



1980

## c 191 Grain Elevator Storage Act

Ontario

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### Bibliographic Citation

*Grain Elevator Storage Act*, RSO 1980, c 191

### Repository Citation

Ontario (1980) "c 191 Grain Elevator Storage Act," *Ontario: Revised Statutes*: Vol. 1980: Iss. 3, Article 52.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1980/iss3/52>

## CHAPTER 191

## Grain Elevator Storage Act

## 1. In this Act,

Interpre-  
tation

- (a) “Board” means the Agricultural Licensing and Registration Review Board under the *Ministry of Agriculture and Food Act*; R.S.O. 1980, c. 270
- (b) “chief inspector” means the chief inspector appointed under this Act;
- (c) “farm produce” means beans, cereal grains, corn or grass seeds produced in Ontario;
- (d) “grain elevator” means any premises on which farm produce is stored;
- (e) “grain elevator operator” means a person who receives or offers to receive farm produce for storage;
- (f) “grain storage receipt” means a receipt in the form prescribed by the regulations and issued by a grain elevator operator in respect of farm produce in storage;
- (g) “licence” means a licence under this Act;
- (h) “Minister” means the Minister of Agriculture and Food;
- (i) “regulations” means the regulations made under this Act;
- (j) “stored”, when used with respect to farm produce, means delivered to a grain elevator upon terms that the ownership is to remain in the deliverer, and “storage” has a corresponding meaning;
- (k) “weigh-ticket” means a receipt issued by a grain elevator operator to a producer in the form prescribed by the regulations. R.S.O. 1970, c. 195, s. 1; 1973, c. 88, s. 1; 1978, c. 100, s. 10 (1).

Delivery  
for  
storage

**2.**—(1) Subject to an agreement in writing to the contrary, where farm produce is delivered to an elevator and a grain storage receipt is issued, the delivery of the farm produce shall be deemed to be for storage.

Receipt  
where grain  
not for  
storage

(2) A grain elevator operator shall not issue a grain storage receipt for grain delivered upon terms other than for storage unless he marks on the receipt in bold print that the receipt is not a grain storage receipt under this Act. R.S.O. 1970, c. 195, s. 2.

Contract for  
sale to be  
written

**3.** A contract for the sale of farm produce to the operator of the grain elevator in which it is stored is not enforceable by action unless the contract is written on the grain storage receipt issued for the farm produce and signed by the parties. R.S.O. 1970, c. 195, s. 3.

Storage  
charges

**4.** Unless it is agreed in writing to the contrary, farm produce stored in a grain elevator is not subject to any lien, charge or set-off other than for storage charges in respect of the farm produce. R.S.O. 1970, c. 195, s. 4.

R.S.O. 1980,  
c. 150, s. 2,  
not to apply

**5.** Section 2 of the *Factors Act* does not apply to farm produce in possession of a grain elevator operator for storage, or to a document of title thereto. R.S.O. 1970, c. 195, s. 5.

Appoint-  
ment of chief  
inspector  
and  
inspectors

**6.**—(1) The Minister may appoint a chief inspector and such other inspectors as he considers necessary to enforce this Act and the regulations.

Certificate  
of appoint-  
ment

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature and authority of the Minister.

Powers of  
inspector

(3) Subject to subsections (4), (5), (6) and (7) an inspector may, for the purpose of carrying out his duties under this Act, upon production of a certificate of his appointment,

- (a) enter any grain elevator including any building used in connection therewith that he believes on reasonable and probable grounds are used by a grain elevator operator and inspect such grain elevator or building and any grain stored and books, records or documents pertaining thereto; and
- (b) demand the production or furnishing by the owner or custodian thereof of any books, records, documents or extracts therefrom relating to grain stored by a grain elevator operator.

(4) Except under the authority of a warrant under section 142 of the *Provincial Offences Act*, an inspector shall not enter any part of a dwelling without the consent of the occupant unless, Entry of dwellings R.S.O. 1980, c. 400

(a) the occupant is licensed under this Act; and

(b) he has reasonable grounds for believing that the occupant is using such part for storing books, records or documents that have not been produced or furnished by the occupant in accordance with a demand under clause (3) (b).

