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c 76 Milk Control Act

Ontario

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CHAPTER 76.

The Milk Control Act.

"Milk.

1. In this Act, unless the context otherwise requires, "milk" shall include whole milk and such products of milk as are supplied, processed, distributed or sold in any form other than butter and cheese. 1935, c. 40, s. 2.

Board constituted.

2.—(1) There shall be a board to be known as "The Milk Control Board of Ontario," hereinafter called the "board" which shall be a body corporate and have the powers and duties herein specified and the administration of this Act and the regulations.

Number of members.

(2) The board shall consist of one or more members to be appointed by the Lieutenant-Governor in Council to hold office during pleasure and if more than one member is appointed, the Lieutenant-Governor in Council shall designate which one of them shall be the chairman of the board and any vacancies in the said board shall be filled by the Lieutenant-Governor in Council.

Remuneration, etc., of members.

(3) The member or members of the board shall receive such remuneration, allowances and expenses as may be determined by the Lieutenant-Governor in Council.

Appointment of officers, clerks, etc.

(4) The board may, with the approval of the Lieutenant-Governor in Council appoint and employ such officers, clerks and employees as may be necessary, and the remuneration of persons so appointed shall be determined by the Lieutenant-Governor in Council. 1934, c. 30, s. 2 (1-4).

Expenses of Board.

(5) All moneys required for the purpose of this Act shall be paid out of any sum appropriated by the Legislature and voted by the Assembly for that purpose. 1935, c. 40, s. 3.

License required.

3.—(1) No person shall, directly or indirectly, engage in or carry on the business of supplying, distributing, transporting, processing or selling milk unless such person is the holder of a license issued by the board.

Exception.

(2) This section shall not apply to those persons or classes of
persons designated by the board in regulations passed under the authority of this Act. 1935, c. 40, s. 4.

4. It shall be the duty of the board and it shall have power,—

(a) upon its own initiative or upon complaint to inquire into any matter relating to the production, transportation, processing, distribution or sale of milk;

(b) to arbitrate, adjust and settle disputes arising between producers, consumers, processors, distributors and transporters of milk or between any two or more classes of such persons engaged in the milk industry;

(c) to prohibit in the Province any sale or delivery of milk or of cream or of milk and cream alone or in combination with any other article of trade, at a price lower than the current price of milk or cream or of a combination of milk or cream with any other article;

(d) to prohibit milk distributors compelling or inducing producers to invest money either directly or indirectly in a dairy plant or other equipment in order that such producers may obtain or retain a market for their milk;

(e) to prohibit milk distributors from terminating the purchase of milk from a producer without just cause;

and in each case shall make such order as it deems just, having regard to the circumstances. 1935, c. 40, s. 5; 1937, c. 42, s. 2.

5. No license shall be granted to a milk distributor unless the board is satisfied that the applicant is qualified by experience, financial responsibility and equipment to properly conduct the proposed business, and that the issuance of the license is in the public interest. 1935, c. 40, s. 6.

6. Subject to the provisions of section 5 the board may refuse to grant or renew a license or may suspend or revoke a license already granted, after due notice and opportunity of hearing to the applicant or licensee, when the board is satisfied of the existence of any one or more of the following conditions,—

(a) failure to observe, perform and carry out the provisions of this Act or of The Milk and Cream Act, 304, 299. The Dairy Products Act, The Public Health Act or
any other Act of this Legislature, or of the Parliament of Canada, or amendments thereof, or of any regulations made under any such Act which in any way pertains to and governs or regulates the supply of milk for human consumption;

(b) failure to provide for and continue in effect proof of financial responsibility as required by this Act or the regulations; 1935, c. 40, s. 7, part.

(c) failure to observe, perform and carry out any regulation or order of the board made under this Act. 1935, c. 40, s. 7, part; 1937, c. 42, s. 3.

7. No person shall engage or be employed in any branch of the milk industry except as provided by and in accordance with this Act and the regulations. 1934, c. 30, s. 5.

8. No action may be brought respecting or for the determination of any dispute which by the Act or regulations is required to be determined by arbitration, and any such dispute shall be determined as provided for in the regulations. 1934, c. 30, s. 6; 1937, c. 42, s. 4.

9. An appeal shall lie, by way of originating notice, from any order or decision of the board under section 5 or 6 to a judge of the Supreme Court who may receive such evidence, give such directions for the conduct of the proceedings, and make such order or decision thereon as he may deem just, and his decision shall be final and shall not be subject to appeal. 1935, c. 40, s. 7, part.

10. Every regulation made under this Act shall be published by the board in two successive issues of the Ontario Gazette and when so published shall, while it remains in force, have the like effect as if enacted in this Act, and all courts shall take judicial notice thereof. 1934, c. 30, s. 7.

11. Notwithstanding anything in The Companies Act or in any letters patent of incorporation or supplementary letters patent or in any other general or special Act contained, no person, firm or corporation shall give or distribute any fund, refund, rebate, interest or dividend to any purchaser of milk therefrom, either directly or indirectly in respect of such purchases of milk, except such interest or dividend as may be earned on capital invested by such purchaser in such firm or corporation. 1935, c. 40, s. 7, part.

