

BILL

No. 60

An Act to amend *The Animal Products Act*

(Assented to _____)

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

Short title

1 This Act may be cited as *The Animal Products Amendment Act, 2012*.

R.S.S. 1978 (Supp.), c.A-20.2 amended

2 *The Animal Products Act* is amended in the manner set forth in this Act.

Section 2 amended

3 **Section 2 is amended:**

(a) **by adding the following clauses after clause (b):**

“(b.01) **‘animal products inspection administration agreement’** means an agreement entered into pursuant to section 2.2;

“(b.02) **‘appeals committee’** means an appeals committee established pursuant to section 16.3;

“(b.03) **‘assurance fund’** means a fund mentioned in section 16.2;

“(b.04) **‘business day’** means a day other than a Saturday, Sunday or holiday”;

(b) **by repealing clauses (b.1) and (c); and**

(c) **by adding the following clauses after clause (e):**

“(e.01) **‘ministry’** means the ministry over which the minister presides;

“(e.02) **‘person’** includes a partnership, association or other organization;

“(e.03) **‘producer’** means any person engaged in the production of animals or animal products;

“(e.04) **‘provincial association’** means a corporation:

(i) that is incorporated or continued by or pursuant to an Act to represent producers of an animal or animal product; and

(ii) whose members or shareholders are producers of the animal or animal product mentioned in subclause (i)”.

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New sections 2.1 to 2.3

4 The following sections are added after section 2:

“Responsibilities and powers of minister

2.1(1) The minister is responsible for all matters not by law assigned to any other minister or government agency relating to the production, manufacture, sale, purchase, transport and inspection of animals and animal products.

(2) For the purposes of carrying out the minister’s responsibilities, the minister may:

(a) create, develop, adopt, co-ordinate and implement policies, strategies, objectives, guidelines, programs, services and administrative procedures respecting the production, manufacture, sale, purchase, transport and inspection of animals and animal products;

(b) undertake and co-ordinate planning, research and investigations respecting the production, manufacture, sale, purchase, transport and inspection of animals and animal products;

(c) provide information to the public respecting the production, manufacture, sale, purchase, transport and inspection of animals and animal products; and

(d) do any other thing that the minister considers appropriate to carrying out the minister’s responsibilities or to exercising the minister’s powers pursuant to this Act and the regulations.

“Animal products inspection administration agreement

2.2(1) Subject to the approval of the Lieutenant Governor in Council, the minister may enter into an animal products inspection administration agreement with any person.

(2) In an animal products inspection administration agreement entered into pursuant to subsection (1), the minister may delegate all or any of the minister’s powers and duties pursuant to this Act and the regulations with respect to all inspections of animals or animal products or with respect to any category of inspections of animals or animal products listed in the agreement.

(3) An animal products inspection administration agreement must include provisions that specify all of the following:

(a) the powers and duties being delegated to the person with whom the agreement is entered into;

(b) the expected outcomes to be achieved by the person;

(c) the acceptance by the person of the person’s responsibility to exercise the powers and fulfil the duties delegated to the person;

(d) the requirement that the person report to the minister whenever required by the minister and in the manner and within the period directed by the minister;

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- (e) the requirement that the person provide the minister, within a period after the end of a year that is specified in the agreement, with an annual report on the person's activities during the year in carrying out the provisions of the agreement and an audited financial statement satisfactory to the minister respecting the person's carrying out of the provisions of the agreement;
- (f) the requirements for records management by the person;
- (g) the requirement that the person report to the Government of Saskatchewan any matters with respect to the exercise by it of the powers and the fulfilment by it of the duties delegated to the person;
- (h) the requirement that the person carry adequate insurance;
- (i) the indemnification between the person and the Government of Saskatchewan;
- (j) the obligations of the parties if the agreement is terminated;
- (k) the period of the agreement or the procedure for the review of the agreement by the minister and the person;
- (l) the settlement of disputes;
- (m) the liability of the person arising out of the person's carrying out of the provisions of the agreement;
- (n) the terms and conditions that are to be imposed on the person in carrying out the provisions of the agreement;
- (o) any additional matters prescribed in the regulations.

(4) The delegation to the person of the administration of all or part of this Act and the regulations in accordance with this section does not constitute the person as an agent of the Crown in right of Saskatchewan.

(5) Notwithstanding any provision of an animal products inspection administration agreement or any other Act or law but subject to subsection (6), the minister may terminate an animal products inspection administration agreement if the minister is satisfied that the person with whom the agreement is entered into is not complying with the agreement or this Act or the regulations.

