1980

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Ontario
CHAPTER 266
Milk Act

INTERPRETATION

1. In this Act,

1. "agreement" means an agreement made under this Act or the regulations;

2. "award" means an award made by the Commission or by an arbitrator or board of arbitration under the regulations;

3. "cheese factory" means premises in which milk is processed into cheese;


5. "concentrated milk plant" means a plant in which milk or cream is processed into a milk product other than butter or cheese or a fluid milk product;

6. "creamery" means premises in which milk or cream is processed into creamery butter;

7. "cream receiving station" means premises at which cream is received for the purpose of being transported to a creamery;

8. "dairy" means premises in which milk is processed into fluid milk products;

9. "Director" means the Director appointed under this Act;

10. "distributor" means a person engaged in selling or distributing fluid milk products directly or indirectly to consumers;

11. "field-man" means a field-man appointed for the purposes of this Act;

12. "fluid milk products" means the classes of milk and milk products processed from Grade A milk and designated as fluid milk products in the regulations;
13. "Grade A milk" means milk designated as Grade A milk in the regulations;

14. "industrial milk" means milk designated as industrial milk in the regulations;

15. "licence" means a licence provided for under this Act or the regulations;

16. "marketing" includes advertising, assembling, buying, distributing, financing, offering for sale, packing, processing, selling, shipping, storing and transporting and "market" and "marketed" have corresponding meanings;

17. "marketing board" means a board constituted under a plan;

18. "milk" means milk from cows or goats;

19. "milk product" means any product processed or derived in whole or in part from milk, and includes cream, butter, cheese, cottage cheese, condensed milk, milk powder, dry milk, ice cream, ice cream mix, casein, malted milk, sherbet and such other products that are designated as milk products in the regulations;

20. "milk receiving station" means premises at which milk is received for the purpose of being transported to a cheese factory, concentrated milk plant, creamery or dairy;

21. "Minister" means the Minister of Agriculture and Food;

22. "plan" means a plan that is in force under this Act to provide for the control and regulation of the marketing of milk, cream or cheese, or any combination thereof;

23. "plant" means a cheese factory, concentrated milk plant, cream receiving station, creamery, dairy or milk receiving station;

24. "processing" means heating, pasteurizing, evaporating, drying, churning, freezing, separating into component parts, combining with other substances by any process or otherwise treating milk or cream in the manufacture or preparation of milk products or fluid milk products;
25. "processor" means a person engaged in the processing of milk products or fluid milk products;

26. "producer" means a producer of milk, cream or cheese;

27. "reconstituted milk" means milk designated as reconstituted milk in the regulations;

28. "regulated product" means milk, cream or cheese, or any combination thereof, in respect of which a plan is in force;

29. "regulations" means the regulations made under this Act;

30. "transporter" means a person transporting milk or cream. R.S.O. 1970, c. 273, s. 1; 1972, c. 162, s. 1 (2); 1977, c. 64, s. 1; 1978, c. 100, s. 15 (1).

PURPOSE OF ACT

2. The purpose and intent of this Act is to provide for the control and regulation in any or all respects of,

(a) the marketing within Ontario of milk, cream or cheese, or any combination thereof, including the prohibition of such marketing in whole or in part; and

(b) the quality of milk, milk products and fluid milk products within Ontario. R.S.O. 1970, c. 273, s. 2.

THE MILK COMMISSION OF ONTARIO

3.—(1) The Milk Commission of Ontario is continued as a body corporate responsible to the Minister.

(2) The Commission shall be composed of not fewer than three members who shall be appointed by and hold office during the pleasure of the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may designate one of the members of the Commission as chairman and one as vice-chairman.

(4) A majority of the members of the Commission constitutes a quorum whether or not a vacancy exists in the membership.
(5) Vacancies in the membership of the Commission caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council.

(6) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

(7) The Lieutenant Governor in Council may appoint such officers, field-men and other employees as he considers necessary for the conduct of the affairs of the Commission.

(8) No member of the Commission and no officer, field-man or other employee of the Commission is personally liable for anything done by him in good faith under or purporting to be under the authority of this Act or the regulations. R.S.O. 1970, c. 273, s. 3.

4.—(1) The duties and responsibilities of the Commission are,

(a) to exercise such powers as are conferred upon it by or under this Act;

(b) to develop and formulate policies to stimulate and improve the marketing of milk and milk products;

(c) to select, develop and maintain research programs required for policy development and formulation;

(d) to inquire into the efficiency of such policies and the manner in which they are being implemented;

(e) to co-operate with the Canadian Dairy Commission or any other agency of Canada or of any province of Canada respecting the producing, processing and marketing of milk and milk products;

(f) to provide and maintain liaison with organizations representing producers, processors or transporters in Ontario; and

(g) to conduct such studies as the Minister directs respecting the producing, processing and marketing of milk or milk products, and report thereon to the Minister. 1972, c. 162, s. 2 (1).

