

1967 Bill 91

Fifth Session, 15th Legislature, 15 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 91

**An Act to amend The Marketing of Agricultural
Products Act**

THE MINISTER OF AGRICULTURE

First Reading

Second Reading

Third Reading

Printed by L. S. Wall, Queen's Printer, Edmonton

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An Act to amend The Marketing of Agricultural
Products Act

(Assented to _____, 1967)

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

1. *The Marketing of Agricultural Products Act* is hereby
amended.

2. Section 2 is amended

- (a) as to clause (f1) by striking out the words “control
and regulation” and by substituting the words
“control, regulation and promotion”,
- (b) by striking out clause (g) and by substituting the
following:
 - (g) “producer board” means a producer marketing
board constituted pursuant to this Act by the
Lieutenant Governor in Council to administer
a plan established under this Act in respect of
any particular agricultural product or products,
- (c) by striking out clause (h) and by substituting the
following:
 - (h) “regulated product” means any agricultural
product the marketing of which is regulated,
controlled or promoted by or pursuant to this
Act;

3. The heading “Appointment of Officers” after section
2 is struck out.

4. The heading “Marketing Plans and Boards” after sec-
tion 3 is struck out and the following heading is substituted:

The Alberta Agricultural Products Marketing Council

5. Section 4b is amended by striking out the words “con-
trol and regulation” and by substituting the words “control,
regulation and promotion”.

6. Section 4c, subsection (1), clause (e) is amended by
adding the word “and” at the end thereof.

Explanatory Notes

1. This Bill amends chapter 192 of the Revised Statutes. Essentially these amendments:

- (a) increase the authority of marketing commissions to deal with agricultural products,
- (b) allow appeals in respect of decisions, orders, regulations or directions made by producer boards, marketing commissions, and the Council,
- (c) make provision for inspection of producers, documents, and
- (d) made provision for paying commission and board members.

2. Section 2, clauses (f1), (g) and (h) presently read:

- (f1) "plan means a plan established under this Act for the control and regulation within the Province of the marketing of an agricultural product;
- (g) "producer board" means any commodity producer marketing board constituted pursuant to this Act by the Lieutenant Governor in Council to administer any plan drawn up under this Act in respect of any designated agricultural product;
- (h) "regulated product" means any agricultural product the regulation and marketing of which is provided for in any plan approved or established under this Act;

These amendments clarify the clauses in question and bring them into line with other amendments proposed herein.

3. This heading is superfluous.

4. Self-explanatory.

5. Self-explanatory.

6. Self-explanatory.

7. The following heading is added after section 4c:

Producer Boards

8. Section 7, subsection (1) is amended

- (a) as to clause 3 by striking out the word “and” after the word “responsibility” and by substituting the word “or”,
- (b) by striking out clause 8 and by substituting the following:

8. requiring any person who produces, processes or markets a regulated product to furnish to the Council or to a producer board from time to time such information as the Council may determine,

- (c) as to clause 19 by adding after the words “in connection with any plan,” the word “of”.

9. Section 7a, subsection (1) is amended

- (a) as to clause (b) by striking out the word “and” at the end thereof,
- (b) as to clause (c) by adding the word “and” at the end thereof,
- (c) by adding the following clause after clause (c):
 - (d) vesting in any producer board the power to require producers to mark the containers of their products in a manner which shows the place of origin or place of production to the satisfaction of the producer board.

10. Section 10, subsection (1) is amended by striking out the words “fifty-one per cent of the persons engaged in the production of the regulated product” and by substituting the words “a majority of the producers eligible to vote”.

11. Section 14a is amended by striking out subsections (1) and (2) and by substituting the following:

14a. (1) Subject to this Act, the Lieutenant Governor in Council may, with respect to any agricultural product, make orders

- (a) establishing, amending and revoking plans, the objects of which are to initiate and carry out programs for stimulating, increasing and improving the marketing of that agricultural product, and
- (b) establishing marketing commissions to administer any plan existing pursuant to clause (a).

(2) A plan established pursuant to this section may relate to the entire Province or to any part or parts thereof, and to any variety, size, grade, kind or combination thereof of the agricultural product dealt with thereby.

