

1972 Bill 94

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First Session, 17th Legislature, 21 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 94**

**The Marketing of Agricultural Products Amendment Act, 1972**

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THE MINISTER OF AGRICULTURE

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 94

1972

## THE MARKETING OF AGRICULTURAL PRODUCTS 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 Marketing of Agricultural Products Act is hereby amended.*

2. *Section 2 is amended*

(a) *by striking out clauses (a), (b) and (c) and by substituting the following:*

(a) "agricultural product" means

(i) any hogs, cattle, sheep, wool, vegetables, potatoes, honey, cheese, commercial grass, legume seed, feed grains and oil seed and includes any product resulting from processing while the processed product is owned or controlled by the producer or a producer board, and

(ii) any poultry, eggs or poultry or egg product including any product resulting from processing;

(b) "the *Canada Act*" means

(i) the *Farm Products Marketing Agencies Act* (Canada), or

(ii) the *Agricultural Products Marketing Act* (Canada)

or both of them, as the case may be, as amended from time to time;

(c) "Canada Board" means

(i) the National Farm Products Marketing Council or any agency established pursuant to the *Farm Products Marketing Agencies Act* (Canada), as amended from time to time, or

## Explanatory Notes

1. This Bill will amend chapter 225 of the Revised Statutes of Alberta 1970.

2. Section 2, clauses (a), (b), (c), (h), (i) and (k) presently read:

2. In this Act,

- (a) "agricultural product" means any poultry, poultry products, hogs, cattle, sheep, wool, vegetables, potatoes, honey, cheese, commercial grass and legume seed and includes any product resulting from processing while the processed product is owned or controlled by the producer or a producer board;
- (b) "Canada Act" means the Agricultural Products Marketing Act (Canada), and all amendments thereto or any Act passed by the parliament of Canada in substitution therefor;
- (c) "Canada Board" means the Governor in Council;
- (h) "plan" means a plan established under this Act for the control, regulation and promotion within the Province of the marketing of an agricultural product;
- (i) "processing" means changing the nature or form of an agricultural product and includes, in the case of animals, the killing thereof;
- (k) "regulated product" means any agricultural product the marketing of which is regulated, controlled or promoted by or pursuant to this Act.

(ii) the Governor in Council,  
as the case may be;

(b) *by striking out clause (h) and by substituting the following clause:*

(h) “plan” means a plan and amendments thereto established under this Act for the control, regulation and promotion within Alberta of the marketing of an agricultural product;

(c) *as to clause (i) by adding at the end thereof the words “, and in the case of eggs, the grading and packing thereof”,*

(d) *as to clause (k) by adding after the word “controlled” the word “, prohibited”.*

3. *Section 4, subsection (1) is amended by striking out the words “and not more than seven persons”.*

4. *Section 6 is amended*

(a) *as to subsection (2) by adding to the end thereof the words “and may pay them such travelling and subsistence allowances as the Council considers necessary”,*

(b) *as to subsection (3) by adding to the end thereof the words “and may pay them such travelling and subsistence allowances as the Council considers necessary”.*

5. *The following section is added after section 9:*

**9.1** The Council may make regulations generally or with respect to any agricultural product requiring any person who produces, processes or markets an agricultural product to furnish to the Council from time to time such information as the Council considers necessary.

6. *Section 10, subsection (1), clause (a) is amended*

(a) *by adding the following subclause after subclause (i):*

(il) to direct, control or prohibit, by order or direction, the marketing of poultry and eggs and poultry and egg products including any product resulting from processing at the wholesale or processor levels,

**3. Section 4, subsection (1) presently reads:**

4. (1) There is hereby established a corporation with the name of the Alberta Agricultural Products Marketing Council which shall consist of not less than three persons and not more than seven persons appointed by the Lieutenant Governor in Council.

**4. Section 6, subsections (2) and (3) presently read:**

(2) The Council may establish an advisory committee to advise it with respect to the production, marketing and promotion of any regulated product, which shall, as far as is conveniently possible, be representative of the persons engaged in the production and marketing of the regulated product.