(2) Without limiting the generality of subsection (1), the Commission may,

(a) upon its own initiative or upon complaint, inquire into any matter relating to the production, processing or marketing of milk or milk products;
(b) investigate, arbitrate, adjust or otherwise settle any dispute between persons engaged in producing, processing or marketing milk or milk products, or between any two classes of such persons;

(c) investigate the cost of producing, processing and marketing any milk or milk product, prices, price spreads, trade practices, methods of financing, management policies and other matters relating to the producing, processing or marketing of milk and milk products;

(d) require persons engaged in producing or marketing a regulated product to register their names, addresses and occupations with the Commission or marketing board;

(e) require persons engaged in producing, processing or marketing a regulated product to furnish such information relating to the production, processing or marketing of the regulated product as the Commission or marketing board determines;

(f) appoint persons to inspect the books, records, documents and premises of persons engaged in producing or marketing a regulated product;

(g) stimulate, increase and improve the marketing of milk and milk products by such means as it considers proper;

(h) co-operate with a marketing board or a marketing agency of Canada or of any province of Canada for the purpose of marketing any regulated product;

(i) after a hearing, prohibit a person engaged in marketing a regulated product from terminating or varying, without just cause, the marketing of the regulated product;

(j) authorize any officer or field-man to exercise such of its powers as it considers necessary and to report thereon to the Commission;

(k) take such action 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, any plan or any agreement or award. R.S.O. 1970, c. 273, s. 4 (2); 1972, c. 162, s. 2 (2).
(3) The Commission, for the purposes of any inquiry, arbitration or investigation under subsection (2), has the powers of a commission under Part II of the Public Inquiries Act, which Part applies to such inquiry, arbitration or investigation as if it were an inquiry under that Act. 1972, c. 162, s. 2 (3).

(4) The Commission may, upon any inquiry, investigation or arbitration under clause (2) (a) or (b), order the payment by any person engaged in producing, processing or marketing milk or milk products, to any other person engaged therein, of moneys, in an amount to be fixed by the Commission, that are payable to such other person by reason of a failure on the part of the person to whom the order is directed to fulfil any obligation imposed upon him by or under this Act or any regulation, plan, award or agreement or by any order or direction of the Commission or a marketing board. 1974, c. 18, s. 1.

(5) The Commission may delegate to a marketing board such of its powers under subsection (2) as it considers necessary and may at any time terminate any such delegation.

(6) The Commission may make regulations,

(a) providing for the filing with the Commission by each marketing board of true copies of,

(i) minutes of all meetings of the marketing board,
(ii) all by-laws of the marketing board,
(iii) all orders, directions and regulations of the marketing board,
(iv) all reports of annual operations of the marketing board,
(v) all annual financial statements and audited reports of the marketing board, and
(vi) such further information, statements and reports as the Commission requires from the marketing board;

(b) providing for,

(i) the furnishing to producers of a regulated product of copies of the annual statement of operations and the financial report of the marketing board, and
(ii) the publication of the annual statement of operations and the financial report of each marketing board;

(c) providing for the manner in which and fixing the times at which, or within which, copies of minutes, orders, directions, regulations, reports and statements shall be filed with the Commission, furnished to producers or published, as the case may be, under clause (a) or (b). R.S.O. 1970, c. 273, s. 4 (6, 7).

5. Every field-man may,

(a) enter any premises or conveyance used for the producing, processing or marketing of milk or milk products and inspect any equipment, milk or milk products found therein;

(b) stop any conveyance that he believes may contain any milk or milk product and inspect the conveyance and any milk product found therein;

(c) obtain a sample of any milk or milk product at the expense of the owner for the purpose of making an inspection thereof;

(d) require the production or furnishing of copies of or extracts from any books, records or documents of persons engaged in the producing, processing or marketing of milk or milk products. R.S.O. 1970, c. 273, s. 5.

6.—(1) Where the Commission receives from a group of producers in Ontario or any part thereof a petition or request that a plan be established for the control and regulation of the marketing of milk, cream or cheese, or any combination thereof, and the Commission is of the opinion that the group of producers is representative of the producers affected by the proposed plan, the Commission may recommend the establishment of such a plan to the Minister.

(2) Where the Commission receives from a marketing board a request that amendment be made to the plan or to regulations under the plan under which the marketing board is constituted, the Commission may recommend such amendment to the Minister. R.S.O. 1970, c. 273, s. 6.

