

1985 BILL 36

Third Session, 20th Legislature, 34 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 36

RURAL UTILITIES ACT

THE MINISTER OF UTILITIES AND
TELECOMMUNICATIONS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 36

1985

RURAL UTILITIES ACT

(Assented to , 1985)

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) "association" means an association continued under section 2 or incorporated under section 5;
- (b) "by-laws" means the standard by-laws and the supplemental by-laws of an association;
- (c) "Director" means
 - (i) with respect to rural electrification associations, the Director of Rural Electrification Associations,
 - (ii) with respect to natural gas associations, the Director of Natural Gas Co-operatives, and
 - (iii) with respect to water, sewage or water and sewage associations, the Director of Water and Sewage Co-operatives,appointed by the Minister and, with respect to an association that supplies more than 1 type of utility service, means the Director designated by the Minister;
- (d) "extraordinary resolution" means a resolution passed by a majority of not less than $\frac{2}{3}$ of the members entitled to vote who are present at a general meeting of which not less than 15 days' written notice specifying the intention to propose the resolution as an extraordinary resolution has been given;

(e) "Minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(f) "Registrar" means Registrar as defined in the *Business Corporations Act*;

(g) "standard by-laws" means the standard by-laws prescribed under this Act;

(h) "works" means electric power lines, natural gas pipelines, water pipelines or sewage mains and any fitting, apparatus, meter, regulator, wire, conductor, transformer, pole, pipe, valve or other thing constructed or placed in or on land for the purpose of providing a utility service.

Existing rural utility associations

2(1) A co-operative association incorporated under the *Co-operative Associations Act* before this Act came into force that has as its principal object the supplying of one of the services enumerated in section 3(1) is continued as an association under this Act as if it were incorporated under this Act.

(2) A reference in any enactment or elsewhere to an association registered or incorporated under this Act shall be deemed to include a reference to an association continued under subsection (1).

PART 1

RURAL UTILITY ASSOCIATIONS

Incorporation

Application to incorporate

3(1) Ten or more persons who desire to be associated together in a co-operative association with the principal object of supplying any one or more of the following:

- (a) electricity;
- (b) natural gas;
- (c) water, primarily for domestic use;
- (d) sewage disposal;
- (e) water, primarily for domestic use, and sewage disposal,

to its members primarily in a rural area may apply to be incorporated under this Act.

(2) An application for incorporation shall be made by delivering to the Director

- (a) a memorandum of association in the prescribed form signed by the 10 or more persons,
- (b) a deposit of the fees payable to the Registrar as required by the regulations,
- (c) documents relating to corporate names as required by the regulations, and

(d) any information respecting the subscribers to the memorandum of association that may be required by regulations under the *Agricultural and Recreational Land Ownership Act* and section 33 of the *Citizenship Act* (Canada) in the form and manner prescribed by those regulations.

(3) The memorandum of association may be accompanied by supplemental by-laws as provided in section 9, in which case the supplemental by-laws shall be signed by the same persons who signed the memorandum of association.

Corporate name **4(1)** The name of an association

(a) shall include the word "Limited" or the abbreviation "Ltd." as the last word;

(b) may include the word "Co-operative" or the abbreviation "Co-op";

(c) shall, in the case of an association that may supply electricity, include the words "Rural Electrification Association" or the abbreviation "REA"

but, in each case, the association may use either the word or the abbreviation and reference to the association may be made in the same manner.

(2) An association shall not have a name

(a) that is prohibited by the regulations or contains a word or expression prohibited by the regulations,

(b) subject to the circumstances and conditions prescribed by regulation, that is identical to the name of

(i) a body corporate incorporated under the laws of Alberta, whether in existence or not,

(ii) an extra-provincial corporation registered in Alberta, or

(iii) a corporation incorporated by or under an Act of the Parliament of Canada,

(c) that is similar to the name of

(i) a body corporate incorporated under the laws of Alberta,

(ii) an extra-provincial corporation registered in Alberta, or

(iii) a corporation incorporated by or under an Act of the Parliament of Canada

if the use of that name is confusing or misleading, or

(d) that does not meet the requirements prescribed by the regulations.

Incorporation **5(1)** The Director may approve, amend or reject the memorandum of association and any supplementary by-laws, or any part of them, and

(a) if the Director approves the memorandum and by-laws, he shall transmit the documents and the deposit for fees to the Registrar, but

(b) if the Director does not approve the memorandum and by-laws, he shall return the documents, together with the deposit, to the person from whom he received them.

(2) On receipt of the documents and fees from the Director, the Registrar shall register the memorandum and by-laws and issue a certificate of incorporation in a form determined by him.

(3) From the issue of a certificate of incorporation the subscribers to the memorandum of association and all persons who thereafter become members of the association are a corporation under the registered name of the association.

(4) A certificate of incorporation is conclusive proof for all purposes

(a) that the provisions of this Act in respect of incorporation and all requirements precedent and incidental to incorporation have been complied with, and

(b) that the association has been incorporated under this Act as of the date shown in the certificate.

Alteration of memorandum

6(1) The memorandum of association may be amended by extraordinary resolution, but no amendment has any force until a copy, certified by the chairman or secretary to be a true copy of the amendment, has been approved by the Director and filed with the Registrar.

(2) Where an association changes its name it shall, unless otherwise provided by the Director, file with the Director, in addition to the copy of the amendment filed under subsection (1), documents relating to corporate names as required by the regulations.

Name change

7(1) Where an association gives an undertaking to dissolve or change its name and the undertaking is not carried out within the time specified, the Registrar may, by notice in writing giving his reasons, direct the association to change its name to one that he approves within 60 days of the date of the notice.

(2) If, through inadvertence or otherwise, an association comes into existence with or acquires a name that contravenes section 4, the Registrar may, by notice in writing giving his reasons, direct the association to change its name to one that he approves within 60 days of the date of the notice.