(6) An animal products inspection administration agreement may be terminated only in accordance with the procedures and on the terms and conditions prescribed in the regulations.

(7) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Legislative Assembly every animal products inspection administration agreement entered into by the minister within 90 days after the agreement is entered into.

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“Matters arising from entering into an animal products inspection administration agreement

2.3(1) In this section, ‘**specified provisions**’ means the provisions of this Act and the regulations that are mentioned in an animal products inspection administration agreement.

(2) Notwithstanding any other provision of this Act or the regulations or any other Act or law but subject to subsection (3), if the minister and a person enter into an animal products inspection administration agreement:

(a) a reference in the specified provisions to an inspector is deemed to be a reference to an inspector appointed or designated by the person, and the inspector appointed or designated by the person may exercise the powers of, and shall fulfil the duties imposed on, an inspector pursuant to the specified provisions;

(b) a reference to the minister in the specified provisions is deemed to be a reference to the person, and the person may exercise the powers of, and shall fulfil the duties imposed on, the minister that are mentioned in those specified provisions;

(c) duties imposed by the specified provisions on the minister, the ministry, an official or employee of the ministry or an inspector and powers granted by the specified provisions to the minister, the ministry, an official or employee of the ministry or an inspector are delegated to the person or an inspector appointed or designated by the person, as the case may be, unless specifically exempted in the animal products inspection administration agreement;

(d) all persons who are required in the specified provisions to pay to the minister, the ministry or an inspector a fee shall instead pay to the person any fee charged by the person for the purposes of this Act and the regulations;

(e) the person may exercise any powers given to the minister, the ministry or the Government of Saskatchewan pursuant to the specified provisions to enforce payment of any fee charged by the person for the purposes of the specified provisions, including the power to cancel or suspend any document or licence issued pursuant to this Act for non-payment of that fee;

(f) all reports that are required to be made to the minister, the ministry, an official or employee of the ministry or an inspector pursuant to the specified provisions, and all information and documentation that is required to be provided to the minister, the ministry, an official or employee of the ministry or an inspector pursuant to the specified provisions, shall be made or provided to the person or an inspector appointed or designated by the person, as the case may be;

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(g) every valid licence or certificate issued by the minister, the ministry or an inspector pursuant to the specified provisions that is in force on the day before the coming into force of this section remains in force and may be dealt with by the person in accordance with this Act as if it had been issued by the person; and

(h) every exemption, prohibition, notice, decision or requirement issued by the minister, the ministry or an inspector pursuant to the specified provisions that is in place on the day before the coming into force of this section remains in force and may be dealt with by the person as if it had been issued by the person.

(3) In an animal products inspection administration agreement, the minister and the person may provide that all or any of the matters mentioned in subsection (2):

(a) do not apply; or

(b) are to apply in the manner and with the modifications set out in the agreement”.

Section 15.2 amended

5 Section 15.2 is amended:

(a) in subsection (6) by striking out “department” and substituting “ministry”;

(b) in subsection (9) by striking out “department” wherever it appears and in each case substituting “ministry”; and

(c) in subsection (16) in the portion preceding clause (a) by striking out “department” and substituting “ministry”.

Sections 16 and 16.1 repealed

6 Sections 16 and 16.1 are repealed.

New sections 16.2 to 16.5

7 The following sections are added before section 17:**“Assurance fund**

16.2(1) Subject to subsection (5), the Lieutenant Governor in Council may make regulations respecting an animal or animal product:

(a) requiring the establishment of one or more assurance funds by one or more of the following:

(i) producers of the animal or animal product;

(ii) the provincial association representing producers of the animal or animal product;

(iii) any person in addition to those mentioned in subclause (i) or (ii);

(b) establishing an assurance fund committee to administer each assurance fund mentioned in clause (a);

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(c) authorizing the assurance fund committee to fund the assurance fund through a levy on the animal or animal product with respect to which the assurance fund is established that is not refundable to producers of the animal or animal product;

(d) respecting the establishment and operation of assurance funds;

(e) respecting the amount of levies and timing and method of paying them to an assurance fund mentioned in clause (a) by producers of the animal or animal product;

(f) respecting the administration of each assurance fund mentioned in clause (a), including the investments that may be made using moneys in the assurance fund and the disposition of the income earned from those investments;

(g) respecting the circumstances and manner in which claims on an assurance fund mentioned in clause (a) are to be paid;

(h) respecting the financial solvency of an assurance fund mentioned in clause (a), including:

(i) requiring producers of the animal or animal product to pay a special levy following a payment of a claim out of the assurance fund; and

(ii) respecting the right of the assurance fund to recover the amount of a claim against a person who is the subject of the claim;

(i) respecting the amount of moneys to be paid to a producer from an assurance fund, and the timing and method of payment of those moneys;

(j) respecting the duties and powers of provincial associations;

(k) prescribing the manner in which provincial associations are to conduct their business;

(l) respecting any other matters involving assurance funds that the Lieutenant Governor in Council considers necessary or appropriate.

