

Bill No. 73 of 1937.

A BILL TO AMEND AND CONSOLIDATE THE
DAIRYMEN'S ACT.

NOTE.

This Bill amends and consolidates The Dairymen's Act.

Part I relates to administration and provides for the appointment of a Dairy Commissioner, Inspectors, Dairy Produce Graders, Testers and Weighers, and authorizes the Lieutenant Governor in Council to make regulations relating to the licensing and operation of cheese factories, creameries, dairies, ice cream plants, milk and cream distributing plants, concentrated milk plants and skimming stations, and for the grading of dairy produce, and other matters. It further empowers the Minister to appoint advisory boards which are to inquire into any applications for the granting or renewal of licenses in any cases referred to them by the Minister, and empowers the Minister in certain cases to refuse applications for licenses or permits and to cancel or suspend the same for non-compliance with the Act.

Part II of the Act empowers the Lieutenant Governor in Council by proclamation to declare certain provisions of The Dairy Industry Act of the Dominion to be in force in the Province.

Part III relates to the regulation of the dairy industry and sets out in detail the powers and duties of the Dairy Commissioner.

Part IV relates to the licensing of cheese factories, creameries, concentrated milk plants, dairies, ice cream plants, milk and cream distributing plants and skimming stations, and prescribes the conditions under which licenses may be granted, and prohibits their operation unless duly licensed. It also prohibits discrimination in the purchase of butter fat. It further makes provision for returns to be made by licensed persons to the Minister; the inspection of licensed premises for the purpose of grading, testing or weighing dairy produce, and further provides that the cost of grading, testing and weighing dairy produce under the Act shall be borne by the persons engaged in the industry in such manner as the Minister may prescribe.

Part V provides for the licensing of motor vehicles engaged in the business of transporting cream and prohibits the carriage of cream to a creamery for hire, gain or reward, in a motor vehicle which is not duly licensed.

R. ANDREW SMITH,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 73 of 1937.

An Act to amend and consolidate The Dairymen's Act.

(Assented to _____, 1937.)

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

1. This Act may be cited as "*The Dairymen's Act, 1937.*"

2. In this Act, unless the context requires a contrary meaning,—

- (a) "Cheese factory" means a place to which is brought the milk from the herds of five or more persons for the purpose of being manufactured into cheese;
- (b) "Commissioner" means the Dairy Commissioner appointed pursuant to this Act;
- (c) "Concentrated milk plant" means a place at which milk is dehydrated, or condensed, or evaporated or powdered, or converted into casein.
- (d) "Creamery" means a place to which the milk or cream from the herds of five or more persons is brought for the purpose of being manufactured into butter;
- (e) "Dairy" means a place at which the milk or cream from the herds of not more than four persons is brought for the purpose of being manufactured into butter or cheese;
- (f) "Department" means the Department of Agriculture;
- (g) "Ice cream plant" means any place at which ice cream is manufactured for the purpose of sale to retail distributors;
- (h) "Inspector" means an inspector appointed pursuant to this Act;
- (i) "Milk and cream distributing plant" means any place not being a cheese factory, creamery, dairy, ice cream plant, concentrated milk plant, or skimming station to which milk or cream is brought for resale in any form;
- (j) "Minister" means the Minister of Agriculture;
- (k) "Patron" means a person who supplies milk or

cream to a creamery, cheese factory, ice cream plant, concentrated milk plant, dairy, milk and cream distributing plant, or skimming station;

- (l) "Skimming station" means a place where milk from the herds of five or more persons is received and creamed by means of a centrifugal cream separator.

PART I.

ADMINISTRATION.

3. The Minister may,—

- (a) appoint a Dairy Commissioner who shall, subject to the direction of the Minister, be charged with the administration of this Act;
- (b) appoint such inspectors as may be deemed necessary and prescribe their duties;
- (c) appoint such persons as may be deemed necessary as dairy produce graders, testers and weighers, and prescribe their duties.

REGULATIONS.

