

1980

c 159 Farm Products Payments Act

Ontario

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Bibliographic Citation

Farm Products Payments Act, RSO 1980, c 159

Repository Citation

Ontario (1980) "c 159 Farm Products Payments Act," *Ontario: Revised Statutes*: Vol. 1980: Iss. 3, Article 20.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1980/iss3/20>

CHAPTER 159

Farm Products Payments Act

1. In this Act,

Interpre-
tation

(a) "board" means a board established under this Act;

(b) "dealer" means a person engaged in the business of buying farm products from producers or in selling farm products on behalf of producers;

(c) "farm product" means such animals, meats, eggs, poultry, wool, milk, cream, cheese, grains, seeds, fruit, vegetables, maple products, honey or tobacco or such classes or parts thereof as are designated in the regulations;

(d) "fund" means a fund established under this Act;

(e) "Minister" means the Minister of Agriculture and Food;

(f) "producer" means a person who produces a farm product and includes, where so designated in the regulations,

(i) a marketing board under the *Milk Act*, R.S.O. 1980,
c. 266(ii) a local board under the *Farm Products Market-
ing Act*, and R.S.O. 1980,
c. 158(iii) an operator engaged in the business of operating
community sales under the *Live Stock Commu-
nity Sales Act*; R.S.O. 1980,
c. 247(g) "regulations" means regulations made under this
Act. R.S.O. 1970, c. 163, s. 1; 1977, c. 25, s. 1.

2.—(1) The Lieutenant Governor in Council may establish a fund for any class of producers under this Act and, where a fund is established, shall constitute a board to administer the fund and designate the name by which the board shall be known.

Funds and
boards

(2) The Lieutenant Governor in Council may appoint the members of a board and fix the remuneration of members who are not employed in the public service of Ontario.

Appoint-
ments and
remunera-
tion

Dissolution (3) The Lieutenant Governor in Council may dissolve a board on such terms and conditions as he considers proper and may provide for the disposition of its assets and any fund administered by it. R.S.O. 1970, c. 163, s. 2 (1-3).

Milk Commission and Farm Products Marketing Board may be a board (4) The Lieutenant Governor in Council may designate under subsection (1) The Milk Commission of Ontario or The Farm Products Marketing Board as a board constituted for the purposes of this Act and, when so designated, the said Commission or Board shall be deemed for the purposes of this Act, other than subsections (5) and (6) of this section, to be a board constituted under subsection (1). 1977, c. 25, s. 2.

Incorporation (5) Every board shall be a corporation without share capital responsible to the Minister.

R.S.O. 1980, c. 95 does not apply (6) The *Corporations Act* does not apply to a board.

Officers and servants
R.S.O. 1980, c. 418 (7) Such officers and servants may be appointed or transferred under the *Public Service Act* as are considered necessary from time to time for the proper conduct of the affairs of boards.

Experts (8) A board may engage persons other than those referred to in subsection (7) to provide professional, technical or other assistance to or on behalf of the board.

Immunity of members (9) No member of a board or member of the staff thereof is personally liable for anything done by it or by him in good faith under the authority or purporting to be under the authority of this Act. R.S.O. 1970, c. 163, s. 2 (5-9).

Application for payment from fund **3.—**(1) Where a farm product is sold by or on behalf of a producer and,

(a) the dealer has not paid the producer the price of the farm product within fifteen days of the time the payment became due; or

(b) the whole or any part of the dealer's assets has been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act*,

R.S.C. 1970, c. B-4
R.S.O. 1980, c. 52

the producer may apply to the board that administers the fund for the farm product claiming payment from such fund. R.S.O. 1970, c. 163, s. 3.

Producer not entitled to payment (2) Notwithstanding subsection (1), a producer is not entitled to payment from a fund under clause (1) (a) where the regulations

provide that clause (1) (a) does not apply in respect of that fund. 1980, c. 82, s. 1.

4.—(1) It is the function of a board and it has power, Functions of a board

- (a) to administer its fund;
- (b) to investigate all claims made to it under this Act and to determine the extent of their validity;
- (c) to grant or refuse the payment of claims or any part thereof and determine the amounts and manner of payment;
- (d) to recover any moneys to which it is entitled under this Act by suit in a court of competent jurisdiction or otherwise.

(2) Where a producer has received a payment from a fund Refund where payment received twice and receives a payment from or on behalf of the dealer in full or partial satisfaction of the same debt for which payment from the fund was made, the producer shall pay to the board the lesser of,

- (a) the moneys that he received from or on behalf of the dealer; or
- (b) the moneys that he received from the fund.

(3) Where an amount is paid out of a fund, the board Subrogation administering the fund is subrogated for the amount of the payment to the right of the person to whom such amount is paid and may maintain an action in the name of the board or in the name of such person against any other person or persons to enforce such right. R.S.O. 1970, c. 163, s. 4.

