

1972 BILL 72

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First Session, 17th Legislature, 21 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 72**

**The Milk Control Amendment Act, 1972**

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MR. BATIUK

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First Reading . . . . .

Second Reading . . . . .

Third Reading . . . . .

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# BILL 72

1972

## THE MILK CONTROL AMENDMENT ACT, 1972

(Assented to \_\_\_\_\_, 1972)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. *The Milk Control Act is hereby amended.*
2. *The title is struck out and the words "THE DAIRY BOARD ACT" are substituted therefor.*
3. *Section 1 is amended by striking out the words "The Milk Control Act" and by substituting therefor the words "The Dairy Board Act".*
4. *Section 2 is amended*
  - (a) *by adding after clause (a) the following clause:*
    - (a1) "Dairy Board" means the Alberta Dairy Control Board constituted pursuant to this Act;
  - (b) *by striking out clause (d).*
5. *Section 3 is amended*
  - (a) *as to subsection (1) by striking out the words "the name "Alberta Milk Control Board" consisting of not more than three members" and by substituting the words "the name "Alberta Dairy Control Board" consisting of not more than five members",*
  - (b) *as to subsection (2) by striking out clause (a) and by substituting the following clause:*
    - (a) shall appoint the members of the Dairy Board,
6. *The words "Milk Board" are struck out wherever they occur in the following sections and in each case the words "Dairy Board" are substituted:*
  - section 3, subsection (2), clauses (b) and (c) and subsection (3),

## **Explanatory Notes**

**1.** This Bill will amend chapter 234 of the Revised Statutes of Alberta 1970.

**2.** Change of title.

**3.** Section 1 presently reads:

1. This Act may be cited as The Milk Control Act.

Change of citation.

**4.** Change of name of Board.

Section 2, clause (d) presently reads:

2. In this Act,
  - (d) "Milk Board" means the Alberta Milk Control Board constituted pursuant to this Act.

**5.** Section 3, subsection (1) and subsection (2), clause (a) presently read:

**3.** (1) There is hereby constituted a corporation with the name "Alberta Milk Control Board" consisting of not more than three members,

(2) The Lieutenant Governor in Council

- (a) shall appoint the members of the Milk Board, one of whom shall be nominated by the producers,

**6.** Consequential changes.

section 4, section 5, subsection (1), section 6, and section 7, subsections (1) and (2),  
 sections 8 and 9 and section 11, subsection (1) and subsection (2), clauses (d), (e), (f), (g) and (o),  
 section 12, subsection (3), clause (a),  
 sections 13, 14, 15 and 16,  
 section 17, subsection (1), clause (b) and subsections (2), (3), (4) and (5),  
 section 20 and section 23, subsection (1) and subsection (2), clauses (a) and (b),  
 section 24, subsections (1) and (3) and sections 25 and 27,  
 section 29, subsection (1) and subsection (2), clauses (c), (g), (h) and (i) and section 30, subsection (2),  
 section 31, subsection (3), clauses (a), (b), (c) and (d),  
 section 35, subsection (2), clauses (a), (b) and (e).

*7. Section 23 is amended*

- (a) as to subsection (1)*
  - (i) by striking out the words "with respect to controlled areas," and*
  - (ii) by striking out the words "in those areas," wherever they occur,*
- (b) as to subsection (2)*
  - (i) by striking out the words "in controlled areas" in clause (a), and*
  - (ii) by striking out the words "in any controlled area" in clause (b).*

*8. Section 25 is amended by striking out the words "in any controlled areas".*

*9. Section 29 is amended*

- (a) as to subsection (2)*
  - (i) in clause (e) by striking out the words "transfer cancellation" and substituting the words "transfer, cancellation",*
  - (ii) by adding the following clause after clause (l):*
    - (m) provide for any matter in connection with or incidental to the carrying out by the Dairy Board of any of its powers, duties or obligations conferred or imposed upon it pursuant to section 31 in respect to the comprehensive milk marketing plan.*

**7. References to controlled areas deleted. Section 23 presently reads:**

23. (1) The costs incurred or to be incurred in the enforcement of the regulations and the administration of them with respect to controlled areas, shall be borne and paid as to 25 per cent thereof by the Crown and as to 75 per cent thereof by persons who are licensed by the Milk Board as milk producers in those areas and by persons licensed as milk distributors who market, distribute, process, keep for sale or sell milk in those areas.

