25 of the Motor Vehicle Accident Claims Act.

**1 The *Motor Vehicle Accident Claims Regulation* (AR 189/98) is amended by this Regulation.**

**2 Section 9 is repealed.**

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**Alberta Regulation 181/2017**

**Condominium Property Act**

**CONDOMINIUM PROPERTY AMENDMENT REGULATION**

Filed: October 12, 2017

For information only: Made by the Lieutenant Governor in Council (O.C. 316/2017) on October 11, 2017 pursuant to section 81 of the Condominium Property Act.

**1 The *Condominium Property Regulation* (AR 168/2000) is amended by this Regulation.**

**2 Section 1 is amended**

**(a) in subsection (1) by adding the following after clause (a):**

- (a.1) “delivery and distribution systems” has the same meaning as in section 1(1)(m) of the *New Home Buyer Protection Act*;
- (a.2) “plan of redivision” means a condominium plan registered pursuant to section 20 of the Act;

**(b) by adding the following after subsection (1):**

**(1.1)** For the purposes of section 16.1(1)(b)(ii) of the Act, “as built drawing” means a document that

- (a) shows all substantial changes made in the specifications and working drawings during the construction process in respect of
  - (i) the delivery and distribution systems to which the *Safety Codes Act* applies, including electrical, gas, plumbing, heating, ventilation and air conditioning systems, and
  - (ii) any other pipes, wires, cables, chutes or ducts or other systems that provide for the passage or provision of services,

and

- (b) identifies the actual location of the systems referred to in clause (a).

**3 Section 3(b)(i) is amended by adding “, (1.1)” after “(j), (l)”.**

**4 Section 20 is repealed and the following is substituted:**

**Directors of corporation**

**20** The notices required to be filed under sections 10.1 and 28(5) of the Act are to be in Form 8.

**5 The following is added after section 20:**

**Part 1.1**  
**Duties of a Developer**

**Additional information provided to purchaser**

**20.01(1)** For the purposes of section 12(1)(m) of the Act, the developer shall deliver the following additional information and documents to the purchaser:

- (a) the name and address for service of the developer;
- (b) if the unit being sold is located on a parcel that is leased land, the term, rent and renewal rights of and the parties to the lease;
- (c) the name and address for service of the prescribed trustee, if any, who will hold deposits under section 14 of the Act;
- (d) if the unit being sold, other than a bare land unit, is in a development that is not substantially complete, the floor plan of the unit including the specifications of the materials to be used to finish the unit;
- (e) if the unit being sold is in a building or on land that is being developed in phases in accordance with section 19 of the Act, a copy of the phased development disclosure statement required under section 35;
- (f) if the unit being sold is a conversion unit,
  - (i) a description of the previous use of the building, and
  - (ii) a copy of the reserve fund report for the corporation;
- (g) a list of any fees, rents or other charges that the corporation is required to pay to the developer or a third party for the use of any units, proposed units or other real or personal property;
- (h) where no condominium plan has yet been registered,
  - (i) if the developer has an interest in the land on which the condominium plan is to be registered, a copy of
    - (A) the valid certificate of title showing the developer as the owner of the land on which the condominium plan is to be registered, or
    - (B) the valid registration on title showing the developer has an interest in the land on which the condominium plan is to be registered,

or

(ii) if the developer has no registered interest in the land on which the condominium plan is to be registered, a statement to that effect;

(i) where there are bare land units on the parcel, a description of any roads, utilities, services or delivery and distribution systems that are to be paid for by the corporation or are required to be repaired, maintained or replaced by the corporation, including, without limitation, water, sewage disposal, electricity and natural gas;

(j) where there are bare land units on the parcel, a statement as to whether the developer will seek redivision of any units in accordance with section 20 of the Act;

(k) the amount of any occupancy fees the developer will charge under section 20.02 prior to contributions being levied at regular intervals by the corporation under section 39 of the Act;

(l) a description of any other fees the developer will charge the purchaser.

**(2)** For the purposes of section 12(1)(l) and (m) of the Act, the developer shall, in respect of a proposed unit contained in a plan of redivision or a unit in the second or subsequent phase of a phased development, provide a purchaser with estimates of the changes to the corporation's expenses that are expected to arise following the redivision or substantial completion of the phased development.

**(3)** For the purposes of section 12(1)(l) of the Act, if an annual budget has been prepared for the fiscal year by the corporation in accordance with section 30(4) of the Act, the developer shall deliver the annual budget to each purchaser.

**(4)** For the purposes of section 12(1)(l) of the Act, if no budget has been prepared under section 30(4) of the Act, the developer shall deliver a proposed budget to each purchaser.

