

2004

CHAPTER A-15.21

An Act respecting the Production and Marketing of Agricultural Products and to make a consequential amendment

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(Assented to June 17, 2004)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART I
Preliminary Matters

Short title

1 This Act may be cited as *The Agri-Food Act, 2004*.

Interpretation

2(1) In this Act:

- (a) **“agency”** means:
 - (i) a development commission;
 - (ii) a development board; or
 - (iii) a marketing board;
- (b) **“agricultural product”** means:
 - (i) any product of agriculture or of a forest, lake or river;
 - (ii) any edible or inedible article that is wholly or partly manufactured or derived from a product described in subclause (i); or
 - (iii) any other prescribed product that may be of benefit to the agriculture or food industry;
- (c) **“appeal committee”** means the Agri-Food Appeal Committee continued pursuant to section 28;
- (d) **“council”** means the Agri-Food Council continued pursuant to section 15;
- (e) **“development board”** means a development board that:
 - (i) promotes and develops the production, marketing or production and marketing of an agricultural product or agricultural products through a plan funded by a levy that is not refundable to producers; and
 - (ii) either:
 - (A) is constituted pursuant to section 5; or
 - (B) is continued pursuant to section 45;

- (f) **“development commission”** means a development commission that:
- (i) promotes and develops the production, marketing or production and marketing of an agricultural product or agricultural products through a plan funded:
 - (A) by a levy that is refundable to producers; or
 - (B) by means other than a producer levy; and
 - (ii) either:
 - (A) is constituted pursuant to section 4; or
 - (B) is continued pursuant to section 45;
- (g) **“licence”** means a valid licence issued pursuant to this Act and the regulations;
- (h) **“marketing”** includes:
- (i) advertising;
 - (ii) assembling;
 - (iii) buying;
 - (iv) financing;
 - (v) grading;
 - (vi) insuring;
 - (vii) managing risk;
 - (viii) offering for sale;
 - (ix) packing;
 - (x) processing;
 - (xi) selling;
 - (xii) shipping;
 - (xiii) storing;
 - (xiv) transporting; and
 - (xv) carrying out any other prescribed function or activity;
- (i) **“marketing board”** means a marketing board that:
- (i) promotes, develops, regulates and controls the production, marketing or production and marketing of an agricultural product or agricultural products through a plan funded by a levy that is not refundable to producers; and
 - (ii) either:
 - (A) is constituted pursuant to section 6; or
 - (B) is continued pursuant to section 45;

- (j) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
 - (k) **“person”** includes:
 - (i) a partnership; and
 - (ii) an unincorporated group of individuals that share a common production, processing or marketing unit;
 - (l) **“plan”** means a plan for any or all of the following respecting the production, marketing or production and marketing of an agricultural product or agricultural products or any variety, class or grade of an agricultural product or agricultural products within Saskatchewan or any area of Saskatchewan:
 - (i) developing;
 - (ii) promoting;
 - (iii) regulating and controlling;
 - (m) **“prescribed”** means prescribed in the regulations;
 - (n) **“processing”** means changing the nature of an agricultural product and includes any prescribed function or activity;
 - (o) **“producer”** means any person who produces an agricultural product;
 - (p) **“production”** means the production of an agricultural product;
 - (q) **“record”** includes any agreement, account, book, return, statement, report or other memorandum of financial or non-financial information or any other document, whether in writing or in electronic form or represented or reproduced by any other means;
 - (r) **“regulated product”** means an agricultural product or agricultural products, the production, marketing or production and marketing of which is regulated or controlled by a marketing board.
- (2) Without limiting the types of plans that may be established in this Act, a plan may be established respecting the production, marketing or production and marketing of one or more agricultural products based on the method of their production.
- (3) If a plan mentioned in subsection (2) is established, a reference in this Act to:
- (a) an agricultural product that is, or the agricultural products that are, the subject of a plan is deemed to be a reference to the agricultural products produced based on the method of production set out in the plan; and
 - (b) a regulated product is deemed to be a reference to the agricultural products produced based on the method of production set out in the plan and that are to be regulated or controlled by the marketing board responsible for the plan.

Purpose of Act

3 The purpose of this Act is to provide for the promoting, developing, regulating and controlling of the production and marketing of agricultural products within Saskatchewan.

PART II
Development Commissions, Development Boards and Marketing Boards

Development commissions

4(1) The Lieutenant Governor in Council may, in the regulations:

- (a) establish a plan to promote and develop the production, marketing or production and marketing of an agricultural product or agricultural products;
- (b) constitute a development commission to administer the plan mentioned in clause (a);
- (c) authorize the development commission to fund the plan through a levy that is refundable on the request of a producer of the agricultural product that is, or the agricultural products that are, the subject of the plan in accordance with prescribed terms and conditions; and
- (d) authorize the plan to be funded by any prescribed means other than a levy on the producers of the agricultural product that is, or the agricultural products that are, the subject of the plan, including authorizing the development commission to accept appropriations, grants or moneys that may be transferred or given to it.

(2) Regulations made for the purposes of clause (1)(c) must prescribe the terms and conditions pursuant to which a development commission must make a refund of levies to producers.

Development boards

5(1) Subject to subsection (2), the Lieutenant Governor in Council may, in the regulations:

- (a) establish a plan to promote and develop the production, marketing or production and marketing of an agricultural product or agricultural products;
- (b) constitute a development board to administer the plan mentioned in clause (a); and
- (c) authorize the development board to fund the plan through a levy that is not refundable to producers of the agricultural product that is, or the agricultural products that are, the subject of the plan.

(2) No plan is to be established and no development board is to be constituted in accordance with subsection (1) unless:

- (a) a vote of producers who will be subject to the plan and the development board is conducted in the prescribed manner; and
- (b) a prescribed percentage of producers voting vote in favour of the plan.

Marketing boards

6(1) Subject to subsection (2), the Lieutenant Governor in Council may, in the regulations:

- (a) establish a plan to promote, develop, regulate and control the production, marketing or production and marketing of an agricultural product or agricultural products;
- (b) constitute a marketing board to administer the plan mentioned in clause (a); and
- (c) authorize the marketing board to fund the plan through a levy that is not refundable to producers of the agricultural product that is, or the agricultural products that are, the subject of the plan.

