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CHAPTER L-2

LAND DEVELOPMENT CORPORATION ACT

REGULATIONS

Made by the Lieutenant Governor in Council under the *Land Development Corporation Act* R.S.P.E.I. 1988, Cap. L-2

1. In these regulations

Definitions

- (a) “Act” means the *Land Development Corporation Act* R.S.P.E.I. 1988, Cap. L-2;
- (b) “applicant” means a person who is making a request of the Corporation under the relevant parts of these regulations;
- (c) “Corporation” means the Land Development Corporation;
- (d) “economic income” means that income, including non-farm income, that shall
 - (i) pay the cost of operation and maintenance of the farm unit, including non-cash items as depreciation and changes in inventory,
 - (ii) pay the Corporation its dues,
 - (iii) provide a livelihood for the applicant and family, and
 - (iv) meet any other liabilities of the applicant as they become due;
- (e) “economic unit” means a unit capable of providing an economic income derived solely from farming farm land;
- (f) “farmer” means a person who is engaged or is shortly to be engaged in the operation of a farm and whose principal occupation, in the opinion of the Corporation, is or will be farming, and includes
 - (i) a partnership or incorporated company or produce cooperative the chief objective of which is agricultural production, and
 - (ii) a person who
 - (A) is not a civil servant for the purposes of the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8, and
 - (B) satisfies the Corporation that his secondary occupation is or will be farming;
- (g) “farming” or “farm business” means all tillage of the soil as well as livestock raising, bee keeping, poultry raising, dairying, fruit growing, woodlot management and fur farming;

(h) “farm land” means that land which has been farmed, is being farmed, or may be farmed, and may or may not include buildings whether attached thereto or not, and other improvements thereon;

(i) “incorporated company” means a company incorporated under the *Companies Act R.S.P.E.I. 1988, Cap. C-14*, or by the Legislative Assembly of the Province of Prince Edward Island;

(j) “annuitant” means a person who has conveyed his land to the Corporation in consideration of an annuity;

(k) “producer-cooperative” means a cooperative under the *Cooperative Associations Act R.S.P.E.I. 1988, Cap. C-23*;

(l) “vendor” means a person who has signed an agreement to sell lands to the Corporation and may also be a person who has sold land to the Corporation. (EC696/72; 693/78; 132/87)

PART I SALE OF LAND TO THE CORPORATION

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| Application for sale to Corporation | 2. (1) The Corporation may purchase farm land when an applicant wishing to sell completes a form prescribed by the Corporation which shall be signed by the applicant and, if married, by the spouse, unless the Corporation otherwise directs. |
| Signatories | (2) Every application by a partnership shall be signed by the partners, and their spouses where applicable, or authorized agent, and, similarly, any application from an incorporated company shall be signed by the directors or authorized agent. |
| Appraisal | (3) The Corporation may initiate the purchase of land and buildings without an application, but shall have an appraisal completed on the property so as to determine its true and fair market value. |
| <i>Idem</i> | (4) Upon receipt of a completed application with the required documents and fee, the Corporation shall request an appraisal to be conducted, in a manner approved by the Corporation, to determine the market value of the farm land. |
| Offer to purchase | (5) The Corporation shall consider the appraisal report, decide on a value, and then may offer to purchase the farm land on a specified form, which shall state that the written offer shall be accepted in writing and returned to the Corporation within thirty days of the date of the mailing of the offer, otherwise the offer shall lapse and be null and void. |
| Economic units | (6) Farm lands offered to the Corporation which are, in the opinion of the Corporation, capable of being an economic unit shall not be |

purchased by the Corporation until the farm land has been advertised on the open market for at least one hundred and eighty days at a price which the Corporation considers a fair market value, but, in the cases of special circumstance, the Corporation may waive this requirement and proceed with an application.

(7) The farm land shall be purchased as a unit but, in cases of special circumstances, the Corporation may waive this requirement and proceed with an application. Purchase as a unit

(8) A survey of farm lands offered for purchase to the Corporation may be conducted to determine the exact boundaries, acreage and geographical location of said land and the cost thereof may be borne by the Corporation. (EC696/72) Survey

PART II ANNUITY PROGRAM

3. (1) As an alternative to a cash purchase, the Corporation may purchase farm land that is offered in consideration of an annuity agreement, if the applicant qualifies under section 9 of the Act and releases all his farm lands to the Corporation and signs an annuity agreement with the Corporation. Annuity agreements

