

## **CHAPTER 4-26 SEED POTATO ACT**

### **4-26-01. Title.**

This chapter is known as the Seed Potato Control Act of North Dakota.

### **4-26-02. Definitions.**

As used in this chapter, unless the context and subject matter otherwise clearly requires:

1. "Committee" means the seed control committee of a seed potato control area provided for under this chapter.
2. "Owner" means any person who is:
  - a. Registered as the owner of land in the books of the recorder's office;
  - b. A purchaser of land under an agreement for purchase registered in the books of the recorder, and who is by the terms of the agreement liable to pay the taxes on the land; or
  - c. A homesteader, purchaser, or lessee of land.
3. "Seed" means Irish potato-tuber for reproduction purposes.
4. "Seed potato control area" means any seed potato control area established in this chapter.

### **4-26-03. Seed potato control area - Formation.**

Any five owners of land within an area that propose to have constituted a seed potato control area under this chapter may by public notice call a meeting of the owners of lands within that area at a time and place named in the notice. The notice must contain a description of the area proposed to be constituted a seed potato control area. The notice must be published in the official newspaper or newspapers of the county or counties in which the proposed seed potato control area is located not less than once each week for two successive weeks prior to the date set for such meeting. Every owner of land within the area may attend and take part in the discussion at the meeting. A majority of the owners present at the meeting may decide to circulate a petition for the formation of a seed potato control area under this chapter.

### **4-26-04. Petition for formation of an area.**

The petition provided for in section 4-26-03 must be addressed to the seed commissioner, in a form prescribed by the seed commissioner, and must:

1. Contain a description of the proposed seed potato control area.
2. State the quality of seed which may be planted in that area.
3. Show proof that the members of the proposed seed potato control area intend to comply with any rules or regulations prescribed by the seed commissioner.
4. State the names of at least five persons whom the petitioners desire to be appointed as members of the seed potato control committee of the seed potato control area, and who express in writing their willingness to act.

### **4-26-05. Power of seed commissioner in formation of area.**

On the presentation of the petition, accompanied by proof of compliance with section 4-26-03, and showing that the petition is signed by not less than eighty percent of the number of the owners of lands in the proposed seed control area, the seed commissioner may by order establish the lands described in the petition as a seed potato control area under such name as may be considered advisable. In establishing the seed control area the seed commissioner may restrict the boundaries of the seed potato control area to a smaller area than set out in the petition. The seed commissioner may, by the order establishing the seed potato control area or by a subsequent order from time to time, prescribe the quality of seeds that may be planted within the seed potato control area which quality may differ from those stated in the petition.

#### **4-26-06. Formation of a committee.**

A seed potato control area committee consists of three persons who are members of the control area and must be appointed by the seed commissioner from the list of five names submitted to the seed commissioner under the provisions of section 4-26-04. The term of office of the members of the committee and the constitution of a quorum must be governed by bylaws approved by not less than eighty percent of the owners or lessees of land in the seed control area.

#### **4-26-07. Powers and duties of the committee.**

The committee has the following powers and duties:

1. The employment, direction, and supervision of such employees as may be considered necessary to enable the committee effectively to carry out its work.
2. The keeping of accurate records of the work done and of the cost and expenses incurred by the committee.
3. The submission from time to time of such reports as the seed commissioner may require.
4. The manner of charging and collecting of a sum not exceeding two and one-half cents per hundredweight [45.36 kilograms] for potatoes produced in the seed potato control area.
5. The appointment from among their members of a chairman and a secretary-treasurer.
6. The enforcement of this chapter and any rules and regulations promulgated under the provisions of this chapter.
7. The committee may not undertake any expenditure or incur any liability in excess of the moneys received under the provisions of this chapter.

#### **4-26-08. Regulations.**

The seed commissioner may adopt such regulations pursuant to the provisions of chapter 28-32 as the seed commissioner considers necessary or advisable to implement the provisions of this chapter. The power of the seed commissioner to make regulations under this section extends to:

1. Defining, redefining, reducing, or extending the limits of a seed potato control area.
2. Prescribing additional powers and duties of committees under this chapter.
3. Prescribing of minimum requirements which must be met in the seed selection, seed treatment, field isolation, and cultural practices and in disease removal and insect control.
4. Prescribing the methods of seed potato control work to be followed by the committee in respect to any seed potato control area.
5. Prescribing and authorizing of the quality of seed to be grown within a seed potato control area.
6. Canceling of any or all seed potato control areas.
7. Providing for the inspection, testing, and approval of the seed to be planted and grown in the area.
8. Prescribing any other regulations as may be expedient or necessary to carry out the purposes and provisions of this chapter.

#### **4-26-08.1. Administrative procedure and judicial review.**

Any proceeding under this chapter for issuing or modifying rules and regulations and determining compliance with rules and regulations of the commissioner must be conducted in accordance with chapter 28-32 and appeals may be taken as provided in chapter 28-32.

#### **4-26-09. Restrictions pertaining to quality of seed planted or grown.**

A person may not plant or permit to be planted on any lands of which that person is the owner or lessee within a seed potato control area, or within any part thereof, any seed of a quality other than that prescribed or authorized under this chapter, and only uniform North Dakota certified seed potato tags be used.

**4-26-10. Sale of potatoes produced in area.**

No owner or lessee in a seed potato control area may ship potatoes out of the area without first obtaining a permit from the committee and paying the fee as fixed by the provisions of this chapter.

**4-26-11. Dissolution of control area and of committee.**

Upon cause shown, and upon such conditions and subject to such provisions as may be considered proper, the seed commissioner may by order revoke and cancel any seed potato control area and declare the committee thereof to be dissolved.

**4-26-12. Penalty.**

Any person violating any of the provisions of this chapter is guilty of a class B misdemeanor.