

1991 BILL 8

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 8

LIVESTOCK AND LIVESTOCK PRODUCTS
AMENDMENT ACT, 1991

THE MINISTER OF AGRICULTURE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 8

1991

LIVESTOCK AND LIVESTOCK PRODUCTS AMENDMENT ACT, 1991

(Assented to _____, 1991)

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

1 *The Livestock and Livestock Products Act is amended by this Act.*

2 *Section 1 is amended*

(a) *by adding the following after clause (f):*

(f.1) "out of province livestock dealer" means a livestock dealer who holds a licence to deal in livestock or livestock products issued by a province of Canada other than Alberta;

(b) *in clause (g) by striking out " , subject to section 13(1)," and by striking out "or a licensed livestock dealers' agent";*

3 *Section 8(2)(a) is amended by striking out "account and make settlement faithfully to and with patrons according to" and substituting "account to and make settlement with patrons for".*

4 *Section 9(1) is amended by striking out "accounted or made settlement faithfully to or with his patrons according to" and substituting "accounted to or made settlement with his patrons for".*

Explanatory Notes

1 This Bill will amend chapter L-24 of the Revised Statutes of Alberta 1980.

2 Section 1(g) presently reads:

1 In this Act,

(g) "patron", subject to section 13(1), means a person who in the ordinary course of his farming operation

(i) maintains livestock for the purpose of propagation or the production of livestock products, or

(ii) maintains feeder livestock for the purpose of growing or finishing or both

and includes a licensed livestock dealer or a licensed livestock dealers' agent;

3 Section 8(2)(a) presently reads:

(2) When security is required by regulations under subsection (1) to be furnished, the security may, in the discretion of the Minister, take the form of

(a) a bond in favour of the Crown, with one or more sureties, of which it is a condition that the licensee shall account and make settlement faithfully to and with patrons according to the value of the livestock or livestock products supplied, or

4 Section 9(1) presently reads:

9(1) When a licence has been surrendered or cancelled or has

5 *Section 10(1) is amended*

- (a) *by striking out “finds” and substituting “is satisfied”;*
- (b) *by striking out “has failed to account or make settlement faithfully to or with patrons according to” and substituting “has, because the person is insolvent, failed to account to or make settlement with a patron for”.*

6 *Section 11 is amended*

- (a) *by repealing subsection (1) and substituting the following:*

11(1) Notwithstanding anything in this Act, no patron is eligible to make a claim or receive compensation pursuant to section 10, 13 or 13.1 in respect of the failure of a person licensed to deal in livestock or livestock products to account to or make settlement with the patron for the value of livestock or livestock products supplied, unless the patron gives notice to the Minister in accordance with subsection (2).

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

(3) Notwithstanding anything in this Act, no patron is eligible to receive compensation pursuant to section 13 or 13.1 in respect of the failure of an out of province livestock dealer to account to or make settlement with the patron for the value of livestock or livestock products supplied, unless the patron gives notice to the Minister in accordance with subsection (4).

(4) Notice under subsection (3) shall be given by registered mail within 60 days after the date that livestock or livestock products were supplied to the out of province livestock dealer.

expired, the Minister may release the security that was furnished on behalf of the person who was licensed if that person provides the Minister with a statutory declaration stating that the person has accounted or made settlement faithfully to or with his patrons according to the value of livestock or livestock products supplied to the person during the time that the person was licensed.

5 Section 10(1) presently reads:

10(1) If the Minister finds that a person to whom a licence has been issued has failed to account or make settlement faithfully to or with patrons according to the value of livestock or livestock products supplied, the Minister may publish a notice in as many publications as he considers appropriate that circulate in the district in which the dealing in livestock or livestock products is carried on, requiring patrons who by reason of that failure have claims against the licensee to furnish the Minister, by a date to be specified, with particulars of their claims verified by statutory declaration or in any other manner that the Minister may require.

6 Section 11 presently reads:

11(1) Notwithstanding anything in this Act, no patron is eligible to make a claim or receive compensation pursuant to section 10 or 13 unless he gives notice to the Minister in accordance with subsection (2) of the failure of a person licensed to deal in livestock or livestock products to account or make settlement faithfully to or with the patron according to the value of livestock or livestock products supplied to the person licensed.

(2) Notice under subsection (1) shall be given by registered mail within 60 days after the date that livestock or livestock products other than hatching eggs were supplied to the person licensed and 90 days after the date that hatching eggs were supplied to the person licensed.

7 Section 12(3) presently reads:

(3) The Fund or any amount of the Fund may, at the direction of the Provincial Treasurer,

(a) be invested in bonds or debentures issued or guaranteed by the Government of Canada or the Government of Alberta, or

(b) be a participant in the Consolidated Cash Investment Trust Fund.

8 Section 13 presently reads:

13(1) In this section and sections 14 and 15, "patron" does not include a licensed livestock dealer or a licensed livestock dealers' agent unless the dealer or agent, at the time he furnishes a claim to the Minister pursuant to section 10, has owned for not less than 30 days the livestock that are the subject of the claim.

(1.1) The Minister may make payment to a patron out of the Fund and on any conditions that are prescribed by the regulations if

(a) a licensed livestock dealer has failed to account or make settlement to or with a patron in accordance with the value of the livestock or livestock products supplied,

(b) section 10 has been complied with, and

(c) the claim of the patron against the licensed livestock dealer is not satisfied.