(2) An applicant for an annuity shall complete a prescribed form of the Corporation and, if married, his spouse shall sign the application, unless the Corporation otherwise specifies. Prescribed form

(3) The Corporation shall request an appraisal of the farm land of the applicant, and shall consider the appraisal report and decide on a value of the farm land offered to the Corporation. Appraisal

(4) The purchase price under the annuity settlement shall be paid to the applicant in the form of an annuity by way of regular monthly payments from the Corporation. Annuity settlement

(5) Partnerships and incorporated companies shall not be eligible for the annuity. Partnerships and companies ineligible

(6) An applicant, to be eligible, shall be domiciled in the province and shall have farm land valued at two thousand five hundred dollars or more, as determined by the Corporation, and also shall have good title to fifty acres of farm land or more in his own name, the acreage to be determined by the Corporation. Eligibility

(7) Where an annuitant has been granted a life lease in the dwelling house situate on farm lands offered to the Corporation as provided in Life estate

subsection 9(5) of the Act, the Corporation may execute a lease for the life estate of the annuitant and the annuitant and his spouse shall be required to countersign the lease for the life interest and the lease shall be on a form prescribed by the Corporation.

- Covenants in lease (8) The lease for the life lease shall contain covenants, *inter alia*, that the lessee shall
- (a) pay yearly on demand a rent of one dollar;
 - (b) revoked by EC984/80;
 - (c) repair and maintain the demised premises at his own expense;
 - (d) not hold the Corporation liable for any damage that may occur on the demised premises;
 - (e) allow the Corporation by its servants or agents at all reasonable times to enter the demised premises to examine the condition and state of repair thereof;
 - (f) not make major permanent improvements to the demised premises without first obtaining written consent of the Corporation;
 - (g) give notice in writing to the Corporation before vacating the demised premises;
 - (h) allow the Corporation by its servants or agents to enter upon the demised premises and take possession thereof and terminate the lease if there be default, breach or non-observance by the lessee of any covenant of the lease or of any applicable term of the Act.
- Election on death of spouse (9) When a married annuitant becomes a widower or widow, he shall have the choice of
- (a) receiving an annuity at the rate established for a single person, as set out in clauses 9(2)(b) and (c) of the Act, to the termination of the agreement; or
 - (b) receive the balance of the equity of the farm land in a cash settlement.
- “Equity” for the purposes of this subsection and subsection (10), means the net value of the farm land conveyed to the Corporation when the annuity commenced, plus simple annual interest at the rate of the cost of money to the Corporation applied to that net value at each subsequent anniversary date of the agreement until death of the annuitant, less any payments made under the annuity agreement.
- Cash settlement (10) When a single annuitant dies, or when the annuitant is married and both husband and wife die, the executor or administrator of the estate shall receive the balance of the equity of the farm land in a cash settlement.
- Survey (11) A survey of farm lands offered to the Corporation in consideration of an annuity may be conducted to determine the exact boundaries,

acreage and geographical location of said land and the cost thereof may be borne by the Corporation. (EC696/72; 984/80)

PART III IMPROVEMENTS TO LAND

4. (1) The Corporation may make improvements to farm land for which it has title, if the improvements add sound value, increase productivity and improve the attractiveness of the property for lease or resale. Improvements

(2) The Corporation may make improvements to farm land held under agreement of sale or lease, or on which it holds a mortgage, if the improvements add sound value, increase productivity and shall be in accordance with a management plan submitted by the purchaser, lessee or mortgagee. *Idem*

(3) The funds that are expended by the Corporation for the construction of or improvements to buildings, land clearing, drainage or other permanent improvements may be added to the cost of the land to the Corporation.

(4) The Corporation may expend funds for seed, lime or fertilizer and other similar improvements to establish farm lands for grazing, controlling erosion, providing weed control and other similar purposes. Agricultural expenditure

(5) The Corporation may take security as deemed necessary to protect or secure its investment in the agreed upon improvements to land and buildings; this means in the form of chattel mortgages, mortgages, deeds of further charge, or as is deemed necessary by the Corporation when such lands are owned by farmers whether or not such farmers qualify as farmers pursuant to section 11 of the Act. Security

(6) The Corporation may make policies regarding the formulation, adoption, establishment and administration of plans or programs which will advance agriculture in the province and make policies regarding Advancement of agricultural use

- (i) improvements made or to be made to any farm lands or farm buildings of farmers,
- (ii) agreement made with farmers relating to such improvements,
- (iii) security that may be taken for funds, materials or labour supplied by the Corporation to a farmer,
- (iv) the payment of grants by way of cash or kind or regarding other incentives to farmers,
- (v) farmers for the purposes of this section may or may not qualify as farmers pursuant to section 11 of the Act. (EC696/72)

