

The Milk Control Act

being

Chapter 201 of *The Revised Statutes of Saskatchewan, 1940*
(effective February 1, 1941).

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 201

An Act respecting the Production, Supply, Distribution and Sale of Milk

Short title

- 1 This Act may be cited as *The Milk Control Act*.

1934-35, c.58, s.1; R.S.S. 1940, c.201, s.1.

Interpretation

- 2 In this Act, unless the context otherwise requires, the expression:

“Distribute” and “distribution”

1. “**Distribute**” means the act of delivering, handling, and keeping for sale or selling milk, but does not include the delivering, handling, keeping for sale or selling of milk by a producer where the milk is supplied to a licensed distributor or by a person operating a restaurant, store or other place of business designated by the regulations or orders of the board where the milk has been supplied to such person by a licensed distributor; and the expression “distribution” shall have a corresponding meaning;

“Milk”

2. “**Milk**” includes whole milk and such products of milk as are supplied, processed, distributed or sold in fluid form.

1939, c.74, s.2; R.S.S. 1940, c.201, s.2.

ORGANIZATION OF BOARD

Constitution

- 3(1) There shall be a board to be styled “The Milk Control Board”, in this Act referred to as the board, to be composed of one or more members, as may be determined from time to time by the Lieutenant Governor in Council. The member or members of the board shall be appointed by and shall hold office during the pleasure of the Lieutenant Governor in Council, who shall designate one of the members of the board to be chairman, and if there is only one member he shall be chairman for the purposes of this Act.

- (2) In case of the absence of any member of the board or his inability to act or in case of a vacancy in the office, the remaining members or member shall exercise the powers of the board.

- (3) In the absence of the chairman all orders, rules, regulations and other documents may be signed by any one member and when so signed shall have the like effect as if signed by the chairman. Whenever it appears that a member other than the chairman has acted for and in place of the chairman it shall be conclusively presumed that he has so acted in the absence or disability of the chairman.

- (4) If there is only one member of the board, the Lieutenant Governor in Council may appoint some person to take the place of that member when absent for any cause; and the person so appointed shall, while acting, be clothed with all the powers, exercise all the functions and perform all the duties of the board and subsection (3) shall apply to him accordingly.

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

(6) The chairman shall devote his whole time to the performance of his duties under this Act and shall not accept any office or employment inconsistent with this section and, for the purpose of *The Public Service Superannuation Act*, shall be deemed to be a permanent employee in the public service.

(7) The other member or members, if any, shall devote such time to the work of the board as may be required of them by the chairman and shall receive such remuneration as may be determined by the Lieutenant Governor in Council.

1934-35, c.58, s.3; 1936, c.80, s.2; R.S.S. 1940, c.201, s.3.

Where member interested

4 If a member is interested in a matter before the board, the Lieutenant Governor in Council may, upon the application of such member or otherwise, appoint some disinterested person to act as a member *pro hac vice*, and the Lieutenant Governor in Council may also appoint a person to act during the sickness, absence or disability of a member.

1934-35, c.58, s.4; R.S.S. 1940, c.201, s.4.

Staff

5 The Public Service Commission may, upon the recommendation of the board, appoint such inspectors and other employees as the board may from time to time deem necessary for carrying out the provisions of this Act.

1934-35, c.58, s.5; R.S.S. 1940, c.201, s.5.

Body corporate

6 The board shall be a body corporate with perpetual succession and a common seal of such design as may be provided by the Lieutenant Governor in Council, and such seal shall be judicially noticed.

1934-35, c.58, s.6; R.S.S. 1940, c.201, s.6.

POWERS OF BOARD

Jurisdiction of board and power to make regulations

7(1) The board may, upon its own initiative or upon complaint in writing, inquire into any matter relating to the production, supply, distribution or sale of milk and may make such regulations or orders in connection therewith as it deems necessary or advisable.

(2) Without derogating from the generality of the foregoing the board may, by regulation or order:

(a) prescribe the area or areas, whether bounded municipally or otherwise, in which such regulations or orders shall have effect;

(b) require all persons who distribute, process, keep for sale or sell milk in any prescribed area to be authorized by the board so to do, and fix the terms and conditions upon and the period for which such authorization may be obtained;

(c) prescribe the terms and conditions upon which milk may be received, handled, stored, delivered, processed, kept for sale or sold in any such area;

(d) classify milk producers and distributors or other persons keeping milk for sale or selling milk;

(e) notwithstanding anything herein contained, approve or establish from time to time temporary schedules of prices at which milk shall be supplied by the respective classes having regard primarily to the interests of the public, including consumers and those engaged in the production or distribution of milk, and to the continuity and quality of supply; and in so proceeding the board shall not be bound by any rule of law or public utility practice to see that any rate of return is provided on any plant, equipment or investment;

(f) require persons who distribute, process, keep for sale or sell milk in any prescribed area to keep such books, records and accounts as will afford an intelligent understanding of the conduct of their business;