(3) The Registrar may give a notice under subsection (2) on his own initiative or at the request of a person who feels aggrieved by the name that contravenes section 4.

(4) If an association

(a) is directed to change its name under subsection (1) or (2), and

(b) does not appeal the request of the Registrar within 60 days of the date of the notice,

the Registrar may revoke the name of the association and assign to it a number designated or a name approved by the Registrar and,

until changed in accordance with section 6, the name of the association is the designated number or name so assigned.

Corporate seal **8(1)** An association shall adopt a corporate seal that contains the name of the association and may change it at pleasure.

(2) A document signed on behalf of an association by a person acting under the authority of the association is not invalid only because a corporate seal is not affixed to the document.

By-laws **9(1)** Subject to this section, the standard by-laws, as amended from time to time, are by-laws of each association.

(2) The supplemental by-laws of an association

- (a) filed with the Registrar at the time of incorporation, or
- (b) made pursuant to this section,

may modify or change the standard by-laws with respect to that association.

(3) An association may at an annual meeting or a general meeting called for the purpose

- (a) make supplemental by-laws for the regulation of the business and affairs of the association, and
- (b) amend or rescind any supplemental by-laws, including any filed with the Registrar at the time of incorporation.

(4) Without restricting the generality of anything in this section, supplemental by-laws may provide for

- (a) the division into districts of the territory in which the association does business,
- (b) the election of directors from the districts, including the number of electors from each district, and
- (c) the method of forming new districts, either in addition to or in substitution for the old districts.

(5) The supplemental by-laws may, with respect to natural gas, water or sewage disposal service, establish the terms of service to non-members.

(6) No supplemental by-law comes into force until it has been approved by the Director and filed with the Registrar.

Membership **10(1)** The members of an association are not, as members, liable for any liability, act or default of the association beyond any amount due and unpaid with respect to membership fees.

(2) The rights and conditions of membership in an association may be prescribed in the memorandum of association or the by-laws or partly in one and partly in the other.

(3) Unless provision is made in the memorandum or by-laws of an association to the contrary, a person of the age of 16 and over

- (a) may be a member, and

(b) may, subject to the by-laws, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the by-laws,

but no member under the age of 18 years may be a director, manager or treasurer of the association.

(4) An association shall keep a register of members which shall be admitted in evidence as prima facie proof of any of the particulars entered therein relating to

(a) the name and address of each member and the number of utility service contracts held by him, and

(b) the date on which the name of a person was entered in the register as a member and the date on which a person ceased to be a member.

(5) An association shall allow a member to inspect the membership register at reasonable times during business hours at the head office of the association or place where the register is kept, subject to any rules as to the time and manner of inspection made by the association in general meetings.

(6) Subject to Part 2, no member or person, unless he is an officer or auditor of the association, or specially authorized by a resolution of the association may inspect a loan or deposit or other business account of any other member without the written consent of that member.

(7) Unless the memorandum or by-laws of an association otherwise provide, the directors may, by a resolution passed by a majority of not less than 75% of those present at a duly called board meeting, order the expulsion of a member from the association.

Withdrawal from membership

11(1) When a person withdraws from membership in an association, the association is not required to refund any contribution for construction and extension line costs, for a reserve account or for a levy paid by the member pursuant to this Act.

(2) The memorandum of association and by-laws of every association that supplies electricity or natural gas shall provide and shall be deemed to provide and to have always provided

(a) that no member leaving the association is entitled to receive from the association any portion of his equity in the association greater than \$1, unless the directors otherwise direct with the concurrence of the Director, and

(b) that no member leaving the association is entitled to receive from the association any portion of the reserves of the association until the directors otherwise direct with the concurrence of the Director.

(3) The Director, with the concurrence of the Minister, may withhold or delay the refunding of the reserves, or portions thereof, having regard to the reserves reasonably required.

General meetings

12(1) The first general meeting of an association shall be held within 2 months from the date of incorporation and thereafter a general

meeting shall be held annually at the time and place prescribed in the by-laws.

(2) Special general meetings of an association may be called at other times as prescribed in the by-laws.

(3) If it is impractical to call a meeting of an association in the manner provided by the by-laws, the Court of Queen's Bench may on application prescribe the manner of calling the meeting.

(4) At meetings of an association

(a) a member has 1 vote regardless of the number of utility service contracts held by him, and

(b) no member may vote by proxy.

Election of
directors

13(1) The election of directors shall be by ballot and each member is entitled to 1 vote only and each vote shall be cast or given by the member entitled to vote and by no other person.

(2) If an election of directors is not held on the day designated in the by-laws of the association for it to be held, the association shall not for that reason be dissolved, but an election may be held on another day

(a) in a manner provided for in the by-laws, or

(b) at a general meeting of the members called for that purpose, notice being given of the election as provided in the by-laws for calling a general meeting,

and all acts of the directors before their successors are appointed, unless otherwise invalid, are valid and binding.

(3) A director elected at the first general meeting who is not at the time of his election a member of the association and who fails to become a member within 2 months from the date of his election ceases to be a director and the vacancy so created shall be filled by appointment by the remaining directors.

(4) No person who is not a member of the association shall be elected or appointed a director after the first general meeting and the election or appointment of a person not a member is void.

(5) When the by-laws of an association provide for the election of directors by members voting by districts, the directors so chosen shall be deemed to be elected by all the members attending the meeting to the same extent as if the election had been by vote of all the members present at the meeting.

(6) When a vacancy occurs in the board of directors, the remaining directors may appoint as a director a member who is in good standing with the association, who shall hold office until the next general meeting of the association.

(7) All acts of the directors are valid notwithstanding a defect in the appointment or qualification of any director.

Management of Business and Affairs

Powers of directors

14(1) The directors have the general direction and supervision of the affairs and business of the association.