7.—(1) Notwithstanding section 6, the Lieutenant Governor in Council may make regulations,

(a) establishing, amending and revoking plans for control and regulation of the marketing within Ontario...
or any part thereof of milk, cream or cheese, or any combination thereof, and constituting marketing boards to administer such plans;

(b) defining any word or words for the purposes of any plan;

c) giving to any marketing board any or all of the powers that are vested in a co-operative corporation incorporated under the *Co-operative Corporations Act*, as amended or re-enacted from time to time, and providing that in the exercise of such powers the members of the marketing board shall be deemed to be the shareholders and the directors thereof;

d) prescribing by-laws for regulating the conduct of the affairs of the Commission;

(e) prescribing by-laws for regulating the government of marketing boards and the conduct of their affairs, but any marketing board may make by-laws not inconsistent with this Act, with regulations made under this clause or with regulations made under the plan under which the marketing board is constituted, as amended from time to time;

(f) notwithstanding any other Act, providing for,

(i) the carrying out by the Commission or a trustee of any or all of the powers of a marketing board,

(ii) the vesting of the assets of a marketing board in the Commission or a trustee, and

(iii) the disposing of any or all of the assets of a marketing board in such manner as is prescribed,

and, where any regulation made under this clause is in conflict with any by-law of the marketing board, the regulation prevails;

(g) dissolving a marketing board on such terms and conditions as he considers proper and providing for the disposition of its assets. R.S.O. 1970, c. 273, s. 7 (1); 1973, c. 104, s. 1 (2).
(2) A plan may apply to,

(a) all of Ontario or to any area within Ontario;

(b) milk, cream or cheese, or any combination thereof; and

(c) any or all persons engaged in producing, processing or marketing the product or products under clause (b) to which the plan applies.

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

(4) Every marketing board is a body corporate.

(5) The acts of a member or an officer of a marketing board are valid notwithstanding any defects that may afterwards be discovered in his qualifications and his appointment, election or choosing.

(6) No member of a marketing board or any of its officers or employees is personally liable for anything done by it or by him in good faith under or purporting to be under the authority of this Act or the regulations. R.S.O. 1970, c. 273, s. 7 (2-6).

8.—(1) The Commission may make regulations with respect to regulated products generally or to any regulated product, and, without limiting the generality of the foregoing, may make regulations,

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

2. prohibiting persons from engaging in the producing, processing or marketing of any regulated product, except under the authority of a licence;

3. providing for the refusal to issue a licence to commence to engage in the producing, processing or marketing of a regulated product where the applicant is not qualified by experience, financial responsibility or equipment to properly engage in the business for which the application was made, or for any other reason that the Commission considers proper;
4. providing for the suspension or revocation of, or the refusal to issue or renew, a licence to continue to engage in the producing, processing or marketing of a regulated product, for failure to observe, perform or carry out the provisions of this Act, the regulations, any plan or any order or direction of the Commission or marketing board;

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 a regulated product, and the collecting of the licence fees and the recovering of such licence fees by suit in any court of competent jurisdiction;

6. requiring any person who receives a regulated product from a producer to deduct from the moneys payable to the producer any licence fees payable by the producer to the marketing board and to pay such licence fees to the marketing board;

7. requiring any person who produces and processes a regulated product to furnish to the Commission or to the marketing board statements of the amounts of the regulated product that he produced in any year and used for processing;

8. prescribing the form of licences;

9. providing for the exemption from any or all of the regulations under any plan of any class, variety, grade or size of regulated product or of 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;

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, forfeiture and disposition of any moneys or securities so furnished;

11. authorizing a marketing board,
   i. to require that a regulated product be marketed on a quota basis,
   ii. to prohibit any person to whom a quota has not been fixed and allotted for the marketing of a regulated product or whose quota has
been cancelled from marketing any of the regulated product, and

iii. to prohibit 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;

12. authorizing a marketing board,

i. to fix and allot to persons quotas for the marketing of a regulated product on such basis as the marketing board considers proper,

ii. to refuse to fix and allot to any person a quota for the marketing of a regulated product for any reason that the marketing board considers proper,

iii. to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for the marketing of a regulated product for any reason that the marketing board considers proper, and

iv. to permit any person to whom a quota has been fixed and allotted for the marketing of a regulated product to market any of the regulated product in excess of such quota on such terms and conditions as the marketing board considers proper;

13. 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;

14. determining the quantity of each class, variety, grade or size of the regulated product that shall be marketed by each producer;

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;

16. authorizing a marketing board 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, and to determine different prices for different parts of Ontario;
17. providing for the fixing, imposing and collecting of service charges from time to time for the marketing of the regulated product;

18. authorizing a marketing board to pay from service charges imposed under paragraph 17 its expenses in carrying out the purposes of the plan;

19. authorizing a marketing board to use any class of licence fees and other moneys payable to it for the purposes of paying the expenses of the marketing board, carrying out and enforcing this Act and the regulations and carrying out the purposes of the plan under which the marketing board is constituted;

20. authorizing a marketing board to establish a fund in connection with the plan for the payment of any moneys that may be required for the purposes mentioned in paragraph 19;

21. notwithstanding any other Act, providing that no marketing board shall make grants or other like payments of money to any person or association or body of persons without the approval of the Commission;

22. providing for the establishment, in connection with any plan, of advisory committees that may be empowered to advise and make recommendations to the Commission or to a marketing 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 producing and marketing of the regulated product,

   ii. the promotion of greater efficiency in the producing 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 Commission or the marketing board may be empowered to make regulations under this Act;

23. determining the constitution of such advisory committees, and regulating the practice and procedure of such committees;