(g) require persons who distribute, process, keep for sale or sell milk in any prescribed area to furnish periodically and at such other times as the board shall require, a detailed report of finances and operations in such form and containing such information and verified in such manner as the board may from time to time prescribe;

(h) assess upon and collect from milk producers and persons who distribute, process, keep for sale or sell milk, or any of them, in any prescribed area, such sums as may be deemed necessary to be expended or have been expended in carrying out the provisions of this Act. Every such assessment shall rank in the same manner as a debt due to the Crown;

(i) supervise the production, processing, distribution, keeping for sale and sale of milk within the areas prescribed under the provisions of this Act; provide for the licensing, if deemed expedient, of persons belonging to any of the respective classes referred to herein; and fix the licence fees and provide for the collection thereof. A licence issued to a distributor may limit the number of vehicles to be used by the licensee in the distribution of milk to consumers.

(3) All regulations and orders made under the authority of this section shall have the same force and effect as if incorporated herein.

Power to adopt regulations and orders

8(1) The board may adopt and from time to time amend any regulations or orders made by the Local Government Board under the authority of Part III of *The Local Government Board Act* as the same was in force before the first day of April, 1935.

(2) All regulations and orders adopted under subsection (1) and any amendments thereto made by the board shall have the same force and effect as if incorporated herein.

(3) A copy of any regulation or order adopted by the board under subsection (1), or of any amendment made by the board to regulations or orders so adopted, purporting to be certified by the chairman or any member of the board and to be sealed with the seal of the board, shall be *prima facie* evidence of such regulation or order or amendment and of the adoption of such regulation or order, without proof of the signature of the chairman or any member of the board.

1936, c.80, s.3; 1939, c.74, s.4; R.S.S. 1940, c.201, s.8.

Sittings

9 The board shall sit at such times and places and conduct its proceedings in such manner as may seem to it most convenient for the speedy dispatch of business.

1934-35, c.58, s.9; R.S.S. 1940, c.201, s.9.

Use of court house

10(1) Where sittings of the board, or of any member thereof, are appointed to be held in a city, town or place in which a court house is situated, the member presiding at any such sittings shall have, in all respects, the same authority as a judge of the Court of King's Bench with regard to the use of the court house and other buildings or apartments set apart in the judicial district for the administration of justice; but subject to the prior right of the court and of judicial and administrative officers to use such buildings and apartments for the purposes of the administration of justice.

(2) Where sittings are appointed to be held in a municipality where there is a hall belonging to the corporation, the corporation shall, upon request, allow such sittings to be held in such hall.

1934-35, c.58, s.10; R.S.S. 1940, c.201, s.10.

Protection of witnesses

11(1) No person shall be excused from testifying or from producing any book, record, document or paper in any investigation or inquiry by or upon a hearing before the board when ordered so to do by the board, upon the ground that the testimony or evidence, book, record, document or paper required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall, under oath, have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for perjury committed by him in his testimony.

(2) Nothing in this section shall be construed as giving to a corporation immunity of any kind.

(3) No member or employee of the board shall be required to give testimony in any civil suit to which the board is not a party, with regard to information obtained by him in the discharge of his official duty.

1934-35, c.58, s.11; R.S.S. 1940, c.201, s.11.

Receivers, etc., subject to board

12 The fact that a receiver, manager or other official has been appointed by a court in the province in connection with the business or property of any person or company, or is managing or operating such business or property under the authority of a court, shall not prevent the exercise by the board of any jurisdiction conferred by this Act; but every such receiver, manager or official shall be bound by the regulations and orders of the board whether general or referring particularly to him; and every such receiver, manager or official, and every person acting under him, shall obey all regulations and orders of the board within its jurisdiction affecting him and be subject to have them enforced against him by the board, notwithstanding that such receiver, manager or official is appointed by or acts under the authority of the court.

1934-35, c.58, s.12; R.S.S. 1940, c.201, s.12.

Enforcement of orders

13(1) The observance of the orders of the board may be enforced by a written direction to the sheriff of any judicial district indorsed upon or annexed to a certified copy of any such order and signed by the chairman of the board; and, in the case of an order for payment of any money, costs, expenses including assessment made under clause (h) of subsection (2) of section 7, or penalty, the sheriff receiving such direction shall levy the amount with his costs and expenses in like manner and with the same powers as if the order were a writ of execution against the goods of the party to pay issued out of the Court of King's Bench.

(2) In the case of an order of the board for payment of any money, costs, expenses, including assessment made under clause (h) of subsection (2) of section 7 or penalty, a certificate of the order, signed by the chairman, may be registered in the land titles office of any land registration district in the province, and when so registered shall constitute a lien and charge upon any lands or interest therein of the party or person or company ordered to pay the money in the land registration district in which such office is situated, to the same extent and in the same manner as such lands would be bound by the registration of a writ of execution issued out of the Court of King's Bench. The amount ordered to be paid by such order so registered may be realized in the same manner and by similar proceedings as in the case of a writ of execution issued out of the Court of King's Bench.

