

## BILL 15

2002

### DAIRY INDUSTRY OMNIBUS ACT, 2002

(Assented to \_\_\_\_\_, 2002)

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

#### Dairy Board Act

##### Repeals RSA 2000 cD-1

**1(1) The *Dairy Board Act* is repealed.**

(2) In this section,

- (a) “Alberta Milk” means Alberta Milk, a board established under the *Marketing of Agricultural Products Act*;
- (b) “*Alberta Milk Marketing Regulation*” means the *Alberta Milk Marketing Regulation* under the *Marketing of Agricultural Products Act*;
- (c) “Milk Plan” means the *Alberta Milk Plan Regulation* under the *Marketing of Agricultural Products Act*;
- (d) “Minister” means the Minister of Agriculture, Food and Rural Development.

(3) On the coming into force of this Act, any quota issued under the *Dairy Board Act* is deemed to be quota issued by Alberta Milk under the Milk Plan.

(4) All the rights and liabilities associated with the quota described in subsection (3) continue on and after the coming into force of this Act until the quota is terminated, reallocated or otherwise dealt with by Alberta Milk under the Alberta Milk Plan.

(5) On the coming into force of this Act, an agreement restricting the transfer of quota registered with the Alberta Dairy Control Board is transferred to Alberta Milk as a valid registered appointment of attorney agreement under the *Marketing of Agricultural Products Act*.

(6) On the coming into force of this Act, any unallotted quota under the *Dairy Board Act* is transferred to Alberta Milk.

(7) On the coming into force of this Act, any licence that exists under the *Dairy Board Act* with respect to

- (a) producing or processing milk produced by the species *Bos taurus* continues as a licence under the Milk Plan subject to the same terms and conditions until the terms and conditions are varied by Alberta Milk or the licence expires or is renewed or is cancelled by Alberta Milk;
- (b) producing or processing milk produced by a species other than *Bos taurus* continues as a licence under the *Dairy Industry Act* on the same terms and conditions until the terms and conditions are varied by the Director under the *Dairy Industry Act* or by the regulations under that Act or the licence expires or is renewed or is cancelled by the Director under the *Dairy Industry Act*.

(8) On the coming into force of this Act, if an applicant has submitted an application to the Alberta Dairy Control Board and a decision has not been made by the Alberta Dairy Control Board on the application before the coming into force of this Act, the application continues as an application under the Milk Plan to which the requirements of the Milk Plan and the *Alberta Milk Marketing Regulation* apply unless the application relates to a licence for producing or processing milk produced by a species other than *Bos taurus*, in which case the application continues as an application under the *Dairy Industry Act* to which the requirements of that Act apply.

(9) Any reference to the Alberta Dairy Control Board in an agreement is, on and after the coming into force of this Act, deemed to be a reference to Alberta Milk under the Alberta Milk Plan.

(10) Any reference to the *Dairy Board Act* in an agreement is, on and after the coming into force of this Act, deemed to be a reference to the *Marketing of Agricultural Products Act*.

(11) Any agreement referred to in section 12 or 30 of the *Dairy Board Act* entered into by the Alberta Dairy Control Board with a government or an agent of a government and in effect on the coming into force of this Act is deemed, on and after the coming into force of this Act, to have been entered into by Alberta Milk and to comply with the requirements of section 51 of the *Marketing of Agricultural Products Act*.

(12) The records, as defined in the *Freedom of Information and Protection of Privacy Act*, of the Alberta Dairy Control Board that are specified by a regulation of the Lieutenant Governor in Council enacted pursuant to this subsection are transferred to Alberta Milk, and the records not specified in regulations pursuant to this subsection are transferred to the Minister.

(13) The Minister may request and collect information and records specified in a regulation pursuant to subsection (12) from Alberta Milk for use with respect to purposes directly related to or necessary for

- (a) any court proceeding and preparation for a court proceeding,
- (b) any action or claim to which the Alberta Dairy Control Board is or was a party,
- (c) any negotiation or settlement of an action or claim before it is before a court or while it is before a court, or
- (d) a response to a request under the *Freedom of Information and Protection of Privacy Act*,

and the Minister may use and disclose the information or records collected, as the Minister considers appropriate, in carrying out those purposes.

(14) On the coming into force of this Act, any milk

- (a) that has not been allocated by the Alberta Dairy Control Board may be allocated by Alberta Milk, and
- (b) that has not been directed by the Alberta Dairy Control Board to a processor may be directed by Alberta Milk to a processor.

(15) On the coming into force of this Act, the pools and the assets and liabilities of and levies with respect to the pools under the

*Dairy Board Act* become pools and the assets and liabilities of and levies with respect to the pools of Alberta Milk.

**(16)** On the coming into force of this Act, the rights, assets and liabilities of the Alberta Dairy Control Board become the rights, assets and liabilities of Alberta Milk, including the right to collect money raised by assessment or levy referred to in section 24 of the *Dairy Board Act*.

**(17)** On the coming into force of this Act, the special trust account under section 23 of the *Dairy Board Act* and the reserve trust account under section 24 of the *Dairy Board Act* are closed and the Minister of Finance must remit the remaining balances from the special trust account and the reserve trust account to Alberta Milk, and any money referred to in section 24 of the *Dairy Board Act* raised but not yet collected or not yet paid into the reserve trust account becomes the money of Alberta Milk, and that money and the money from the special trust account and from the reserve trust account may be used by Alberta Milk only to administer and operate the Milk Plan.

**(18)** Despite subsection (16), if on the coming into force of this Act the Alberta Dairy Control Board is a party to any legal action, Her Majesty the Queen in right of Alberta continues as the party to the legal action.

**(19)** Despite subsection (16), if on or after the coming into force of this Act a legal action is commenced for which the cause of action arose in whole or in part before the coming into force of this Act, Her Majesty the Queen in right of Alberta is a party to the action and Alberta Milk is not a party to that action.

**(20)** On the coming into force of this Act, all the grade price adjustments withheld or required to be withheld by the Dairy Board continue as grade price adjustments withheld or required to be withheld by Alberta Milk to be netted out and paid to whom they are owed in accordance with the *Alberta Milk Marketing Regulation*.

**(21)** On and after the coming into force of this Act, a grade or price assigned to milk continues to be the grade or price assigned to the milk until it is varied by Alberta Milk pursuant to the Milk Plan.

**(22)** On the coming into force of this Act, a price prescribed and in effect under section 13 of the *Dairy Board Act* continues as the

price of class 1a milk until the Alberta Energy and Utilities Board varies it pursuant to the Milk Plan.

(23) On the coming into force of this Act, the price of excess milk determined in accordance with the *Dairy Board Act* continues as the price of excess milk until the price is varied pursuant to the Milk Plan.

(24) On the coming into force of this Act, any directive, rule or order of the Alberta Dairy Control Board continues as an administrative order or directive of Alberta Milk under the Milk Plan until Alberta Milk amends, repeals or replaces it.

(25) Despite section 80(3) of the *Financial Administration Act*, the Alberta Dairy Control Board is dissolved, liquidated, wound up and disposed of.

