

DISCUSSION PAPER

**Proposed Approaches for Regulatory Provisions to
Implement Amendments to the *Farm Registration and Farm
Organizations Funding Act, 1993***

I. PURPOSE OF DISCUSSION PAPER

The purpose of this Discussion Paper is to receive public feedback on proposed approaches for regulatory provisions to support the implementation of three sets of amendments to the *Farm Registration and Farm Organizations Funding Act, 1993* [the “*FRFOFA*”]. The *FRFOFA* was amended by:

- Schedule 1 of the *Restoring Ontario’s Competitiveness Act, 2019*, S.O. 2019, c. 4 [the “*ROCA*”];
- Schedule 3 of the *Better for People, Smarter for Business, 2019*, S.O. 2019 c. 14 [the “*BPSBA*”]; and
- Schedule 4 of the *COVID-19 Economic Recovery Act, 2020*, S.O. 2020, c. 18 [the “*ERA*”].

The proposed regulatory changes are intended to improve the administration of the Farm Business Registration program, support the delivery of the program through a new online delivery portal and reduce burden for farmers, the Accredited Farm Organizations [“*AFOs*”] and the eligible francophone organization. The proposed changes also add flexibility for farmers in response to the COVID-19 by temporarily modifying how the farm income requirement would be determined for the 2021 program year.

The Ministry of Agriculture, Food and Rural Affairs [the “*Ministry*”] is committed to receiving input from agriculture stakeholders, industry representatives, Indigenous communities, and the general public so that regulations made by the Lieutenant Governor in Council [the “*LGIC*”] and the Minister of Agriculture, Food and Rural Affairs [the “*Minister*”] are fair, reasonable, and strike a balance between reducing regulatory burden, while maintaining proper administration of the *FRFOFA*. Your input will help shape the content of the *LGIC’s Regulation* and the *Minister’s Regulation*.

A summary of the *FRFOFA* – as amended by the *ROCA*, *BPSBA* and the *ERA* – is set out in Appendix 1 of this Discussion Paper. The summary sets out what the *FRFOFA* would look like *if* the various amendments are proclaimed.

II. Overview of the Farm Business Registration Program under the *Farm Registration and Farm Organizations Funding Act, 1993*

The Farm Business Registration Program [the “*Program*”] is governed by the *FRFOFA* as well as Ontario Regulation 722/93 – Filing Dates [“*O. Reg. 722/93*”] and Ontario Regulation 723/93 – General [“*O. Reg. 723/93*”]. The Program requires all farm businesses that earn a gross annual income of \$7,000.00 or more to register with the Ministry to obtain a farm business registration number [“*FBRN*”]. Agricorp acts as the Ministry’s service delivery agent for the purposes of registration.

Ministry of Agriculture, Food and Rural Affairs

To obtain an FBRN, the farm business must make a yearly payment (currently \$240 + HST) directed toward an Accredited Farm Organization ["AFO"]. However, a farm business can request a refund of the payment from the AFO. The *FRFOFA* also includes exemptions for those who have a religious conviction or other beliefs that would otherwise prohibit them from making a payment to an AFO or filing an FBRN application.

To become an AFO, a farm organization must apply to the Agriculture, Food and Rural Affairs Appeal Tribunal [the "Tribunal"] and prove to the Tribunal that it meets the eligibility requirements set out under the *FRFOFA* and O. Reg. 723/93. There are currently three AFOs. They are: (1) the Christian Farmers Federation of Ontario; (2) the National Farmers Union – Ontario; and (3) the Ontario Federation of Agriculture.

The *FRFOFA* also allows one francophone organization to become eligible to receive special funding to serve the socioeconomic and cultural interests of Franco-Ontarian farmers, and to ensure they have access to services in French. To become eligible to receive special funding, a francophone organization must apply to the Tribunal and meet the eligibility requirements set out under the *FRFOFA* and O. Reg. 723/93. The L'Union des cultivateurs franco-ontariens is currently the eligible francophone organization.

A farm business requires an FBRN to access several provincial agricultural programs. These include: (1) the Farm Property Class Tax Rate Program; (2) the Ontario Wildlife Damage Compensation Program; and (3) Canadian Agricultural Partnership Programs.

III. OVERVIEW OF THE AMENDMENTS TO THE FARM REGISTRATION AND FARM ORGANIZATIONS FUNDING ACT, 1993

Over the last 18 months, the Ministry reviewed the administration of the *FRFOFA* with a focus on reducing administrative burden for farm businesses, the AFOs and the eligible francophone organization, as well as lowering the costs to administer the *FRFOFA*. Through this review, the Ministry determined amendments to the *FRFOFA* were needed. The Ministry implemented the amendments to the *FRFOFA* in a three-step process. The amendments were set out in: (1) Schedule 1 of the *Restoring Ontario's Competitiveness Act*, (2) Schedule 3 of the *Better for People, Smarter for Business Act*, and (3) Schedule 4 of the *COVID-19 Economic Recovery Act*.

1. Overview of Amendments to the Farm Registration and Farm Organizations Funding Act, 1993 under Schedule 1 of the Restoring Ontario's Competitiveness Act, 2019

These amendments were aimed primarily at creating administrative efficiencies for the Program and enabling seamless on-line delivery of the Program, supporting the Ontario government's digital strategy. They also allowed the Minister to designate: (1) a corporation to be the Farm Registration Administrator; or (2) a Crown Agent to be the

Ministry of Agriculture, Food and Rural Affairs

Farm Registration Administrator. The amendments also transferred much of the regulation-making authority from the LGIC to the Minister.