**(5)** The information or documents delivered under section 12(1) of the Act must be accompanied with a table of contents clearly identifying the documents being delivered.

**(6)** Delivery of information or documents referred to in this section or section 12(1) of the Act as part of or accompanied with the purchase agreement constitutes delivery of the information or documents for the purposes of section 12(1) of the Act.

(7) Nothing in this section or section 12 of the Act precludes the provision of information referred to in this section and section 12(1) of the Act by electronic means if both the purchaser and developer consent to the use of these means.

**Fees prior to levy of contributions**

**20.02(1)** A developer may charge a purchaser occupancy fees for the time period after the purchaser takes occupancy of the unit but not after the first monthly contribution becomes payable by the purchaser under section 39 of the Act.

(2) The amount of occupancy fees referred to in subsection (1) shall not exceed the amount disclosed to the purchaser under section 20.01(1)(k).

(3) This section does not apply in respect of payment of rent and security deposits as described in section 16 of the Act if the amount of the rent or security deposits was agreed to between the developer and the purchaser.

**Content, delivery of proposed budget**

**20.03(1)** A proposed budget referred to in section 20.01(4) must contain the following information for the 12-month period specified in the proposed budget:

- (a) the projected total revenue of the corporation;
- (b) the projected total expenses of the corporation;
- (c) the specific projected expenses, each of which must be listed under one of the following categories:
  - (i) maintenance and repairs;
  - (ii) insurance;
  - (iii) utilities;
  - (iv) condominium management services;
  - (v) other contracted services;
  - (vi) the reserve fund study;
  - (vii) other expenses;
- (d) the projected payments into the reserve fund or a fund described in section 23(7);

(e) the name and credentials, if any, of the person who prepared the proposed budget, and the date on which the proposed budget was prepared.

(2) The person who prepares the proposed budget may include an estimate for inflation in respect of projected expenses.

(3) A proposed budget must provide for a reasonable amount of the projected total revenue of the corporation to be deposited in the reserve fund or a fund described in section 23(7).

(4) A proposed budget may be delivered to a purchaser only until a budget for the corporation's fiscal year is prepared by the corporation under section 30(4) of the Act.

**Consequences of underestimated expenses**

**20.04(1)** If the actual total expenses incurred by the corporation in the 12-month period beginning with the first month in which contributions are first levied on owners at regular intervals are more than 15% above the projected total expenses of the corporation as set out in the proposed budget, the corporation shall provide the developer with

(a) a notice setting out

(i) the actual and projected total expenses, and

(ii) the amount of the actual total expenses that is greater than 15% above the projected total expenses,

and

(b) a copy of the financial statements and any other documents from which the actual and projected total expenses were determined.

(2) For the purposes of this section, the projected total expenses are the lowest projected expenses disclosed by the developer to any purchaser.

(3) The corporation shall provide the notice under subsection (1) within 90 days after the preparation of the financial statements for the 12-month period beginning with the first month in which contributions are first levied on owners at regular intervals.

(4) Subject to subsection (5), within 60 days after receiving a notice under subsection (1), the developer shall pay the corporation the amount specified in subsection (1)(a)(ii).

(5) This section does not apply in respect of underestimated expenses that result from



- (a) an increase in an expense incurred by the corporation as a result of terminating an agreement under section 17 or 17.1 of the Act and entering into a new agreement for the same or similar services,
- (b) an expense that was not reasonably foreseeable at the time the proposed budget was prepared,
- (c) an increase in an insurance premium or insurance deductible paid in respect of any policies paid for by the corporation,
- (d) an increase in utility charges from the market rates at the time of the proposed budget,
- (e) charges for legal services provided to the corporation after the meeting convened under section 29 of the Act,
- (f) an increase in the cost of a reserve fund study, or
- (g) an increase in inflation, as compared to an estimate of inflation included under section 20.03(2).

**Material change**

**20.05(1)** For the purposes of section 13.1 of the Act, “material change” means a change or series of changes to a fact or proposal as stated in the information or a document provided under section 12 of the Act that, on a reasonable basis, would have an adverse effect on the value or use of the unit or proposed unit, the common property or the real property of the corporation.

**(2)** If a material change arises, a purchaser may file an originating application with the Court

- (a) within 60 days of receiving notice from the developer under section 13.1(1) of the Act, or
- (b) if no notice is provided under section 13.1(1) of the Act, within 60 days from the date the purchaser became aware or reasonably ought to have become aware of the material change.