(26) On the coming into force of this Act, despite any collective agreement that applies to employees of the Crown in right of Alberta employed pursuant to section 6 of the *Dairy Board Act*, the following do not apply to Alberta Milk, any person previously employed pursuant to section 6 of the *Dairy Board Act* or any trade union that represented those persons:

- (a) sections 44 and 49 of the *Labour Relations Code*;
- (b) sections 65 and 66 of the *Public Service Employee Relations Act*;
- (c) section 80 of the *Employment Standards Code*.

**(27) The *Conflicts of Interest Act* is amended in Part 3 of the Schedule by striking out “Alberta Dairy Control Board”.**

**(28) The *Food Regulation (AR 240/85)* is amended in section 5(2)(b) by adding “or under a plan under the *Marketing of Agricultural Products Act*” after “*Dairy Industry Act*”.**

### **Dairy Industry Act**

**Amends RSA 2000 cD-2**

**2(1) The *Dairy Industry Act* is amended by this section.**

**(2) Section 1 is amended**

**(a) by renumbering clause (a) as clause (a.1) and adding the following before clause (a.1):**

(a) “Alberta Milk” means Alberta Milk, a board established under the *Marketing of Agricultural Products Act*;

**(b) by repealing clause (f);**

**(c) by adding the following after clause (o):**

(o.1) “Milk Plan” means the *Alberta Milk Plan Regulation* under the *Marketing of Agricultural Products Act*;

**(d) in clause (w) by striking out “the Dairy Board Act” and substituting “this Act or the Marketing of Agricultural Products Act”.**

**(3) Section 2(3) is amended by striking out “the Dairy Board,” and substituting “Alberta Milk or any other person”.**

**(4) Section 4 is amended**

**(a) in subsection (1) by striking out “the Dairy Board Act” and substituting “this Act or the Marketing of Agricultural Products Act”;**

**(b) in subsection (2) by striking out “the Dairy Board Act” and substituting “this Act or the Marketing of Agricultural Products Act”;**

**(c) in subsection (3)(a) by striking out “grade” and substituting “milk components and obtaining data to determine the grade”.**

**(5) Section 7(1) and (2) are amended**

**(a) by striking out “the Dairy Board that” and substituting “Alberta Milk that”;**

**(b) by striking out “Dairy Board Act” and substituting “Marketing of Agricultural Products Act”.**

**(6) Section 8 is amended**

**(a) by adding the following after subsection (1):**

**(1.1)** For the purpose of determining whether this Act and the regulations are being complied with, the Director and an inspector may, at any reasonable hour, enter and inspect any vehicle that the Director or inspector believes on reasonable

and probable grounds is used to transport dairy products for sale.

**(b) in subsection (2)**

**(i) in clause (a) by adding “package,” before “dairy product,”;**

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

(a.1) stop and inspect a vehicle described in subsection (1.1) or a milk transport vehicle,

**(iii) in clause (b)**

**(A) by adding “vehicle described in subsection (1.1) or” before “milk transport vehicle, to be”;**

**(B) by adding “to provide assistance to the Director or inspector in carrying out an inspection and” before “to be interviewed”;**

**(iv) in clause (d)**

(A) by adding “package,” before “dairy product,”;

(B) by adding “vehicle described in subsection (1.1),” before “milk transport vehicle or”.

**(7) Section 11 is amended by adding the following after subsection (2):**

(2.1) An inspector may order that any dairy product seized, detained or taken away pursuant to subsection (1) that in the opinion of the inspector does not meet the requirements of this Act or the regulations be disposed of in the manner directed by the inspector.

(2.2) On making an order under subsection (2.1), the inspector must, on request of the person whose dairy product is subject to the order, provide a sample of the dairy product to an approved laboratory for testing.

**(8) Section 12 is amended**

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

**Test results**

**12(1)** The weight, volume and content of milk, milk components and data obtained to determine the grade, as determined by a bulk milk grader, analyst or inspector,

- (a) constitute the weight, volume, content and milk components for the purposes of this Act and the *Marketing of Agricultural Products Act*,
- (b) constitute the data for determining the grade of the milk under the *Marketing of Agricultural Products Act*, and
- (c) are the basis on which settlement for the sale of the milk by a producer to a processor must be made for the purposes of this Act and the *Marketing of Agricultural Products Act*.

(b) in subsection (2) by striking out “a grade,” and substituting “the data obtained to determine the grade,”.

**(9) Section 14 is amended**

(a) by repealing subsection (2) and substituting the following:



(2) If an inspector makes an order under subsection (1), the inspector must give notice of the order

(a) to Alberta Milk if the producer is licensed by Alberta Milk and, if Alberta Milk informs the inspector of the processors to whom the producer usually supplies milk, to those processors, and

(b) if the producer is licensed under this Act, to the processors to whom the producer usually supplies milk.

**(b) by repealing subsection (6) and substituting the following:**

(6) If an inspector cancels an order under subsection (5), the inspector must give notice of the cancellation

(a) to Alberta Milk if the producer is licensed by Alberta Milk and, if Alberta Milk informs the inspector of the processors to whom the producer usually supplies milk, to those processors, and

(b) if the producer is licensed under this Act, to the processors to whom the producer usually supplies milk.

**(10) Section 15(2) is amended by striking out** “from a dairy farm to a dairy plant or”.

**(11) Section 16 is amended**

(a) **in subsection (2) by striking out** “(1), the inspector must give notice of the order to the Dairy Board” **and substituting** “(1) and the processor is licensed by Alberta Milk, the inspector must give notice of the order to Alberta Milk”;

(b) **in subsection (5) by striking out** “the Dairy Board” **and substituting** “to Alberta Milk if the processor is licensed by Alberta Milk”.

**(12) Section 20 is amended**

(a) **by repealing subsection (2) and substituting the following:**

(2) A bulk milk grader who takes a sample of raw milk to determine its weight, volume, content and milk components and to obtain data to determine the grade for the purposes of

this Act and for the administration of the *Marketing of Agricultural Products Act*, including but not restricted to the Milk Plan, must, when required pursuant to the regulations, deliver the sample to a processor, and the processor must, in accordance with the regulations, deliver it to an approved laboratory.

**(b) by repealing subsection (3) and substituting the following:**

(3) An inspector who takes a sample of raw milk to determine its contents and milk components and to obtain data to determine its grade for the purposes of this Act and for the administration of the Milk Plan and the *Marketing of Agricultural Products Act* must deliver the sample to an approved laboratory.

**(13) Section 21 is repealed and the following is substituted:**

**Test results**

**21** An approved laboratory must

- (a) give the results of tests it carries out under this Act to the Director, Alberta Milk if the producer or processor who supplied the sample is licensed by Alberta Milk, and the processor who supplied the sample that was tested, and
- (b) on request give the results of the tests to the producer of the milk.

**(14) Section 23 is amended**

**(a) in subsection (1)**

**(i) by repealing clause (e) and substituting the following:**

- (e) a producer of milk of which the weight, volume, contents or milk components are determined, or from which data is obtained to determine the grade, by a bulk milk grader, analyst or inspector;

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

- (g) a person whose dairy product is subject to an order under section 11(2.1).

