

1974 Bill 38

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Third Session, 17th Legislature, 23 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

## **BILL 38**

**The Agricultural Pests Act, 1974**

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MR. APPLEBY

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**First Reading** .....

**Second Reading** .....

**Third Reading** .....

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*Bill 38*  
*Mr. Appleby*

## **BILL 38**

1974

### **THE AGRICULTURAL PESTS ACT, 1974**

*(Assented to \_\_\_\_\_, 1974)*

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

**1. In this Act**

- (a) "council" means
  - (i) the council of a city, town, village, county or municipal district, or
  - (ii) the board of administrators of a new town, or
  - (iii) the Minister of Municipal Affairs, in the case of a special area or improvement district;
- (b) "livestock" means cattle, sheep, swine, horses, goats and poultry;
- (c) "Minister" means the Minister of Agriculture;
- (d) "municipality" means the area of a city, town, new town, village, county, municipal district, improvement district or special area;
- (e) "notice" means a notice issued by an officer pursuant to section 7;
- (f) "nuisance" means any animal, bird, insect, plant or disease declared to be a nuisance pursuant to section 2;
- (g) "officer" means
  - (i) any person who is appointed by the Minister as an officer for the purposes of this Act and the regulations, or
  - (ii) any person appointed by a council as an officer for the purpose of this Act and the regulations;
- (h) "pests" means any animal, bird, insect, plant or disease declared to be a pest pursuant to section 2;
- (i) "property" includes vegetation and moveable and immoveable property of any kind, except livestock.

## **Explanatory Notes**

### **General:**

This Bill will replace the existing Agricultural Pests Act and provide a comprehensive and flexible approach to dealing with anything declared to be a “pest” or a “nuisance”, that adversely affects the agricultural economy of Alberta.

### **1. Definitions.**

**PART 1**  
**PESTS AND NUISANCES**

**2.** (1) Subject to subsection (2), where the Lieutenant Governor in Council considers that any animal, bird, insect, plant or disease is destroying or harming or is likely to destroy or harm any crop, livestock or property in all or any part of Alberta, he may, by regulation

- (a) declare that the animal, bird, insect, plant or disease is destroying or harming or is likely to destroy or harm any crop, livestock or property either throughout Alberta or in the part of Alberta described by the regulation, and
- (b) declare the animal, bird, insect, plant or disease to be
  - (i) a pest, or
  - (ii) a nuisance,throughout Alberta or in the part of Alberta described pursuant to clause (a), as the case requires.

(2) Subsection (1) does not apply to any animal or bird that is

- (a) big game, or
  - (b) a bird of prey, or
  - (c) a game bird,
- as defined in *The Wildlife Act*.

**3.** A person may, on his own land or on land or premises occupied or controlled by him, destroy a nuisance in accordance with

- (a) this Act or the regulations,
- (b) where applicable, *The Wildlife Act* and the regulations made thereunder, and
- (c) where applicable, *The Agricultural Chemicals Act* and the regulations made thereunder.

**4.** (1) Every person who owns, occupies or controls any land, premises or property shall take active measures to

- (a) destroy all pests on or in the land, premises or property,
- (b) destroy any crop, vegetation and other matter that contributes or may contribute to the maintenance or spread of any pest that is found upon the land, premises or property, and
- (c) prevent the establishment of all pests upon his land, premises or property.

**2.** Lieutenant Governor in Council may declare certain animals, birds, insects, plants or diseases to be “pests” or “nuisances”.

**3.** Landowners or persons occupying land are authorized to destroy nuisances.

**4.** Legal duty on persons and councils to take active measures to destroy pests.

(2) Every person who owns, controls or is in possession of livestock shall take active measures to

- (a) destroy all pests on or in the livestock, and
- (b) prevent the establishment of all pests on or in the livestock.

(3) Every council shall take active measures to destroy all pests in the municipality.

(4) Any person or council destroying pests shall do so in accordance with

- (a) this Act and the regulations,
- (b) where applicable, *The Wildlife Act* and the regulations made thereunder, and
- (c) where applicable, *The Agricultural Chemicals Act* and the regulations made thereunder.

#### **Responsibilities of an Officer**

**5.** (1) Where an officer wishes to examine any livestock for a pest, he may direct the owner or person in control or possession of the livestock to assemble and confine the livestock for the purpose of the examination.

(2) An officer may, after taking reasonable steps to inform the owner or occupant of the land or premises of his intentions, enter on any land or premises, other than a private dwelling, where he has reason to believe any pest or nuisance exists and may investigate, inspect and take specimens of any pest or nuisance and also of any matter or thing infested or suspected of being infested with any pest or nuisance.