2. Overview of Amendments to the *Farm Registration And Farm Organizations Funding Act, 1993* under Schedule 3 of the *Better For People, Smarter For Business Act, 2019*

These amendments were aimed primarily at how farm organizations are accredited and re-accredited under the *FRFOFA*, as well as how a francophone organization becomes eligible, and continues to remain eligible, to receive special funding under the *FRFOFA*. For example, amendments under the *BPSBA* allow the Minister to set the term of accreditation for an AFO and the term of eligibility for special funding for a francophone organization.

The amendments also introduced the position of a Director to oversee the administration of the *FRFOFA*. The Director was also provided with the authority to issue exemptions from a farm business having to earn the prescribed gross annual income (currently set at \$7,000.00) if prescribed circumstances are met. Finally, all regulation-making powers regarding the accreditation of a farm organization or the eligibility of a francophone organization to receive special funding were moved from the LGIC to the Minister.

3. Overview of Amendments to the *Farm Registration and Farm Organizations Funding Act, 1993* under Schedule 4 of the *COVID-19 Economic Recovery Act, 2020*

Schedule 4 of the *COVID-19 Economic Recovery Act* made three amendments to the *FRFOFA*. This included the introduction of an appeal process to allow appeals to the Tribunal of the Director's decisions. In addition, an amendment clarified that the time period for the francophone organization to be eligible to receive funding under the *FRFOFA* was the same as for AFOs. Finally, the Minister was given the authority to prescribe how documents are to be given or be served under the *FRFOFA*, allowing for methods of communication other than letter mail as part of the government's efforts to streamline and allow digital communication.

IV. PROPOSED APPROACHES FOR REGULATORY PROVISIONS TO IMPLEMENT THE AMENDMENTS TO THE *FARM REGISTRATION AND FARM ORGANIZATIONS FUNDING ACT, 1993*

All amendments to the *FRFOFA* are enabling in nature. As such, the amendments require regulations to be put in place before they can be implemented. Once the regulations are ready, the Ministry will seek the approval of the LGIC to proclaim the amendments to the *FRFOFA* into force as well as make amendments to O. Reg. 723/93.

Ministry of Agriculture, Food and Rural Affairs

The amendments to the *FRFOFA* require three sets of regulatory changes. They are: (1) revocation of O. Reg. 722/93; (2) amendments to O. Reg. 723/93; and (3) a new Minister's Regulation.

1. PROPOSED REVOCATION OF ONTARIO REGULATION 722/93 – FILING DATES

O. Reg. 722/93 is a regulation made by the Minister. As such, the Minister must approve any changes the Ministry is recommending to O. Reg. 722/93.

The legislative amendments set out in the *ROCA*, *BPSBA* and the *ERA* expanded the Minister's regulation-making power to areas beyond being able to set the date in which farm businesses must apply to obtain an FBRN. The provisions in O. Reg. 722/93 can be incorporated into a new Minister's Regulation, which is required to implement other amendments to the *FRFOFA*, therefore it makes sense to have everything contained in a single regulation as opposed to multiple regulations.

The Ministry is considering revoking O. Reg. 722/93 and including any of the applicable provisions in O. Reg. 722/93 in a new Minister's Regulation.

2. PROPOSED CHANGES TO ONTARIO REGULATION 723/93 – GENERAL

O. Reg. 723/93 is a regulation made by the LGIC. As such, the Ministry must obtain the approval of the LGIC for any amendments to O. Reg. 723/93.

The Ministry is proposing the LGIC make two sets of amendments to O. Reg. 723/93. They are: (A) amendments related to the *FRFOFA* amendments; and (B) temporary amendments to address potential economic hardship arising out of COVID-19.

A. Amendments to Ontario Regulation 723/93 Related to Amendments to the *Farm Registration and Farm Organizations Funding Act, 1993*

The amendments set out in Schedule 1 of the *ROCA* and Schedule 4 of the *BPSBA* moved most of the regulation-making power under the *FRFOFA* from the LGIC to the Minister. O. Reg. 723/93 needs to be amended to reflect those changes.

The Ministry is considering recommending to the LGIC the following changes be made to O. Reg. 723/93:

1. Make Changes to Sections 1(1), 1(2) and 1(3) of O. Reg. 723/93

Given the changes to wording in section 2 of the *FRFOFA*, the wording in sections 1(1), 1(2) and 1(3) of O. Reg. 723/93 requires changes to mirror the language used in section 2 of the *FRFOFA*. These changes are purely administrative in nature.

Ministry of Agriculture, Food and Rural Affairs

2. Revoke Sections 1.1 to 9 of O. Reg. 723/93

The regulation-making powers set out in sections 1.1 to 9 of O. Reg. 723/93 have been transferred from the LGIC to the Minister. As such, the LGIC would no longer have the underlying authority to maintain sections 1.1 to 9 of O. Reg. 723/93 if the amendments to the *FRFOFA* are proclaimed. The subject-matter covered by sections 1.1 to 9 of O. Reg. 723/93 would be incorporated into the new Minister's Regulation.

3. Amendment to Section 10 of O. Reg. 723/93

The reference to "and this regulation" would be revoked as it is no longer required.

4. Revoke Sections 11 to 13 of O. Reg. 723/93

The regulation-making powers set out in sections 11 to 13 of O. Reg. 723/93 have been transferred from the LGIC to the Minister. As such, the LGIC no longer has the underlying authority to maintain sections 11 to 13 of O. Reg. 723/93 if the amendments to the *FRFOFA* are proclaimed. The subject-matter covered by sections 11 to 13 of O. Reg. 723/93 would be incorporated into the new Minister's Regulation.