**(3)** In any event, an originating application must be filed within 12 months after the certificate of title to the unit is registered in the name of the purchaser.

**(4)** The Court may, without limitation, order any relief that it considers appropriate in respect of the originating application, including

- (a) damages,

- (b) rescission of the purchase agreement, if the certificate of title has not yet been issued in the name of the purchaser, or
- (c) any other direction or order that the Court considers appropriate in the circumstances.

(5) The following do not constitute a material change for the purposes of section 13.1 of the Act:

- (a) a difference, as determined from the corporation's financial statements, between the projected expenses in the proposed budget and the actual expenses for the 12-month period beginning with the first month in which contributions are first levied at regular intervals;
- (b) a difference between the amount of the estimated contributions and the actual contributions;
- (c) a change in a final occupancy date under Part 1.2, provided the developer has complied with that Part.

**Regulation prevails**

**20.06** If there is a conflict or inconsistency between this Regulation and the purchase agreement, this Regulation prevails to the extent of the conflict or inconsistency.

## **Part 1.2 Occupancy Date**

**Definitions**

**20.07** For the purposes of this Part and section 12(1)(k) of the Act,

- (a) "final occupancy date" means either
  - (i) the single fixed date by which a developer will make a particular unit available for occupancy
    - (A) as set out in the occupancy date statement,
    - (B) as becomes binding on the purchaser under section 20.09(3),
    - (C) as provided in a written notice of revised final occupancy date under section 20.1(2)(b), or
    - (D) as agreed to by a purchaser and developer under 20.11(1),

or

- (ii) the latest date in a range of dates within which the developer will make a particular unit available for occupancy
  - (A) as set out in the occupancy date statement, or
  - (B) as provided in a written notice of revised final occupancy date under section 20.1(2)(b);
- (b) “occupancy date statement” means a statement, referred to in section 12(1)(k) of the Act, that contains the information set out in section 20.08(1).

**Occupancy date statement**

**20.08(1)** A developer shall prepare an occupancy date statement in respect of a unit, containing either

- (a) a single fixed date on which the developer will make the unit available for occupancy by the purchaser, or
- (b) a range of dates within which the developer will make the unit available for occupancy by the purchaser.

(2) At the time the purchase agreement is executed, the developer shall ensure that the purchaser initials the occupancy date statement that was delivered in accordance with section 12(1)(k) of the Act.

(3) Where a developer has provided an occupancy date statement as described in subsection (1)(b) and has subsequently selected a specific date on which the unit will be available for occupancy, the developer shall provide at least 30 days’ written notice to the purchaser of the specific date.

**Consequences of delay in occupancy**

**20.09(1)** If the developer does not make a unit available for occupancy within 30 days after the final occupancy date in the occupancy date statement, the purchaser may, subject to subsection (3), rescind the purchase agreement by providing the developer with a written notice rescinding the purchase agreement.

(2) If a unit is not ready for occupancy within 30 days after the final occupancy date in the occupancy date statement, the developer shall provide the purchaser with a written notice of a revised final occupancy date unless the purchaser has already rescinded the purchase agreement.

(3) A revised final occupancy date referred to in subsection (2) is binding on the purchaser

- (a) if the purchaser has provided written acceptance of the revised final occupancy date, or

- (b) if the purchaser does not rescind the purchase agreement within 10 days after receipt of the notice of the developer's revised occupancy date.

(4) A developer or prescribed trustee, as the case may be, shall refund all money paid by the purchaser within 15 days of receipt of the purchaser's written notice rescinding the purchase agreement.

**Delay for legitimate cause**

**20.1(1)** Despite sections 20.08 and 20.09, a developer may delay occupancy beyond the final occupancy date for a unit, without liability for damages and without giving rise to a right of rescission by a purchaser under section 20.09, if one of the following events causes the unit not to be ready for occupancy by the final occupancy date:

- (a) fire;
- (b) explosion;
- (c) flood;
- (d) events leading to a declaration of an emergency under the *Emergency Management Act* or the *Emergencies Act* (Canada);
- (e) events leading to a declaration of a public emergency or disaster for the purpose of section 7 of the *Fiscal Planning and Transparency Act*;
- (f) impact by aircraft, spacecraft, watercraft or land vehicles;
- (g) riot, vandalism or malicious acts;
- (h) a delay in the issuance of a development permit pursuant to the *Municipal Government Act* that is due to
  - (i) the failure of the development authority or other authority to issue the decision respecting the permit within the timelines required by law,
  - (ii) an outstanding appeal, or
  - (iii) an agreement to an extension of the time to make the decision respecting the permit;
- (i) the issuance of an order under section 20(2), 37(2) or (3) or 49 of the *Historical Resources Act* or a notice preceding the making of a bylaw by the council of a municipality under section 26(2) of the *Historical Resources Act*.

