

BILL 38

2006

LIVESTOCK IDENTIFICATION AND COMMERCE ACT

(Assented to , 2006)

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

Definitions

1 In this Act,

- (a) “abattoir” means an abattoir within the meaning of the *Meat Inspection Act*;
- (b) “age brand” means an age brand referred to in section 3(2)(a);
- (c) “associated person”, with respect to a person, means another person who is
 - (i) a member of the immediate family of that person,

- (ii) a trustee of that person,
 - (iii) a shareholder of that person,
 - (iv) an employee, director or officer of that person,
 - (v) a partner of that person where that person is a partner in a partnership within the meaning of the *Partnership Act*, or
 - (vi) a person who is engaged with that person in a business activity for a common purpose through an unincorporated organization that is not a partnership referred to in subclause (v);
- (d) “assurance fund” means the Livestock Assurance Fund and the Livestock Dealers’ Assurance Fund established under section 68;
- (e) “assured livestock” has the meaning given to it in the regulations;
- (f) “brand” means
- (i) a character or combination of characters, and
 - (ii) any other mark or thing prescribed as a brand in the regulations
- that is used for the purpose of denoting ownership of the livestock or a security interest in the livestock bearing the brand, but does not include an honorary brand, an age brand or an individual animal brand;
- (g) “cattle” means an animal of the species *Bos taurus* or *Bos indicus*;
- (h) “character” means a sign, letter, numeral or code;
- (i) “community pasture” means
- (i) a community grazing reserve, or
 - (ii) public land that is subject to a grazing lease or permit between the Government and a grazing association or a group of individuals under the *Public Lands Act*;

- (j) “financial institution” means a bank, a treasury branch, a loan corporation, a trust corporation, a credit union and any other institution designated in the regulations as a financial institution;
- (k) “forest reserve” means a forest reserve within the meaning of the *Forest Reserves Act*;
- (l) “honorary brand” means a character or combination of characters used for the purpose of promoting the livestock industry or for recognizing outstanding service to the livestock industry;
- (m) “horse” means an animal of the horse family Equidae;
- (n) “identifier” means
 - (i) a brand, an age brand or an individual animal brand,
 - (ii) an ear tag or other thing or device implanted, attached or otherwise affixed to or within the body of livestock that contains or generates characters and for which there is a registry recognized by the Minister that associates the characters with an identifiable person, or
 - (iii) animal type or physical traits of or other markings on livestock;
- (o) “individual animal brand” means an individual animal brand referred to in section 3(2)(b);
- (p) “inspection site” means a place designated in the regulations as an inspection site;
- (q) “inspector” means an inspector within the meaning of section 77;
- (r) “licence” means a livestock dealer’s licence and a livestock dealer’s agent’s licence issued under this Act;
- (s) “livestock” means cattle, horses and other species designated as livestock in the regulations;

- (t) “livestock dealer” means a person who deals in livestock or livestock products within the meaning of the regulations;
- (u) “livestock dealer’s agent” means a person who deals in livestock or livestock products within the meaning of the regulations as agent for a livestock dealer;
- (v) “livestock products” means
 - (i) products that result from the processing of livestock and are in the possession or under the control of an abattoir or in transit from an abattoir, and
 - (ii) other products designated as livestock products in the regulations;
- (w) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (x) “participant” has the meaning given to it in the regulations;
- (y) “pedigree cattle” means cattle that are registered under the *Animal Pedigree Act* (Canada);
- (z) “permit” means a livestock permit, horse permit, pedigree cattle permit or other type of permit provided for in the regulations;
- (aa) “registry” means the registry of brands and honorary brands established under section 5;
- (bb) “sale proceeds”, in respect of a sale of livestock or livestock products, means the amount of money that represents the difference between
 - (i) the full purchase price paid or to be paid for the livestock or livestock products sold, and
 - (ii) any miscellaneous expenses, sales commission, livestock inspection fee, service charge, levy or handling charge that is evidenced by a cheque, statement, invoice, promissory note or other

memorandum issued in respect of the livestock or livestock products at the time of the sale;

- (cc) “security interest” means an interest in or charge on livestock to secure payment of a debt or the performance of an obligation of the owner of the livestock;
- (dd) “this Act” means this Act and the regulations made under it;
- (ee) “Tribunal” means the Livestock Assurance Funds Tribunal continued under section 66;
- (ff) “vehicle” means an aircraft, car, truck, trailer or any device in or on which livestock or livestock products may be transported.

Part 1 Livestock Brands

Application for registration of brands and honorary brands

2(1) A person who wishes to register a brand or honorary brand shall apply to the Minister.

(2) An application must be in the form prescribed by the regulations and be accompanied with the prescribed fee.

(3) A person who applies to register a brand or honorary brand in accordance with subsection (2) is entitled to have the brand or honorary brand registered unless

- (a) the brand or honorary brand is the same or substantially the same as another registered brand or honorary brand, or
- (b) the Minister is of the opinion that it is not in the public interest to register the brand or honorary brand or that there is some other sufficient reason why the brand or honorary brand should not be registered.

Rights conferred by registration

3(1) The person recorded in the registry as the owner of a brand has the exclusive right to use that brand for the purpose of denoting ownership of the livestock or a security interest in the livestock, as the case may be, until the registration of the brand is cancelled or

the brand is transferred, and during that period the mark of that brand on livestock shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the brand owner's ownership of the livestock bearing the brand or the security interest in the livestock bearing the brand, as the case may be.

(2) The person recorded in the registry as the owner of a brand may apply to livestock bearing the brand

- (a) an age brand consisting of one arabic numeral from 0 to 9 inclusive, or
- (b) an individual animal brand consisting of one or more arabic numerals.

(3) The person recorded in the registry as the owner of an honorary brand has the exclusive right to use that honorary brand for the purpose of promoting the livestock industry or in recognition of outstanding service to the livestock industry until the registration of the honorary brand is cancelled or the honorary brand is transferred.

Application of brands, etc.

4(1) Subject to subsection (3), when a brand or an honorary brand is applied on livestock, it

- (a) must be applied on the location designated in the registry, and
- (b) may be applied only by one of the following means:
 - (i) a hot iron brand;
 - (ii) a freeze brand;
 - (iii) any other method authorized by the regulations.

(2) An age brand or an individual animal brand applied on livestock

- (a) must be applied on the same side as the side on which the registered brand is applied, but not in the same location, and

(b) must be applied by one of the means referred to in subsection (1)(b).

(3) An honorary brand may be applied on livestock only with the prior written approval of the Minister.

Registry of brands and honorary brands

5(1) The Minister shall establish and maintain a registry of brands and honorary brands and shall enter in the registry the information prescribed by the regulations in respect of the registration, transfer, surrender and cancellation of and changes to brands and honorary brands.

(2) Any person may, on payment of the prescribed fee, have the registry searched and obtain an extract from the registry during regular business hours.

(3) The Minister may publish, in a form and manner determined by the Minister, a list of the brands and honorary brands registered under this Act and may make the list available to the public on payment of the prescribed fee.

Changes to registry

6(1) The Minister may, on application of the owner of a registered brand or honorary brand made in accordance with the regulations and on payment of the prescribed fee,

- (a) change the brand or honorary brand, the description of the brand or honorary brand or the location of the brand or honorary brand on the livestock,
- (b) correct any error or enter any change in the name, address or description of the owner of the brand or honorary brand, and
- (c) make changes necessary to reflect a transfer, cancellation or surrender of the brand or honorary brand.

(2) The Minister may change, correct or cancel the registration of a brand or honorary brand where the brand or honorary brand was registered in error, information was entered in the registry incorrectly or for any other reason the Minister considers that it is appropriate to change, correct or cancel the registration.

(3) If, in the opinion of the Minister, 2 or more persons own registered brands or honorary brands that are the same or substantially the same, the Minister may

- (a) make changes, with the consent of the owner of the brand or honorary brand, in respect of one or more of the brands or honorary brands to eliminate the similarity, or
- (b) cancel the registration of the brand or honorary brand last registered or, with the consent of the owner of the brand or honorary brand, any brand or honorary brand previously registered, and register another brand or honorary brand in the name of that owner.

(4) The Minister shall not charge a fee in respect of anything done under subsection (3).

(5) Section 2(3) applies in respect of changes to a brand or honorary brand under this section.

Transfer of brands and honorary brands

7(1) A person registered as the owner of a brand or honorary brand or the owner's personal representative may apply to the Minister in accordance with the regulations to transfer the brand or honorary brand to one or more persons.

(2) The application must be accompanied with the prescribed fee.

(3) On receipt of an application that is in accordance with subsections (1) and (2) and is signed by all of the owners of the brand or honorary brand and all of the transferees, the Minister shall transfer the brand or honorary brand.

(4) Where an application is signed by an agent of the applicant, proof of the authority of the agent in a form satisfactory to the Minister must be submitted to the Minister with the application.

(5) Where the Minister registers a transfer, the transferee becomes the owner of the brand or honorary brand and the transferor's exclusive right to the use of the brand or honorary brand is cancelled.

(6) A transfer of a brand or honorary brand is not effective until it is registered by the Minister and, once registered, a transfer is valid against and takes priority over any unregistered transfer.