**(b) in subsection (2)(a) by striking out “(1)(e) or (f)” and substituting “(1)(e), (f) or (g)”;**

**(c) in subsection (4)**

- (i) by striking out “or” at the end of clause (g);**
- (ii) in clause (h) by striking out “a grade of milk” and substituting “data” and by adding “or” at the end;**

**(iii) by adding the following after clause (h):**

- (i) confirm, vary or cancel an order under section 11(2.1) and, if the Director or person appointed under subsection (2)(b) cancels the order, the Director or person may order that compensation be paid to the person whose dairy product was subject to the order under section 11(2.1).

**(15) Section 24(3) is repealed and the following is substituted:**

- (3)** Tests in an approved laboratory to determine the contents and milk components of milk and to obtain data to determine its grade for the purposes of this Act and the administration of the *Marketing of Agricultural Products Act*, including but not restricted to the Milk Plan, must be performed by an analyst.

**(16) Section 26 is amended**

- (a) in subsections (1), (2), (3) and (4) by striking out “the Dairy Board” and substituting “Alberta Milk”;**
- (b) in subsection (4) by striking out “The Dairy Board” and substituting “Alberta Milk”.**

**(17) Section 28 is amended by striking out “the Dairy Board” and substituting “Alberta Milk”.**

**(18) The following is added after section 31:**

**Sharing information**

**31.1(1)** An inspector and the Director may disclose information, including personal information, respecting tests, test results, data to determine grades, inspections, licences and orders pursuant to this Act

- (a) to Alberta Milk, if the information relates to milk produced or processed by a licensee of Alberta Milk, and Alberta Milk may collect and use that information for the purposes of administering the Milk Plan and the *Alberta Milk Marketing Regulation* under the *Marketing of Agricultural Products Act* and the regulations of Alberta Milk, and

(b) to the owner of an approved laboratory, and the owner may collect and use that information for the purposes of administering this Act.

(2) Alberta Milk must, on the request of the Director, disclose information, including personal information, respecting licences, grades, quota and transportation of milk pursuant to the Milk Plan to the Director, and the Director and inspectors may collect and use that information for the purposes of administering this Act.

(3) The owner of an approved laboratory must, on the request of the Director, disclose information, including personal information, respecting tests, test results and data to determine grades, and the Director and inspectors may collect and use that information for the purposes of administering this Act.

**(19) The following is added after section 38:**

**Evidence**

**38.1(1)** In a prosecution for an offence under this Act,

- (a) the description of a commodity purporting to be a dairy product on a package is admissible in evidence, in the absence of evidence to the contrary, as proof of the contents of the package and of the grade or class of the dairy product, and
- (b) an invoice purporting to record the sale of a dairy product is admissible in evidence, in the absence of evidence to the contrary, as proof of the sale of the grade or class of the dairy product set out on the invoice at the price and in the quantity specified on the invoice.

(2) In a prosecution for an offence under this Act, if it is shown

- (a) that any package admitted in evidence indicates on the package the measure of its capacity or of its contents, and
- (b) that the package is or was filled or approximately filled at the time or times material to the offence,

it is deemed that the measure of the contents of the package is the same as the measure of its capacity or contents as indicated on the package.

**Analyst's report as evidence**

**38.2(1)** In this section, “analyst” means a person designated as an analyst under section 3 or under the *Food and Drugs Act* (Canada).

(2) In a prosecution for an offence under this Act, a certificate or report purporting to be signed by an analyst relating to the analysis or ingredients of any commodity submitted to the analyst may be admitted in evidence, in the absence of evidence to the contrary, of the facts stated in the certificate or report and of the authority of the person making it, without proof of the person's appointment or signature.

**(20) Section 39(1) is amended**

(a) in clause (a) by adding “produced by a species other than *Bos taurus*” after “milk” wherever it occurs;

(b) by adding the following after clause (a):

(a.1) respecting standards related to food safety of milk, farm separated cream and dairy products and data to determine grades;

(c) by repealing clause (b).

**(21) The *Exemption Regulation* (AR 125/99) is amended in section 3(j.2) by adding “or disposal of any dairy product” before “under section 11 of”.**

**Marketing of Agricultural  
Products Act**

Amends RSA 2000 cM-4

**3(1) The *Marketing of Agricultural Products Act* is amended by this section.**

**(2) Section 1 is amended**

(a) in clause (c) by striking out “or” at the end of subclause (ii) and adding the following after subclause (ii):

(ii.1) the *Canadian Dairy Commission Act* (Canada), or

(b) in clause (d) by striking out “or” at the end of subclause (i) and adding the following after subclause (i):

- (i.1) the Canadian Dairy Commission or an agency established pursuant to the *Canadian Dairy Commission Act* (Canada), or

**(c) by adding the following after clause (g):**

- (g.1) “dealer” means dealer as defined in the regulations with respect to a plan;

**(d) by adding the following after clause (l):**

- (l.1) “processor” means processor as defined in the regulations with respect to a plan;

**(e) by repealing clause (m) and substituting the following:**

- (m) “producer” means
  - (i) a person who produces an agricultural product, and
  - (ii) a producer as defined in the regulations with respect to a plan;

**(3) Section 12 is amended**

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

- (c.1) defining producer, processor and dealer with respect to a plan;

**(b) by adding the following after clause (i):**

- (j) authorizing the disclosure of information, including personal information, that relates to the administration of a plan, this Act and the regulations or orders and directives of a board or commission that has been
  - (i) collected or used by a public body, within the meaning of the *Freedom of Information and Protection of Privacy Act*, to a board or commission for use by the board or commission in carrying out its powers and duties;
  - (ii) collected or used by a board or commission to a public body, within the meaning of the *Freedom of Information and Protection of Privacy Act*, for use by the public body in carrying out its powers and duties.

**(4) Section 19 is renumbered as section 19(1) and the following is added after subsection (1):**

(2) Despite section 1(1)(r) of the *Financial Administration Act*, the appointment of interim members under subsection (1) does not make the board or commission a Provincial corporation.

**(5) The following is added after section 24:**

**Plan termination**

**24.1(1)** If a board or commission

- (a) has failed to file the minutes of its meetings, annual financial statement, annual auditor's report on the financial statement and annual general report of the board's or commission's operation for 2 consecutive years after the documents or statements were required to be so filed with the Council, and
- (b) the Council has reasonable cause to believe that the board or commission is no longer operating under the plan,

the Council must serve notice on the board or commission that it must file the documents or statements that have not been filed and notify the Council that it is carrying out the purposes of the plan.

(2) Notwithstanding section 24, if within 60 days after the notice under subsection (1) is served,

- (a) the board or commission fails to file with the Council the documents or statements referred to in subsection (1)(a), or
- (b) the last known director of the board or commission notifies the Council that it is not carrying out the purposes of its plan,

the Council must publish a notice in *The Alberta Gazette* that, with the approval of the Lieutenant Governor in Council, the plan may be terminated 60 days after the date of publication of the notice without holding a plebiscite under section 24.

(3) The Lieutenant Governor in Council may approve the termination of a plan under this section without a plebiscite of the producers under this Part being held.