(2) If a developer delays occupancy beyond the final occupancy date under subsection (1), the developer shall

- (a) provide the purchaser with written notice of the delay and the cause of the delay, as soon as the developer becomes aware, and
- (b) within a reasonable period of time following the beginning of the delay, provide the purchaser with written notice of a revised final occupancy date that reflects a reasonable length of time to remedy the results of the event that caused the delay in occupancy.

**Agreements, damage claims not precluded**

**20.11(1)** Nothing in this Part precludes a purchaser and developer from agreeing to a final occupancy date different from that set out in an occupancy date statement or written notice of revised final occupancy date.

(2) A remedy under this Part does not preclude a purchaser from pursuing a claim in damages for the damages caused by the delay in occupancy.

**6 The following is added before Part 2:**

**Part 1.3  
Documents Provided to  
Elected Board**

**Documents provided to elected board**

**20.2** For the purposes of section 16.1 of the Act, the developer or the interim board, as the case may be, shall provide the following additional documents to a board elected under section 29 of the Act:

- (a) copies of all plans, documents and amended documents that are required to be prepared under the *Safety Codes Act* in respect of buildings on the parcel;
- (b) a copy of all outstanding orders made pursuant to the *Safety Codes Act*, *Municipal Government Act* or the *New Home Buyer Protection Act* in respect of the parcel or any buildings on the parcel;
- (c) a copy of the condominium plan and any plan of redivision;
- (d) copies of all manuals, schematic drawings, operating instructions, service guides, manufacturers' documentation, records of service and repairs and other similar information

- or documentation in the possession or control of the developer or interim board respecting the construction, installation, operation, maintenance, repair and servicing of any common property or real or personal property of the corporation;
- (e) a document setting out a list of the members of the interim board;
  - (f) a document setting out
    - (i) the following information respecting each owner:
      - (A) the name of each owner and their corresponding unit numbers, as they appear on the condominium plan;
      - (B) areas of exclusive possession, as referred to in section 50 of the Act, assigned to each owner;
    - (ii) the following information respecting each unit:
      - (A) municipal address of the unit;
      - (B) the owner's address as it appears on the certificate of title;
      - (C) any additional address for service for the unit's owner as provided by the owner to the corporation;
      - (D) unit factors for each unit;
  - (g) a document setting out a list of the names and addresses of all mortgagees who have given written notice to the corporation under section 26(3) of the Act;
  - (h) a document setting out a list of the names of each tenant that the developer or interim board has been informed of, the unit number being occupied by the tenant, and the amount of any deposit paid by the owner of a rented unit to the corporation under section 53 of the Act;
  - (i) a copy of any rules made by the board;
  - (j) a copy of any unsatisfied judgment of a court or another decision-maker in proceedings to which the corporation is a party;
  - (k) a copy of any legal or other professional advice or opinions paid for by the corporation;

- (l) copies of any proposed budget or annual budget of the corporation, any financial statements prepared for the corporation's current fiscal year and any financial statements in the possession or control of the developer or interim board respecting previous fiscal years;
- (m) copies of all records respecting the account maintained by the financial institution holding the reserve fund, operating funds or any other funds of the corporation;
- (n) copies of all tax records of the corporation;
- (o) a copy of each lease, licence or other instrument granting an owner the right to exclusive possession of an area under section 50 of the Act;
- (p) a copy of any restrictive covenant registered against the parcel;
- (q) a copy of all current insurance policies obtained by or on behalf of the corporation, and the certificate respecting each insurance policy;
- (r) a copy of all caveats registered against units that are owned by the corporation or intended to be transferred to the corporation.

#### **Part 1.4 Payments Held in Trust**

**Trustee**

**20.3** For the purposes of section 14 of the Act, a person or partnership that meets the following requirements is prescribed as a trustee:

- (a) the person, the professional corporation with which the person is associated or the partnership
  - (i) is an active member of the Law Society of Alberta,
  - (ii) is a holder of a permit issued under Part 8 of the *Legal Profession Act*, or
  - (iii) is comprised of partners who are active members of the Law Society of Alberta,as the case may be;
- (b) no suspension is in effect under section 63 of the *Legal Profession Act* in respect of

- (i) the person,
- (ii) the voting shareholder of the professional corporation,  
or
- (iii) the partners of the partnership, with the result that no partner is permitted to operate a trust account,  
  
as the case may be;
- (c) the person or partnership is approved to operate a trust account, under the rules established by the Law Society of Alberta under the *Legal Profession Act*;
- (d) the person or each partner of the partnership, as the case may be, is in good standing in respect of Assurance Fund requirements under section 89(4) of the *Legal Profession Act*.