(2) No plan is to be established and no marketing board is to be constituted in accordance with subsection (1) unless:

- (a) a vote of producers who will be subject to the plan and the marketing board is conducted in the prescribed manner; and
- (b) a prescribed percentage of producers voting vote in favour of the plan.

Contents of regulations establishing a plan and constituting an agency

7 In the regulations establishing a plan and constituting an agency in accordance with section 4, 5 or 6, the Lieutenant Governor in Council may do all or any of the following:

- (a) specify that the plan is to be in effect throughout Saskatchewan or in any prescribed area of Saskatchewan;
- (b) vest in the agency all or any of the powers set out in subsection 8(1) and, in the case of a marketing board, subsections 8(1) and (2);
- (c) set out any terms and conditions pursuant to which the powers mentioned in clause (b) may be exercised;
- (d) specify the basis on which a levy is to be determined;
- (e) specify how the members of the agency, including any interim members, are to be chosen, including by election, appointment or any combination of elections and appointments;
- (f) set out the terms of office of the members of the agency;
- (g) determine the procedure for electing, appointing or removing the members of the agency, including:
 - (i) prescribing eligibility to serve as a member;
 - (ii) prescribing eligibility to vote for members who are to be elected;
 - (iii) specifying who is to appoint members who are not elected;
 - (iv) prescribing voting procedures;
 - (v) prescribing provisions for filling any vacancy that may arise during a member's term of office;
 - (vi) specifying when a member becomes disqualified from continuing to act as a member and the procedures for removing that member;

- (h) prescribe the fiscal year of the agency;
- (i) prescribe rules respecting the appointment of an auditor for the plan and the agency.

Powers that may be granted to any agency

8(1) The Lieutenant Governor in Council may, in the regulations, confer on an agency all or any of the following powers:

- (a) the power to carry out educational, research and developmental programs related to the agricultural product that is, or the agricultural products that are, the subject of the agency's plan;
- (b) the power to require any or all persons engaged in the production, marketing or production and marketing of the agricultural product that is, or the agricultural products that are, the subject of the agency's plan to register with the agency;
- (c) the power to set and collect registration fees and charges for services rendered by the agency from any person engaged in the production, marketing or production and marketing of the agricultural product that is, or the agricultural products that are, the subject of the agency's plan;
- (d) the power to set and collect a levy from any person engaged in the production, marketing or production and marketing of the agricultural product that is, or the agricultural products that are, the subject of the agency's plan;
- (e) the power to categorize into groups persons engaged in the production, marketing or production and marketing of the agricultural product that is, or the agricultural products that are, the subject of the agency's plan for the purpose of setting and collecting the fees, charges or levies mentioned in clauses (c) and (d);
- (f) the power to set and collect penalties from any person who:
 - (i) is engaged in the production, marketing or production and marketing of the agricultural product that is, or the agricultural products that are, the subject of the agency's plan; and
 - (ii) contravenes an order of the agency;
- (g) the power to recover any unpaid fees, charges, levies or penalties mentioned in clause (c), (d) or (f) by an action in a court of competent jurisdiction;
- (h) the power to require any person engaged in the production, marketing or production and marketing of the agricultural product that is, or the agricultural products that are, the subject of the agency's plan to furnish the agency with any information or records relating to that production or marketing that the agency considers necessary;

- (i) the power to market, grade or insure, either as principal or agent, the agricultural product that is, or the agricultural products that are, the subject of the agency's plan;
- (j) the power to:
 - (i) employ any officers and employees that it considers necessary to administer the agency's plan; and
 - (ii) determine the duties, conditions of employment and remuneration of its officers and employees;
- (k) the power to establish or support a group insurance plan, a pension plan, or any other employee benefit programs for its officers and employees mentioned in clause (j) and their dependants;
- (l) the power to use any moneys received by the agency to carry out the purposes of the agency's plan and to pay the expenses of the agency;
- (m) the power to borrow, raise or secure the payment of moneys in any manner that the agency considers appropriate for the purpose of administering the agency's plan;
- (n) the power to draw, make, accept, endorse, execute, issue, hypothecate or assign promissory notes, bills of exchange or other negotiable or transferable instruments;
- (o) the power to make grants or loans, not to exceed any prescribed amount, to any person, organization, agency, institution or body within or outside Saskatchewan, for the purposes of the agency's plan;
- (p) the power to give financial guarantees, not to exceed any prescribed amount, respecting the indebtedness of any person if the agency considers it necessary or advisable for the purposes of the agency's plan;
- (q) the power to purchase, take on lease or exchange or otherwise acquire real and personal property related to the business of the agency, and to insure, sell or otherwise dispose of any of its property;
- (r) the power to grant a mortgage or security interest in any of the agency's real or personal property;
- (s) subject to section 35, the power to enter into any agreement with any person, agency, organization, institution or body within or outside Saskatchewan for any purpose related to the exercise of any of the powers or the carrying out of any of the duties of the agency in relation to the agency's plan;
- (t) the power to:
 - (i) require any person who owes money to a producer with respect to the sale by the producer of any of the agricultural product that is, or the agricultural products that are, the subject of the agency's plan to pay the moneys to the agency; and
 - (ii) distribute the moneys paid to the agency pursuant to subclause (i), in the manner determined by the agency, to the producer to whom the moneys are owing;