Surrender of brand or honorary brand

8(1) The person registered as the owner of a brand or honorary brand or the owner's personal representative may apply to the Minister in accordance with the regulations to surrender a brand or honorary brand.

(2) On receipt of an application in accordance with subsection (1), the Minister shall cancel the registration of the brand or honorary brand.

(3) No compensation is payable by the Minister on the surrender of a brand or honorary brand.

Death of owner of brand or honorary brand

9(1) On the death of a person registered as the owner of a brand or honorary brand, the owner's personal representative shall

- (a) notify the Minister of the death at the earliest time practicable, and
- (b) within 2 years of the death apply to the Minister to transfer the brand or honorary brand or to surrender the brand or honorary brand.

(2) If a brand or honorary brand is not transferred or surrendered within the 2-year period referred to in subsection (1)(b), the Minister may cancel the registration of the brand or honorary brand at any time following the expiry of the 2-year period.

Prior status unaffected by transfer or cancellation

10 Neither the transfer of a brand nor the cancellation of the registration of a brand affects the status of the ownership of the livestock or the security interest in the livestock on which the brand was applied prior to the date on which the transfer was registered or the registration was cancelled, as the case may be.

Offences

11(1) A person who

- (a) applies, permits the application of or directs, aids or assists in applying a brand or honorary brand on livestock when the brand or honorary brand is not registered under this Act,

- (b) without the consent of the owner of the livestock, applies, permits the application of or directs, aids or assists in applying a brand on livestock that that person does not own,
- (c) applies, permits the application of or directs, aids or assists in applying a brand on livestock in which that person does not have a security interest,
- (d) applies, permits the application of or directs, aids or assists in applying a brand or honorary brand contrary to section 4(1),
- (e) applies, permits the application of or directs, aids or assists in applying an age brand or individual animal brand contrary to section 4(2),
- (f) applies, permits the application of or directs, aids or assists in applying an honorary brand contrary to section 4(3), or
- (g) blotches, defaces or otherwise renders illegible, or alters a brand or honorary brand on livestock, or directs, aids or assists in blotching, defacing or rendering illegible or altering a brand or honorary brand

is guilty of an offence.

(2) A person who is guilty of an offence referred to in subsection (1) is liable to a fine of

- (a) not more than \$5000 for a first offence, and
- (b) not more than \$10 000 for a 2nd or subsequent offence.

(3) In a prosecution for an offence referred to in subsection (1)(a), (b) or (c), the fact that livestock bearing a brand is found in the possession of the accused is proof, in the absence of evidence to the contrary, that the brand was applied by the accused or with the accused's permission, direction or assistance.

Certificate evidence

12 A certificate purporting to be signed by the Minister or the Minister's delegate shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the ownership of the brand

or honorary brand described in the certificate, without proof of the signature or official character of the person signing the certificate.

Regulations

13 The Minister may make regulations

- (a) prescribing marks or things as brands for the purposes of section 1(f);
- (b) respecting what brands and honorary brands may be registered and the location of brands and honorary brands on livestock;
- (c) respecting the authorization of other methods of applying brands for the purposes of section 4(1)(b)(iii);
- (d) respecting applications for changes to the registry for the purposes of section 6;
- (e) respecting applications to transfer a brand or honorary brand for the purposes of section 7;
- (f) respecting applications to surrender a brand or honorary brand for the purposes of section 8;
- (g) prescribing the information to be entered and maintained in the registry.

Part 2

Livestock Transactions and Transportation and Inspection of Livestock

Livestock Transactions

Bill of sale required

14(1) An owner of livestock shall provide a bill of sale in accordance with the regulations to any person who purchases livestock from the owner.

(2) Where a person sells livestock as an agent of the owner, that person shall provide the bill of sale under subsection (1) and is the agent of the owner for that purpose.

Disclosure of security interest on livestock manifest

15 Where livestock is being transported for the purposes of sale, the owner of the livestock shall ensure that the name of the holder of any security interest in the livestock is disclosed on the livestock manifest.

Prompt payment for livestock

16(1) A person who

- (a) purchases livestock from the owner of the livestock or the owner's agent, or
- (b) sells livestock on behalf of the owner of the livestock

shall pay the sale proceeds within 2 business days of price discovery or possession, whichever occurs later.

(2) Except where otherwise required by law, a court order or the direction of an inspector, a person referred to in subsection (1) shall

- (a) pay the sale proceeds to the owner of the livestock or any other person authorized by the owner on the livestock manifest or the bill of sale, and
- (b) where the livestock manifest or bill of sale discloses a security interest in the livestock, pay the sale proceeds jointly to the owner of the livestock or other person referred to in clause (a) and the holder of the security interest.

(3) An agreement providing that any provision of this section does not apply is void.

(4) For the purposes of this section, "price discovery" and "possession" have the meaning given to them in the regulations.

Sale proceeds in trust

17(1) All money received by a livestock dealer on account of the sale of livestock or livestock products constitutes trust money in the hands of the livestock dealer for the benefit of the person who supplied or sold the livestock or livestock products to the livestock dealer.

(2) Subject to the regulations, every livestock dealer shall

- (a) maintain, separate from other accounts of the livestock dealer, a trust account in a financial institution in Alberta, and
- (b) deposit into the trust account all trust money referred to in subsection (1).

(3) Subject to the regulations, a livestock dealer shall use the trust account only for the deposit and retention of trust money received by the livestock dealer.

(4) A livestock dealer shall permit a person authorized by the Minister to enter the livestock dealer's business premises at any reasonable time to examine and audit the livestock dealer's financial and trust account records.

(5) A financial institution shall permit a person authorized by the Minister to examine its records pertaining to trust accounts referred to in subsection (2).

(6) A waiver or release by a person supplying or selling livestock or livestock products to a livestock dealer of the rights, benefits or protection provided under this section is void.

Statutory bar to conversion

18(1) Notwithstanding any other enactment, the common law or any contract, but subject to subsection (2), a purchaser of livestock is not liable

- (a) in an action for conversion, detinue or replevin, or
- (b) in any other action arising out of or related to the sale transaction that is specified in the regulations.

(2) Subsection (1) does not apply if

- (a) the purchase was the result of collusion between the purchaser and the seller to defeat another person's security interest in the livestock,
- (b) the purchaser failed to pay the sale proceeds in accordance with section 16(2)(b),
- (c) the livestock were not inspected as required under this Act, or

(d) the purchaser and the seller are associated persons.

(3) For the purpose of this section, a reference to purchaser or seller includes an agent acting for the purchaser or seller.

Livestock Transportation and Inspection

Inspection and documentation required

19(1) A person who transports or drives livestock in Alberta or to a destination outside of Alberta shall ensure that

- (a) subject to subsection (2), the livestock is accompanied with a livestock manifest,
- (b) the livestock has been inspected as required under this Act, and
- (c) the livestock is accompanied with any livestock permit, horse permit or pedigree cattle permit that is required under this Act.

(2) A livestock manifest is not required in respect of the transportation or driving of livestock where

- (a) the livestock is accompanied with a livestock permit, a horse permit or a pedigree cattle permit issued in accordance with this Act,
- (b) the livestock is being driven on foot within Alberta to a destination that is not more than 30 km away, other than a community pasture, forest reserve or inspection site,
- (c) the livestock is being transported within Alberta for the purpose of receiving veterinary services or is being returned to the original point of shipment after having received such services, or
- (d) the livestock is a horse and it is not being transported
 - (i) out of Alberta,
 - (ii) for the purpose of sale or slaughter, or
 - (iii) to an inspection site.

(3) A person transporting or driving livestock shall ensure that any livestock manifest that is required is

- (a) in the form prescribed by the regulations, and
- (b) completed in accordance with the regulations by the owner of the livestock or the owner's agent.

Transporting or driving livestock of more than one owner

20(1) Where

- (a) livestock of more than one owner is being transported or driven together, and
- (b) the livestock is required to be accompanied with a livestock manifest, livestock permit, horse permit or pedigree cattle permit,

the person transporting or driving the livestock shall ensure that there is a separate livestock manifest, livestock permit, horse permit or pedigree cattle permit, as the case may be, in respect of the livestock of each owner.

(2) Where livestock of more than one owner is being transported or driven together, the person transporting or driving the livestock shall ensure that the livestock of each owner is distinctively identified so that the livestock belonging to one owner can be readily distinguished from the livestock belonging to another owner.

Delivery of livestock

21(1) A person transporting or driving livestock shall deliver the livestock to the person to whom the livestock is being shipped as indicated on the livestock manifest or livestock permit.

(2) Notwithstanding subsection (1) or the *Traffic Safety Act*,

- (a) if the livestock is being transported or driven on a livestock manifest, the person transporting or driving the livestock may deliver the livestock to any other person if authorized by the owner of the livestock or the owner's agent, and

- (b) if the livestock is being transported or driven on a livestock permit, the person transporting or driving the livestock may deliver the livestock to any other person authorized by the owner of the livestock or the owner's agent if the owner of the livestock or the owner's agent
 - (i) amends the livestock permit to reflect the change in destination of the livestock, and
 - (ii) forthwith provides notice to the issuing inspector of the changes to the livestock permit.

