

1970

c 162 Farm Products Marketing Act

Ontario

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CHAPTER 162

The Farm Products Marketing Act**1. In this Act,**Interpre-
tation

- (a) "Board" means The Farm Products Marketing Board;
- (b) "farm product" means animals, meats, eggs, poultry, wool, dairy products, grains, seeds, fruit, fruit products, vegetables, vegetable products, maple products, honey, tobacco, wood, or any class or part of any such product, and such articles of food or drink manufactured or derived in whole or in part from any such product, and such other natural products of agriculture as are designated in the regulations, and, for the purposes of this Act, fish shall be deemed to be a farm product;
- (c) "licence" means a licence provided for under the regulations;
- (d) "local board" means a board constituted under a plan;
- (e) "marketing" means buying, selling, and offering for sale, and includes advertising, financing, assembling, storing, packing and shipping and transporting in any manner by any person, and "market" and "marketed" have corresponding meanings;
- (f) "Minister" means the Minister of Agriculture and Food;
- (g) "plan" means a plan to provide for the control and regulation of the marketing of a farm product that is in force under this Act, and includes a scheme approved under any predecessor of this Act;
- (h) "regulated product" means a farm product in respect of which a plan is in force;
- (i) "regulations" means the regulations made under this Act. R.S.O. 1960, c. 137, s. 1; 1962-63, c. 45, s. 1, *amended*.

2. The purpose and intent of this Act is,Purpose
of Act

- (a) to provide for the control and regulation in any or all respects of the marketing within Ontario of farm products; and
- (b) where a plan established under this Act for control and regulation of the marketing of a regulated product is

amended to provide for control and regulation in any or all respects of the producing of the regulated product, to provide for control and regulation in any or all respects of the producing and marketing within Ontario of the regulated product,

including the prohibition of such marketing or such producing and marketing, as the case may be, in whole or in part. 1962-63, c. 45, s. 2.

Board
continued

3.—(1) The body corporate known as The Farm Products Marketing Board is continued.

Constitution
of Board

(2) The Board shall consist of one or more persons who shall be appointed by and hold office during the pleasure of the Lieutenant Governor in Council. R.S.O. 1960, c. 137, s. 3 (1, 2).

Chairman,
vice-
chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Board to act as chairman and one of the members of the Board to act as vice-chairman. R.S.O. 1960, c. 137, s. 3 (3); 1965, c. 39, s. 1 (1).

Allowances
to members

(4) The members of the Board shall receive such allowances and expenses as the Lieutenant Governor in Council determines. R.S.O. 1960, c. 137, s. 3 (4).

Quorum

(5) At any meeting of the Board, a quorum shall consist of at least three members of the Board, one of whom shall be either the chairman or the vice-chairman. 1965, c. 39, s. 1 (2).

Officers,
clerks, etc.,
appoint-
ment

(6) The Board, subject to the approval of the Lieutenant Governor in Council, may appoint such officers, clerks and employees as it considers necessary, and the remuneration of such officers, clerks and employees shall be determined by the Lieutenant Governor in Council. R.S.O. 1960, c. 137, s. 3 (5).

Authority
of Board

4.—(1) The Board may,

- (a) subject to the regulations, investigate, adjust or otherwise settle any dispute relating to the marketing of a regulated product between producers and persons engaged in marketing or processing the regulated product;
- (b) investigate any matter relating to the producing, marketing or processing of a regulated product;
- (c) after a hearing, prohibit a person engaged in marketing a regulated product from terminating or varying, without just cause, the buying or the selling, as the case may be, of the regulated product;
- (d) investigate the cost of producing, processing and marketing any farm product, prices, price spreads, trade

practices, methods of financing, management policies and other matters relating to the marketing of farm products;

- (e) require persons engaged in producing or marketing a regulated product to register their names, addresses and occupations with the Board or local board;
- (f) require persons engaged in producing or marketing a regulated product to furnish such information relating to the production or marketing of the regulated product, including the completing and filing of returns, as the Board or local board determines;
- (g) appoint persons to inspect the books, records, documents, lands and premises and any regulated product of persons engaged in producing or marketing the regulated product;
- (h) appoint persons to inspect,
 - (i) the books, records and documents,
 - (ii) the lands and premises,
 - (iii) any flue-cured tobacco, and
 - (iv) any growing plants or other development in the producing of flue-cured tobacco,

of persons engaged in the producing of flue-cured tobacco;

- (i) stimulate, increase and improve the marketing of farm products by such means as it considers proper;
- (j) co-operate with a marketing board, local board, marketing commission or marketing agency of Canada or of any province in Canada for the purpose of marketing any regulated product;
- (k) do such acts and make such orders and issue such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations or any plan. R.S.O. 1960, c. 137, s. 4 (1); 1962-63, c. 45, s. 3 (1, 2); 1968-69, c. 36, s. 1 (1-4).

(2) Upon an investigation under this section, the Board has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*.

Powers of investigation
R.S.O. 1970
c. 379

(3) The Board may delegate to a local board such of its powers under subsection 1 as it considers necessary, and may, at any time, terminate such delegation. R.S.O. 1960, c. 137, s. 4 (2, 3).