**(6) Section 26 is amended**

**(a) by renumbering it as section 26(1);**

**(b) in subsection (1)**

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

(a.1) providing for classifying producers, processors and others into groups for the purposes of a plan;

**(ii) in clause (f)(i) and (ii) by striking out “charges” and substituting “charges, levies”;**

**(c) by adding the following after subsection (1):**

(2) A board or commission may make administrative orders and directives respecting the carrying out of any or all of its powers and duties under this section.

(3) The *Regulations Act* does not apply to an administrative order or directive under subsection (2).

**(7) Section 27 is amended**

**(a) in subsection (1)**

**(i) by adding the following after clause (b):**

(b.1) respecting the regulation of the supply of a regulated product by producers to processors, including but not restricted to the transportation, delivery and supply of the regulated product to processors, entitlement of processors to the regulated product and transferring of the regulated product among processors;

(b.2) permitting or prohibiting the transfer of the regulated product from one producer to another and permitting or prohibiting the transfer of the regulated product from one processor to another;

**(ii) in clause (d)(i) by adding “volume, weight, components, contents,” before “amount”;**

**(iii) by repealing clause (g) and substituting the following:**



- (g) determining the quantity, weight and volume of each class, variety, size, grade, kind, components and contents of the regulated product that shall be produced or marketed, or both, by each producer;
- (iv) in clause (m) by striking out “grade” and substituting “grade, volume, weight, components, contents”;**
- (v) by adding the following after clause (m):**
  - (m.1) governing the priority of use of a regulated product or any class, variety, size, grade, volume, weight or kind of the regulated product;
- (vi) in clause (o)**
  - (A) by adding “or processor” after “to a producer”;**
  - (B) by striking out “product,” and substituting “product or agricultural product.”;**
  - (C) by striking out “the producer,” and substituting “the producer or processor.”;**
- (vii) by adding the following after clause (o):**
  - (o.1) providing for the terms and conditions on which a person may market the regulated product in excess of the quota fixed and allocated to the person;
  - (o.2) respecting the amount, manner and time of payments to producers by processors and requiring the making of statements and other documents accompanying payments and respecting the information to be contained in the statements and other documents;
  - (o.3) respecting the payment to the producer of the money payable or owing for the regulated product, less the cost of any inspection, grading or testing costs and other costs required to ensure the proper operation of the plan;
- (viii) in clause (p) by adding the following after subclause (ii):**
  - (iii) for the deduction of service charges and levies, including but not restricted to inspection costs,

transportation, testing and grading costs and other costs required to ensure the proper operation of the plan;

**(ix) by adding the following after clause (w):**

- (x) establishing grades for a regulated product, respecting the grading of the regulated product and providing for deductions from price based on grade, and providing for netting out, in conjunction with pools, all amounts payable among producers, processors and a board;
- (y) respecting the use of a regulated product based on the class, weight or volume available of the regulated product;
- (z) requiring purchasers of a regulated product and processors of the regulated product and agricultural products to provide information in a form acceptable to the board respecting the source, weight and volume of the regulated product and of the agricultural products used to process and produce additional agricultural products and the class, volume, contents, components, weight and amount of those agricultural products and providing for the assessment, charging and collection of service charges respecting the verification of the information.

**(b) by adding the following after subsection (1):**

**(1.1)** The *Insurance Act* does not apply to pools operated by boards pursuant to subsection (1)(p).

**(c) by adding the following after subsection (3):**

**(4)** If an agricultural product is not a regulated product under the plan but is used to produce an agricultural product, the Council may, with the approval of the Minister, authorize the board to make regulations

- (a) governing, with respect to that agricultural product, the producers and processors of the regulated product under the plan in the same manner as if the agricultural product were a regulated product under the plan;

(b) establishing and governing a formula for determining the size, volume, weight, components or number of agricultural product produced or deemed to have been produced from the size, volume, weight, components or number of the regulated product.

(5) If a board makes regulations under subsection (4), those regulations apply with respect to the agricultural product only while the agricultural product is owned or controlled by a processor or while payment with respect to the regulated product is still owing to a producer, processor or board or if verification of the ultimate use of the regulated product is required to determine money owing to a producer, processor or board in respect of the regulated product.

(6) A board may make administrative orders and directives respecting the carrying out of any or all of its powers and duties under this section.

(7) The *Regulations Act* does not apply to an administrative order or directive under subsection (6).

**(8) Section 33 is amended**

**(a) in subsection (1)(a)**

(i) **by adding** “or to establish, by agreement, a method to determine” **after** “settle by agreement”;

(ii) **in subclause (i) by adding** “volume, weight, components,” **after** “size,”;

**(iii) by adding the following after subclause (iii):**

(iv) supply of regulated product and agricultural product to processors, entitlement of processors to regulated product and agricultural product and transfer of regulated product and agricultural product among processors;

(v) method and timing of payment to a producer or processor of money payable or owing for regulated product or agricultural product and payment to the board for service charges and levies owing to a board with respect to the regulated product or agricultural product;

- (vi) the furnishing of security or proof of financial responsibility by any person engaged in the production, marketing or processing of regulated product and agricultural product and the administration and disposition of any security or proof of financial responsibility that is furnished;

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

**(2.1)** Every agreement and award made under the regulations referred to in subsection (1) is binding on and enforceable against the producers, processors and the board of the plan with respect to which the agreement is made.

**(9) Section 44 is amended**

**(a) in subsection (1)**

**(i) by striking out** “processing of an” **and substituting** “processing of a regulated product or an”;

**(ii) in clause (a)(ii) by adding** “regulated product or” **before** “agricultural product”;

**(iii) by adding the following after clause (b):**

(b.1) remove the record, object or thing referred to in clause (a)(ii) for the sole purpose of making copies of it or taking extracts from it;

(b.2) take any quantities of any lot of an agricultural product that may be reasonably required for the purpose of testing and analysis;

(b.3) determine and audit the source and ultimate use of agricultural products used in the processing or production of additional agricultural products;

**(iv) in clause (c) by adding** “regulated product or” **before** “agricultural product”;

**(v) in clause (d) by adding** “regulated product or” **before** “agricultural product”;

**(b) by repealing subsection (4) and substituting the following:**

(4) Notwithstanding anything in subsection (1), no person is required to produce for inspection to a board or commission, or a person acting on its behalf, a record relating to an agricultural product if the record relates to a period of time subsequent to the time at which the agricultural product was owned, controlled or regulated by a producer or a board or commission, unless

- (a) payment is still owing to a producer, processor or board for the regulated product or agricultural product for the transaction in question, or
- (b) verification of the ultimate use of the regulated product or agricultural product is required to determine money owing to a producer, processor or board in respect of the regulated product or agricultural product.

**(10) The following is added after section 47:**

**Witness exemption**

**47.1(1)** No member or employee of the Council or of a board or a commission shall, in any civil suit to which the member's or employee's Council, board or commission is not a party, be required to give testimony with regard to information obtained by the member or employee in the discharge of the member's or employee's official duties under this Act.

