

1980

c 245 Live Stock and Live Stock Products Act

Ontario

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CHAPTER 245

Live Stock and Live Stock Products 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) "Commissioner" means the Live Stock Commissioner;
- (c) "grade" means the classification of any live stock or live stock product according to the prescribed standards;
- (d) "inspector" means an inspector appointed for the purposes of this Act;
- (e) "licence" means a licence required under this Act;
- (f) "live stock" means animals or poultry designated as live stock in the regulations;
- (g) "live stock dealer" means a person engaged in the business of buying or selling live stock on his own account or as an agent;
- (h) "live stock product" means an animal or poultry product designated as a live stock product in the regulations;
- (i) "Minister" means the Minister of Agriculture and Food;
- (j) "regulations" means the regulations made under this Act. 1980, c. 5, s. 1.

2. No person shall engage in business,

Licence
required

- (a) as a live stock dealer; or
- (b) as a dealer in live stock products,

without a licence therefor from the Commissioner. 1980, c. 5, s. 2.

Licence
issue

3.—(1) The Commissioner shall issue a licence 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 opinion that,

- (a) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the operations that would be authorized by the licence will not be carried on in accordance with law;
- (b) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or the conditions under which the licence is issued; or
- (c) any other ground for refusal to issue specified in the regulations exists.

Renewal

(2) Subject to section 4, the Commissioner shall renew a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee. 1980, c. 5, s. 3.

Refusal
to renew,
suspension
or
cancellation

4.—(1) The Commissioner may refuse to renew or may suspend or cancel a licence if after a hearing he is of opinion that,

- (a) the premises, facilities and equipment used in the operations authorized by the licence do not comply with 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 operations authorized by the licence to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the carrying on of the operations authorized by the licence or of the conditions under which the licence was issued and such contravention warrants such refusal to renew, suspension or cancellation of the licence; or
- (c) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.

Provisional
suspension,
etc.

(2) Notwithstanding subsection (1), the Commissioner, by notice to a licensee and without a hearing, may provisionally

refuse to renew or suspend the licensee's licence where in the Commissioner's opinion it is necessary to do so for the immediate protection of the safety or health of any person or the public and the Commissioner so states in such notice giving his reasons therefor, and thereafter the Commissioner shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.

(3) Subject to subsection (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 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 Commissioner on his application for renewal. 1971, c. 50, s. 52 (2), *part*.

Continuation of licence pending renewal

5.—(1) Notice of a hearing by the Commissioner under section 3 or 4 shall afford to 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.

Notice of hearing

(2) An applicant or licensee who is a party to proceedings in which the Commissioner 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. 1971, c. 50, s. 52 (2), *part*.

Examination of documentary evidence

6. Where the Commissioner has refused to issue or renew or has suspended or cancelled 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 Commissioner 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. 1971, c. 50, s. 52 (2), *part*.

Variation of decision by Commissioner

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

Appeal to Board

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection (1), either before

Extension of time for appeal

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.

Powers of Board

(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 cancelled and may, after the hearing, confirm or alter the decision of the Commissioner or direct the Commissioner 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 Commissioner.

Effect of decision pending disposal of appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Commissioner, unless the Commissioner otherwise directs, the decision of the Commissioner is effective until the appeal is disposed of. 1971, c. 50, s. 52 (2), *part*.

Parties

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

Members making decision not to have taken part in investigation, 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

(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*.

R.S.O. 1980,
c. 484

Only members at hearing to participate 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 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. 1971, c. 50, s. 52 (2), *part*.

9.—(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 Commissioner 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 Commissioner 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. 1971, c. 50, s. 52 (2), *part*. Effect of decision of Board pending disposal of appeal

10. The Lieutenant Governor in Council may appoint one or more inspectors for the purposes of this Act and may fix their remuneration and allowance for expenses. R.S.O. 1970, c. 251, s. 3. Appointment of inspectors

11.—(1) Subject to subsection (4), any inspector, for the purpose of enforcing this Act and the regulations, may, Power of inspectors

- (a) enter any place, premises or vehicle containing or used for the storage or carriage of any live stock or live stock product;
- (b) stop on a highway any vehicle that he believes to contain any live stock or live stock product and inspect the vehicle and any live stock or live stock product found therein;
- (c) require the production of any books, records or other documents relating to any live stock or live stock

product or the furnishing of copies of or extracts from such books, records or other documents;