Delegation of powers

(4) The Board may make regulations,

- (a) providing for the filing by each local board with the Board of true copies of,

Regulations respecting the filing of records with the Board

- (i) minutes of all meetings of the local board,

- (ii) all by-laws of the local board,
 - (iii) all orders and directions of the local board,
 - (iv) all reports of annual operations of the local board,
 - (v) all annual financial statements and audited reports of the local board, and
 - (vi) such further statements and reports as the Board requires from the local board;
- (b) providing for,
- (i) the furnishing to persons engaged in the producing, marketing or processing of a regulated product of copies of the annual statement of operations and the financial report of each local board, and
 - (ii) the publication of the annual statement of operations and the financial report of each local board; and
- (c) providing for the manner in which and fixing the times at which, or within which, copies of minutes, orders, directions, reports and statements shall be filed with the Board, furnished to producers or published, as the case may be, under clause *a* or *b*. R.S.O. 1960, c. 137, s. 4 (4); 1962-63, c. 45, s. 3 (3, 4); 1968, c. 40, s. 1.

Local board
a body
corporate

(5) Every local board is a body corporate. R.S.O. 1960, c. 137, s. 4 (5).

Protection
of board
members
and
employees

(6) No member of the Board or of a local board and no officer, clerk or employee of the Board or of a local board is personally liable for anything done or omitted to be done by it or by him in good faith in the exercise of any power or the performance of any duty under the authority, or purporting to be under the authority, of this Act or the regulations. 1968-69, c. 37, s. 1 (5).

Petition
for a plan

5.—(1) Where the Board receives from a group of producers in Ontario or any part thereof a petition or request asking that a plan be established for the control and regulation of the marketing of a farm product or any class or part thereof and the Board is of the opinion that the group of producers is representative of the persons engaged in the production of the farm product or class or part thereof, the Board may recommend the establishment of such plan to the Minister.

Amendment
to plan

(2) Where the Board receives from a local board a request that amendment be made to the plan or to regulations under the plan under which the local board is constituted, the Board may recommend such amendment to the Minister. 1962-63, c. 45, s. 4.

6.—(1) Notwithstanding section 5, the Lieutenant Governor in Council may make regulations, Regulations
re plans and
local boards

- (a) establishing, amending and revoking plans for control and regulation of the marketing within Ontario or any part thereof of any farm product and constituting local boards to administer such plans;
- (b) amending any plan that is established for the control and regulation of the marketing of a regulated product to provide for the control and regulation in any or all respects of the producing within Ontario or any part thereof of the regulated product under the plan;
- (c) designating as The Ontario Apple Marketing Commission any local board constituted under a plan to provide for the control and regulation of the marketing of apples;
- (d) defining any word or words for the purpose of any plan;
- (e) giving to any local board any or all of the powers that are vested in a co-operative corporation that is under Part V of *The Corporations Act* as amended from time to time, and providing that in the exercise of such powers the members of the local board shall be deemed to be the shareholders and the directors thereof; R.S.O. 1970,
c. 89
- (f) prescribing by-laws for regulating the conduct of the affairs of the Board;
- (g) prescribing by-laws for regulating the government of local boards and the conduct of their affairs, but any local board may make by-laws not inconsistent with this Act, the regulations made under this clause or the regulations made under the plan under which the local board is established as amended from time to time;
- (h) notwithstanding any other Act, providing for,
 - (i) the carrying out by the Board or a trustee of any or all of the powers of a local board,
 - (ii) the vesting of the assets of a local board in the Board or a trustee, and
 - (iii) the disposing of any or all of the assets of a local board in such manner as is prescribed,and, where any regulation made under this clause is in conflict with any by-law of the local board, the regulation prevails;
- (i) dissolving a local board on such terms and conditions as he considers proper and providing for the disposition of its assets. R.S.O. 1960, c. 137, s. 6 (1); 1962-63, c. 45, s. 5 (1-3); 1968, c. 40, s. 2.

Application
of plan and
regulations

(2) A plan or any regulations may apply to all of Ontario or to any area within Ontario and may apply to one or more farm products or any part, class, variety, grade or size of farm product, including any part or class of farm product produced or marketed for a particular purpose, and to any or all persons engaged in producing or marketing one or more farm products or any part, class, variety, grade or size of farm product, including any part or class of farm product produced or marketed for a particular purpose. 1962-63, c. 45, s. 5 (4); 1968-69, c. 37, s. 2.

Contents
of plan

(3) The method by which the members of a local board shall be appointed, elected or chosen and the application of the plan shall be set out in the plan under which the local board is established.

Acts of
members
valid

(4) The acts of a member or an officer of a local board are valid notwithstanding any defects that may afterwards be discovered in his qualifications and appointment or election. R.S.O. 1960, c. 137, s. 6 (3, 4).

Production
of records,
etc.