Disposition of livestock manifest

22 Where livestock is being transported or driven on a livestock manifest,

- (a) the person transporting or driving the livestock, and
- (b) the owner and the operator of the inspection site or other destination receiving the livestock

shall distribute and otherwise deal with copies of the livestock manifest in accordance with the regulations.

Holding livestock pending inspection

23 Where livestock is required to be inspected under this Act, the owner and the operator of an inspection site shall ensure that the livestock

- (a) is kept separate from any other livestock, or
- (b) is distinctively identified or marked to the satisfaction of an inspector

so that the livestock to be inspected is readily identifiable from any other livestock.

Purpose of inspection and inspection procedure

24(1) Where an inspector carries out an inspection of livestock, the person in possession of the livestock must satisfy the inspector that that person is the owner of the livestock or the owner's agent or is otherwise lawfully entitled to be in possession of the livestock.

(2) In carrying out an inspection of livestock the inspector shall examine the identifiers on the livestock and any livestock manifests, livestock permits, horse permits, pedigree cattle permits, bills of sale and any other information or documentation that is reasonably available.

Duty to provide facilities and assistance

25 The owner and the operator of an inspection site or any other place where inspections are to be carried out shall, subject to the regulations, ensure that the inspector is provided with facilities and that the inspector is given whatever assistance is reasonably necessary to enable the inspector to carry out the inspection in a safe and efficient manner.

Duty to provide documentation

26 Where an inspector carries out an inspection of livestock,

- (a) the owner of the livestock or the owner's agent,
- (b) the person in possession of the livestock, and
- (c) the owner and the operator of an inspection site

shall, on request, ensure that the inspector is provided with any livestock manifests, livestock permits, horse permits, pedigree cattle permits, bills of sale and any other information and documentation that may be required to satisfy the inspector that the person in possession of the livestock is the owner of the livestock or the owner's agent or is otherwise lawfully entitled to be in possession of the livestock and, in the case of a sale of livestock, to enable the inspector to determine who is entitled to the sale proceeds.

Inspection fees

27(1) On completion of an inspection of livestock, the owner of the livestock or the owner's agent shall pay the prescribed inspection fees to the inspector.

(2) Where an inspector carries out an inspection of livestock at an inspection site, the owner and the operator of the inspection site shall ensure that the prescribed inspection fees are collected from the owner of the livestock and paid to the Minister in accordance with the regulations.

(3) A person who collects an inspection fee under subsection (2) may receive a commission in the manner and amount determined in the regulations.

Restriction of service

28 Notwithstanding anything in this Act, where a person is or has at any time been in arrears in the payment of inspection fees required to be paid under this Act, an inspector may

- (a) refuse to inspect that person's livestock until the outstanding inspection fees, if any, have been paid, and
- (b) impose reasonable conditions on future inspections of that person's livestock.

Issuance of permits

29 An inspector may, in accordance with the regulations, issue

- (a) livestock permits,
- (b) horse permits,
- (c) pedigree cattle permits, and
- (d) any other permits provided for in the regulations.

Definition

30 In sections 31 to 37 and 43(k), "satisfied as to the ownership of the livestock" means satisfied that the person in possession of the livestock is the owner of the livestock or the owner's agent or is otherwise lawfully entitled to be in possession of the livestock.

Detention of livestock on inspection

31 If an inspector carrying out an inspection of livestock is not satisfied as to the ownership of the livestock or as to who is entitled to the sale proceeds, the inspector shall

- (a) in circumstances where the livestock is being inspected at a place where the livestock is held for sale,
 - (i) detain the livestock at the owner's expense, or

- (ii) allow the livestock to be offered for sale,
- and
- (b) in all other circumstances, detain the livestock at the owner's expense.

Return of livestock

32(1) Where an inspector determines that livestock is owned by a person other than the person in possession of the livestock, the owner of the livestock or the owner's agent may

- (a) require that the livestock be returned, or
- (b) allow the livestock to be offered for sale.

(2) Where livestock is sold under subsection (1)(b), the owner of the livestock is, subject to section 16, entitled to the sale proceeds.

(3) The person in possession of the livestock is responsible for the payment of all reasonable costs incurred in connection with the inspection, detention and sale of livestock under subsection (1).

Detention of livestock held for sale

33(1) If an inspector detains livestock under section 31(a)(i), the inspector shall give to the seller's agent

- (a) a notice in the prescribed form directing the seller's agent not to sell the livestock, and
- (b) a notice in the prescribed form to be forwarded to the seller of the livestock.

(2) The seller's agent shall forthwith forward the notice referred to in subsection (1)(b) to the seller of the livestock.

(3) If an inspector detains livestock under section 31(a)(i) and there is no seller's agent, the inspector shall give to the seller of the livestock a notice in the prescribed form directing the seller not to sell the livestock.

(4) No person to whom a notice is given under subsection (1), (2) or (3) and no person on behalf of that person shall offer the

livestock that is the subject of the notice for sale until so directed by the inspector.

(5) If, after reasonable inquiry, the inspector is not satisfied as to the ownership of the livestock or as to who is entitled to the sale proceeds, the inspector shall allow the livestock to be sold in accordance with sections 34 and 35.

Withholding settlement re detained livestock

34(1) Where an inspector allows livestock to be offered for sale under section 31(a)(ii) or 33(5), the inspector shall give to the seller's agent

- (a) a notice in the prescribed form directing the seller's agent to withhold settlement, and
- (b) a notice in the prescribed form to be forwarded to the seller of the livestock.

(2) The seller's agent shall

- (a) withhold settlement in accordance with the notice, and
- (b) forthwith forward the notice referred to in subsection (1)(b) to the seller of the livestock.

(3) Where an inspector allows livestock to be sold under section 31(a)(ii) or 33(5) and there is no seller's agent, the inspector shall give the seller of the livestock and the buyer a notice in the prescribed form directing the buyer to withhold settlement and pay the sale proceeds to the Minister.

(4) No person to whom a notice is given under subsection (1)(a) or (3) nor any person on behalf of that person shall make settlement until a release in the prescribed form is issued by the inspector under section 35.

Release of sale proceeds

35(1) If the inspector is satisfied as to the ownership of the livestock or as to who is entitled to the sale proceeds, as the case may be, the inspector shall

- (a) in the case of section 34(2), issue a release in the prescribed form instructing the seller's agent to pay the sale proceeds to the person named in the release, or
- (b) in the case of section 34(3), issue a release in the prescribed form instructing the Minister to pay the sale proceeds to the person named in the release.

(2) If the inspector is not satisfied as to the ownership of the livestock or as to who is entitled to the sale proceeds, as the case may be, the inspector shall

- (a) in the case of section 34(2), issue a release in the prescribed form instructing the seller's agent to pay the sale proceeds to the Minister, or
- (b) in the case of section 34(3), issue a release in the prescribed form instructing the Minister to retain the sale proceeds.

Disposition of sale proceeds by Minister

36(1) Subject to subsections (2) and (3), the Minister shall pay the sale proceeds received or retained under section 35(2) to any person who within 2 years from the date of the sale of the livestock establishes to the satisfaction of the Minister that the person is entitled to the sale proceeds.

(2) Where the Minister considers that 2 or more persons may be entitled to the sale proceeds, the Minister shall pay the sale proceeds

- (a) to a court, when a proceeding relating to the sale of the livestock has been commenced in the court,
- (b) to the person awarded the sale proceeds by a court, or
- (c) to any person, with the agreement of all claimants.

(3) If any part of the sale proceeds remains in the Minister's possession 2 years after the date of the sale of the livestock or the date of the first claim under subsection (1) with respect to that sale, whichever is later, the Minister shall pay the sale proceeds to the Tribunal to be deposited in the Livestock Assurance Fund.

(4) Where sale proceeds are paid to the Tribunal under subsection (3), all claims in respect of the sale proceeds are extinguished.

Detention of livestock in other circumstances

37(1) Where an inspector detains livestock under section 31(b), the inspector shall

- (a) leave the livestock with the person who is in possession of them, or
- (b) have the livestock moved to a suitable inspection site.

(2) Where, after reasonable inquiry, the inspector is not satisfied as to the ownership of the livestock detained under section 31(b), any interested person may apply by originating notice to the Court of Queen's Bench for an order directing the sale of the livestock and the disposition of the sale proceeds.

General

Right to enter

38(1) An inspector may

- (a) at any reasonable time enter any place, other than a dwelling place, for the purpose of making inspections under this Part and for the purpose of inspecting hides,
- (b) require any person in the place to be interviewed and answer questions related to the purpose of the inspection, and
- (c) require the production of any licences, permits, livestock manifests, bills of sale, books, records or other documents that are relevant to the purpose of the inspection and examine them, make copies of them or remove them temporarily for the purpose of making copies.

(2) Where an inspector removes anything pursuant to subsection (1)(c), the inspector shall

- (a) give a receipt for the thing to the person from whom it was taken, and

- (b) forthwith return the thing to the person from whom it was taken when it has served the purposes for which it was taken.