(2) Subject to subsection (3), the members of any assurance fund committee established pursuant to this section are entitled to any remuneration and reimbursement for expenses that may be approved at an annual general meeting of the provincial association following establishment of the assurance fund.

(3) The remuneration and reimbursement for expenses mentioned in subsection (2) are not to exceed any limits that may be prescribed in the regulations.

(4) An assurance fund established pursuant to this section:

(a) may consist of contributions made by one or more producers or a class of producers, as specified in the regulations;

(b) is to be used solely to repay, in accordance with the regulations, moneys, or a portion of moneys, owed to a producer for the sale of a specified animal or animal product; and

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(c) notwithstanding any other Act or law, is not subject to seizure, garnishment, attachment or claim by any person, including any creditor of a producer or the person administering the assurance fund, except as prescribed in the regulations.

(5) No assurance fund and no assurance fund committee are to be established pursuant to this section with respect to an animal or animal product unless the provincial association representing producers of the animal or animal product has:

- (a) passed a resolution in favour of the establishment of an assurance fund; and
- (b) provided the resolution to the minister.

“Appeals committee

16.3(1) The Lieutenant Governor in Council may make regulations:

- (a) establishing an appeals committee to hear appeals from any person making a claim against an assurance fund established pursuant to section 16.2;
- (b) respecting the number of members who are to sit on the appeals committee;
- (c) respecting the amount of remuneration to be paid to the members of the appeals committee; and
- (d) prescribing the procedure and manner by which appeals are to be conducted pursuant to this Act.

(2) Subject to the regulations, if an appeals committee is established pursuant to subsection (1), the committee may:

- (a) set the period within which an appeal is to be brought;
- (b) set the rules and procedures for the conduct of an appeal, including what documents are to be filed on the appeal;
- (c) make any investigation it considers necessary for the purposes of the appeal;
- (d) require the production of books and records that may relate to the appeal; and
- (e) confirm, vary or stay a decision of an assurance fund committee administering an assurance fund established pursuant to section 16.2.

“Appeal to appeals committee

16.4 Any person who is aggrieved by an act or omission of an assurance fund committee may appeal that act or omission to the appeals committee in the manner prescribed in the regulations or set by the committee.

“Appeal to Court of Queen’s Bench

16.5(1) A person who is directly affected by a decision of the appeals committee may appeal the decision to a judge of the Court of Queen’s Bench on a question of law only.

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- (2) A person who is directly affected by a decision of the appeals committee and who intends to appeal that decision shall file the appeal within 15 business days after the date of service of the decision of the appeals committee.
- (3) A notice of appeal is to be served on:
- (a) the appeals committee; and
 - (b) the other parties to the proceedings before the appeals committee.
- (4) The record of an appeal pursuant to this section is to consist of:
- (a) any written decision of an assurance fund committee respecting the matter that is the subject of the appeal;
 - (b) the written decision of the appeals committee;
 - (c) the notice of appeal commencing the appeal; and
 - (d) any other material that the Court of Queen's Bench may require.
- (5) If an appeal is taken pursuant to this section, a judge of the Court of Queen's Bench may:
- (a) dismiss the appeal;
 - (b) allow the appeal;
 - (c) allow the appeal subject to terms;
 - (d) vary the decision or order of the appeals committee;
 - (e) refer the matter back to the appeals committee for further consideration and decision; or
 - (f) make any other order that the judge considers appropriate”.

Section 18 amended**8 Section 18 is amended:****(a) by adding the following clauses after clause (c):**

“(c.1) for the purposes of clause 2.2(3)(o), prescribing matters to be included in an animal products inspection administration agreement;

“(c.2) for the purposes of subsection 2.2(6), prescribing the procedures for and terms and conditions of terminating an animal products inspection administration agreement”;

(b) by repealing clause (o); and**(c) by adding the following clauses before clause (p):**

“(o.1) for the purposes of subsection 16.2(3), prescribing limits on reimbursement for remuneration and expenses;

“(o.2) for the purposes of section 16.4, respecting the conduct of appeals to the appeals committee”.

Coming into force**9 This Act comes into force on proclamation.**