7. Addition of heading.

8. Section 7 (1), clauses 3, 8 and 19 presently read:

7. (1) The Council may make regulations generally or with respect to any regulated product.
.....
3. providing for the refusal to grant a licence where the applicant is not qualified by experience, financial responsibility and equipment to engage properly in the business for which the application was made, or for any other lawful reason that the Council considers proper,
.....
8. requiring any person who produces and processes a regulated product to furnish to the Council statements of the amounts of the regulated product that he produced in any year and used for processing,
.....
19. providing for the establishment in connection with any plan, negotiating agencies that may be empowered to adopt or settle by agreement any or all of the following matters, namely,
(i) minimum prices for the regulated product or for any class, variety, grade or size of the regulated product,
(ii) terms, conditions and forms of agreements relating to the producing or marketing of the regulated product, and
(iii) any charges, costs or expenses relating to the production or marketing of the regulated product

9. This additional power gives producer boards the same authority as marketing commissions have under section 14a (5).

10. Section 10(1) presently reads:

10. (1) Upon receipt of a petition under section 8, or upon an order of the Lieutenant Governor in Council under section 9, the Council shall cause a plebiscite to be held in the area to which the plan relates and if fifty-one per cent of the persons engaged in the production of the regulated product within that area vote to amend or terminate the plan the Council may, by order, amend or terminate the plan on a date which may be fixed by the order.

11. Section 14a (1) and (2) presently read:

14a. (1) The Lieutenant Governor in Council may, with respect to any agricultural product that is not a regulated product, establish a marketing commission having as its objects the initiation and carrying out of a program for stimulating, increasing and improving the marketing of the agricultural product by establishing quality standards, advertising, education, research or other means.

(2) The Lieutenant Governor in Council may, with respect to any agricultural product, establish a marketing commission which may determine, on behalf of producers, the time and place at which and an agency through which the agricultural product, or any class or grade thereof, may be marketed by the producer on a voluntary basis.

These amendments clarify the provisions and make provision for "plans" to be used in respect of marketing commissions. There is already authority for them to be used in respect of producer boards.

(2a) A marketing commission, in furtherance of the objects set out in clause (a) of subsection (1), may initiate and carry out any programs and projects relating thereto, and without restricting the generality of the foregoing,

- (a) may establish quality standards and carry out advertising, educational and research programs, and
- (b) may determine, on behalf of the producers of the agricultural product, the time and place at which and an agency through which the agricultural product, or any class or grade thereof, may be marketed by the producers on a voluntary basis.

12. Section 14d is struck out and the following sections are substituted:

14d. (1) The Council may, with respect to any agricultural product in relation to which a plan exists pursuant to section 14a, make regulations

1. providing for the licensing of any or all persons before commencing or continuing to engage in the marketing or processing of the product,
2. prohibiting persons from engaging in the marketing or processing of the product except under the authority of a licence,
3. providing for the refusal to grant a licence where the applicant is not qualified by experience, financial responsibility or equipment to engage properly in the business for which the application was made, or for any other lawful reason that the Council considers proper,
4. providing for the suspension or revocation of, or the refusal to renew, a licence for failure to observe, perform or carry out the provisions of this Act, the regulations, any plan or any lawful order or direction of the Council or a marketing commission,
5. providing for the right of any person whose licence was refused, suspended or revoked or was not renewed to show cause why such licence should not be refused, suspended or revoked or why such renewal should not be refused, as the case may be,
6. providing for the fixing of licence fees payable yearly, half-yearly, quarterly or monthly at different amounts or in instalments from any or all persons marketing the product and the collecting of the licence fees and the recovering of such licence fees by suit in a court,
7. providing for statements to be given by any marketing commission, to the producers of the product, showing the class, variety, grade or size and the number or quantity of the product marketed, the

12. The proposed new section 14d gives the Council specific regulation-making powers in relation to agricultural products regulated by marketing commissions. The powers may be delegated. The proposed section 14e gives the Council power to control authority which it vests in marketing commissions. The proposed section 14f is the present 14d re-enacted.

