

1990 BILL PR6

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Second Session, 22nd Legislature, 39 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL PR6

ALBERTA WHEAT POOL  
AMENDMENT ACT, 1990

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DR. ELLIOTT

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill PR6  
Dr. Elliott*

## **BILL PR6**

1990

### **ALBERTA WHEAT POOL AMENDMENT ACT, 1990**

*(Assented to \_\_\_\_\_, 1990)*

WHEREAS Alberta Wheat Pool is incorporated by chapter 117 of the Statutes of Alberta, 1970, which was amended by chapter 104, Statutes of Alberta, 1973, chapter 90 Statutes of Alberta, 1975(2), chapter 101 Statutes of Alberta, 1977, chapter 75 Statutes of Alberta, 1978, chapter 99 Statutes of Alberta, 1980, chapter 51 Statutes of Alberta, 1983 and chapter 43 Statutes of Alberta, 1987; and

WHEREAS a petition has been presented praying that the Act be further amended as hereinafter set forth, and it is expedient to grant the prayer of the petition.

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

- 1 *The Alberta Wheat Pool Act, 1970, is amended by this Act.*
- 2 *Section 2 is amended by repealing clause (e).*
- 3 *Section 5 is amended by repealing clause (c) and substituting:*
  - (c) he has paid the membership fee prescribed pursuant to the by-laws;

## Explanatory Notes

1 This Bill will amend chapter 117 of the Statutes of Alberta, 1970.

2 Clause (e) presently reads:

*(e) "Reserves" shall mean the earnings of the Pool which have been retained by the Pool and allocated or credited to a member or members.*

3 Section 5 presently reads:

*5. All persons who were members prior to the passing of this Act and any person who has made application to the Board of Directors in writing in such form and upon such conditions as may be from time to time prescribed by the Board of Directors for membership in the Pool shall be declared by the Board of Directors to be a member of the Pool if*

**4** *Section 8 is repealed and the following is substituted:*

**8** The membership of any member may be cancelled in accordance with the by-laws.

**5** *Section 8.1(1) is amended by striking out "section 8" and substituting "the by-laws of the Pool".*

**6** *Section 23 is amended by striking out "reserves" and substituting "funds of the Pool".*

(a) *he is a grower of grain or seed or the owner, purchaser, share crop purchaser or vendor, lessor or lessee of farm lands capable of producing grain or seed,*

(b) *he has,*

(i) *between the first day of August, 1935, and the date of his application for membership delivered to the Pool or to the elevator facilities of Alberta Pool Elevators Limited 10 tonnes of grain or such other amount of grain as may be determined from time to time, by a resolution passed by the delegates at an annual or special meeting, or*

(ii) *on or prior to the date of his application delivered to the Pool or to the elevator facilities of Alberta Pool Elevators Limited, cleaned cereal seed to the value of \$1,500.00 or more, or any other cleaned seed to the value of \$1,500.00 or more,*

*and*

(c) *he has acquired the ownership of an interest in the reserves totalling five dollars or such other amount as may be determined from time to time by resolution passed by the delegates at an annual or special meeting.*

4 Section 8 presently reads:

*8 The Board of Directors may by resolution cancel the membership of any member:*

(a) *whose reserves have been acquired by the Pool under section 26, clauses (c), (f) or (g).*

(b) *who has ceased to farm and does not hold any reserves in Alberta Wheat Pool.*

5 Section 8.1(1) presently reads:

*8.1 Any member whose membership has been cancelled in accordance with section 8 may at any time thereafter make an application to the Board of Directors, in writing and in such form and upon such conditions as may be from time to time prescribed by the Board of Directors, for associate membership in the Pool.*

6 Section 23 presently reads:

*23 The Pool shall be deemed to have and to have had from the eighteenth of August, 1923, the right to invest the reserves or any part thereof in any manner designed to provide elevator or shipping facilities for members or customers of the Pool, or any of them, whether such undertakings operate on a profit, non-profit, patronage dividend basis or otherwise.*

*7 Section 24 is repealed and the following is substituted:*

**24.** The delegates may from time to time make, amend or repeal by-laws governing the financial affairs of the Pool, including without limitation the accumulation, application, allocation, distribution, payment, transfer and handling of earnings of the Pool and funds loaned or otherwise paid or contributed to or invested in the Pool.

