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c 233 Milk Control Act

Ontario

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CHAPTER 233

The Milk Control Act**1.** In this Act,Interpre-
tation.

- (a) "agreement" means an agreement made by collective bargaining representatives under this Act;
- (b) "award" means an award made by a board of arbitration under this Act;
- (c) "Board" means The Milk Control Board of Ontario;
- (d) "distributor" means a person engaged in the business of distributing milk either directly or indirectly to consumers;
- (e) "field-men" means field-men appointed by the Lieutenant-Governor in Council under this Act;
- (f) "inspector" means an inspector appointed by a marketing agency;
- (g) "licence" means a licence provided for in the regulations;
- (h) "market" means the market named in an agreement or award or the market supplied with milk by the producers represented by a marketing agency or by an association;
- (i) "marketing" includes advertising, buying, selling, offering for sale, transporting, shipping and distributing milk;
- (j) "marketing agency" means a marketing agency established under this Act;
- (k) "milk" includes cream and such products of milk or cream as are manufactured or processed in any form, other than butter and cheese;
- (l) "Minister" means Minister of Agriculture;
- (m) "processor" means a person engaged in the business of processing milk or manufacturing milk products, other than butter and cheese;
- (n) "regulations" means regulations made under this Act;

- (o) "transporter" means a person engaged in the business of transporting milk from a producer to a processor or distributor. 1948, c. 55, s. 1.

Milk Control Board of Ontario continued.

2.—(1) The body corporate heretofore established and known as The Milk Control Board of Ontario is continued.

Constitution of Board.

(2) The Board shall consist of one or more members who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure.

Chairman.

(3) Where more than one member is appointed the Lieutenant-Governor in Council shall designate one of the members as chairman. 1948, c. 55, s. 2 (1-3).

Quorum.

(4) Where the Board consists of more than two members a majority shall constitute a quorum. 1949, c. 57, s. 1.

Staff.

3.—(1) The staff of the Board shall consist of an administrative officer and such other officers, field-men, clerks, stenographers and employees as the Lieutenant-Governor in Council may appoint.

Direction and control of staff.

(2) The administrative officer shall be under the direction and control of the Board and the officers, field-men, clerks, stenographers and employees shall be under the direction and control of the administrative officer. 1948, c. 55, s. 3.

Salaries.

4. The members, the administrative officer and the officers, field-men, clerks, stenographers and employees shall be paid such salaries or other remuneration and expenses as the Lieutenant-Governor in Council may determine. 1948, c. 55, s. 4.

Powers of Board.

5.—(1) The Board may,

- (a) upon its own initiative or upon complaint, inquire into any matter relating to the production, transportation, processing, distribution or sale of milk;
- (b) arbitrate, adjust and settle disputes arising between or among producers, transporters, processors and distributors of milk;
- (c) investigate the cost of producing, transporting, processing and distributing milk, prices, price spreads, trade practices, methods of financing, management, testing, weighing and any other matter relating to the marketing of milk;
- (d) prohibit distributors compelling or inducing producers to invest money either directly or indirectly

in a dairy plant or equipment in order that such producers may obtain or retain a sale for their milk;

- (e) prohibit a processor or a distributor from terminating the purchase of milk from a producer or a producer from terminating the sale of milk to a processor or distributor without just cause;
- (f) enter upon and inspect any land, place, building, works or property of any transporter, processor or distributor;
- (g) refuse to grant a licence where the applicant is not qualified by experience, financial responsibility and equipment to properly conduct the proposed business or for any other reason that the Board may deem sufficient;
- (h) suspend, revoke or refuse to renew any licence for failure to observe, perform or carry out any of the provisions of this Act, the regulations, or any order of the Board, or any agreement or award, provided that in every such case the applicant shall be afforded an opportunity of appearing before the Board to show cause why the licence should not be suspended or revoked or why the renewal should not be refused, as the case may be;
- (i) do such acts and make such orders as are necessary to enforce the due observance and carrying out of this Act, the regulations and any agreement or award.

(2) Upon any inquiry or investigation under this section the Board shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. 1948, c. 55, s. 5. Powers of investigation. Rev. Stat., c. 308.

6.—(1) Where the producers supplying milk to a market have a representative organization, the organization, and where there is no such organization, a representative group of such producers, may apply to the Lieutenant-Governor in Council to establish a marketing agency. 1948, c. 55, s. 6 (1). Application for marketing agency.

