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c 248 Live Stock Medicines Act

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CHAPTER 248

Live Stock Medicines 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) "Committee" means The Live Stock Medicines Advisory Committee;
- (c) "Director" means the Director of the Veterinary Services Branch of the Ministry of Agriculture and Food;
- (d) "drug" means a drug as defined in section 113 of the *Health Disciplines Act*; R.S.O. 1980, c. 196
- (e) "inspector" means an inspector appointed under this Act;
- (f) "licence" means a licence under this Act;
- (g) "live stock" means cattle, goats, horses, poultry, rabbits, sheep and swine and animals maintained in captivity for the production of fur;
- (h) "live stock medicine" means a drug or class of drugs designated as a live stock medicine in the regulations;
- (i) "Minister" means the Minister of Agriculture and Food;
- (j) "owner" includes a person employed by or authorized to act on behalf of an owner;
- (k) "regulations" means the regulations made under this Act;
- (l) "sell" includes offer for sale, expose for sale, have in possession for sale, sell or distribute;
- (m) "veterinarian" means a veterinarian registered under the *Veterinarians Act*. 1973, c. 80, s. 1; 1978, c. 100, s. 13 (1). R.S.O. 1980, c. 522

Live Stock
Medicines
Advisory
Committee

2.—(1) There shall be a committee to be known as The Live Stock Medicines Advisory Committee appointed by the Lieutenant Governor in Council and consisting of,

- (a) one member representing the Veterinary Services Branch of the Ministry of Agriculture and Food;
- (b) one member representing the Ministry of Health;
- (c) one member representing the Health Protection Branch of the Department of National Health and Welfare (Canada);
- (d) one member representing the Ontario College of Pharmacy;
- (e) one member representing the Ontario Veterinary Association;
- (f) one member representing the Ontario Division of The Canadian Feed Manufacturers Association;
- (g) one member representing The Ontario Fur Breeders Association, Incorporated;
- (h) one member representing poultry producers;
- (i) two members representing owners of live stock other than poultry; and
- (j) such other members as the Minister considers necessary or advisable.

Chairman
and vice-
chairman

(2) The Lieutenant Governor in Council shall appoint from the persons appointed under subsection (1) a chairman and a vice-chairman of the Committee.

Remuner-
ation

(3) The members of the Committee, other than members employed in the public service of Ontario or Canada, may receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Functions

(4) The Committee shall,

- (a) review all legislation and regulations pertaining to live stock medicines;
- (b) inquire into and report to the Minister on any matter referred to it by the Minister;

(c) advise the Minister on matters relating to the control and regulation of live stock medicines;

(d) evaluate and recommend,

(i) procedures relating to the sale of live stock medicines, and

(ii) proper standards for the maintenance, handling and storage of live stock medicines; and

(e) make recommendations respecting,

(i) the designation of drugs or classes of drugs as live stock medicines, and

(ii) the designation of live stock medicines for sale under a licence or any class of licence.
1973, c. 80, s. 2.

3.—(1) The Minister may appoint a chief inspector who shall be a veterinarian and such other inspectors as he considers necessary to carry out and enforce this Act and the regulations. Inspectors

(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. Certificate of appointment

(3) Subject to subsections (6), (7), (8) and (9), an inspector may, at any reasonable time, enter any premises or conveyance of a person licensed under this Act and make an inspection to ensure that the provisions of this Act and the regulations are being complied with. Inspections

(4) Where an inspector has reasonable and probable grounds to believe that any person is selling live stock medicines to owners of live stock for the treatment of live stock without a licence under this Act and is not so authorized under any other Act, he may, subject to subsections (6), (7), (8) and (9) and at any reasonable time, enter any premises or conveyance of such person to make an inspection for the purpose of determining whether or not the person is committing an offence under this Act. Idem

(5) Upon an inspection under subsection (3) or (4), an inspector may, Powers of inspectors

- (a) require the production or furnishing by the owner or custodian thereof of any books, records, documents or extracts therefrom of the person being inspected;
- (b) obtain and remove a sample of any substance for the purpose of analysis to determine whether or not it is a live stock medicine; or
- (c) seize, remove or detain at the risk and expense of the owner any live stock medicine where he believes on reasonable and probable grounds that,
 - (i) the licensee is contravening the provisions of this Act or the regulations relating to the live stock medicine, or
 - (ii) the person being inspected is not authorized under this Act or any other Act to sell live stock medicines to owners of live stock for the treatment of live stock.

Entry of dwellings
R.S.O. 1980,
c. 400

(6) 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,

- (a) the occupant is licensed under this Act; and
- (b) he has reasonable grounds for believing that the occupant is using such part for the sale, maintenance, handling or storage of live stock medicines.