**Notification by prescribed trustee**

**20.31(1)** Within 10 days of receiving money to be held in trust under section 14 of the Act, a prescribed trustee shall notify the purchaser, at the purchaser's address for service, that the purchaser's deposit is held on deposit in the prescribed trustee's trust account.

(2) Nothing in this Regulation precludes a purchaser, with the developer's agreement, from retaining a prescribed trustee to hold a purchaser's deposit.

(3) A prescribed trustee retained under subsection (2) shall, within 10 days after depositing a purchaser's deposit into the prescribed trustee's trust account, notify the developer of the deposit.

**Release of trust money**

**20.32(1)** A prescribed trustee shall not release money that is held in trust under section 14 of the Act except in accordance with this section.

- (2) A prescribed trustee may release money held in trust to a developer where
- (a) the money is applied to the purchase price as part of the process of transferring title to the unit for which the deposit money was paid,
  - (b) the money is secured by a purchaser's protection program, as defined in Part 7, that has been approved by the Minister under section 14(10) of the Act, or
  - (c) the developer is entitled under section 14(12) of the Act to a reduction in the money held in trust equal to security



provided under an enactment referred to in section 14(12) of the Act.

**(3)** Despite subsection (2),

- (a) a prescribed trustee shall not pay money held in trust under section 14 of the Act to a developer until after the expiry of the time period set out in section 13(1) of the Act, and
- (b) where the certificate of title to the unit is issued in the name of the purchaser and the unit or the common property is not substantially complete, the prescribed trustee may release money held in trust to a developer only after a cost consultant provides a written opinion that the unit or the common property, as the case may be, is substantially complete.

**(4)** A prescribed trustee may release money held in trust to a purchaser where the purchase agreement is terminated after

- (a) the purchaser exercises a right of rescission under the Act or this Regulation,
- (b) a condition imposed by the purchaser or developer has not been removed or satisfied within the time allowed by the purchase agreement, or
- (c) the developer exercises a right of termination under the purchase agreement.

**(5)** A prescribed trustee may release money held in trust

- (a) where the parties have mutually agreed to the release,
- (b) in accordance with a decision issued by a court ordering the payment of the money,
- (c) where the money is required or permitted to be paid into Court, or
- (d) subject to subsection (6), to one of the parties, where the other party has breached the purchase agreement in a way that results in a contractual right to treat the agreement as ended.

**(6)** A prescribed trustee may release money under subsection (5)(d) only if the following conditions are met:

- (a) the party alleging the breach serves a notice of the alleged breach on the other party and the prescribed trustee;

(b) the party served with the notice of the alleged breach does not serve a response on the alleging party and the prescribed trustee within 30 days of service of the notice of the alleged breach.

(7) A prescribed trustee may transfer the money held in trust to another prescribed trustee.

(8) A prescribed trustee who makes a transfer under subsection (7) shall notify the purchaser and developer of the transfer.

(9) Where money is paid to a prescribed trustee in error, the prescribed trustee may refund the money and, after making the refund, is not subject to any other provisions under this section.

**Payment of trust money into Court**

**20.33(1)** A prescribed trustee may pay money held in trust into Court in accordance with this Part and the *Alberta Rules of Court* (AR 124/2010).

(2) Money being paid into Court must be accompanied with an affidavit made by the prescribed trustee setting out

- (a) the circumstances under which the money is paid into Court,
- (b) the name of every person interested in or entitled to all or part of the money, together with their addresses, if known, and
- (c) the prescribed trustee's address for service of documents.

(3) The prescribed trustee shall give notice of the payment into Court to the developer and the purchaser.

(4) If a person who is not the developer or the purchaser asserts a claim to money held in trust, the prescribed trustee may pay money into Court after obtaining the Court's permission to do so.

(5) If the prescribed trustee pays money into Court under subsection (4), the prescribed trustee shall give further notice of the payment into Court as directed by the Court.

**Trust account records**

**20.34(1)** For the purposes of section 14(7.1) of the Act, a prescribed trustee shall keep a complete and accurate financial record of the following information respecting the account for each purchaser:

- (a) the name of the purchaser;
- (b) the amount of each deposit made into trust;

- (c) the date of each deposit;
- (d) the total amount of money currently held in trust;
- (e) the amount of interest earned on money held in trust;
- (f) a description of each disbursement made from money received or held in trust.