- (u) the power to:
 - (i) purchase or acquire by any other means, in the open market or otherwise, any securities of any corporation; and
 - (ii) hold membership in any corporation;
 - (v) the power to:
 - (i) hold, sell, transfer, or otherwise deal with any of the securities mentioned in clause (u); and
 - (ii) exercise any rights, including the right to vote, as:
 - (A) an owner of the securities mentioned in clause (u); or
 - (B) a member;
 - (w) the power to register a business name pursuant to *The Business Names Registration Act*;
 - (x) the power to prescribe the manner in which remuneration and reimbursement for expenses of the members of the agency are to be determined and paid.
- (2) In addition to the powers mentioned in subsection (1) that the Lieutenant Governor in Council may confer on a marketing board, the Lieutenant Governor in Council may, in the regulations, confer on a marketing board all or any of the following powers:
- (a) the power to control, regulate or control and regulate all or any of the following:
 - (i) the manner of distributing the marketing board's regulated product or regulated products;
 - (ii) the quantity of the marketing board's regulated product or regulated products that may be produced or marketed by any person at any time;
 - (iii) the quality or the variety, class or grade of the marketing board's regulated product or regulated products that may be produced or marketed by any person at any time;
 - (b) the power to prohibit in whole or in part the production or marketing of any variety, class or grade of the marketing board's regulated product or regulated products;
 - (c) the power to regulate the time and place at which, and the legal entity through which, the marketing board's regulated product or regulated products or any variety, class or grade of the regulated product is or regulated products are to be marketed;
 - (d) the power to set or determine the price, the maximum price, the minimum price or any combination of the maximum price and minimum price at which the marketing board's regulated product or regulated products, or any variety, class or grade of the regulated product or regulated products, may be bought or offered for sale in Saskatchewan;

- (e) for the purposes of clause (d), the power to set or determine different prices for different areas of Saskatchewan;
- (f) the power to establish the manner in which returns from the market are to be distributed to producers of the marketing board's regulated product or regulated products;
- (g) the power to require any or all persons engaged in the production, marketing or production and marketing of the marketing board's regulated product or regulated products to do all or any of the following:
 - (i) to obtain a licence from the marketing board;
 - (ii) to provide any guarantees of financial responsibility that the marketing board considers necessary;
- (h) the power to:
 - (i) issue licences to any or all persons producing, marketing or producing and marketing the marketing board's regulated product or regulated products in accordance with criteria set out in an order of the marketing board;
 - (ii) determine the fees payable for a licence and to require payment of those fees;
 - (iii) categorize persons producing, marketing or producing and marketing the marketing board's regulated product for the purpose of determining the fees mentioned in subclause (ii); and
 - (iv) recover the fees mentioned in subclause (ii) by an action in a court of competent jurisdiction;
- (i) subject to section 9, the power to suspend, cancel or reinstate a licence mentioned in clause (h) in accordance with criteria established by order of the marketing board for the suspension, cancellation or reinstatement of licences.

Rules re suspension or cancellation of licence by a marketing board

9(1) Subject to subsection (2), a marketing board shall not suspend or cancel a licence pursuant to clause 8(2)(i) without giving the holder of the licence an opportunity to be heard at least 15 days before it suspends or cancels the licence.

(2) If, in the opinion of the marketing board, it is in the public interest for the board to immediately suspend or cancel a licence, the board may immediately suspend or cancel the licence and, on the suspension or cancellation, shall give the holder of the licence:

- (a) written notice of the suspension or cancellation; and
- (b) an opportunity to be heard within 15 days after the date of the suspension or cancellation.

Agency is corporation

10 Every agency is a corporation.

Agency not agent of the Crown

11 An agency is not an agent of the Crown in right of Saskatchewan unless the regulations constituting the agency expressly declare otherwise.

Agency orders

12(1) An agency may make any orders it considers necessary or advisable in connection with the exercise of its powers pursuant to section 8.

(2) Every agency shall exercise the powers that are conferred on it pursuant to clauses 8(1)(b) to (f) and section 13 only through making orders.

(3) Every marketing board shall exercise the powers that are conferred on it pursuant to subsection 8(2) only through making orders.

(4) If an agency is subject to the supervision of the council, no order of the agency is in force or valid until it has been approved by the council.

(5) Subject to subsections (6) and (7) and to the regulations, the council shall:

(a) approve an order provided to it;

(b) direct that the agency vary an order provided to it in any manner that the council may specify and provide the order as varied to the council in accordance with this section; or

(c) refuse to approve an order provided to it.

(6) The council shall act pursuant to subsection (5) within 60 days after receiving a copy of the order.

(7) If the council does not act pursuant to subsection (5) within the 60-day period mentioned in subsection (6), the order is deemed to have been approved by the council.

(8) If an agency has published an order before the expiration of the 60-day period mentioned in subsection (6) and the council has refused to approve the order or directed that the order be varied, the agency shall, as soon as possible:

(a) if the council refuses to approve the order, publish a notice that the order has not been approved and is not effective; or

(b) if the council directs that the order be varied, publish a notice that the order is to be varied and publish the varied order once it is approved by the council.

(9) If there is any conflict between the regulations and an order of an agency, the regulations prevail.

(10) Subject to subsections (11) and (12), the council may revoke an order of an agency if the council considers it to be appropriate or necessary to do so.

(11) The council shall not revoke an order of an agency unless it provides the agency with at least 30 days' written notice of its intention to do so and provides the agency with an opportunity to be heard.

(12) The council may revoke an order of an agency without complying with subsection (11) if the council considers it to be in the public interest to act immediately, but, if the council does so, it shall:

- (a) immediately give the agency written notice of its action; and
- (b) provide the agency with an opportunity to be heard within 30 days after the date of the revocation.

Power of agency to exempt from plan

13 An agency may exempt from its plan and all or any of its orders:

- (a) any category of producers of the agricultural product that is, or agricultural products that are, the subject of its plan; or
- (b) any class, variety or grade of the agricultural product or agricultural products mentioned in clause (a).

Amendment or discontinuance of plan or agency

14 Notwithstanding any other provision of this Act or any other Act or law, the Lieutenant Governor in Council may, in the regulations, do all or any of the following:

- (a) amend or discontinue a plan and, for that purpose, may prescribe any matters associated with the amendment or discontinuance;
- (b) dissolve the agency that was charged with administering a plan and provide for the winding-up of its affairs, including:
 - (i) the satisfaction of its liabilities;
 - (ii) the payment of any administrative costs associated with the winding-up; and
 - (iii) the disposition of the remaining assets.