(2) The application may be referred to the Board and thereupon it shall be the duty of the Board to take a poll by mail of the producers supplying the market as to whether or not they support the application and if the result of the poll in the opinion of the Board is that at least sixty-six per cent of the producers supplying the market support the application, it may recommend to the Lieutenant-Governor in Council that it be granted. 1948, c. 55, s. 6 (2); 1950, c. 43, s. 1. Reference to Board.

Power to constitute marketing agencies.

(3) Upon receipt of the recommendation, the Lieutenant-Governor in Council may constitute the applicants or any of them as a marketing agency under the name designated.

Objects, powers, etc.

(4) Every marketing agency shall be a body corporate with the following objects, powers and duties:

- (a) to stimulate, increase and improve the production and marketing of milk;
- (b) to act as the collective bargaining agency for the producers it represents;
- (c) to act as the marketing agency for the producers it represents;
- (d) to appoint inspectors;
- (e) to receive licence fees and expend such fees for its purposes; and
- (f) to do such other acts and things as are necessary or conducive to the attainment of its objects, powers and duties.

Furnishing of information.

(5) The Board may require a marketing agency to furnish information relating to any act or thing undertaken or done by the marketing agency. 1948, c. 55, s. 6 (3-5).

Collective bargaining, producers, processors, distributors;

7.—(1) The producers, any class of processors or the distributors of milk in any market may require,

- (a) in the case of producers, the processors or distributors to whom they sell milk; or
- (b) in the case of processors or distributors, the producers from whom they purchase milk,

to bargain collectively in order to determine the prices that shall be paid to the producers supplying milk to the distributors or processors and to prescribe the terms and conditions relating to the sale and purchase of the milk and to fix quotas or establish quota committees.

producers, transporters.

(2) The producers or transporters of milk in any market may require,

- (a) in the case of producers, the transporters who transport their milk to processors or distributors; or
- (b) in the case of transporters, the producers from whom they receive milk,

to bargain collectively in order to determine the prices that shall be paid to the transporters for transporting the milk of

the producers to processors or distributors and to prescribe the terms and conditions relating to the transportation of the milk.

(3) Notice to bargain collectively setting out, Notice.

- (a) the names of the persons joining in the notice;
- (b) the names and addresses of their collective bargaining representatives; and
- (c) the market in respect of which collective bargaining is sought,

shall be given to the persons who are required to bargain collectively and a copy of the notice shall be sent to the Board.

(4) Where the Board is of opinion that the persons requiring collective bargaining are not representative of the producers, transporters, processors or distributors, as the case may be, it may, within one week of the receipt of the notice, so advise the persons joining in the notice and the persons to whom the notice was given and thereupon the notice shall cease to have effect. 1948, c. 55, s. 7 (1-4). Sufficiency of representation.

(5) Where the persons required to bargain collectively do not advise the representatives of the persons requiring collective bargaining and the Board of the names of their representatives within one week of the receipt of the notice under subsection 3, the Board may designate persons to represent them. 1948, c. 55, s. 7 (5); 1949, c. 57, s. 2 (1). Failure to observe notice.

(6) Where the Board is of opinion that the representatives named by the persons that are required to bargain collectively are not representative of such persons, it may designate persons to represent them. 1948, c. 55, s. 7 (6). Sufficiency of representation.

(7) Collective bargaining shall commence within two weeks of the receipt of the notice by the persons required to bargain collectively and if collective bargaining does not so commence it shall be presumed that an agreement cannot be reached. 1949, c. 57, s. 2 (2). Commencement of bargaining.

(8) The representatives shall bargain collectively in good faith. Good faith.

(9) In this section, "persons" includes an association or a marketing agency. 1948, c. 55, s. 7 (7, 8). Interpretation.

8.—(1) When collective bargaining has proceeded for two weeks, or sooner if the representatives of either party are satisfied that an agreement under section 7 cannot be reached, they may, by notice to the representatives of the other party, require all matters in dispute to be referred to a board of Failure to agree, arbitration.

arbitration of three members to which the representatives of each of the parties shall appoint a member, and the third member, who shall be the chairman, shall be appointed by the Minister and shall be a judge of a county or district court.

Failure to appoint.