(2) The directors may, by resolution, appoint managers and other officers that they consider necessary for the conduct of the affairs and business of the association and may define their duties and fix their remuneration.

(3) Meetings of the directors shall be held at the times prescribed by the by-laws, but not less than once every 3 months.

(4) A director who is a party to any legal proceedings against the association is not entitled to vote or be present at any part of a meeting of the directors when the subject matter of the legal proceedings is under consideration.

Ancillary powers

15(1) An association has, as ancillary and incidental to the objects set forth in its memorandum of association, the following powers, except any of them that are expressly excluded by the memorandum:

(a) the power to purchase, take on lease or in exchange, hire or otherwise acquire and hold real or personal property that the association considers necessary or convenient for the purpose of its business and, subject to this Act, to sell, mortgage, lease or otherwise dispose of the property;

(b) the power to enter into an agreement for co-operation, joint venture, reciprocal concession or otherwise with another association or with a person, company or co-operative association having objects wholly or in part similar to the objects of the association or engaged in a business or enterprise capable of being conducted so as directly or indirectly to benefit the association;

(c) the power to enter into arrangements with a government or authority, municipal, local or otherwise, that seem beneficial to the association, and to obtain from that government or authority any rights, privileges and concessions that the association thinks it desirable to obtain, and to carry out, exercise and comply with those arrangements, rights, privileges and concessions;

(d) the power to draw, make, accept, endorse, execute and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;

(e) the power to borrow and secure the payment of money on terms and conditions that the directors by resolution determine;

(f) subject to the regulations, the power to invest and deal with the money of the association not immediately required, including deposit accounts and reserves, in any manner that may from time to time be determined by the directors;

(g) the power to take or hold mortgages, hypothecs, liens and charges to secure payment of the price of any part of the property of the association sold by the association or any money due to the association from purchasers and others and to assign or otherwise dispose of the mortgages, hypothecs, liens and charges;

- (h) the power to pledge its credit for the purchase of goods or in any other transaction coming within its objects;
- (i) the power to hold for sale or consignment goods covered by a written agreement whereby property in the goods remains in the consignor until settlement is made according to the terms of the agreement;
- (j) the power to establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the association or its predecessors in business, or the dependants or connections of those persons, to grant pensions and allowances and to make payments towards insurance;
- (k) the power to do all other things that are incidental or conducive to the attainment of the objects and the exercise of the powers of the association;
- (l) the power to do all or any of the above things as principal, agent, contractor or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with others.

(2) No loan for any purposes other than the principal objects for which the association was formed shall be made by an association to a member or director or to any other person.

(3) In addition to any investments authorized by the regulations or by the trust instrument, an association may invest funds in any other securities that the Court of Queen's Bench on application in any particular case approves, but nothing in this section relieves the association of its duty to take reasonable and proper care with respect to the investments so authorized.

Registration of mortgages

16 Sections 88.1 to 88.9 of the *Business Corporations Act* apply to associations as if "corporation" as used in those provisions included an association.

Reserves

17 The directors of an association supplying electricity or gas, or both, that owns works shall, in accordance with the regulations, maintain a reserve for the replacement, extension or increase in capacity of its works.

Levies on members

18(1) Notwithstanding anything in this Act, an association may by resolution impose an annual levy on its members on the basis of the number of utility service contracts held and the amount of the levy shall be set each year by resolution at the annual meeting.

(2) Notwithstanding anything in this Act, an association, by resolution at an annual meeting or at a special general meeting called for the purpose, may set

(a) a special levy to be imposed on members for the purpose specified in the resolution;

(b) a monthly levy to be imposed on members to whom electrical power, natural gas, water or sewage service has been made available but not used.

(3) A levy made pursuant to this section may be collected by whatever means the directors consider advisable.

(4) A member refusing to pay a levy made pursuant to this section in the manner prescribed by the directors is liable to have the provision to him of electricity, natural gas, water or sewage service discontinued on order of the directors after the notice to him that the directors prescribe.

Distributing earnings

19 The distribution of surplus earnings at the close of each fiscal year of the association shall, within 6 months thereafter, be allocated in the manner provided by the by-laws.

Audit

20(1) An association shall annually, in accordance with the by-laws, appoint an auditor, whose appointment is subject to the approval of the Director.

(2) At the close of each fiscal year an association shall submit its accounts to the auditor, who shall make the examinations and inquiries necessary to enable him to report to the members as required under the regulations.

(3) The auditor of an association shall at all times be given access to all records, documents, books, accounts and vouchers of the association and may

(a) require from the directors and officers of the association any information and explanations that, in his opinion, are necessary to enable him to make his report, and

(b) attend any meeting of the association and be heard at the meeting in respect of any part of the business of the meeting that concerns him as auditor.

Annual return

21(1) An association shall within 120 days after the close of each fiscal year send to the Director the annual return of the association, being a general statement up to the end of the fiscal year last ended of the receipts, expenditures, funds and assets of the association as audited.

(2) The annual return shall show separately the expenditure in respect of the several objects of the association and shall state the name, address and calling or profession of the auditor and the manner in which, and the authority under which, he is appointed, and with it the association shall send a copy of the auditor's report.

(3) The annual return of an association shall be accompanied by any information respecting the members that may be required by regulations under the *Agricultural and Recreational Land Ownership Act* and section 33 of the *Citizenship Act* (Canada) in the form and manner prescribed by those regulations.

(4) On application, an association shall supply without charge to each member a summary of the latest annual return of the association.

(5) An association shall, forthwith after receiving notice from the Director to do so, furnish the Director with any information and returns that are required by the notice.

22(1) Any works erected or placed in or on any land by or on behalf of an association before or after the commencement of this section shall be deemed to be and always to have been the property of the association.

