

1976 Bill 31

Second Session, 18th Legislature, 25 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 31

**THE MARKETING OF AGRICULTURAL PRODUCTS
AMENDMENT ACT, 1976**

HONOURABLE DALLAS SCHMIDT

First Reading

Second Reading

Third Reading

BILL 31

1976

THE MARKETING OF AGRICULTURAL PRODUCTS AMENDMENT ACT, 1976

(Assented to _____, 1976)

HER 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) *as to clause (a), by striking out the words "commercial grass," and by substituting therefor the words "grass seed,"*
- (b) *as to clause (f), by adding after the word "storing," the word "grading," and*
- (c) *as to clause (i), by adding after the word "eggs," the words "vegetables or potatoes,"*

3. *Section 4 is amended by adding after subsection (2) the following:*

(2.1) A quorum at a meeting of the Council or at an appeal being heard by the Council shall be a majority of the members of Council then holding office.

4. *Section 7, subsection (1) is amended by adding after clause (e) the following:*

- (e1) governing the conduct of meetings of the Council and of producer boards, including authorization to conduct meetings by means of communications equipment which enables all persons participating in the meeting to communicate directly with each other,

Explanatory Notes

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

2. Section 2 (a) (i), (f) and (i) presently read:

2. In this Act,

(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

(f) "marketing" includes buying, owning, selling, storing, offering for sale, shipping for sale or storage, advertising, financing, assembling or packing and includes transportation in any manner by any person;

(i) "processing" means changing the nature or form of an agricultural product and includes, in the case of animals, the killing thereof, and in the case of eggs, the grading and packing thereof;

3. Quorum of Council.

4. Enables the Lieutenant Governor in Council to make orders governing the conduct of meetings by the council and by producer boards.

5. *The following sections are added after section 9.1:*

9.2 (1) In this section,

- (a) “poultry” means
 - (i) any poultry produced as a regulated product,
or
 - (ii) any chicks or poults raised for the purpose of producing a regulated product;
- (b) “hen” means a female of common domestic fowl maintained for the purpose of producing a regulated product.

(2) The Council may make regulations

- (a) providing for the licensing of any person who produces any poultry or eggs or who maintains any hens;
- (b) providing for the production, on a quota basis, of any poultry or eggs;
- (c) providing for, on a quota basis, the maximum number of hens that a person may have in his possession;
- (d) providing for the granting of, the increase or reduction of and the cancellation or suspension of a quota referred to in this section;
- (e) providing for the transferability or non-transferability of quotas referred to in this section;
- (f) prohibiting any person from engaging in the production of any poultry or eggs except under the authority of a licence;
- (g) prohibiting any person from maintaining any hens except under the authority of a licence;
- (h) prohibiting any person who does not have a quota referred to in clause (b) from producing poultry or eggs;
- (i) prohibiting any person who does not have a quota referred to in clause (c) from having possession of any hens;
- (j) prohibiting any person who has a quota referred to in clause (b) from producing poultry or eggs in excess of that quota;
- (k) prohibiting any person who has a quota referred to in clause (c) from having in his possession a greater number of hens than that permitted under that quota;
- (l) providing for the fixing of licence fees or service charges or both payable by any person producing

5. Section 9.2 makes provision for the control of the production of poultry and eggs. Section 9.3 provides for the operation of indemnity funds.

poultry or eggs or maintaining hens and the recovery of those fees and charges by suit in a court;

(m) prescribing the times for payment of licence fees and service charges.

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

(4) The Council may delegate to a producer board such of its powers under subsection (2) as it considers necessary and may at any time terminate such delegation.

(5) Nothing in this section or in any regulations made under this section shall be construed to prohibit or restrict any person from maintaining any hens and producing eggs from those hens or from raising any poultry where those eggs are produced or that poultry is raised solely for the personal consumption of that person or his family.

9.3 (1) A producer board may establish and maintain one or more funds which may be used

(a) to indemnify producers against damage to or loss of a regulated product or of an agricultural product used in the production of a regulated product, or

(b) to indemnify producers or protect producers against financial loss suffered by them or on their behalf in respect of the marketing of a regulated product.

(2) Where a fund is established under subsection (1), the producer board may levy and collect such amounts from the producers coming under the plan administered by that producer board as required for the operation of the fund and the payments made into the fund shall not form part of a licence fee or service charge levied under that plan.

(3) Where a fund is established under subsection (1) and a producer does not wish to receive any indemnity from that fund, that producer shall, upon application to the producer board for an exemption, be exempted from making any payment under subsection (2).

(4) *The Alberta Insurance Act* does not apply to a fund operated under this section.

6. Section 11.1 is amended

- (a) as to subsection (1), by striking out the words "producer board" wherever they occur and by substituting therefor the words "producer board or marketing commission", and*
- (b) as to subsection (4), by striking out the words "producer board" wherever they occur and by substituting therefor the words "producer board or marketing commission".*

7. Section 14.1 is amended by adding after subsection (4) the following:

(5) Notwithstanding subsection (3), where a plan is amended to permit a producer board to negotiate the price or prices to be paid to producers for a regulated product or any class, variety, grade or size of the regulated product, that amendment may come into force without a vote being taken under this section.