(5) An inspector shall exercise his powers under subsection (3) at all reasonable times, but nothing in this section affects the issuance and execution of a warrant under section 142 of the *Provincial Offences Act*. When powers to be exercised

(6) Where an inspector demands the production or furnishing of books, records, documents or extracts therefrom, the person having custody thereof shall produce or furnish them to the inspector, and the inspector may remove and detain them for the purpose of making, or causing to be made, one or more copies thereof if such copies are made with reasonable despatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them. Production of records, etc.

(7) Where a copy of a book, record, document or extract has been made under subsection (6), a copy purporting to be certified by the inspector to be a copy made pursuant to subsection (6) is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. Certification of copy

(8) No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information. 1973, c. 88, s. 2, *part*. Obstruction of inspector

7.—(1) No person shall receive or offer to receive farm produce for storage at a grain elevator unless he is the holder of a licence as a grain elevator operator issued by the chief inspector in respect of the grain elevator. Grain elevator operator's licence

(2) The chief inspector shall issue a licence as a grain elevator operator to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of the opinion that, Issue of licence

(a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business;

- (b) the past conduct of the applicant, or where the applicant is a corporation, of its officers or directors, affords reasonable ground for belief that the business will not be carried on in accordance with the law;
- (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations;
- (e) where the applicant was previously the holder of a licence and,
  - (i) such licence was revoked, or
  - (ii) the applicant or, where the applicant is a corporation, any officer, servant or director thereof or any person who will be in any way associated with the applicant in connection with the business, was convicted of an offence, under this Act, the grounds for such cancellation or conviction warrant a refusal to issue the licence; or
- (f) the applicant is not financially responsible.

Renewal  
of licence

(3) Subject to section 8, the chief inspector shall renew a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee. 1973, c. 88, s. 2, *part.*

Suspension,  
revocation or  
non-renewal  
of licence

8.—(1) The chief inspector may refuse to renew or may suspend or revoke a licence if, after a hearing, he is of the opinion that,

- (a) the licensee has ceased to possess or have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;
- (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened, or has permitted any person under his control or direction in connection with the business to contravene, any provision of this Act or the regulations or of any other law in force in Ontario applying to the carrying on of such business or the conditions for licensing, and such contravention warrants such refusal to renew, suspension or revocation of the licence;

- (c) the licensee has failed to provide promptly and accurately a grain storage receipt to a producer from whom he received farm produce for storage;
- (d) any other ground for refusal to renew, suspension or revocation specified in the regulations exists; or
- (e) any ground for refusing to issue a licence under subsection 7 (2) exists.

(2) Where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal. 1973, c. 88, s. 2, *part*.

Licence deemed to continue in force

9.—(1) The notice of a hearing by the chief inspector under section 7 or 8 shall afford the applicant or licensee a reasonable opportunity to show or achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Notice of hearing

(2) An applicant or licensee who is a party to proceedings in which the chief inspector holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1973, c. 88, s. 2, *part*.

Documents to be made available

10. Where the chief inspector has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing, he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the chief inspector shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations. 1973, c. 88, s. 2, *part*.

Chief inspector may vary or rescind decision

11.—(1) Where the chief inspector refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Board within fifteen days after receipt of the decision of the chief inspector, appeal to the Board.

Appeal to Board

Extension  
of time  
for appeal

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Disposal  
of appeal

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may after the hearing confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the chief inspector.

Effect of  
decision  
pending  
disposal  
of appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the chief inspector, unless the chief inspector otherwise directs, the decision of the chief inspector is effective until the appeal is disposed of. 1973, c. 88, s. 2, *part*.

Parties

**12.—**(1) The chief inspector, the appellant and such other persons as the Board may specify are parties to the proceeding before the Board under this Act.

