

The Enhanced Cattle Feeder Associations Loan Guarantee Regulations

being

Chapter F-8.001 Reg 22 (effective May 14, 2003) as amended
by Saskatchewan Regulations 144/2005.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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Appendix

CHAPTER F-8.001 REG 22
The Farm Financial Stability Act

Title

1 These regulations may be cited as *The Enhanced Cattle Feeder Associations Loan Guarantee Regulations*.

Interpretation

2(1) In these regulations:

- (a) **“Act”** means *The Farm Financial Stability Act*;
- (b) **“active feeder member”** means a feeder member who, in the previous calendar year, received a guaranteed loan of \$10,000 or more;
- (c) **“associated person”**, in the case of a feedlot member, means a person who, directly or indirectly, holds more than 8% of the ownership of or the shares or membership interests in that feedlot member;
- (d) **“cattle”** means the following animals of the genus species *Bos taurus* or *Bos indicus*:

- (i) heifers and steers that have been weaned from their dams;
 - (ii) feeder cows;

but does not include animals acquired for breeding or calving purposes;

- (e) **“enhanced feeder association”** means a producer association that:
 - (i) is formed for the purposes of growing and finishing cattle; and
 - (ii) consists of:
 - (A) one feedlot member; and
 - (B) either:
 - (I) 10 or more active feeder members; or
 - (II) fewer than 10 active feeder members, with the prior written approval of the provincial supervisor;
- (f) **“family member”** means an individual’s spouse, child, parent or sibling;
- (g) **“feeder member”** means a producer who is a member or shareholder of an enhanced feeder association, but who is not a feedlot member;
- (h) **“feedlot member”** means a feedlot operator who is:
 - (i) a member or shareholder of an enhanced feeder association; and
 - (ii) approved by the provincial supervisor to grow or finish all cattle belonging to that enhanced feeder association;

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- (i) **“member”** means a feeder member or the feedlot member of an enhanced feeder association;
 - (j) **“other feeder association”** means a producer association to which *The Cattle Feeder Associations Loan Guarantee Regulations, 1989* apply;
 - (k) **“producer agreement”** means a producer agreement that:
 - (i) meets the requirements of section 10; and
 - (ii) is satisfactory to the provincial supervisor.
- (2) In subsection 46(1) of the Act and subsections 6(1) and (2) of these regulations, **“loan”** means all unpaid advances by a lender to an enhanced feeder association made pursuant to an agreement between the enhanced feeder association, the lender and Saskatchewan, and includes all unpaid interest on those advances.

23 May 2003 cF-8.001 Reg 22 s2.

Commodity prescribed

- 3(1)** Cattle are prescribed as a commodity for the purposes of clause 41(c) and subsection 59.1(6) of the Act.
- (2) The cattle that are the subject of these regulations are a separate commodity from the cattle that are the subject of *The Cattle Feeder Associations Loan Guarantee Regulations, 1989*.

23 May 2003 cF-8.001 Reg 22 s3.

Lending institutions prescribed

- 4** For the purposes of clause 41(f) of the Act, the following are prescribed lending institutions:
- (a) Farm Credit Canada;
 - (b) Peace Hills Trust Company.

23 May 2003 cF-8.001 Reg 22 s4.

Information required

- 5** An enhanced feeder association that applies for a guarantee pursuant to section 45 of the Act shall provide the provincial supervisor with:
- (a) with respect to the association’s feeder members:
 - (i) a list of the names and addresses of the feeder members;
 - (ii) the period for which each person named pursuant to subclause (i) has been a member of the enhanced feeder association or of any other feeder association; and
 - (iii) evidence, satisfactory to the minister, of age and Saskatchewan residency for each person named pursuant to subclause (i);

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- (b) a declaration of whether a guaranteed loan has been taken on behalf of a feeder member or the feedlot member of the enhanced feeder association;
- (c) the name and address of the lender that will be used by the enhanced feeder association for the purpose of obtaining loans on behalf of its members; and
- (d) with respect to the association's proposed feedlot member:
 - (i) the name and address of the proposed feedlot member; and
 - (ii) any additional information requested by the provincial supervisor respecting the proposed feedlot member that the provincial supervisor considers necessary to consider the application.