(2) When works on any land are no longer used to provide the utility service, the association, after

(a) giving notice to the owner of the land, and

(b) having obtained any necessary approvals from a regulatory agency having jurisdiction,

may authorize an employee or agent of the association to enter on that land at any reasonable time to remove all or any part of the works.

(3) A pipeline for natural gas, water or sewage may be left in the land.

(4) A notice under subsection (2) shall be in the prescribed form and

(a) shall be given at least 30 days before the intended removal,

(b) shall be served personally or by registered mail on the occupant of the land, if any, and on the owner of the land, and

(c) shall describe the rights of the owner under subsections (5) and (6).

(5) Before any action is taken under subsection (2), the association shall give the owner of the land an opportunity to enter into an agreement respecting the removal and, if the owner requests an agreement, the agreement shall be an agreement in the prescribed form providing that

(a) the service contract, if any, is terminated,

(b) the owner's membership, if any, in the association is terminated,

(c) the net salvage proceeds may, in the case of a rural electrification association, be paid to the owner or into the association's reserve account, and

(d) in the event that the owner later applies to have the supply of electricity or natural gas re-established, he shall pay the average installation cost paid by other members of the association or the actual cost of the installation, whichever is the greater.

(6) Notwithstanding subsection (2), there shall be no removal where the owner of the land enters into an agreement in the prescribed form which provides that the owner will pay

(a) the association's cost of maintaining its works in accordance with the service contract entered into by the member with the association, and

(b) the association's deposit reserve account levy and any other levy approved under section 18,

but subsection (2) applies in the event that any payment required by the agreement is not made.

(7) A removal under this section does not affect any indebtedness under a lien note under this Act, the *Rural Electrification Long Term Financing Act* or the *Rural Electrification Revolving Fund Act*.

(8) In this section “owner” means a person who is purchasing the fee simple estate in the land under an agreement for sale or, in the absence of such a person, the registered owner of the fee simple estate.

Sale of works **23** An association may, by extraordinary resolution, authorize the sale of all of its works to a utility company or to a municipality.

Amalgamation **24(1)** Two or more associations may, by extraordinary resolution of each association, agree to amalgamate as one association and may be amalgamated in accordance with the regulations.

(2) Subject to the regulations, an association may by extraordinary resolution transfer its obligations to another association, which may undertake to fulfil those obligations.

Voluntary winding-up **25(1)** The directors of an association may be authorized, by a general meeting of the association called for that specific purpose, to wind up the affairs of the association by a resolution appointing the Director, or other person approved by the Director, as liquidator and empowering the liquidator to take all necessary action for the winding-up of the association.

(2) Where due notice of a general meeting for the purpose of authorizing the directors to wind up the affairs of the association has been given to the members, then, if insufficient members appear at the time and place of the general meeting to form a quorum, the directors may pass the resolution referred to in subsection (1) without the authorization of a general meeting.

(3) Sections 46 to 51 of the *Co-operative Associations Act* apply, with all necessary modifications, to the winding-up of the affairs of an association authorized pursuant to this section.

(4) Any distribution to the members on the winding-up of an association shall be on the basis of the number of utility service contracts held.

Supervision

Inquiry by Director **26** The Director,
(a) on written request signed by 10 members or 10% of the membership of the association, whichever is the greater, or
(b) on the direction of the Minister,
may hold an inquiry into the affairs of an association.

Minister's authority **27** When it appears to the Minister from a report of the Director, made after investigation, that the affairs of an association
(a) are being mismanaged,

(b) are not being conducted in accordance with co-operative principles, or

(c) are being conducted on an unsound basis,

the Minister may do all or any of the following:

(d) appoint the Director as the official director of the association;

(e) direct the Director to call a general meeting of the association;

(f) cancel the incorporation of the association.

Management
by Director

28(1) When the Director is appointed official director pursuant to section 27(d), he is thereby empowered to take over the functions of the board of directors and the board of directors shall be considered to be removed from office, but nothing in this subsection excuses the board of directors from ensuring that all books, records, funds and other assets and information required by the official director are turned over to him without delay.

(2) The Director's appointment as official director continues either for a period of time fixed in the order making the appointment or for any period of time the Minister considers necessary.

(3) Immediately prior to the termination of his appointment the official director shall call a general meeting of the association and at the meeting shall

(a) render an accounting for the period of his administration, and

(b) conduct an election to reconstitute the board of directors.

Mandatory
general meeting
and liquidation

29(1) When the Minister directs the Director to call a general meeting pursuant to section 27(e), the Director shall

(a) call a general meeting of the members

(i) by mailing to each member at his address last registered in the office of the association a notice stating the hour, day and place of the meeting, or

(ii) by publishing a notice of the meeting in a newspaper circulating in the district where the association has its registered office or main place of business, in an issue published at least 5 days before the day of the meeting,

(b) attend the meeting and submit to the meeting his report and any other information he has with reference to the affairs of the association, and

(c) after the meeting submit a report on the meeting to the Minister.

(2) After receiving the report the Minister may, if he considers it advisable, direct that the affairs of the association be wound up and appoint the Director as the liquidator for that purpose.

Defunct
associations

30(1) When the Director has reasonable cause to believe that an association is not carrying on business or is not in operation he shall send by ordinary post a letter addressed to the association at the

address last known to the Director inquiring whether the association is carrying on business or is in operation.

(2) If the Director does not within 1 month of sending the letter receive an answer, he shall within 14 days after the expiration of the month, send by registered post, addressed to the association at the address last known to the Director, a letter referring to the first letter and stating that no answer has been received by him and that if an answer is not received to either letter within 1 month from the date of the second letter, a notice will be published in *The Alberta Gazette* or the Registrar's periodical with a view to striking the name of the association off the register.