**PART III
Council**

**DIVISION 1
Continuance and General Matters**

Council continued

15 The Agricultural and Food Products Development and Marketing Council continued pursuant to *The Agri-Food Act*, as that Act existed on the day before the coming into force of section 1 of this Act, is continued as the Agri-Food Council.

Membership

16(1) Subject to subsection (8), the council consists of not less than three and not more than seven members appointed by the Lieutenant Governor in Council.

(2) The members of the council are entitled to be paid any remuneration that may be approved by the Lieutenant Governor in Council for performing their responsibilities.

- (3) The members of the council are entitled to be reimbursed for travel and incidental living expenses incurred in the performance of their responsibilities as members at any rates that may be approved for members of the public service of Saskatchewan.
- (4) Each member of the council holds office at pleasure for a term not to exceed three years.
- (5) A member of the council may be reappointed for a second or subsequent term.
- (6) If a member of the council dies or resigns, the person ceases to be a member of the council on the date of death or on the date that a written resignation is received by the council, as the case may be.
- (7) If the office of a member of the council becomes vacant, the Lieutenant Governor in Council may:
- (a) appoint another person for the remainder of the term of the person who vacated the office; or
 - (b) appoint another person for the term mentioned in subsection (4).
- (8) A vacancy in the office of a member of the council does not impair the power of the remaining members of the council to act.

Chairperson of council

- 17(1)** The Lieutenant Governor in Council shall designate one member of the council as the chairperson and another member as the vice-chairperson of the council.
- (2) The chairperson shall perform the responsibilities imposed on, and may exercise the powers given to, the chairperson by this Act or the regulations.
- (3) If the chairperson is absent or unable to act for any reason or if the position of chairperson is vacant, the vice-chairperson shall act as chairperson and, while so acting, shall perform all the responsibilities imposed on, and may exercise all the powers given to, the chairperson.
- (4) If, in the circumstances mentioned in subsection (3), the vice-chairperson is absent or unable to act for any reason or if the position of vice-chairperson is vacant, another member of the council designated by resolution of the council shall act as chairperson and, while so acting, shall perform all the responsibilities imposed on, and may exercise all the powers given to, the chairperson.

Staff and supplies

- 18** The minister may provide the council with any supplies and the services of any employees under the minister's administration that the minister considers to be required for the council to carry out its powers and duties pursuant to this Act.

Fiscal year of council

- 19** The fiscal year of the council is the period commencing on April 1 in one year and ending on March 31 of the following year.

Annual report of council

20(1) In each year, the council, in accordance with *The Tabling of Documents Act, 1991*, shall prepare and submit to the minister a report on the activities of the council for the preceding fiscal year.

(2) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Assembly each report received by the minister pursuant to subsection (1).

DIVISION 2

Responsibilities and General Powers of Council**Responsibilities of council**

21 The council is responsible to the minister for the following:

- (a) unless an agency is exempted pursuant to section 26 from the council's supervision:
 - (i) supervising every agency; and
 - (ii) monitoring the activities and operations of every agency;
- (b) providing advice on matters relating to the establishment and operation of an agency, including the following:
 - (i) reviewing proposed plans submitted to it and determining whether or not to hold public meetings with respect to a proposed plan;
 - (ii) supervising votes that may be held on the establishment, amendment or termination of plans;
- (c) reviewing all reports required to be submitted pursuant to this Act or the regulations or by the council;
- (d) conducting analyses of policies, programs and decisions made or proposed by an agency;
- (e) making recommendations to the minister when the council considers it to be in the public interest to amend or terminate a plan or to dissolve an agency;
- (f) promoting the growth and development of industries affected by a plan of an agency by monitoring the impact of strategic plans adopted by the agency on the rate of growth and development of the industry;
- (g) performing any other prescribed duties.

General powers of council

22 The council may:

- (a) exercise any powers conferred on the council by this Act or the regulations;
- (b) make any orders that it considers necessary to ensure compliance with this Act and the regulations by an agency;
- (c) make rules governing the calling and conducting of its meetings and generally governing its own affairs;

- (d) co-operate or consult with any board or agency empowered by a statute of Canada or of any province or territory of Canada to market or promote, facilitate, control, regulate or prohibit the production or marketing of any agricultural product; and
- (e) do any other thing that it considers necessary and in the public interest to perform its responsibilities.

DIVISION 3 Other Powers of Council

General power of investigations and inquiries

23(1) On its own initiative, the council may carry out, or appoint any person to carry out, any inquiry or investigation that the council considers necessary with respect to:

- (a) the promotion, development, regulation or control of the production, marketing or production and marketing of an agricultural product;
 - (b) the operations or activities of an agency; or
 - (c) any other matter that concerns the administration of this Act and the regulations.
- (2) On the direction of the minister, the council or a person appointed by the council for the purpose shall carry out any inquiry or investigation that the minister may direct in accordance with any directions of the minister.
- (3) If the council or a person appointed by the council for the purpose carries out an investigation or inquiry at the request of the minister pursuant to subsection (2), the council shall report the results of the inquiry or investigation to the minister at the time and in the manner that the minister may direct.

Powers on investigation or inquiry

24 In carrying out an investigation or inquiry pursuant to section 23, the council or a person appointed by the council for the purposes of that section has all the powers of a commissioner pursuant to *The Public Inquiries Act*.

Regulatory powers of council

25(1) The council may:

- (a) direct an agency to take any action that the council considers necessary and reasonable to remedy, to the satisfaction of the council, any defects or problems in the administration of the agency's plan;
- (b) require an agency or a person who produces, markets or processes an agricultural product to furnish to the council any information or record relating to the production, marketing or processing of the agricultural product that the council considers necessary;

- (c) impose on an agency or a person, and require the payment of, any charges or fees for services it provides pursuant to this Act or the regulations;
- (d) require an agency to prepare and provide it with true copies of all or any of the following:
 - (i) minutes of all meetings of the agency;
 - (ii) all orders, decisions or determinations of the agency;
 - (iii) all annual reports of operations of the agency;
 - (iv) all strategic plans approved by the agency;
 - (v) all audited financial statements of the agency;
 - (vi) any other statements and reports that the council may require;
- (e) specify the period within which the documents, statements and reports mentioned in clause (d) must be prepared and provided and the manner in which they must be prepared and provided; and
- (f) require an agency to make available to any person copies of:
 - (i) the annual report of operations and the financial statements of the agency; and
 - (ii) the statements and reports mentioned in subclauses (d)(ii) to (v).