(2) Despite subsection (1), a court may issue an order requiring the member or employee to give testimony with regard to information if in the opinion of the court that information may relate to proceedings before the court.

**(11) Section 49(2)(a) and (b) are amended by adding "or agricultural product" after "regulated product".**

**(12) Section 50(a) is amended by adding "a Canada Board or by" before "or under a Canada Act".**

**(13) Section 51 is amended**

- (a) by renumbering it as section 51(1);**
- (b) in subsection (1) by striking out "government" and substituting "government, a Canada Board";**
- (c) by adding the following after subsection (1):**

(2) The Council may, with the approval of the Minister, become a party to agreements under subsection (1).

(3) Without limiting the powers of a board or commission under section 16(a)(ii) of the *Interpretation Act* to contract or be contracted with, if a board or commission becomes a party to an agreement referred to in subsection (1),

- (a) the board or commission may exercise and perform the powers and duties conferred or imposed on it by the regulations under this Act,
- (b) the board or commission may exercise and perform the powers and duties conferred or imposed on it by the agreement, and
- (c) the Lieutenant Governor in Council may, by regulation, confer on the board or commission any additional powers that are necessary for the board or commission to carry out its obligations and functions under the agreement.

**(14) Section 52 is amended by adding the following after subsection (2):**

(3) Subject to service under section 45, for the purposes of this Act, a document that is served under this Act is deemed to have been served on a person if

- (a) the document or a copy of it is delivered personally to an officer or an adult employee of a corporation or to a partner or an adult employee of a partnership, or
- (b) the document or a copy of it is mailed by ordinary mail to the head office or chief place of business in Alberta of a corporation or partnership of which the person to be served is a member or employee.

**(15) The following is added after section 53:**

**Transitional**

**54(1)** If before the coming into force of this Act there is a plebiscite under section 16 in favour of the establishment of a plan respecting milk and dairy products, before the coming into force of this Act

- (a) the Council may, with respect to Alberta Milk, make appointments under section 19, and
- (b) the Lieutenant Governor in Council may, with respect to milk and dairy products and a plan related to Alberta Milk, grant approvals under section 50 with respect to

authorizations of the Council granted to Alberta Milk,  
and

- (i) make regulations under sections 12 and 17,
- (ii) despite Alberta Milk not being established, make regulations that a board or commission authorized by the Council could make under sections 26 and 27,
- (iii) despite Alberta Milk not being established, make regulations that the Council with the approval of the Minister could make under section 33,
- (iv) make regulations under section 28 that the Council with the approval of the Minister could make prescribing conditions and restrictions and limiting authority,

and despite section 29 and without the approval of the Council or the Minister, the regulations may be submitted for filing in accordance with the *Regulations Act*, and the regulations may be made to come into force on the coming into force of the *Dairy Industry Omnibus Act, 2002*.

(2) In this section, “Alberta Milk” means Alberta Milk, a board respecting milk and dairy products to be established under this Act on the coming into force of the *Dairy Industry Omnibus Act, 2002*.

## **Coming into Force**

### **Coming into force**

**4 This Act comes into force on Proclamation.**

## **Explanatory Notes**

*Dairy Board Act*

1(1) Repeals chapter D-1 of the Revised Statutes of Alberta 2000.

(2) Definitions.

(3) Quota continues.

(4) Quota continues.

(5) Security transitional.

(6) Quota continues.

(7) Licences continue.

(8) Continuation of applications.

(9) References.

(10) References.

(11) References.

(12) Information transitional.

(13) Information transitional.

(14) Milk allocation transitional.

(15) Pool transfer.

(16) Assets, liabilities transfer.

(17) Surplus rollover.



- (18) Legal action transitional.
- (19) Legal action transitional.
- (20) Grade adjustment transfer.
- (21) Grade and price transitional.
- (22) Milk price transitional.
- (23) Price of excess milk rollover.
- (24) Directives, rules, orders transitional.
- (25) Transitional for the winding-up of the Dairy Board.
- (26) Employee transitional.
- (27) Consequential.
- (28) Consequential.

**Dairy Industry Act**

**2(1)** Amends chapter D-2 of the Revised Statutes of Alberta 2000.

(2) Section 1(f) and (w) presently read:

*1 In this Act,*

- (f) *“Dairy Board” means the Alberta Dairy Control Board constituted under the Dairy Board Act;*
- (w) *“processor” means any person who processes, for sale, 50 litres or more of milk or dairy product on any day, but does not include a retail establishment that operates or uses a freezing device to freeze a frozen dairy product mix manufactured by a processor licensed under the Dairy Board Act;*

(3) Section 2(3) presently reads:

*(3) The Director may in writing delegate any power or duty conferred or imposed on the Director by this Act or the regulations to employees of the Government of Alberta, to inspectors or to the Dairy Board, except the power to issue variances or carry out the powers and duties of the Director under section 30.*

(4) Section 4 presently reads:

*4(1) No person shall be a producer or processor of dairy products unless that person holds a producer or processor licence issued under the Dairy Board Act.*

*(2) No person other than a person who holds a processor licence issued under the Dairy Board Act shall operate a dairy plant.*

*(3) No person other than an inspector or a person who holds a bulk milk grader licence shall take samples of a producer’s raw milk for the purposes of*

*(a) determining its weight, volume, contents and grade, and*

*(b) accepting or rejecting the raw milk at a dairy farm.*

*(4) No person other than a person who holds a licence under this Act that authorizes the person to operate a pasteurizer shall operate a pasteurizer at a dairy plant.*

(5) Section 7 presently reads:

*7(1) If the Director, on reasonable and probable grounds, is satisfied that a dairy farm or dairy plant will be operated so that it meets the requirements of this Act and the regulations, the Director may recommend to the Dairy Board that it issue a licence or lift the suspension of a licence in accordance with the regulations under the Dairy Board Act.*

*(2) If the Director, on reasonable and probable grounds, is of the opinion that a dairy farm or dairy plant does not meet the requirements of this Act or the regulations, the Director may recommend to the Dairy Board that it suspend or cancel the licence in accordance with the regulations under the Dairy Board Act.*

(6) Section 8 presently reads:

*8(1) For the purpose of determining whether this Act and the regulations are being complied with, the Director and an inspector may at any reasonable hour enter and inspect any building, land, milk transport vehicle or milk transport vehicle depot, other than a private dwelling place that is used as a dwelling, that the Director or inspector believes on reasonable and probable grounds is, or is used in connection with, a dairy farm, dairy plant, milk transport vehicle, milk transport vehicle depot or laboratory where dairy products are tested for the purposes of this Act.*

*(2) In carrying out an inspection under this section, the Director or inspector may*

- (a) inspect, review, examine, evaluate and take samples from any dairy product, dairy animal, thing, process or activity to which this Act applies and photograph or otherwise record anything with respect to them that the Director or inspector considers would be of assistance,*
- (b) require any person in a building or on the land that is, or is used in connection with, a dairy farm, dairy plant, milk transport vehicle depot or laboratory where dairy products are tested for the purposes of this Act, or in a milk transport vehicle, to be interviewed and to make full disclosure either orally or in writing about any matter concerning any dairy product, dairy animal, thing, process or activity to which this Act applies,*