(3) If the Director receives an answer from the association to the effect that it is not carrying on business or is not in operation, or does not within 1 month after sending the second letter receive an answer, the Director may publish in *The Alberta Gazette* or the Registrar's periodical and send by ordinary post to the association a notice that at the expiration of 1 month from the date of that notice the name of the association will be struck off the register and the association dissolved unless cause is shown to the contrary.

(4) At the expiration of the time mentioned in the notice referred to in subsection (3) the Registrar shall, unless cause to the contrary is previously shown by the association, strike the name of the association off the register and publish notice of the striking off in *The Alberta Gazette* or the Registrar's periodical, whereupon the association is dissolved.

(5) Subject to this section, when an association is dissolved under subsection (4) the association shall nevertheless be considered as subsisting in all respects so long and so far as a matter relating to the association remains unsettled and the association may do all things necessary to the winding-up of its concerns and may sue and be sued in respect of all unsettled matters.

(6) In this section "Registrar's periodical" means the Registrar's periodical published under the *Business Corporations Act*.

Offences and
penalties

31(1) An association that

- (a) contravenes this Part or the regulations,
- (b) makes a return, report, notice or other document required by this Act or the regulations that
 - (i) contains an untrue statement of a material fact, or
 - (ii) omits to state a material fact required in it, or necessary to make a statement contained in it not misleading in the light of the circumstances in which it is made,

or

- (c) fails to do an act or to furnish information required for the purposes of this Act by the Director or the Registrar or a person authorized under this Act,

is guilty of an offence.

(2) If an association contravenes subsection (1), then, whether or not the association has been prosecuted or convicted in respect of the contravention, any director or officer of the association who knowingly authorizes, permits or acquiesces in the contravention is guilty of an offence.

(3) A person who contravenes this Part or the regulations is guilty of an offence.

(4) Each act and default constituting an offence, if continued, constitutes a new offence in each week during which it continues.

(5) A person other than an association or other corporation who is guilty of an offence is liable to a fine of not more than \$500.

(6) An association or other corporation that is guilty of an offence is liable to a fine of not more than \$1000.

PART 2

RURAL UTILITIES LOANS GUARANTEE

Guarantee of borrowings

32(1) If

(a) an association

(i) has first paid at least 15% of the amount of any capital expenditure proposed to be made by the association in carrying out its objects, and

(ii) has made provision satisfactory to the Provincial Treasurer for the repayment of the guaranteed borrowings and interest,

(b) the association and its members have complied with any terms and conditions that may be made from time to time by the Lieutenant Governor in Council,

(c) the borrowed sum is required to be repaid within a period not to exceed 20 years by instalments on an annual, semi-annual, quarterly or monthly basis, and

(d) the total amount of the liability of the Government as a guarantor under this subsection does not exceed \$50 000 000,

the Lieutenant Governor in Council may authorize the Provincial Treasurer, on behalf of the Government, to guarantee the due repayment of any sum, together with interest, borrowed by the association for the purpose of acquiring, constructing, operating, maintaining and administering the works necessary for the provision of its utility service.

(2) When the borrowings of an association have been guaranteed pursuant to subsection (1) and the association desires to extend its works, if the requirements of subsection (1) are complied with in respect of the additional borrowings required by the association for that purpose, the Lieutenant Governor in Council may authorize the Provincial Treasurer to guarantee the additional borrowings.

(3) When a loan is guaranteed under this section, the lender and the association may agree that the loan is to be advanced in instalments

and, in that event, the Provincial Treasurer may execute a guarantee with respect to each instalment.

Further guarantee **33(1)** When the repayment of a sum borrowed by an association has been guaranteed under section 32,

(a) if the sum has not been fully repaid, then the Provincial Treasurer, with the approval of the Lieutenant Governor in Council, may guarantee on behalf of the Government a further borrowing by the association for the purpose of working capital, but the amount of that borrowing shall not exceed 50% of the amount that has been repaid on account of the first mentioned sum borrowed;

(b) if 2 or more of the guaranteed sums have not been fully repaid, then the Provincial Treasurer with the approval of the Lieutenant Governor in Council

(i) may authorize the consolidation of the balances still outstanding on 2 or more of the guaranteed sums,

(ii) may authorize a further borrowing, to be included in the consolidation, of an amount necessary to retire any prior loan or other indebtedness that is made or incurred for capital purposes, that is secured by any assets of the association and that, in the opinion of the Provincial Treasurer, having regard to the interests of the association and the better securing of the consolidated borrowings, should be paid, and

(iii) may guarantee, on behalf of the Government, the due payment of the consolidated borrowing,

so long as the period for the repayment of the consolidated borrowing does not exceed either the longest unexpired term of any guaranteed borrowing so consolidated or 10 years, whichever is the longer.

(2) A guarantee given under this section is in addition to and not in substitution for any other guarantee permitted under this Act.

Application for guarantee **34** When an association applies to have a loan guaranteed pursuant to section 32, it shall furnish the Director with

(a) a statement of the total estimated cost of the works required,

(b) a statement of the total amount of the money received from its members and the disposition, if any, made of the money,

(c) a statement of the membership of the association, and

(d) if required under section 35, all copies of each lien note required to be obtained from members under that section.

Lien notes **35(1)** When an association applies to have a loan guaranteed pursuant to section 32, the Provincial Treasurer may require that the association obtain lien notes from those members who have not fully paid up their share of the cost of constructing the works required by the association.

(2) When land against which an association has a lien pursuant to this Act is sold, the association may refuse to supply its utility service

to the purchaser of the land until the purchaser becomes a member of the association and executes a lien note.

- (3) The lien note shall be in the prescribed form and must
- (a) be payable to the order of the association,
 - (b) be in the amount that remains unpaid by the member of the association,
 - (c) bear interest at the same rate as that payable by the association to the lender,
 - (d) set out
 - (i) the date from which interest is to be computed,
 - (ii) the number and amount of the equal annual instalments of principal by which payment of the note is to be made, and
 - (iii) the date when each instalment of principal and the accrued interest on the unpaid principal is to be paid,
- and
- (e) describe either
- (i) the land to which the utility service is to be conveyed through or by the works of the association, or
 - (ii) any land in which the maker of the lien note has an interest, whether or not the utility service is provided to that land,

whichever the Director prescribes.