*8 Sections 26 to 32 and section 37 are repealed.*

7 Section 24 presently reads:

*24 No member or anyone claiming under him by assignment, process or operation of law or otherwise shall be entitled to repayment of any money which is being used as part of the reserves of the Pool, so long as the delegates are of the opinion that it is useful in carrying on the business of the Pool.*

8 Sections 26 to 32 and section 37 presently read:

*26 When authorized by resolution of the delegates the Pool may use the reserves or any earnings in its hands to buy such reserves*

*(a) from members, rateably, a percentage of their respective interests in the said reserves;*

*(b) from the personal representatives or beneficiaries of members who died on or before a date to be fixed by delegates' resolution;*

*(c) from members owning reserves who have ceased to farm or hold any interest in land capable of producing grain or seed in the Province of Alberta or those parts of British Columbia and Saskatchewan served by the facilities of Alberta Pool Elevators Limited;*

*(d) from members owning reserves who have attained such age as may be fixed by delegates' resolution;*

*Provided that this age shall not be less than 65 years except by way of amendment to this clause;*

*Provided further that any member who has received payment under this clause shall not be entitled to further payment or purchase of reserves except a payment or purchase authorized by delegates under clause (b), (c), (e), (e.1), or (g) hereof;*

*(e) from members or corporate members who have been allotted and hold such membership numbers as may be specified by delegates' resolution;*

*Provided that any member who has received payment under this clause shall not be entitled to further payment or purchase of reserves except a payment or purchase authorized under clause (b), (c), (e), (e.1), or (g) hereof; or this clause;*

*(e.1) from members unable to farm due to terminal illness subject to the following conditions:*

*(i) the illness must be established to the Board's satisfaction,*

*(ii) the maximum amount that may in any year be used to*





*purchase reserves under this clause is \$200,000 or such lesser amount as may in any year be specified by resolution of the delegates,*

*(iii) the delegates may by resolution establish for any year a date by which written application for purchase under this clause must be received at the Pool's head office, in which case eligibility in that year for purchase under this clause shall be restricted to members who so apply by that date and who are otherwise qualified under this clause,*

*(iv) if in any year the amount authorized under subclause (ii) exceeds the amount required to purchase reserves from members who are eligible for purchase under this clause, the excess shall be used to purchase reserves under clause (e), and*

*(v) if in any year the amount authorized under subclause (ii) is less than the amount required to purchase reserves from members who are eligible for purchase under this clause, the amount authorized shall be used to purchase reserves rateably from the eligible members in accordance with the amount of reserves which they respectively own.*

*f. from corporate members which have ceased to farm or to hold any interest in land capable of producing grain or seed in the Province of Alberta or those parts of British Columbia and Saskatchewan served by the facilities of Alberta Pool Elevators Limited and from corporate members which have been or are being dissolved, liquidated, or wound up, and which have ceased to carry on business except for the purposes of such dissolution, liquidation, or winding up.*

*Provided that no payment shall be made to any member under the provisions of clause (a) hereof where the effect would be to reduce his holdings of reserves below the nominal value of five dollars (\$5.00).*

*Provided further that any members who have become members after February 1, 1971, shall only be eligible for purchase of their respective interest in reserves if they qualify under clause (b), (c), (e), (e.1) or (g) hereof;*

*g. from members who have reached such age and to whom no patronage refunds or allocations of reserves have been made for such period of time as the delegates at a regular or special meeting may determine by resolution passed by 3/5 of the delegates attending the meeting.*

*27 The amounts of reserves purchased pursuant to section 26 shall be held in trust by the Pool for the members of the Pool in the proportions in which the members from time to time own reserves, and the interest of the members in the assets of the Pool shall, on dissolution of the Pool, be in proportion to their ownership of the reserves at the time of*



dissolution.