(2) Notwithstanding subsection (1.1), if

(a) a licensed livestock dealer has given a patron a cheque in payment of all or part of the money due from the livestock dealer to the patron, and

(b) on presentation for payment the cheque is dishonoured,

then, unless the patron presented the cheque for payment within 60 days of the date of the cheque, he is not entitled to payment from the Fund in respect thereof and an amount equal to the amount of the cheque shall be deducted from the amount otherwise payable to the patron under subsection (1.1).

7 *Section 12 is amended by adding the following after subsection (3):*

(3.1) The income of the Fund accrues to and forms part of the Fund.

8 *Section 13 is amended*

(a) *by repealing subsection (1);*

(b) *by repealing subsection (1.1) and substituting the following:*

(1.1) The Minister may, in accordance with the regulations, make a payment from the Fund to a patron who has a claim against a licensed livestock dealer or an out of province livestock dealer, if

- (a) the Minister is satisfied that the licensed livestock dealer or out of province livestock dealer has, because the dealer is insolvent, failed to account to or make settlement with a patron for the value of livestock or livestock products supplied,
- (b) the livestock or livestock products supplied are of a class or type prescribed by the regulations,
- (c) with respect to a claim against a licensed livestock dealer, section 10 has been complied with and the claim of the patron against the licensed livestock dealer is not satisfied, and
- (d) the patron has met the requirements of the regulations with respect to the payment of levies into the Fund.

(c) *in subsection (2)*

(i) *in clause (a) by adding “or out of province livestock dealer” after “licensed livestock dealer”;*

(ii) *by striking out “60 days” and substituting “20 days”;*

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

(3) The Minister shall refer all claims for payment from the Fund to the review committee established under the regulations.

(4) The review committee shall make recommendations to the Minister with respect to claims referred to it by the Minister.

9 *The following is added after section 13:*

13.1(1) If the Minister refuses a claim of a patron for a payment from the Fund, the patron may, within 21 days of receiving notice of the refusal, refer the claim to an arbitrator in accordance with the *Arbitration Act*.

(2) The arbitrator shall determine if the patron is eligible under this Act and the regulations to receive a payment from the Fund.

(3) If the award of the arbitrator is that the patron is eligible to receive a payment from the Fund, the Minister shall make the payment from the Fund in accordance with the regulations.

13.2(1) If the Fund is insufficient to cover payments to be made by the Minister in respect of all claims against a licensed livestock dealer or an out of province livestock dealer, the Provincial Treasurer shall advance an amount from the General Revenue Fund to the Fund to enable the payment to be made from the Fund.

(2) The maximum amount that the Provincial Treasurer is required to advance to the Fund in respect of all claims against a licensed livestock dealer or an out of province livestock dealer is an amount equal to the maximum amount of the Fund established by the regulations less the actual amount in the Fund.

13.3(1) If the Provincial Treasurer has advanced money into the Fund from the General Revenue Fund, the money shall be repaid to the General Revenue Fund from the Fund.

(2) The Minister and the Provincial Treasurer may enter into an agreement respecting the repayment of money to the General Revenue Fund from the Fund, and the repayment shall be made in accordance with the agreement.

9 Arbitration and advances to the Fund.

10 *Section 14(1) is repealed and the following is substituted:*

14(1) If an amount is paid out of the Fund pursuant to section 13 or 13.1, the Government is subrogated to the rights of the patron against the licensed livestock dealer or the out of province livestock dealer in respect of the amount, and the Minister may maintain an action, in the name of the patron or in the name of the Crown, against the livestock dealer for the recovery of the amount.

11 *Section 15 is amended*

(a) *by repealing clauses (b) to (d) and substituting the following:*

(b) respecting the persons who are required to pay a levy into the Fund and the assessment of those persons;

(c) respecting the payment into and collection of levies for the Fund and the refund of levies from the Fund;

(d) prescribing the classes or types of livestock and livestock products in respect of which a payment from the Fund may be made;

(b) *by adding the following after clause (g.1):*

(g.2) respecting the establishment of a review committee and prescribing its powers and duties;

(c) *in clause (h) by striking out “sections 12, 13 and 14” and substituting “sections 12 to 14”.*

12 *Sections 19 and 20 are repealed.*

13 *This Act comes into force on Proclamation.*

10 Section 14(1) presently reads:

14(1) If an amount is paid out of the Fund pursuant to section 13, the Government is subrogated to the rights of the patron against the livestock dealer in respect of the amount so paid and the Minister may maintain an action, in the name of the patron or in the name of the Crown, against the livestock dealer for the recovery of the amount so paid.

11 Section 15(b), (c), (c.1), (d) and (h) presently read:

15 The Lieutenant Governor in Council may make regulations

(b) designating the classes of licences issued pursuant to section 3 in respect of which a portion of the licence fee shall be deposited in the Fund;

(c) prescribing the portion of the licence fee that shall be paid into the Fund;

(c.1) prescribing arrangements pursuant to which a levy is assessed, collected and paid into the Fund;

(d) prescribing the amount of the annual licence fee payable for those classes of licences designated pursuant to clause (b);

(h) respecting any other matter necessary to give effect to sections 12, 13 and 14 in accordance with their intent or to supply any deficiency therein.

12 Sections 19 and 20 presently read:

19 The purpose and intent of this Act is to regulate transactions that take place wholly within Alberta and nothing in this Act shall be construed as affecting or regulating a transaction that is not subject to the legislative authority of the Legislature.

20 In a prosecution under this Act or the regulations, the burden of proving that the transaction in question was one that did not take place wholly within Alberta is on the person accused.

13 Coming into force.