

## **LIVESTOCK ASSURANCE FUNDS TRIBUNAL**

c/o 109, 264 Midpark Way S.E. Calgary, AB T2X 1J6

**TO: PRODUCERS**

**FROM: LIVESTOCK ASSURANCE FUNDS TRIBUNAL**

**RE: INCREASE TO THE ASSURANCE FUNDS' LEVIES**

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Under section 69 of the *Livestock Identification and Commerce Act* the Livestock Assurance Funds Tribunal (the Tribunal) is required to conduct an annual review to determine if the levies charged are appropriate, considering past and anticipated future claims on the assurance funds.

The Tribunal reviewed the levy amounts at their June 23 and September 29, 2014 meetings and, as a result of past claims and the dramatic increase in cattle prices, the Tribunal has unanimously approved the following two resolutions:

Be it resolved that the Livestock Assurance Fund levy be increased to \$0.10 per head effective November 1, 2014.

Be it resolved that the Livestock Dealers' Assurance Fund levy be increased to \$0.10 per head effective November 1, 2014.

Please make all necessary arrangements to collect and remit the increased levy amounts to Livestock Identification Services Ltd. starting November 1, 2014.

Any member of the Tribunal can answer any questions you may have with respect to the increase in the assurance funds' levies. The members of the Tribunal are:

<b>ORGANIZATION</b>	<b>MEMBER</b>	<b>E-MAIL ADDRESS</b>
ALDOBA	Terry Prescott, Chair	<a href="mailto:prescottlive@abnet.ca">prescottlive@abnet.ca</a>
AAMA	Dan Rosehill, Vice Chair	<a href="mailto:info@oldsauction.com">info@oldsauction.com</a>
ABP	Brian Chomlak	<a href="mailto:chomlakb@telusplanet.net">chomlakb@telusplanet.net</a>
ACFA	Gilbert Schmidt	<a href="mailto:geschmidt@xplornet.com">geschmidt@xplornet.com</a>
FAA	Randy Lorentz	<a href="mailto:rslorentz@live.ca">rslorentz@live.ca</a>
WSGA	Norm Ward	<a href="mailto:nward@platinum.ca">nward@platinum.ca</a>

Copies of the assurance fund sections from the *Livestock Identification and Commerce Act* and the Livestock Identification and Commerce Regulation are available on: [www.lis-alberta.com](http://www.lis-alberta.com).

# LIVESTOCK IDENTIFICATION AND COMMERCE ACT

## TRIBUNAL and ASSURANCE FUND PROVISIONS

### 1 Definitions

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#### **Definitions**

##### **1** In this Act,

- (c) “associated person”, with respect to a person, means another person who is
  - (i) a member of the immediate family of that person,
  - (ii) a trustee of that person,
  - (iii) a shareholder of that person,
  - (iv) an employee, director or officer of that person,
  - (v) a partner of that person where that person is a partner in a partnership within the meaning of the *Partnership Act*, or
  - (vi) a person who is engaged with that person in a business activity for a common purpose through an unincorporated organization that is not a partnership referred to in subclause (v);

- (d) “assurance fund” means the Livestock Assurance Fund and the Livestock Dealers’ Assurance Fund established under section 68;
- (e) “assured livestock” has the meaning given to it in the regulations;
- (x) “participant” has the meaning given to it in the regulations;
- (bb) “sale proceeds”, in respect of a sale of livestock or livestock products, means the amount of money that represents the difference between
  - (i) the full purchase price paid or to be paid for the livestock or livestock products sold, and
  - (ii) any expenses, sales commission, livestock inspection fee, service charge, levy or handling charge that is evidenced by a cheque, statement, invoice, promissory note or other memorandum issued in respect of the livestock or livestock products at the time of the sale;
- (ee) “Tribunal” means the Livestock Assurance Funds Tribunal continued under section 66;