7.—(1) Every person, when requested so to do by an officer of the Board or a local board or by a person appointed by the Board or a local board to inspect the books, records and premises of persons engaged in the producing or marketing of a regulated product, shall in respect of the regulated product produce such books and records and permit inspection thereof and supply extracts therefrom and permit inspection of such premises.

Obstruction
of officers

(2) No person shall hinder or obstruct an officer of the Board or of a local board or a person appointed by the Board or by a local board to inspect the books, records and premises of persons engaged in the producing or marketing of a regulated product in the performance of his duties or refuse to permit him to carry out his duties or refuse to furnish him with information or furnish him with false information.

Certificate
of
appointment

(3) The production by any person of a certificate of his appointment by the Board or a local board to inspect the books, records and premises of persons engaged in the producing or marketing of a regulated product purporting to be signed by the chairman and secretary of the Board or the local board shall be accepted by any person engaged in the producing or marketing of the regulated product as *prima facie* proof of such appointment. R.S.O. 1960, c. 137, s. 7.

Regulations

8.—(1) The Board may make regulations generally or with respect to any regulated product. R.S.O. 1960, c. 137, s. 8 (1); 1962-63, c. 45, s. 6 (1).

1. providing for the licensing of any or all persons before commencing or continuing to engage in the producing, marketing or processing of a regulated product;

2. prohibiting persons from engaging in the producing, marketing or processing of any regulated product except under the authority of a licence;
3. providing for the refusal to grant a licence where the applicant is not qualified by experience, financial responsibility and equipment to engage in properly the business for which the application was made, or for any other reason that the Board considers proper;
4. providing for the suspension or revocation of, or the refusal to renew, a licence for failure to observe, perform or carry out the provisions of this Act, the regulations, any plan or any order or direction of the Board or local board or marketing agency; R.S.O. 1960, c. 137, s. 8 (1), pars. 1-4.
5. providing for the fixing of licence fees payable yearly, half-yearly, quarterly or monthly at different amounts or in instalments from any or all persons producing or marketing the regulated product and the collecting of the licence fees and the recovering of such licence fees by suit in a court of competent jurisdiction; R.S.O. 1960, c. 137, s. 8 (1), par. 6.
6. requiring any person who receives a regulated product to deduct from the moneys payable for the regulated product any licence fees payable to the local board by the person from whom he receives the regulated product, and to forward such licence fees to the local board; 1968, c. 40, s. 3.
7. requiring any person who produces and processes a regulated product to furnish to the Board or the local board statements of the amounts of the regulated product that he produced in any year and used for processing; 1962-63, c. 45, s. 6 (2).
8. prescribing the form of licences; R.S.O. 1960, c. 137, s. 8 (1), par. 8.
9. providing for the exemption from any or all of the regulations, orders or directions under any plan of any class, variety, grade or size of regulated product, or any person or class of persons engaged in the producing or marketing of the regulated product or any class, variety, grade or size of regulated product; 1962-63, c. 45, s. 6 (3).
10. requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of a regulated product and providing for the administration and disposition of any moneys or securities so furnished; R.S.O. 1960, c. 137, s. 8 (1), par 10.

11. providing for the control and regulation of the producing of flue-cured tobacco, including the times and places at which flue-cured tobacco may be produced; 1962-63, c. 45, s. 6 (4), *part*.
12. providing for,
 - i. the marketing of a regulated product on a quota basis,
 - ii. the fixing and allotting to persons of quotas for the marketing of a regulated product on such basis as the Board considers proper,
 - iii. the refusing to fix and allot to any person a quota for the marketing of a regulated product for any reason that the Board considers proper, and
 - iv. the cancelling or reducing of, or the refusing to increase, a quota fixed and allotted to any person for the marketing of a regulated product for any reason that the Board considers proper; 1962-63, c. 45, s. 6 (4), *part*; 1966, c. 56, s. 1 (1).
13. prohibiting,
 - i. any person to whom a quota has not been fixed and allotted for the marketing of a regulated product from marketing any of the regulated product,
 - ii. any person to whom a quota has been fixed and allotted for the marketing of a regulated product from marketing any of the regulated product in excess of such quota, and
 - iii. any person to whom a quota has been fixed and allotted for the marketing of a regulated product produced on land in respect of which such quota was fixed and allotted from marketing any of the regulated product other than the regulated product produced on such land; 1962-63, c. 45, s. 6 (4), *part*.
14. providing for the control and regulation of the marketing of any regulated product, including the times and places at which the regulated product may be marketed; 1966, c. 56, s. 1 (2).
15. providing for the control and regulation of agreements entered into by producers of a regulated product with persons engaged in marketing or processing the regulated product, and the prohibition of any provision or clause in such agreements; 1966, c. 56, s. 1(3).
16. authorizing a local board to use any class of licence fees, service charges, and other moneys payable to it, for the purposes of paying the expenses of the local board, carrying out and enforcing this Act and the regulations

and carrying out the purposes of the plan under which the local board is established; R.S.O. 1960, c. 137, s. 8 (1), par. 13; 1968-69, c. 37, s. 3 (1).