(2) For the purposes of the Act, a trustee shall keep the records required under subsection (1)

- (a) for the entire time that the purchaser's deposit money is in the trust account, and
- (b) where all of the money is paid out of the account, for at least 5 years from the date on which money is last paid out of the trust account.

(3) Nothing in this Regulation precludes

- (a) a prescribed trustee from requiring information be provided by a purchaser or a developer for the purposes of determining compliance with an enactment of Alberta or Canada,
- (b) a prescribed trustee from refusing to accept money for deposit, or
- (c) a custodian under the *Legal Profession Act* from assuming responsibilities of a prescribed trustee in accordance with an order under that Act.

## **Part 1.5 Termination of Agreements**

### **Agreements that cannot be terminated**

**20.4** For the purposes of section 17.1 of the Act, the following agreements cannot be terminated by the corporation:

- (a) easements;
- (b) restrictive covenants;
- (c) exclusive possession agreements entered pursuant to a bylaw;
- (d) mutual use agreements among corporations;
- (e) agreements for the provision of electricity or natural gas for a term of less than 5 years;

- (f) agreements respecting an alternative or renewable energy system;
- (g) agreements for the provision of telecommunication services or facilities.

**7 Section 23(1) is amended by striking out “board” and substituting “corporation”.**

**8 Sections 24 and 25 are repealed and the following is substituted:**

**When reserve fund study, report and plan must be prepared**

**24** The corporation must meet the requirements of section 23(1) to (6) no later than 2 years after the date on which the condominium plan is registered.

**Exemption from reserve fund study, report and plan re rental units**

**25** The corporation is exempted from retaining a qualified person to preparing a reserve fund study and from establishing or maintaining a reserve fund if

- (a) the certificate of title to each of the units included in a condominium plan is registered in the name of the same owner or the same group of owners, and
- (b) those units are rented or offered for rent to persons as tenants who are not purchasers and are not intended to be purchasers.

**9 Section 29(1) is amended by striking out “Commencing with the fiscal year of a corporation ending after September 1, 2001, a board must for each fiscal year prepare an annual report” and substituting “The corporation must prepare an annual report for each fiscal year”.**

**10 Section 31.1 is amended by striking out “section 43(1)” and substituting “section 43”.**

**11 Section 43 is amended by striking out “sections 12 and 13” and substituting “section 12”.**

**12 The following is added after section 45:**

### **Part 3.1 Conversions**

#### **Interpretation**

**45.1** In this Part, “deficiency” includes damage and defect.

#### **Conduct of building inspection, survey**

**45.2(1)** A person engaged to prepare a building assessment report in respect of a building in a conversion shall, prior to the preparation of the building assessment report,

- (a) conduct a non-invasive inspection of the real property of the corporation, the common property and managed property in the building, and
- (b) conduct a survey of occupants, if any, of the building, respecting any observed deficiencies in the building.

**(2)** A person engaged to prepare a building assessment report may

- (a) retain the services of any expert or professional that the person considers necessary for the purposes of conducting an inspection and preparing a report, or
- (b) require any person to provide drawings, specifications or information that may reasonably be relevant to the inspection that are in the possession or control of the person.

#### **Content of building assessment reports for conversions**

**45.3(1)** A building assessment report in respect of a conversion must contain the following for each building that contains units:

- (a) the identification of any deficiencies in respect of
  - (i) each delivery and distribution system in the building,
  - (ii) any mechanical system in the building,
  - (iii) the building envelope, as defined in section 1(1)(g) of the *New Home Buyer Protection Act*, including
    - (A) the roofing and sub-roof installation, including water and vapour control systems, insulation and venting for attic space and soffits,
    - (B) cladding components,
    - (C) balcony membranes and sealants, and
    - (D) parkade membranes and sealants that are accessible for non-invasive visual inspection,

(iv) the water drainage system around the building, including

(A) eavestroughing, and

(B) grade and landscaping drainage courses,

and

(v) the load-bearing parts in the building as the building was built;

(b) a report on the results of the survey of occupants conducted under section 45.2(1).

(2) A building assessment report may

(a) indicate limitations of the inspection,

(b) include disclaimers about the information contained in the report, and

(c) provide recommendations respecting further investigations that are considered appropriate.

(3) A building assessment report must be prepared not earlier than 180 days before the first unit in the building is offered for sale.