(2) For the purpose of defraying

(a) the portion of the costs required to be paid pursuant to this section by persons engaged in the production, marketing, distribution, processing, keeping for sale or selling milk in controlled areas and who are so licensed by the Milk Board,

(b) the cost of such other activities as the Milk Board considers necessary or expedient for the proper conduct of the milk trade in any controlled area, and

(c) without in any way limiting the generality of the foregoing, sums sufficient to cover the cost of general advertising for the milk trade, cost surveys and special investigations,

the Milk Board may, from time to time as occasion requires, raise sums sufficient therefor by means of assessment and levy upon the persons mentioned in clause (a) in such manner and in such amounts as may be fixed by the Milk Board.

**8. Section 25 presently reads:**

25. Any moneys raised by the Milk Board by assessment and levy under this Act and not required for the purpose of enforcement or administration as determined by the Milk Board shall on the 31st day of March in each year be transferred by the Provincial Treasurer to a reserve trust account, and those moneys, together with accumulated reserves from year to year, may be used for any purpose that the Milk Board considers necessary or expedient in any matter relating to the proper conduct of the milk trade in any controlled areas.

**9. Section 29, subsection (2) presently reads in part:**

(2) Without restricting the generality of subsection (1), the regulations (in this subsection called "the plan") may

The new subsection (3) will permit a plan to be amended without a vote being held.

(b) *by adding the following subsection after subsection (2):*

(3) The Dairy Board may, with the approval of the Lieutenant Governor in Council, amend, replace, add to or revoke regulations under this section without the necessity of a vote under section 32.

*10. Section 30 is amended by striking out subsection (1) and by substituting the following subsection:*

**30.** (1) The Dairy Board may, with the approval of the Lieutenant Governor in Council, accept and exercise any authority or powers granted to the Dairy Board pursuant to the *Agricultural Products Marketing Act* (Canada), as amended from time to time, or any other Act of the Parliament of Canada enacted before or after the commencement of this section.

*11. Section 31 is amended by striking out subsections (1) and (2) and by substituting the following:*

**31.** (1) In this section, section 29 and section 33, “comprehensive milk marketing plan” means a plan for regulating the marketing of milk in accordance with an agreement or agreements entered into by federal and provincial authorities.

(2) The Dairy Board may, with the approval of the Lieutenant Governor in Council, become a party to a comprehensive milk marketing plan to which the Canadian Dairy Commission is also a party.

*12. Section 32 is struck out and the following section is substituted:*

**32.** The Lieutenant Governor in Council shall not establish a plan under section 29 unless a vote of the producers has been conducted in accordance with section 35 and a majority of eligible producers registered under section 35 vote in favour of the plan being established.

*13. Section 33 is struck out and the following section is substituted:*

**33.** (1) The Dairy Board

- (a) may amend or rescind its regulations under section 29, subject to the approval of the Lieutenant Governor in Council, and
- (b) shall amend or rescind its regulations under section 29 if a vote of the producers has been conducted in accordance with section 35 on the question of whether the regulations should be amended or re-

**10. Section 30, subsection (1) presently reads:**

30. (1) The Milk Board may, with the approval of the Lieutenant Governor in Council but subject to section 32, accept and exercise any authority or powers granted to the Milk Board pursuant to the Agricultural Products Marketing Act (Canada), as amended from time to time, or any other Act of the Parliament of Canada enacted before or after the commencement of this section.

**11. Section 31, subsections (1) and (2) presently read:**

31. (1) In this section and sections 32 and 33, "comprehensive milk marketing plan" means a plan for regulating the marketing of milk in accordance with an agreement or agreements entered into by federal and provincial authorities.

(2) The Milk Board may, with the authorization of the Lieutenant Governor in Council but subject to section 32, become a party to a comprehensive milk marketing plan to which the Canadian Dairy Commission is also a party.

**12. Section 32 presently reads:**

32. The Lieutenant Governor in Council shall not

- (a) establish a plan under section 29, or
- (b) give an approval under section 30, subsection (1), or
- (c) give an authorization under section 31, subsection (2),

unless a vote of the producers has been conducted in accordance with section 35 on the question of whether the plan should be established or the approval or authorization given, and, subject to section 35, subsection (2), clause (f), unless the majority of the eligible producers registered under section 35 vote in favour of the plan being established or the approval or authorization being given.

**13. Section 33 presently reads:**

33. (1) The Milk Board

- (a) may rescind its regulations under section 29 subject to the approval of the Lieutenant Governor in Council, and
- (b) shall rescind its regulations under section 29 if a vote of the producers has been conducted in accordance with section 35 on the question of whether the regulations should be rescinded, and, subject to section 35, subsection (2), clause (f), if the majority of the eligible producers registered under section 35 vote in favour of rescinding the regulations.