17. notwithstanding any other Act, providing that no local board shall make grants or other like payments of money to any person or association or body of persons without the approval of the Board; R.S.O. 1960, c. 137, s. 8 (1), par. 14; 1962-63, c. 45, s. 6 (5).
18. authorizing a local board to establish a fund in connection with any plan for the payment of any moneys that may be required for the purposes mentioned in paragraph 16; R.S.O. 1960, c. 137, s. 8 (1), par. 15.
19. providing for the establishment, in connection with any plan, of advisory committees that may be empowered to advise and make recommendations to the local board or to any person or organization represented on the committee in respect of,
 - i. the promotion of harmonious relationships between persons engaged in the production and marketing of the regulated product,
 - ii. the promotion of greater efficiency in the production and marketing of the regulated product,
 - iii. the prevention and correction of irregularities and inequities in the marketing of the regulated product,
 - iv. the improvement of the quality and variety of the regulated product,
 - v. the improvement of the circulation of market information respecting the regulated product,
 - vi. without limiting the generality of any of the foregoing, any matter with respect to which the Board or the local board may be empowered to make regulations under this Act;
20. determining the constitution of such advisory committees and regulating the practice and procedure of such committees; 1965, c. 39, s. 3 (2).
21. providing for the establishment in connection with any plan, negotiating agencies that may be empowered to adopt or settle by agreement any or all of the following matters:
 - i. minimum prices for the regulated product or for any class, variety, grade or size of the regulated product,
 - ii. terms, conditions and forms of agreements relating to the producing or marketing of the regulated product,

- iii. any charges, costs or expenses relating to the production or marketing of the regulated product; R.S.O. 1960, c. 137, s. 8 (1), par. 16.
22. providing for the establishment, in connection with any plan, of a conciliation board that may be empowered,
 - i. to endeavour to effect agreement on any matter referred to in paragraph 21 that a negotiating agency has failed to adopt or settle by agreement, and
 - ii. to recommend adoption of any agreement effected under subparagraph i to such negotiating agency; 1965, c. 39, s. 3 (3).
23. providing for the arbitration by a board of any matter not adopted or settled by agreement under paragraph 21;
24. providing for the arbitration by an arbitrator or by a board of any dispute arising out of any agreement adopted or settled under paragraph 21 or any award made under paragraph 23; R.S.O. 1960, c. 137, s. 8 (1), pars. 17, 18.
25. determining the constitution of such negotiating agencies, conciliation boards and boards of arbitration and regulating the practice and procedure of such agencies and boards; R.S.O. 1960, c. 137, s. 8 (1), par. 19; 1965, c. 39, s. 3 (4).
26. requiring that no charges, costs or expenses relating to the production or marketing of the regulated product shall be made other than such charges, costs or expenses as are provided in the agreement or award or renegotiated agreement or award in force for the marketing of the regulated product; 1962-63, c. 45, s. 6 (6).
27. authorizing any local board to conduct a pool or pools for the distribution of all moneys received from the sale of the regulated product and, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the moneys received from the sale in such manner that every producer receives a share of the remainder of the moneys received from the sale in relation to the amount, class, variety, grade or size of the regulated product delivered by him, and authorizing such local board to make an initial payment on delivery of the regulated product and subsequent payments until all of the remainder of the moneys received from the sale is distributed to the producers; 1968-69, c. 37, s. 3 (2).

28. authorizing any local board to require the price or prices payable or owing to the producers for the regulated product to be paid to or through the local board and to recover such price or prices by suit in a court of competent jurisdiction; R.S.O. 1960, c. 137, s. 8 (1), par. 21; 1962-63, c. 45, s. 6 (8).
29. authorizing any local board to prohibit the marketing of any class, variety, grade or size of any regulated product; R.S.O. 1960, c. 137, s. 8 (1), par. 22; 1962-63, c. 45, s. 6 (9).
30. providing for the carrying out of any plan declared by the Lieutenant Governor in Council to be in force;
31. designating as a farm product any article of food or drink manufactured or derived in whole or in part from a farm product or any natural product of agriculture; R.S.O. 1960, c. 137, s. 8 (1), pars. 23, 24.
32. providing for the holding of a plebiscite of producers upon a question of favour of a plan or amendment of a plan or any matter respecting the marketing of a regulated product; 1962-63, c. 45, s. 6 (10).
33. providing for the holding of public hearings on matters respecting the operation of any plan or the holding of a plebiscite of producers; 1962-63, c. 45, s. 6 (12).
34. requiring any person who produces a regulated product to offer to sell and to sell the regulated product to or through the local board constituted to administer the plan under which the regulated product is regulated;
35. prohibiting any person from processing, packing or packaging any of the regulated product that has not been sold to, by or through the local board constituted to administer the plan established for the control and regulation of the marketing of the regulated product;
36. authorizing any local board to appoint agents, to prescribe their duties and terms and conditions of employment and to provide for their remuneration;
37. providing for the making of agreements relating to the marketing of any regulated product by or through a local board, and prescribing the forms and the terms and conditions of such agreements; 1966, c. 56, s. 1 (4).
38. providing for the making of such orders and the issuing of such directions as are necessary to enforce the due observance and carrying out of the provisions of this Act, the regulations, any plan or any order or direction of the Board or a local board or a marketing agency; and

39. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 137, s. 8 (1), pars. 29, 30.