#### **Duty to notify of non-payment**

**55(1)** A person who supplies or sells livestock or livestock products to a livestock dealer or livestock dealer’s agent and does not receive payment of the sale proceeds in respect of the livestock or livestock products supplied or sold as required by this Act shall

- (a) notify the Minister of the non-payment as soon as is reasonably possible after the person knows of the non-payment, and
  - (b) provide to the Minister any information the Minister requires in respect of the transaction.
- (2)** If the Minister receives a notice under subsection (1), the Minister may by notice in writing require the livestock dealer or livestock dealer’s agent identified in the notice to provide the Minister with any information specified by the Minister relating to the supply or sale of livestock or livestock products.
- (3)** A livestock dealer or livestock dealer’s agent who receives a notice under subsection (2) shall comply with it.

#### **Claims against dealer’s security**

**56(1)** For the purposes of this section, a default occurs in respect of a supply or sale of livestock or livestock products to a livestock dealer or livestock dealer’s agent when

- (a) the livestock dealer or livestock dealer’s agent fails to pay the person the sale proceeds in respect of the livestock or livestock products supplied or sold as required by this Act, unless the main reason for the failure to pay is a contract dispute between the livestock dealer or the livestock dealer’s agent and the person who supplied or sold the livestock or livestock products respecting the supply or sale of the livestock or livestock products or the obligation to pay for the livestock or livestock products, or
  - (b) the livestock dealer or livestock dealer’s agent fails to pay the person the sale proceeds in respect of the livestock or livestock products supplied or sold as required by this Act, the person obtains a judgment against the livestock dealer or livestock dealer’s agent based on the livestock dealer’s or the livestock dealer’s agent’s failure to pay and the judgment is unsatisfied for 20 or more days after the judgment becomes final.
- (2)** If the Minister is satisfied that a livestock dealer or livestock dealer’s agent has committed a default with respect to one or more transactions, the Minister may do either or both of the following:
- (a) suspend or cancel the licence of the livestock dealer;

- (b) publish a notice
  - (i) stating that the livestock dealer or livestock dealer's agent has committed a default with respect to livestock or livestock products supplied or sold,
  - (ii) setting out the action taken by the Minister with respect to suspending or cancelling the licence of the livestock dealer, and
  - (iii) requiring any person who has a claim against the livestock dealer or livestock dealer's agent arising from a default in respect of a supply or sale of livestock or livestock products to that livestock dealer or livestock dealer's agent to make a claim with the Minister by the date specified in the notice.
- (3) The Minister may
  - (a) publish the notice referred to in subsection (2)(b) in any form and manner that the Minister considers appropriate, and
  - (b) take any other steps that the Minister considers appropriate to bring the default of the livestock dealer or livestock dealer's agent to the attention of persons who may supply or sell livestock or livestock products to the livestock dealer or livestock dealer's agent.
- (4) A claim referred to in subsection (2)(b)(iii) must be verified by statutory declaration or any other manner specified by the Minister and must
  - (a) contain a statement as to the particulars of the default,
  - (b) contain or refer to a statement of account showing particulars of the amount owing with respect to the default, and
  - (c) specify the documentation, if any, by which the default and amount owing can be verified.
- (5) The Minister may at any time require the person making a claim to provide documentation or any other information in support of the claim.
- (6) A person who makes a claim under subsection (2)(b)(iii) must meet the conditions and eligibility requirements prescribed in the regulations in order to be entitled to share in the proceeds of the livestock dealer's security.
- (7) The Minister shall
  - (a) review all claims made in accordance with this section and determine
    - (i) which persons, if any, are entitled to share in the proceeds of the security provided by the livestock dealer, and
    - (ii) the amount of each person's claim,
  - and
  - (b) take proceedings to enforce the security provided by the livestock dealer for the benefit of the persons who the Minister finds under clause (a) are entitled to share in the proceeds of the security.
- (8) If the proceeds of the security are insufficient to pay in full the claims of those persons entitled to share in the proceeds of the security, the Minister shall pay the claims on a prorated basis.
- (9) If the Minister refuses a claim under subsection (7), the Minister shall serve the person with a copy of the Minister's decision, with reasons.

