The Dairy Workers (Maintenance of Operations) Act

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Chapter D-1.1 of the Statutes of Saskatchewan, 1983-84 (effective April 9, 1984) as amended by the Statutes of Saskatchewan, 1983-84, c.54.

NOTE:
The 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 D-1.1

An Act to provide for the Resumption of Operations of Dairy Producers Co-operative Limited and Palm Dairies Limited

Short title

1 This Act may be cited as The Dairy Workers (Maintenance of Operations) Act.

Interpretation

2 In this Act:

(a) “employee” means an employee of the employer who is a member of the union;

(b) “employer” means Dairy Producers Co-operative Limited or Palm Dairies Limited;

(c) “judge” means a judge of Her Majesty’s Court of Queen’s Bench for Saskatchewan;

(d) “last collective bargaining agreement” means the collective bargaining agreement in force between the employer and the union on March 31, 1984;

(e) “union” means:

(i) the Retail, Wholesale, Department Store Union, Locals 496, 544, 635 or 955;

(ii) The United Food and Commercial Workers Union, Locals P-241-1, P-241-2, P-241-3, P-241-4 or P-241-6;

(iii) the Dairy and Produce Workers of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 834; or

(iv) Chauffeurs, Teamsters and Helpers, Local 395 — Dairy Producers Co-op, Fluid Branch, Saskatoon;

(f) “work stoppage” means a strike, lock-out, work slow-down or a refusal or failure to perform the usual duties of employment.

1983-84, c.D-1.1, s.2.

Resumption of employment

3 Immediately upon the coming into force of this Act:

(a) the employees shall resume the duties of their employment with the employer; and

(b) the employer shall permit its employees to resume their employment; in accordance with the terms and conditions of the last collective bargaining agreement.

1983-84, c.D-1.1, s.3.
Notice of invalidity of strike

4 Every person who, at the time this Act comes into force, is authorized on behalf of the union to bargain collectively with the employer shall, immediately upon the coming into force of this Act, give notice to the employees on whose behalf he is authorized to bargain collectively that any declaration, authorization or direction to participate in a work stoppage declared, authorized or given to them is invalid.

1983-84, c.D-1.1, s.4.

Prohibitions

5(1) No person shall in any manner impede or prevent, or attempt to impede or prevent, any employee from complying with section 3.

(2) Neither the employer, nor any person acting on behalf of the employer, shall:

(a) refuse to permit or authorize, or direct or authorize another person to refuse to permit or authorize, any employee to resume the duties of his employment as required by section 3; or

(b) discharge or in any manner discipline, or direct or authorize another person to discharge or in any manner discipline, an employee for the reason that the employee participated in a work stoppage prior to the coming into force of this Act.

1983-84, c.D-1.1, s.5.

Extension of last collective bargaining agreement

6 Notwithstanding any other Act or law or any provision of the last collective bargaining agreement to the contrary, the term of that agreement is extended to include the period commencing on April 1, 1984, and ending on the day on which a new or amended collective bargaining agreement is concluded in accordance with this Act and the terms and conditions of the last collective bargaining agreement remain in effect between the employer and the union for that period.

1983-84, c.D-1.1, s.6.

Work stoppages prohibited

7 During the period for which the last collective bargaining agreement is extended in accordance with section 6:

(a) the employer shall not declare or cause a work stoppage;

(b) no officer or representative of the union shall declare, authorize or direct a work stoppage of any employee against the employer; and

(c) no employee shall participate in a work stoppage against the employer.

1983-84, c.D-1.1, s.7.

Arbitration required

8 Where, 15 days after the coming into force of this Act, a new or amended collective bargaining agreement has not been concluded between the employer and the union, the employer and the union shall submit to final and binding arbitration in accordance with this Act.

1983-84, c.D-1.1, s.8.
Appointment of arbitrator
9(1) Where the employer and the union are required to submit to arbitration pursuant to section 8, His Honour Judge Robert Harvie Allan of the Provincial Court of Saskatchewan is appointed as arbitrator and shall examine into and decide:

(a) the matters for decision submitted to him in accordance with subsection 10(1); and

(b) any other matters that appear to him to be necessary to be decided in order to render a decision.

(2) In the event that the person appointed pursuant to subsection (1) is for any reason unable to act as arbitrator, the Lieutenant Governor in Council may appoint another person to act as arbitrator pursuant to this Act in his place.