- (4) On a lien note being made by the purchaser under subsection (2), the Director may cancel the lien note made by the vendor or by any former owner of the land.
- (5) When the person to whom the utility service is to be supplied is not the registered owner of the land on which the works are to be constructed, the association may take a lien note made or co-signed by the registered owner of the land.
- (6) The lien notes shall be delivered to the Director.
- (7) The Provincial Treasurer may enforce, in the name of the Government, a lien note given under this section.

Lien on land

36(1) When a lien note is made pursuant to section 35(1), the Director shall, within 30 days of the execution of the guarantee by the Provincial Treasurer, file a notice of lien against the land described in the lien note in the land titles office.

- (2) When
- (a) the Provincial Treasurer executes a guarantee with respect to an instalment of a loan pursuant to section 32(3), and
 - (b) the instalment is made for the purpose of constructing a part only of the works intended to be constructed with the use of the loan guaranteed under section 32,

subsection (1) does not apply but the Director shall, within 30 days of the execution of the guarantee referred to in clause (a), file notices in the land titles office with respect to the lien notes given by the members of the association for whose benefit the works referred to in clause (b) are to be constructed.

(3) The Registrar of Land Titles shall, without fee, endorse a memorandum on the certificate of title to the land described in the notice of lien.

(4) On receiving notice from the Director that a lien note in respect of which a memorandum has been endorsed against the certificate of title of any land has been discharged, the Registrar of Land Titles shall cancel the memorandum on the certificate.

(5) A lien may be postponed at the discretion of the Director in accordance with section 108(3) of the *Land Titles Act*.

(6) Notwithstanding that a lien note has been cancelled and replaced by a new lien note and notwithstanding any other Act, a lien created pursuant to this Act in respect of land or an interest in land continues to be a lien against that land or interest until the total indebtedness, including interest, owing in respect of which the lien was registered has been repaid in full.

(7) On a notice of lien being filed in the land titles office,

(a) the association has a lien on the land described in the notice of lien or on the interest of the maker of the lien note in the land described in the notice of lien for the total indebtedness, including interest, owing in respect of which the notice of lien is registered, and

(b) the lien has the same priority as if it were a mortgage under the *Land Titles Act* to secure the total amount of the lien note of the member and registered in the land titles office at the time at which the notice of lien was filed in the land titles office.

(8) A lien note affects only the interest of the member in the surface rights of the land.

(9) Land in respect of which a notice of lien has been filed shall, for the purposes of this Act, be deemed not to be a homestead within the meaning of the *Dower Act*.

Assignment of
lien notes

37(1) An association that

(a) has had a loan guaranteed under section 32, and

(b) has obtained a lien note in respect of which a notice of lien is filed in the land titles office

may assign its interest in the lien note to the Government in the event of a default by the maker in a payment due under the lien note.

(2) A notice of assignment respecting an assignment made under subsection (1) shall be filed in the land titles office.

(3) If an assignment of an interest in a lien note has been made under subsection (1) and a notice of assignment filed under subsection (2),

	<p>the Provincial Treasurer may pay the lender the amount owing to the association under the lien note.</p> <p>(4) A payment under subsection (3) shall be paid out of the General Revenue Fund.</p>
Default in payment	<p>38 If the maker of a lien note does not pay an instalment together with accrued interest on the unpaid balance when it falls due as set forth in the lien note, the whole of the principal and accrued interest owing at the time of default becomes due and payable at the option of the holder of the lien note.</p>
Cancellation of lien	<p>39(1) The Court of Queen's Bench may, on application by originating notice,</p> <p>(a) order that the registration of a lien be cancelled on the giving of security for or the payment into Court of the amount of the claim and any costs the Court may fix, or</p> <p>(b) order that the registration of a lien be cancelled on any proper ground.</p> <p>(2) Money paid into Court replaces the land discharged and is subject to the claim for lien to the same extent as if the money had been realized by a sale of the land in an action to enforce the lien.</p>
Enforcement of lien	<p>40(1) Proceedings to enforce a lien may be commenced in the Court of Queen's Bench either by a statement of claim or by originating notice.</p> <p>(2) The statement of claim or originating notice shall be served on all persons who by the records of the land titles office appear to have an interest in the land in question and on any other person the Court may direct.</p> <p>(3) The procedure in adjudicating on the claims shall be of a summary character, so far as is possible, having regard to the amount of the lien in question and the enforcement of it at the least expense.</p> <p>(4) The Court shall decide all questions that are necessary to be tried in order to dispose completely of the action and to adjust the rights and liabilities of the parties concerned.</p> <p>(5) If the association fails to establish a valid lien, it may nevertheless recover a personal judgment against a party to the proceedings for any sum that is due to the association and that it might recover in an action against that party.</p> <p>(6) A lien is not merged, waived, satisfied, prejudiced or destroyed by the pursuit of any proceedings for the recovery of personal judgment unless and until payment in full is received.</p> <p>(7) Notwithstanding the <i>Limitation of Actions Act</i>, a lien remains enforceable until</p> <p>(a) the total indebtedness, including interest, owing on the current lien note has been repaid in full, or</p> <p>(b) a settlement is concluded between the debtor and the lien holder.</p>