23 May 2003 cF-8.001 Reg 22 s5.

Amount of guarantee

6(1) Pursuant to subclause 61(d)(i) of the Act, for the purposes of subsection 46(1) of the Act, the prescribed maximum amount of a loan that may be guaranteed is an amount equal to 25% of the least of:

- (a) the amount outstanding on the loan at the time of the first default on any advance following the issuance of the guarantee with respect to the loan, plus accrued interest as of the time that payment is to be made on the guarantee;
- (b) the amount allowed by subsection (4); and
- (c) the amount provided for by clause 46(2)(b) of the Act.

(2) For the purposes of subsection (1), the time of first default with respect to a loan is a date determined by the provincial supervisor and the lender, when:

- (a) there are unresolved arrears;
- (b) part or all of the inventory is missing and no payment is made; or
- (c) inventory is sold and there is a shortfall in payment.

(3) An enhanced feeder association shall only use a guaranteed loan for the purchase of cattle to be grown or finished by the association's feedlot member using the feedlot member's livestock facilities.

(4) Subject to subsection (5), for the purposes of subsections 46(1) and (2) of the Act, no enhanced feeder association shall borrow in excess of:

- (a) \$50,000 with respect to any feeder member who:
- (b) \$100,000 with respect to any feeder member who:
 - (i) has belonged to an enhanced feeder association or other feeder association for at least one year; and
 - (ii) has grown or finished cattle during that year;
- (c) \$150,000 with respect to any feeder member who:
 - (i) has belonged to an enhanced feeder association or other feeder association for at least two years; and
 - (ii) has grown or finished cattle during each of those years;

- (d) \$200,000 with respect to any feeder member who:
 - (i) has belonged to an enhanced feeder association or other feeder association for at least three years; and
 - (ii) has grown or finished cattle during each of those years;
 - (e) with respect to the feedlot member, an amount equal to the total amount borrowed for all feeder members of the enhanced feeder association as calculated pursuant to clauses (a) to (d) and subsection (5);
 - (f) a total of \$6,000,000 with respect to all its members.
- (5) The maximum amount that an enhanced feeder association may borrow with respect to any feeder member is to be reduced by the amount that any other feeder association may borrow with respect to that feeder member, as determined by the provincial supervisor.

23 May 2003 cF-8.001 Reg 22 s6; 30 Dec 2005
SR 144/2005 s3.

Deposits to assurance fund

- 7(1) For the purposes of section 59 of the Act but subject to subsection (2) of this section, when an enhanced feeder association borrows money for the purchase of cattle on behalf of a feeder member, the feeder member shall deposit with the association's enhanced feeder assurance fund an amount equal to 5% of the money borrowed.
- (2) Subject to subsection (5), if, at the time the enhanced feeder association borrows money on behalf of a feeder member, any amount stands to the credit of the feeder member in the association's enhanced feeder assurance fund in excess of 5% of the advance outstanding for that feeder member, including interest, that amount may be applied to the 5% deposit required pursuant to subsection (1).
- (3) For the purposes of section 59 of the Act but subject to subsection (4) of this section, when an enhanced feeder association borrows money for the purchase of cattle on behalf of its feedlot member, the feedlot member shall deposit with the association's enhanced feeder assurance fund an amount equal to 10% of the money borrowed.
- (4) Subject to subsection (5), if, at the time the enhanced feeder association borrows money on behalf of its feedlot member, any amount stands to the credit of the feedlot member in the association's enhanced feeder assurance fund in excess of 10% of the advance outstanding for that feedlot member, including interest, that amount may be applied to the 10% deposit required pursuant to subsection (3).
- (5) Subject to subsection (6), before purchasing any cattle after a payment is made out of the association's enhanced feeder assurance fund for the purpose mentioned in clause 59(2)(b) of the Act, the enhanced feeder association shall require all its feeder members and its feedlot member to deposit sufficient funds with the association's enhanced feeder assurance fund to replenish the assurance fund to:
- (a) 5% of all outstanding advances for all cattle purchased on behalf of the feeder members; and
 - (b) 10% of all outstanding advances for all cattle purchased on behalf of the feedlot member.