B. Temporary Amendments to Ontario Regulation 723/93 to Address Potential Financial Hardship Due to COVID-19

The Ministry recognizes that COVID-19 is having adverse financial impacts on the agricultural sector. As such, the Ministry is planning to request that the LGIC make temporary amendments to section 1(2) of O. Reg. 723/93 to provide flexibility in terms of how the basic gross income requirement of \$7,000 needed to obtain an FBRN is determined for the 2021 Program year.

The Ministry is considering recommending to the LGIC that section 1(2) of O. Reg. 723/93 be temporarily amended to set out that, for the 2021 Program year, the annual gross income of a farming business will be determined in the same manner as the annual gross income from farming of a farming business is determined under the *Income Tax Act* (Canada) for the 2019 taxation year.

The above means if a farm business earned \$7,000.00 or more in the 2019 taxation year, it would meet the income requirement for an FBRN for the 2021 Program year even if the farm business did not earn \$7,000.00 or more in the 2020 taxation year.

Ministry of Agriculture, Food and Rural Affairs

3. NEW MINISTER'S REGULATION UNDER THE *FARM REGISTRATION AND FARM ORGANIZATIONS FUNDING ACT, 1993*

The amendments made to the *FRFOFA* by the *ROCA*, the *BPSBA* and the *ERA* that will require a new Minister's Regulation to be passed can be broken down into three themes. They are: (1) general administrative changes to how the Program is administered; (2) changes to how farm businesses obtain FBRNs; and (3) changes to how farm organizations are accredited and re-accredited as well as how a francophone organization becomes, and remains, eligible to receive special funding.

3.1 General Administrative Changes to How the Farm Business Registration Program is Administered

3.1.1 Designation of Agricorp as Delivery Agent for the *Farm Registration and Farm Organizations Funding Act, 1993*

Section 31.13(1) of the *FRFOFA* allows the Minister to designate a Crown Agent to administer the *FRFOFA*, provided the conditions set out in section 31.13(2) of the *FRFOFA* have been met.

The Ministry is proposing Agricorp be designated as the Crown Agent responsible for administering the *FRFOFA*. This reflects Agricorp's current role in delivering the FBR Program.

3.1.2 On-Line Delivery of the Farm Business Registration Program

One of the primary driving factors behind the amendments to the *FRFOFA* was to allow the Program to move from a paper-based system to an on-line delivery model. This will allow farm businesses to register their farm business through an on-line portal, which should be easier for farm businesses and reduce overall program delivery costs.

Changes will be made to the regulation to reflect this new, on-line delivery model. For example, it will remove references to farm businesses completing a farm business registration form.

3.1.3 Use of Information

Section 3 of the *FRFOFA* sets out how the Ministry can use information obtained under the *FRFOFA*. Section 3 of the *FRFOFA* includes any use that is prescribed. Section 33(2)(g) of the *FRFOFA* provides the Minister with the authority to prescribe other ways in which the Ministry can use information obtained under the *FRFOFA*.

The Ministry is proposing that the Ministry continue to be allowed to use the information obtained under the *FRFOFA* for the following purposes:

Ministry of Agriculture, Food and Rural Affairs

- Validating eligibility for Ministry and other programs that require a person to have an FBRN
- Providing sector and/or county level information to Statistics Canada at its request
- Providing information to Agriculture and Agri-Food Canada to help share information on emerging plant/animal health issues with producers, including a successor department, at its request
- Such other purposes as the Minister may determine or in the public interest.

3.1.4 Service of Documents

Section 33(2)(p.1) of the *FRFOFA* authorizes the Minister to prescribe how documents are to be given or served under the *FRFOFA* as well as when those documents are deemed to have been received. For example, this would allow the Director to communicate decisions made under the Act by e-mail or fax, instead of by registered mail, and clearly set out when that decision is considered to have been received.

The Ministry is considering the following in relation to the service of documents and when a document will be deemed to have been received unless the recipient can show otherwise:

- Personal Service – deemed received next business day after given
- Regular Mail – deemed received 5 business days after mailed
- Courier – deemed received 2 business days after given to courier
- Email – deemed received next business day after sent
- Fax – deemed received next business day after sent

The above rules governing the service of documents would only apply to communication between the farm business and the Director. They would not apply to the Tribunal, since the Tribunal has its own rules around how documents are to be given or served.

3.1.5 Administrative Fee to Administer the *Farm Registration and Farm Organizations Funding Act, 1993*

Section 21(4) of the *FRFOFA* authorizes the Director to charge an administrative fee to the AFOs for anything the Director does under the *FRFOFA* (i.e. costs to administer the Program). Section 33(2)(j) of the *FRFOFA* authorizes the Minister to prescribe the fee the Director may charge.

The Ministry is proposing that the fee the AFOs are required to pay to the Director (i.e. Agricorp) be set at the cost incurred to administer the Program.

Ministry of Agriculture, Food and Rural Affairs

The Ministry is considering how to handle instances when the actual delivery costs are lower than the fee charged to the AFOs. The intent is that the AFOs will be charged no more than the costs of delivering the Program.

3.2 Changes to How Farm Businesses Obtain a Farm Business Registration Number

3.2.1 Provision of Information Requirements

Section 32(2)(a) of the *FRFOFA* provides the Minister with the authority to prescribe what needs to be done to obtain an FBRN. This includes the information that must be provided before an FBRN will be issued. The Ministry recognizes a balance must be achieved between obtaining information the Ministry needs to administer its programs against not imposing an undue administrative burden on farm businesses.