4.—(1) With the approval of the Lieutenant Governor in Council, the Minister may from time to time make regulations,—

- (a) providing for the issuance of licenses to operate cheese factories, creameries, dairies, ice cream plants, milk and cream distributing plants, concentrated milk plants and skimming stations; and permits for the reception at a creamery of cream for the purpose of being transported or forwarded; and licenses authorizing the holders to act as graders and/or testers of milk and/or cream; and the conditions precedent to the issuance of licenses and permits and the fees payable upon the issuance thereof either generally or in respect of any specified class or description of license or permit; and the cancellation of any license or permit and the renewal or otherwise of any license or permit on the expiration thereof;
- (b) defining grade descriptions and grade standards of dairy products;
- (c) specifying the conditions upon which dairy produce may be graded for the producers, manufacturers or owners thereof;
- (d) providing for the issue by the department of certificates of quality for dairy produce graded, and specifying the form in which and conditions upon which such certificates shall be issued;
- (e) providing for the pasteurization of cream for butter making purposes;

- (f) specifying the equipment and methods to be used in the determination of the weight, lactic acid content and butter-fat content of milk and cream supplied to a creamery, cheese factory, ice cream plant, dairy, concentrated milk plant, milk and cream distributing plant, or skimming station;
- (g) providing for the weighing of lots or shipments of dairy produce and the issue of weight certificates in respect thereof, and prescribing the form of such certificates and the conditions upon which the same may be issued;
- (h) prescribing requirements to be complied with in the location, construction, operation, management and maintenance of creameries, cheese factories, ice cream plants, dairies, concentrated milk plants, milk and cream distributing plants and skimming stations, and premises thereof and the kind and description of equipment which may be used therein;
- (i) prescribing methods of manufacturing or in any way dealing with or handling milk, cream, butter or other products in creameries, cheese factories, ice cream plants, milk and cream distributing plants, dairies, concentrated milk plants and skimming stations;
- (j) providing for the sanitary management and maintenance of creameries, dairies, cheese factories, ice cream plants, milk and cream distributing plants, concentrated milk plants and skimming stations;
- (k) generally respecting the conduct, operation and maintenance of creameries, dairies, cheese factories, ice cream plants, milk and cream distributing plants, concentrated milk plants and skimming stations, or respecting any matter or thing which might improve the grade or quality of any milk, cream, butter, cheese or other produce manufactured or in any way dealt with or handled therein;
- (l) prescribing standards of proficiency for persons who are buttermakers or cheesemakers, and providing for the examination of any such persons in any prescribed manner, and providing for the issuance to such persons of first class, second class, and temporary certificates of proficiency, to such persons as submit themselves to examination and satisfy the examiners that their proficiency is not less than the standard of proficiency required for the issuance of any such certificate;
- (m) generally as to any matter or thing relating to the dairying industry not inconsistent with this Act as may be deemed necessary for the purpose of effecting the intent and purpose of this Act and without derogating from the generality of the foregoing prescribing standards of price either as the maxi-

mum price and the minimum price at which milk, cream and butterfat, or any of them or any grade or grades thereof, should be bought or sold; and the basis of calculation of standards of price having regard to any or all of the following circumstances, namely, the prevailing market price thereof or of any commodities manufactured therefrom, the manner of delivery, the cost of delivery and any advantage in the nature of a bonus or dividend which accrues or may accrue to the vendor in respect of the sale or any other circumstances which has any relation to the price: and prohibiting the sale of milk, cream and butterfat or any of them or any grade or grades thereof at a price which is greater than the maximum price or less than the minimum price so prescribed in respect thereof.

(2) Every regulation so made shall be published in *The Alberta Gazette* and shall take effect either at the date of such publication or at such later date as may be prescribed for that purpose, and upon so taking effect shall have the same force and effect as if the same had been expressly enacted as a part of this Act.

5.—(1) The Minister may from time to time appoint advisory boards each consisting of a chairman and not more than two other members, which shall when requested so to do by the Minister, inquire into any applications for the granting or renewal of any license, or the propriety or otherwise of suspending or cancelling any license, and shall report in writing its recommendations.

(2) The persons appointed as members of an advisory board shall hold office during the pleasure of the Minister, and shall receive such expenses as may be approved by the Minister and shall not receive any remuneration for their services.