(6) If a payment is made out of the association's enhanced feeder assurance fund for the purpose mentioned in clause 59(2)(b) of the Act as a result of inventory losses due to causes other than the death of cattle, the enhanced feeder association may require the feedlot member to deposit into the association's enhanced feeder assurance fund an amount equal to that payment made out of the association's enhanced feeder assurance fund.

23 May 2003 cF-8.001 Reg 22 s7.

Feeder members – eligibility

8(1) To be a feeder member of an enhanced feeder association, a producer must:

- (a) be an individual; and
- (b) enter into a producer agreement with the enhanced feeder association and its other members.

(2) Unless approved by the provincial supervisor, no feeder member shall be, in relation to the feedlot member of the enhanced feeder association:

- (a) a family member of that feedlot member;
- (b) an associated person; or
- (c) a family member of an associated person.

(3) No feeder member shall be a member of more than one enhanced feeder association at any one time.

23 May 2003 cF-8.001 Reg 22 s8.

Feedlot member – eligibility

9(1) To be a feedlot member of an enhanced feeder association, a producer must:

- (a) carry on a feedlot operation; and
- (b) enter into a producer agreement with the enhanced feeder association and its other members.

(2) In accordance with the producer agreement mentioned in clause (1)(b), the feedlot member must:

- (a) feed and care for all cattle owned by the enhanced feeder association; and
- (b) participate in all cattle purchases made by the enhanced feeder association.

(3) No feedlot member shall claim a lien pursuant to section 15.1 of *The Animal Products Act* with respect to any cattle of the enhanced feeder association, and every feedlot member must sign a waiver of any such claim in a form satisfactory to the provincial supervisor.

(4) No feedlot member shall be a member of more than one enhanced feeder association at any one time.

(5) The feedlot operated by the feedlot member must be physically, operationally and legally separate from any other feedlot where cattle of another enhanced feeder association are fed and cared for.

23 May 2003 cF-8.001 Reg 22 s9.

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Producer agreement

10(1) Before an enhanced feeder association purchases cattle, the association, all its feeder members and its feedlot member must enter into a producer agreement.

(2) Subject to subsection (3), a producer agreement entered into pursuant to subsection (1) must:

(a) provide that the feedlot member is liable to indemnify the enhanced feeder association for not less than 50% of the guaranteed loan obtained to purchase cattle;

(b) provide that each feeder member is liable to indemnify the enhanced feeder association for the amount borrowed on behalf of that feeder member;

(c) set out each feeder member's share and the feedlot member's share of expenses associated with the feeding, growing, finishing or otherwise caring for the enhanced feeder association's cattle, and the manner of payment of those expenses;

(d) provide that no proceeds from the sale of the enhanced feeder association's cattle are to be distributed to the association's members until the association has repaid, in full, all advances obtained by the association to purchase those cattle;

(e) provide that no proceeds from the sale of the enhanced feeder association's cattle are to be distributed to the association's members if there are loans outstanding from the lender to the enhanced feeder association that are due or overdue;

(f) provide that, after payment of the advances mentioned in clause (d) and the loans mentioned in clause (e), any proceeds from the sale of the enhanced feeder association's cattle that remain are to be distributed, subject to any agreement between the members made in accordance with clause (c), to the members in shares equal to the proportion of the association's loans used to purchase the cattle for which the member has provided an indemnification to the association; and

(g) provide that, when cattle are sold, the feedlot member shall only receive payment from feeder members for the feedlot member's expenses, as agreed to pursuant to clause (c), for cattle that are sold in the name of the enhanced feeder association.

(3) Notwithstanding clause (2)(a), a feedlot member is liable to indemnify the enhanced feeder association for not less than 35% of the guaranteed loan obtained to purchase cattle if:

(a) the amount of the indemnification is not less than the amount borrowed by the enhanced feeder association on behalf of the feedlot member pursuant to clause 6(4)(e); and

(b) the provincial supervisor waives clause (2)(a), in writing.

Operation of enhanced feeder association

11(1) Subject to subsection (2), every enhanced feeder association shall:

- (a) have at least 10 active feeder members;
- (b) have only one feedlot member;
- (c) place all cattle owned by it with its feedlot member for growing or finishing; and
- (d) enter into a producer agreement with its feeder members and feedlot member.

(2) Without the prior written approval of the provincial supervisor, no enhanced feeder association shall have fewer than 10 active feeder members.