**6.** (1) Where it appears to a provincial judge or a justice of the peace, on information laid before him on oath, that there are reasonable and probable grounds for believing that a private dwelling house within his jurisdiction contains any crop, food, feed, animal, plant, water, produce, product or other matter that is infested or likely to become infested with a pest or nuisance, the provincial judge or justice of the peace may issue a warrant authorizing a peace officer, with or without an officer, to enter the private dwelling house, by force if necessary, for the purpose of searching therefor.

(2) Before entering a private dwelling house pursuant to this section, a peace officer shall take reasonable steps to find the owner or person in charge thereof and shall endeavour to obtain the co-operation of that person.

(3) Where a peace officer uses force in entering or searching a private dwelling house he shall use no more force than is reasonably required under the circumstances.

**5.** Examination and entry on land or premises other than a private dwelling by officer.

**6.** Entry into private dwelling.

**7. (1)** Where an officer is of the opinion that any land, premises, property or livestock

(a) is infested or likely to become infested with a pest, or

(b) should be protected against any pest,

he may issue a notice in writing in accordance with this section.

(2) A notice issued by an officer shall

(a) be served on the person

(i) owning, occupying or controlling land, premises or property, or

(ii) owning, controlling or in possession of livestock,

that is affected or likely to be affected by a pest,

(b) describe the land, premises, property or livestock affected or likely to be affected by the pest,

(c) name the pest,

(d) name the crop, vegetation, animal or other matter affected or likely to be affected by the pest,

(e) direct what reasonable measures must be taken and the material, if any, that must be used for the prevention of the establishment or the destruction of the pest, and

(f) where appropriate, specify a reasonable time within which the measures required by the notice must be taken.

(3) Where a notice referred to in subsection (2) is not personally served on the person to whom it is addressed it shall be deemed to have been served

(a) on leaving it with a person actually or apparently over the age of 16 years at the residence of the person to whom the notice is addressed, or

(b) on sending it by registered mail addressed to the last known address of the person to whom the notice is addressed as shown on the assessment roll of the council of the municipality within which the land or livestock to which it relates is situated, or

(c) if the officer has reason to believe that the notice, if delivered in any of the other ways mentioned in clause (a) or (b), will not be received by the person to whom it is addressed within three days of the date of the notice, on posting the notice in a conspicuous place on any building or other structure situated on the land referred to in the notice.

**8. (1)** Any person to whom a notice is directed may appeal to a judge of the district court within 10 days of the date he receives the notice or within such additional time as the judge may allow.



**7. Notice by officer directing measures to be taken against a pest.**

**8. Appeal to judge of district court.**

(2) An appeal under subsection (1) shall be by way of originating notice of motion.

(3) Upon hearing an appeal the judge may make an order

(a) confirming the notice, or

(b) rescinding the notice, or

(c) replacing the notice, or

(d) varying the notice or any provision thereof,

with or without conditions, or make such other order as to him appears just in the circumstances.

**9.** Where a person to whom a notice is issued fails to appeal pursuant to section 8, subsection (1), the person to whom the notice is issued shall comply with the directions in the notice and within the time specified therein, if any.

**10.** (1) If within the time specified in a notice the person to whom the notice is directed fails to take the measures directed to be taken, an officer may obtain the appropriate material and take whatever action he considers necessary to destroy the pests or to prevent their establishment.

(2) Where an officer incurs any expense in taking action pursuant to subsection (1), he shall within 30 days after he incurs the expense, forward to the council of the municipality within which the lands, premises, property or livestock is situated an account, certified by him to be a true account, of all expenses incurred by him, together with a description of the land, premises, property or livestock in respect of which the expenses have been incurred.

(3) The expenses of an officer under this section shall be paid by the council or, if the Crown pays the expenses, the amount so paid is a debt due to the Crown in right of Alberta from the person on whose behalf the costs were incurred.

(4) The council may

(a) notify the owner of the land, premises, property or livestock of the amount of the expenses chargeable against the owner, and

(b) collect the amount of the expenses from the owner in the same manner it may collect costs of work under a by-law made pursuant to section 157 of *The Municipal Government Act*.

#### **Responsibilities of Councils**

**11.** (1) Subject to subsection (4), the council of every municipality shall appoint a sufficient number of officers, on its own account or jointly with another council, to carry out the provisions of this Act and the regulations.

**9. Self-explanatory.**

**10. Expenses incurred by an officer after issuing a notice.**

**11. Appointment of officers.**

(2) Where an officer is appointed, the council shall forthwith advise the Minister in writing of the appointment.

(3) Two or more councils may appoint one or more officers to act jointly within the municipalities and those councils may enter into an agreement for the sharing of the costs involved.