Judgment	<p>41(1) The Court may in its judgment order that the estate or interest in land that is charged with a lien be sold.</p> <p>(2) When a judgment orders a sale, the Court</p> <p style="padding-left: 40px;">(a) may direct that the sale take place at any time after the judgment, allowing a reasonable time for advertising the sale, and</p> <p style="padding-left: 40px;">(b) may make all necessary orders for the completion of the sale and the vesting of the estate or interest in the purchaser.</p> <p>(3) The Court may also direct the sale and removal of any works.</p> <p>(4) If sufficient money to satisfy the judgment and costs is not realized from the sale, the Court shall certify</p> <p style="padding-left: 40px;">(a) the amount of the deficiency,</p> <p style="padding-left: 40px;">(b) the name of the association entitled to recover the deficiency, and</p> <p style="padding-left: 40px;">(c) the persons by the judgment adjudged to pay the deficiency,</p> <p>and the association may enforce payment by execution or otherwise as a judgment of the Court.</p>
Receiver	<p>42(1) The Court may, on the application of a judgment creditor made at any time before the sale of the property, appoint a receiver to take charge of the property and to rent or operate it on any terms and conditions the receiver thinks fit.</p> <p>(2) The proceeds received by a receiver appointed under subsection (1) shall, after deduction of all rates, taxes, insurance or other expense necessary for the maintenance of the property, including the costs of management, be applied in any manner that may be directed by the Court.</p>
Appeal	<p>43(1) An appeal lies to the Court of Appeal from the decision of the Court of Queen's Bench in all matters where the amount of the lien is \$200 or more.</p> <p>(2) When the amount of the lien is less than \$200 the decision of the court of first instance is final.</p>
Distribution of earnings	<p>44 No association whose borrowing has been guaranteed under this Act shall make any distribution of earnings or profits among its members without the consent of the Provincial Treasurer so long as the guaranteed borrowed sum or any part of it is unpaid.</p>
Audit	<p>45(1) An association whose borrowings are guaranteed under this Act shall,</p> <p style="padding-left: 40px;">(a) so long as the guaranteed borrowing remains unpaid, and</p> <p style="padding-left: 40px;">(b) if and when required to do so by the Provincial Treasurer,</p> <p>have its books investigated and audited at the expense of the association by the auditors and in the manner prescribed by the Provincial Treasurer.</p> <p>(2) The auditors shall report fully to the Provincial Treasurer on the investigations and audit.</p>

Subrogation **46(1)** If the Provincial Treasurer is called on to make a payment in respect of a guarantee provided for by this Act, he is subrogated as against the borrowing association to all rights, powers, remedies and securities of the person entitled to the benefit of the guarantee.

(2) If the Provincial Treasurer is called on to make a payment in respect of a guarantee pursuant to section 32, he is also subrogated to the rights of the borrowing association and of the person entitled to the benefit of the guarantee to enforce any lien notes made by the association's members, notice of which is filed pursuant to section 36.

(3) No payment by the Provincial Treasurer affects any liability of the association or releases any security given by the association in respect of the borrowing, but notwithstanding any payment, the liability and security remain and continue in force and may be enforced by the Provincial Treasurer against the association.

Enforcement of existing obligations **47** Where any borrowing of an association continued under section 2 was guaranteed before the coming into force of this Part, under the *Co-operative Associations and Rural Utilities Guarantee Act*, the borrowing and guarantee, any lien note and any right, duty or obligation in respect thereof may be dealt with and enforced under this Part as if created under this Part.

PART 3 GENERAL

Administration by Director **48(1)** Where an association has borrowed public money under an Act of Alberta or has had any of its borrowings guaranteed by the Government under this or any other Act and

(a) is in arrears on its repayment of any loan, or

(b) is, in the opinion of the Provincial Treasurer, likely to go into arrears on its repayment of a loan,

the Lieutenant Governor in Council, on the recommendation of the Provincial Treasurer, may by order appoint the Director as a director of the association until the association no longer, in the opinion of the Provincial Treasurer, requires the services of the Director, or for any period fixed in the order.

(2) The Director may for the period of appointment exercise all the powers and duties of the directors for the collection and repayment of any loan with interest or any instalments or money owing by any member to the association or any instalments or money accruing due to the association or to the lender.

Discontinuance of utility service **49(1)** When a utility company or municipality is providing a utility service where it was formerly provided by an association and a person to whom the service is being provided defaults

(a) in payment due to the association pursuant to a lien note under this Act, the *Rural Electrification Long Term Financing Act* or the *Rural Electrification Revolving Fund Act*, or

(b) in payment of indebtedness to the association for utility services previously provided,

the association or the Director may, by written notice, direct the utility company or municipality to discontinue the utility service to that person until the association advises the utility company or municipality that the default has been remedied or the Director otherwise orders.

(2) When a notice is given under subsection (1),

(a) the association or Director shall, within 5 days of giving it, serve a copy of the notice on the person in default either personally or by registered mail addressed to the address of the person according to the records of the utility company or municipality, and

(b) the utility company or municipality shall discontinue providing the utility service to the person, but not until the expiry of 30 days from the date the company or municipality received the notice.

(3) If the utility service is provided to the person by the association itself, the association may, on notice in accordance with subsection (2), discontinue providing the utility service to the person until the default is remedied.

Delegation
of powers

50 Where a Director is given any power or duty under this Act or the regulations or under any other Act or regulations, he may authorize one or more persons to exercise or perform that power or duty on the conditions or in the circumstances that the Director prescribes and thereupon that power or duty may be exercised or performed by the person or persons so authorized in addition to the Director.

Continuation of
federations

51 The Alberta Union of Rural Electrification Associations Co-operative Ltd. and the Federation of Alberta Gas Co-operatives Ltd. are continued as corporations subject to this Act and the regulations.