24. providing for the establishment, in connection with any plan, of negotiating agencies that may be empowered to adopt or settle by agreement,

   i. the minimum prices for the regulated product or for any class, variety, grade or size of the regulated product,

   ii. the 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 producing or marketing of the regulated product;

25. 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 24 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;

26. providing for the arbitration by the Commission or by a board of arbitration of any matter not adopted or settled by agreement under paragraph 24;

27. providing for the arbitration by the Commission or by an arbitrator or by a board of arbitration of any dispute arising out of any agreement adopted or settled under paragraph 24 or any award made under paragraph 26;
28. determining the constitution of such negotiating agencies, conciliation boards and boards of arbitration, providing for the appointment of arbitrators, and regulating the practice and procedure of such agencies, boards and arbitrators;

29. requiring that no charges, costs or expenses relating to the producing or marketing of a regulated product shall be made, other than such charges, costs or expenses as are provided for in the agreement or award or renegotiated agreement or award in force for the marketing of the regulated product;

30. prescribing the form of agreements filed with the Commission;

31. providing that the regulated product shall be marketed by, from or through the marketing board, and prohibiting any person from marketing any of the regulated product except by, from or through the marketing board;

32. authorizing any marketing board to prohibit the marketing of any class, variety, grade or size of any regulated product;

33. requiring any person who produces a regulated product to offer to sell and to sell the regulated product to or through the marketing board constituted to administer the plan under which the regulated product is regulated;

34. prohibiting any person from processing, packing or packaging any of the regulated product that has not been sold to, by or through the marketing board constituted to administer the plan established for the control and regulation of the marketing of the regulated product;

35. authorizing any marketing board to require the price or prices of the regulated product to be paid to or through the marketing board, and to recover such price or prices by suit in a court of competent jurisdiction;

36. authorizing a marketing board to purchase or otherwise acquire such quantity or quantities of the regulated product as the marketing board considers advisable and to sell or otherwise dispose of such quantity or quantities of the regulated product so purchased or otherwise acquired;
37. authorizing any marketing board to conduct a pool or pools for the distribution of all moneys received from the sale of the regulated product, and requiring such marketing board, 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 and size of the regulated product delivered by him, and authorizing such marketing board to make an initial payment on delivery of the regulated product and subsequent payments until all the remainder of the moneys received from the sale is distributed to the producers;

38. providing for statements to be given by any marketing board to producers showing the class, variety, grade or size and the quantity of the regulated product marketed, the price or prices paid and the particulars of the service charges imposed by the marketing board;

39. providing for the carrying out of any plan declared by the Lieutenant Governor in Council to be in force;

40. 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;

41. providing for the holding of public hearings on matters respecting the operation of any plan or the holding of a plebiscite of producers;

42. authorizing any marketing board to appoint agents, to prescribe their duties and terms and conditions of employment, and to fix their remuneration and provide for the payment thereof;

43. providing for the making of agreements relating to the marketing of any regulated product by or through a marketing board, and prescribing the forms and the terms and conditions of such agreements;

44. 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 Commission or of a marketing board. R.S.O. 1970, c. 273, s. 8 (1); 1972, c. 155, s. 1 (1); 1972, c. 162, s. 3.

(2) Every agreement made under paragraph 24 of subsection (1) and every award made under paragraph 26 or 27 of subsection (1), and every agreement or award renegotiated under clause (b) of this subsection,

(a) shall be filed with the Commission forthwith after the making thereof, and the Commission may, notwithstanding any defect in the establishment of the negotiating agency or of 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 date as is named in the agreement or award or renegotiated agreement or award, as the case may be, and, subject to clause (b), to 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 Commission be renegotiated in whole or in part in such manner as the Commission determines.

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

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

(5) An agreement filed with the Commission under subsection (2) shall be in the form prescribed in the regulations, and the Commission may refuse to file an agreement that is not in such form.

(6) The Commission may delegate to a marketing board such of its powers under subsection (1) as it considers necessary, and may at any time terminate any such delegation.

(7) Where the Commission authorizes a marketing board to exercise any of the powers mentioned in subsection (1), the marketing board, in the exercise of such powers, may make regulations or orders or issue directions. R.S.O. 1970, c. 273, s. 8 (2-7).
(8) Everything that is done by a marketing board under the authority of paragraph 12 of subsection (1) shall be deemed to be of an administrative and not of a legislative nature. 1972, c. 155, s. 1 (2).

(9) Where the Commission delegates to a marketing board any of its powers to promote, control and regulate the marketing of a regulated product, the Commission may at any time,

(a) limit the powers of the marketing board in any or all respects; and

(b) revoke any regulation, order or direction of the marketing board made or purporting to be made under such powers.

(10) The Commission may require any marketing board,

(a) to furnish to the Commission 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 Commission considers necessary or advisable;

(c) to vary any purpose of the plan as the Commission considers necessary or advisable; and

(d) to cease or desist from the carrying out of any purpose or proposed purpose of the plan that the Commission considers unnecessary or inadvisable.

R.S.O. 1970, c. 273, s. 8 (8, 9).