(3) An enhanced feeder association is not responsible for payment of any expenses associated with feeding, growing, finishing or otherwise caring for the association's cattle.

(4) No enhanced feeder association shall obtain a guaranteed loan pursuant to *The Cattle Feeder Associations Loan Guarantee Regulations, 1989* or *The Cattle Breeder Associations Loan Guarantee Regulations, 1991*.

(5) Without the prior written approval of the provincial supervisor, no enhanced feeder association shall:

- (a) hire as an employee of the enhanced feeder association:
 - (i) its feedlot member;
 - (ii) any employee of the feedlot member;
 - (iii) any family member of the feedlot member;
 - (iv) any associated person; or
 - (v) any family member of an associated person; or
- (b) subject to subsection (6), appoint any person mentioned in clause (a):
 - (i) as a member of the association's board of directors; or
 - (ii) as any other officer of the association.

(6) One non-executive position on the enhanced feeder association's board of directors may be held by a person mentioned in clause (5)(a).

(7) All cheques issued by an enhanced feeder association must be signed by two persons, at least one of whom must be the association's president or secretary.

23 May 2003 cF-8.001 Reg 22 s11.

Purchase of cattle by enhanced feeder association

12(1) In this section:

(a) **"licensed dealer"** means a person who holds a valid licence issued pursuant to *The Animal Products Act* to carry on business or operate as a livestock dealer;

(b) **"market price"** means the market price for that kind of cattle in that part of Saskatchewan, as set by the minister in accordance with subsection (7).

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(2) For the purpose of subsection 50(1) of the Act, cattle are prescribed as a commodity that is required to be purchased through a licensed dealer.

(3) The provincial supervisor may authorize an enhanced feeder association to purchase cattle from a person who is not a licensed dealer.

(4) Unless approved by the provincial supervisor, none of the following persons shall act as a licensed dealer with respect to any purchase of cattle by the enhanced feeder association:

- (a) the association's feedlot member;
- (b) any employee of the association's feedlot member;
- (c) any family member of the association's feedlot member;
- (d) any associated person;
- (e) any family member of an associated person;
- (f) any corporation owned or controlled by any person mentioned in clauses (a) to (e).

(5) No enhanced feeder association shall purchase cattle from any person mentioned in subsection (4) without the consent of the provincial supervisor.

(6) An enhanced feeder association may purchase cattle from a feeder member if the association does not pay more than 100% of the market price for those cattle.

(7) In setting the market price pursuant to subsection (6), the minister shall consider information respecting market values as provided to the minister by the enhanced feeder association.

(8) Every enhanced feeder association shall:

- (a) develop and implement a written policy, that is satisfactory to the provincial supervisor, respecting the procedures to be followed for the purchase of cattle by the enhanced feeder association; and
- (b) ensure that all purchase documents for cattle name the enhanced feeder association as the owner of the cattle.

23 May 2003 cF-8.001 Reg 22 s12.

Cattle to be sold

13(1) In this section, "**subsequent advance**" means an advance to purchase cattle that is made to an enhanced feeder association while any part of any other advance made to that enhanced feeder association remains outstanding.

(2) Subject to subsection (3), if an enhanced feeder association purchases cattle, the association shall cause those cattle to be sold within 12 months after the day on which the association purchased the first cattle, if any part of any advance used to purchase those cattle or any subsequent advance remains outstanding.

(3) If an enhanced feeder association chooses not to sell all cattle in accordance with subsection (2), the association must provide evidence that is satisfactory to the provincial supervisor respecting the association's inventory of cattle.

23 May 2003 cF-8.001 Reg 22 s13.

Sale of cattle by enhanced feeder association

14(1) Before any cattle purchased by an enhanced feeder association are sold, the association's feedlot member must:

- (a) notify the association's president or secretary of the intended sale; and
 - (b) in the manner established by the enhanced feeder association, obtain authorization from the association's president or secretary to sell those cattle.
- (2) When cattle purchased by an enhanced feeder association are sold, the enhanced feeder association shall ensure that:
- (a) all sales documents for the cattle identify the enhanced feeder association as the owner of the cattle;
 - (b) the purchaser pays for the cattle by way of cheque or other process of payment that is made payable to the enhanced feeder association;
 - (c) the proceeds from the sale are applied to any advance obtained by the association to purchase the cattle before any expense of the feedlot member is paid and any payment to members is made; and
 - (d) no payment is made to the feedlot member or any feeder member if there are loans outstanding from the lender to the enhanced feeder association that are due or overdue;
- (3) An enhanced feeder association may deduct from any payment to be made to a feeder member or feedlot member pursuant to clause (2)(c):
- (a) any costs, fees or expenses incurred by the enhanced feeder association with respect to that member; and
 - (b) any expenses incurred in the general operation of the enhanced feeder association but not specifically attributable to any member, those deductions to be equal to the member's prorated share of the operating expenses as determined by the association's board of directors.
- (4) No enhanced feeder association shall sell cattle to its feedlot member or to any other person named in subsection 12(4).

23 May 2003 cF-8.001 Reg 22 s14.

Repayment of advances

15(1) If an enhanced feeder association purchases heifers or steers, the association shall repay the advance for the purchase of those heifers or steers on the earlier of:

- (a) within 12 months after the day on which the advance for the heifers or steers was made; and
 - (b) when the heifers or steers are sold.
- (2) If the provincial supervisor is satisfied that compliance with subsection (1) would result in reduced returns to an enhanced feeder association due to insufficient growth, finishing or current market conditions, the provincial supervisor may extend the period mentioned in clause (1)(a) by not more than six months.

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(3) If an enhanced feeder association purchases feeder cows, the association shall repay the advance for the purchase of those cows on the earlier of:

- (a) within 180 days after the day on which the advance for those cows was made; and
- (b) when the cows are sold.

(4) No extension period shall be granted for the repayment of advances made for the purchase of feeder cows.

23 May 2003 cF-8.001 Reg 22 s15; 30 Dec 2005 SR 144/
2005 s4.

Marking of cattle

16(1) All cattle purchased by an enhanced feeder association, and any offspring of those cattle owned by that enhanced feeder association, are to be marked in a permanently legible manner with a registered mark, as defined in *The Animal Identification Act*, that is composed of:

- (a) for feeder heifers and steers, the mark shown in Part I of the Appendix;
- (b) for feeder cows, the mark shown in Part II of the Appendix; and
- (c) directly above the mark made in accordance with clause (a) or (b), any other mark that distinguishes that enhanced feeder association from other enhanced feeder associations and other feeder associations.

(2) Within 72 hours after cattle enter the feedlot member's livestock facilities, the local supervisor shall inspect the cattle to ensure that the cattle have been marked in accordance with subsection (1).

23 May 2003 cF-8.001 Reg 22 s16.

Reports by enhanced feeder associations

17 For the purpose of section 56 of the Act, every enhanced feeder association shall include in the report required pursuant to that section a record of:

- (a) the cattle currently owned by the association;
- (b) the transactions, including sale and purchase, of the cattle owned by the association;
- (c) the payment of expenses associated with the feeding, growing, finishing or otherwise caring for the enhanced feeder association's cattle;
- (d) the amount on deposit in the association's enhanced feeder assurance fund and credited to:
 - (i) the association's feedlot member; and
 - (ii) each of the association's feeder members; and
- (e) any other information that the provincial supervisor may reasonably require.

23 May 2003 cF-8.001 Reg 22 s17.

Reports by lenders

18 For the purposes of section 56 of the Act, every lender shall include in the report required pursuant to that section a record of:

- (a) all advances made to enhanced feeder associations;
- (b) the names of the enhanced feeder associations to which the advances were made and the dates of those advances;
- (c) the loan balance outstanding with respect to each enhanced feeder association that has received an advance;
- (d) the accrued interest on those advances;
- (e) with respect to each member for which an enhanced feeder association has received an advance from that lender, the amount of the loans authorized to be guaranteed pursuant to these regulations with respect to that member; and
- (f) the total amount of assurance funds on deposit for each enhanced feeder association.

23 May 2003 cF-8.001 Reg 22 s18.

Resignation of feeder member

19(1) A feeder member may resign from an enhanced feeder association by delivering a written notice of resignation to the association's secretary, and the resignation takes effect on the later of:

- (a) the date on which the notice is received by the secretary; and
 - (b) any future date specified in the notice.
- (2) After the effective date of the resignation:
- (a) the feeder member shall not participate in any purchase of cattle made by the enhanced feeder association; and
 - (b) in accordance with the producer agreement, the feeder member remains liable for the feeder member's prorated share of all cattle purchases made by the enhanced feeder association while the feeder member was a member of the association.