(3) The Council may require the establishment, in connection with any plan under section 7, of advisory committees that may be empowered to advise and make recommendations to a producer board with respect to the production, marketing and promotion of the product that is to be regulated.

**5. Power to make regulations to obtain information concerning agricultural products.**

**6. Section 10, subsection (1), clause (a), subclauses (i) to (v) and (ix) presently read:**

10. (1) The Council may make regulations vesting in any producer board any powers that the Council considers necessary or advisable to enable the producer board effectively to promote, regulate and control the marketing of the regulated product within the Province, and without limiting the generality of the foregoing, may make regulations

- (a) vesting in any producer board any or all of the following powers, namely,
  - (i) to direct and control, by order or direction, either as principal or agent, the marketing of the regulated product, including the times and places at which the regulated product may be marketed,
  - (ii) to determine the quantity of each class, variety, grade and size of the regulated product that shall be marketed by each producer,
  - (iii) to prohibit the marketing of any class, variety, grade or size of the regulated product,
  - (iv) to determine from time to time the price or prices that shall be paid to producers for the regulated product or any class, variety, grade or size of the regulated product and to determine different prices for different parts of the Province,
  - (v) to fix and impose service charges from time to time for the marketing of the regulated product,
  - (ix) to pay for service charges imposed under subclause (v) its expenses in carrying out the purposes of the plan, and

- (b) *as to subclause (v) by adding to the end thereof the words "and the recovering of service charges by suit in a court",*
- (c) *by adding the following subclause after subclause (iv):*
  - (iv1) *to set from time to time minimum and maximum prices, or either, at which poultry and eggs and poultry and egg products including any product resulting from processing or any variety, class or grade thereof may be sold by a producer, wholesaler or processor,*
- (d) *as to subclause (ix) by striking out the word "for" and by substituting the word "from".*

7. *The following sections are added after section 10:*

**10.1** (1) For the purpose of this section and section 10.2, "board" means the Alberta Egg and Fowl Marketing Board.

(2) For the purpose of determining the number of eggs a producer has marketed during any period, the Council may make regulations

- (a) establishing a formula for determining the number of eggs deemed to have been marketed by a producer from the number of chicks or started pullets received by that producer from a hatchery man, and
- (b) establishing the period upon which the formula established pursuant to clause (a) is to be based.

(3) The board may, in accordance with the regulations, determine the number of eggs deemed to have been marketed by a producer.

(4) Where the board makes a determination pursuant to subsection (3), it shall by notice in writing to the producer specify,

- (a) the determination made by it of the number of eggs deemed to have been marketed by the producer, and
- (b) the service charge payable by the producer in respect of the eggs deemed to have been marketed by him.

(5) Where a producer objects to the determination and the service charge, the producer may within 30 days of receipt of the notice, apply to the board for a reduction of the determination and the service charge payable.

(6) Where a producer establishes to the satisfaction of the board, upon an application pursuant to subsection (5), that

**7.** Establishes a method of determining service charges payable by egg producers.

- (a) he did not receive from a hatchery man the number of chicks or started pullets which was used in establishing the number of eggs he was deemed to have marketed, or
- (b) he did not market the number of eggs he was deemed to have marketed pursuant to the regulations,

the board shall reduce the determination and the service charge payable in accordance with

- (c) the number of eggs determined by the board to have been actually marketed by the producer, or
- (d) the number of eggs determined by the board to have been deemed to have been marketed in accordance with the regulations, based on the evidence supplied by the producer,

whichever is the lesser.

(7) Subject to subsection (8), where the board determines that a service charge is payable, the service charge thereupon becomes a debt due and owing to the board.

(8) Where a producer is not satisfied with a decision of the board, he may appeal in writing to the Council for a reduction in the determination and the service charge in accordance with section 26.

(9) Nothing in this section precludes the board from assessing a producer the service charges on the actual eggs marketed by the producer where the evidence is available.

(10) The Council may delegate its power to make regulations under this section to the board.

