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c 455 Riding Horse Establishments Act

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CHAPTER 455
Riding Horse Establishments Act

1. In this Act, Interpretation

(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) “Director” means the Director of the Veterinary Services Branch of the Ministry of Agriculture and Food;

(c) “foal” means a young horse;

(d) “horse” means any animal of the equine species;

(e) “inspector” means an inspector appointed under this Act;

(f) “licence” means a licence under this Act;

(g) “Minister” means the Minister of Agriculture and Food;

(h) “regulations” means the regulations made under this Act;

(i) “riding horse establishment” means premises where horses are kept that are let out on hire for riding or used in providing instruction in riding for payment or both;

(j) “veterinarian” means a person registered under the Veterinarians Act. 1972, c. 59, s. 1; 1978, c. 100, s. 21 (1). R.S.O. 1980, c. 522

2. — (1) No person shall commence or continue to be the Licence operator of a riding horse establishment without a licence therefor from the Director.

(2) No person shall be granted a licence as the operator of a riding horse establishment unless he,
or the staff in his employ, is experienced in the proper care and handling of horses; and

(b) possesses all vehicles, tools, implements, equipment, buildings and dietary materials necessary to properly care for and handle horses on his premises.

Suspension or revocation of licence

(3) A licence may be suspended or revoked where,

(a) the licensee has not properly maintained any of the facilities, equipment or materials referred to in clause (2) (b); or

(b) the licensee or any person employed by him or associated with him in connection with his operation as licensee has failed to observe or carry out the provisions of,

(i) this Act or the regulations, or

(ii) any other Act relating to cruelty, maltreatment or neglect of animals. 1972, c. 59, s. 3.

Issue of licence

3.—(1) Subject to section 9, the Director shall issue a licence as an operator of a riding horse establishment to an applicant therefor, in his opinion, the applicant does not comply with clauses 2 (2) (a) and (b).

Location of premises to be noted on licence

(2) Every licence shall have noted thereon the location of any premises used by the licensee for a riding horse establishment.

Refusal of licence

(3) Where the Director is of the opinion that an applicant for a licence as an operator of a riding horse establishment does not comply with clauses 2 (2) (a) and (b), he may, after a hearing, refuse to issue the licence.

Renewal

(4) Subject to subsection (5), the Director shall renew a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.

Refusal to renew or suspension or revocation of licence

(5) Where the Director is of the opinion, in the case of a licensee, that clause 2 (3) (a) or (b) applies, he may, after a hearing, refuse to renew or may suspend or revoke the licence.

Idem

(6) Notwithstanding subsection (5), the Director, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the
Director's opinion it is necessary to do so for the immediate protection of the safety or health of, or the prevention of cruelty or maltreatment to, or neglect of any animal and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act and the regulations.

(7) Subject to subsection (5), where, within the time prescribed therefor, or if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee and has 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 Director on his application. 1972, c. 59, s. 4.

4.—(1) The notice of a hearing by the Director under section 3 shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

(2) The applicant or licensee who is a party to proceedings in which the Director 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. 1972, c. 59, s. 5.

5. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing, he may, at any time on his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a re-hearing to which such person is a party and may make such decision pursuant to such re-hearing as he considers proper under this Act and the regulations. 1972, c. 59, s. 6.

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

(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.

(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 Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of. 1972, c. 59, s. 7.

7.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

(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.

(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.

(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*.

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing 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. 1972, c. 59, s. 8.
8.—(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.

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

(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.

(4) An appeal under this section may be made on any question of law or fact or both and the court may confirm or alter the decision of the Board or direct the Director to do any act the Director is authorized to do under this Act and as the court considers proper and the court may substitute its opinion for that of the Board.

(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. 1972, c. 59, s. 9.

9. The Director shall not issue a licence to any person who formerly held a licence as an operator of a riding horse establishment and whose licence was revoked less than one year before the date of the application. 1972, c. 59, s. 10.

10.—(1) The Minister may appoint a chief inspector and such other inspectors as he considers necessary, and, notwithstanding any other Act, such inspectors have exclusive authority to initiate proceedings to enforce the provisions of this Act and the regulations.

(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 or authority of the Minister.

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

(a) enter any premises, car, truck or other conveyance in which he believes on reasonable and probable grounds there are horses that are used, or that are intended to be used, in connection with a riding horse establishment or any foals, and inspect the premises,
car, truck or other conveyance, any facilities or equipment therein and any horse therein; and

(b) demand the production or furnishing by the owner or custodian thereof of any books, records or documents or extracts therefrom relating to horses that he believes on reasonable and probable grounds are used or intended to be used in connection with a riding horse establishment or any foals.

(4) An inspector shall exercise his powers under subsection (3) only between sunrise and sunset, but nothing in this section affects the issuance and execution of a warrant under section 142 of the *Provincial Offences Act*.

(5) 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 detain them for the purpose of photocopying them, provided such photocopying is carried out with reasonable dispatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

(6) Where a book, record, document or extract has been photocopied under subsection (5), a photocopy purporting to be certified by an inspector to be a copy made pursuant to subsection (5) 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.

(7) Where an inspector makes a demand under clause (3)(b), the demand shall be in writing and shall include a statement of the nature of the books, records, documents or extracts required.

(8) The *Ontario Society for the Prevention of Cruelty to Animals Act* does not apply in respect of horses in the possession of a licensed operator of a riding horse establishment. 1972, c. 59, s. 11.