(3) For the purpose of making any such inquiry every advisory board shall have all the powers of taking evidence on oath and compelling the attendance of witness and production of documents which are or may be conferred upon commissioners appointed under *The Public Inquiries Act*.

(4) The Minister may in cases which he has referred to a board, upon the recommendation of an advisory board and in other cases when he thinks fit, refuse any application for the granting or renewal of any license or permit, and may upon being satisfied by the report of the Dairy Commissioner or an Inspector or otherwise, that any place in respect of which a license has been issued has ceased to conform to any of the requirements of this Act or of any regulations made pursuant thereto, or that the business conducted thereon is not operated in conformity with the provisions of this Act or by the regulations therein, and in any such event the Minister may in his uncontrolled discretion either cancel the license or suspend the same until such time as the Min-

ister is satisfied that the place does conform to the said requirements and that adequate measures have been taken for the future operation of the business in such a way as to comply with the provisions of this Act and of the regulations.

PART II.

APPLICATION OF CERTAIN PROVISIONS OF THE DAIRY INDUSTRY ACT.

6.—(1) The Lieutenant Governor in Council may from time to time by proclamation declare that all or any of the following provisions shall have the force and effect of law in the Province, namely,—

- (a) the provisions of Part II of an Act of the Parliament of Canada intituled *The Dairy Industry Act*; and
- (b) the provisions of any regulations made under that Act which are now in force,—

in so far as Part II of that Act applies to butter and cheese or either of them as therein defined, and in so far as those regulations relate to the grading of butter and cheese or either of them produced in the Province or to butter and cheese or either of them not produced in the Province to the extent the said provisions are within the legislative authority of the Province and are without that of the Parliament of Canada.

(2) Every such provision so proclaimed to be in force shall, upon proclamation, have the same force and effect as if the same had been enacted as a part of this Act.

PART III.

REGULATION OF THE DAIRY INDUSTRY.

POWERS OF DAIRY COMMISSIONER.

7.—(1) The Commissioner and every inspector shall at all reasonable times have free access and admission to any cheese factory, creamery, dairy, milk and cream distributing plant, ice cream plant, concentrated milk plant and skimming station, and to everything therein or thereon and also to every place used by any patron for dairy purposes, and shall be entitled to take samples of any milk, cream, butter, cheese or other dairy product found by him upon any of the aforesaid premises for the purposes of testing the same by analysis, weighing or otherwise, and also to examine and audit any books, papers or documents which are upon any such premises or which relate to any of the said dairy products, and to make copies thereof or extracts therefrom.

(2) The Commissioner and every inspector shall at all reasonable hours have free access and admission to all factories or other places where milk or cream is collected for sale or shipment or manufacture, or to milk or cream in transit on wagons, trucks, trains or other conveyances, at collecting stations, railroad stations, express offices, in storage or wherever the same may be found, whether in the possession of a producer, seller, purchaser, carrying agent or storage company, and the Commissioner and every in-

spector is empowered to take samples of any such milk or cream in sufficient quantities for adequate testing.

8. A certificate signed by the Commissioner or by any inspector relating to any grade or test or analysis of a dairy product shall be evidence of the facts relating to the grade or test or analysis set out therein.

9. Every person who is the owner or is for the time being in charge of any place which is a cheese factory, creamery, dairy, ice cream plant, milk or cream distributing plant, concentrated milk plant or skimming station, who,—

- (a) when requested by the Commissioner or any inspector to admit him to any such place during reasonable hours refuses so to do; or
- (b) hinders or obstructs the Commissioner or an inspector in making any inspection or taking any sample which is authorized by this Act to be made or taken; or
- (c) neglects or omits to furnish any reasonable facilities requested by the Commissioner or any inspector for the purpose of making an inspection or the taking of any sample which is authorized by this Act to be made or taken,—

shall be guilty of an offence and shall be liable for each offence on summary conviction to a fine of not more than One Hundred Dollars and costs, and in default of payment to imprisonment for a term of not more than sixty days.

PART IV.

LICENSING.