**10.2** A service charge payable pursuant to section 10.1, or where there is an appeal to the Council, a service charge payable pursuant to a decision of the Council under section 26 is a debt due to the board by the producer and may be recovered by the board as such.

*8. The following section is added after section 11:*

**11.1** (1) Where a producer board has reason to believe that any person is keeping, transporting, packing, storing or marketing any regulated product in contravention of any of its regulations, the producer board may apply to a judge of the Supreme Court for an order directing a sheriff to seize, detain and dispose (or any one or more of them) of the regulated product in accordance with the order.

(2) An application under this section may be made upon notice to the other party, unless the judge permits it to be made ex parte.

(3) The judge may make such order as to costs, disbursements, and proceeds of sale in respect of an order under this section as he thinks fit.



**3.** Power given to producer boards to apply for an order empowering a sheriff to seize, detain and dispose of regulated product pursuant to an order of a judge.

(4) No producer board shall seize, detain or dispose of a regulated product kept, transported, packed, stored or marketed in contravention of any regulation of the producer board, except in accordance with this section.

*9. Sections 12, 13 and 14 are struck out and the following sections are substituted:*

**12.** (1) Where a plan has been established under section 7 or section 18, a petition may be presented to the Council at any time thereafter to amend or terminate the plan.

(2) The persons entitled to sign the petition are those producers who are

- (a) registered producers, as that expression is defined in the plan governing the operation of the producer board or commission, or
- (b) where the plan governing the operation of the producer board or commission does not define the expression "registered producers", those producers who have marketed the regulated product the subject of the plan at any time within the period of 18 months prior to the date that the petition is received by the Council.

(3) A petition is of no effect unless it is signed by at least 10 per cent of the persons entitled to sign the petition.

**13.** Notwithstanding section 12, the Lieutenant Governor in Council may, from time to time and at any time, order the Council to hold a plebiscite of

- (a) registered producers, as that expression is defined in the plan governing the operation of the producer board or commission, or
- (b) where the plan governing the operation of the producer board or commission does not define the expression "registered producers", those producers who have marketed the regulated product the subject of the plan at any time within the period of 18 months prior to the date of the order of the Lieutenant Governor in Council,

for the purpose of determining whether a plan should be amended or terminated.

**14.** (1) Upon receipt by the Council of

- (a) a petition under section 12, or
- (b) an order of the Lieutenant Governor in Council under section 13,

the Council, with prior approval of the Lieutenant Governor in Council, shall make public for the purposes of the plebiscite what constitutes

**9. Sections 12, 13 and 14 presently read:**

12. (1) After a plan has been established under section 7, persons engaged in the production of the regulated product within the area to which the plan applies may petition the Council to amend or terminate the plan.

(2) The petition shall be signed by not less than 10 per cent of the persons entitled to petition.

13. Notwithstanding section 12, the Lieutenant Governor in Council may, from time to time and at any time, order that a plebiscite of the persons engaged in the production of the regulated product be held in the area to which a plan relates.

14. (1) Upon receipt of a petition under section 12, or upon an order of the Lieutenant Governor in Council under section 13, the Council shall cause a plebiscite to be held in the area to which the plan relates and if a majority of the producers eligible to vote 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.

(2) The Lieutenant Governor in Council may make such rules and regulation as may be necessary to settle the assets and affairs of and to wind up any producer board established to operate a plan terminated pursuant to this section.

(3) Notwithstanding subsection (1), no vote is required to amend a plan where the proposed amendment does not increase or decrease the powers of the producer board.

- (c) an eligible producer,
- (d) a sufficient portion of eligible producers, and
- (e) a sufficient portion of the total agricultural product that is marketed or capable of being produced by the eligible producers.

(2) Where a sufficient number of eligible producers have registered to be entitled to vote and the eligible producers so registered were capable of producing or did market a sufficient portion of the agricultural product the Council shall cause a plebiscite to be held.