Right of entry on land

39(1) An inspector who on reasonable and probable grounds believes that there is on land livestock that is not owned by the owner or occupier of the land may without a warrant enter on the land, whether fenced or not, for the purpose of determining ownership of the livestock.

(2) In this section, “land” includes any cattle enclosure, corral, barn, lean-to, feed shed, windbreak or other structure that may be used to house, protect or conceal livestock, but does not include a dwelling place.

Search of vehicles

40(1) An inspector may without a warrant search any vehicle in or on which livestock is being transported.

(2) A person operating a vehicle in or on which livestock is being transported shall, when required by an inspector to do so,

- (a) bring the vehicle to a stop and remain stopped until the person is permitted by the inspector to leave,
- (b) permit the inspection of the vehicle and livestock by the inspector,
- (c) answer all questions put to the person by the inspector concerning the information required to complete a livestock manifest,
- (d) produce to the inspector livestock manifests or permits for all livestock that is being transported in or on the vehicle, and
- (e) transport the livestock to the nearest point where reasonable unloading facilities are available and unload the livestock for inspection.

(3) Neither the owner nor the operator of a vehicle is entitled to compensation in respect of anything required to be done under subsection (2).

Seizure of evidence

41 Where, in the course of exercising powers or carrying out duties under this Part, an inspector finds any thing that the inspector has reasonable and probable grounds to believe affords evidence of the contravention of this Part or the regulations, the inspector may forthwith seize the thing and shall subsequently deal with it as if the seizure had been effected under a search warrant issued pursuant to the provisions of the *Criminal Code* (Canada) that apply to the *Provincial Offences Procedure Act*.

Detention of livestock

42(1) An inspector may, for the purpose of carrying out the inspector's duties under this Part, detain livestock at the owner's expense.

(2) Where an inspector detains livestock under subsection (1), no person shall remove the livestock without the consent of the inspector.

Regulations

43 The Minister may make regulations

- (a) defining "price discovery" and "possession" for the purposes of section 16;
- (b) designating institutions as financial institutions;
- (c) respecting
 - (i) the opening and keeping of trust accounts in financial institutions by livestock dealers for the purposes of section 17;
 - (ii) when payments for livestock and livestock products from trust accounts are to be made and the manner in which payments are to be made;
 - (iii) the disposition of interest earned on money in trust accounts;
 - (iv) the distribution of money in trust accounts that is unclaimed or cannot reasonably be disbursed to the persons entitled to it;

- (v) the examination, review, audit or investigation of trust accounts;
- (d) specifying other actions for the purposes of section 18(1)(b);
- (e) respecting the completion, distribution, retention and handling of livestock manifests;
- (f) respecting the identification and marking of livestock for the purposes of sections 20(2) and 23;
- (g) respecting the collection and payment of inspection fees and the payment of commissions for the purposes of section 27;
- (h) respecting the settlement and disposition of sale proceeds for the purposes of sections 31 to 36;
- (i) respecting the circumstances under which and the manner in which livestock must be inspected at an inspection site or at any other location;
- (j) respecting voluntary inspections of livestock;
- (k) authorizing an inspector to detain or reinspect livestock where the inspector is not satisfied as to the ownership of the livestock;
- (l) respecting the duties of owners and operators of inspection sites and other places for the purposes of section 25;
- (m) requiring a person who wishes to transport or drive livestock within or from Alberta in circumstances described in the regulations to obtain the appropriate permit from an inspector;
- (n) respecting the issuing of permits including, without limitation, regulations
 - (i) establishing different classes or kinds of permits,
 - (ii) respecting the procedure for applying for and issuing permits,

- (iii) respecting the terms and conditions under which permits may be issued and terms and conditions to which permits are subject or may be made subject,
- (iv) respecting the term for which permits remain in force, and
- (v) respecting the circumstances under which permits may be cancelled and the procedure for cancelling permits;
- (o) respecting the manner in which livestock must or may be transported on a livestock manifest or a permit;
- (p) respecting the handling of livestock at inspection sites and the location, design, equipment, construction, sanitation standards and operation of inspection sites;
- (q) respecting the circumstances under which bills of sale must be used in connection with a sale of livestock and the preparation and handling of bills of sale;
- (r) requiring livestock dealers to notify the Minister of writs of enforcement issued against them or of the commencement of proceedings arising out of bankruptcy, insolvency or receivership;
- (s) respecting the duties of shippers of livestock and operators of vehicles transporting livestock to ensure that the livestock is loaded, transported and unloaded in a safe, sanitary and humane manner;
- (t) authorizing inspectors to exercise powers and carry out duties for the purposes of ensuring compliance with regulations under clause (s).

Offences

44 A person is guilty of an offence who

- (a) contravenes section 14, 15, 16(1) or (2), 17(2), (3), (4) or (5), 19(1) or (3), 20, 21(1), 22, 23, 25, 26, 27(1) or (2), 33(2) or (4), 34(2) or (4), 40(2) or 42(2);
- (b) knowingly contravenes section 15;

- (c) does not fully complete the information required, provides false information in or describes livestock incorrectly on a livestock manifest;
- (d) alters a livestock manifest or a permit without the consent of the owner of the livestock or a person authorized by the owner;
- (e) without the consent of an inspector, removes, substitutes or adds livestock to a lot of livestock for which an inspector has issued a permit;
- (f) not being an inspector, alters or obliterates a form prescribed by this Act;
- (g) not being the owner of the livestock or a person authorized by the owner, removes the hide from the carcass of dead livestock;
- (h) allows a vehicle to be used in circumstances that contravene section 19(1);
- (i) buys livestock, sells livestock or offers livestock for shipment in a name other than the owner of the livestock.

Penalty

45 A person who is guilty of an offence referred to in section 44 is liable to a fine of

- (a) not more than \$5000 for a first offence, and
- (b) not more than \$10 000 for a 2nd or subsequent offence.

Evidence

46 In a prosecution for an offence under this Part or the regulations under this Part, the fact that livestock is offered for shipment or sale by an agent of the owner of the livestock is proof, in the absence of evidence to the contrary, that it was done with the authorization of the owner.

Part 3

Dealing in Livestock and Livestock Products

Licence required

47(1) Subject to subsection (3), no person shall deal in livestock or livestock products unless the person is licensed as a livestock dealer or livestock dealer's agent under this Act.

(2) Subject to subsection (3), a person who buys or sells livestock or livestock products on one occasion is considered to be dealing in livestock or livestock products for the purposes of subsection (1).

(3) Where a person buys livestock, maintains the livestock for at least 30 days and then sells the livestock, that person is not considered to be dealing in livestock for the purposes of subsection (1).

Application for licence

48(1) A person who wishes to obtain or renew a licence shall apply to the Minister.

(2) An application must be made in accordance with the regulations and must be accompanied with the prescribed fee and any other documents or information required by the regulations.

Refusal, cancellation and suspension

49 The Minister may refuse to issue or renew a licence and may cancel or suspend a licence in accordance with the regulations.

Appeal

50(1) A person whose application for a licence or a renewal of a licence has been refused or whose licence has been cancelled or suspended may appeal the refusal, cancellation or suspension by serving the Minister with a notice of appeal within 30 days after being served with written notice of the refusal, cancellation or suspension.

(2) An appeal under subsection (1) does not stay any suspension or cancellation of a licence.

(3) The Minister shall, within 30 days after being served with a notice of appeal under subsection (1), appoint an appeal board to hear the appeal.

(4) An appeal board must consist of not fewer than 3 and not more than 5 persons, one of whom must be designated as chair by the Minister.

(5) The Minister may prescribe the time within which an appeal board is to hear an appeal and render a decision, and the Minister may extend that time.

(6) An appeal board that hears an appeal may, by order,

- (a) confirm the refusal to issue a licence or the cancellation or suspension of a licence,
- (b) direct that the application for a licence be approved,
- (c) reinstate a cancelled licence,
- (d) impose terms and conditions for a licence reinstatement, or
- (e) remove or vary a suspension.

(7) The Minister is entitled to be represented at an appeal before the appeal board and to make representations in respect of any matter that is related to the appeal.

(8) If the appeal board confirms a refusal or cancellation, it may also order that the appellant be ineligible to apply for or receive a licence for a specified period, not to be longer than 5 years from the date of the order.

(9) An appeal board shall serve a copy of its order, with reasons, on the Minister and the appellant.

Appeal of board's order

51(1) The Minister or the appellant may appeal the decision of an appeal board by application by originating notice to the Court of Queen's Bench within 30 days after being served with a written copy of the order of the appeal board under section 50(9), and the Court may make any order that an appeal board may make under section 50(6).

(2) An appeal under subsection (1) does not stay the decision of the appeal board.

(3) The Minister is entitled to be represented at an appeal before the Court of Queen's Bench and to make representations in respect of any matter that is related to the appeal.

Reinstatement pending appeal

52(1) A person

- (a) whose licence has been cancelled or suspended by the Minister, and
- (b) who has, in respect of that cancellation or suspension, commenced an appeal under section 50

may apply by originating notice to the Court of Queen's Bench for an order reinstating the cancelled licence or removing the suspension, as the case may be, pending the determination of the appeal.

(2) On hearing an application made under this section, the Court may, subject to any conditions that it considers proper, reinstate the cancelled licence or remove the suspension, as the case may be, pending the determination of the appeal.