(2) The Milk Board shall cease to exercise the authority and powers accepted by it under section 30

- (a) if it is directed to do so by the Lieutenant Governor in Council, or
- (b) if a vote of the producers has been conducted in accordance with section 35 on the question of whether the Milk Board should cease to exercise such authority and powers and, subject to section 35, subsection (2), clause (f), the majority of the eligible producers registered under section 35 vote in favour of the Milk Board ceasing to exercise such authority and power.

(3) The Milk Board shall withdraw from a comprehensive milk marketing plan

- (a) if it is directed to do so by the Lieutenant Governor in Council, or
- (b) if a vote of the producers has been conducted in accordance with section 35 on the question of whether the Milk Board should withdraw from the comprehensive milk marketing plan, and, subject to section 35, subsection (2), clause (f), if the majority of the eligible producers registered under section 35 vote in favour of the withdrawal.

(4) A vote shall be held under subsection (1), (2) or (3) only on the petition to the Milk Board of at least 10 per cent of the producers then licensed by the Milk Board.

(5) The powers and duties of the Milk Board under this section may only be exercised or performed subject to the obligations of the Milk Board under a comprehensive milk marketing plan to which it is then a party with respect to withdrawal from the plan or otherwise.

scinded and, subject to section 35, subsection (2), clause (f), if the majority of the eligible producers registered under section 35 vote in favour of amending or rescinding the regulations, as the case may be.

(2) The Dairy Board shall cease to exercise the authority and powers accepted by it under section 30 if it is directed to do so by the Lieutenant Governor in Council.

(3) The Dairy Board shall withdraw from a comprehensive milk marketing plan if it is directed to do so by the Lieutenant Governor in Council.

(4) A vote shall be held under subsection (1), clause (b) only on the petition to the Dairy Board of at least 10 per cent of the producers registered by the Dairy Board.

(5) The powers and duties of the Dairy Board under this section may only be exercised or performed subject to the obligations of the Dairy Board under a comprehensive milk marketing plan to which it is then a party with respect to withdrawal from the plan or otherwise.

*14. Section 34 is struck out and the following section is substituted:*

**34.** The Lieutenant Governor in Council may order that a vote of the producers be conducted in accordance with section 35 on any question pertaining to section 29 or the regulations thereunder for the purpose of obtaining the opinion of the producers on the question.

*15. (1) Order in Council numbered O.C. 2176/71 (as amended by Order in Council numbered O.C. 192/72), being an Order Governing the Conduct of a Vote pursuant to section 32, 33 or 34 of *The Milk Control Act*, is hereby validated, ratified and confirmed and has the same force and effect as if it had been enacted by *The Milk Control Act* as amended by this Act.*

(2) Order in Council numbered O.C. 2176/71 (as amended by Order in Council numbered O.C. 192/72), is valid and binding upon

- (a) the Returning Officer named in the Order,
- (b) the producers whom it affected including
  - (i) those producers registered pursuant to the Order,
  - (ii) those producers struck off the voters' list in accordance with the Order, and



**14. Section 34 presently reads:**

34. The Lieutenant Governor in Council may order that a vote of the producers be conducted in accordance with section 35 on any question pertaining to

- (a) section 29 or the regulations thereunder, or
  - (b) the exercise by the Milk Board of any authority or powers referred to in section 30, or
  - (c) a comprehensive milk marketing plan,
- for the purpose of obtaining the opinion of the producers on the question.

**15. Self-explanatory.**

(iii) any recognized group or association affected by any decision of the Returning Officer,  
and

(c) any other person affected by or concerned in the proceedings leading to the vote and those persons voting,

and shall not be questioned in any court on any ground whatever and acts, decisions and things done pursuant to the Order are hereby declared to be legal, valid and binding.

(3) The vote taken pursuant to *The Milk Control Act* and Order in Council numbered O.C. 2176/71 (as amended by Order in Council numbered O.C. 192/72) and the result thereof is hereby declared to be legal, valid and binding and shall not be questioned in any court on any ground whatever.

*16. (1) This Act comes into force on the day upon which it is assented to and upon so coming into force sections 1, 10, 11 and 12, shall be deemed to have been in force at all times on and after December 15, 1971.*

*(2) Section 30, subsection (1) and section 31, subsections (1) and (2) of The Dairy Board Act, as enacted by this Act, shall, with respect to any transaction, matter or thing occurring or coming into existence during the period between December 15, 1971 and the commencement of this section shall be read as referring to the Alberta Milk Control Board and not the Alberta Dairy Control Board.*