(3) Where pursuant to a plebiscite the majority of producers who have registered for the purpose of voting vote to amend or terminate the plan, the Lieutenant Governor in Council may amend or terminate the plan on such date as may be specified by the Lieutenant Governor in Council.

(4) Where the Lieutenant Governor in Council terminates a plan pursuant to a plebiscite, he may make such rules and regulations as may be necessary to settle the assets and affairs of and to wind up a producer board.

**14.1** (1) Where a producer board wishes to amend a plan, it shall apply in writing to the Council.

(2) Upon receipt of a request from the Council the Lieutenant Governor in Council may, subject to subsection (3), amend the plan in accordance with the request.

(3) Where an amendment is made to a plan which has the effect of authorizing a producer board

- (a) to regulate the marketing of a regulated product on a quota basis, or
- (b) to determine from time to time the price or prices that shall be paid to producers for the regulated product or any class, variety, grade or size of the regulated product and to determine the different prices for different parts of the Province,

the amendment does not come into force unless and until a majority of the eligible producers constituting a sufficient number of the eligible producers and who are capable of producing or did market a sufficient portion of the agricultural product, vote in favour of the amendment.

(4) Prior to a vote being taken, the Council with the prior approval of the Lieutenant Governor in Council, shall make public for the purpose of the vote what constitutes

- (a) an eligible producer,
- (b) a sufficient number of the eligible producers, and
- (c) a sufficient portion of the agricultural product.



**14.2** (1) Any person who is a producer and processor is entitled in his respective capacities as a producer and as a processor to all the rights and privileges and is subject to all the duties and obligations of a producer and of a processor.

(2) Any person who is a producer and a processor shall be deemed to have received in his capacity as a processor from himself in his capacity as a producer the regulated product produced by him that he processes and to have contracted in that capacity with himself in his capacity as a producer for the marketing thereof upon the condition that the regulations, orders, directions and agreements made under the authority of this Act apply.

*10. Section 18 is amended by striking out subsection (4) and by substituting the following:*

- (4) A plan for a marketing commission shall state
  - (a) the number of members of the commission,
  - (b) whether the members of the commission are to be appointed, chosen, elected or any combination thereof,
  - (c) the number of members of the commission who shall be producers, and
  - (d) the method or methods by which and the person or persons by whom the members shall be appointed, chosen or elected.

*11. Section 20, subsection (1) is amended by striking out clause (e).*

*12. Section 20, subsection (3) is amended by adding to the end thereof the words "and may pay them such travelling and subsistence allowances as the Council considers necessary".*

*13. Section 21, subsection (1) is amended by adding after clause 6 the following clause:*

- 6.1 providing for the fixing of fees or charges payable by persons engaged in the production, marketing and processing of the agricultural product, or any class of them and the nature of the fees or charges and for the collecting of the fees or charges and the recovery of such fees or charges by suit in a court.

*14. Section 31 is amended by adding after the word "members" the words ", directors, delegates or elected officials".*

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

**10. Section 18, subsection (4) presently reads:**

(4) A marketing commission shall consist of such number of persons as may be appointed by the Lieutenant Governor in Council, a majority of whom may be producers of the agricultural product.

**11. Section 20, subsection (1), clause (e) presently reads:**

20. (1) The Council may make regulations

(e) providing for the fixing of fees or charges payable by persons engaged in the production, marketing and processing of the agricultural product, or any class of them and the nature of the fees or charges, and for the collecting of the fees or charges and the recovery of such fees or charges by suit in a court,

See Note 13.

**12. Section 20, subsection (3) presently reads:**

(3) The Council may require the establishment, in connection with a marketing commission, of advisory committees that may be empowered to advise and make recommendations to the marketing commission on matters relating to the objects and functions of the commission.

**13. Section 21, subsection (1) presently reads in part:**

21. (1) The Council may, with respect to any agricultural product in relation to which a plan exists pursuant to section 18, make regulations

This clause was formerly section 20, subsection (1), clause (e), a power of the Council to make general regulations.

**14. Section 31 presently reads:**

31. 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.