### **Limitation period**

**57** Notwithstanding anything contained in this Act, no person is entitled to share in the proceeds of the security provided by a livestock dealer unless the person makes a claim under section 56(2)(b)(iii) by the date specified in the notice.

### **Notification of payment from livestock dealer's security**

**58** Where the Minister approves a claim under section 56 that is in respect of assured livestock and pays an amount from the proceeds of the livestock dealer's security under section 56 that is less than 80% of the person's proven claim, the Minister shall notify the Tribunal of the following:

- (a) the name of the person to whom the payment was made;
- (b) the circumstances that gave rise to the claim;
- (c) the amount of the claim that was proved;
- (d) the amount of the payment;
- (e) whether section 60(1) applies to the payment.

### **Appeal of the Minister's decision**

**59(1)** A person whose claim is refused by the Minister under section 56(7) may appeal the decision of the Minister to the Tribunal by filing a notice of appeal with the Minister within 30 days after being served with a copy of the Minister's decision under section 56(9).

**(2)** If the notice of appeal is served within the time period specified in subsection (1), the Minister shall provide the Tribunal with the notice of appeal and any material in the Minister's possession that is relevant to the appeal.

**(3)** The Minister shall, on request, provide the Tribunal with any information specified by the Tribunal relating to the appeal.

**(4)** The Minister is entitled to be represented at an appeal before the Tribunal and to make representations in respect of any matter before the Tribunal that is related to the appeal.

**(5)** The Tribunal may make any decision that the Minister could have made in respect of the matter or may refer the matter back to the Minister.

**(6)** The Tribunal shall forthwith serve the Minister and the claimant with a copy of its decision, with reasons.

### **Effect of appeal on payment of security proceeds**

**60(1)** If a person appeals the Minister's decision to the Tribunal in accordance with section 59, until all appeals are determined, the Minister shall treat that person's claim as an approved claim for the purposes of determining how much of the proceeds of the security the other claimants are entitled to under section 56.

**(2)** If the appeal is dismissed and no further appeals are taken or any further appeal is dismissed, the Minister may pay the remaining proceeds of the security on a prorated basis to the persons whose claims against the livestock dealer's security were approved.

**(3)** If the appeal is allowed and no further appeals are taken or any further appeals are dismissed, the Minister shall pay to the appellant his or her prorated share of the proceeds of the security.

### **Appeal to the Court of Appeal**

**61(1)** Subject to subsection (3), a claimant or the Minister may appeal a decision of the Tribunal under section 59 to the Court of Appeal.

- (2) An appeal under this section must be based on a question of law or jurisdiction.
- (3) Leave to appeal may be obtained from a judge of the Court of Appeal only on an application made within 30 days from the date of receipt of a copy of the Tribunal's decision under section 59(6).
- (4) Within 30 days from the day that leave to appeal is obtained, the Tribunal must forward to the Registrar of the Court of Appeal
  - (a) a copy of the Tribunal's decision, with reasons, and
  - (b) all material and information provided to the Tribunal under section 59.
- (5) The Court of Appeal may make any decision that the Tribunal could have made in respect of the matter or may refer the matter back to the Tribunal.
- (6) The Tribunal is entitled to be represented at an appeal and to make representations in respect of any matter before the Court of Appeal that is related to the appeal.

## **Part 4 Tribunal and Assurance Funds**

### **Tribunal continued**

**66(1)** The Livestock Patrons' Claims Review Tribunal established under the *Livestock and Livestock Products Act* is continued under the name Livestock Assurance Funds Tribunal.