- (c) *on providing notice when practical, temporarily close or disconnect, or require temporary closure or disconnection of, any thing, process or activity to which this Act applies,*
- (d) *review, perform or require to be performed any tests that the Director or inspector considers necessary on any dairy product, dairy animal, thing, process or activity in or on a dairy farm, dairy plant, milk transport vehicle or milk transport vehicle depot, and take samples and remove any thing, if necessary, for the purpose of having tests performed, and*
- (e) *demand the production, within a reasonable time, of any licence, record or other document pertaining in any manner to compliance with this Act or the regulations and may on giving a receipt for it remove it for not more than 48 hours for the purpose of making copies of it.*

(7) Section 11 presently reads:

*11(1) If an inspector is of the opinion, on reasonable grounds, that a person has contravened this Act or the regulations, the inspector may seize or detain or place a notice of seizure or detention on and take away any dairy product or other thing by means of or in relation to which the inspector reasonably believes the contravention was committed.*

*(2) An inspector may order that any dairy product or thing seized, detained or taken away pursuant to subsection (1) be held until, in the opinion of the inspector, this Act and the regulations have been complied with.*

*(3) No person shall without the written permission of an inspector or the Director*

- (a) remove a notice of seizure or detention placed by an inspector, or*
- (b) remove a dairy product or thing seized or detained by an inspector.*

(8) Section 12 presently reads:

*12(1) The grade of milk and the weight, volume and content of milk and of any component of milk as determined by an analyst or inspector*

- (a) constitute the grade, weight, volume and content of the milk and of any component of the milk for the purposes of this Act and the Dairy Board Act, and*

*(b) is the basis on which settlement for the sale of the milk by a producer to a processor must be made for the purposes of this Act and the Dairy Board Act.*

*(2) A producer may, in accordance with section 23, request a review of the determination of a grade, weight, volume or content of milk or of any component of the milk produced by the producer.*

(9) Section 14(2) and (6) presently read:

*(2) If an inspector makes an order under subsection (1), the inspector must give notice of the order to the Dairy Board and the processors to whom the producer usually supplies milk.*

*(6) If an inspector cancels an order under subsection (5), the inspector must give notice of the cancellation to the Dairy Board and the processors to whom the producer usually supplies milk.*

(10) Section 15(2) presently reads:

*(2) The processing of a dairy product and the transportation of a dairy product from a dairy farm to a dairy plant or from a dairy plant to another dairy plant must meet the requirements of the regulations.*

(11) Section 16(2) and (5) presently read:

*(2) If an inspector makes an order under subsection (1), the inspector must give notice of the order to the Dairy Board.*

*(5) If an inspector cancels an order under subsection (4), the inspector must give written notice of the cancellation to the processor and the Dairy Board.*

(12) Section 20(2) and (3) presently read:

*(2) A bulk milk grader who takes a sample of raw milk to determine the grade and components of the milk for the purposes of this Act and the Dairy Board Act must, when required pursuant to the regulations, deliver the sample to a processor, and the processor must, in accordance with the regulations, deliver it to an approved laboratory.*

*(3) An inspector who takes a sample of raw milk to determine the grade and components of the milk for the purposes of this Act must deliver it to an approved laboratory.*

(13) Section 21 presently reads:

*21(1) An approved laboratory must*

- (a) give the results of tests it carries out under this Act to the Director and the processor who supplied the sample that was tested, and*
- (b) on request give the results of the tests*
  - (i) to the producer of the milk, and*
  - (ii) if the Dairy Board directed that the milk be transferred from a processor to another processor, to that other processor.*

*(2) The Director must give a copy of the results of the tests that the Director receives under subsection (1) to the Dairy Board.*

(14) Section 23 presently reads:

*23(1) The following may apply to the Minister in writing, with reasons, for a review:*

- (a) a person whose application for a licence under this Act is refused;*
- (b) a licensee under this Act who objects to a condition imposed on the licensee's licence by the Director;*
- (c) a person whose licence under this Act is suspended or cancelled;*
- (d) a producer against whom an order is made under section 14 or 18;*
- (e) a producer of milk whose milk is graded or the content of the components or the weight or volume of whose milk is determined by a bulk milk grader, analyst or inspector;*
- (f) a processor against whom an order is made under section 16.*

*(2) On receiving a written request under subsection (1), the Minister may*

- (a) *direct the Director to consider a matter described in subsection (1)(e) or (f) or reconsider a matter referred to in subsection (1)(a) to (d), or*
- (b) *appoint one or more persons to hold a hearing within 30 days with respect to any matter referred to in subsection (1).*

(3) *A person appointed under subsection (2)(b) may*

- (a) *determine if representations will be oral or by written submission, and*
- (b) *consider any new evidence that is raised or presented in a hearing.*

(4) *The Director, on reconsidering a matter referred to in subsection (1)(a) to (d) or on considering a matter described in subsection (1)(e) or (f), and the person appointed under subsection (2)(b) who holds a hearing under subsection (3) may*

- (a) *in the case of the Director, issue a licence subject to any conditions imposed by the Director,*
- (b) *in the case of the person appointed under subsection (2)(b), direct that a licence be issued by the Director subject to any conditions included in the direction,*
- (c) *confirm, vary or cancel a condition imposed on a licence,*
- (d) *confirm a suspension or cancellation,*
- (e) *vary the term of suspension,*
- (f) *substitute a suspension for a cancellation,*
- (g) *reinstate the suspended or cancelled licence, subject to any conditions the Director or the person who holds a hearing considers appropriate, or*
- (h) *confirm or vary a determination of a grade of milk, the content of milk components or the weight or the volume of milk.*

(15) Section 24(3) presently reads:

*(3) Tests to be performed at an approved laboratory to determine the grade and components of milk for the purposes of this Act and the Dairy Board Act may be undertaken only by an analyst.*

(16) Section 26 presently reads:

*26(1) The owner of an approved laboratory may, or the Dairy Board on the request of and on behalf of the owner of an approved laboratory may, collect the fees referred to in section 24(4).*

*(2) An inspection agency may, or the Dairy Board on the request of and on behalf of an inspection agency may, collect the fees referred to in section 25(4).*

*(3) If the Dairy Board undertakes to collect a fee referred to in subsection (1) or (2), the approved laboratory or inspection agency may not undertake collection of that fee.*

*(4) The Dairy Board may*

*(a) collect fees from a producer or processor, and*

*(b) if the Dairy Board holds money for a producer or processor and that producer or processor owes a fee referred to in subsection (1) or (2), deduct the amount of the fee from the money it holds for the producer or processor and remit the amount of the fee to the approved laboratory or inspection agency.*

(17) Section 28 presently reads:

*28 All assessments under section 27 are debts due to the Crown and may be collected by the Crown or by the Dairy Board on behalf of the Crown.*

(18) Information sharing.

(19) Evidence.

(20) Section 39(1)(a) and (b) presently read:

*39(1) The Lieutenant Governor in Council may make regulations*

*(a) establishing grades for raw milk and respecting the grading of raw milk;*

*(b) respecting deductions due to raw milk grades;*



(21) Consequential.