Security

53(1) A livestock dealer shall provide security in a form and amount determined in accordance with the regulations.

(2) Where a livestock dealer fails to provide security as required under this Act, the Minister may, by notice in writing to the livestock dealer, cancel the livestock dealer's licence.

(3) The Minister may reinstate a licence cancelled under subsection (2) where the livestock dealer establishes to the Minister's satisfaction that he or she has security in the form and amount required under this Act.

Release of security

54(1) Where a livestock dealer's licence is surrendered or cancelled or has expired, the Minister may release the security that was provided by the livestock dealer if the livestock dealer

provides the Minister with a statutory declaration in a form acceptable to the Minister declaring that the livestock dealer has paid the sale proceeds in respect of all livestock and livestock products supplied or sold to the livestock dealer while the livestock dealer was licensed.

(2) The Minister shall not release any security under subsection (1) until at least 60 days after the date on which the statutory declaration is made.

Duty to notify of non-payment

55(1) A person who supplies or sells livestock or livestock products to a livestock dealer or livestock dealer's agent and does not receive payment of the sale proceeds in respect of the livestock or livestock products supplied or sold as required by this Act shall

- (a) notify the Minister of the non-payment as soon as is reasonably possible after the person knows of the non-payment, and
- (b) provide to the Minister any information the Minister requires in respect of the transaction.

(2) If the Minister receives a notice under subsection (1), the Minister may by notice in writing require the livestock dealer or livestock dealer's agent identified in the notice to provide the Minister with any information specified by the Minister relating to the supply or sale of livestock or livestock products.

(3) A livestock dealer or livestock dealer's agent who receives a notice under subsection (2) shall comply with it.

Claims against dealer's security

56(1) For the purposes of this section, a default occurs in respect of a supply or sale of livestock or livestock products to a livestock dealer or livestock dealer's agent when

- (a) the livestock dealer or livestock dealer's agent fails to pay the person the sale proceeds in respect of the livestock or livestock products supplied or sold, unless the main reason for the failure to pay is a contract dispute between the livestock dealer or the livestock dealer's agent and the person who supplied or sold the livestock or livestock products respecting the supply or sale of the livestock or

livestock products or the obligation to pay for the livestock or livestock products, or

- (b) the livestock dealer or livestock dealer's agent fails to pay the person the sale proceeds in respect of the livestock or livestock products supplied or sold, the person obtains a judgment against the livestock dealer or livestock dealer's agent based on the livestock dealer's or the livestock dealer's agent's failure to pay and the judgment is unsatisfied for 20 or more days after the judgment becomes final.

(2) If the Minister is satisfied that a livestock dealer or livestock dealer's agent has committed a default with respect to one or more transactions, the Minister may do either or both of the following:

- (a) suspend or cancel the licence of the livestock dealer;
- (b) publish a notice
 - (i) stating that the livestock dealer or livestock dealer's agent has committed a default with respect to livestock or livestock products supplied or sold,
 - (ii) setting out the action taken by the Minister with respect to suspending or cancelling the licence of the livestock dealer, and
 - (iii) requiring any person who has a claim against the livestock dealer or livestock dealer's agent arising from a default in respect of a supply or sale of livestock or livestock products to that livestock dealer or livestock dealer's agent to make a claim with the Minister by the date specified in the notice.

(3) The Minister may

- (a) publish the notice referred to in subsection (2)(b) in any form and manner that the Minister considers appropriate, and
- (b) take any other steps that the Minister considers appropriate to bring the default of the livestock dealer or livestock dealer's agent to the attention of persons who may supply or sell livestock or livestock products to the livestock dealer or livestock dealer's agent.

(4) A claim referred to in subsection (2)(b)(iii) must be verified by statutory declaration or any other manner specified by the Minister and must

- (a) contain a statement as to the particulars of the default,
- (b) contain or refer to a statement of account showing particulars of the amount owing with respect to the default, and
- (c) specify the documentation, if any, by which the default and amount owing can be verified.

(5) The Minister may at any time require the person making a claim to provide documentation or any other information in support of the claim.

(6) A person who makes a claim under subsection (2)(b)(iii) must meet the conditions and eligibility requirements prescribed in the regulations in order to be entitled to share in the proceeds of the livestock dealer's security.

(7) The Minister shall

- (a) review all claims made in accordance with this section and determine
 - (i) which persons, if any, are entitled to share in the proceeds of the security provided by the livestock dealer, and
 - (ii) the amount of each person's claim,

and

- (b) take proceedings to enforce the security provided by the livestock dealer for the benefit of the persons who the Minister finds under clause (a) are entitled to share in the proceeds of the security.

(8) If the proceeds of the security are insufficient to pay in full the claims of those persons entitled to share in the proceeds of the security, the Minister shall pay the claims on a prorated basis.

(9) If the Minister refuses a claim under subsection (7), the Minister shall serve the person with a copy of the Minister's decision, with reasons.

Limitation period

57 Notwithstanding anything contained in this Act, no person is entitled to share in the proceeds of the security provided by a livestock dealer unless the person makes a claim under section 56(2)(b)(iii) by the date specified in the notice.

Notification of payment from livestock dealer's security

58 Where the Minister approves a claim under section 56 that is in respect of assured livestock and pays an amount from the proceeds of the livestock dealer's security under section 56 that is less than 80% of the person's proven claim, the Minister shall notify the Tribunal of the following:

- (a) the name of the person to whom the payment was made;
- (b) the circumstances that gave rise to the claim;
- (c) the amount of the claim that was proved;
- (d) the amount of the payment;
- (e) whether section 60(1) applies to the payment.

Appeal of the Minister's decision

59(1) A person whose claim is refused by the Minister under section 56(7) may appeal the decision of the Minister to the Tribunal by filing a notice of appeal with the Minister within 30 days after being served with a copy of the Minister's decision under section 56(9).

(2) If the notice of appeal is served within the time period specified in subsection (1), the Minister shall provide the Tribunal with the notice of appeal and any material in the Minister's possession that is relevant to the appeal.

(3) The Minister shall, on request, provide the Tribunal with any information specified by the Tribunal relating to the appeal.

(4) The Minister is entitled to be represented at an appeal before the Tribunal and to make representations in respect of any matter before the Tribunal that is related to the appeal.

(5) The Tribunal may make any decision that the Minister could have made in respect of the matter or may refer the matter back to the Minister.

(6) The Tribunal shall forthwith serve the Minister and the claimant with a copy of its decision, with reasons.

Effect of appeal on payment of security proceeds

60(1) If a person appeals the Minister's decision to the Tribunal in accordance with section 59, until all appeals are determined, the Minister shall treat that person's claim as an approved claim for the purposes of determining how much of the proceeds of the security the other claimants are entitled to under section 56.

(2) If the appeal is dismissed and no further appeals are taken or any further appeal is dismissed, the Minister may pay the remaining proceeds of the security on a prorated basis to the persons whose claims against the livestock dealer's security were approved.

(3) If the appeal is allowed and no further appeals are taken or any further appeals are dismissed, the Minister shall pay to the appellant his or her prorated share of the proceeds of the security.

Appeal to Court of Appeal

61(1) Subject to subsection (3), a claimant or the Minister may appeal a decision of the Tribunal under section 59 to the Court of Appeal.

(2) An appeal under this section must be based on a question of law or jurisdiction.

(3) Leave to appeal may be obtained from a judge of the Court of Appeal only on an application made within 30 days from the date of receipt of a copy of the Tribunal's decision under section 59(6).

(4) Within 30 days from the day that leave to appeal is obtained, the Tribunal must forward to the Registrar of the Court of Appeal

(a) a copy of the Tribunal's decision, with reasons, and

(b) all material and information provided to the Tribunal under section 59.

(5) The Court of Appeal may make any decision that the Tribunal could have made in respect of the matter or may refer the matter back to the Tribunal.

(6) The Tribunal is entitled to be represented at an appeal and to make representations in respect of any matter before the Court of Appeal that is related to the appeal.

Detention of livestock and livestock products

62(1) Where an inspector believes on reasonable grounds that this Part or the regulations under this Part have been contravened in respect of any livestock or livestock product, the inspector may place the livestock or livestock product under detention.

(2) Livestock or livestock products placed under detention pursuant to subsection (1) may not be detained

- (a) after the provision that was contravened has, in the opinion of the inspector, been complied with, or
- (b) after the expiration of 90 days from the date of detention, unless a proceeding under this Act has been commenced in respect of the contravention, in which case the livestock or livestock product may be detained until the proceeding is finally concluded.

Sale of detained livestock

63 Where a proceeding referred to in section 62(2)(b) results in a conviction, the judge presiding over the proceeding may direct the sale of the livestock or livestock products that were detained and direct the disposition of the sale proceeds.

Offences

64 A person who contravenes section 47(1), 53(1) or 55(1) or (3) is guilty of an offence and liable to a fine of

- (a) not more than \$5 000 for a first offence, and
- (b) not more than \$10 000 for a 2nd or subsequent offence.