- (2) The Tribunal is a corporation consisting of its members, who must be appointed in accordance with the regulations.
- (3) The members may not be appointed in a manner that would make the Tribunal a Provincial corporation or Crown-controlled organization as those terms are defined in the *Financial Administration Act*.
- (4) The Tribunal has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.
- (5) The Tribunal may not borrow money or guarantee a loan.
- (6) The Minister may appoint a person to be secretary to the Tribunal and may establish the secretary's terms and conditions of service, including remuneration and expenses, if the secretary is not an employee as defined in the *Public Service Act*.

### **Tribunal powers and procedures**

**67(1)** For the purposes of conducting hearings and appeals before the Tribunal,

- (a) the chair and other members of the Tribunal have the same power as is vested in the Court of Queen's Bench for the trial of civil actions
  - (i) to summon and enforce the attendance of witnesses,
  - (ii) to compel witnesses to give evidence under oath or otherwise,
  - (iii) to compel witnesses to give evidence in person or otherwise, and
  - (iv) to compel witnesses to produce any record, object or thing that relates to the matter being heard;
- (b) the Tribunal may, in its discretion, take evidence under oath;
- (c) any member of the Tribunal or the secretary of the Tribunal may administer oaths for the purpose of taking evidence;

- (d) the Tribunal may require a person who is the subject of or a party to a hearing or an appeal to personally attend the proceedings before the Tribunal;
  - (e) a person who is the subject of or a party to a hearing or an appeal
    - (i) has the right to appear before the Tribunal and make representations in respect of the matter, and
    - (ii) has the right to be represented before the Tribunal by legal counsel.
- (2) The Tribunal is bound by the rules of procedural fairness in exercising its powers and carrying out its duties under this Act.
- (3) Subject to subsection (1), the Tribunal may make rules respecting proceedings before it and the conduct of its business generally.
- (4) The *Regulations Act* does not apply to rules referred to in subsection (3).

#### **Administration of assurance funds**

**68** The Tribunal shall establish and administer

- (a) a Livestock Assurance Fund, and
- (b) a Livestock Dealers' Assurance Fund.

#### **Levies**

**69(1)** The Tribunal shall establish the amounts of levies that are to be paid to the Tribunal for the purposes of the establishment and operation of the assurance funds.

(2) A participant shall, in accordance with the regulations, pay to the Tribunal the levies established by the Tribunal under subsection (1).

(3) The Tribunal shall conduct an annual review to determine if the levies charged are appropriate, considering past and anticipated future claims on the assurance funds.

#### **Agreement for collection of levies**

**70** The Minister may enter into an agreement with the Tribunal respecting the collection of levies by the Minister on behalf of the Tribunal.

#### **Payments into assurance funds**

**71** The Tribunal shall pay

- (a) into each assurance fund the levies it collects for the purposes of the fund, and
- (b) into the Livestock Assurance Fund any sale proceeds it receives under section 36(3).

#### **Use of money by Tribunal**

**72(1)** The Tribunal may use money in the assurance funds and any interest earned on that money only

- (a) to make payments in accordance with this Part and the regulations to eligible participants who make successful claims on the assurance funds in respect of transactions in assured livestock;
- (b) to pay refunds of levies to participants if authorized by the regulations;
- (c) to pay the reasonable travel and living expenses of the members of the Tribunal when they are travelling on business;

- (d) to pay the administrative expenses of the Tribunal.
- (2) The Tribunal may invest money in the assurance funds and any interest earned on that money
  - (a) subject to the regulations, in accordance with the *Trustee Act*, or
  - (b) in the Consolidated Cash Investment Trust Fund, if the Tribunal is designated as a depositor of the Fund.

#### **Subrogation**

**73** If the Tribunal makes a payment from an assurance fund to an eligible participant, the Tribunal is subrogated to the rights of the eligible participant against the person whose actions gave rise to the eligible participant's claim, and the Tribunal may maintain an action in the name of the eligible participant or in the name of the Tribunal against that person for the amount paid to the eligible participant.