10.—(1) No place shall be used as a cheese factory, creamery or concentrated milk plant, unless and until a license has been issued by the Minister to the person who has the management and control thereof, authorizing such uses and then so long only as there is a valid and subsisting license in respect of such place.

(2) The Minister may, by order, published in *The Alberta Gazette*, prohibit the use of any place for the purpose of a dairy, or an ice cream plant, or a milk and cream distributing plant, or skimming station, or for all or some or any of such purposes, unless and until a license has been issued by the Minister authorizing such uses, and that so long only as there is a valid and subsisting license in respect of such place.

(3) Every person who uses any place for any purpose for which a license is required pursuant to this section, or to any order of the Minister made pursuant to this section, at a time during which such use is not authorized by a valid and subsisting license in respect of such place, whether he is the owner or lessee thereof or the manager, operator or

person in charge of the business conducted thereon, shall be guilty of an offence and shall be liable upon summary conviction to a fine of ten dollars a day and costs for each day during which the place is used in contravention of this section, and in default of payment to imprisonment for not more than thirty days.

11. No license or permit shall be issued authorizing the use of any place as a cheese factory, creamery, concentrated milk plant, dairy, ice cream plant, milk and cream distributing plant or skimming station, which does not conform to the specifications and requirements prescribed by the Lieutenant Governor in Council as to location, the nature and extent of the buildings and equipment thereon in the case of cheese factories, creameries, concentrated milk plants, dairies, ice cream plants, milk and cream distributing stations and skimming stations respectively.

12. In case the license in respect of any cheese factory, creamery, concentrated milk plant, dairy, ice cream plant, milk and cream distributing plant or skimming station has been cancelled or suspended on account of the operation thereof in contravention of any of the provisions of this Act or of the regulations made pursuant thereto, such license shall not be restored or reinstated unless and until the Minister is satisfied that the future operations will be carried on in conformity to the provisions of this Act and the regulations.

13. No person shall deliver cream to or accept cream from any place operated as a branch of any creamery where cream is received from individual patrons by an agent of the creamery, and where any or all of the following services are performed by any such agent, namely: the weighing, sampling, grading and testing of cream before it is transported or forwarded to such creamery in the individual patrons' cans, or is transferred into shipping cans for the purpose of being so transported or forwarded.

14.—(1) No person who is the owner, lessee, proprietor or manager of a creamery duly licensed pursuant to this Act, shall receive or purchase any cream at such creamery for the purpose of being transported or forwarded to any other person, unless a permit has been issued by the Minister authorizing cream to be so received or purchased at the creamery, and such permit is then subsisting.

(2) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable upon summary conviction therefor to a fine of not more than One Hundred Dollars and costs and in default of payment to imprisonment for a term of not more than sixty days.

15.—(1) No person shall in the purchasing of any milk, cream or butterfat for the purpose of manufacturing or processing, discriminate in the prices paid by purchasing

the same on any day at a lower price from one person than is paid by him to any other person at the same time after making due allowance for differences in grade.

(2) Every person who contravenes any of the provisions of this section, shall be guilty of an offence and shall be liable on summary conviction to a penalty of not less than Fifty Dollars and more than Five Hundred Dollars together with costs, and in default of payment to imprisonment for a term of not less than fifteen days and not more than ninety days.

16. Any person who contravenes any of the provisions of this Act for the contravention of which no penalty is expressly provided, and every person who contravenes any regulation made pursuant to this Act shall be guilty of an offence and shall be liable on summary conviction therefor to a penalty of not more than One Hundred Dollars and costs and in default of payment to imprisonment for a term of not more than thirty days.

RECORDS AND RETURNS.

17. The owner or other person in charge of a cheese factory, creamery, dairy, ice cream plant, milk concentration plant, milk and cream distributing plant or skimming station, shall keep records, in such form as the Minister may direct, of the business carried on by him and shall furnish to the Minister statistical returns relating to the business in such form and at such times as the Minister may from time to time require.