- (d) take samples of any live stock product in the manner prescribed in the regulations;
- (e) delay the shipment of any live stock or live stock product for the time necessary to complete his inspection thereof;
- (f) refuse to inspect or mark or give any certificate respecting any live stock or live stock product found in any place, premises or vehicle considered by him to be unsanitary or unsuitable for inspection purposes;
- (g) seize and detain any live stock or live stock product that has been manufactured, packed, branded, labelled, marked, shipped or transported in contravention of this Act or the regulations, and, subject to any order made by the Minister under section 12, require the owner to remove such live stock or live stock product from the place of detention at the expense of the owner. R.S.O. 1970, c. 251, s. 4 (1); 1971, c. 50, s. 52 (3).

Obstruction

(2) No person shall obstruct any inspector in the performance of his duties or refuse to permit the inspection of any live stock or live stock product or furnish any inspector with false information.

Production of records

(3) Every person shall, when required by an inspector, produce any books, records or other documents relating to any live stock or live stock product or copies of or extracts from such books, records or other documents. R.S.O. 1970, c. 251, s. 4 (2, 3).

Power to enter dwelling
R.S.O. 1980, c. 400

(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.

Appeal from decision of inspector

(5) Where an inspector has,

- (a) delayed the shipment of any live stock or live stock products under clause (1) (e);
- (b) refused to inspect or mark or give a certificate under clause (1) (f); or
- (c) seized or detained any live stock or live stock products under clause (1) (g),

he shall immediately notify the owner and the owner may appeal to the Commissioner from the decision of the inspector.

(6) The Commissioner may, after hearing an appeal under this section, confirm or revoke the decision appealed from and may direct the inspector to do any act he is authorized to do under this Act and the regulations. Decision of Commissioner

(7) The appellant, the inspector who made the decision and such other persons as the Commissioner may specify are parties to proceedings before the Commissioner under subsection (6). Parties

(8) An appeal under this section may be made in writing or orally or by telephone to the Commissioner, but the Commissioner may require the grounds for appeal to be specified in writing before the hearing. 1971, c. 50, s. 52 (4). How appeal made

12.—(1) Any live stock or live stock product seized or detained by an inspector shall be disposed of as the Minister may direct. Disposal of seized live stock, etc.

(2) Any live stock or live stock product seized, detained or disposed of under this Act is at the risk and expense of the owner thereof, and the inspector shall immediately notify the owner that such live stock or live stock product has been seized, detained or disposed of, as the case may be. R.S.O. 1970, c. 251, s. 5. Live stock seized and detained at expense of owner, etc.

13. Every live stock dealer and every dealer in live stock products shall, Dealers' obligations

(a) furnish security or proof of financial responsibility as required by the regulations;

(b) make payment for live stock or live stock products in the manner and in accordance with the conditions prescribed by the regulations; and

(c) keep such books and records, make such returns and furnish such information, as are prescribed by the regulations. 1980, c. 5, s. 4, *part*.

14.—(1) Where a fund for live stock or any class thereof is established under the *Farm Products Payments Act*, the Lieutenant Governor in Council, in regulations made under that Act, may, for the purpose of that Act, Regulations under R.S.O. 1980, c. 159

(a) designate as producers any class or classes of persons engaged in selling such live stock or class thereof, as

owners or otherwise, and may limit the extent of any such designation;

(b) designate classes of dealers and producers and prescribe different fees payable by different classes to the board constituted to administer the fund, and require the payment of such fees;

(c) provide that the fees payable by any class or classes of producers or persons designated as producers to the board constituted to administer the fund may be collected in the same manner as licence fees fixed under clause 5 (1) (b) of the *Beef Cattle Marketing Act*; and

(d) exempt any class or classes of producers or persons designated as producers from the application of the *Farm Products Payments Act* or the regulations made under that Act, or any part thereof.

R.S.O. 1980,
c. 41

R.S.O. 1980,
c. 159

Power of
board to
borrow

(2) For the purposes of the fund mentioned in subsection (1), if, at any time the amount standing to the credit of the fund is insufficient for the purpose of making payments for claims under the *Farm Products Payments Act*, the board constituted to administer the fund may borrow such sums as are necessary to meet the deficit by loans from a chartered bank, loan company, trust company, credit union or other person.