(4) The Minister may by notice in writing exempt all or any part of a municipality from the provisions of this section.

**12.** (1) Where, in the opinion of the Minister, a council fails to take effective measures to destroy pests or to prevent their establishment, the Minister may authorize an officer to enter upon any lands or premises of any person, except a private dwelling, within the municipality

- (a) for the purpose of destroying pests thereon, or
- (b) for the purpose of preventing the establishment of pests.

(2) Any expenses incurred under subsection (1) are a debt due to the Crown in right of Alberta from the person on whose behalf the costs were incurred.

(3) Where, in the opinion of the Minister, any unoccupied Crown lands within a municipality are infested with pests, he may order the destruction of the pests and the cost thereby incurred shall be borne by the Crown in right of Alberta.

### **Regulations**

**13.** For the purpose of controlling, destroying, preventing, or delaying the establishment of a pest or a nuisance and to prevent or reduce damage by a pest or nuisance, the Lieutenant Governor in Council may make regulations

- (a) prohibiting and restricting the removal from any area or the movement therein of any crop, vegetation, livestock, animal or other matter;
- (b) prohibiting or restricting the use of and governing the disposition or destruction of any crop, vegetation, livestock, animal or other matter that may contribute to the spread of a pest or nuisance;
- (c) establishing all or any part of Alberta as an area to which all or any provisions of the regulations apply;
- (d) concerning the method of treatment and method of procedure to be followed in any area for controlling, eradicating or preventing the establishment of a pest or nuisance;
- (e) naming, approving and distributing or arranging for or approving the distribution of any poison,

**12.** Minister's power to take action to destroy pests if a council fails to do so.

**13.** Regulations of the Lieutenant Governor in Council.

compound, equipment, vehicle or device for or incidental to the control of the pest or nuisance, with or without conditions;

- (f) designating the area or areas in Alberta within which a poison, compound, control technique or device may be distributed or used;
- (g) appointing persons to supervise the setting out and distribution of any poison, compound, device or equipment;
- (h) defining "poison", "compound", "control technique" and "device" for the purpose of this Act and the regulations;
- (i) governing, prohibiting or restricting the use of any poison, compound, device, vehicle, control technique or equipment used therewith and the manner in which it is to be handled, set out or applied.



**PART 2**  
**SPECIFIC PESTS AND NUISANCES**

**Bacterial Ring Rot**

**14.** For the purpose of controlling and eradicating, as far as possible, any bacterial ring rot of potatoes the Minister may

- (a) acquire stocks of suitable seed potatoes
  - (i) by purchase,
  - (ii) by multiplication under supervision, and
  - (iii) by other means that he considers proper;
- (b) store the seed potatoes so acquired at suitable places in Alberta;
- (c) distribute the seed potatoes so acquired and sell them to the growers at such price as he from time to time fixes;
- (d) purchase pesticides and properly disinfect storage facilities, supplies and equipment and fix a reasonable charge therefor;
- (e) enter into an agreement with any person or agency for the purpose of controlling and eradicating bacterial ring rot.

**15.** The Lieutenant Governor in Council may make regulations

- (a) governing the planting, growing, handling, sale and disposition of potatoes in all or any part of Alberta;
- (b) permitting or prohibiting the planting, growing, handling, sale and disposition of potatoes in all or any part of Alberta;
- (c) authorizing an officer to order the disposition or destruction of potatoes or other matter or to do any other thing to prevent the spread or to control bacterial ring rot;
- (d) concerning the manner in which potatoes infested with bacterial ring rot or suspected of being infested are to be handled, transported and disposed of including the manner of packaging and labels to be fixed thereto;
- (e) concerning the sterilization of any machinery, equipment and storage employed in the production, storage or distribution of potatoes;
- (f) authorizing an officer to inspect potatoes at any point in Alberta or while the potatoes are being transported to determine whether they are infested with bacterial ring rot;



**14. Minister's powers to assist in controlling bacterial ring rot.**

**15. Regulations of the Lieutenant Governor in Council concerning control of bacterial ring rot.**

- (g) requiring persons importing potatoes to notify an officer of the destination of potatoes brought into Alberta;
- (h) authorizing an officer to impound any potatoes he finds to be infested with bacterial ring rot and the manner in which he is to do so;
- (i) prohibiting the removal, sale or other disposition of potatoes impounded pursuant to clause (h);
- (j) concerning the inspection and testing of potatoes impounded pursuant to clause (h) and their disposition if found to be infested with bacterial ring rot;
- (k) prohibiting any person from bringing potatoes infested with bacterial ring rot into Alberta;
- (l) respecting any other matter to effectively control and prevent or eradicate bacterial ring rot.