(2) Where either party fails to appoint a member of the board of arbitration within one week after the giving of the notice mentioned in subsection 1, or having appointed a person who is unable or unwilling to act, fails to appoint another member within such week or the following week, the Board may, upon the request of the other party, appoint a member in lieu thereof. 1949, c. 57, s. 3.

Decision of chairman.

(3) Where a majority of the members of a board of arbitration fail to agree upon any matter referred to it, the decision of the chairman shall be deemed to be the decision of the board.

Costs.

(4) Each of the parties to the arbitration shall assume its own costs of the arbitration proceedings and shall share the cost of the third arbitrator equally. 1948, c. 55, s. 8 (4, 5).

Filing of agreements and awards, effective date.

9.—(1) Every agreement and award shall be filed forthwith after the making thereof with the Board and shall come into force on the seventh day after it is so filed or on such later day as may be named in the agreement or award.

Where no termination date specified.

(2) If no date of termination is provided in an agreement or award it shall remain in force for one year.

Re-negotiation.

(3) Notwithstanding subsection 2 or that a date of termination is provided in an agreement or award the Board may at any time upon application of any party thereto provide for the re-negotiation of any of its terms, but until a new agreement comes into force the existing agreement or award shall remain in force as though no such application had been made. 1949, c. 57, s. 4.

Persons entitled to supply milk.

10.—(1) Only the producers who supplied milk to the market at the time the agreement or award was made shall be entitled to supply milk to the market while the agreement or award is in effect, provided that any other producer,

- (a) who has arranged with a processor or distributor in the market to purchase his milk; and
- (b) who complies with the laws relating to the production, sanitation, handling and care of milk,

shall be entitled to supply milk to the market and shall be bound by the agreement or award and every other matter relating to the marketing of milk in the same manner as other producers supplying milk to the market.

(2) Only the processors or distributors in the market at the time the agreement or award was made shall be entitled to process or distribute milk in the market, provided that any other processor or distributor,

Persons entitled to process or distribute milk.

- (a) who complies with the laws relating to the sanitation, weighing, handling and care of milk;
- (b) who has arranged for a supply of milk; and
- (c) who has obtained a licence as a processor or distributor from the Board and a municipal licence where the same is required,

shall be entitled to process or distribute milk in the market or the part thereof designated in his licence and shall be bound by the agreement or award and every other matter relating to the marketing of milk in the same manner as other processors or distributors in the market. 1948, c. 55, s. 10.

11.—(1) If the processors or distributors in any market require additional milk to that provided for in the agreement or award, the producers supplying the market shall, unless it is otherwise provided in the agreement or award, have the right of supplying the additional milk required at the prices determined by the agreement or award, failing which the processors or distributors may obtain the additional milk required as they see fit.

Where additional milk required.

(2) If the producers supplying milk to a market have additional milk to that required to be supplied under the agreement or award, the processors or distributors shall, unless it is otherwise provided in the agreement or award, have the right of purchasing the additional milk at the prices determined by the agreement or award, failing which the producers may dispose of the additional milk as they see fit. 1948, c. 55, s. 11.

Where additional milk produced.

12. When the Minister receives from an association of milk producers who are engaged in supplying milk to processors or distributors in a market a petition asking that for the purpose of defraying the expenses of such association every producer engaged in supplying milk to processors or distributors in such market be required to pay licence fees, the Minister, subject to the approval of the Lieutenant - Governor in Council, may, if he is of the opinion that such association represents at least sixty-six per cent of the producers so engaged, make an order,

Establishment of fund for producers' associations.

- (a) requiring every producer so engaged to pay to the association licence fees in different amounts and fixing the amounts of such fees payable in instalments;

- (b) requiring every processor and distributor who receives milk from any such producer to deduct the amount of the licence fees of such producer from moneys payable to the producer and to pay such amount to the association; and
- (c) requiring the association to furnish to the Board such information and financial statements as the Board may determine. 1948, c. 55, s. 12 (1); 1950, c. 43, s. 2.

Transportation of milk by producers' co-operatives. Rev. Stat., cc. 59; 304.

13. Where one of the objects of a co-operative corporation under Part XII of *The Companies Act* is to engage in the transportation of milk and the Board issues a certificate to the Minister of Highways that more than three-quarters of the shareholders or members of the corporation are producers supplying milk to a market, no licence under *The Public Commercial Vehicles Act* shall be required by the corporation for the purpose of transporting such milk to the market. 1948, c. 55, s. 13.

