1980

**c 41 Beef Cattle Marketing Act**

Ontario
CHAPTER 41
Beef Cattle Marketing Act

1. In this Act, (Interpretation)

(a) "association" means such association under the Agricultural Associations Act as is designated in the regulations; R.S.O. 1980, c. 8

(b) "Board" means the Agricultural Licensing and Registration Review Board under the Ministry of Agriculture and Food Act; R.S.O. 1980, c. 270

(c) "carcass" means a carcass of a head of cattle;

(d) "cattle" includes bulls, cows, heifers, steers and calves, but does not include cattle that are not sold for the production of beef;

(e) "Commissioner" means the Live Stock Commissioner;

(f) "inspector" means an inspector appointed for the purposes of this Act;

(g) "licence" means a licence issued under this Act;

(h) "Minister" means the Minister of Agriculture and Food;

(i) "plant" means a premises where cattle are slaughtered;

(j) "price reporter" means a price reporter appointed for the purposes of this Act;

(k) "regulations" means the regulations made under this Act;

(l) "slaughter" means slaughter for the purpose of processing meat into food. R.S.O. 1970, c. 42, s. 1; 1980, c. 53, s. 1.

2. The purpose and intent of this Act is to provide for, (Purpose of Act)

(a) the establishment and standardization of procedures affecting the sale of cattle or carcasses; and
(b) the designation and financing of an association that has power to make recommendations in respect of such procedures and to expend moneys to,

(i) stimulate, increase and improve the sale of cattle or carcasses,

(ii) disseminate information concerning the cattle industry, and

(iii) co-operate with any person or persons or any department of the Government of Canada or of the government of any province in the carrying out of its objects. R.S.O. 1970, c. 42, s. 2.

3.—(1) Except under the authority of a licence, no person shall sell cattle.

(2) Every person who sells cattle shall be deemed to be the holder of a licence.

(3) Every person who is the holder of a licence under this section may apply for a refund of any licence fees paid by him to an association.

(4) Every application for a refund shall be made in the manner prescribed in the regulations.

(5) Where an association receives an application for a refund, it shall refund the licence fees in the manner prescribed in the regulations and in any case not later than one year after receipt of the application therefor. R.S.O. 1970, c. 42, s. 3.

4.—(1) Where the board of an association is of the opinion that a majority of the members of the association are in favour thereof, the board of directors may recommend to the Lieutenant Governor in Council the making, amending or revoking of regulations respecting any of the matters set forth in section 5.

(2) An association may use licence fees for the purposes of,

(a) defraying the expenses of the association in the carrying out of its objects;

(b) stimulating, increasing and improving the sale of cattle or carcasses;

(c) disseminating information concerning the cattle industry; and
(d) co-operating with any person or persons or any
department of the Government of Canada or of the
government of any province in the carrying out of its
objects. R.S.O. 1970, c. 42, s. 4.

5.—(1) Notwithstanding section 4, the Lieutenant Gover-
nor in Council may make regulations,

(a) designating an association for the purposes of this
Act;

(b) fixing the amount of licence fees up to but not exceeding
two-tenths of 1 per cent of the sale price for each head of

(c) requiring persons to pay licence fees owing by them
to an association;

(d) requiring any person who receives cattle from a
seller thereof to deduct, from the moneys payable to
the seller, any licence fee payable by the seller to an
association and to forward such licence fees to the

(e) providing for the recovery by the association of
licence fees owing to the association by suit in a court
of competent jurisdiction;

(f) prescribing the manner in which applications for
refund of licence fees shall be made and the manner
in which refunds shall be made;

(g) providing for the exemption from any or all of the
regulations of any cattle or class of cattle or any

(h) providing for the inspecting, weighing and measuring
of cattle and carcasses;

(i) respecting the buying, selling, handling, weighing,
measuring, shipping and transporting of cattle and
carcasses;