Guarantee
of loans

(3) Upon the recommendation of the Minister, the Lieutenant Governor in Council may, upon such terms as the Lieutenant Governor in Council considers proper, guarantee the payment of any loan or loans or any part thereof, together with interest thereon, made to the board for the purposes of subsection (2).

Amount
guaranteed

(4) The aggregate of the principal sum or sums guaranteed under subsection (3) shall not exceed \$1,000,000 outstanding at any one time.

Application of
R.S.O. 1980,
c. 270,
s. 6 (2-6)

(5) Subsections 6 (2) to (6) of the *Ministry of Agriculture and Food Act* apply with necessary modifications to a guarantee given under subsection (3) of this section.

Non-
application of
s. 3 (3)

(6) Subsection 3 (3) of the *Beef Cattle Marketing Act* does not apply to fees imposed and collected under the *Farm Products Payments Act* and the regulations made thereunder. 1980, c. 5, s. 4, *part.*

Regulations

15.—(1) The Lieutenant Governor in Council may make regulations,

- (a) establishing and describing standards for the purpose of grading any live stock or live stock product ;
- (b) providing for the issue of grading certificates and prescribing the form thereof ;
- (c) prescribing the manner in which samples of any live stock product may be taken for inspection ;
- (d) providing for and prescribing the manner and conditions of grading, inspection, packing, branding and marking of any live stock or live stock product ;
- (e) prescribing the manner in and the conditions under which any live stock or live stock product shall be stored, transported, delivered, shipped, advertised, purchased, sold, offered or displayed for sale and the types, sizes, branding, marking and labelling of packages or containers in which any live stock or live stock product shall be contained ;
- (f) prescribing the manner in which the seller or shipper of ungraded live stock and live stock products shall identify, for purposes of grading, individual producer's lots in any shipment ;
- (g) prescribing the manner in which a receiver shall make returns and prepare for presentation to the seller or shipper the statements of account of purchase of any live stock or live stock product and for the investigation of such statements and the transactions represented thereby ;
- (h) prescribing the manner in which receipts, classifications, weights and purchase prices shall be recorded at assembling points and abattoirs and made available to the Minister ;
- (i) prescribing the grades of eggs that may be broken or dried in any egg-breaking plant ;
- (j) regulating the production and sale of poultry and of eggs for the production of poultry ;
- (k) classifying persons dealing in live stock or live stock products ;
- (l) providing for the manner of issuing licences and prescribing their duration and the fees payable therefor ;

- (m) prescribing the terms and conditions on which licences are issued;
- (n) providing grounds for refusal to issue or renew, suspension or revocation of licences in addition to the grounds mentioned in section 3 or 4, as the case may be;
- (o) prescribing forms and providing for their use;
- (p) requiring the furnishing of security or proof of financial responsibility by live stock dealers or dealers in live stock products or any class thereof and providing for the administration, forfeiture and disposition of any moneys or securities so furnished;
- (q) prescribing the manner in which, and the conditions under which, a live stock dealer or dealer in live stock products or any class thereof shall make payment for live stock or live stock products or any class thereof;
- (r) prescribing the books and records to be kept, returns to be made and information to be furnished by live stock dealers or dealers in live stock products or any class thereof, and the places at which such books and records shall be kept;
- (s) designating animals or poultry as live stock for the purposes of this Act;
- (t) designating animal or poultry products as live stock products for the purposes of this Act;
- (u) governing the seizure and detention of any live stock or live stock product by an inspector and prescribing the procedures therefor;
- (v) providing for the exemption from this Act or the regulations, or any provision thereof, of any person or class of persons. R.S.O. 1970, c. 251, s. 6 (1); 1980, c. 5, s. 5 (1).

Regulation
may be
limited

(2) Any regulation may be limited as to time and place.
R.S.O. 1970, c. 251, s. 6 (2).

Authority
to adopt
grades, etc.,
by reference
R.S.C. 1970,
c. A-8

(3) Any regulation may adopt by reference, in whole or in part with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard or grade name established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard or grade name so adopted, including any such changes. 1980, c. 5, s. 5 (2).

16. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$1,000 for any subsequent offence. R.S.O. 1970, c. 251, s. 7.