**Summaries respecting deficiencies in conversions**

**45.4** The person engaged under section 21.1(2) of the Act to prepare the building assessment report shall prepare and deliver to the developer

(a) the building assessment report, and

(b) a summary of the deficiencies referred to in section 45.3(1) that were identified in the building assessment report.

**13 Section 49 is amended by adding the following after clause (d):**

(d.1) a description of the proposed managed property, if any, as provided for under the proposed bylaws;

**14 Section 52 is amended by striking out “interim board” wherever it occurs and substituting “temporary board”.**

**15 The following is added after section 73:**

## **Part 8.1 Administrative Penalties, Service**

### **Notice of administrative penalty**

**73.1** A notice of administrative penalty must be given in writing and must contain the following information:

- (a) the name of the person to whom the administrative penalty is issued;
- (b) identification of the provision of the Act or regulation that was contravened or not complied with;
- (c) a description of the contravention or failure to comply identified under clause (b);
- (d) the amount of the administrative penalty;
- (e) the time period within which the administrative penalty must be paid;
- (f) a statement describing
  - (i) the right to appeal to the Minister under section 78.5 of the Act,
  - (ii) the particulars of how an appeal is to be made, and
  - (iii) the time in which an appeal is to be made.

### **Time of payment of administrative penalty**

**73.2** The person to whom an administrative penalty is issued shall pay the penalty

- (a) within 30 days after receipt of the notice of administrative penalty, or
- (b) within the time period specified in the notice of administrative penalty,

whichever is later.

### **Service of Director's orders, notices**

**73.3(1)** A Director's order issued, reconsidered or varied under the Act and a notice of administrative penalty or other written notice or document required by the Act to be issued or sent by the Director must be served

- (a) in the case of an individual,
  - (i) by personal service,

- (ii) by leaving it for the individual with a person apparently at least 16 years of age at the individual's current or most usual dwelling place,
- (iii) by sending it by recorded mail to
  - (A) the individual's last known address, or
  - (B) the most recent address provided by the individual to the Director,

or

- (iv) by sending it by facsimile or other form of electronic transmission to the individual's last known facsimile number or electronic address, if there is a record of so sending it,

and

- (b) in the case of a corporation,
  - (i) by leaving it with a director, manager or officer of the corporation, or the president, chairperson or other head officer, by whatever name that person is known, of the corporation,
  - (ii) by leaving it at the corporation's registered office,
  - (iii) by sending it by recorded mail to
    - (A) an address for the corporation listed in a purchase agreement, or
    - (B) the corporation's registered office,
  - (iv) in the case of an extraprovincial corporation, by leaving it with, at the address of, or by sending it by recorded mail to the address of
    - (A) the corporation's attorney for service appointed as required by the *Business Corporations Act*,
    - (B) an address in Alberta for the corporation listed in a purchase agreement, or
    - (C) the corporation's principal place of business in Alberta,

or



- (v) by sending it by facsimile or other form of electronic transmission to the corporation's last known facsimile number or electronic address, if there is a record of so sending it.

(2) Service is effected under subsection (1)(a)(iv) or (b)(v) when the sender obtains or receives confirmation of the successfully completed transmission.

(3) Service by recorded mail is not invalid by reason only that

- (a) the addressee refuses to take delivery of the mail,
- (b) the addressee returns the mail, or
- (c) the addressee no longer resides or is otherwise not present at the address and has not provided the postal service with a current mailing address.

## **Part 8.2 Appeals**

### **Appeal fee**

**73.4** The fee for an appeal made pursuant to section 78.5 of the Act is the lesser of

- (a) \$1000, and
- (b) half of the amount of the administrative penalty set out in the notice of administrative penalty.

### **16 The following is added after section 78:**

#### **Exemptions respecting non-residential units**

**78.1(1)** Section 20.01(1)(d) does not apply in respect of non-residential units.

(2) Section 21.1 of the Act and Part 3.1 do not apply in respect of a conversion in which all units in the registered condominium plan are non-residential units.

#### **Offence**

**78.2(1)** A developer who fails to comply with section 20.09(4) is guilty of an offence.

(2) Where a body corporate is convicted of an offence, the body corporate is liable to a fine of not more than the greater of

- (a) \$100 000, and

(b) 3 times the amount obtained by the body corporate as a result of the offence.

(3) Where an individual is convicted of an offence, the individual is liable to a fine of not more than the greater of

(a) \$25 000, and

(b) 3 times the amount obtained by the individual as a result of the offence.