**11.** 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. 1972, c. 59, s. 12.

**12.**—(1) No person who is the holder of a licence as an operator of a riding horse establishment shall cause or permit any horse to be absent from a location noted on his licence where he knows or ought reasonably to know that such
horse while absent will be used for riding for hire or used in providing instruction in riding unless,

(a) the horse is transferred to a riding horse establishment in respect of which a licence has been issued to the operator therefor;

(b) the total length of time that the horse is absent from a location noted on the licence does not exceed three full days in any seven-day period;

(c) the place to which the horse is transported is a fair or exhibition held under the auspices of an agricultural society;

(d) there is a sale of the horse to a bona fide purchaser for value; or

(e) he has a permit therefor issued by the Director in the manner prescribed by the regulations.

(2) Where a horse is absent in accordance with subsection (1) and the licensee, subsequent to the commencement of the absence, contravenes any of the provisions of subsection (1), whether as a result of revocation of the permit referred to in clause (1) (e) or otherwise, the licensee shall forthwith transport such horse, or cause it to be transported, to a location noted on his licence.

(3) Where a horse is required to be transported under subsection (2) and a veterinarian has examined the horse and has advised in writing that it is not in the best interest of the horse to be transported forthwith, the licensee shall transport the horse, or cause it to be transported, to a location noted on his licence at such later time as the veterinarian may designate. 1972, c. 59, s. 13.

13. No person who is the holder of a licence as an operator of a riding horse establishment shall transfer possession to any other person of a foal that is less than ninety days old unless,

(a) the dam thereof has died;

(b) possession of the dam is transferred with the foal to the same person; or

(c) he has a permit for the transfer of possession of foals issued by the Director in the manner prescribed in the regulations. 1972, c. 59, s. 14.

14. No person shall, with respect to any horse from a riding horse establishment,
(a) at a time when the horse is in such a condition that its riding would be likely to cause suffering to the horse, let out the horse for hire for riding or use it for providing instruction in riding for payment or for the purpose of demonstrating riding;

(b) let out for hire for riding or use for providing instruction in riding for payment or for the purpose of demonstrating riding any horse less than three years old or any mare heavy with foal or any mare within ninety days after foaling except where the foal has died but in no case less than twenty-one days after foaling;

(c) supply for the horse any equipment that is subject to defect in condition or design that is apparent on inspection and is likely to cause suffering to the horse;

(d) fail to provide such care and attention as may be suitable for a horse that is ill or injured;

(e) knowingly permit the horse to be ridden by any person who abuses or causes suffering, or is likely to abuse or cause suffering, to the horse;

(f) in operating the riding horse establishment knowingly permit any person whose licence as an operator of a riding horse establishment is suspended or was revoked less than one year previously, to have control or management of the riding horse establishment; or

(g) with intent to avoid inspection, conceal or cause to be concealed the horse. 1972, c. 59, s. 15.

15. Where horses are used for riding or used in providing instruction in riding as a part of an enterprise where other services are rendered for which payment is made and no specific charge is made or payment required in respect of the use of any such horse, such horse shall be deemed to be let out on hire for riding or used in providing instruction in riding for payment, as the case may be. 1972, c. 59, s. 16.

16.—(1) Every person who contravenes any of the provisions of this Act or the regulations, other than a regulation made under clause 18 (j) or (k), is guilty of an offence and on conviction is liable for a first offence to a fine of not more than $500 or to imprisonment for a term of not more than three months, or to both, and for
a subsequent offence to a fine of not more than $1,000 or to imprisonment for a term of not more than six months, or to both.

(2) Every person who contravenes the provisions of a regulation made under clause 18 (j) or (k), is guilty of an offence and on conviction is liable for a first offence to a fine of not more than $25 and for a subsequent offence to a fine of not more than $100. 1972, c. 59, s. 17.

17. Where it is made to appear from the material filed or evidence adduced that any offence against this Act or the regulations or against any Act relating to cruelty, maltreatment or neglect of animals has been or is being committed by any person who is the operator of a riding horse establishment or who is employed by or associated with any such person, the Supreme Court may, upon the application of the Director, enjoin any such person from being engaged in any way in the operation of a riding horse establishment absolutely or for such period as seems just. 1972, c. 59, s. 18.

18. The Lieutenant Governor in Council may make regulations,

(a) providing for the manner of issuing licences, prescribing their duration and the fees payable therefor;

(b) prescribing further procedures for hearings before the Board;

(c) providing for the issuing by the Director to a licensed operator of a riding horse establishment of a permit for the absence of a horse from a location noted on his licence and prescribing the terms and conditions for the issuing and revocation of such permits;

(d) providing for the issuing by the Director to a licensed operator of a riding horse establishment of a permit for the transfer of possession of foals and prescribing the terms and conditions for the issuing and revocation of such permits;

(e) prescribing the buildings, facilities and equipment to be provided by the operator of a riding horse establishment;

(f) prescribing the degree and nature of supervision to be provided by the operator of a riding horse establishment over persons employed by or associated with him in the operation of the riding horse establishment and prescribing qualifications required of such persons;
(g) prescribing standards for the health, welfare and care of horses, or any class thereof, in connection with a riding horse establishment;

(h) prescribing facilities and equipment for the transportation of horses that are used or are intended to be used in connection with a riding horse establishment;

(i) classifying riding horse establishments, requiring the operators of any class of riding horse establishment to provide for the services of a veterinarian in connection with the care of horses and prescribing the terms and conditions on which such services shall be provided in respect of any such class;

(j) prescribing the records to be made and kept by the operator of a riding horse establishment or any class thereof and prescribing the places at which such records shall be kept;

(k) prescribing methods for the identification of horses;

(l) prescribing the facilities and equipment to be provided and maintained by the operator of a riding horse establishment for use in preventing or fighting fires;

(m) prescribing forms and providing for their use. 1972, c. 59, s. 19.