#### **Appeal to the Court of Appeal**

- 74(1)** A participant may appeal to the Court of Appeal a decision of the Tribunal in respect of a claim for payment from an assurance fund.
- (2) Section 61(2) to (6) apply, with necessary modifications, to an appeal under this section.
  - (3) For the purposes of the application of section 61(4) to an appeal under this section, the Tribunal must forward to the Registrar
    - (a) a copy of the Tribunal's decision, with reasons, and
    - (b) all material and information relevant to the claim that is in the Tribunal's possession.

#### **Financial statements**

- 75(1)** In this section, "industry association" means an association or entity that is responsible under the regulations for appointing one or more members of the Tribunal.
- (2) The Tribunal shall, after the end of its fiscal year, prepare and submit to each industry association the Tribunal's audited financial statements for the fiscal year.
  - (3) The Tribunal shall allow a person authorized by an industry association to inspect the books and records of the Tribunal at any reasonable time.
  - (4) The Tribunal shall provide a copy of its audited financial statements for a fiscal year to a participant who requests the copy and pays a reasonable fee established by the Tribunal.

# LIVESTOCK IDENTIFICATION AND COMMERCE GENERAL REGULATION

## TRIBUNAL and ASSURANCE FUND PROVISIONS

1 Interpretation

### **Part 4 Sale of Livestock**

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#### **Interpretation**

1(1) In this Regulation

- (k) "unlicensed person" means a person who is not licensed as a livestock dealer or livestock dealer's agent under the Act.

(2) In the Act,

- (a) "assured livestock" means cattle or horses that have been
  - (i) supplied or sold by a participant, and
  - (ii) if the participant is not a livestock dealer, present in Alberta as defined in subsection (7) for 30 consecutive days immediately prior to the supply or sale;

- (b) “business day” means any day other than Saturday or, as defined in the *Interpretation Act*, a holiday;
- (c) “livestock manifest” means a manifest completed in the form set out in Schedule 2;
- (d) “livestock permit” means a livestock permit issued in the form required by the Minister;
- (e) “participant” means, with respect to a specific supply or sale transaction, a person
  - (i) who, at the time of the supply or sale,
    - (A) is an Alberta resident, and
    - (B) is not an associated person of the person to whom the assured livestock is supplied or sold,
  - and
  - (ii) who supplies or sells assured livestock within the circumstances described in one of the following paragraphs:
    - (A) a supply or sale in Alberta to a livestock dealer;
    - (B) a sale in Alberta by a licensed livestock dealer to an unlicensed person;
    - (C) a supply in Dawson Creek, British Columbia or Lloydminster, Saskatchewan to a livestock market that is approved by the Minister;

**(6)** In section 16 of the Act and section 3(3) of this Regulation,

- (a) “pay” means
  - (i) to deposit the purchase funds electronically,
  - (ii) to send the purchase funds by postmarked mail,
  - (iii) to deliver the purchase funds,
  - (iv) to make the purchase funds available for pickup, or
  - (v) if there is no livestock security interest in the livestock or the dam of the livestock being sold, to sign a financing agreement with the owner of the livestock granting the owner a purchase-money security interest;
- (b) “possession” means the day on which or, if the sale of the livestock is subject to a condition and the livestock has not been rejected on the basis of that condition, 2 business days after the day on which
  - (i) the livestock is delivered to the purchaser or the purchaser’s agent, or
  - (ii) the purchaser or the purchaser’s agent may take delivery of the livestock;
- (c) “price discovery” means the day on which the person who is required to pay the sale proceeds knows or ought to know the amount of the sale proceeds payable.

**(7)** In subsection (2)(a), “present in Alberta” includes the presence of the assured livestock at and the transportation or driving of the assured livestock directly to or from a location outside of Alberta that is approved by the Minister for the purposes of section 17(1)(b) or 78.

**(8)** In subsection (2)(e), “Alberta resident” means

- (a) a person whose ordinary place of residence is in Alberta,
- (b) a corporation registered under the *Business Corporations Act*, or

- (c) a partnership where a majority of the partners are described in clause (a) or (b).