**Marketing of Agricultural  
Products Act**

**3(1)** Amends chapter M-4 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads in part:

*1 In this Act,*

(c) “*Canada Act*” means

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

- (ii) *the Agricultural Products Marketing Act (Canada), or*
- (iii) *any other Act of the Parliament of Canada designated by the Lieutenant Governor in Council,*

*or any one or more of them, as the case may be;*

(d) *“Canada Board” means*

- (i) *the National Farm Products Council or an agency established pursuant to the Farm Products Agencies Act (Canada), or*

(ii) *the Governor General in Council,*

*as the case may be;*

(m) *“producer” means a person who produces an agricultural product;*

(3) Section 12 presently reads:

*12 The Lieutenant Governor in Council may make regulations*

- (a) *designating agricultural products for the purpose of this Act and the regulations;*
- (b) *designating any function or activity as marketing for the purpose of this Act and the regulations;*
- (c) *designating any function or activity as processing for the purpose of this Act and the regulations;*
- (d) *requiring that a regulation or class of regulation made by a board or commission under section 26 or 27, as the case may be, not be filed in accordance with the Regulations Act unless it is approved by the Lieutenant Governor in Council;*
- (e) *providing for boards or commissions to co-operate with or act as agents of the Canada Board;*

- (f) *subject to Part 3, governing the winding-up and disposition of the assets of a board or commission whose establishment is terminated;*
- (g) *authorizing the Council to levy assessments and charge fees in respect of services it renders to any person, board or commission;*
- (h) *exempting from the operation of a plan*
  - (i) *any person or class of person,*
  - (ii) *any class, variety, size, grade, kind or number of an agricultural product, or*
  - (iii) *any method of selling any class, variety, size, grade, kind or number of an agricultural product;*
- (i) *notwithstanding this or any other Act, providing for*
  - (i) *the carrying out by the Council or a trustee of any or all of the duties of a board or commission;*
  - (ii) *the vesting of the assets of a board or commission in the Council or a trustee;*
  - (iii) *with respect to any or all of the assets that are owned or in the custody of a board or commission,*
    - (A) *subject to paragraph (B), the disposition of the assets, and*
    - (B) *the return to the producers of any assets that are identified as being the property of or owing to the producers.*

(4) Section 19 presently reads:

*19 After a board or commission is established under section 17 or 18 and prior to the election of the initial members to the board or commission, the Council may appoint interim members to that board or commission to carry out its functions until the initial members are elected and assume their duties on the board or commission.*

(5) Plan termination.

(6) Section 26 presently reads:

*26 For the purpose of enabling a board or commission to operate a plan, the Council, with the approval of the Minister, may by regulation authorize a board or commission to make regulations*

- (a) *requiring producers engaged in the production or marketing, or both, of a regulated product to register their names and addresses with the board or commission;*
- (b) *requiring any person who produces, markets or processes a regulated product to furnish to the board or commission any information or record relating to the production, marketing or processing of the regulated product that the board or commission considers necessary;*
- (c) *requiring persons to be licensed under the plan before they become engaged in the production, marketing and processing, or any one or more of those functions, of a regulated product;*
- (d) *prohibiting persons from engaging in the production, marketing or processing, as the case may be, of a regulated product except under the authority of a licence issued under the plan;*
- (e) *governing the issuance, suspension or cancellation of a licence issued under the plan;*
- (f) *providing for*
  - (i) *the assessment, charging and collection of service charges and licence fees, as the case may be, from producers from time to time for the purposes of the plan, and*
  - (ii) *the taking of legal action to enforce payment of the service charges and licence fees, as the case may be;*
- (g) *in the case of a commission, providing for the refund of service charges;*
- (h) *requiring any person who receives a regulated product from a producer*
  - (i) *to deduct from the money payable to the producer any service charges, licence fees or levies, as the case may be, payable by the producer to the board or commission, and*
  - (ii) *to forward the amount deducted to the board or commission;*
- (i) *providing for the use of any class of service charges, licence fees, levies or other money payable to or received by the board or commission for the purpose of paying its expenses and administering the plan and the regulations made by the board or commission;*
- (j) *requiring persons who produce, market or process a regulated product to mark the containers of their products to show the place of origin or place of production to the satisfaction of the board or commission;*
- (k) *providing for the payment to a Canada Board of money that is payable under a Canada Act;*

- (l) *permitting the board or commission to exercise any one or more of the powers that are vested in a co-operative association under the Co-operative Associations Act.*

(7) Section 27 presently reads:

*27(1) For the purpose of enabling a board to operate a plan, the Council, with the approval of the Minister, may, in addition to an authorization made under section 26, by regulation authorize a board to make regulations*

- (a) *requiring that the production or marketing, or both, of a regulated product be conducted pursuant to a quota;*
- (b) *governing*
  - (i) *the fixing and allotting of quotas,*
  - (ii) *the increase or reduction of quotas,*
  - (iii) *the cancelling of quotas, and*
  - (iv) *the refusal to fix and allot quotas,*  
*to producers for the production or marketing, or both, of a regulated product on any basis that the board considers appropriate;*
- (c) *governing the transferability or non-transferability of quotas and prescribing the conditions and procedures applicable to the transfer of quotas, if any, that the board considers appropriate;*
- (d) *establishing*
  - (i) *a formula for determining the amount or number of a regulated product deemed to have been produced or marketed by a producer, and*
  - (ii) *the period of time in respect of which the formula is to be applied,*  
*for the purposes of determining the amount of a regulated product produced or marketed by a producer during a period of time;*
- (e) *providing for*

- (i) *the assessment, charging and collection of a levy from any producer whose production or marketing, or both, of the regulated product is in excess of the quota that has been fixed and allotted to that producer, and*
- (ii) *the taking of legal action to enforce payment of the levy;*
- (f) *requiring any person who provides an agricultural product to a producer under the plan to furnish to the board any information requested by the board;*
- (g) *determining the quantity of each class, variety, size, grade and kind of the regulated product that shall be produced or marketed, or both, by each producer;*
- (h) *requiring a producer who produces a regulated product to market the regulated product through the board or through a designated agency;*
- (i) *directing, controlling or prohibiting, as the case may be, the production or marketing, or both, of the regulated product or any class, variety, size, grade or kind of the regulated product in any manner that the board considers appropriate;*
- (j) *regulating and controlling the production or marketing, or both, of the regulated product, including the times and places at which the regulated product may be produced or marketed;*
- (k) *providing for the purchase or acquisition of any of the regulated product that the board considers advisable and the sale or disposition of it;*
- (l) *providing for the establishment and operation of one or more programs for the disposition of any agricultural product considered to be surplus to market requirements;*
- (m) *determining from time to time the minimum price or prices that shall be paid to producers for the regulated product or any class, variety, size, grade or kind of the regulated product and determining different prices for different parts of Alberta;*
- (n) *requiring that the money payable or owing to a producer for the regulated product be paid to or through the board;*
- (o) *providing for the payment to a producer of the money payable or owing for the regulated product, less any service charges and levies owing to the board by the producer, and fixing the time or times at which or within which the payments shall be made;*
- (p) *providing*