Distributors' licences may restrict area of distribution. Prohibition.

14.—(1) Any licence issued under this Act to a distributor may specify one or more distribution areas.

(2) Where one or more distribution areas are specified in a licence, the distributor to whom it is issued shall not distribute milk in any area other than the area or areas so specified. 1950, c. 43, s. 3.

Regulations.

15.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Board may make regulations,

- (a) designating classes of processors and distributors;
- (b) defining areas and designating them as distribution areas;
- (c) providing for the issuing of licences by the Board to transporters and to the designated classes of processors and distributors and fixing the licence fees payable therefor;
- (d) providing for the issuing of temporary licences by the administrative officer;
- (e) prescribing the form of licences and the terms and conditions upon which licences shall be issued, renewed, suspended or revoked;
- (f) prohibiting the persons that are required to be licensed in respect of transporting, processing or distributing milk from engaging in any such business except under the authority of a licence;

- (g) providing for the furnishing of security or proof of financial responsibility by processors and distributors;
- (h) providing for the administration and disposition by the Board of processors' or distributors' bonds or any moneys recovered under any such bond or any moneys or securities furnished as proof of financial responsibility;
- (i) prescribing the terms of payment for milk purchased from producers;
- (j) providing for the payment to marketing agencies of licence fees in different amounts and in instalments by producers represented by marketing agencies and for the collection thereof by processors and distributors;
- (k) prescribing the form of the by-laws of marketing agencies;
- (l) prescribing the conditions under which milk shall be received, handled, transported, stored, delivered or supplied;
- (m) regulating and controlling transporters' routes from producers to processors or distributors, or providing for the re-distribution of producers, processors or distributors on such routes or adding producers, processors or distributors to such routes;
- (n) prohibiting the sale of milk by retailers and others at less than or more than the cost thereof and a reasonable margin for handling and profit;
- (o) providing for the purchase of milk from producers on a quota basis;
- (p) prescribing fair business practices relating to the marketing of milk;
- (q) providing for the regulation and control of the delivery routes of distributors, including the number of deliveries that shall be made in each week and the days upon which deliveries shall be made;
- (r) providing for the weighing, sampling and testing of milk;
- (s) prescribing the types and sizes of containers that shall be used by distributors;
- (t) requiring producers, transporters, processors, distributors and persons who keep for sale or sell milk to furnish to the Board such information or returns as the Board may determine;
- (u) prescribing the books and records that shall be kept by licensees under this Act and providing for the

inspection of such books and records by auditors appointed by the Board;

(v) prescribing the powers and duties of field-men and inspectors;

(w) exempting any person or class of persons from this Act or the regulations or any part thereof;

(x) respecting any other matter necessary or advisable to carry out effectively the purposes of this Act. 1948, c. 55, s. 14 (1); 1949, c. 57, s. 5; 1950, c. 43, s. 4.

Regulations
may be
limited.

(2) Any regulation made under this section may be limited as to time and place. 1948, c. 55, s. 14 (2).

Penalties.

16. Every person who violates any of the provisions of this Act or the regulations, or any order, agreement or award made under this Act shall be guilty of an offence and on summary conviction shall be liable, for a first offence, to a penalty of \$50, and for a second or subsequent offence, to a penalty of not less than \$100 and not more than \$500. 1948, c. 55, s. 15, *amended*.

Injunction
proceedings.

17.—(1) Where it is made to appear from the material filed or evidence adduced that any offence against this Act or the regulations or any order, agreement or award made under this Act has been or is being committed, the Supreme Court or a judge thereof may, upon the application of the Board, enjoin any transporter, processor or distributor from carrying on business as a transporter, processor or distributor, absolutely, or for such period as seems just, and any injunction shall *ipso facto* cancel the licence of the transporter, processor or distributor named in the order during the same period.

Application
may be
ex parte.

(2) The application under subsection 1 may be made without any action being instituted either,

(a) by an *ex parte* motion for an interim injunction which shall, if granted, remain in full force for ten days from the date thereof unless the time is extended or the originating motion mentioned in clause *b* is sooner heard and determined; or

(b) by an originating notice of motion which, if an interim injunction has been granted, shall be served within five days and be returnable within ten days from the date of such interim injunction. 1948, c. 55, s. 16.

Provision
for moneys
required.

18. The moneys required for the purposes of this Act shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1948, c. 55, s. 17.