Depending on the type of registrant a farm business is, there will be different information requirements for a farm business to obtain an FBRN.

The Ministry is considering the following definitions for a “New Registrant” and a “Returning Registrant”

- New Registrant – a farm business that has never held an FBRN, or has not held a number in the last two years.
- Returning Registrant – a farm business that held an FBRN in one of the last two previous years.

A. New Registrants

To allow the Ministry to better tailor existing programs to the needs of Ontario’s farm businesses, or to determine if new programs should be established, the Ministry requires certain information about farm businesses, especially new farm businesses.

The Ministry is proposing that a New Registrant would have to provide a reduced amount of prescribed information as a requirement to obtain an FBRN. The New Registrant would, however, only have to provide this information on initial registration. After the first year of having an FBRN, a farm business would follow the requirements for a Returning Registrant.

Ministry of Agriculture, Food and Rural Affairs

A New Registrant would also need to provide proof of farm income to Agricorp.

B. Returning Registrants

The Ministry is looking to further reduce burden for farm businesses by streamlining the information collected from Returning Registrants.

The Ministry is proposing that a Returning Registrant would only have to confirm certain previously provided information. If there is no change in the information, the Returning Registrant would only have to direct a payment to an AFO to obtain an FBRN.

If there was a change to certain prescribed information, the Returning Registrant would have to provide the updated information, if the information has not already been updated, in addition to directing a payment to an AFO to obtain an FBRN.

The information the Ministry is proposing that would have to be confirmed is as follows:

- The business name for the farm business
- The contact information for the farm business
- If the farm business did not earn the prescribed amount to be eligible to receive an FBRN in the previous year

If there were a change in business structure (such as from a sole proprietorship to a corporation), a Returning Registrant would need to contact Agricorp to confirm and/or update the information on file for the new business entity, including the provision of proof of income.

The Ministry is also proposing to remove the requirement included in section 1.1 of O. Reg. 723/93 for registrants to update their farm business information using the more detailed registration every five years. The Ministry determined that this data source is not collected frequently enough to support effective policy and program development, and that much of the information can be found through other data sources.

3.2.2 Obtaining a Farm Business Registration Number

A. New Registrants

The Ministry recognizes the importance its programs can have on all farm businesses, but particularly new farm businesses.

Ministry of Agriculture, Food and Rural Affairs

The Ministry is proposing to allow a New Registrant to obtain an FBRN at any point during the year, provided the requirements to obtain the FBRN has been met.

B. Returning Registrants

Although the Ministry recognizes the need for flexibility for existing farm businesses, this need must be considered in light of the certainty and predictability AFOs need to do their work. Since the AFOs rely on the FBR payments, the time in which the payment must be provided needs to be predictable so that the AFOs can budget accordingly.

The Ministry is proposing Returning Registrants must provide the prescribed payment to the AFO by the last date in February of a calendar year.

The Director may issue an FBRN to a Returning Registrant during the Program year if the failure to register on time was, in the Director's opinion, due to the occurrence of an unexpected event beyond the Registrant's control or the refusal to issue the FBRN would create undue financial hardship for the Returning Registrant.

Failure to meet the deadline or to be able to demonstrate unforeseen circumstances or financial hardship to the Director would mean the Returning Registrant would not be eligible to receive an FBRN for that program year.

3.2.3 Manner of Payment

Section 21(2) of the *FRFOFA* requires any payment that is to be directed to an AFO is to be remitted to the Director. Section 33(2)(i) of the *FRFOFA* provides the Minister with, in part, the authority to prescribe how payments directed toward an AFO are to be made.

The Ministry is proposing to allow payments directed to an AFO be remitted to the Director in the following ways:

- Cheque
- Credit Card
- Direct Deposit

3.2.4 Refund of Payment Directed Toward an Accredited Farm Organization

Section 21(7) of the *FRFOFA* allows a farm business that directed a payment to an AFO to request a refund from the AFO, provided such request is made in accordance with the regulations. Section 21(8) of the *FRFOFA* requires an AFO to provide a refund to a

Ministry of Agriculture, Food and Rural Affairs

farm business that requests the refund in accordance with the regulations. Section 33(2)(i) of the *FRFOFA* provides the Minister with, in part, the authority to govern the process in which refunds can be requested as well as must be paid.

The Ministry is proposing to have refunds operate in the following way:

New Registrants

May request the AFO provide a refund on the earlier of

- Ninety (90) days of when the payment directed to an AFO was received by the Director, or
- The last day of February of the calendar year after the payment directed to an AFO was received by the Director.

Returning Registrants

May request the AFO provide a refund by the last day of May of the same calendar year.

3.2.5 Return of Payment to Farm Organization

In instances where payments are returned to farm businesses as a result of an AFO not being re-accredited or relinquishing accreditation, section 11(7) of the *FRFOFA* requires the farm business to resubmit a payment directed to another AFO within the prescribed timelines. Section 12 of O. Reg. 723/93 requires a farm business to resubmit a payment directed to another AFO within 30 days of when the payment was returned.

The Ministry is proposing that a farm business be given 60 days to resubmit a payment directed to another AFO under sections 7.3(6) 2 and 11(7) of the *FRFOFA*. This is an extension of 30 days from the current requirement to resubmit a payment directed to another AFO under section 11(7) of the *FRFOFA*.