Regulations

65 The Minister may make regulations

- (a) determining what constitutes dealing in livestock and livestock products for the purposes of section 47(1);
- (b) respecting applications for and the issuing of licences;
- (c) respecting the circumstances under which and the manner in which the Minister may refuse to issue or renew a licence and the circumstances under which and the manner in which the Minister may cancel or suspend a licence;
- (d) authorizing the Minister to issue a licence subject to terms and conditions;
- (e) respecting the term for which a licence remains in force;
- (f) respecting the provision of security by a livestock dealer and respecting the form and amount of the security that is to be provided;
- (g) respecting eligibility to claim against a livestock dealer's security;
- (h) respecting the manner in which licensed persons must carry on the business of dealing in livestock and livestock products and the duties and obligations of licensed persons in that regard;
- (i) respecting advertising and practices, systems and methods of dealing in livestock and livestock products by licensed persons;
- (j) respecting notices of appeal for the purposes of sections 50 and 59;
- (k) prescribing standards of quality for any livestock product and requiring the marking of a livestock product of a prescribed standard;
- (l) respecting the weighing, grading, packing and marking of livestock;

- (m) respecting the inspection, weighing, grading, sampling, testing and analysing of livestock products;
- (n) respecting the manner in which and the conditions under which livestock and livestock products may be received, transported, shipped, delivered, advertised, displayed, sold or purchased;
- (o) respecting the packaging of livestock products and the marking and labelling of the packaging;
- (p) respecting the duties of operators of meat packing plants and abattoirs, weight supervisors, scale operators and other persons involved in the weighing of beef carcasses at meat packing plants and abattoirs.

Part 4

Tribunal and Assurance Funds

Tribunal continued

- 66(1)** The Livestock Patrons' Claims Review Tribunal established under the *Livestock and Livestock Products Act* is continued under the name Livestock Assurance Funds Tribunal.
- (2)** The Tribunal is a corporation consisting of its members, who must be appointed in accordance with the regulations.
- (3)** The members may not be appointed in a manner that would make the Tribunal a Provincial corporation or Crown-controlled organization as those terms are defined in the *Financial Administration Act*.
- (4)** The Tribunal has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.
- (5)** The Tribunal may not borrow money or guarantee a loan.
- (6)** The Minister may appoint a person to be secretary to the Tribunal and may establish the secretary's terms and conditions of service, including remuneration and expenses, if the secretary is not an employee as defined in the *Public Service Act*.

Tribunal powers and procedures

67(1) For the purposes of conducting hearings and appeals before the Tribunal,

- (a) the chair and other members of the Tribunal have the same power as is vested in the Court of Queen's Bench for the trial of civil actions
 - (i) to summon and enforce the attendance of witnesses,
 - (ii) to compel witnesses to give evidence under oath or otherwise,
 - (iii) to compel witnesses to give evidence in person or otherwise, and
 - (iv) to compel witnesses to produce any record, object or thing that relates to the matter being heard;
- (b) the Tribunal may, in its discretion, take evidence under oath;
- (c) any member of the Tribunal or the secretary of the Tribunal may administer oaths for the purpose of taking evidence;
- (d) the Tribunal may require a person who is the subject of or a party to a hearing or an appeal to personally attend the proceedings before the Tribunal;
- (e) a person who is the subject of or a party to a hearing or an appeal
 - (i) has the right to appear before the Tribunal and make representations in respect of the matter, and
 - (ii) has the right to be represented before the Tribunal by legal counsel.

(2) The Tribunal is bound by the rules of procedural fairness in exercising its powers and carrying out its duties under this Act.

(3) Subject to subsection (1), the Tribunal may make rules respecting proceedings before it and the conduct of its business generally.

(4) The *Regulations Act* does not apply to rules referred to in subsection (3).

Administration of assurance funds

68 The Tribunal shall establish and administer

- (a) a Livestock Assurance Fund, and
- (b) a Livestock Dealers' Assurance Fund.

Levies

69(1) The Tribunal shall establish the amounts of levies that are to be paid to the Tribunal for the purposes of the establishment and operation of the assurance funds.

(2) A participant shall, in accordance with the regulations, pay to the Tribunal the levies established by the Tribunal under subsection (1).

(3) The Tribunal shall conduct an annual review to determine if the levies charged are appropriate, considering past and anticipated future claims on the assurance funds.

Agreement for collection of levies

70 The Minister may enter into an agreement with the Tribunal respecting the collection of levies by the Minister on behalf of the Tribunal.

Payments into assurance funds

71 The Tribunal shall pay

- (a) into each assurance fund the levies it collects for the purposes of the fund, and
- (b) into the Livestock Assurance Fund any sale proceeds it receives under section 36(3).

Use of money by Tribunal

72(1) The Tribunal may use money in the assurance funds and any interest earned on that money only

- (a) to make payments in accordance with this Part and the regulations to eligible participants who make successful claims on the assurance funds in respect of transactions in assured livestock;
 - (b) to pay refunds of levies to participants if authorized by the regulations;
 - (c) to pay the reasonable travel and living expenses of the members of the Tribunal when they are travelling on business;
 - (d) to pay the administrative expenses of the Tribunal.
- (2) The Tribunal may invest money in the assurance funds and any interest earned on that money
- (a) subject to the regulations, in accordance with the *Trustee Act*, or
 - (b) in the Consolidated Cash Investment Trust Fund, if the Tribunal is designated as a depositor of the Fund.

Subrogation

73 If the Tribunal makes a payment from an assurance fund to an eligible participant, the Tribunal is subrogated to the rights of the eligible participant against the person whose actions gave rise to the eligible participant's claim, and the Tribunal may maintain an action in the name of the eligible participant or in the name of the Tribunal against that person for the amount paid to the eligible participant.

Appeal to the Court of Appeal

74(1) A participant may appeal to the Court of Appeal a decision of the Tribunal in respect of a claim for payment from an assurance fund.

(2) Section 61(2) to (6) apply, with necessary modifications, to an appeal under this section.

(3) For the purposes of the application of section 61(4) to an appeal under this section, the Tribunal must forward to the Registrar

- (a) a copy of the Tribunal's decision, with reasons, and
- (b) all material and information relevant to the claim that is in the Tribunal's possession.

Financial statements

75(1) In this section, "industry association" means an association or entity that is responsible under the regulations for appointing one or more members of the Tribunal.

(2) The Tribunal shall, after the end of its fiscal year, prepare and submit to each industry association the Tribunal's audited financial statements for the fiscal year.

(3) The Tribunal shall allow a person authorized by an industry association to inspect the books and records of the Tribunal at any reasonable time.

(4) The Tribunal shall provide a copy of its audited financial statements for a fiscal year to a participant who requests the copy and pays a reasonable fee established by the Tribunal.

Regulations

76 The Minister may make regulations

- (a) respecting the appointment of members of and the organization of the Tribunal and any matter relating to the powers, duties, functions and operation of the Tribunal;
- (b) respecting the management of the assurance funds;
- (c) respecting the investment of money in the assurance funds for the purposes of section 72(2)(a);
- (d) defining "assured livestock" and "participant";
- (e) respecting claims for payment from the assurance funds including, without limitation, regulations
 - (i) respecting the circumstances under which a participant is eligible to make a claim for payment with respect to a sale of assured livestock and the kinds of transactions in respect of which a claim may be made,

- (ii) respecting the manner in which a claim must be made, the procedure for making and processing claims and the information that must be provided by participants to the Tribunal in respect of a claim,
 - (iii) respecting the manner of determining the amount or maximum amount of a payment to which an eligible participant is entitled, and
 - (iv) authorizing the Tribunal to make payments subject to terms and conditions;
- (f) authorizing the Tribunal to impose levies on participants for the purposes of establishing and operating the assurance funds;
- (g) respecting the imposition of levies including, without limitation, regulations
- (i) respecting the persons who are required to pay a levy and the assessment of those persons;
 - (ii) respecting the manner in which the amount of the levies to be paid is to be determined;
 - (iii) respecting the payment and collection of levies;
 - (iv) respecting the circumstances under which levies may be refunded and the amounts of such refunds;
- (h) respecting the manner in which persons become and cease to be participants;
- (i) respecting any other matter necessary to give effect to the establishment and operation of the Tribunal and the assurance funds.

Part 5 Miscellaneous

Inspectors

77(1) The Minister may designate employees of the Government of Alberta or other individuals as inspectors for the purposes of this Act or a provision of this Act.

(2) Every police officer is by virtue of that position an inspector for the purposes of this Act and has the same powers and duties as are conferred or imposed on an inspector under this Act.

(3) The Minister shall provide an inspector referred to in subsection (1) with identification in a form determined by the Minister.

(4) While exercising the powers and carrying out the duties of an inspector under this Act an inspector must produce the identification referred to in subsection (3).

(5) An inspector, in exercising powers and discharging duties under this Act, is a person employed for the preservation and maintenance of the public peace.

Offence

78 A person who assaults, obstructs or interferes with an inspector who is exercising powers or carrying out duties under this Act is guilty of an offence and liable to a fine of

- (a) not more than \$10 000 for a first offence, and
- (b) not more than \$20 000 for a 2nd or subsequent offence.