## **Division 2 Levies**

### **Payment of levy**

- 37(1)** A participant shall pay the levy to the Tribunal within the time and in the manner required by the Tribunal.
- (2) Subsection (1) does not apply if the levy was deducted from the sale proceeds under section 63.
- (3) The Tribunal shall deposit the levy of a participant who sells or supplies assured livestock to a livestock dealer into the Livestock Assurance Fund.
- (4) The Tribunal shall deposit the levy of a participant who is a livestock dealer and who sells assured livestock to an unlicensed person into the Livestock Dealers' Assurance Fund.

### **Waiver of eligibility**

- 38(1)** A participant may
  - (a) waive the ability to claim against an assurance fund, and
  - (b) revoke the waiver given under clause (a).
- (2) The waiver or revocation of waiver
  - (a) must be made to the Tribunal in writing and in the form and manner required by the Tribunal, and
  - (b) is effective as of January 1 of the year following the year in which the waiver or revocation of the waiver is made.
- (3) The participant is ineligible to claim against an assurance fund while the waiver is in effect.

### **Refund of levy**

- 39(1)** A participant may apply to the Tribunal for a refund of levies paid by the participant while the participant is ineligible to claim against the assurance fund under section 38.
- (2) The application must be made to the Tribunal in the form and manner required by the Tribunal.
- (3) The Tribunal shall refund a levy from an assurance fund if
  - (a) the participant applies in accordance with subsection (1),
  - (b) for refunds of less than \$5000, the chair of the Tribunal has determined that the refund is payable,
  - (c) for refunds of \$5000 or more, the Tribunal has determined that the refund is payable, and
  - (d) the request for the refund was received by the Tribunal no later than March 31 of the year following the year in which the levy was paid.
- (4) An eligible refund must be paid within 90 days of the application.

### **Division 3 Recovery for Non-payment**

#### **Livestock Assurance Fund claims**

**40(1)** The Tribunal shall treat a notification under section 58 of the Act or a successful appeal under section 59 of the Act as a claim against the Livestock Assurance Fund.

**(2)** If an appeal under section 59 of the Act may affect the amount a participant may receive from the Livestock Assurance Fund, the Tribunal may

- (a) delay determining the participant's claim, and
- (b) provide an interim payment to the participant from the Livestock Assurance Fund.

**(3)** The Tribunal may at any time require a participant to provide documentation or any other information as required by the Tribunal in support of the claim.

**(4)** A participant who makes a claim under subsection (1) must meet the conditions and eligibility requirements set out in sections 45 and 47 in order to be entitled to receive a payment from the Livestock Assurance Fund.

**(5)** On determining the claim, the Tribunal shall serve the participant with a copy of the Tribunal's decision, with reasons.

#### **Livestock Dealers' Assurance Fund claims**

**41(1)** For the purposes of this section, a default occurs in respect of a sale of assured livestock to an unlicensed person when

- (a) the unlicensed person fails to pay the livestock dealer the sale proceeds in respect of the assured livestock as required by the Act, unless the main reason for the failure to pay is a contract dispute between the unlicensed person and the livestock dealer respecting the sale of the assured livestock or the obligation to pay for the assured livestock, or
- (b) the unlicensed person fails to pay the livestock dealer the sale proceeds in respect of the assured livestock as required by the Act, the livestock dealer obtains a judgment against the unlicensed person based on the unlicensed person's failure to pay and the judgment is unsatisfied for 20 or more days after the judgment becomes final.

**(2)** If a livestock dealer wishes to claim against the Livestock Dealers' Assurance Fund because an unlicensed person has committed a default in a sale of assured livestock to the unlicensed person, the livestock dealer shall

- (a) notify the Tribunal of the non-payment as soon as is reasonably possible after the livestock dealer knows or ought to know of the non-payment, and
- (b) provide documentation or any other information as required by the Tribunal in support of the claim.