(2) If any order of council made pursuant to this Act conflicts with any order of the agency, the order of the council prevails.

Lieutenant Governor in Council may exempt certain agencies from supervision

26(1) The Lieutenant Governor in Council may, in the regulations, exempt from the council's supervision:

- (a) any development commission or development board; or
- (b) any or all aspects of the operation or activities of any development commission or development board.

(2) In the regulations, the Lieutenant Governor in Council may impose any terms, conditions or restrictions on an exemption granted pursuant to this section, and the development commission or development board must comply with those terms, conditions or restrictions.

(3) Notwithstanding any other provision of this Act, Division 2 and this Division do not apply to a development commission or development board or any aspect of the operations or activities of a development commission or development board exempted from the council's supervision pursuant to subsection (1).

(4) On the recommendation of the minister, the Lieutenant Governor in Council may, in the regulations, remove any exemption granted pursuant to this section and, if the Lieutenant Governor in Council removes the exemption, Division 2 and this Division apply to the development commission or development board or the aspect of the operation or activity that was previously exempted.

PART IV
Minister's Supervisory Powers

Minister's supervisory powers

27(1) The minister may act pursuant to subsection (2) if:

- (a) in the minister's opinion:
 - (i) significant financial or operational problems exist with respect to an agency; or
 - (ii) it is in the public interest to do so; and
 - (b) the minister obtains the approval of the Lieutenant Governor in Council.
- (2) In the circumstances mentioned in subsection (1), the minister may do one or more of the following:
- (a) suspend any or all of the powers of an agency for any period that the minister considers appropriate;
 - (b) suspend the operation of the agency's board for any period that the minister considers appropriate.
- (3) In an order made for the purposes of subsection (1), the Lieutenant Governor in Council may:
- (a) state the powers of the agency that may be suspended pursuant to clause (2)(a);
 - (b) authorize the minister to exercise any of the powers of an agency that are suspended pursuant to clause (2)(a) and to delegate the exercise of those powers to any person;
 - (c) authorize the expenses of operating the agency and of any person to whom the minister has delegated the agency's powers to be paid out of the agency's funds; and
 - (d) include any terms and conditions that the Lieutenant Governor in Council considers appropriate.
- (4) Before seeking the approval of the Lieutenant Governor of Council for the purposes of subsection (1), the minister shall:
- (a) consult with the council if the agency is subject to council's supervision; and
 - (b) give any representative of the agency that the minister considers appropriate for the purpose an opportunity to be heard.
- (5) Nothing in this section is to be construed as requiring the minister to give any person an oral hearing.
- (6) Notwithstanding any other provision of this Act, if any of an agency's powers have been suspended pursuant to this section, the agency shall not exercise those powers until the minister has advised the agency in writing that its powers have been restored.

PART V
Agri-Food Appeal Committee

DIVISION 1
Appeal Committee Established

Appeal committee

28(1) The Agri-Food Appeal Committee established pursuant to *The Agri-Food Act*, as that Act existed on the day before the coming into force of section 1 of this Act, is continued.

(2) Subject to subsection (9), the appeal committee consists of not less than three and not more than seven members appointed by the Lieutenant Governor in Council.

(3) The members of the appeal committee are entitled to be paid any remuneration that may be approved by the Lieutenant Governor in Council for performing their responsibilities.

(4) The members of the appeal committee are entitled to be reimbursed for travel and incidental living expenses incurred in the performance of their responsibilities as members at any rates that may be approved for members of the public service of Saskatchewan.

(5) Each member of the appeal committee holds office at pleasure for a term not to exceed three years.

(6) A member of the appeal committee may be reappointed for a second or subsequent term.

(7) If a member of the appeal committee dies or resigns, the person ceases to be a member of the appeal committee on the date of death or on the date that a written resignation is received by the appeal committee, as the case may be.

(8) If the office of a member of the appeal committee becomes vacant, the Lieutenant Governor in Council may:

(a) appoint another person for the remainder of the term of the person who vacated the office; or

(b) appoint another person for the term mentioned in subsection (5).

(9) A vacancy in the office of a member of the appeal committee does not impair the power of the remaining members of the appeal committee to act.

(10) The Lieutenant Governor in Council shall designate one member of the appeal committee as the chairperson and another member as the vice-chairperson of the appeal committee.

(11) The chairperson shall perform the responsibilities imposed on, and may exercise the powers given to, the chairperson by this Act or the regulations.

(12) If the chairperson is absent or unable to act for any reason or if the position of chairperson is vacant, the vice-chairperson shall act as chairperson and, while so acting, shall perform all the responsibilities imposed on, and may exercise all the powers given to, the chairperson.

(13) If, in the circumstances mentioned in subsection (12), the vice-chairperson is absent or unable to act for any reason or if the position of vice-chairperson is vacant, another member of the appeal committee designated by resolution of the appeal committee shall act as chairperson and, while so acting, shall perform all the responsibilities imposed on, and may exercise all the powers given to, the chairperson.

(14) The minister may provide the appeal committee with any supplies and the services of any employees under the minister's administration that the minister considers to be required for the appeal committee to carry out its powers and duties pursuant to this Act.

DIVISION 2

Rules respecting Appeals

Appeals to appeal committee

29(1) In this Division, “**appellant**” means a person who makes an appeal pursuant to this section to the appeal committee.

(2) Any person who is aggrieved by an act or omission of an agency may appeal that act or omission to the appeal committee in the prescribed manner.

(3) An appeal pursuant to this section must be made within 90 days after the day on which the act or omission being appealed occurred.

(4) Every appellant shall pay the prescribed fee.