Service of documents

79(1) Where this Act requires that a notice or document be given to, forwarded to or served on another person, the notice or document may be given, forwarded or served

- (a) personally,
- (b) by registered mail,
- (c) unless otherwise provided for under this Act, by ordinary mail sent to the last known address of the person,
- (d) unless otherwise provided for under this Act, by being transmitted by electronic means to the last known number or electronic address of the person in a manner that will result in a printed copy of the notice or document being received by an electronic device at the receiving location, or

(e) in any other manner or by any other method provided for by the regulations.

(2) Subsection (1) does not apply to service that is governed by the rules of practice of a court.

(3) If the person to whom or on whom the notice or document is to be given, forwarded or served is a corporation or a partnership, the notice or document may be given, forwarded or served in the manner provided for by any other enactment.

Protection from liability

80 No action or other proceeding in damages may be commenced against the Tribunal, the members of the Tribunal, the Minister or an inspector for anything done or omitted to be done by that person in good faith in the execution or intended execution of a power or duty under this Act.

Prosecution time limit

81 A prosecution for an offence under this Act may be commenced within 2 years of the date of the alleged offence but not afterwards.

Fine for continuing offences

82 Where a person is convicted of an offence under this Act, the fine provided for the offence may be imposed for each day or part of a day on which the offence occurred or continued.

Per head fine

83 Where an offence committed under this Act is in respect of livestock, the judge may impose the fine provided for the offence for each head of livestock in respect of which the offence is proven to have been committed.

Self-government regulations

84(1) The Minister may make regulations

- (a) respecting the establishment of delegated authorities;
- (b) delegating to one or more delegated authorities any of the powers, duties or functions of the Minister or an inspector

under this Act, except the power of the Minister to make regulations;

- (c) imposing conditions on the delegated powers, duties or functions;
- (d) limiting the liability of a delegated authority and its employees, agents, directors or officers in an action for negligence with respect to the delegated power, duty or function when the delegated authority and its employees, agents, directors or officers act in good faith pursuant to the delegation, including, but not limited to, providing that any limitation of liability applicable to an inspector may be made applicable to a delegated authority and its employees, agents, directors or officers while they are carrying out the inspector's power, duty or function;
- (e) notwithstanding anything in sections 50 to 52, respecting an appeal from an action or a decision of a delegated authority or its employees, agents, directors or officers;
- (f) authorizing a delegated authority to collect money by the levy of fees and charges with respect to the delegated power, duty or function on persons or classes of persons specified in the regulations, respecting how the fees and charges are to be imposed, collected and accounted for and authorizing the delegated authority to use the money for any purpose related to the operation of the delegated authority in the carrying out of a delegated power, duty or function;
- (g) respecting the payment of a fee to a delegated authority for the carrying out of a delegated power, duty or function;
- (h) authorizing a delegated authority to collect, on behalf of the Crown, any money lawfully due to the Crown under this Act and respecting how the money is to be collected and accounted for and remitted to the Minister;
- (i) notwithstanding anything in section 36, respecting the withholding, release and disposition of sale proceeds;
- (j) respecting records that a delegated authority is required to maintain;

- (k) respecting an annual report under section 90;
- (l) respecting the confidentiality of information obtained by a delegated authority and its employees, agents, directors or officers while carrying out a delegated power, duty or function;
- (m) respecting the terms and conditions on which an operator of an inspection site must lease an office to a delegated authority when required by the delegated authority;
- (n) respecting the inspection of premises where a delegated authority or its employee, agent, director or officer is carrying out a delegated power, duty or function and authorizing the Minister to make copies of any document or other record related to the delegated power, duty or function;
- (o) respecting the carrying out of an audit of a delegated authority with respect to its delegated powers, duties and functions and authorizing the Minister to charge reasonable costs incurred in carrying out the audit.

(2) Where a delegation is made under subsection (1),

- (a) a reference in this Act to the Minister or an inspector with respect to delegated powers, duties or functions is to be read as if it were a reference to the delegated authority, and
- (b) a person who is affected by an action taken or decision made by a delegated authority pursuant to the delegation may appeal the action or decision in accordance with the regulations under subsection (1).

(3) Notwithstanding the *Financial Administration Act*, any money collected by a delegated authority pursuant to subsection (1)(f) or (g) or section 89 belongs to the delegated authority.

(4) If the regulations establish a maximum amount of a fee that a delegated authority may charge for providing a service, the delegated authority may not charge or collect a fee that is greater than that maximum amount.

Rules

85(1) A delegated authority may make rules

- (a) respecting the carrying out of a delegated power, duty or function;
- (b) delegating to the employees or agents of the delegated authority and, in the case of a corporation, to its employees, agents, directors or officers, the carrying out of a delegated power, duty or function, except the power to make rules under this subsection.

(2) A rule made under subsection (1) is not in force until it is approved by the Minister.

(3) The *Regulations Act* does not apply to a rule made under this section.

Not Crown agents

86 With respect to a delegation, a delegated authority and its employees, agents, directors and officers are not agents of the Crown.

Financial Administration Act

87 The *Financial Administration Act* does not apply to a delegated authority with respect to a delegated power, duty or function.

Business Corporations Act, s122(4)

88 Section 122(4) of the *Business Corporations Act* does not apply to a corporation that is a delegated authority in respect of the carrying out of a power, duty or function under this Act.

Action for fees or charges

89 A fee or charge levied pursuant to the regulations under section 84(1)(f) is recoverable by the delegated authority as a debt due to the delegated authority.

Reports

90(1) A delegated authority shall, after the end of its fiscal year, prepare and submit to the Minister an annual report with respect to its powers, duties and functions under this Act.

(2) The annual report must include a general summary of the delegated authority's policies and activities in that year, any rules made under section 85 in that year and a financial report that includes an audited financial statement.

(3) The Minister shall lay a copy of the annual report before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next sitting.

(4) A delegated authority shall, on the written request of the Minister, provide the Minister with other reports as specified by the Minister in the request.

Forms

91 Subject to the regulations, a delegated authority may establish and use forms for the purposes of its carrying out its delegated powers, duties or functions.

General regulations

92 The Minister may make regulations

- (a) exempting or providing for the exemption of any person or class of persons from the application of this Act or a provision of this Act, subject to any terms and conditions set out in the regulations;
- (b) designating animals as livestock for the purposes of this Act or a provision of this Act;
- (c) designating products as livestock products for the purposes of this Act or a provision of this Act;
- (d) defining terms for the purposes of this Act or a provision of this Act;
- (e) designating places as inspection sites for the purposes of this Act or a provision of this Act;

- (f) in addition to the Minister's power respecting fees under section 84,
 - (i) prescribing the fees to be paid
 - (A) for the registration of a brand or honorary brand,
 - (B) for the transfer of a brand or honorary brand,
 - (C) for changes to the brand registry,
 - (D) for having the brand registry searched,
 - (E) for obtaining an extract from the brand registry or a certified copy of an extract from the registry, except where it is supplied to the owner of the brand or honorary brand on registration or transfer of the brand or honorary brand,
 - (F) for a copy of the list of brands or honorary brands registered under this Act,
 - (G) for the inspection or reinspection of livestock or livestock products,
 - (H) for the issuance of permits,
 - (I) for the issuance of a livestock dealer's licence or livestock dealer's agent's licence, and
 - (J) for the renewal of a livestock dealer's licence or livestock dealer's agent's licence;
 - (ii) respecting fees to be paid for other services and things provided under this Act;
 - (iii) respecting who must pay a fee and the manner in which and time within which it must be paid;
- (g) requiring persons who are regulated by this Act to keep records in respect of their operations, including, without limitation, regulations respecting
 - (i) the nature of the records that must be kept,
 - (ii) who must keep the records,

- (iii) the form and manner in which the records must be kept, and
- (iv) the time for which the records must be kept;
- (h) respecting forms for the purposes of this Act;
- (i) providing for additional methods of service for the purposes of section 79(1)(e);
- (j) providing, as to any provision in a regulation under this Act, that its contravention constitutes an offence and prescribing a penalty for the offence;
- (k) respecting the transition of matters, or dealing with any difficulty or impossibility resulting from the transition of matters, from the following Acts to this Act:
 - (i) the *Brand Act*;
 - (ii) the *Livestock Identification and Brand Inspection Act*;
 - (iii) the *Livestock and Livestock Products Act*;
- (l) respecting any other matter the Minister considers necessary for the purposes of carrying out the intent of this Act.

Inclusive power

93 The authority to make regulations under this Act respecting a matter includes the authority to make regulations prohibiting the matter.

Part 6
**Consequential Amendments,
Repeals and Coming into Force**

Amends SA 2005 cA-40.5

94(1) The *Animal Keepers Act* is amended by this section.

(2) Sections 7(2) and 8(2) are amended by striking out “*Livestock Identification and Brand Inspection Act*” and substituting “*Livestock Identification and Commerce Act*”.

Amends RSA 2000 cA-41

95(1) The *Animal Protection Act* is amended by this section.

(2) Section 6 is amended by striking out “brand record under the *Brand Act*” **and substituting** “brand registry under the *Livestock Identification and Commerce Act*”.

Amends RSA 2000 cF-2

96(1) The *Fair Trading Act* is amended by this section.