(3) The minister to whom for the time being the administration of this Act is assigned shall pay to the arbitrator any remuneration for his services and allowances for travelling and other expenses incurred by him for the purposes of the arbitration in the amount that may be specified by the Lieutenant Governor in Council.

1983-84, c.D-1.1, s.9.

Arbitration procedure
10(1) Within five days after the appointment of the arbitrator pursuant to section 9, the employer and the union shall each submit to the arbitrator a notice in writing setting forth the matters to be examined into and decided by the arbitrator.

(2) The arbitrator shall give full opportunity to the employer and the union to present evidence, to make submissions and to be represented by counsel.

(3) The arbitrator may, in his discretion, give dairy producers an opportunity to present evidence, make submissions and be represented by counsel.

(4) The arbitrator may, in his discretion, accept evidence of, or give consideration to:

(a) submissions respecting any proposal made by the employer or the union to the other in bargaining collectively prior to the coming into force of this Act;

(b) the “Province of Saskatchewan Guidelines for Public Sector Wage Increases – Year Two” issued by the Minister of Finance in September 1983;

(c) other collective bargaining agreements entered into in the dairy industry in Canada.

(5) For the purposes of the arbitration, the arbitrator has all the powers of commissioners pursuant to The Public Inquiries Act.

(6) Where the employer and the union have settled all matters set out in the notices received by the arbitrator pursuant to subsection (1) and have entered into a new or amended collective bargaining agreement, the arbitrator, on being so notified in writing by both the employer and the union, shall discontinue the arbitration and shall notify the Minister of Agriculture of the agreement, and the arbitration is thereupon terminated.
(7) Where the employer and the union agree upon some of the matters set out in the notices received by the arbitrator pursuant to subsection (1) and the arbitrator is notified in writing by both the employer and the union of the matters agreed upon, the arbitrator shall confine his decision to:

(a) the matters set out in the notices that are not agreed upon; and

(b) any other matters that appear to him to be necessary to be decided in order to render a decision.

(8) The arbitrator shall, in respect of the matters set out in the notices received by him pursuant to subsection (1) upon which the employer and the union have not agreed, render his decision in writing within one month after the hearing of the arbitration, or within any further period that the Lieutenant Governor in Council may specify.

(9) The decision of the arbitrator in respect of any matter in dispute between the employer and the union may be made retroactive, in whole or in part, to April 1, 1984.

(10) When the arbitrator has rendered his decision, he shall provide the Minister of Agriculture, the employer and the union with a copy of his decision.

(11) The employer and the union shall each bear its own costs of the arbitration.

(12) *The Arbitration Act* does not apply to an arbitration pursuant to this Act.

1983-84, c.D-1.1, s.10.

Collective bargaining agreement to be concluded after arbitration

11 When the arbitrator has rendered his decision pursuant to section 10, the employer and the union shall immediately conclude a new or amended collective bargaining agreement incorporating any terms and conditions that may be necessary to give full effect to the decision.

1983-84, c.D-1.1, s.11.

Offences and penalties

12(1) Every person who contravenes this Act is guilty of an offence and liable on summary conviction:

(a) in the case of an offence committed by the employer or the union or by a person acting on behalf of the employer or the union, to a fine of not more than $1,000 and, in the case of a continuing offence, to a further fine of $200 for each day or part of a day during which the offence continues;

(b) in the case of an offence committed by any person other than one described in clause (a), to a fine of not more than $100 and, in the case of a continuing offence, to a further fine of $25 for each day or part of a day during which the offence continues.
(2) In the case of default of payment of a fine imposed on a person pursuant to this section, the convicting provincial court judge shall, upon request of the Attorney General, furnish him with a certified copy of the order of conviction and fine imposed and, upon its filing in the office of the local registrar of the Court of Queen’s Bench, it is enforceable as a judgment of that court.

(3) Where, on the application of the employer, a judge is satisfied that an employee has failed to comply with section 3, the judge may make an order requiring the employee to resume his employment with the employer as required by that section.

(4) Where, on the application of the union or an employee who has attempted to comply with section 3, a judge is satisfied that the employer has failed to comply with section 3, the judge may make an order requiring the employer to permit the employee to resume his employment as required by that section.

1983-84, c.D-1.1, s.12.

Coming into force

13 This Act comes into force on the day of assent and remains in force until the day on which:

(a) the arbitration is terminated pursuant to subsection 10(6); or

(b) a new or amended collective bargaining agreement is concluded.

1983-84, c.D-1.1, s.13; 1983-84, c.54, s.5.