9.—(1) Every person, when requested so to do by an officer or field-man of the Commission or a person appointed by the Commission to inspect the books, records, documents, equipment and premises of persons engaged in the producing, processing or marketing of milk or milk products, shall, in respect of milk and milk products, produce such books, records and documents and permit inspection thereof and supply extracts therefrom and permit inspection of such equipment and premises.

(2) No person shall hinder or obstruct an officer or field-man of the Commission or a person appointed by the Commission to inspect the books, records, documents, equipment and premises of persons engaged in the producing, processing or marketing of milk or milk products 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.
(3) The production by any person of a certificate of appointment by the Commission to inspect the books, records, documents, equipment and premises of persons engaged in the producing, processing or marketing of milk or milk products, purporting to be signed by the chairman and secretary of the Commission, shall be accepted by any person engaged in the producing, processing or marketing of milk or milk products as proof of such appointment. R.S.O. 1970, c. 273, s. 9.

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

(2) No person shall hinder or obstruct an officer of a marketing board or a person appointed by a marketing board to inspect the books, records, documents and premises of persons engaged in producing or marketing 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.

(3) The production by any person of a certificate of appointment by a marketing board to inspect the books, records, documents and premises of persons engaged in producing or marketing a regulated product, purporting to be signed by the chairman and secretary of the marketing board, shall be accepted by any person engaged in the producing or marketing of the regulated product as proof of such appointment. R.S.O. 1970, c. 273, s. 10.

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

(2) Any person who is a producer and distributor shall be deemed to have received in his capacity as a distributor from himself in his capacity as a producer the milk produced by him that he distributes and to have contracted in that capacity with himself in his capacity as a producer for the marketing thereof upon the condition that the regulations, orders, directions, agreements and awards and the renegotiated agreements and awards made under this Act apply. R.S.O. 1970, c. 273, s. 11.
(3) Where a producer or producers, by himself or themselves, or through a corporation of which he or they are members or shareholders, or through an agent, arrange for the distributing, on his or their account, by a distributor of any milk produced by him or them, he or they shall be deemed to be a producer and distributor or producers and distributors for the purposes of subsections (1) and (2). 1977, c. 64, s. 2.

12.—(1) Any person who is a producer and processor 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 of a processor.

(2) Any person who is a producer and a processor shall be deemed to have received in his capacity as a processor from himself in his capacity as a producer the milk produced by him that he processes and to have contracted in that capacity with himself in his capacity as a producer for the marketing thereof upon the condition that the regulations, orders, directions, agreements and awards and the renegotiated agreements and awards made under this Act apply. R.S.O. 1970, c. 273, s. 12.

(3) Where a producer or producers, by himself or themselves, or through a corporation of which he or they are members or shareholders, or through an agent, arrange for the processing, on his or their account, by a processor, of any milk produced by him or them, he or they shall be deemed to be a producer and processor or producers and processors for the purposes of subsections (1) and (2). 1977, c. 64, s. 3.

13.—(1) The Minister may appoint a Director for the purposes of this Act. 1978, c. 100, s. 15 (2).

(2) The Director shall be responsible for the administration and enforcement of this Act and the regulations with respect to the quality of milk, milk products and fluid milk products within Ontario. 1972, c. 162, s. 4, part; 1978, c. 100, s. 15 (2).

(3) The Director shall exercise such powers and perform such duties as are conferred or imposed upon him by or under this Act. 1972, c. 162, s. 4, part; 1978, c. 100, s. 15 (2).

(4) Such officers, field-men and other employees as are considered necessary for the exercise of the powers and the performance of the duties of the Director may be appointed under the Public Service Act. 1972, c. 162, s. 4, part; 1978, R.S.O. 1980, c. 100, s. 15 (2).
14.—(1) Every person engaged in the producing, processing or marketing of milk or milk products, when requested so to do by a field-man appointed for the exercise of the powers and the performance of the duties of the Director, shall, in respect of milk and milk products, produce his books, records and documents and permit inspection thereof and furnish copies thereof or extracts therefrom and permit inspection of his premises and any equipment, milk or milk products therein.

(2) No person shall hinder or obstruct an officer or field-man mentioned in subsection (1) in the course of his duties, furnish him with false information or refuse to furnish him with information.

(3) The production by a field-man mentioned in subsection (1) of a certificate of his appointment purporting to be signed by the Director shall be accepted by any person engaged in the producing, processing or marketing of milk or milk products as proof of such appointment. 1974, c. 18, s. 2.

CONSTRUCTION AND OPERATION OF PLANTS

15.—(1) No person shall construct or alter any building intended for use as a plant without a permit from the Director. R.S.O. 1970, c. 273, s. 13 (1); 1972, c. 162, s. 5 (1). 

(2) No person shall alter a plant without a permit from the Director. R.S.O. 1970, c. 273, s. 13 (2); 1972, c. 162, s. 5 (2).