Agreements
and awards

(2) Every agreement made under paragraph 21 of subsection 1 and every award made under paragraph 23 or 24 of subsection 1 and every renegotiated agreement or award made under clause *b* of this subsection,

- (a) shall be filed with the Board forthwith after the making thereof and the Board may, notwithstanding any defect in the establishment of the negotiating agency or the board of arbitration, as the case may be, by order declare the agreement or award or renegotiated agreement or award or part thereof to come into force on the day it is so filed or on such later day as is named in the agreement or award or renegotiated agreement or award, as the case may be, and, subject to clause *b*, shall remain in force for one year or for such period as is provided in the agreement or award or renegotiated agreement or award; and
- (b) may at any time upon an order of the Board be renegotiated in whole or in part in such manner as the Board may determine. R.S.O. 1960, c. 137, s. 8 (2); 1962-63, c. 45, s. 6 (13).

Where
R.S.O. 1970,
c. 410 not
to apply

(3) *The Regulations Act* does not apply to any order of the Board made under subsection 2.

Regulations
may be
limited

(4) Any regulation made under this section may be limited as to time and place. R.S.O. 1960, c. 137, s. 8 (3, 4).

Delegation
of powers
to local
board

(5) The Board may delegate to a local board such of its powers under subsection 1 as it considers necessary, and may at any time terminate such delegation. R.S.O. 1960, c. 137, s. 8 (5); 1962-63, c. 45, s. 6 (14).

Authority
of local
board
to make
regulations,
etc.

(6) Where the Board authorizes a local board to exercise any of the powers mentioned in subsection 1, the local board, in the exercise of such powers, may make regulations or orders or issue directions. 1968-69, c. 37, s. 3 (3).

Regulations
vesting
powers in
local
board

9.—(1) The Board may make regulations vesting in any local board any powers that the Board considers necessary or advisable to enable such local board effectively to promote, regulate and control the marketing of the regulated product, and without limiting the generality of the foregoing, may make regulations. R.S.O. 1960, c. 137, s. 9 (1); 1962-63, c. 45, s. 7 (1).

- (a) vesting in any local board any or all of the following powers:
- (i) to direct and control, by order or direction, either as principal or agent, the marketing of the regulated

- product, including the times and places at which the regulated product may be marketed,
- (ii) to determine the quality of each class, variety, grade and size of the regulated product that shall be marketed by each producer,
 - (iii) to prohibit the marketing of any class, variety, grade or size of the regulated product,
 - (iv) to determine from time to time the price or prices that shall be paid to producers or to the local board, as the case may be, for the regulated product or any class, variety, grade or size of the regulated product and to determine different prices for different parts of Ontario;
 - (v) to fix and impose service charges from time to time for the marketing of the regulated product,
 - (vi) to require the price or prices payable or owing to the producer for the regulated product to be paid to or through the local board,
 - (vii) to collect from any person by suit in a court of competent jurisdiction the price or prices or any part thereof of the regulated product,
 - (viii) to purchase or otherwise acquire such quantity or quantities of the regulated product as the local board considers advisable and to sell or otherwise dispose of any of the regulated product so purchased or acquired,
 - (ix) to pay from service charges imposed under subclause v its expenses in carrying out the purposes of the plan,
 - (x) to pay to the producers the price or prices for the regulated product less service charges imposed under subclause v and to fix the times at which or within which such payments shall be made; R.S.O. 1960, c. 137, s. 9 (1), cl. (a); 1962-63, c. 45, s. 7 (2-6); 1968-69, c. 37, s. 4 (1-3).
- (b) where a local board has been designated as The Ontario Apple Marketing Commission, vesting in the Commission any or all of the following powers,
- (i) to determine from time to time the price or prices that shall be paid for the regulated product or any class, variety, grade or size of the regulated product to persons engaged in the producing, marketing or processing of the regulated product and to determine different prices for different parts of Ontario,
 - (ii) to require the price or prices payable or owing to any person for the regulated product to be paid to or through the Commission,

- (iii) to collect from any person by suit in a court of competent jurisdiction the price or prices or any part thereof of the regulated product owing to any person engaged in the producing, marketing or processing thereof,
- (iv) to pay to any person engaged in the producing, marketing or processing of the regulated product the price or prices for the regulated product less service charges imposed under subclause v of clause *a* and to fix the times at which or within which such payments shall be made; 1968, c. 40, s. 4 (1).
- (c) providing that the regulated product shall be marketed by or through the local board and prohibiting any person from marketing any of the regulated product except by or through the local board; 1962-63, c. 45, s. 7 (7), *part*.
- (d) providing for statements to be given by any local board to persons engaged in the producing, marketing or processing of the regulated product showing the class, variety, grade or size and the number or quantity of the regulated product marketed, the price or prices paid and the particulars of the service charges imposed by it. 1962-63, c. 45, s. 7 (7), *part*; 1968, c. 40, s. 4 (2).