**PART IV
SALE OF CORPORATION LANDS**

Application to purchase farm land	5. (1) An application for the purchase of farm land owned by the Corporation shall be on a form prescribed by the Corporation.
Terms of sale	(2) The Corporation shall be satisfied that the sale helps to establish a farm land base to provide an opportunity for an economic income and an efficient farm business for the purchaser, and preference may be given to the applicant with the least travelling distance.
Management ability	(3) The Corporation shall be satisfied that the purchaser has the necessary management ability, skill and knowledge to operate his farm business in accordance with a mutually agreed upon management plan and no sale shall be made unless the plan receives the mutual approval of the Corporation and of the purchaser when the farm is secured by a mortgage or held under an agreement of sale.
Minimum age	(4) Applicants shall have attained the age of majority.
Sale price	(5) In these regulations "cost to the Corporation" means the purchase price of the farm land and may include the cost of improvements, if any. The price to the purchaser may be the cost to the Corporation less the value of any assets removed from it, or an appraisal may be required prior to the sale of the farm land and a value shall be determined by the Corporation. Farm land leased under Part V shall be excluded from reappraisal until the expiry or termination of the said lease agreement.
Partnerships	(6) Every application from a partnership shall be accompanied by a certified copy of the partnership agreement.
Companies	(7) Every application from an incorporated company or producer-cooperative shall be accompanied by <ul style="list-style-type: none"> (a) a list of the officers; (b) a sworn declaration of the status of the company or cooperative on a form prescribed by the Corporation, which shall contain information on the distribution and ownership of all shares, bonds, debentures and warrants; (c) a copy of the Letters Patent or Articles of Association and bylaws.
Interest rate	(8) The interest rate to be charged on mortgages, deeds of further charge, or agreements of sale shall be the cost of money to the Corporation plus $\frac{3}{4}\%$.

(9) A purchaser may at any time repay the outstanding principal, or any portion thereof, and accrued interest on the mortgage or agreement of sale, without penalty.

Accelerated
repayment

(10) A personal guarantee of the members of a partnership, any or all of the shareholders of an incorporated company, or any or all of the members of a producer-cooperative may be required by the Corporation as collateral or as additional security in a mortgage or agreement of sale.

Personal guarantee

(11) The mortgage or agreement of sale shall contain, *inter alia*, covenants that the purchaser shall

Covenants

(a) repay monthly, quarterly, semi-annually or yearly a portion of the principal and interest in equal amortized installments for the term approved, and such payments shall be made at the date and time and place set out in the mortgage or agreement of sale;

(b) pay interest on all arrears due the Corporation including principal, interest, taxes, or insurance premiums at the prime lending rate of chartered banks or one per cent above the rate set out in the mortgage or agreement of sale, whichever is higher. The Corporation in special circumstances may waive this requirement;

(c) pay all rates, taxes and other assessments charged upon the farm land;

(d) maintain adequate insurance, at his own expense, as specified by the Corporation and shall assign and deliver to the Corporation the policy or policies of insurance;

(e) not sell or remove from the farm land any buildings, gravel, fill, or forest products without first obtaining the written consent of the Corporation;

(f) file, if required, and on a form prescribed by the Corporation, at the end of each of his fiscal years

(i) a copy of his annual report, if the purchaser is under the supervision of the Farm Management and Statistics Division of the Prince Edward Island Department of Agriculture and Forestry, or

(ii) a copy of his profit and loss statement for the previous fiscal year, which shall include a net worth statement;

(g) allow a member, employee, or agent of the Corporation, at any reasonable time, to enter upon any farm land of the purchaser to observe and evaluate the manner in which the farm land is being used and managed;

(h) not make major permanent improvements to the farm land without first obtaining written consent of the Corporation; and

(i) allow the Corporation by its employees or agents to enter upon the farm land and take possession thereof and shall terminate the agreement of sale or call the mortgage, if there be default, breach or

non-observance of any covenant of the mortgage or agreement of sale.