**17 The following is added before section 80:**

**Transitional**

**79.1(1)** In this section,

(a) “former” means, in respect of a section of the Act, the section as it read immediately before the coming into force of the corresponding new section;

(b) “new” means, in respect of a section of the Act, the section as it reads on the coming into force of the section of the *Condominium Property Amendment Act, 2014* that amended the corresponding former section.

(2) Where a plan that is presented for registration differs from the proposed condominium plan delivered under section 12(1) of the Act prior to the coming into force of the new section 8(1)(1.1) of the Act and the new section 10(1)(b) of the Act, a difference caused only by compliance with the new section 8(1)(1.1) of the Act or the new section 10(1)(b) of the Act

(a) does not trigger a right of rescission under section 13 of the Act, and

(b) does not constitute a material change for the purposes of section 13.1 of the Act.

(3) In respect of a condominium plan that is registered before the coming into force of section 10.1(1) of the Act, if no interim board has been appointed and no board has been elected under section 29 of the Act, section 10.1(1) of the Act is to be read as if “no later than 30 days after registration of a condominium plan” were struck out and “no later than 90 days after the coming into force of this section” were substituted.

(4) Notwithstanding the repeal of the former sections 12 and 13 of the Act, the former sections 12 and 13 of the Act apply in respect of a purchase agreement entered into before the coming into force of

the new section 12, section 12.2, the new section 13, and sections 13.1 and 13.2 of the Act.

(5) References in section 14(6.1) and (7.1) of the Act to “prescribed trustee” apply only in respect of purchase agreements entered into 90 days or more after the coming into force of section 14(6.1) and (7.1) of the Act.

(6) Section 16.1 of the Act applies

- (a) in respect of a meeting convened under section 29 of the Act less than 90 days after section 16.1 of the Act comes into force as if “at the meeting” were struck out and “as soon as possible after the meeting” were substituted, and
- (b) in respect of a meeting under section 29 of the Act convened 90 days or more after section 16.1 of the Act comes into force without any modification.

(7) Section 21.1 of the Act applies in respect of a conversion for which a condominium plan was registered before the coming into force of section 21.1 of the Act, but only if no purchase agreement respecting the purchase of a unit in an arms-length transaction was entered into before the coming into force of section 21.1 of the Act.

(8) The new section 29 of the Act does not apply if, before the coming into force of the new section 29 of the Act, a meeting was convened in accordance with the former section 29 of the Act.

(9) The new section 30(1) of the Act is to be read, in respect of a condominium plan registered 8 months or more before the coming into force of the new section 30(1), as if “no later than 12 months after the registration of the condominium plan” were struck out and “no later than 120 days after the coming into force of this section” were substituted.

#### **18 Schedule 1 is amended in Form 8**

- (a) **in the heading by striking out “Section 28(5)” and substituting “Sections 10.1 and 28(5)”;**
- (b) **by adding “New or” after “Notice of”.**

**19(1) This Regulation, except for sections 3, 5 and 12 and section 17 to the extent that it enacts section 79.1(2) and (4) of the *Condominium Property Regulation*, comes into force on the coming into force of the following provisions of the *Condominium Property Amendment Act, 2014*:**

- (a) section 55(a) to the extent that it enacts section 81(c.1) of the *Condominium Property Act*;
- (b) section 55(b) and (c);
- (c) section 55(d) to the extent that it enacts section 81(f.1) of the *Condominium Property Act*;
- (d) section 55(h),(k) and (l).

(2) Section 3 of this Regulation and section 17 of this Regulation to the extent that it enacts section 79.1(2) of the *Condominium Property Regulation* come into force on the coming into force of section 3 of the *Condominium Property Amendment Act, 2014*.

(3) Sections 5 and 12 of this Regulation and section 17 of this Regulation to the extent that it enacts section 79.1(4) of the *Condominium Property Regulation* come into force on the coming into force of section 55(a) of the *Condominium Property Amendment Act, 2014*, to the extent that it enacts section 81(c.2) to (c.91) of the *Condominium Property Act*.

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**Alberta Regulation 182/2017**

**Fisheries (Alberta) Act**

**FISHERIES (MINISTERIAL) AMENDMENT REGULATION**

Filed: October 13, 2017

For information only: Made by the Minister of Environment and Parks (M.O. 42/2017) on October 2, 2017 pursuant to section 44 of the Fisheries (Alberta) Act.

**1 The *Fisheries (Ministerial) Regulation (AR 220/97)* is amended by this Regulation.**

**2 Section 2.1 of Schedule 2 is amended by striking out “(None prescribed so far)” and substituting the following:**

<b>Common Name</b>	<b>Scientific Name</b>
Pacific White Shrimp	<i>Litopenaeus vannamei</i>