Powers may
be limited

(2) Any powers exercisable by a local board may be limited as to time and place. R.S.O. 1960, c. 137, s. 9 (2); 1962-63, c. 45, s. 7 (8).

Power of
local board
to make
regulations,
etc.

(3) Where the Board vests in a local board any of the powers mentioned in clause *a* or *b* of subsection 1, the local board, in the exercise of such powers, may make regulations or orders or issue directions. 1968-69, c. 37, s. 4 (4).

Board may
require
information

(4) The Board may from time to time with respect to any regulated product require the local board to furnish any information that the Board considers necessary to determine the operations of the local board and, without limiting the generality of the foregoing, may require the local board to furnish particulars of,

- (a) the service charges fixed under subclause v of clause *a* of subsection 1;
- (b) the purposes for which the service charges are used and the amounts expended for each purpose;
- (c) any proposed changes in the amounts of the service charges;
- (d) operating deficits or profits and reserves of the local board;
- (e) property leased, owned or otherwise acquired or used by the local board; and

- (f) the purposes of the plan in effect for the marketing of the regulated product. R.S.O. 1960, c. 137, s. 9 (3); 1962-63, c. 45, s. 7 (9-12).

(5) The Board may by order in respect of any regulated product require the local board to fix the service charges under subclause v of clause a of subsection 1 at such amounts, or at amounts not exceeding such amounts, as the Board considers proper. R.S.O. 1960, c. 137, s. 9 (4); 1962-63, c. 45, s. 7 (13).

Maximum
service
charges

(6) The Board may require any local board,

Board may
require
information

- (a) to furnish to the Board particulars of any proposed change in the purposes of the plan at least ten days before the proposed change becomes effective;
- (b) to carry out any purpose of the plan that the Board considers necessary or advisable;
- (c) to vary any purpose of the plan as the Board considers advisable; and
- (d) to cease or desist from the carrying out of any purpose or proposed purpose of the plan that the Board considers unnecessary or inadvisable. R.S.O. 1960, c. 137, s. 9 (5).

10. Where the Board delegates to a local board any of its powers or vests in a local board powers to promote, regulate and control the marketing of a regulated product, the Board may, at any time,

Limitation
of powers
of local
board

- (a) limit the powers of the local board in any or all respects; and
- (b) revoke any regulation, order or direction of the local board made or purporting to be made under such powers. 1962-63, c. 45, s. 8.

11.—(1) Where any person considers himself aggrieved by any order, direction or decision of a local board, he may appeal to the local board by serving upon the local board written notice of the appeal.

Appeal to
local board

(2) Where any person considers himself aggrieved by,

Appeal
to Board

- (a) any decision of a local board on an appeal under subsection 1; or
- (b) any order, direction or regulation made by the Board,

he may appeal to the Board by serving upon the Board written notice of the appeal.

(3) Every notice under subsection 1 or 2 shall contain a statement of the matter being appealed and the name and address of the person making the appeal.

Notice
of appeal

Local board
to provide
material

(4) Upon receipt of a notice under clause *a* of subsection 2, the Board shall forthwith notify the local board, and the local board shall thereupon forthwith provide the Board with all relevant by-laws, orders, directions, regulations, documents and other material, of any kind whatsoever, in its possession.

Notice
of hearing

(5) In any appeal under subsection 1 or 2, the Board or the local board, as the case may be, shall, within seven days after the notice referred to in subsection 1 or 2 is received, serve notice upon the person making the appeal of the date, time and place at which the appeal will be heard.

Hearing

(6) The Board or the local board, as the case may be, shall hear and decide any appeal under subsection 1 or 2 within thirty days after the notice of appeal is received, but the Board or the local board may, at the request of the person making the appeal, adjourn the hearing from time to time for such period or periods of time as the Board or the local board considers just.

Right to
be heard

(7) At any hearing under this section, the person making the appeal has the right to attend and make representations and to adduce evidence respecting the appeal either by himself or through counsel.

Idem

(8) At any hearing of an appeal under clause *a* of subsection 2, the local board has the right to attend and make representations and to adduce evidence respecting the appeal either by its officers, or any of them, or through counsel.

Disposition
of appeal

(9) Upon an appeal to the Board under clause *a* of subsection 2, the Board may, by order, direct the local board to take such action as the local board is authorized to take under this Act and as the Board considers proper, and for this purpose the Board may substitute its opinion for that of the local board.

Notice
of decision

(10) The Board or the local board, as the case may be, shall, within ten days after the hearing is completed, serve notice upon the person making the appeal of its decision.

Substantial
compliance

(11) A proceeding that is in substantial compliance with this section is not open to objection on the ground that it is not in strict compliance therewith.

Service
of notice

(12) Where a notice is served under this section, it may be served personally or,

- (a) where the notice is served on the Board or a local board, by mailing the notice to the address of the Board or of the local board, as the case may be, at its usual business address; or
- (b) where the notice is served on a person making an appeal, by mailing the notice to the address shown in his notice of appeal.