(j) prescribing the manner in which receipts, classifica-
tions, weights and purchase prices shall be recorded
by persons engaged in the buying or selling of cattle
and made available to the Minister;

(k) prescribing the manner in which buyers, sellers,
transporters and shippers of cattle or carcasses shall
identify, for the purposes of inspecting, weighing and
measuring, individual sellers' lots in a shipment;
(l) prescribing the manner in which buyers shall make returns and prepare for presentation to the sellers the statements of accounts of purchase of cattle and carcasses;

(m) respecting the facilities and equipment to be provided and maintained for the weighing and measuring of cattle and carcasses on premises in which cattle or carcasses are assembled, held, slaughtered, weighed or measured;

(n) prescribing the basis on which the amount payable respecting a head of cattle or a carcass shall be calculated;

(o) prescribing the time at which a person who purchases cattle shall weigh the cattle or the carcasses thereof;

(p) prescribing the powers and duties of inspectors and price reporters;

(q) providing for the issuing of inspection certificates by inspectors;

(r) prescribing forms and providing for their use;

(s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 42, s. 5 (1); 1974, c. 43, s. 1 (1); 1978, c. 87, s. 3; 1980, c. 53, s. 2 (1).

Scope of regulations  
(2) Any regulation may be limited as to time or place, or to both.

Definitions  
(3) Any word or expression used in a regulation may be defined in the regulation for the purposes of the regulation. R.S.O. 1970, c. 42, s. 5 (2, 3); 1980, c. 53, s. 2 (2).

6. The Lieutenant Governor in Council may appoint inspectors and price reporters for the purposes of this Act and may fix their remuneration and allowance for expenses. R.S.O. 1970, c. 42, s. 6.

Powers of inspector  
7.—(1) For the purpose of enforcing this Act and the regulations, an inspector may enter any premises used for the assembling, holding, slaughtering, storing, processing, grading, weighing, measuring, selling or offering for sale of any cattle or carcasses and inspect any cattle, carcasses, facilities or equipment found therein.
(2) For the purpose of enforcing this Act and the regulations, an inspector may require the production or furnishing of copies of or extracts from any books, shipping bills, bills of lading or other records relating to cattle or carcasses.

(3) For the purpose of inspecting a head of cattle or a carcass, an inspector may detain it at the risk of the owner and, after detaining it, the inspector shall forthwith notify the owner or person who had possession of it of the detention.

(4) Where an inspector detains a head of cattle or a carcass under subsection (3), he shall, as soon as may be practicable, inspect the head of cattle and shall forthwith thereafter,

(a) release the head of cattle or carcass from detention; or

(b) detain the head of cattle or carcass under section 8.

(5) No person shall hinder or obstruct an inspector or a price reporter in the course of his duties or furnish an inspector or a price reporter with false information or refuse to permit any cattle, carcasses, facilities or equipment to be inspected or refuse to furnish an inspector or price reporter with information.

(6) A person shall, when required by an inspector, produce copies of and extracts from any books, shipping bills, bills of lading and other records relating to cattle or carcasses.

R.S.O. 1970, c. 42, s. 7.

8.—(1) Any cattle or carcasses, in respect of which an inspector believes on reasonable grounds an offence against this Act or the regulations has been committed, may be placed under detention at the risk and expense of the owner by the inspector, and the inspector shall forthwith thereafter notify the owner or the person who had possession of them of the detention in writing.

(2) A notice given by an inspector under subsection (1) shall contain the particulars in respect of which it is alleged the cattle or carcasses do not comply with this Act or the regulations.

(3) Any cattle or carcasses detained under subsection (1) shall remain under detention until the owner of the cattle or carcasses complies with this Act and the regulations.

(4) Where an inspector is satisfied that the owner of cattle or carcasses that have been detained complies with this Act
and the regulations respecting the cattle or carcasses, the inspector shall forthwith release them from detention. R.S.O. 1970, c. 42, s. 8.