Production of appointment

(7) An inspector in the course of his duties under this section shall, upon request, produce the certificate of his appointment.

Removal for copying

(8) An inspector who requires the production or furnishing of books, records, documents or extracts therefrom, may, upon giving a receipt therefor, remove and detain them for the purpose of making, or causing to be made, one or more copies thereof, but such copies shall be made with reasonable despatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Copy as evidence

(9) Any copy made under subsection (8), and certified by the inspector to be a true copy 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.

(10) 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. 80, s. 3. ^{Obstruction of inspector}

4.—(1) Notwithstanding Part VI of the *Health Disciplines Act*, a person licensed under this Act may sell to owners of live stock for the treatment of live stock any live stock medicine designated in the regulations for the licence or class of licence held by such person. ^{Licences R.S.O. 1980, c. 196}

(2) Any person who sells a live stock medicine to an owner of live stock for the treatment of live stock without a licence under this Act is, unless authorized therefor by any other Act, guilty of an offence under this Act and on conviction is liable for a first offence to a fine of not more than \$1,000 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 \$2,000 or to imprisonment for a term of not more than six months, or to both. 1973, c. 80, s. 4. ^{Offence}

5.—(1) The Director shall issue a licence to sell live stock medicines to owners of live stock for the treatment of live stock 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, ^{Issuance of licences}

- (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 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; or
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

(2) Subject to section 6, 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. 1973, c. 80, s. 5. ^{Renewal of licences}

6.—(1) The Director may refuse to renew or may suspend or revoke a licence if, after a hearing, he is of opinion that, ^{Refusal or revocation}

- (a) the premises, facilities and equipment used in the business do not comply 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 Act or the regulations thereunder or of any law 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) any other ground for refusal to renew, suspension or revocation specified in the regulations exists; or
- (d) any ground for refusing to issue a licence under subsection 5 (1) exists.

Refusal or suspension pending hearing

(2) Notwithstanding subsection (1), 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 persons or live stock 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.

Continuation pending renewal

(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 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 for renewal. 1973, c. 80, s. 6.

Opportunity for compliance

7.—(1) The notice of a hearing by the Director under section 5 or 6 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.

Examination of documentary evidence

(2) An 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. 1973, c. 80, s. 7.

8. 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, of 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 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. 80, s. 8.

Variation or
rescission
of decision
by Director

9.—(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.

Notice of
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.

Extension of
time for
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 Director or direct the Director 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 Director.

Hearing

(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. 1973, c. 80, s. 10.

Stay pending
appeal

10.—(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.

Parties

Members not to have taken part in investigation

(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.

Evidence

(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. 1973, c. 80, s. 11.

Appeal to Divisional Court

11.—(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.

Minister entitled to be heard

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

Certification of record

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board.

Powers of court on appeal

(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 Director 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 Director or the Board.

Stay 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. 80, s. 12.

12. Subject to subsection 4 (2), every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$500, and for a subsequent offence to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both. 1973, c. 80, s. 13.

13. In any proceeding or prosecution under this Act,

Evidence

- (a) where any container is labelled as containing a live stock medicine, it is admissible in evidence as *prima facie* proof that the container contains the live stock medicine described on the label; and
- (b) where any live stock medicine is found in a shop or place in which business is transacted, the live stock medicine is admissible in evidence as *prima facie* proof that it was kept for sale. 1973, c. 80, s. 14.

14. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) designating drugs or classes of drugs as live stock medicines for the purposes of this Act;
- (b) providing for the manner of issuing licences and prescribing their duration and the fees payable therefor;
- (c) establishing classes of licences and designating the live stock medicines that may be sold under each class of licence;
- (d) prescribing the terms and conditions on which licences or any class thereof are issued;
- (e) prescribing grounds for refusal to renew, suspension or revocation of licences or any class thereof in addition to the grounds mentioned in section 6;
- (f) prescribing the terms and conditions under which live stock medicines shall be sold by persons licensed under this Act;
- (g) prescribing the facilities and equipment to be provided for the maintenance, handling and storage

of live stock medicines by persons licensed under this Act ;

- (h) prescribing the books and records to be kept, returns to be made and information to be furnished with respect to the purchase and sale of live stock medicines ;
- (i) prescribing forms and providing for their use ;
- (j) governing advertising in respect of live stock medicines and the furnishing of information to the public by persons licensed under this Act ;
- (k) governing the seizure, removal, detention and disposal of live stock medicines for the purposes of clause 3 (5) (c) ;
- (l) providing for the removal and disposal of live stock medicines in the possession of an applicant or licensee where a licence is refused, suspended or revoked ;
- (m) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1973, c. 80, s. 15.

Moneys

15. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1973, c. 80, s. 16, *revised*.