3.2.6 Term of Farm Business Registration Number

Section 33(2)(f) of the *FRFOFA* provides the Minister with the authority to prescribe, in part, the time period for which an FBRN will remain valid. Neither the *FRFOFA* nor O. Reg. 723/93 clearly sets out the term for an FBRN. The Ministry wants to clarify the term of an FBRN to eliminate any potential confusion.

A. New Registrants

The Ministry is proposing that the term for an FBRN issued to a New Registrant would be the day the FBRN is issued until the last day in February of the following calendar year.

Ministry of Agriculture, Food and Rural Affairs

B. Returning Registrants

The Ministry is proposing that the term for an FBRN issued to a Returning Registrant would be from March 1 of one calendar year until the last day in February of the following calendar year.

3.2.7 Deemed New Registrant

Section 33(2)(a) of the *FRFOFA* provides the Minister, in part, with the authority to prescribe when farm businesses are to apply for an FBRN and how FBRNs are to be issued.

The Ministry is proposing that a farm business that was otherwise required to have an FBRN did not have an FBRN for the last two years be deemed to be a New Registrant if the farm business applies for an FBRN.

3.2.8 Conditions on Farm Business Registration Numbers

Section 33(2)(b) of the *FRFOFA* provides the Minister with, in part, the authority to impose conditions on FBRNs. Section 33(2)(b) of the *FRFOFA* provides the Minister with, in part, the authority to prescribe any consequences for failing to comply with any condition imposed on an FBRN.

The Ministry is considering whether to apply certain conditions on every FBRN that is issued under the *FRFOFA* to help improve program administration and ensure program integrity. As an example, a condition of holding an FBRN could be that the holder accepts that the Director, or a delegate, may audit the holder to determine whether they meet the prescribed income requirement and will assist in such an audit. As part of considering the concept of applying conditions to an FBRN, the Ministry is also considering what consequences would be appropriate if an FBRN holder were not to comply with the conditions.

3.2.9 Renewal of Religious Exemptions

Section 22 of the *FRFOFA* allows for an exemption to be obtained from having to obtain an FBRN or from having to direct a payment to an AFO if an individual has a religious conviction or other belief that prohibits the individual from having to obtain an FBRN or having to direct a payment to an AFO. The same applies to a corporation or other entity if an individual within the corporation or other entity has such a religious conviction or belief. Section 1(5) of O. Reg. 722/93 requires an individual, corporation or other entity who has received an exemption from the Tribunal pursuant to section 22 of the *FRFOFA* from directing a payment to an AFO to file a farm business registration form every 10

Ministry of Agriculture, Food and Rural Affairs

years. Section 33(2)(a) of the *FRFOFA* provides the Minister, in part, with the authority to prescribe timelines in which FBRNs have to be obtained.

The Ministry is examining the elimination of the requirement in section 1(5) of O. Reg. 722/93 for farm businesses that object to directing a payment to an AFO to re-file the form every 10 years.

3.3 Changes to How Farm Organizations are Accredited/Re-Accredited as well as How a Francophone Organization Becomes Eligible to Receive Special Funding/Continues its Eligibility to Receive Special Funding

A. Changes to How Farm Organizations are Accredited/Re-Accredited

A3.3.1 Eligibility Requirements to be Accredited/Re-Accredited

Section 33(2)(n) of the *FRFOFA* provides the Minister with the power to prescribe the criteria respecting the accreditation of farm organizations. Section 5 of O. Reg. 723/93 currently sets out the requirements a farm organization must meet to become an AFO as well as what an existing AFO must meet to be re-accredited as an AFO.

The Ministry is examining the accreditation/re-accreditation requirements set out under section 5 of O. Reg. 723/93 to see whether any changes should be made to help reduce the administrative burden for the AFOs, while ensuring that they demonstrate sound governance, financial accountability and the provision of value to Ontario's farmers.

A3.3.2 Time to Apply for Re-Accreditation

Section 33(2)(m) of the *FRFOFA* provides the Minister with the power to prescribe when an AFO must apply to the Tribunal for re-accreditation or when an eligible francophone organization must apply to the Tribunal to remain eligible for special funding. Section 6 of O. Reg. 723/93 currently requires an AFO to apply for re-accreditation no sooner than nine (9) months before and no later than six (6) months before its accreditation expires.

The Ministry is not contemplating making changes to the time period in which an AFO must apply to the Tribunal for re-accreditation purposes.

A3.3.3 Notice of Application for Accreditation/Re-Accreditation

Section 33(2)(h) of the *FRFOFA* provides the Minister with the power to prescribe who is to receive Notice of any Hearing the Tribunal is to hold under the *FRFOFA* in relation to accreditation or re-accreditation. The *FRFOFA* previously set out who was to receive Notice of any Hearing the Tribunal was going to hold under the *FRFOFA*.

Ministry of Agriculture, Food and Rural Affairs

Receiving Notice of a Hearing is important because any person who receives a Notice is entitled to make submissions to the Tribunal at the Hearing.

The Ministry is proposing the Tribunal send Notice of any Hearings in relation to accreditation/re-accreditation matters to the following entities:

- The AFO who requires the Hearing
- The other AFOs who do not require the Hearing as well as the eligible francophone organization
- The Director
- The Minister

A3.3.4 Suspension of Re-Accreditation Requirements During an Emergency Situation

Section 33(2)(r) of the *FRFOFA* provides the Minister with a general regulation-making power to make regulations respecting any matter that is advisable to carry out the intent and purpose of the regulations made under section 33(2) of the *FRFOFA*. COVID-19 has proven to be difficult for all Ontarians, including the AFOs in terms of being able to do the work that they do. This can, in turn, have a negative impact on their ability to meet any eligibility requirements set out in the new Minister's Regulation.