28 (1) *Notwithstanding the provisions of this Act the directors of the Pool may, when authorized by resolution of the delegates:*

(a) *cancel or write off the whole or any part of the reserves purchased pursuant to section 26 of this Act;*

(b) *sell to applicants for membership under section 5 of this Act the minimum interest from time to time required under clause (c) of section 5 of this Act and re-issue to patrons who are members the whole or any part of the reserves purchased pursuant to section 26 of this Act that have not been cancelled under clause (a) of this sub-section;*

(c) *refund a portion of the earnings made by the operation of the facilities of the Pool in any year to patrons who are members on a date to be fixed by resolution of the directors before distribution of any such refund;*

(d) *make allocations in proportion to patronage to customers who are members on a date to be fixed by resolution of the directors prior to allocation, who purchased in any year fertilizers and other commodities or any of them handled by the Pool.*

(2) *Refunds and allocations in proportion to patronage which may be made under clauses (c) and (d) of sub-section (1) hereof may be made in cash or its equivalent or in reserves purchased under section 26 of this Act and not cancelled under clause (a) of sub-section (1) hereof, or partly in cash or its equivalent and partly in the said reserves.*

(3) *Any refunds of earnings made under the provisions of clause (c) of sub-section (1) hereof and any allocations in proportion to patronage made under clause (d) of sub-section (1) hereof shall be made, in the case of grain and seed, on the basis of the contribution of grain or seed made by the respective patrons to the facilities of the Pool, and, in the case of fertilizers or other commodities sold by the Pool, on the basis of the amount or amounts thereof purchased from the Pool, in any fiscal year or years preceding such refund or allocation in a manner to be determined by the directors, who may take into account in fixing the amounts to be distributed as allocated:*

(a) *in the case of grain the weight of grain delivered;*

(b) *in the case of seed either the weight or the dollar value of the amount delivered;*

(c) *in the case of fertilizers or other commodities sold by the Pool, the dollar value of the amounts purchased;*

(d) *in all cases, the earnings made by any particular grain, seed or commodity;*

(e) *the extent of the use of the Pool facilities by any member.*



*29 Each member and every person claiming through or under him having an interest in the reserves shall be bound to sell to the Pool the whole or the part of such interest which the Pool elects to purchase under the provisions of section 25 hereof;*

*Provided that, notwithstanding that a member may have assigned his reserves or part thereof, the Pool may pay the member the purchase money under section 26 unless the assignment in writing is registered with the Pool at its office in the Alberta Wheat Pool Building in Calgary, in the Province of Alberta, with respect to purchases, if any, to be made under section 26 hereof in any year before a date and place to be fixed by a resolution of the directors of the Pool at least thirty days before the date of the purchases in that year.*

*30 The directors may make regulations setting out the manner in which purchases are to be made under the provisions of section 26 and they may from time to time alter, repeal and re-enact any such provisions and without limiting the generality of the foregoing the directors may by such regulations,*

*(a) fix a cut-off date in any year after which, pending a delegates' meeting, they may refuse to acquire reserves from any of the classes of members or persons from whom purchases have been authorized by resolution of the delegates;*

*(b) terminate the purchases of all or any reserves at any time pending a delegates' meeting;*

*(c) fix a maximum amount that may be acquired from any one person coming within the class from whom purchases have been authorized by resolution of the delegates.*

*31 The authorized reserves of the Pool are declared to be \$60,000,000.00 or such other amount as may be authorized from time to time by resolution of the delegates passed by at least 60% of the delegates entitled to vote thereon and effective upon filing with the Clerk of the Legislative Assembly a certified copy of such resolution.*

*32 When authorized by resolution of the delegates, the Pool may issue the reserves created by section 31 or acquired by purchase under section 26 hereof that have not been re-issued to members who were patrons in any crop year in proportion to their patronage in that year, and each member to whom reserves are so issued shall thereupon become liable to the Pool for the reserves so issued to him at the par value thereof, and the pool shall apply against the liability of each such member the cash patronage dividend then or thereafter payable to the member in proportion to patronage to patronage for the same crop year, provided that if within twelve (12) months of such issue of reserves the Pool does not authorize payment of a cash dividend in proportion to patronage equivalent to the liability of the respective members for the reserves so issued to the members, any member may advise the Pool in writing that he elects to reject the issue of reserves to him and his liability therefor*



*shall cease and determine.*

*37 The Pool without prejudice to its right to sue shall have a lien upon the interest of each member in the reserves for any claim of the Pool against that member, and shall have the right to set off its claims against the interest of that member in the said reserves.*