Members  
making  
decision  
not to have  
taken part  
in investi-  
gation, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording  
of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings  
of fact

R.S.O. 1980,  
c. 484

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

Only  
members  
at hearing  
to partici-  
pate  
in decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present

throughout and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. 1973, c. 88, s. 2, *part.*

**13.**—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court. Appeal to court

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the chief inspector or the Board. Powers of court on appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. 1973, c. 88, s. 2, *part.* Effect of decision of Board pending disposal of appeal

**14.**—(1) Upon delivery of farm produce for storage, the grain elevator operator shall issue a grain storage receipt. Grain storage receipt

(2) No person shall issue or receive more than one grain storage receipt in respect of the same farm produce. R.S.O. 1970, c. 195, s. 9. Not more than one receipt

**15.**—(1) Where a producer delivers for storage farm produce in more than one delivery, the grain elevator operator shall, for each delivery, issue to the producer a weigh-ticket. Weigh-ticket

(2) Where a grain elevator operator issues weigh-tickets under subsection (1), he shall issue a grain storage receipt immediately after the last delivery of the farm produce and upon the surrender of the weigh-tickets, but in no case later than ten days from the date of issue of the weigh-ticket first issued. R.S.O. 1970, c. 195, s. 10. Surrender of weigh-tickets for receipt



Copies of weigh-tickets

**16.**—(1) Every grain elevator operator shall keep copies of all weigh-tickets issued to each producer in a separate account kept for that purpose only, until he issues grain storage receipts for the full amount of the weigh-tickets.

Records

(2) No person shall issue a grain storage receipt or weigh-ticket without making and keeping a complete record of the matters recorded thereon. R.S.O. 1970, c. 195, s. 11.

Signing of receipts

**17.**—(1) No person shall sign a grain storage receipt on behalf of a grain elevator operator except a person designated by him.

Report to chief inspector

(2) A grain elevator operator shall report promptly to the chief inspector the name and address of any person designated by him to sign receipts. R.S.O. 1970, c. 195, s. 12.

Insurance

R.S.O. 1980,  
c. 218

**18.**—(1) Every licensed grain elevator operator shall insure with an insurer licensed under the *Insurance Act* all farm produce stored by him for which grain storage receipts and weigh-tickets have been issued, against loss or damage by fire, lightning, explosion occurring on the grain elevator premises, windstorm and hail, to the full market value of the farm produce in storage.

Payment of insurance

(2) Every contract of insurance in which the coverage referred to in subsection (1) is included shall provide that payment thereunder shall not be made without the consent of the chief inspector. R.S.O. 1970, c. 195, s. 13.

Operator to supply particulars of insurance

**19.** Every grain elevator operator shall furnish to the chief inspector in such form and at such times as he requires a statement showing the full market value of farm produce in storage at his grain elevator and the particulars of insurance under section 18. R.S.O. 1970, c. 195, s. 14.

Storage not to exceed capacity

**20.**—(1) Subject to subsection (2), no grain elevator operator shall receive for storage any amount of farm produce greater than the storage capacity of his grain elevator.

Contract for storage in another elevator

(2) A grain elevator operator may, under *bona fide* contract for storage facilities at the grain elevators of other grain elevator operators licensed under this Act or any Act of the Parliament of Canada, or other person on premises acceptable to the chief inspector, store therein farm produce received for storage at his grain elevator. R.S.O. 1970, c. 195, s. 15.

**21.** Every grain elevator operator shall at all times have in his grain elevator or in other storage under subsection 20 (2) such amounts of farm produce of each kind and grade as will at least equal the total amounts of outstanding grain storage receipts and weigh-tickets issued by him. R.S.O. 1970, c. 195, s. 16.

Farm  
produce in  
storage to  
correspond  
to receipts

**22.** Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 for a first offence and to a fine of not more than \$5,000 or to a term of imprisonment of not more than one year for any subsequent offence. R.S.O. 1970, c. 195, s. 18.

Offence

**23.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the manner of issuing licences and prescribing their duration and the fees payable therefor;
- (b) prescribing the terms and conditions on which licences are issued;
- (c) prescribing grounds for refusal to renew, suspension or revocation of licences in addition to the grounds mentioned in section 8;
- (d) prescribing forms and providing for their use;
- (e) prescribing services that may be performed and acts that may be done by the chief inspector to protect the property of the producers of farm produce received for storage at a grain elevator where the licence of the grain elevator operator has not been renewed or has been suspended or revoked;
- (f) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1973, c. 88, s. 4.