**(3)** If the Tribunal receives a notice under subsection (2), the Tribunal may by notice in writing require the unlicensed person identified in the notice to provide the Tribunal with any information specified by the Tribunal relating to the sale transaction.

**(4)** An unlicensed person who receives a notice under subsection (3) shall comply with it.

**(5)** If the Tribunal is satisfied that an unlicensed person has committed a default with respect to a sale transaction, the Tribunal shall publish a notice requiring any livestock dealer who has a claim against the unlicensed person arising from a default in respect of a sale of assured livestock to that unlicensed person to make a claim to the Tribunal by the date specified in the notice.

**(6)** The Tribunal may

- (a) publish the notice referred to in subsection (5) in any form and manner that the Tribunal considers appropriate, and
  - (b) take any other steps that the Tribunal considers appropriate to bring the default of the unlicensed person to the attention of livestock dealers who may sell assured livestock to the unlicensed person.
- (7) A claim against the Livestock Dealers' Assurance Fund must be verified by statutory declaration or any other manner specified by the Tribunal and must
- (a) contain a statement as to the particulars of the default,
  - (b) contain or refer to a statement of account showing particulars of the amount owing with respect to the default, and
  - (c) specify the documentation, if any, by which the default and amount owing can be verified.
- (8) The Tribunal may at any time require a claimant to provide documentation or any other information as required by the Tribunal in support of the claim.
- (9) A livestock dealer who makes a claim under subsection (2) must meet the conditions and eligibility requirements set out in sections 46 and 47 in order to be entitled to receive a payment from the Livestock Dealers' Assurance Fund.
- (10) On determining the claim, the Tribunal shall serve the claimant with a copy of the Tribunal's decision, with reasons.

#### **Terms and conditions**

**42** The Tribunal may impose terms or conditions that the Tribunal considers appropriate on a payment made from an assurance fund.

#### **Maximum recovery**

**43(1)** The maximum recovery from an assurance fund, including any amount recovered from a livestock dealer's security, is the lesser of

- (a) 80% of the non-payment, and
- (b) 80% of the value of the assured livestock.

(2) If a participant makes a claim for a non-payment that occurs in the first calendar year after revoking a waiver of the right to claim against the assurance fund, the maximum recovery is

- (a) in the case of a non-payment in the first quarter, 25%,
- (b) in the case of a non-payment in the 2nd or 3rd quarter, 50%, or
- (c) in the case of a non-payment in the 4th quarter, 75%

of the amount the claimant would otherwise receive.

(3) If there are insufficient funds to pay all outstanding successful claims against an assurance fund, each successful claimant shall receive a prorata share of the amount the claimant would otherwise receive from the remainder of the fund after the following are paid:

- (a) first, all the fund's operating expenses;
- (b) second, all outstanding levy refunds.

**Eligibility - security**

**44** To be eligible to claim against security, a person must, in the opinion of the Minister, or, in the event of an appeal, in the opinion of the Tribunal,

- (a) have supplied or sold livestock
  - (i) if the person was not a livestock dealer, that was present in Alberta as defined in section 1(7) for 30 consecutive days immediately prior to the supply or sale, and
  - (ii) to a livestock dealer who
    - (A) committed a default within the meaning of section 56 of the Act, and
    - (B) was not an associated person of the person making the claim,
- (b) have notified the Minister as required by section 55 of the Act and section 3(3) of this Regulation,
- (c) have submitted the claim within the time specified in the notice given under section 56(2)(b)(iii) of the Act, and
- (d) meet the remaining eligibility requirements set out in section 47.

**Eligibility - Livestock Assurance Fund**

**45** To be eligible to claim against the Livestock Assurance Fund, a participant must, in the opinion of the Tribunal,

- (a) have supplied or sold assured livestock to a livestock dealer who committed a default within the meaning of section 56 of the Act,
- (b) have notified the Minister as required by section 55 of the Act,
- (c) have submitted the claim within the time specified in the notice given under section 56(2)(b)(iii) of the Act,
- (d) have paid the levy with respect to the assured livestock,
- (e) not be ineligible to claim from the fund under section 38, and
- (f) meet the remaining eligibility requirements set out in section 47.