8. Section 15 is struck out and the following is substituted therefor:

15. With the approval of the Lieutenant Governor in Council,

- (a) a producer board or marketing commission may, with reference to the marketing of a designated agricultural product, perform any function or duty and exercise any power imposed or conferred upon it by or pursuant to the *Canada Act*, and*
- (b) the Council may, with reference to the marketing of a designated agricultural product, delegate to or vest in the Canada Board any function or duty that the Council may delegate to or vest in a producer board or marketing commission under this Act.*

Section 11.1 presently reads:

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 of 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.

(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.

Section 14.1 presently reads:

14.1 (1) The Lieutenant Governor in Council may, subject to subsection (3), amend a plan at the request of the Council made upon its own initiative or made pursuant to an application of a board to the Council for an amendment to a plan.

(2) Repealed 1973, c. 38, s. 3.

(3) Where an amendment is made to a plan which enables 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.

Section 15 presently reads:

15. With the approval of the Lieutenant Governor in Council a producer board or a marketing commission may, with reference to the marketing of a designated agricultural product, perform any function or duty and exercise any power imposed or conferred upon it by or pursuant to the Canada Act.

9. *Section 17 is amended*

- (a) *as to subsection (1), by striking out the word “marketing” wherever it occurs and by substituting therefor the words “marketing or production”, and*
- (b) *as to subsection (2), clauses (c), (d) and (e), by striking out the word “marketing” and by substituting therefor the words “marketing or production”.*

10. *Section 20, subsection (1) is amended by adding after clause (b) the following:*

- (b1) *governing the conduct of meetings of marketing commissions including authorization to conduct meetings by means of communications equipment which enables all persons participating in the meeting to communicate directly with each other,*

11. *Section 26 is amended*

- (a) *as to subsection (5), by striking out the words “seven days” and by substituting therefor the words “15 days”, and*
- (b) *as to subsection (11), by striking out the words “10 days” and by substituting therefor the words “30 days”.*

12. *The following section is added after section 26:*

26.1 (1) Notwithstanding section 26, subsections (4) to (14), where

- (a) a person commences an appeal under section 26, subsection (2), and
- (b) the Council is of the opinion that the matter being appealed should be heard by a court,

the Council shall notify that person by written notice that it will not hear the appeal and advise that person to re-commence the appeal in the District Court.

9. Section 17 presently reads:

17. (1) With reference to the marketing of any agricultural product and so far as the same is within provincial jurisdiction, the Lieutenant Governor in Council may make such regulations, and by order vest in a producer board such authorities and powers as are considered necessary or advisable
- (a) to carry out the purpose and intent of this Act, or
 - (b) to enable a producer board to exercise in co-operation with the Canada Board effective control of the marketing of agricultural products to the full extent intended by this Act and the Canada Act.
- (2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations
- (a) providing for the appointment of producer boards or agencies within the Province to co-operate with and act as agents of the Canada Board,
 - (b) providing for the appointment of producer boards or agencies to exercise within the Province any authority or function that may be conferred on a provincial board under the Canada Act and otherwise to co-operate and act in the administration and carrying out of any plan for the regulation of the marketing of any agricultural product authorized under the Canada Act or this Act,
 - (c) approving any plan for the regulation of the marketing of any agricultural product for which the approval of the Lieutenant Governor in Council is necessary for any purpose of the Canada Act,
 - (d) authorizing and giving effect to any plan for the regulation of the marketing within the Province of any agricultural product,
 - (e) providing for the submission of any plan for the regulation of the marketing of any agricultural product to a plebiscite within the area of the Province covered by the plan,
 - (f) providing for the termination and annulment of any approval given or plan authorized by the Lieutenant Governor in Council under this Act, and the disposition of the assets of any producer board whose appointment or authority is annulled, and
 - (g) authorizing a producer board to appoint officers and agents, to prescribe their duties, fix their remuneration and provide for the payment thereof.

10. Enables the Council to make regulations governing the conduct of meetings of marketing commissions.

11. Section 26 (5) and (11) presently read:

(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.

(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. Hearing of appeals in the District Court.

(2) Upon being served with a notice under subsection (1), a person may, not later than 30 days after being served with that notice, commence the appeal in the District Court by way of originating notice.

(3) Where an originating notice is filed, under subsection (2), a copy of that originating notice and any supporting documents shall be served upon

(a) the Council and the producer board or marketing commission, as the case may be, where the matter being appealed is the decision of a producer board or marketing commission made under section 26, subsection (1), or

(b) the Council where the matter being appealed is an order, direction or regulation of the Council, not less than 20 days before the date set in the originating notice for the hearing of the application.

(4) Upon hearing an application under this section, the Court may direct the Council, the producer board or the marketing commission, as the case may be, to take such action as the Council, the producer board or the marketing commission is authorized to take under this Act and the regulations as the Court considers proper, and for that purpose the Court may substitute its opinion for that of the Council, the producer board or the marketing commission.

(5) The Court may make such order with respect to costs as it considers proper.

(6) Any notice or any originating notice or supporting document referred to in this section 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 originating notice and supporting documents to the address of the 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 under section 26, subsection (2), by mailing the originating notice and supporting documents to the address shown on the notice of appeal which the appellant served on the Council under section 26, subsection (2).

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