price or prices paid and the particulars of the service charges imposed by it,

8. requiring any person who processes or markets the product to furnish to the Council or to a marketing commission from time to time such information as the Council may determine,
9. requiring persons engaged in the production or marketing of the product to register their names and addresses with the marketing commission, and persons so registered may be deemed to be licensed if so provided in the plan,
10. providing for the exemption from any or all of the regulations, orders or directions under any plan of any class, variety, grade or size of the product, or any person or class of persons engaged in the producing or marketing of the product or any class, variety, grade or size of the product,
11. requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of the product and providing for the administration and disposition of any moneys or securities so furnished,
12. notwithstanding any other Act, providing that no marketing commission shall make grants or other like payments of money to any person or association or body of persons without the approval of the Council,
13. authorizing any marketing commission to conduct a pool or pools for the distribution of all moneys received from the sale of the regulated product and requiring such marketing commission, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the moneys received from the sale in such manner that every producer receives a share of the remainder of the moneys received from the sale in relation to the amount, class, variety, grade and size of the product delivered by him, and authorizing such marketing commission to make an initial payment on delivery of the product and subsequent payments until all of the remainder of the moneys received from the sale is distributed to the producers,
14. authorizing a marketing commission to use any class of licence fees and other moneys payable to it, for the purposes of paying the expenses of the marketing commission, carrying out and enforcing this Act and the regulations and carrying out the purposes of the plan under which the marketing commission is established,
15. authorizing a marketing commission to establish a fund in connection with any plan for the payment

of any moneys that may be required for the purposes mentioned in clause 14, and

16. authorizing any marketing commission to require the price or prices payable or owing to the producers for the product to be paid to or through the marketing commission and to recover such price or prices by suit in a court.

(2) Any regulation made under this section may be limited as to time and place.

(3) The Council may delegate to a marketing commission such of its powers under subsection (1) as the Council deems necessary, and may at any time terminate such delegation.

14e. Where the Council delegates to a marketing commission any of its powers or vests in a marketing commission powers to promote, regulate and control the marketing of a regulated product, the Council may, at any time

- (a) limit the powers of the marketing commission in any or all respects, and
- (b) revoke any regulation, order or direction of the marketing commission made or purporting to be made under such powers.

14f. (1) Before establishing or disestablishing a marketing commission the Lieutenant Governor in Council may require a vote to be held of such class or classes of persons engaged in the production and marketing of the agricultural product as he considers advisable and section 6 or 10, as the case may be, applies *mutatis mutandis* to the vote.

(2) The Lieutenant Governor in Council may make such rules and regulations as may be necessary to settle the assets and affairs of and wind up any marketing commission being disestablished.

13. The following section is added after section 16:

16a. (1) Where any person considers himself aggrieved by any order, direction, regulation or decision of a producer board or marketing commission, he may appeal to the producer board or marketing commission, as the case may be, by serving upon the producer board or marketing commission a written notice of appeal, within 30 days of the date he receives notice of the decision, order, direction or regulation in question.

- (2) Where any person considers himself aggrieved by
 - (a) any decision of a producer board or marketing commission on an appeal under subsection (1), or
 - (b) any order, direction or regulation made by the Council

he may appeal to the Council by serving upon the Council written notice of the appeal, within 30 days of the date he

13. This addition makes provision for appeals from decisions of producer boards, marketing commissions, and the Council. New.

receives notice of the decision, order, direction or regulation in question.

(3) Every notice under subsection (1) or (2) shall contain a statement of the matter being appealed and the name and address of the person making the appeal.

(4) Upon receipt of a notice under clause (a) of subsection (2), the Council shall forthwith notify the producer board or marketing commission, and the producer board or marketing commission shall thereupon forthwith provide the Council with all relevant by-laws, orders, directions, regulations, documents and other material, of any kind whatsoever, in its possession.

(5) In any appeal under subsection (1) or (2), the Council, producer board or marketing commission, as the case may be, shall within seven days after the notice referred to in subsection (1) or (2) is received, serve notice upon the person making the appeal of the date, time and place at which the appeal will be heard.