Supervision

(12) Farm management supervision by the Corporation may be compulsory when an amount owing under a mortgage is in excess of seventy-five per cent of the value of farm lands secured to the Corporation, or when an amount owing under an agreement of sale is in excess of seventy-five per cent of the value of farm lands held under agreement of sale, and farm management supervision may also be compulsory when more than fifty per cent of the farm land operated by the purchaser is secured to the Corporation by mortgage or held by the purchaser under agreement of sale. Such farm management supervision may be optional for other purchasers and the cost to purchasers of farm management supervision shall be determined by the Corporation, and shall not be less than twenty-five dollars *per annum*. (EC696/72; 838/81; 102/84; 162/87; 639/93)

PART V LEASES OF CORPORATION LANDS

Application for
lease

6. (1) An applicant for the lease of farm land owned by the Corporation shall complete a form prescribed by the Corporation.

Terms of lease

(2) The Corporation shall be satisfied that the lease helps to establish a farm land base to provide an opportunity for an economic income and an efficient farm operation, and in itself may constitute an economic unit. Preference may be given to an applicant with the least travelling distance.

Management
expertise

(3) The Corporation shall be satisfied that the applicant for a lease has the necessary management ability, skill and knowledge to operate his farm business in accordance with a mutually agreed upon management plan and no lease shall be made unless such a plan receives the mutual approval of the Corporation and of the lessee. The plan may be amended with the mutual approval of the Corporation and the lessee.

Partnership

(4) An application received from a partnership shall be accompanied by a certified copy of the partnership agreement.

Companies and
cooperatives

(5) An application from an incorporated company or a producer-cooperative shall be accompanied by

- (a) a list of the officers;
- (b) a sworn declaration of the status of the company or cooperative on a form prescribed by the Corporation, which shall contain information on the distribution and ownership of all shares, bonds, debentures and warrants;

- (c) a copy of the Letters Patent or Articles of Association and bylaws.
- (6) The lease shall contain, *inter alia*, covenants that the lessee shall Covenants
- (a) pay monthly, quarterly, semi-annually or yearly the rent, being the interest on the value of the farm land in equal installments for the approved term, and such payments shall be made at the date and time and place set out in the lease. The value of the farm land may be determined by the cost to the Corporation, being the cost to the Corporation which may include the annual depreciation on the major depreciable items contained in the lease agreement, or may be determined by appraisal. The interest shall be the cost of money to the Corporation. The Corporation may from time to time establish the rental rate on short term maintenance rental agreements;
 - (b) pay interest on all arrears due the Corporation including rent, interest, taxes, or insurance premiums at the prime lending rate of chartered banks or one per cent above the rate in the lease, whichever is higher. The Corporation in special circumstances may waive this requirement;
 - (c) pay all rates, taxes and other assessments charged upon the farm land;
 - (d) maintain adequate insurance at his own expense as specified by the Corporation, and shall assign and deliver to the Corporation the policy or policies of insurance;
 - (e) not sell or remove from the farm land any buildings, gravel, fill, or forest products without first obtaining the written consent of the Corporation;
 - (f) file, if required, and on a form prescribed by the Corporation, at the end of each of his fiscal years
 - (i) a copy of his annual report, if the lessee is under the supervision of the Farm management and Statistics Division of the Prince Edward Island Department of Agriculture and Forestry, or
 - (ii) a copy of his profit and loss statement for the previous fiscal year, which shall include a net worth statement;
 - (g) allow a member, employee, or agent of the Corporation, at any reasonable time, to enter upon any farm land of the lessee to observe and evaluate the manner in which the farm land is being used and managed;
 - (h) not sublease farm lands belonging to the Corporation;
 - (i) not make major permanent improvements to the farm land without first obtaining written consent of the Corporation; and
 - (j) allow the Corporation by its employees or agents to enter upon the farm land and take possession thereof and terminate the lease if

there be default, breach or non-observance of any covenant of the lease.

Renewal

(7) An application for renewal of a lease shall be made on a form prescribed by the Corporation. Subject to a satisfactory compliance with the conditions and covenants of the lease during the current term, the lessee, upon expiry of the lease, shall be entitled to the right of renewal.

Appraisal of value

(8) On termination of the lease by mutual agreement, the net capital value added to the farm by the lessee, other than fertility and normal maintenance the value of which shall be determined by an appraisal, shall be due the lessee when the said improvements have been made with the written consent of the Corporation. In the event of disagreement between the Corporation and the lessee respecting said added value, the dispute shall be resolved by arbitration by majority decision of an Arbitration Board of three persons, one selected by the Corporation, one by the lessee and a third person by the first two. The provisions of the *Arbitration Act* R.S.P.E.I. 1988, Cap. A-16, shall apply in all cases where arbitration is required.