(3) No permit shall be issued by the Director unless,

(a) in the opinion of the Director, the plant is necessary and desirable, having regard to the needs of the producers in the locality in which it is proposed to locate the plant and to the facilities of the existing plants in operation; and

(b) the proposed plant complies with the regulations. R.S.O. 1970, c. 273, s. 13 (3); 1972, c. 162, s. 5 (3, 4).

16.—(1) No person shall operate a plant without a licence therefrom from the Director. R.S.O. 1970, c. 273, s. 14 (1); 1972, c. 162, s. 6 (1).

(2) No person shall carry on business as a distributor without a licence therefrom from the Director. R.S.O. 1970, c. 273, s. 14 (2); 1972, c. 162, s. 6 (2).
17.—(1) Except as provided in the regulations, no person shall process, sell, offer for sale or have in possession for sale butter that has a tint or shade containing less than one and six-tenths degrees or more than ten and one-half degrees of yellow, or of yellow and red collectively, measured in terms of the Lovibond tintometer scale or the equivalent of such measurement.

(2) Except as provided in the regulations, no person shall process, sell, offer for sale or have in possession for sale reconstituted milk. R.S.O. 1970, c. 273, s. 15.

18. All milk and cream received at a plant shall be paid for on the basis of its milk-fat content or on such other basis as is prescribed in the regulations. R.S.O. 1970, c. 273, s. 16.

19.—(1) Where, upon the application of a co-operative corporation to which the Co-operative Corporations Act applies and of which one of the objects is to engage in the transportation of milk, the Commission is satisfied that more than three-quarters of the shareholders or members of the corporation are producers supplying milk to one or more plants, the Commission shall issue a certificate to that effect to the Minister of Transportation and Communications, and the corporation in respect of which the certificate is issued is not required to have an operating licence under the Public Commercial Vehicles Act for the purpose of transporting the milk of such producers. R.S.O. 1970, c. 273, s. 17 (1); 1972, c. 1, s. 100 (2); 1973, c. 104, s. 1 (2).

(2) The Commission may, after a hearing, revoke a certificate where the corporation ceases to meet the qualifications required by subsection (1), and shall give notice of the revocation to the Minister of Transportation and Communications. R.S.O. 1970, c. 273, s. 17 (2); 1972, c. 1, s. 100 (2).

20. Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations,

1. providing for the issue, renewal, suspension or revocation of or refusal to issue or renew licences for the operation of any class of plant, and prescribing the fees payable for licences or the renewal thereof;

2. providing for the issue, renewal, suspension or revocation of or refusal to issue or renew licences for any class of distributor, and prescribing the fees payable for licences or the renewal thereof;
3. prescribing the terms and conditions upon which licences under paragraphs 1 and 2 are issued, renewed, suspended or revoked;

4. requiring the furnishing of security or proof of financial responsibility by any class of distributor or by any person engaged in the operation of any class of plant;

5. providing for the administration, forfeiture and disposition by the Commission or Director of bonds or any moneys recovered under any such bonds or any moneys or securities furnished as proof of financial responsibility by a distributor or by an operator of a plant;

6. providing for the submission of drawings and specifications for the construction or alteration of a building intended for use as a plant or for the alteration of a plant;

7. prescribing the methods of construction or alteration of a building intended for use as a plant and the materials that shall be used for such construction or alteration;

8. prescribing the location of plants, the equipment that shall be used in connection with plants and the sanitary requirements for plants;

9. providing for the issue of permits for the construction or alteration of a building intended for use as a plant and for the alteration of a plant, and prescribing the terms and conditions therefor;

10. respecting the health of cows;

11. respecting sanitary conditions of cows, premises on which cows are kept or milked and the equipment used in connection with the producing, handling, storing or transporting of milk or cream, or any class thereof;

12. respecting the premises and equipment used in connection with the producing, handling, storing, testing, or transporting of milk or cream, or any class thereof;

13. prohibiting the delivering, selling or offering for sale to a plant or the receiving at a plant of milk or cream, or any class thereof, that is not produced,
handled, stored, collected, delivered, supplied, received or transported in accordance with the regulations or that has been rejected in accordance with the regulations;

14. prescribing conditions for the delivering, supplying, selling or offering for sale to a plant or the receiving at a plant of milk or cream, or any class thereof, that has been graded at or on behalf of another plant in accordance with the regulations;

15. providing for the addition of a food colouring to milk or cream, or any class thereof, that has been delivered or offered for sale to a plant and rejected in accordance with the regulations;

16. governing the collection, transportation, delivery, handling, storing, supplying or receiving of milk or cream, or any class thereof, and prescribing the time therefor;

17. providing for the identification, labelling and use of containers used for transporting milk or cream, or any class thereof;

18. providing for the cleaning and sanitation of vehicles used in transporting, collecting, delivering, supplying or receiving milk or cream, or any class thereof, and prescribing methods therefor;

19. respecting the quality of milk or cream, or any class thereof, delivered, supplied, sold or offered for sale to a plant or received at a plant;