(5) On receipt of a notice of appeal and payment of the prescribed fee pursuant to this section, the appeal committee may:

(a) if the appeal committee is satisfied that the notice of appeal meets the requirements of this Act and the regulations, hold a hearing pursuant to this Part;

(b) decide not to hear an appeal if the appeal committee considers that:

(i) the subject-matter of the appeal is trivial;

(ii) the appeal is not made in good faith or is frivolous or vexatious; or

(iii) the appellant does not have a sufficient personal interest in the subject-matter of the appeal; or

(c) if the appeal committee considers that mediation may resolve the appeal:

(i) appoint any person to mediate between the agency and the appellant; and

(ii) set the terms and conditions pursuant to which the mediation is to be conducted.

(6) The appeal committee may direct that any action or decision of an agency that is under appeal is to be stayed pending the outcome of the appeal.

(7) Subject to the other provisions of this Act and to the regulations, the appeal committee may make rules governing the management and conduct of appeals to the appeal committee and hearings before the appeal committee.

Rules governing hearings of appeal committee

30(1) This section applies to hearings by the appeal committee pursuant to this Part.

(2) The appeal committee:

(a) has the powers of a commissioner pursuant to *The Public Inquiries Act*;

(b) may receive and accept any evidence and information under oath or declaration, by affidavit or by any other means that the appeal committee considers proper; and

(c) may engage the services of any experts that the appeal committee considers necessary and advisable to assist it in conducting the inquiry.

(3) Within 10 days after receiving a notice of appeal, the appeal committee shall serve a copy of the notice of appeal on the agency whose act or omission is being appealed.

(4) If the appeal committee agrees to hear the appeal, the chairperson of the appeal committee shall:

(a) fix the date, time and place for the hearing of the appeal; and

(b) serve written notice on the parties of the date, time and place fixed for the hearing of the appeal.

(5) The appeal committee may postpone or adjourn an appeal hearing if it considers it to be in the interests of justice to do so.

(6) The appeal committee shall:

(a) allow the parties to the appeal adequate opportunity to make representations and present evidence; and

(b) take down in writing or record electronically oral evidence received, and receive all documentary evidence, to form the record of the proceeding.

(7) Any member of an appeal committee may administer oaths for the purpose of taking evidence.

Decision of appeal committee

31(1) Subject to subsection (2), after hearing an appeal, the appeal committee may make a decision that does all or any of the following:

(a) confirms, varies, disallows or stays any decision of the agency;

(b) refers the matter back to the agency for its consideration;

(c) substitutes its own decision for that of the agency;

(d) makes any other direction that it considers appropriate.

(2) The appeal committee shall not make any award of monetary compensation or costs.

Written notice of decisions

32(1) Within 15 days after the date of a decision, the appeal committee shall serve the appellant and the agency whose act or omission is being appealed with a written copy of:

- (a) its decision; and
- (b) the reasons for that decision.

(2) The appeal committee or the minister may cause a decision to be made public in any manner that the appeal committee or the minister considers appropriate.

Appeal to court of appeal committee's decision

33(1) Any party to an appeal may appeal the appeal committee's decision on a question of law or jurisdiction to a judge of the Court of Queen's Bench within 45 days after the date of the decision.

(2) The judge of the Court of Queen's Bench hearing the appeal shall consider only the record of the proceedings of the appeal committee with respect to the appealed decision and the evidence presented at those proceedings.

(3) There is no further appeal from the decision of a judge of the Court of Queen's Bench pursuant to this section.

PART VI General Matters

Application to Queen's Bench re decision of appeal committee

34(1) A party who is successful on an appeal pursuant to Division 2 of Part V may apply to a judge of the Court of Queen's Bench to enforce the decision of the appeal committee.

(2) No person shall apply pursuant to subsection (1) to enforce a decision of the appeal committee until:

- (a) any appeal pursuant to section 33 of the appeal committee's decision has been disposed of; or
- (b) the time for bringing an appeal pursuant to section 33 has expired and no appeal has been brought pursuant to that section.

(3) An agency may apply to a judge of the Court of Queen's Bench to enforce a decision or order of the agency.

(4) No application shall be made pursuant to this section against:

- (a) the Crown in right of Saskatchewan;
- (b) the minister;
- (c) the council or any member of the council;
- (d) the appeal committee or any member of the appeal committee; or
- (e) any member of the public service of Saskatchewan acting in his or her capacity as a member of the public service.

(5) On an application pursuant to this section, the judge of the Court of Queen's Bench may do all or any of the following:

- (a) order a person to comply with this Act, the regulations or any decision or order made by the appeal committee or the agency;
- (b) order a person to cease carrying out any activity that is a contravention of this Act, the regulations or any decision or order made by the appeal committee or the agency;
- (c) order all or any of the seizure, detention or forfeiture and disposal, on any terms that the judge considers appropriate, of any agricultural product that was produced or marketed in contravention of this Act, the regulations or any decision or order made by the appeal committee or the agency;
- (d) make any other order, including an order as to costs, and give any direction that the judge considers necessary or appropriate in the circumstances.

Agreements

35(1) Subject to the approval of the Lieutenant Governor in Council, any agency may do all or any of the following:

- (a) enter into agreements for any purpose associated with the production, marketing or development of agricultural products with:
 - (i) the Government of Canada;
 - (ii) the government of any other province or territory of Canada;
 - (iii) any agency of any of the governments mentioned in subclauses (i) and (ii); or
 - (iv) any other agency empowered by an Act of the Parliament of Canada, or of any other province or territory of Canada, to market or promote, facilitate, control, regulate or prohibit the production or marketing of any agricultural product;
 - (b) be appointed or designated by any government or agency mentioned in clause (a) to perform any function or duty imposed, or exercise any power conferred, by or pursuant to an Act of the Parliament of Canada, or of any other province or territory of Canada, relating to the marketing or promotion, facilitation, control, regulation or prohibition of the production or marketing of agricultural products, including the collection of any levies, fees or charges and the setting and, subject to the regulations, enforcement of production or marketing limits;
 - (c) delegate to any government or agency mentioned in clause (a) any of its powers.
- (2) The approval of the Lieutenant Governor in Council for the purposes of this section may be granted in the regulations.
- (3) The Lieutenant Governor in Council may impose any terms and conditions that it considers appropriate on an approval pursuant to this section, including requiring that the council or the minister also be a party to the agreement.