- (i) *for the operation of one or more pools for the distribution of all money payable to the producers from the sale of the regulated product, and*
  - (ii) *for the deduction of reasonable and proper disbursements and expenses with respect to the operation of the pool;*
  - (q) *providing for the collection from any person by legal action of money owing to a producer for the regulated product;*
  - (r) *governing*
    - (i) *the furnishing of security or proof of financial responsibility by any person engaged in the production, marketing or processing of a regulated product, and*
    - (ii) *the administration and disposition of any money or securities so furnished;*
  - (s) *prohibiting a person to whom a quota has not been fixed and allotted for the production or marketing, or both, of a regulated product from producing or marketing, as the case may be, any of the regulated product;*
  - (t) *prohibiting a producer to whom a quota has been fixed and allotted for the production or marketing, or both, of a regulated product from producing or marketing, as the case may be, any of the regulated product in excess of that quota;*
  - (u) *prohibiting any person from purchasing or otherwise acquiring any regulated product from a producer that is in excess of the quota that has been fixed and allotted to the producer for the production or marketing, or both, of the regulated product;*
  - (v) *prohibiting any person from purchasing or otherwise acquiring any regulated product from a person to whom a quota has not been fixed and allotted for the production or marketing, or both, of the regulated product;*
  - (w) *prohibiting any person from marketing or processing any of the regulated product that has not been sold by or through the board or a designated agency.*
- (2) *Where an agricultural product is not a regulated product under the plan but is instrumental with respect to the production of the regulated product, the Council may, with the approval of the Minister, authorize a board to make regulations*
- (a) *governing that agricultural product in the same manner as if the agricultural product were a regulated product under the plan;*

- (b) *governing, with respect to that agricultural product, the producers of the regulated product under the plan in the same manner as if the agricultural product were a regulated product under the plan;*
- (c) *establishing and governing a formula for determining the amount or number of a regulated product produced or deemed to have been produced from that agricultural product.*

*(3) Where a board makes regulations under subsection (2), those regulations shall apply with respect to the agricultural product only while that agricultural product is in the possession or under the control of the producer of the regulated product.*

(8) Section 33 presently reads:

*33(1) With the approval of the Minister, the Council may in respect of a plan administered by a board make regulations*

- (a) *providing for the establishment, in connection with any plan established under Part 2, of negotiating agencies that may be empowered to adopt or settle by agreement any or all of the following matters:*
  - (i) *minimum prices for the regulated product or for any class, variety, size, grade or kind of the regulated product;*
  - (ii) *terms, conditions and forms of agreements relating to the production or marketing of the regulated product;*
  - (iii) *any charges, costs or expenses relating to the production or marketing of the regulated product;*
- (b) *providing for the arbitration by an arbitrator or arbitration board of any matter not adopted or settled by agreement under clause (a);*
- (c) *providing for the arbitration by an arbitrator or arbitration board of any dispute arising out of*
  - (i) *any agreement adopted or settled under clause (a), or*
  - (ii) *any award made under clause (b);*
- (d) *determining*
  - (i) *the composition of negotiating agencies, and*
  - (ii) *the appointment of arbitrators or arbitration boards,*

*and regulating the practice and procedure of those agencies and arbitration boards;*



(e) *authorizing a board, subject to any terms or conditions prescribed in the authorization,*

(i) *to make regulations regulating and controlling agreements entered into by producers of a regulated product with persons engaged in marketing or processing of the regulated product, and*

(ii) *to prohibit any provision in the agreement.*

(2) *Every agreement and award made under the regulations referred to in subsection (1)*

(a) *shall be filed with the Council forthwith after it is made;*

(b) *subject to clause (c), remains in force for one year or for the period provided in the agreement or award or re-negotiated agreement or award;*

(c) *may at any time, on the direction of the Council, be re-negotiated in whole or in part in a manner that the Council determines.*

(3) *The Arbitration Act applies to arbitrations conducted under this Act or the regulations under this Act except where there is a conflict between the Arbitration Act and this Act or the regulations, in which case this Act and the regulations prevail.*

(9) Section 44 presently reads:

*44(1) For the purpose of ensuring that this Act, a plan or the regulations are being complied with, a member of the Council or of a board or a commission, or a person authorized by any one or more of them, may during ordinary business hours enter the business premises of any person engaged in the production, marketing or processing of an agricultural product, and do one or more of the following:*

(a) *inspect*

(i) *those premises, and*

(ii) *any record, object or thing that relates to the production, marketing or processing of that agricultural product;*

(b) *make copies or take photographs of any record, object or thing referred to in clause (a)(ii);*

(c) *make inquiries of any person with respect to the production, marketing or processing of that agricultural product;*

- (d) *receive information under oath or by affidavit with respect to the production, marketing or processing of that agricultural product;*
- (e) *administer oaths for the purposes of clause (d).*

*(2) The Council or the board or commission, as the case may be, shall furnish to a person acting under this section a certificate of that person's designation or appointment, signed by the chair of the designating or appointing entity, and the person shall, on request, show the certificate to any person having a proprietary interest in or the custody of any premises to be entered or documents to be inspected.*

*(3) No person shall obstruct or hinder a person in the exercise of any power conferred by this section, and every person shall, when required to do so by the Council or a board or commission, or anyone designated or appointed to act for it, produce any documents required for inspection.*

*(4) Notwithstanding anything in subsection (1), no person is required to produce for inspection to a board or commission, or a person acting on its behalf, a record relating to an agricultural product if the record relates to a period of time subsequent to the time at which the agricultural product was owned, controlled or regulated by a producer or a board or commission, except when payment is still owing to the producer for the agricultural product for the transactions in question.*

(10) Witness exemption.

(11) Section 49(2) presently reads:

- (2) *A person who is a producer and a processor is deemed*
  - (a) *to have received in his or her capacity as a processor from himself or herself in his or her capacity as a producer any regulated product produced by him or her that he or she processes, and*

(b) *to have contracted, in his or her capacity as a processor, with himself or herself in his or her capacity as a producer, for the marketing of the regulated product on the condition that the regulations, orders, directions and agreements under this Act apply.*

(12) Section 50(a) presently reads:

*50 With the approval of the Lieutenant Governor in Council,*

(a) *the Council may authorize a board or commission, with respect to the production or marketing, or both, of a regulated product, to perform any function or duty and exercise any power imposed or conferred on it by or under a Canada Act;*

(13) Section 51 presently reads:

*51 The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements with another government or a corporation with respect to the production or marketing, or both, of an agricultural product.*

(14) Section 52 presently reads:

*52(1) Any document that is to be served under this Act may be served*

(a) *by personal service, or*

(b) *by certified or registered mail.*

(2) *For the purposes of this Act, a document that is served under this Act is deemed to have been served*

(a) *in a case where the document is personally served, at the time of service, and*

(b) *in a case where it is served by certified or registered mail, 10 days from the day that the document is mailed.*

(15) Transitional regulations.

**Coming into Force**

4 Coming into force.

Explanatory Notes