9. The production by an inspector or a price reporter of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as prima facie proof of the facts stated in the certificate and of the authority of the inspector or price reporter to exercise the powers and perform the duties prescribed in this Act and the regulations. R.S.O. 1970, c. 42, s. 9.

10.—(1) Subject to section 11, the Commissioner shall prepare a list of plants that, in his opinion, comply with the provisions of this Act and the regulations that apply where cattle are sold for a price calculated on a carcass weight basis, and may amend or revise the list from time to time. 1980, c. 53, s. 3, part.

(2) Where the operator of a plant wishes to have his plant included on the list referred to in subsection (1), he shall apply therefor to the Commissioner in writing.

(3) The Commissioner shall maintain a copy of the list referred to in subsection (1), as amended or revised, at his office at all times and shall permit inspection thereof by the public during normal business hours.

(4) The Commissioner may,

(a) send a copy of the list referred to in subsection (1) and any amendment or revision thereof to any person in Ontario who makes a request therefor; and

(b) publish the list referred to in subsection (1) and any amendment or revision thereof in such manner as he considers advisable.

(5) No operator of a plant that is not included on the list referred to in subsection (1) shall purchase cattle for slaughter at his plant for a price calculated on a carcass weight basis. 1980, c. 53, s. 3, part.

11.—(1) A decision by the Commissioner not to include a plant on the list referred to in section 10 or to remove a plant from the list shall be made only after a hearing by the Commissioner.

(2) Notice of a hearing by the Commissioner under subsection (1) shall afford to the operator of the plant a reasonable opportunity to show or achieve compliance before the hearing with the
provisions of this Act and the regulations that apply where cattle are sold for a price calculated on a carcass weight basis.

(3) The operator of a plant who is a party to the 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.

(4) Notwithstanding subsections (1), (2) and (3), the Commissioner may remove a plant from the list referred to in section 10 without a hearing where,

(a) in the opinion of the Commissioner, it is necessary to do so for the immediate protection of the interests of producers; and

(b) the Commissioner, forthwith thereafter, serves upon the operator of the plant notice of a hearing to be held within fifteen days after the removal of the plant from the list.

12. Where, after a hearing, the Commissioner has not included a plant on or has removed a plant from the list referred to in section 10, he may at any time of his own motion or on the application of the operator of the plant 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 after such rehearing as he considers proper under this Act.

13.—(1) Where the Commissioner refuses to include a plant on or removes a plant from the list referred to in section 10, the operator of the plant 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.

(2) The Board may extend the time for the giving of notice under subsection (1), either before or after expiration of such time, where it is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension.

(3) Where an operator appeals to the Board under this section, the Board shall hear the appeal by way of a hearing de novo to determine whether the plant should be included on or removed from the list 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 as the Board
considers proper and, for such purposes, the Board may substitute its opinion for that of the Commissioner.

(4) Notwithstanding that an operator 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. 1980, c. 53, s. 3, part.

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

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(4) No member of the Board shall participate in a decision of the Board after a hearing who was not 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. 1980, c. 53, s. 3, part.

15. The Statutory Powers Procedure Act applies to any hearing by the Commissioner or the Board under this Act. 1980, c. 53, s. 3.

16.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court.

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

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board’s record, constitutes the record on the 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 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.

(5) Notwithstanding that an operator 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. 1980, c. 53, s. 3, part.

17. 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 more than $1,000. 1980, c. 53, s. 4.

18. No proceedings or conviction under this Act affects the right of any person to any legal remedy to which he would otherwise be entitled. R.S.O. 1970, c. 42, s. 11.

19. For the purpose of jurisdiction, in an information or conviction for a contravention of any of the provisions of this Act or the regulations, the matter complained of may be alleged and shall be deemed to have arisen at the place where the cattle or carcasses were sold, offered, exposed or had in possession for sale or at the residence or usual place of residence of the person charged with the contravention. R.S.O. 1970, c. 42, s. 12.