(13) After the Board or a local board has decided an appeal under this section, the Board or local board may reopen the hearing on its own motion and make a new decision, and the procedure for an appeal under this section applies to the rehearing. 1965, c. 39, s. 4, *part*.

Rehearing

12.—(1) Any person who is a producer and a processor of a regulated product is entitled in his respective capacities as a producer and as a processor to all the rights and privileges and is subject to all the duties and obligations of a producer and a processor.

Producer-processors

(2) Any person who is a producer and a person engaged in marketing a regulated product is entitled in his respective capacities as a producer and as a person engaged in marketing the regulated product to all the rights and privileges and is subject to all the duties and obligations of a producer and a person engaged in marketing the regulated product. 1968-69, c. 37, s. 5, *part*.

Producer and person marketing regulated product

13. The moneys required for the administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 137, s. 11.

Administration of Act

14.—(1) Where the Board receives from a group of producers in Ontario or any part thereof a petition or request asking that an association of producers of a farm product, other than a regulated product, incorporated under *The Agricultural Associations Act* or *The Corporations Act* or any predecessor of either of such Acts, and having as its objects the stimulating, increasing and improving of the marketing locally within Ontario of the farm product by advertising, education, research or other means, be designated as the representative association for all producers in Ontario of that farm product, the Board shall,

Petition for designation of association of producers
R.S.O. 1970, c. 8, 89

- (a) obtain such information as it considers necessary to determine that the association is representative of the persons engaged in the production of the farm product;
- (b) consider any proposed program of the association for the stimulating, increasing or improving of the marketing locally within Ontario of the farm product; and
- (c) obtain estimates of the cost of carrying out such program.

(2) Where the Board is of the opinion that a majority of the producers in Ontario of the farm product mentioned in subsection 1 are in favour of the designation of the association as the representative association of all producers of that farm product in Ontario and are in favour of a proposed program of the association for stimulating, increasing and improving the marketing of the farm product, the Board may recommend to the Minister the

Recommendation by Board for designation of association and establishment of program

designation of the association as the representative association of producers of the farm product within Ontario and the establishment of such program.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

R.S.O. 1970,
cc. 8, 89

- (a) designating any association of producers of a farm product, other than a regulated product, incorporated under *The Agricultural Associations Act* or *The Corporations Act* or any predecessor of either of such Acts, as the representative association of producers of the farm product within Ontario for the carrying out of a program for stimulating, increasing and improving the marketing locally within Ontario of the farm product by advertising, education, research or other means;
- (b) establishing, amending and revoking any program for stimulating, increasing and improving the marketing locally within Ontario of a farm product, other than a regulated product;
- (c) requiring producers of the farm product to pay licence fees to the association;
- (d) designating the amounts of licence fees and requiring payment of the fees in different amounts or in instalments;
- (e) requiring persons who buy the farm product from a producer to deduct from moneys payable to the producer any licence fees payable by the producer and to forward such licence fees to the association;
- (f) authorizing the association to use the licence fees for the purposes of defraying the expenses of the association in the carrying out of its objects;
- (g) requiring the association to furnish to the Board such information and financial statements as the Board determines.

Where
producers
deemed
licence
holders

(4) Where the Lieutenant Governor in Council makes regulations establishing a program under subsection 3, every producer of the farm product shall be deemed to be the holder of a licence for the production of the farm product.

Limitations
and
exceptions

(5) Any regulation under subsection 3 may,

- (a) be limited as to time and place;
- (b) exempt from the regulations any person or class of persons or any class, variety, grade or size of the farm product; and
- (c) fix licence fees of different amounts for different classes, varieties, grades or sizes of the farm product.

(6) Where a regulation has been made under subsection 3, the Board may,

Inspection of
records and
furnishing
of information

- (a) appoint any person to inspect the books, records and premises of persons who produce or buy the farm product, and section 7 applies *mutatis mutandis* in respect of a person so appointed; and
- (b) require persons engaged in producing or buying the farm product to furnish such information and make such returns and reports as the Board determines. 1964, c. 31, s. 1, *part*.

15. Where it is made to appear from the material filed or evidence adduced that any offence against this Act or the regulations or any plan, order, direction, agreement, award or renegotiated agreement or award made under this Act has been or is being committed by any person engaged in marketing or processing a regulated product, the Supreme Court or a judge thereof may, upon the application of the Board or a local board, enjoin any such person from continuing to engage in marketing or processing the regulated product absolutely or for such period as seems just, and any injunction cancels the licence, if any, of the person named in the order for the same period. 1968-69, c. 37, s. 5, *part*.

Injunction
proceedings

16. Every person who fails to comply with or contravenes any of the provisions of this Act, or of the regulations, or of any plan, or of any order, regulation or direction of the Board or any local board or of any agreement or award or renegotiated agreement or award filed with the Board is guilty of an offence and on summary 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 \$5,000. 1968-69, c. 37, s. 6.