5.—(1) All moneys to which a board is entitled shall be Payments into fund paid into the fund administered by it.

(2) The expenses of a board, other than for the remuneration of its officers and servants who are employed in the public service of Ontario, shall be paid by the board out of the fund administered by it. R.S.O. 1970, c. 163, s. 5 (1, 2). Payments out of fund

(3) If, at any time, the amount standing to the credit of a fund is insufficient for the purpose of making payments for claims under this Act, the Lieutenant Governor in Council may authorize the Treasurer of Ontario, Advances or loans to board

- (a) in the case of a fund that exists when this clause comes into force, to advance out of the Consolidated Revenue Fund to the board that administers the fund such sums as are necessary to meet the deficit; or
- (b) in the case of any fund, to make out of the Consolidated Revenue Fund to the board that administers the fund loans that do not bear interest and do not exceed in the aggregate \$250,000,

on such terms and conditions as the Lieutenant Governor in Council directs.

Grant
to board

(4) Where the Lieutenant Governor in Council establishes a fund under subsection 2 (1), the Lieutenant Governor in Council may authorize the Treasurer of Ontario to make out of the Consolidated Revenue Fund to the board that administers the fund one grant in an amount not exceeding \$25,000.

Payment
out of
fund

(5) Every board that administers a fund shall pay out of the fund all moneys required for,

- (a) the payment of claims under this Act; and
- (b) the repayment of advances or loans, as the case may be, under subsection (3). 1977, c. 25, s. 3.

Surplus

(6) A board may pay into the Consolidated Revenue Fund any surplus moneys in its fund that are not necessary for the current requirements of the board, and section 7 of the *Financial Administration Act* applies thereto.

R.S.O. 1980,
c. 161

Audit

(7) The accounts and financial transactions of a board shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the board and to the Minister. R.S.O. 1970, c. 163, s. 5 (4, 5).

Annual
report

6.—(1) Every board shall make an annual report of its affairs to the Minister.

Tabling

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 163, s. 6.

Failure to
pay fees
or furnish
security

7. Failure,

- (a) to pay a fee prescribed in the regulations; or

- (b) to furnish security or proof of financial responsibility in accordance with the regulations,

shall be grounds for the suspension or revocation of or refusal to issue or renew a licence under the following Acts:

1. *Farm Products Grades and Sales Act*.
2. *Farm Products Marketing Act*.
3. *Live Stock and Live Stock Products Act*.
4. *Live Stock Community Sales Act*.
5. *Milk Act*. 1977, c. 25, s. 4; 1980, c. 82, s. 2.

R.S.O. 1980,
cc. 157, 158,
245, 247, 266

8. The Lieutenant Governor in Council may make regulations, Regulations

- (a) designating farm products for the purposes of clause 1 (c);
- (b) designating marketing boards under the *Milk Act*, local boards under the *Farm Products Marketing Act* or operators engaged in the business of operating community sales under the *Live Stock Community Sales Act*, as producers, and limiting the extent of any such designation;
- (c) exempting any class or classes of dealers from the application of this Act or the regulations, or any part thereof;
- (d) exempting any class or classes of producers from the application of this Act or the regulations, or any part thereof;
- (e) prescribing conditions for the exemption of any class or classes of dealers or producers;
- (f) prescribing by-laws for regulating the government of boards and the conduct of their affairs, but any board may make by-laws not inconsistent with this Act or with the regulations;
- (g) providing that clause 3 (1) (a) does not apply in respect of a fund;
- (h) prescribing additional conditions to those referred to in subsection 3 (1) under which a producer may apply for

payment from a fund and providing for such applications and for payments from the fund;

- (*i*) requiring dealers or producers, or both, to pay fees to a board and prescribing the amounts and the times and manner of payment thereof, and providing for the collecting thereof;
- (*j*) requiring the furnishing of security or proof of financial responsibility by dealers engaged in the marketing of a farm product in respect of which a fund is established and providing for the administration, forfeiture and disposition of any moneys or securities so furnished;
- (*k*) prescribing the manner in which and the conditions under which a dealer shall make payment to producers for a farm product in respect of which a fund is established;
- (*l*) prescribing, for the purposes of clause 3 (*a*), the times when payments become due for a farm product in respect of which a fund is established;
- (*m*) prescribing the terms and conditions under which a person who sells a farm product on behalf of a producer and who is designated as a producer may claim payment from a fund and receive payment therefrom;
- (*n*) providing procedures for the determination and payment of claims including the grounds upon which a board may pay or refuse to pay claims;
- (*o*) limiting the amount that may be paid out of a fund,
 - (*i*) to any producer or class thereof, or
 - (*ii*) respecting any dealer or class thereof;
- (*p*) prescribing forms and providing for their use;
- (*q*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 163, s. 8; 1977, c. 25, s. 5; 1980, c. 82, s. 3.