

The
On-farm Quality
Assurance Programs
Act

being

Chapter O-4.1 of the *Statutes of Saskatchewan, 1998*
(effective October 15, 1998).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER O-4.1

An Act respecting On-farm Quality Assurance Programs

Short title

1 This Act may be cited as *The On-farm Quality Assurance Programs Act*.

Interpretation

2 In this Act:

- (a) **“agricultural product”** means an agricultural product that is intended to be used for human consumption;
- (b) **“auditor”** means an auditor appointed or designated pursuant to section 9;
- (c) **“delivery agent”** means a person or category of persons designated by a recognized producer association to carry out the following activities pursuant to an on-farm quality assurance program:
 - (i) establishing the on-farm quality assurance program in Saskatchewan;
 - (ii) entering into contracts on behalf of the recognized producer association with participants in Saskatchewan who wish to be enrolled in the on-farm quality assurance program;
 - (iii) ensuring that participants complete and retain the records required to be kept by the on-farm quality assurance program;
 - (iv) inspecting participants;
 - (v) carrying out any other activity that is to be carried out by a delivery agent pursuant to the on-farm quality assurance program;
- (d) **“licence”** means a valid licence issued pursuant to this Act that is not suspended or cancelled;
- (e) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (f) **“on-farm quality assurance program”** means a program that:
 - (i) is developed or adopted by a producer association;
 - (ii) establishes physical, chemical and biological standards for producing agricultural products;
 - (iii) establishes record-keeping requirements for participants respecting the standards mentioned in subclause (ii);
 - (iv) is designed to enhance the quality and safety of agricultural products; and
 - (v) meets any additional criteria prescribed in the regulations;

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- (g) “**participant**” means a producer of an agricultural product who has a valid contract with a delivery agent, on behalf of a recognized producer association, for the purpose of being enrolled in the on-farm quality assurance program administered by that delivery agent;
- (h) “**producer**” means the producer of an agricultural product;
- (i) “**producer association**” means a corporation, association or body that is established to represent the interests of producers of agricultural products;
- (j) “**recognized producer association**” means a producer association that is recognized by the minister pursuant to section 3.

1998, c.O-4.1, s.2.

Recognition of producer associations

- 3(1) For the purpose of permitting a producer association to develop or adopt and to conduct an on-farm quality assurance program in Saskatchewan, the minister may recognize the producer association by issuing a written recognition to the producer association.
- (2) The minister may recognize a producer association pursuant to subsection (1) only if the producer association presents evidence satisfactory to the minister that the producer association:
 - (a) represents producers throughout Canada or, if the agricultural product represented by the producer association is not produced or marketed throughout Canada, represents a significant number of producers in Saskatchewan; and
 - (b) has adopted, developed or is capable of developing an on-farm quality assurance program that complies with this Act and the regulations.
- (3) A recognized producer association shall immediately notify the minister in writing if the recognized producer association ceases to conduct its on-farm quality assurance program.
- (4) Subject to subsection (5), the minister may cancel a recognition of a producer association where:
 - (a) the producer association no longer meets the criteria for recognition established pursuant to this Act; or
 - (b) the producer association has ceased to conduct an on-farm quality assurance program in Saskatchewan that complies with this Act and the regulations.
- (5) The minister shall not cancel a recognition without giving the producer association an opportunity to be heard, except where the producer association has ceased to conduct its on-farm quality assurance program and has notified the minister pursuant to subsection (3).
- (6) No person, producer association or other association, organization or body, other than a recognized producer association, shall conduct an on-farm quality assurance program in Saskatchewan.

1998, c.O-4.1, s.3.

Designation of delivery agents

4(1) A recognized producer association shall designate one or more persons or categories of persons to carry out the responsibilities of delivery agents for its on-farm quality assurance program.

(2) A recognized producer association may, at any time, revoke a designation pursuant to subsection (1) and designate another person or persons or category of persons to carry out the responsibilities of delivery agents.

(3) Every designation or revocation pursuant to this section must be in writing and be filed with the minister.

1998, c.O-4.1, s.4.

Licensing of delivery agents

5(1) No person shall act as a delivery agent unless that person holds a licence.

(2) A person who wishes to obtain a licence shall apply to the minister.

(3) The minister shall issue a licence only to a person who is designated, or is a member of a category of persons that is designated, by a recognized producer association pursuant to section 4 as a delivery agent.

(4) At the time the minister issues the licence, the minister may impose any terms and conditions on the licence that the minister considers necessary or appropriate.

(5) At any time after a licence is issued, the minister may do all or any of the following:

- (a) amend, modify or vary terms and conditions imposed on the licence;
- (b) impose new terms and conditions on the licence;
- (c) repeal terms and conditions on the licence and impose new terms and conditions in their place.

(6) No holder of a licence shall fail to comply with the terms and conditions of the licence.

1998, c.O-4.1, s.5.

Licence not transferable

6 No licence is transferable without the prior written consent of the minister.

1998, c.O-4.1, s.6.