The Ministry is considering having a provision included in the Minister's Regulation that would allow the Minister to temporarily suspend some eligibility requirements (e.g. requirement to hold an annual general meeting) that have to be met in the event that an emergent situation arises, such as COVID-19, that is beyond to the control of the AFOs and adversely impacts their ability to meet the eligibility requirements during the emergent situation.

The effect of the above provision is that the AFOs would not have to meet some eligibility requirements to be re-accredited during the time the Minister has suspended the eligibility requirements.

A3.3.5 Length of Accreditation/Re-Accreditation

Section 33(2)(l) of the *FRFOFA* provides the Minister with the authority to prescribe the length of time in which a farm organization will be accredited as well as the length of time in which an AFO will remain re-accredited. Section 33(6) of the *FRFOFA* sets out that any term the Minister prescribes pursuant to section 33(2)(l) of the *FRFOFA* cannot be less than three (3) years.

The Ministry is considering setting the term of a farm organization's initial accreditation at five (5) years. The Ministry is also considering setting the term of an AFO's re-accreditation at five (5) years. Currently, the accreditation period for all three AFOs will come to an end in 2021.

Ministry of Agriculture, Food and Rural Affairs

The Ministry is proposing to extend the current accreditation period to 2023, so that the current accreditation period will be five (5) years.

The Ministry is also proposing that the specific expiry date for accreditation or re-accreditation would be September 1st, so that it would minimize the negative impact on farm businesses if an AFO were to lose accreditation status.

B. Changes to How a Francophone Organization Becomes/Continues to be Eligible to Receive Special Funding

B3.3.1 Eligibility Requirements to Receive Special Funding/Continue Eligibility to Receive Special Funding

Section 33(2)(o) of the *FRFOFA* authorizes the Minister to prescribe the criteria respecting the eligibility of a francophone organization to receive special funding. Section 8 of O. Reg. 723/93 currently sets out the requirements a francophone organization must meet to be eligible, or to continue to be eligible, to receive special funding under the *FRFOFA*.

The Ministry is examining the eligibility requirements to receive, or to continue to receive, special funding as set out under section 8 of O. Reg. 723/93 to see whether any changes should be made to help reduce the administrative burden for the eligible francophone organization, while ensuring that it must demonstrate sound governance, financial accountability and the provision of value to Ontario's francophone farmers.

B3.3.2 Notice of Application to Receive, or to Continue to Receive, Special Funding

Section 33(2)(h) of the *FRFOFA* provides the Minister with the power to prescribe who is to receive Notice of any Hearing the Tribunal is to hold under the *FRFOFA* in relation to whether a francophone organization is eligible to receive, or to continue to receive, special funding under the Act.

Receiving Notice of a Hearing is important because any person who receives a Notice is entitled to make submissions to the Tribunal at the Hearing.

The Ministry is proposing that the Tribunal send a Notice of any Hearings in relation to when a francophone organization is applying to receive special funding, or the eligible francophone organization is applying to continue to receive special funding, to the following entities:

- Eligible francophone organization who requires the Hearing

Ministry of Agriculture, Food and Rural Affairs

- The AFOs
- The Director
- The Minister

B3.3.3 Suspension of Eligibility Requirements to Receive Special Funding During an Emergency Situation

Section 33(2)(r) of the *FRFOFA* provides the Minister with a general regulation-making power to make regulations respecting any matter that is advisable to carry out the intent and purpose of the regulations made under section 33(2) of the *FRFOFA*. COVID-19 has proven to be difficult for all Ontarians, including the eligible francophone organization, in terms of being able to do its work. This can have a negative impact on its ability to meet any eligibility requirements set out in the new Minister's Regulation.

The Ministry is considering having a provision included in the Minister's Regulation that would allow the Minister to temporarily suspend some eligibility requirements that have to be met in the event that an emergent situation, such as COVID-19, arises that is beyond to the control of the eligible francophone organization and adversely impacts its ability to meet the eligibility requirements during the emergent situation.

The effect would be that the eligible francophone organization would not have to meet some eligibility requirements to continue to receive special funding during the time the Minister has suspended the eligibility requirements.

B3.3.4 Length of Eligibility to Receive, or to Continue to Receive, Special Funding

Section 33(2)(l) of the *FRFOFA* provides the Minister with the authority to prescribe the length of time in which a francophone organization is eligible to receive special funding. Section 33(6) of the *FRFOFA* sets out that any term the Minister prescribes pursuant to section 33(2)(l) of the *FRFOFA* cannot be less than three (3) years.

The Ministry is considering setting the term of a francophone organization's initial eligibility to receive special funding at five (5) years. The Ministry is also considering setting the term of the eligible francophone organization's continuation of being eligible to receive special funding at five (5) years. Since the eligibility period expires in this current year for the eligible francophone organization, the Ministry proposes to extend its next eligibility period to five (5) years.

The Ministry is also proposing that the specific expiry date for new and continuing eligibility for funding would be September 1st. This would align provisions of the eligible francophone organization with those being proposed for the AFOs.