(6) The Council, the producer board or marketing commission, as the case may be, shall hear and decide any appeal under subsection (1) or (2) within 30 days after the notice of appeal is received, but the Council, the producer board or marketing commission may at the request of any party to the appeal adjourn the hearing from time to time for such period or periods of time as the Council, the producer board or marketing commission considers just.

(7) At any hearing under this section, the person making the appeal has the right to attend and make representations and to adduce evidence respecting the appeal either by himself or through counsel.

(8) At any hearing of an appeal under clause (a) of subsection (2), the producer board or marketing commission has the right to attend and make representations and to adduce evidence respecting the appeal, either by its officers, or any of them, or through counsel.

(9) On the hearing of any appeal brought under subsection (2) the Council, may, in its discretion, hear evidence under oath.

(10) Upon an appeal to the Council under clause (a) of subsection (2), the Council may by order direct the producer board or marketing commission to take such action as the producer board or marketing commission is authorized to take under this Act and as the Council considers proper, and for this purpose the Council may substitute its opinion for that of the producer board or marketing commission.

(11) The Council or the producer board or marketing commission, as the case may be, shall within 10 days after the hearing is completed, serve notice upon the person making the appeal of its decision.

(12) A proceeding that is in substantial compliance with this section is not open to objection on the ground that it is not in strict compliance therewith.

(13) Where a notice is required to be served under this section, it may be served

- (a) by personal service, or
- (b) where the party to be served is the Council, a producer board or a marketing commission, by mailing the notice to the address of the Council, producer board or marketing commission, as the case may be, at its usual business address, or
- (c) where the party to be served is the appellant, by mailing the notice to the address shown in his notice of appeal.

(14) The decision of the Council on any appeal heard under this section is final.

14. The following sections are added after section 17:

17a. (1) The Council, a producer board or marketing commission may, subject to this section and for the purpose of performing any duty imposed or exercising any power conferred by this Act, enter the business premises of any person during ordinary business hours and inspect the premises and any documents relating to

- (a) persons engaged in the production, processing or marketing of a regulated product, and
- (b) the production, processing or marketing of a regulated product,

and without in any way restricting the generality of the foregoing, may inspect and take extracts from or make copies of any books, vouchers, receipts, records, papers and other articles which the Council, producer board or marketing commission, as the case may be, considers desirable or necessary.

(2) The Council, a producer board or marketing commission may act under subsection (1) through any member of the Council, producer board, or marketing commission or through any other person appointed by the Council, producer board, or marketing commission, as the case may be.

(3) Where any person acts under subsection (1) on behalf of the Council, a producer board or marketing commission, the Council, producer board or marketing commission designating or appointing him shall furnish him with a certificate of his designation or appointment, signed by the chairman of the designating or appointing entity, and the person shall, upon request, show the certificate to any person having a proprietary interest in or the custody of any premises or documents to be entered and inspected.

(4) A copy of a certificate purporting to be issued under subsection (3) is admissible in any court in the Province as

14. Provision made for inspection of documents. Offence and penalty for non-compliance with section.

prima facie proof of the signature of the chairman of the issuing entity and of the contents therein contained.

(5) No person shall obstruct or hinder the Council, a producer board or marketing commission, or anyone designated by the Council, producer board, or marketing commission, as the case may be, in the exercise of any power conferred by this section, and every person shall when required to do so by the Council, a producer board or marketing commission, or anyone designated or appointed to act for such entity, produce such documents as are required for inspection.

(6) Notwithstanding anything in subsection (1), no person is required to produce for inspection, documents relating to a regulated product where such documents relate to the regulated product at a period of time subsequent to the point at which the aggregate net value of money payable to the grower or producer in respect of the product has been determined.

17b. Any person who

- (a) refuses or neglects to do anything required, or
- (b) does anything prohibited

by subsection (5) of section 17a, is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 or to a term of imprisonment not exceeding three months or to both such fine and imprisonment.

15. The following section is added after section 18:

18a. (1) The Council may authorize the payment of remuneration to members of producer boards and marketing commissions out of the incomes of such boards and commissions and may determine the amount of remuneration.

16. This Act comes into force on the day upon which it is assented to.

15. Provision made for paying board and commission members.