20. providing for,

(a) the control of the quality of milk by the imposing on and collecting from a producer of penalties where any milk supplied by the producer fails to comply with the standards of quality for such milk prescribed by the regulations or is produced on premises or with equipment that fails to comply with the regulations and, without limiting the generality of the foregoing, where such milk,

(i) contains any substance prohibited by the regulations,
(ii) contains a substance in excess of the amount thereof permitted by the regulations, or

(iii) has a substance removed therefrom contrary to the regulations;

(b) the terms and conditions under which, and the times at which, the penalties are payable;

(c) the amount of the penalties and the method by which the penalties are calculated;

(d) the payment of the penalties to the marketing board constituted to administer any plan established for the control and regulation of the marketing of milk under this Act; and

(e) the use of the penalties by such marketing board for the purposes mentioned in paragraph 19 of subsection 8 (1);

21. providing for the pasteurizing of milk or cream used for the manufacture of a milk product;

22. establishing classes of milk, cream, milk products or fluid milk products;

23. establishing grades for milk or cream, or any class thereof;

24. providing for the selecting, grading, rejecting, weighing, sampling and testing of milk or cream, or any class thereof, sold or offered for sale;

25. providing for the fees payable for the selecting, grading, rejecting, weighing, sampling or testing of milk or cream, or any class thereof;

26. prescribing the tests, procedures to be followed and equipment to be used in testing the composition and quality of milk or cream or any milk product;

27. providing for the taking of samples of milk or cream or any milk product at the expense of the owner for the purpose of testing and for the identification and labelling of containers used therefor;
28. providing for the approval of laboratories for the purpose of testing milk, cream and milk products;

29. providing for the settlement of disputes in connection with the selecting, grading, rejecting, weighing, sampling and testing of milk or cream and the payment for the milk or cream;

30. establishing classes of buttermakers, cheesemakers, milk and cream testers and milk and cream graders;

31. providing for the examination and re-examination of persons applying for certificates for any class of buttermaker, cheesemaker, milk and cream tester or milk and cream grader;

32. prescribing the qualifications for persons to whom certificates may be issued;

33. providing for the issue, renewal, suspension or revocation of or refusal to issue or renew certificates, and prescribing the fees payable for certificates or the renewal thereof;

34. prescribing the terms and conditions upon which certificates are issued, renewed, suspended or revoked;

35. prescribing the basis, terms and manner of payments for milk or cream, or any class thereof, purchased from producers;

36. providing for the establishment and the manner of payment of price differentials for any grade of milk or cream, or any class thereof;

37. providing for the establishment and the manner of payment of price differentials for milk-fat in milk or any class thereof;

38. designating classes of producers;

39. designating classes of distributors and transporters;

40. defining areas, and designating them as distribution areas;

41. providing for the designation on licences, issued to distributors, of the distribution area or municipality or part thereof in which the distributor may deliver, sell or distribute fluid milk products;
42. prohibiting a distributor from delivering, selling or distributing fluid milk products in any distribution area or municipality or part thereof other than the distribution area, municipality or part thereof designated on his licence;

43. designating as a milk product any product processed or derived in whole or in part from milk;

44. governing the methods of and the equipment used in processing milk or cream, or any class thereof, or in manufacturing any milk product;

45. providing for the standards of quality for and the composition of any milk product;

46. defining and designating classes of milk and milk products as fluid milk products;

47. providing for the minimum and maximum percentages of milk-fat, and the minimum percentage of milk solids, other than milk-fat, in any fluid milk product;

48. regulating and prohibiting the addition to or removal from fluid milk products of any substance, and regulating and prohibiting the sale of fluid milk products, or any class thereof, to which the substance has been added or from which the substance has been removed;

49. prescribing the types and sizes of containers that shall be used for fluid milk products;

50. respecting the advertising in respect of and the labelling of containers for fluid milk products, or any class of fluid milk products;

51. regulating retail or wholesale deliveries of fluid milk products, or any class of fluid milk products, by distributors;

52. prohibiting retail or wholesale deliveries of fluid milk products, or any class of fluid milk products, by distributors on any day or days;

53. establishing classes of reconstituted milk, providing for the issue, suspension and revocation of permits for the manufacture and sale of any class of reconstituted milk, and prescribing the fees payable for such permits and the records and returns to be made by the holders of such permits;
54. prescribing the standards of quality for and the composition of any class of reconstituted milk;

55. governing the advertising and the labelling of containers for any class of reconstituted milk;

56. prescribing the books, records and documents to be kept by distributors and operators of plants and the period for which such books, records and documents shall be kept, and providing for the inspection of such books, records and documents;

57. providing for the issue to producers of statements by distributors and operators of plants;

58. providing for sanitary standards and requirements for buildings and premises in which milk products, or any class thereof, are manufactured, stored, graded or packed;

59. prohibiting the buying or selling of and the trafficking in milk or cream, or any class thereof, by transporters;

60. requiring producers, transporters, processors and distributors to furnish to the Commission or Director such information or returns as the Commission or Director determines;

61. providing for the detention and disposal of any milk, cream, milk product, fluid milk product or reconstituted milk produced, processed or marketed in violation of this Act or the regulations;

62. establishing classes of field-men, and prescribing the powers and duties of field-men or any class thereof;

63. prescribing forms and providing for their use;

64. exempting from this Act or the regulations, or any part thereof, any plant or class of plants, any person or class of persons, or any milk product or any class, variety or grade of milk product;

65. designating milk as Grade A milk, industrial milk or reconstituted milk;

66. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 273, s. 18; 1972, c. 162, s. 7; 1974, c. 62, s. 1.
21.—(1) In this section,

(a) "municipality" means a city, town, village, township or improvement district;

(b) "vendor" means a person who sells fluid milk products to a consumer or a person who sells fluid milk products to any person for resale.