**Eligibility - Livestock Dealers' Assurance Fund**

**46** To be eligible to claim against the Livestock Dealers' Assurance Fund, a participant must, in the opinion of the Tribunal,

- (a) be a livestock dealer and have sold assured livestock to an unlicensed person who committed a default within the meaning of section 41(1),
- (b) have notified the Tribunal as required by section 41(2),
- (c) have submitted the claim within the time specified in the notice given under section 41(5),
- (d) have paid the levy with respect to the assured livestock,
- (e) not be ineligible to claim from the fund under section 38, and
- (f) meet the remaining eligibility requirements set out in section 47.

**Eligibility - security or assurance funds**

**47** Subject to sections 44 to 46, to be eligible to claim against security or an assurance fund, a person must

- (a) not have colluded with the purchaser of the livestock or the purchaser's agent to make a claim against the livestock dealer's security or an assurance fund,
- (b) have complied with an inspection requirement of
  - (i) the Act, and
  - (ii) if the livestock was supplied in Dawson Creek, British Columbia or Lloydminster, Saskatchewan to a livestock market approved by the Minister, the laws of that jurisdiction,
- (c) have delivered the livestock,
- (d) if the person did not own the livestock, have paid the sale proceeds to the person who supplied the livestock,
- (e) not have agreed expressly or implicitly to accept payment of the sale proceeds contrary to the requirements of section 16 of the Act, if applicable, and
- (f) have deposited or cashed sale proceeds received by way of cheque within a reasonable time.

**Part 6  
Miscellaneous**

**Division 1  
Establishment and Operation of Tribunal**

**Tribunal**

**70(1)** The Tribunal shall consist of one person appointed by each association authorized under this section.

**(2)** Subject to section 73, the following associations are authorized to appoint a person to the Tribunal:

- (a) Alberta Auction Markets Association;
- (b) Alberta Beef Producers;
- (c) Alberta Cattle Feeders Association;
- (d) Feeder Associations of Alberta Ltd.;
- (e) Alberta Livestock Dealers and Order Buyers Association;
- (f) Western Stock Growers Association;
- (g) any other association designated in accordance with section 71.

**Designated associations**

**71(1)** The Tribunal may, by resolution, designate an association for the purposes of section 70(2)(g).

**(2)** The resolution is not effective unless approved by the Minister.

**Requirement to appoint**

**72(1)** For the purpose of section 70, an association that is authorized to appoint a person to the Tribunal shall appoint 2 persons, one of which will act in the event the other is unwilling or unavailable to act.

(2) An appointment is not effective unless approved by the Minister.

**Revocation and reinstatement of authorization**

**73(1)** The Tribunal may, by unanimous resolution, revoke the authorization of an association to appoint a person to the Tribunal if, without a satisfactory explanation,

- (a) the association fails to appoint 2 persons in accordance with section 72, or
- (b) both persons appointed by the association fail to attend a meeting of the Tribunal.

(2) For the purposes of a resolution under subsection (1), the Tribunal does not include a member appointed by the association whose authorization may be revoked.

(3) The Tribunal may, by unanimous resolution, reinstate the authorization of an association to appoint a person to the Tribunal.

(4) A resolution under this section is not effective unless approved by the Minister.

**Chair**

**74(1)** The Tribunal shall elect a person appointed to the Tribunal as chair.

(2) In the event of a tie, the chair has an additional vote.

**Quorum**

**75(1)** Subject to subsection (2), 2/3 of the Tribunal constitutes a quorum.

(2) One hundred percent of the Tribunal constitutes a quorum for the purpose of

- (a) assessing a claim,
- (b) hearing an appeal, or
- (c) authorizing or revoking or reinstating the authorization of an association to appoint a person to the Tribunal.