V. PROVIDING COMMENTS

Comments on the proposed regulatory provisions to operationalize the amendments to the *FRFOFA* set out in Schedule 1 of the *ROCA*, Schedule 3 of the *BPSBA* and Schedule 4 of the *ERA* can be submitted as follows:

Via Email at: **bozena.szymanski@ontario.ca**

Via Mail at: **Bozena Szymanski**
Farm Finance Branch
Ministry of Agriculture, Food and Rural Affairs
1 Stone Road West
Guelph, Ontario
N1G 4Y2

Schedule 1 – Overview of the *Farm Registration and Farm Organizations Funding Act, 1993*

The following is a “high level” summary of the *FRFOFA*, as amended. It is only meant to highlight the key parts of the various sections within the *FRFOFA*. In the event of a conflict between the actual text of the *FRFOFA* and what is set out in this summary, the actual text of the *FRFOFA* governs.

Section 1 of the *FRFOFA* sets out various definitions used throughout the *FRFOFA*. These are used as a “short form” for drafting purposes.

Section 1.1 of the *FRFOFA* is new. It introduces a Director for the purposes of making decisions under *FRFOFA*. This includes whether an FBRN should be issued.

Section 2 of the *FRFOFA* sets out the process in which a farm business is to obtain an FBRN. This includes the time to apply to obtain an FBRN, the term of an FBRN and when an FBRN needs to be renewed.

Section 2.1 of the *FRFOFA* is new. It introduces appeals to the Tribunal of Director’s decisions. This includes a Director’s decision to refuse to issue an FBRN to a farm business.

Section 3 of the *FRFOFA* governs how the Ministry can use information obtained under the *FRFOFA*. It also allows the Minister to prescribe further additional ways in which the Ministry can use information obtained under the *FRFOFA*.

Section 4 of the *FRFOFA* sets out how a farm organization can apply to the Tribunal become an AFO.

Ministry of Agriculture, Food and Rural Affairs

Section 5 of the *FRFOFA* deals with the hearing of a farm organization's accreditation application.

Section 6 of the *FRFOFA* deals with how the Tribunal is to rule regarding a farm organization's accreditation application. Section 6(2) of the *FRFOFA* was amended to allow the Minister to prescribe the length of accreditation.

Section 7 of the *FRFOFA* sets out the process in which an AFO can apply to be re-accredited.

Section 7.1 of the *FRFOFA* deals with how the Tribunal is to proceed with an AFO's re-accreditation application.

Section 7.2 of the *FRFOFA* deals with how the Tribunal is to rule regarding an AFO's re-accreditation application where the AFO meets the re-accreditation requirements. Section 7.2(2) of the *FRFOFA* sets out that the term of the re-accreditation is for the prescribed time period.

Section 7.3 of the *FRFOFA* is new. It deals with the Tribunal's authority where the Tribunal finds the AFO does not meet all the re-accreditation requirements. Section 7.3(1) of the *FRFOFA* provides the Tribunal with the authority to: (a) refuse to renew the accreditation of an AFO that does not meet the re-accreditation requirements; or (b) issue, by Order, a provisional accreditation and require the farm organization to meet certain requirements by certain deadlines. Section 7.3(2) of the *FRFOFA* provides the Tribunal with the power to suspend payments being forwarded to the farm organization while it remains under provisional suspension. Section 7.3(6) sets out what must be done with any payments that were suspended from being provided to the AFO who is operating under a provisional accreditation pursuant to section 7.3(2) of the *FRFOFA*. More specifically, if the AFO accreditation is renewed, any payments that were suspended are to be forwarded to the AFO. If, however, the AFO's accreditation was not renewed, any payments that were suspended are to be returned to the farm business so that the farm business can re-direct its payment to another AFO.

Section 8 of the *FRFOFA* deals with the Tribunal's powers to review the accreditation status of an AFO.

Section 9 of the *FRFOFA* sets out how the Tribunal is to conduct a review Hearing on whether the AFO meets the accreditation requirements.

Section 10 of the *FRFOFA* sets out the Tribunal's authority to make rulings regarding whether the AFO meets the accreditation requirements. This section mirrors the Tribunal's powers set out in section 7.3 of the *FRFOFA*.

Section 11 of the *FRFOFA* sets out how an AFO can relinquish its accreditation status and what happens when the AFO relinquishes its accreditation status, including what happens with any payments the Director receives that have been directed to that AFO

Ministry of Agriculture, Food and Rural Affairs

and what farm businesses must do if they directed payment to an AFO that has relinquished its accreditation.

Section 12 of the *FRFOFA* sets out how a francophone organization can apply to the Tribunal become eligible to receive special funding.

Section 13 of the *FRFOFA* deals with the hearing of a francophone organization's application to receive special funding.

Section 14 of the *FRFOFA* deals with how the Tribunal is to rule regarding a francophone organization's application to receive special funding. Section 14(2) of the *FRFOFA* provides if more than one francophone organization applies to receive special funding and more than one francophone organization meets the eligibility requirements to receive special funding, the Tribunal will, by Order, declare the francophone organization that the Tribunal believes best meets the eligibility requirements to receive special funding as eligible to receive special funding.

Section 15 of the *FRFOFA* deals with what happens if a francophone organization that is eligible to receive special funding becomes accredited. Section 15(2) of the *FRFOFA* provides that no other francophone organization is eligible to receive special funding while a francophone organization is accredited.

Section 16 of the *FRFOFA* sets out the process in which the eligible francophone organization can apply to have its eligibility to receive special funding continued.

Section 17 of the *FRFOFA* deals with how the Tribunal is to proceed with an eligible francophone organization application to continue to remain eligible to receive special funding.