(4) The Lieutenant Governor in Council may, by order, authorize the minister to exercise any power on behalf of any agency that the agency could exercise pursuant to subsection (1), including:

(a) entering into an agreement pursuant to clause (1)(a) or amending, terminating or carrying out an agreement entered into by the minister or the agency pursuant to clause (1)(a) or pursuant to *The Agri-Food Act* or any previous Act respecting the production, marketing or development of agricultural products;

(b) being appointed or designated pursuant to clause (1)(b) or amending, terminating or carrying out any appointment or designation conferred on the minister or the agency pursuant to clause (1)(b) or pursuant to *The Agri-Food Act* or any previous Act respecting the production, marketing or development of agricultural products; or

(c) delegating any powers of the agency pursuant to clause (1)(c) or amending, terminating or carrying out the delegation of the agency's power made by the minister or agency pursuant to clause (1)(c) or pursuant to *The Agri-Food Act* or any previous Act respecting the production, marketing or development of agricultural products.

(5) In an order issued pursuant to subsection (4), the Lieutenant Governor in Council:

(a) shall state the powers the minister is to exercise;

(b) may include any terms and conditions that the Lieutenant Governor in Council considers appropriate; and

(c) may provide that the agency shall not exercise the powers that are exercisable by the minister during the period mentioned in the order.

(6) If, pursuant to clause (5)(c), the Lieutenant Governor in Council provides that an agency shall not exercise the powers that are exercisable by the minister, the agency shall not exercise those powers during the period mentioned in the order.

Auditors of agencies

36(1) Every agency shall appoint an auditor or firm of auditors to audit the accounts and financial statements of the agency:

(a) annually; and

(b) at any other time that the agency may require.

(2) The appointment of an auditor pursuant to this section must be made in accordance with any regulations made respecting the agency.

(3) Every agency shall:

(a) if required to do so by clause 25(1)(d), provide a copy of its audited financial statements to the council; and

(b) keep a copy of its audited financial statements and a report on its operations for each fiscal year open for inspection by producers at its head office during its normal business hours.

- (4) Every auditor appointed by an agency must meet the prescribed qualifications.
- (5) Every agency shall ensure that its audited financial statements and report on its operations for a fiscal year are prepared within six months after the end of that fiscal year.

Defects in appointment or election not to affect validity

37 A defect or irregularity in the election, appointment or qualification of any member of the council, the appeal committee or any agency does not invalidate the acts and decisions of the council, the appeal committee or the agency.

Immunity

38 No action or proceeding lies or shall be commenced against the minister, the council, the appeal committee, any agency, any member, officer or employee of the council, the appeal committee or agency or any other person appointed or engaged pursuant to this Act where that person is acting pursuant to the authority of this Act or the regulations, for 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 those persons pursuant to or in the exercise or supposed exercise of any power given by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or the regulations or any responsibility imposed by this Act or the regulations.

Service of documents

39(1) Any notice, order, decision or other document required by this Act or the regulations to be given or served, unless otherwise provided for, is to be served personally or mailed by ordinary or registered mail to the last known address of the person being served.

(2) A notice, order, decision or other document served by ordinary or registered mail is deemed to have been received on the tenth day following the day of its mailing.

Powers of inspection, investigation

40(1) The minister may appoint any person to make any inspection, investigation or inquiry that the minister considers necessary for the purpose of administering and enforcing:

- (a) this Act;
- (b) the regulations; or
- (c) any order of the Lieutenant Governor in Council, the minister, the council or any agency.

(2) A person appointed pursuant to subsection (1) may, at any reasonable time, for the purpose of enforcing this Act, the regulations or any order of the Lieutenant Governor in Council, the minister, the council or any agency:

- (a) subject to subsection (3), enter, without a warrant, any place or premises; and
- (b) make any inspection, investigation or inquiry that the person considers necessary.

(3) A person appointed pursuant to subsection (1) shall not enter a private dwelling without a warrant issued pursuant to subsection (4) unless the occupant of the dwelling consents to the entry.

(4) A justice of the peace or a judge of the Provincial Court of Saskatchewan may issue a warrant to enter into and search any place or premises or search any vehicle named in the warrant if a person appointed pursuant to subsection (1) believes on reasonable grounds that:

- (a) an offence against this Act has been committed; and
- (b) there is evidence of the offence to be found:
 - (i) at the place or premises to be searched; or
 - (ii) in or on the vehicle to be searched.

(5) With a warrant issued pursuant to subsection (4), a person appointed pursuant to subsection (1) may:

- (a) enter and search any place or premises named in the warrant;
- (b) require the production of and examine any records that the person believes on reasonable grounds may contain information related to an offence against this Act;
- (c) subject to section 41, on the giving of a receipt for the records, remove any records examined pursuant to this section for the purpose of making copies of extracts of those records;
- (d) search any vehicle named in the warrant; and
- (e) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act.

(6) A person appointed pursuant to subsection (1) may exercise all or any of the powers mentioned in subsection (5) without a warrant issued pursuant to this section if:

- (a) the conditions for obtaining a warrant exist; and
- (b) the person believes, on reasonable grounds, that the delay necessary to obtain a warrant would result in:
 - (i) danger to human life or safety; or
 - (ii) the loss or destruction of evidence.

Copies of records

41(1) If any record is seized, examined or produced pursuant to section 40, any person appointed pursuant to section 40 may make copies of the record or any extracts from the record.

(2) Any person authorized to make copies pursuant to subsection (1) shall:

- (a) make those copies with reasonable dispatch; and

- (b) promptly return the records from which the copies were made to:
 - (i) the place from which they were removed; or
 - (ii) any other place that may be agreed to by the person authorized to make copies and the person:
 - (A) who furnished them; or
 - (B) from whom they were seized.
- (3) A document certified by the person who made the copy to be a copy of a record made pursuant to this section:
 - (a) is admissible in evidence without proof of the office or signature of that person appearing to have certified the document; and
 - (b) has the same probative force as the original record.