(2) The council of any municipality may pass by-laws for licensing, regulating and governing vendors, and for revoking such licences.

(3) No person shall be a vendor in a municipality in which any such by-law is in force without a licence therefor under this section.

(4) Notwithstanding the provisions of this or any other Act, no council of a municipality shall by by-law require that fluid milk products sold in the municipality be produced or processed in the municipality or in any other designated area.

(5) The council of any municipality may pass by-laws prescribing the hours during which fluid milk products may be delivered within such municipality by vendors.

(6) The council of any municipality may by by-law appoint inspectors for the enforcement of this section and of any by-law passed under this section. R.S.O. 1970, c. 273, s. 19.

GENERAL

22. Every person who contravenes any of the provisions of this Act or the regulations, or of any plan, or of any order or direction of the Commission or the Director or any marketing board, or of any agreement or award or renegotiated agreement or award filed with the Commission, or of any by-law under this Act, is guilty of an offence and on conviction is liable, for a first offence, to a fine of not more than $50 and, for a subsequent offence, to a fine of not less $50 and not more than $500. R.S.O. 1970, c. 273, s. 20; 1972, c. 162, s. 8.

23. 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, the Supreme Court or a judge thereof may, upon the application of the Commission, the Director or a marketing board, enjoin any transporter, processor, distributor or operator of a plant from carrying on business as a transporter, processor, distributor or operator of a plant, absolutely or for such period as seems just, and any injunction cancels the licence of the transporter, processor, distributor or operator of a plant named in the order for the same period. R.S.O. 1970, c. 273, s. 21; 1974, c. 18, s. 3.

24.—(1) Every person who fails to pay at least the minimum price established for a regulated product or for milk or cream in an agreement or award filed with the Commission or the price of a regulated product determined by a marketing board is, in addition to the fine provided for in section 22, 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, milk or cream, and less any amount paid by such person for such regulated product, milk or cream pursuant to an order of the Commission under subsection 4 (3).

(2) Every penalty imposed under subsection (1) shall be paid to the marketing board or to the Commission, and the marketing board or the Commission, as the case may be, shall,

(a) pay the money to the person who failed to receive at least the minimum price; or

(b) use the money to stimulate, increase and improve the marketing of the regulated product or of milk or cream. R.S.O. 1970, c. 273, s. 22.

25. Where, in any action or prosecution under this Act, production of any agreement, award, order, regulation, direction, rule, resolution, determination or minute of the Commission or a marketing board or of any order or direction of the Director 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 Commission or the marketing board, or by the Director, as the case may be, is admissible in evidence as proof of the making and of the text thereof without production of the original document and without proof of the signature of the person purporting to have certified it. R.S.O. 1970, c. 273, s. 23; 1972, c. 162, s. 9.
Rebuttable presumption

26. In any prosecution for an offence under this Act, the act or omission of an act, in respect of which the prosecution was instituted, shall be deemed to relate to the marketing within Ontario of milk, cream or cheese, or any combination thereof, unless the contrary is proven. R.S.O. 1970, c. 273, s. 24.

Definitions in regulations

27.—(1) Any word or expression used in the Act or the regulations may be defined in the regulations for the purpose of the regulations.

(2) Any regulation may be limited as to time or place, or to both. R.S.O. 1970, c. 273, s. 25.

Regulations may be limited

28.—(1) The Lieutenant Governor in Council may grant authority to the Canadian Dairy Commission to regulate the marketing within Ontario of a regulated product or a milk product and for such purposes,

(a) to exercise any power that it may exercise in relation to the marketing of such regulated product or milk product in interprovincial or export trade;

(b) to exercise, in relation to the marketing of such regulated product, any power that may be exercised by a marketing board in relation to a regulated product; and

(c) to exercise, in relation to the marketing of such milk product, any power that is like a power that may be exercised by a marketing board in relation to a regulated product.

(2) Where authority is granted under subsection (1) in relation to any milk product, such milk product shall be deemed to be,

(a) a regulated product for the purposes of the Commodity Boards and Marketing Agencies Act; and

(b) the regulated product in relation to the marketing of which a levy is fixed, imposed and collected under the Commodity Boards and Marketing Agencies Act. 1979, c. 2, s. 1.

Milk product deemed to be a regulated product

MISCELLANEOUS

29. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 273, s. 27.