Regulations

52 The Lieutenant Governor in Council may make regulations

(a) prescribing standard by-laws for all associations or for the different classes of associations;

(b) governing the form and content of memoranda of association, lien notes and other forms to be used under this Act;

(c) respecting corporate names for the purposes of sections 3, 4 and 6;

(d) respecting registered offices of associations;

(e) governing the functions and duties of auditors of associations;

(f) respecting the fees payable to the Registrar for services under this Act;

(g) respecting the maintenance of reserves;

(h) governing the source, administration and investment of deposit accounts, reserves and other funds of associations;

(i) governing amalgamation of associations and the rights of persons affected thereby;

(j) governing the transfer of obligations from one association to another;

(k) respecting the corporations continued under section 51, providing for the establishment of further corporations of a similar nature and governing the objects, powers and management of all such corporations.

Consequential

53(1) The Co-operative Associations Act is amended

(a) as to section 11

(i) by renumbering it as section 11(1),

(ii) by repealing subsection (1)(d), and

(iii) by adding the following after subsection (1):

(2) An association that may be incorporated under the *Rural Utilities Act* may not be incorporated under this Act.

(b) by repealing sections 22, 38(2), 39(3), 41, 42, 42.1, 43 and 67.

(2) The Co-operative Marketing Associations and Rural Utilities Guarantee Act is amended

(a) as to the title by striking out **“AND RURAL UTILITIES”**;

(b) by repealing section 3;

(c) in section 5(1) by striking out “section 2, 3 or 4” and substituting “section 2 or 4”;

(d) by repealing sections 10 to 23.

(3) The Hydro and Electric Energy Act is amended in section 29(3) by striking out “Co-operative Associations Act” and substituting “Rural Utilities Act”.

(4) The Land Agents Licensing Act is amended by repealing section 2(c) and substituting the following:

(c) a person who is a member of, is employed by or is engaged by an association under the *Rural Utilities Act* and who, for or on behalf of the association, negotiates for or acquires an interest in land, or

(5) The Land Titles Act is amended in section 30

(a) in subsection (1)(e) by adding “or the *Rural Utilities Act*” after “*Co-operative Associations Act*”;

(b) in subsection (2)(a) by striking out “the *Societies Act* or the *Co-operative Associations Act*”;

(c) in subsection (2) by striking out “or” at the end of clause (a.1) and by adding the following after clause (a.1):

(a.2) the Registrar as defined in the *Business Corporations Act* that a corporation is registered under the *Societies Act*, the *Co-operative Associations Act* or the *Rural Utilities Act*,

(d) in subsection (4) by adding “, the Rural Utilities Act” after “Co-operative Associations Act”.

(6) *The Native Co-operative Guarantee Act is amended*

(a) in section 1(a) by adding “or the Rural Utilities Act” after “Co-operative Associations Act”;

(b) by repealing section 1(d) and substituting the following:

(d) “Minister” means

(i) with respect to an association under the *Co-operative Associations Act*, the Minister charged with the administration of that Act, and

(ii) with respect to an association under the *Rural Utilities Act*, the Minister charged with the administration of that Act.

(c) in section 6(d) by striking out “Director of Co-operative Activities” and substituting “Directors under the *Co-operative Associations Act* and the *Rural Utilities Act*”.

(7) *The Rural Electrification Long Term Financing Act is amended*

(a) by repealing section 1(a) and (b) and substituting the following:

(a) “association” means an association under the *Rural Utilities Act* that has as a principal object the supplying of electricity to its members;

(b) “Director” means the Director of Rural Electrification Associations under the *Rural Utilities Act*;

(b) in section 12(1) and (3) by striking out “Co-operative Marketing Associations and Rural Utilities Guarantee Act” wherever it occurs and substituting “Part 2 of the *Rural Utilities Act*”;

(c) by adding the following after section 12:

12.1(1) When it appears to the Director that a refinancing of a lien note of a member of an association is not being expedited, the Director may act on behalf of the board of directors of that association for the purpose of expediting the refinancing of that lien note.

(2) The Director may act under subsection (1) only when

(a) the member of the association is in default in the repayment of a lien note under the *Rural Electrification Revolving Fund Act* and wishes to refinance the note under this Act,

(b) the association is in arrears on its repayment of the member’s lien note under the *Rural Electrification Revolving Fund Act*,

(c) the board of directors has failed to act on the approval of the refinancing within a period of 30 days from the mailing of the refinancing request from the Director, or

(d) the member requests that his lien note under the *Rural Electrification Revolving Fund Act* be refinanced under this Act.

(8) *The Rural Electrification Revolving Fund Act* is amended by repealing section 1(a) and (b) and substituting the following:

(a) “association” means an association under the *Rural Utilities Act* that has as a principal object the supplying of electricity to its members;

(b) “Director” means the Director of Rural Electrification Associations under the *Rural Utilities Act*;

(9) *The Rural Gas Act* is amended

(a) by repealing section 1(n) and substituting the following:

(n) “rural gas co-operative association” means an association under the *Rural Utilities Act* that has as a principal object the supplying of gas to its members;

(b) by repealing section 3(n) and (o),

(c) in section 35(2) by striking out “Director of Co-operative Activities” and substituting “Director of Natural Gas Co-operatives under the *Rural Utilities Act*”;

(d) by repealing section 36, and

(e) by repealing section 38 and substituting the following:

38 The Minister charged with the administration of the *Rural Utilities Act* may exercise his powers under section 27 of that Act in the case of a member-owned co-operative association when it appears to him from a report of the Director of Natural Gas Co-operatives, made after an investigation, that the association has contravened this Act or the regulations.

(10) *The following enactments are amended by adding “or the Rural Utilities Act” after “Co-operative Associations Act”;*

(a) *Credit Union Act*, section 19(3)(a);

(b) *Deposits Regulation Act*, section 2(e);

(c) *Electric Power and Pipe Line Assessment Act*, section 3(1)(b);

(d) *Local Authorities Election Act*, section 22(2)(j);

(e) *Municipal Government Act*, section 217;

(f) *Pipeline Act*, section 27(1)(b);

(g) *Securities Act*, section 66(h).

Coming
into force

54 *This Act comes into force on Proclamation.*