Section 17.1 of the *FRFOFA* deals with how the Tribunal is to rule regarding the eligible francophone organization's application to continue to receive special funding. Section 17.1(2) of the *FRFOFA* sets out that the term in which the eligible francophone organization will continue to be eligible to receive special funding is for the prescribed period.

Section 18 of the *FRFOFA* has been redrafted. It deals with the Tribunal's authority where the Tribunal finds the eligible francophone organization does not meet the requirements to continue to be eligible to receive special funding. Section 18 of the *FRFOFA* is drafted to match what is set out in section 7.3 of the *FRFOFA*. The only difference is that section 18 of the *FRFOFA* applies to eligible francophone organization whereas section 7.3 of the *FRFOFA* applies to AFOs.

Section 19 of the *FRFOFA* deals with the Tribunal's powers to review eligible francophone organization's eligibility to receive special funding.

Ministry of Agriculture, Food and Rural Affairs

Section 20 of the *FRFOFA* sets out how the Tribunal is to conduct a Hearing on whether the eligible francophone organization remains eligible to receive special funding.

Section 20.1 of the *FRFOFA* sets out the Tribunal's authority to make rulings regarding whether the eligible francophone organization meets the eligibility requirements to receive special funding. This section mirrors the Tribunal's powers under section 18 of the *FRFOFA*.

Section 20.2 of the *FRFOFA* sets out how an eligible francophone organization that is receiving special funding can relinquish its ability to receive special funding and what happens when the eligible francophone organization relinquishes its eligibility to receive special funding.

Section 21 of the *FRFOFA* deals with how a farm business is to direct a payment to an AFO. Section 21(2) of the *FRFOFA* requires farm businesses to remit the payment directed toward an AFO to the Director. Section 21(3) of the *FRFOFA* requires the Director to promptly forward the payment to the appropriate AFO in accordance with anything prescribed in the regulations. Section 21(4) of the *FRFOFA* allows the Director to charge the AFOs the prescribed fee for anything the Director does under the *FRFOFA*. Section 21(5) of the *FRFOFA* allows the Director to cancel a farm business' FBRN if there were insufficient funds to cover the payment. Section 21(7) of the *FRFOFA* allows a farm business to request a refund from the AFO that received the farm business' payment in accordance with the regulations. Section 21(8) of the *FRFOFA* requires the AFO to refund the payment it received upon request in accordance with the regulations. Section 21(10) of the *FRFOFA* makes it clear that directing a payment to an AFO does not confer membership in the AFO.

Section 22 of the *FRFOFA* deals with objections to obtaining an FBRN or directing a payment to an AFO. If an individual holds a religious belief or conviction against obtaining an FBRN or directing a payment to an AFO, the individual may apply to the Tribunal for an Order exempting that individual from having to obtain an FBRN or directing a payment to an AFO. The same is equally applicable to a corporation or other entity if an individual member of the corporation or entity holds a religious belief or conviction against obtaining an FBRN or directing a payment to an AFO.

Section 23(1) of the *FRFOFA* provides that an FBRN is valid until the next FBRN application form is required. Section 23(2) of the *FRFOFA* sets out that only a person with a current valid FBRN may benefit from designated Ministry programs and grants.

Section 26 of the *FRFOFA* allows Members of the Tribunal or Staff of the Tribunal under the direction of a Member of the Tribunal to gather information.

Section 27(1) of the *FRFOFA* allows the Tribunal to accept submissions from any other person who is not otherwise entitled to provide submissions to the Tribunal, provided the Tribunal allows the party to the Hearing an opportunity to respond to those submissions. Section 27(2) of the *FRFOFA* allows the Tribunal to consider other information gathered

Ministry of Agriculture, Food and Rural Affairs

by the Tribunal, provided the Tribunal allows the party to the Hearing an opportunity to respond to that information.

Section 29 of the *FRFOFA* provides the Tribunal with the authority to reconsider any Orders that it has issued.

Section 30 of the *FRFOFA* provides any Order of the Tribunal is final.

Section 31 of the *FRFOFA* sets out who the Tribunal is to provide copies of its Orders.

Sections 31.1 to 31.12 of the *FRFOFA* deal with the establishment and operation of a delegated administrative authority to administer the *FRFOFA*.

Section 31.13 of the *FRFOFA* allow the Minister to designate a Crown Agent to administer the *FRFOFA* and sets out the requirements that must be met before the Minister can designate a Crown Agent to administer the *FRFOFA*.

Section 32 of the *FRFOFA* provides statutory immunity for any Member of the Tribunal as well as Staff at the Tribunal for any act done or decision or omission made in good faith by them in the performance of their duties or the exercise of their powers under the *FRFOFA*.

Section 33(1) of the *FRFOFA* sets out the LGIC's authority to make regulations under the *FRFOFA*.

Section 33(2) of the *FRFOFA* sets out the Minister's authority to make regulations under the *FRFOFA*.

Section 33(3) of the *FRFOFA* allows a regulation made under section 33(1)(a) to provide that the manner of determining annual gross income be based on calculations required to be made under the *Income Tax Act* (Canada).

Section 33(4) of the *FRFOFA* allows a regulation made under section 32(2)(a) of the *FRFOFA* to require different classes of persons to apply for FBRN at different times.

Section 33(5) of the *FRFOFA* allows a regulation made under section 32(2)(i) of the *FRFOFA* may require different classes of persons to pay different amounts under section 21(1) of the *FRFOFA*.

Section 33(6) of the *FRFOFA* prohibits a regulation made under section 32(2)(l) of the *FRFOFA* to set a term of less than three years.