23 May 2003 cF-8.001 Reg 22 s19.

Resignation of feedlot member

20(1) A feedlot member may resign from an enhanced feeder association by delivering written notice of resignation to the association's secretary, and the resignation takes effect on the latest of:

- (a) the date on which the notice is received by the secretary;
- (b) any future date specified in the notice; and
- (c) the date on which all cattle owned by the enhanced feeder association are sold.

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(2) On the resignation of its feedlot member, the enhanced feeder association must immediately notify the provincial supervisor and the lender of the resignation, in writing.

(3) If a feedlot member resigns, no guarantee applies to cattle purchased by the enhanced feeder association after the date mentioned in clause (1)(a).

(4) In accordance with the producer agreement, a resigning feedlot member remains liable for the feedlot member's share of all cattle purchases made by the enhanced feeder association while the feedlot member was a member of the association.

23 May 2003 cF-8.001 Reg 22 s20.

Refund of deposits

21(1) In this section, "**prorated share**" means an amount based on the amount of a member's deposit in the association's enhanced feeder assurance fund:

- (a) as a proportion of the total deposits to the assurance fund; and
- (b) calculated at the time the claim against the assurance fund is made.

(2) For the purposes of subsection 59(4) of the Act but subject to subsections (3), (4) and (5) of this section, if a member resigns from an enhanced feeder association and the association is not in default with respect to any advance, the association shall refund to the member, within the period prescribed in subsection (6), the deposits made by the member pursuant to subsection 7(1) or (3) less any amount deducted pursuant to subsection (7).

(3) No enhanced feeder association that has a due or overdue account with a lender shall refund to any member the deposits made by that member pursuant to subsection 7(1) or (3).

(4) Subject to subsection (3), if a member resigns from an enhanced feeder association that has paid a due or overdue account to a lender out of the association's enhanced feeder assurance fund, the enhanced feeder association shall refund to the member, within the period prescribed in subsection (6), an amount equal to that member's prorated share at the time of resignation, less any amount deducted pursuant to subsection (7).

(5) No enhanced feeder association shall refund to any member any portion of the deposit made by that member pursuant to subsections 7(1) and (3) if doing so would cause the association's enhanced feeder assurance fund to fall below the level required by those subsections.

(6) When an enhanced feeder association makes a refund pursuant to subsection (2) or (4), the association shall make the refund not less than 90 days after nor more than 105 days after the later of:

- (a) the day on which all cattle purchased on behalf of that member have been sold; and
- (b) the date on which the member resigns.

(7) When an enhanced feeder association makes a refund pursuant to this section, the association may deduct from the refund:

- (a) any costs, fees or expenses incurred by the enhanced feeder association with respect to that member; and
- (b) any expenses incurred in the general operation of the enhanced feeder association but not specifically attributable to any member, those deductions to be equal to the member's prorated share of the operating expenses.

(8) Subject to subsection (9) but notwithstanding any other provision of this section, when an enhanced feeder association makes a payment to a lender from the association's enhanced feeder assurance fund and the need for the payment arose as a result of inventory losses due to causes other than the death of cattle, the prorated share of the feedlot member is to be reduced by the amount of the payment to the lender.

(9) For the purposes of subsection (8), the prorated share of the feedlot member cannot be reduced to less than zero.

(10) The prorated share of the remaining members is to be calculated after the prorated share of the feedlot member has been calculated.

23 May 2003 cF-8.001 Reg 22 s21.

Coming into force

22 These regulations come into force on the day on which they are filed with the Registrar of Regulations.

23 May 2003 cF-8.001 Reg 22 s22.

Appendix

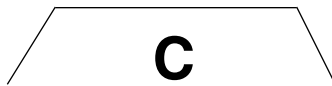
PART I *[Clause 16(1)(a)]*

Mark on Heifers and Steers



PART II *[Clause 16(1)(b)]*

Mark on Feeder Cows



23 May 2003 cF-8.001 Reg 22.