Offences

17.—(1) Every person who fails to pay at least the minimum price established for a regulated product in an agreement or award filed with the Board or the price of a regulated product determined by a local board is, in addition to the fine provided for in section 16, liable to a penalty of an amount equal to the amount of such minimum or determined price, less any amount paid by such person as payment in full or in part for such regulated product.

Failure
to pay
minimum
price

(2) Every penalty imposed under subsection 1 shall be paid to the local board and the local board shall,

Disposition
of penalty

- (a) distribute the money so paid *pro rata* among the persons who failed to receive at least the minimum or determined price; or
- (b) use the money to stimulate, increase and improve the marketing of the regulated product. 1968-69, c. 37, s. 7.

Moneys
received
by Board

18. All moneys received by the Board shall be deposited to the credit of the Consolidated Revenue Fund. R.S.O. 1960, c. 137, s. 15.

Evidence

19. In an action or prosecution under this Act where the production of an agreement, award, order, regulation, direction, rule, resolution, determination or minute of the Board or a local board is required, any document purporting to be a copy of such agreement, award, order, regulation, direction, rule, resolution, determination or minute, certified to be a true copy thereof by the chairman or secretary of the Board or the local board, as the case may be, is admissible in evidence as *prima facie* proof of the making and the text thereof without production of the original document and without proof of the signature of the person purporting to have certified it. 1962-63, c. 45, s. 10.

Onus in
action or
prosecution

20.—(1) In an action or prosecution under this Act, the onus is upon the defendant or the accused, as the case may be, to prove that the product in respect of which the action or prosecution is brought is not a regulated product within the meaning of this Act. R.S.O. 1960, c. 137, s. 17 (1).

Evidence
applicable
R.S.C. 1952,
c. 6

(2) In a prosecution under the *Agricultural Products Marketing Act* (Canada), the provincial judge, if he finds that the offence is not proved under that Act but the evidence establishes an offence of a similar kind in relation to the control or regulation of the marketing of the regulated product locally within Ontario under section 16 or 17, may convict the accused under this Act notwithstanding that no information has been laid under this Act. R.S.O. 1960, c. 137, s. 17 (2), *amended*.

Interpre-
tation

21.—(1) In this section,

- (a) "local board" means The Ontario Flue-Cured Tobacco Growers' Marketing Board;
- (b) "producing" means planting, growing, harvesting, curing or preparing for sale, and "produced" and "production" have corresponding meanings;
- (c) "tobacco" means unmanufactured flue-cured tobacco produced in Ontario;
- (d) "tobacco acreage" means a number of acres of land fixed and allotted to a person for the producing in any year of tobacco on a tobacco farm; and
- (e) "tobacco farm" means one or more parcels of land in respect of which the Board or the local board determines,
 - (i) the land is suitable for the producing of tobacco, and

- (ii) the producer has provided such buildings or other structures and equipment as are suitable and adequate for the producing of tobacco,

and in respect of which the Board or the local board, as the case may be, allots a tobacco acreage. 1962-63, c. 45, s. 11, *part*; 1966, c. 56, s. 2 (1).

(2) The Board may make regulations,

Regulations
re tobacco

- (a) notwithstanding paragraph 3 of subsection 1 of section 8, providing for the refusal to grant a licence for the producing of tobacco for any reason that the Board considers proper;
- (b) providing for,
 - (i) the producing of tobacco on a basis of tobacco acreage or other production quota,
 - (ii) the fixing and allotting to persons of tobacco acreages or other production quotas on such basis as the Board considers proper,
 - (iii) the refusing to fix and allot to any person a tobacco acreage or other production quota for any reason that the Board considers proper, and
 - (iv) the cancelling or reducing of, or the refusing to increase, a tobacco acreage or other production quota fixed and allotted to any person for any reason that the Board considers proper;
- (c) prohibiting,
 - (i) any person to whom a tobacco acreage or other production quota has not been fixed and allotted from producing tobacco,
 - (ii) any person to whom a tobacco acreage or other production quota has been fixed and allotted from producing any tobacco on acreage in excess of the tobacco acreage, or other production quota, fixed and allotted to such person, and
 - (iii) any person from producing tobacco on land other than a tobacco farm in respect of which a tobacco acreage or other production quota has been fixed and allotted to such person;
- (d) providing for the seizing, removing, destroying or otherwise disposing of any growing tobacco plants or tobacco produced or marketed in contravention of this Act or the regulations, and the retention or disposition by the local board of any proceeds of the sale thereof. 1962-63, c. 45, s. 11, *part*; 1965, c. 39, s. 5 (1); 1966, c. 56, s. 2 (2).

Regulations
may be
limited

(3) Any regulation made under this section may be limited as to time and place.

Delegation
of powers to
local board

(4) The Board may delegate to the local board such of the powers under subsection 2 as it considers necessary and may at any time terminate such delegation. 1962-63, c. 45, s. 11, *part*.

Penalty

(5) Notwithstanding section 16, every person who fails to comply with or contravenes any of the provisions of this section or of any regulation, order or direction of the Board or the local board made pursuant to this section is guilty of an offence and on summary 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 less than \$500 and not more than \$5,000. 1965, c. 39, s. 5 (2).