Management supervision

(9) Farm management supervision by the Corporation may be required when more than fifty per cent of the farm land operated by the lessee is farm land owned by the Corporation. Such farm management supervision may be made available to other lessees. The cost to the lessee shall be determined by the Corporation, but shall not be less than twenty-five dollars *per annum*.

Rental of dwelling house

(10) When the farm land has been conveyed to the Corporation under Part I of these regulations, the Corporation may rent the dwelling house and an area of land, to be determined by the Corporation, together with any necessary right-of-way to a public road. Such a rental agreement shall be at such a rate and shall contain such covenants as shall be determined from time to time by the Corporation. (EC696/72; 838/81; 102/84; 639/93)

PART VI
GENERAL

Land not suited to agricultural use

7. Farm land whose best use is not agriculture may, upon the direction of the province, be used for such purposes and be dealt with in such manner as the province directs. (EC98/73)

Coordination with other agencies

8. The Corporation shall coordinate its policies with other relevant policies of the Provincial and Federal Governments and their respective Crown Agencies. (EC696/72)

- 9.** The Corporation may institute or assist in instituting a plan of disability and life insurance for purchasers and lessees, and life insurance may be compulsory when required by the Corporation. The payment of insurance premiums shall be made by the purchasers or lessees. (EC696/72) Insurance
- 10.** An applicant shall, if required by the Corporation, provide proof of age to the Corporation. (EC696/72) Proof of age
- 11.** Every payment made by or on behalf of a purchaser or lessee in respect to a mortgage, agreement of sale or lease shall be credited towards the payment of the following items, in the following order Priority of payments
- (a) advances made by the Corporation;
 - (b) interest due on a mortgage or agreement of sale or rent due on a lease; and
 - (c) principal payments due on a mortgage or agreement of sale. (EC696/72)
- 12.** All applications to the Corporation shall be made at the regional office of the Corporation serving the area. (EC696/72) Regional office
- 13.** Where an incorporated company which has obtained a mortgage, agreement of sale or lease from the Corporation Termination
- (a) fails to supply to the Corporation in a form satisfactory to the Corporation, such information relating to the distribution and ownership of its shares, bonds, warrants and debentures, as the Corporation may from time to time require; or
 - (b) without the written consent of the Corporation
 - (i) alters its Letters Patent or Articles of Association,
 - (ii) alters any rights that are attached to its shares, or
 - (iii) issues or redeems any of its shares or registers a transfer of any of its shares,
- the mortgage or agreement of sale obtained by that incorporated company shall, at the option of the Corporation, immediately become due and payable, and the lease obtained by that incorporated company shall, at the option of the Corporation, be terminated. (EC696/72)
- 14.** The Corporation may apply to the Department of Fisheries, Aquaculture and Environment for authority under the *Unightly Property Act* R.S.P.E.I. 1988, Cap. U-5 to remove from the farm land any unsightly building or other matter which a purchaser or lessee fails to maintain and which does not constitute an essential asset of his farm business. (EC696/72; 293/80; 102/84; 639/93) Unightly property
- 15.** The fiscal year of the Corporation shall be from April 1st of one year to March 31 of the following year and the accounts of the Corporation Fiscal year

shall be submitted to the Auditor General for audit no later than ninety days after the end of the fiscal year. (EC696/72; 293/80)

Executors

16. The Corporation may deem the executor or the administrator of the estate of a deceased farmer to be a farmer. (EC696/72)

Spouses

17. An applicant and his spouse shall be treated as one individual. The Corporation may designate which one shall be considered as the applicant. (EC696/72)

Decline of application

18. The Corporation may decline an application or limit of farm land available to an applicant where, in the opinion of the Corporation,

(a) the applicant has the necessary financial resources to establish an economic unit;

(b) a major portion of the assets of the applicant and his spouse are not invested in the farm business;

(c) the applicant is a subsidiary of an incorporated company and the parent company is not eligible in its own right;

(d) the applicant is an incorporated company and the applicant is not dealing at arm's length with any other company, under the provisions of the Canada *Income Tax Act*, and the other company is not eligible in its own rights;

(e) the applicant is an incorporated company and more than forty-nine per cent of the company shares, bonds, warrants and debentures are held by persons not engaged in operating the farm business, or if there are more than twelve shareholders in the company; and

(f) the applicant is a producer-cooperative and more than forty-nine per cent of the members are not engaged in operating the farm business. (EC696/72)

Policies

19. The Corporation may adopt such policy as it deems necessary for the administration of the Corporation, the Act and these regulations. (EC696/72)