Suspension or cancellation of licence

7(1) Subject to subsection (2), the minister may suspend or cancel a licence where the minister is satisfied that the holder of the licence:

- (a) has failed to comply with this Act, the regulations or a term or condition of the licence; or
- (b) has not complied with any reasonable request made by an auditor.

(2) Subject to subsection (3), the minister shall provide the holder of a licence with an opportunity to be heard before suspending or cancelling the licence.

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(3) The minister may immediately suspend or cancel a licence without providing an opportunity to be heard where the minister considers it to be necessary to protect the public or the interests of participants.

(4) Where the minister suspends or cancels a licence pursuant to subsection (3) without providing an opportunity to be heard, the minister shall provide the holder of the licence with an opportunity to be heard within 15 days after the suspension or cancellation.

(5) Notwithstanding any other provision of this Act, a licence is cancelled on the day on which the minister receives a revocation of the delivery agent's designation from a recognized producer association pursuant to section 4, without any opportunity to be heard.

1998, c.O-4.1, s.7.

Expiry of licence

8 Every licence expires one year from the date that it was issued, unless the licence has been renewed.

1998, c.O-4.1, s.8.

Auditors

9 The minister may appoint persons as auditors or designate as auditors any employees of the department over which the minister presides.

1998, c.O-4.1, s.9.

Audit of on-farm quality assurance programs

10(1) For the purposes of ensuring compliance with this Act and the regulations and any terms and conditions imposed on a licence and of ensuring that an on-farm quality assurance program is being properly conducted, an auditor may do all or any of the following:

- (a) at any reasonable time, enter on any premises used by a delivery agent or a participant;
- (b) at any reasonable time, enter on any premises containing records required to be kept pursuant to an on-farm quality assurance program;
- (c) require any person on a premises mentioned in clause (a) or (b) or any manager, superintendent, representative, officer or employee of a delivery agent or a participant to provide the auditor with all reasonable assistance;
- (d) make any inquires of a person mentioned in clause (c);
- (e) require any person mentioned in clause (c) to attend at a place and time prescribed by the auditor;
- (f) after giving a receipt, remove any records or other property and retain the records or other property for any time the auditor considers appropriate.

(2) An auditor shall not enter any premises that are a private dwelling without the consent of the occupier.

(3) An auditor may serve a written demand on any person, including a trustee or a director, officer or employee of a body corporate, requiring that person to produce any records required to be kept pursuant to this Act, the regulations or an on-farm quality assurance program.

- (4) No person on whom a written demand is served pursuant to this section shall fail to provide the records mentioned in the written demand within the time specified in the written demand.
- (5) No person shall withhold, destroy, alter, conceal or refuse to give any records that an auditor reasonably requires for the purposes of an audit pursuant to this Act.
- (6) If an auditor demands any records pursuant to this section, the auditor may examine the records and make copies of the records in accordance with section 11.
- (7) For the purposes of producing a readable record from a computer system used by a person on whom a written demand is made pursuant to subsection (3), an auditor may use any computer hardware or software belonging to that person.

1998, c.O-4.1, s.10.

Copies of records

- 11(1) Where any records are removed pursuant to section 10, the auditor may make copies of those records.
- (2) An auditor shall:
- (a) make copies of the records with reasonable dispatch; and
 - (b) promptly return the originals of the records to:
 - (i) the place from where they were removed; or
 - (ii) any other place that may be agreed to by the auditor and the person who furnished the records or from whom they were seized.
- (3) A record certified by an auditor to be a copy made pursuant to this section:
- (a) is admissible in evidence without proof of the office or signature of the person making the certificate; and
 - (b) has the same probative force as the original record.

1998, c.O-4.1, s.11.

Offence and penalty

- 12(1) No person shall fail to comply with this Act or the regulations.
- (2) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding \$20,000, to imprisonment for a term not exceeding 12 months or to both.

1998, c.O-4.1, s.12.

Immunity

- 13 No action lies or shall be instituted against the Crown in right of Saskatchewan, the minister, any member of the public service of Saskatchewan employed in the department over which the minister presides or any auditor, where that person is acting pursuant to the authority of this Act or the regulations, for any loss or damage suffered by reason of anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done, by that person or by any of the other persons mentioned:
- (a) pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations; or

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(b) in the carrying out or supposed carrying out of any responsibility imposed by this Act or the regulations.

1998, c.O-4.1, s.13.

Certificate of minister

14 A certificate of the minister certifying that a person was or was not licensed is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature or official position of the person purporting to have signed the certificate.

1998, c.O-4.1, s.14.

Regulations

15 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word used in this Act but not defined in this Act;
- (b) prescribing criteria for on-farm quality assurance programs;
- (c) respecting records that delivery agents must maintain for the purposes of this Act;
- (d) prescribing the amount of and requiring the payment of fees by any persons for services provided by the minister or an auditor pursuant to this Act or with respect to an audit conducted pursuant to this Act;
- (e) respecting any other matter or thing the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

1998, c.O-4.1, s.15.

Coming into force

16 This Act comes into force on proclamation.

1998, c.O-4.1, s.16.