18. Every inspector, grader, tester and weigher appointed pursuant to this Act shall, upon being directed so to do by the Dairy Commissioner, have the right to enter into and upon any creamery, cheese factory, dairy, ice cream plant, concentrated milk plant, milk and cream distributing plant or skimming station, and every part thereof, and to continue thereon and therein for the purpose of grading, testing or weighing dairy produce in pursuance of any direction given by the Dairy Commissioner and any regulations made by the Minister.

19. The cost of grading, testing and weighing dairy produce under this Act shall be borne and paid by all the persons licensed in respect of creameries, cheese factories, dairies, ice cream plants, concentrated milk plants, milk and cream distributing plants and skimming stations, in such proportion as may be from time to time fixed by the Minister, and if the Minister so requires, every person so licensed shall pay such reasonable proportion of the cost of the supervision under this Act of graders, weighers and testers, and the proportion of the cost of supervision which shall be payable and the proportion thereof payable by each person so licensed and the method in which payment is to be

made, shall be such as the Minister may in his uncontrolled discretion from time to time fix and determine.

20. All sums payable under this section shall be recoverable by action taken by the Minister in the name of the Province in any court of competent civil jurisdiction, as a debt due to the Crown.

21. Notwithstanding any provision of this or any other Act to the contrary, all sums paid pursuant to this section shall be deposited in a special trust fund to be called "The Provincial Treasurer's Dairying Service Account," out of which there shall be paid all expenses payable under this Act in respect of the grading, testing and weighing of dairy produce, and the proportion of the costs of supervision thereof payable pursuant to this section.

PART V.

LICENSING OF MOTOR VEHICLES USED FOR CREAM TRANSPORT

22. For the purposes of this part the expression,—

"Duly licensed motor vehicle" means a motor vehicle licensed to carry cream for hire, gain or reward pursuant to *The Public Service Vehicles Act*.

23. No person shall accept for carriage to a creamery or carry to a creamery for hire, gain or reward any cream in any motor vehicle which is not a duly licensed motor vehicle.

24. No person shall accept delivery of any cream at any creamery from any motor vehicle which is not a duly licensed motor vehicle.

25. In every case in which cream is delivered at any creamery from any motor vehicle other than a duly licensed motor vehicle, it shall be the duty of the owner and the person for the time being having the control and management of the creamery to make sufficient enquiries for the purpose of ascertaining the name of the owner of the motor vehicle in which the cream is delivered and the name of the owner of the cream so offered for delivery therefrom.

26. Upon receipt of any cream at any creamery from a motor vehicle, it shall be the duty of the owner and of the person having control and management of the creamery for the time being, to enter in the daily records kept pursuant to the regulations, the name of the owner of the cream and the number of the license of the motor vehicle if a duly licensed motor vehicle and otherwise the number of the license of the vehicle under *The Vehicles and Highway Traffic Act, 1924*.

27. Every owner of a creamery and every person for the time being having the control and management thereof, shall

keep the book referred to in the last section hereof at the creamery and shall produce the same on demand at all reasonable times to any peace officer or to any person authorized in writing by the Minister of Agriculture or by the Highway Traffic Board to inspect the same.

28. Every person who accepts for carriage or carries cream in any motor vehicle in contravention of the provisions of this Act, shall be guilty of an offence and shall be liable upon summary conviction therefor to a fine of not more than Two Hundred Dollars and costs and in default of payment to imprisonment for a term of not more than ninety days; and in addition to any such penalty every license under this Act in respect of any or every motor vehicle of the person so convicted may be forthwith cancelled.

29. In any prosecution for any contravention of this Act the onus of proving that any cream was not carried for hire, gain or reward, shall be upon the defendant.

30. *The Dairymen's Act*, being chapter 162 of the Revised Statutes of Alberta, 1922, is hereby repealed except only as to those provisions of Part 1 thereof relating to the conduct of the affairs and business of associations formed pursuant to Part I thereof before the commencement of this Act.

31. This Act shall come into force on the day upon which it is assented to.

No. 73.

THIRD SESSION
EIGHTH LEGISLATURE
1 GEORGE VI
1937

BILL

An Act to amend and consolidate
The Dairymen's Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. CHANT.

EDMONTON:
A. Shnitka, King's Printer
1937