(2) Section 120(1)(c) is amended by striking out “bonded pursuant to regulations under the *Livestock and Livestock Products Act*” **and substituting** “has provided the security required under the *Livestock Identification and Commerce Act*”.

Amends SA 2004 c7

97(1) The *Financial Administration Amendment Act, 2004* is amended by this section.

(2) Section 19(11) is repealed.

Amends RSA 2000 cH-11

98(1) The *Horned Cattle Purchases Act* is amended by this section.

(2) Section 4(2) is amended by striking out “livestock inspector appointed pursuant to the *Livestock Identification and Brand Inspection Act*” **and substituting** “inspector under the *Livestock Identification and Commerce Act*”.

Amends RSA 2000 cL-17

99(1) The *Livestock Industry Diversification Act* is amended by this section.

(2) Section 7(1) is amended by adding “the *Livestock Identification and Commerce Act*,” **after** “*Livestock and Livestock Products Act*,”.

(3) Section 18.1 is amended by striking out “*Livestock Identification and Brand Inspection Act*” and substituting “*Livestock Identification and Commerce Act*”.

Amends RSA 2000 cL-18

100(1) The *Livestock and Livestock Products Act* is amended by this section.

(2) Sections 1 to 47 are repealed and the following is substituted:

Regulation of Prescribed Livestock and Prescribed Livestock Products

Regulations

1(1) The Minister may make regulations

- (a) requiring the owner of poultry intended for use for breeding purposes to have the flock approved for those purposes by the Minister and respecting the granting and cancellation of those approvals by the Minister;
- (b) respecting the segregation of poultry referred to in clause (a) from other birds;
- (c) respecting procedures for dealing with diseases in poultry referred to in clause (a);
- (d) respecting the production, grading, packing, shipping, transporting, advertising and sale of honey that is produced in Alberta for sale in Alberta;
- (e) respecting the sale, offering for sale, possession for the purposes of sale, shipping, transporting or delivery of chicken eggs, reject eggs and processed eggs;
- (f) respecting the grading, storage, inspection, packing, marking and labelling of chicken eggs;
- (g) respecting measures to deal with situations where diseases specified in the regulations are detected in a

building in which one or more laying flocks are housed;

- (h) respecting the duties of first receivers of eggs, operators of egg stations and operators of processed egg stations;
- (i) respecting forms for the purposes of this Act;
- (j) respecting fees for the purposes of this Act;
- (k) requiring persons who are regulated by this Act to keep records in respect of their operations, including, without limitation, regulations respecting
 - (i) the nature of the records that must be kept,
 - (ii) who must keep the records,
 - (iii) the form and manner in which the records must be kept, and
 - (iv) the time for which the records must be kept;
- (l) defining terms for the purposes of this Act;
- (m) providing, as to any provision in a regulation under this Act, that its contravention constitutes an offence;
- (n) respecting any other matter the Minister considers necessary for the purposes of carrying out this Act.

(2) The authority to make regulations under subsection (1) respecting a matter includes the authority to make regulations prohibiting the matter.

Powers of inspectors

2(1) An inspector under the *Livestock Identification and Commerce Act* is an inspector for the purposes of this Act.

(2) For the purpose of ensuring compliance with this Act, an inspector may

- (a) at any reasonable time enter and inspect any place, other than a dwelling place,

- (b) require any person in the place to be interviewed and answer questions related to the purpose of the inspection, and
- (c) require the production of any books, records or other documents that are relevant to the purpose of the inspection and examine them, make copies of them or remove them temporarily for the purpose of making copies.

(3) Where an inspector removes anything pursuant to subsection (2)(c), the inspector shall

- (a) give a receipt for the thing to the person from whom it was taken, and
- (b) forthwith return the thing to the person from whom it was taken when it has served the purposes for which it was taken.

(4) An inspector may without a warrant search any vehicle in which any poultry or product referred to in section 1(1) is being transported.

(5) A person operating a vehicle in or on which any poultry or products referred to in section 1(1) are being transported shall, when required by an inspector to do so,

- (a) bring the vehicle to a stop and remain stopped until the person is permitted by the inspector to leave,
- (b) permit the inspection of the vehicle and its contents by the inspector,
- (c) produce to the inspector any documentation in the person's possession in relation to the poultry or products being transported and answer all questions put to the person by the inspector concerning the documentation, and
- (d) transport the contents of the vehicle to the nearest point where reasonable unloading facilities are available and unload the contents for inspection.

(6) Neither the owner nor the operator of a vehicle is entitled to compensation in respect of anything required to be done under subsection (5).

Detention of poultry or products

3(1) An inspector may, for the purpose of carrying out the inspector's duties under this Act, detain poultry or products referred to in section 1(1) at the owner's expense.

(2) Where an inspector detains poultry or products under subsection (1), no person shall remove them without the consent of the inspector.

Detention of poultry or products

4(1) Where an inspector believes on reasonable grounds that this Act or the regulations have been contravened in respect of any poultry or products referred to in section 1(1), the inspector may place the poultry or products under detention.

(2) Poultry or products placed under detention pursuant to subsection (1) may not be detained

- (a) after the provision that was contravened has, in the opinion of the inspector, been complied with, or
- (b) after the expiration of 90 days from the date of detention, unless a proceeding has been commenced in respect of the contravention, in which case the poultry or products may be detained until the proceeding is finally concluded.

Sale of detained poultry

5 Where a proceeding referred to in section 4(2)(b) results in a conviction, the judge presiding over the proceeding may direct the sale of poultry or products that were detained and direct the disposition of the sale proceeds.

Offence

6 A person who

- (a) contravenes section 2(5) or 3(2) or a provision of the regulations referred to in section 1(1)(m), or

- (b) assaults, obstructs or interferes with an inspector who is exercising powers or carrying out duties under this Act

is guilty of an offence and liable to a fine of not more than \$5000 for a first offence and \$10 000 for a 2nd or subsequent offence.

Prosecution time limit

7 A prosecution for an offence under this Act may be commenced within 2 years of the date of the alleged offence but not afterwards.

Fine for continuing offences

8 Where a person is convicted of an offence under this Act, the fine provided for the offence may be imposed for each day or part of a day on which the offence occurred or continued.

Amends RSA 2000 cW-10

101(1) The *Wildlife Act* is amended by this section.

(2) Section 54 is amended by striking out “*Livestock and Livestock Products Act*” and substituting “*Livestock Identification and Commerce Act*”.

(3) Section 103(1)(n) is amended by striking out “*Brand Act*” and substituting “*Livestock Identification and Commerce Act*”.

Repeals

102 The following Acts are repealed:

- (a) the *Brand Act*, RSA 2000 cB-6;
- (b) the *Livestock Identification and Brand Inspection Act*, RSA 2000 cL-16.

Coming into force

103 This Act comes into force on Proclamation.

Explanatory Notes

94 Amends chapter A-40.5 of the Statutes of Alberta, 2005.
Consequential name changes.

95 Amends chapter A-41 of the Revised Statutes of Alberta 2000.
Section 6 presently reads:

6 If an animal is delivered

(a) under section 3(2)(a), the humane society, or

(b) under section 3(2)(b), the peace officer who delivered the animal

shall take reasonable steps to locate the owner of the animal, including a search of the brand record under the Brand Act, and shall notify the owner of the actions taken in respect of the animal.

96 Amends chapter F-2 of the Revised Statutes of Alberta 2000.
Consequential name change.

97 Amends chapter 7 of the Statutes of Alberta, 2004. Section 19(11) presently reads:

(11) The Livestock and Livestock Products Act is amended by repealing section 30(2) and substituting the following:

(2) The Tribunal may

(a) invest the levies it receives and any interest earned on the levies, subject to the regulations, in investments in which a trustee may invest trust money under the Schedule to the Trustee Act, or

(b) be a participant under section 40 of the Financial Administration Act.

98 Amends chapter H-11 of the Revised Statutes of Alberta 2000.
Consequential name change.

99 Amends chapter L-17 of the Revised Statutes of Alberta 2000. Sections 7(1) and 18.1 presently read:

7(1) The Minister may, by giving notice in writing to the licensee, cancel a licence if the Minister is satisfied that the licensee has contravened or permitted the contravention of any provision of this Act, the Wildlife Act, the Meat Inspection Act, the Meat Inspection Act (Canada), the Livestock Identification and Brand Inspection Act, the Livestock and Livestock Products Act, the Livestock Diseases Act, the Animal Protection Act or any regulations under any of those Acts.

18.1 A person shall not transport a present or prospective domestic cervid except in accordance, so far as applicable, with the Livestock

Identification and Brand Inspection Act and the Health of Animals Act (Canada) and the regulations under those Acts.

100 Amends chapter L-18 of the Revised Statutes of Alberta 2000.

101 Amends chapter W-10 of the Revised Statutes of Alberta 2000. Sections 54 and 103(1)(n) presently read:

54 Nothing in this Part prohibits any activity that is authorized by or under the Livestock and Livestock Products Act.

103(1) The Minister may make regulations

(n) subject to the Brand Act, requiring and otherwise respecting the marking of wildlife and controlled animals;

102 Repeals.

103 Coming into force.