12. The board, or any person authorized by the board to make inquiry or report, may, when it appears expedient,—
Sec. 14. MILK CONTROL. Chap. 76. 1051

(a) enter upon and inspect any land, place, building, works or other property;

(b) require the attendance of all such persons as it or he thinks fit to summon and examine and take the testimony of such persons;

(c) require the production of all books, records, plans, specifications, drawings, writings and documents;

(d) administer oaths, affirmations or declarations and shall have the like powers to summon witnesses, enforce their attendance and compel them to give evidence and produce books, records, plans, specifications, drawings, writings and documents which it or he may require them to produce as is vested in the Supreme Court. 1934, c. 30, s. 8.

13.—(1) Without derogating from the generality of the provisions of section 4, the board may, if it deems it in the public interest, subject to the provisions of subsection 2 approve any agreement respecting the price of milk and fair business practices entered into between producers, processors, milk dealers, transporters of milk and distributors or any of them, and when so approved, such agreement shall be binding upon every person, partnership, association or corporation, selling, delivering or buying milk within the limits of the area affected by the agreement. 1935, c. 40, s. 7, part; 1937, c. 42, s. 5 (1).

(2) The council of any municipality may appoint a representative of the milk consumers within such municipality who, upon notice to the board of such appointment, shall be entitled to appear before the board or any person authorized by the board to make inquiry, before any agreement affecting milk prices to the consumers within such municipality is approved. 1937, c. 42, s. 5 (2).

(3) Where the board has approved an agreement respecting the price of milk and fair business practices as provided in this section, non-compliance with any of the provisions of such agreement shall be a violation of this Act. 1935, c. 40, s. 7, part.

14. For the purpose of carrying out any scheme or plan for the marketing or regulating of any milk, the board may establish a separate fund and may impose direct charges or tolls in respect of the marketing of the whole or any part of such milk, which charges and tolls shall be payable by such
persons engaged in the production or marketing of such milk as the board may determine. 1937, c. 42, s. 7, part.

**Regulations.** 15.—(1) The board may make such regulations, with the approval of the Lieutenant-Governor in Council, as it deems necessary in the public interest, and without derogating from the generality of the foregoing may by such regulations,—

(a) specify the terms and conditions upon which a license may be obtained and the fees payable therefor and the persons or classes of persons not required to be licensed as provided by section 3;

(b) prescribe the terms and conditions upon which milk may be received, handled, transported, stored, delivered, supplied, processed, kept for sale or sold;

(c) classify milk producers and distributors or any other persons engaged in the milk industry;

(d) require persons who supply, distribute, transport, process, keep for sale or sell milk to furnish to the board such information as the board may from time to time require;

(e) require any applicant for a license under this Act to furnish proof of financial responsibility and to require a bond from such applicant in such amount as the board may deem necessary;

(f) provide for the form of orders and other forms to be used for the purpose of this Act;

(g) prescribe the meetings and proceedings of the board;

(h) prescribe the respective duties of the staff and of other persons employed by the board;

(i) prescribe the records, books and accounts to be kept by the board;

(j) prescribe the practice and procedure in all matters before the board and the conduct of all persons appearing before the board. 1935, c. 40, s. 8, part.

(k) prescribe milk purchase plans and the dates of payment for milk purchased from producers;

(l) prescribe the records to be kept by distributors, processors and transporters. 1937, c. 42, s. 6.
Sec. 18 (2) (b).

(2) Any regulations made under the authority of this section may be general in their application or may be limited to any locality or localities, or to any person or classes of persons, or to any branch of the milk industry mentioned therein. 1935, c. 40, s. 8, part.

16. No person, other than the owner thereof, shall use in the ordinary course of his business any milk bottle, milk can, milk case or any other equipment marked with the name of a milk distributor or dairy. 1937, c. 42, s. 7, part.

17.—(1) The board shall make an annual report in writing to the Minister of Agriculture not later than the 31st day of January in every year showing a record of the meetings and an abstract of its proceedings during the preceding calendar year and containing such other matters as appear to the board to be of public interest in connection with matters within its jurisdiction or which the Lieutenant-Governor in Council may direct.

(2) Every such report shall be laid before the Assembly forthwith if then in session, or if not then in session, within fifteen days after the commencement of the next session. 1934, c. 30, s. 10.

18.—(1) Where it is made to appear from the material filed or evidence adduced that any offence against this Act or the regulations has been or is being committed, the Supreme Court or any judge thereof may, upon the application of the board, enjoin any purchaser, processor, transporter, distributor or dealer in milk from carrying on business as such purchaser, processor, transporter, distributor or dealer, absolutely, or for such period as shall seem just, and any injunction shall ipso facto cancel the license of any such purchaser, processor, transporter, distributor or dealer named in the order during the same period.

(2) The application of the board 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 hereof is sooner heard and determined; or

(b) by an originating notice of motion which, if an interim injunction has been granted, shall be served or by originating notice.
within five days and returnable within ten days from the date of such interim injunction. 1935, c. 40, s. 9.

Penalties. 19. Every person who violates any of the provisions of this Act or the regulations, or any order made under this Act 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, nor more than $500, recoverable under The Summary Convictions Act. 1935, c. 40, s. 10.