Offence

42(1) No person shall:

- (a) make a false or misleading statement in any report, application or other document required to be provided to the minister, the council or the appeal committee pursuant to this Act or the regulations;
 - (b) obstruct any person who is authorized to conduct an investigation or inquiry pursuant to this Act or an inspection, investigation, inquiry or search pursuant to section 40;
 - (c) fail to comply with any order made pursuant to this Act or the regulations of:
 - (i) the council; or
 - (ii) any agency;
 - (d) fail to comply with a decision of the appeal committee made pursuant to this Act; or
 - (e) contravene any other provision of this Act or the regulations.
- (2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to:
- (a) in the case of an individual, a fine of not more than \$5,000; and
 - (b) in the case of a person other than an individual, a fine of not more than \$10,000.
- (3) No prosecution for an offence committed against subsection (1) is to be commenced more than two years after the day on which the offence is alleged to have been committed.
- (4) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalties provided for that offence whether or not the corporation has been prosecuted or convicted.

PART VII
Regulations

Regulations

43 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) for the purposes of clause 2(1)(b), prescribing products as agricultural products;
- (c) for the purposes of clause 2(1)(h), prescribing functions or activities as marketing;
- (d) for the purposes of clause 2(1)(n), prescribing functions or activities as processing;
- (e) respecting the issuance of licences pursuant to this Act, including:
 - (i) requiring any person who produces, markets or produces and markets an agricultural product to be licensed; and
 - (ii) respecting the manner of issuing licences;
- (f) respecting the establishment of plans and agencies, including prescribing the matters set out in sections 4 to 8;
- (g) prescribing the information and materials that producers who wish to establish a plan or an agency must provide to the minister, including authorizing the minister to require additional information and materials;
- (h) respecting the conduct of votes pursuant to this Act to establish an agency, including prescribing the minimum percentage of votes cast in the vote that must be cast in favour of a plan in order for the plan to be eligible for establishment;
- (i) for the purposes of section 14, respecting the amendment or discontinuance of a plan or the dissolution of an agency, including prescribing all or any of the matters set out in that section;
- (j) respecting the powers of the council;
- (k) prescribing the fees for making an appeal to the appeal committee pursuant to section 29;
- (l) respecting the content of a notice of appeal and the manner of appeal for the purposes of section 29;
- (m) exempting any development commission or development board from the council's supervision, and prescribing any terms, conditions and restrictions that the development commission or development board must comply with in order to remain exempted from the council's supervision;

- (n) prescribing the qualifications of auditors of plans and agencies;
- (o) respecting production or marketing limits, including respecting:
 - (i) the nature of rights associated with those limits;
 - (ii) the allocation of those limits amongst producers; and
 - (iii) prohibitions on, or authorizations of, the disposition of those limits and the terms, conditions and restrictions that are to govern any disposition;
- (p) respecting any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (q) prescribing any matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

PART VIII Repeal, Transitional and Consequential

S.S. 1990-91, c.A-15.2 repealed

44 *The Agri-Food Act* is repealed.

Transitional

45(1) In this section, “**former Act**” means *The Agri-Food Act*, as that Act existed on the day before the coming into force of section 1 of this Act.

(2) Every plan that was established or continued pursuant to the former Act is continued and may be dealt with as if it were established pursuant to this Act.

(3) Subject to the regulations, every development commission that was established or continued pursuant to the former Act is continued as a development commission and may be dealt with as if it were established pursuant to this Act.

(4) Subject to the regulations, every development board that was established or continued pursuant to the former Act is continued as a development board and may be dealt with as if it were established pursuant to this Act.

(5) Subject to the regulations, every marketing board that was established or continued pursuant to the former Act is continued as a marketing board and may be dealt with as if it were established pursuant to this Act.

(6) Every agency order that was made or continued pursuant to the former Act and that is in force on the day on which section 1 of this Act comes into force continues in force and may be dealt with and enforced as if it had been made pursuant to this Act.

(7) Every order that was made by the Lieutenant Governor in Council pursuant to the former Act and that is in force on the day on which section 1 of this Act comes into force continues in force and may be dealt with and enforced as if it had been made pursuant to this Act.

(8) Every licence issued or registration that was granted by a marketing board pursuant to the former Act that is valid on the day on which section 1 of this Act comes into force:

(a) continues in force as if it had been issued or granted, as the case may be, pursuant to this Act and may be dealt with as if issued or granted pursuant to this Act; and

(b) unless sooner cancelled or terminated pursuant to this Act and the regulations, expires on the date set out in the licence or registration.

(9) Every marketing board quota that was granted or continued pursuant to the former Act that is valid on the day on which section 1 of this Act comes into force continues in force as a production limit as if it had been issued or granted, as the case may be, pursuant to this Act and may be dealt with as if issued or granted pursuant to this Act.

(10) If an agency purchased or acquired securities of any corporation pursuant to the former Act:

(a) the securities are deemed to have been validly purchased or acquired; and

(b) the power to hold, sell, transfer or otherwise deal with any of those securities or to exercise any rights as owner, including the right to vote, is subject to any terms and conditions that the Lieutenant Governor in Council may prescribe in the regulations.

(11) Notwithstanding subsections (6) to (10), any provision of an order, licence, quota, production limit or other right mentioned in this section that is in direct conflict with any provision of this Act or the regulations is revoked.

(12) Notwithstanding the repeal of the former Act, section 23 of that Act, as that section existed immediately before the coming into force of section 1 of this Act, continues to apply with respect to any orders made by the Lieutenant Governor in Council pursuant to that section that are in force on the day on which section 1 of this Act comes into force for as long as those orders are in force.

R.R.S. c.A-15.2 Reg 4, new section 7.1

46 The following section is added after section 7 of *The Beef Development Plan Regulations*:

“Board an agent of the Crown

7.1 The board is an agent of the Crown in right of Saskatchewan”.

PART IX Coming into Force

Coming into force

47 This Act comes into force on proclamation.