#### **Insect Pests**

**16.** (1) For the purpose of controlling and eradicating, as far as possible, any insect pest, the Minister may

- (a) purchase sufficient quantities of insecticide, poison or other ingredients necessary for the preparation of bait, spray or dust,
- (b) maintain reserves of supplies of insecticide, poison or other ingredients at such points in Alberta as he may determine, and
- (c) make supplies of insecticide, poison or other ingredients available to councils.

(2) The costs incidental to the maintenance and storage of the supplies shall be borne by the Crown in right of Alberta while the Crown is custodian thereof.

**17.** (1) The Minister shall charge a council such price as he fixes from time to time for insecticide.

(2) Where the Minister supplies insecticide to a council for resale to any person at a price less than the actual cost of the insecticide to the Crown in right of Alberta, the council shall, at the discretion of the Minister, share equally with the Minister the difference between the actual cost of the insecticide and the sale price to the person.

**18.** (1) A person may apply to the council of the municipality in which his land is situated to purchase insecticide for the purpose of destroying an insect declared to be a pest or nuisance.

(2) A council selling insecticide to any person shall not charge more for it than such sum as is fixed by the Minister.

**16.** Purchase and supplies of insecticides or poison for controlling insect pests.

**17.** Sale of insecticide to councils.

**18.** Sale of insecticide to individuals.

**PART 3  
GENERAL**

**Administration**

**19.** The Minister may

- (a) investigate any matter, or
- (b) conduct surveys, or
- (c) establish programs, or
- (d) enter into agreements with any person, council, agency or government,

for the purpose of controlling, preventing or delaying the establishment of a pest or a nuisance and to reduce or prevent damage by a pest or nuisance.

**20.** (1) The Minister may, by regulation, delegate to any employee of the Government of Alberta, the Government of Canada, to a council, or to a member of a council, any power, duty or function conferred upon him by this Act except the power to make regulations.

(2) A power, duty or function delegated to a council or a member of a council may be exercised only within the municipality concerned.

**21.** The Minister may exempt from the operation of this Act or any provision thereof, any tract of waste land or sparsely inhabited or uninhabited lands.

**22.** Upon request of the Government of Canada, the Minister may provide assistance for the control or destruction of a pest or nuisance within any area under the administration and control of the Government of Canada.

**Offences and Penalties**

**23.** Any person who

- (a) contravenes any provision of this Act or the regulations, or
- (b) fails to comply with a notice, or
- (c) in any manner obstructs an officer in the discharge of his duties, or
- (d) wilfully fails to use or wilfully misuses any poison, compound, device or insecticide, or
- (e) for propagation purposes acquires, sells, distributes or uses seeds, roots, tubers or other vegetable materials infested with a pest,

is guilty of an offence and liable on summary conviction to a fine of not more than \$1000 and in default of payment to a term of imprisonment of not more than 60 days.

**19. Power of Minister.**

**20. Delegation of powers by the Minister.**

**21. Exemption from Act.**

**22. Assistance to areas in Alberta not under the control of the Government of Canada.**

**23. Offences and Penalties.**

#### **PART 4**

#### **CONSEQUENTIAL AMENDMENTS, REPEAL AND COMMENCEMENT**

24. *The Agricultural Service Board Act is amended as to section 15, subsection (4), clause (b), by striking out the words "The Agricultural Pests Act" and by substituting the words "The Agricultural Pests Act, 1974".*

25. *The Pharmaceutical Association Act is hereby amended as to Schedule B, Part 1 by striking out the words "The Setting of Poison Act, The Agricultural Pests Act or an official Pest Control Program of the Alberta Department of Agriculture" wherever they occur and by substituting in each case the words "The Agricultural Pests Act, 1974 or The Wildlife Act or the regulations made under either Act".*

26. *The Wildlife Act is amended*

(a) *as to section 11, by adding the following clause after clause 38:*

38.1 *for the use, employment, setting out or distribution of any poison or drug;*

(b) *as to section 24, subsection (1), clause (a) by striking out the words "The Setting of Poison Act, The Agricultural Pests Act" and by substituting the words "The Agricultural Pests Act, 1974 and the regulations made thereunder".*

27. *The Agricultural Pests Act is hereby repealed.*

28. *The Setting of Poison Act is hereby repealed.*

29. *This Act comes into force on a date or dates to be fixed by Proclamation.*

**24.** Amends chapter 7 of the Revised Statutes of Alberta 1970.

**25.** Amends chapter 274 of the Revised Statutes of Alberta 1970.

**26.** Amends chapter 391 of the Revised Statutes of Alberta 1970.

**27.** Repeals chapter 5 of the Revised Statutes of Alberta 1970.

**28.** Repeals chapter 339 of the Revised Statutes of Alberta 1970.