(3) Sheriffs, deputy sheriffs, bailiffs, constables and other peace officers, whenever required so to do, shall aid, assist and obey the board in the exercise of the jurisdiction conferred by this Act.

1934-35, c.58, s.13; 1939, c.74, s.5; R.S.S. 1940, c.201, s.13.

Hearings by single member

14(1) Any application, petition, matter or complaint over which the board has jurisdiction under this or any other Act may be heard by a single member of the board who, after such hearing, shall report thereon fully to the board, and the board may thereupon deal with the application, petition, matter or complaint as if such hearing had been before the full board.

(2) If such single member is the chairman of the board and the application, petition, matter or complaint is one respecting which notice is not required to be given, or being required has been duly given and the application, petition, matter or complaint is unopposed, he shall have and may exercise any of the powers of the board relating thereto, or he may hear the same and report thereon to the board, which shall deal with the report as if the hearing had been before the full board.

(3) The board shall not be limited to the contents of any such report, but may require and hear further evidence.

1934-35, c.58, s.14; R.S.S. 1940, c.201, s.14.

Service of documents

15(1) Any document purporting to be certified by the chairman and a member of the board, or by either of them, shall without proof of signature be *prima facie* evidence of such original document and that such document was duly signed and shall be sufficient notice to a company and all parties interested if served by delivering the same:

(a) in the case of any company or corporation or receiver for any company or corporation, to the president, vice-president, manager or secretary, or to some adult person in its employ;

(b) in the case of a co-partnership, to any member thereof or, at the last known place of abode of such member, to any member of his household or, at the office or place of business of the firm, to a clerk employed therein; and

(c) in the case of an individual, to him or, at his last known place of abode, to any adult member of his household or, at his office or place of business, to a clerk in his employ.

(2) If it is made to appear to the satisfaction of the board that service of any such notice cannot conveniently be made in the manner herein provided, the board may order and allow service to be made by publication in *The Saskatchewan Gazette* or, if thought desirable, in a newspaper, and such publication shall be deemed to be equivalent to service in the manner provided for herein.

1934-35, c.58, s.15; R.S.S. 1940, c.201, s.15.

Notice of application in contentious matters

16 In contentious matters, the board may require such notice of an application to or hearing by the board to be given as it deems requisite.

1934-35, c.58, s.16; R.S.S. 1940, c.201, s.16.

General rules

17 The board may make general rules regulating practice and procedure.

1934-35, c.58, s.17; R.S.S. 1940, c.201, s.17.

ORDERS OF THE BOARD

Orders may be conditional

18(1) The board may direct in any order that the same, or any portion or provision thereof, shall come into force at a future fixed time, or upon the happening of any contingency, event or condition in such order specified, or upon the performance, to the satisfaction of the board or person named by it for the purpose, of such terms as the board may impose upon any party interested; and the board may direct that the whole or any portion of such order shall have force for a limited time or until the happening of any specified event.

(2) The board may, instead of making an order final in the first instance, make an interim order and reserve further direction, either for an adjourned hearing of the matter or for further application.

1934-35, c.58, s.18; R.S.S. 1940, c.201, s.18.

Extent of relief

19 Upon any application to the board, the board may make an order granting the whole or part only of such application, or may grant such further or other relief in addition to, or in substitution for, that applied for as to the board seems just and proper, as fully and in all respects as if application had been for such partial, further or other relief.

1934-35, c.58, s.19; R.S.S. 1940, c.201, s.19.

Interim *ex parte* order

20 The board may, if the special circumstances of any case, in its opinion, so require, make an interim *ex parte* order authorizing, requiring or forbidding anything to be done which the board would be empowered on application, petition, notice and hearing to authorize, require or forbid, but no such order shall be made for a longer time than the board deems necessary to enable the matter to be heard and determined.

1934-35, c.58, s.20; R.S.S. 1940, c.201, s.20.

Extension of time

21 When any work, act, matter or thing is, by any regulation, order or decision of the board, required to be done, performed or completed within a specified time, the board may, if the circumstances of the case in its opinion so require, upon giving such notice as it deems reasonable, or in its discretion without notice, extend the time so specified.

1934-35, c.58, s.21; R.S.S. 1940, c.201, s.21.

Rehearing

22 The board may rehear an application before deciding it, or may review, rescind, or vary any decision or order made by it.

1934-35, c.58, s.22; R.S.S. 1940, c.201, s.22.

Jurisdiction need not beshown

23 An order of the board need not show upon its face that any proceeding or notice was had or taken or that any circumstance existed, necessary to give it jurisdiction to make such order.

1934-35, c.58, s.23; R.S.S. 1940, c.201, s.23.

Inquiry by appointee

24 The board may appoint or direct any person to make an inquiry or report on any matter over which the board has jurisdiction. The board may by order, after due hearing, assess the costs of and occasioned by such inquiry or report against such person or persons as the board deems responsible for the circumstances necessitating the making of the inquiry or report.

1934-35, c.58, s.24; 1939, c.74, s.6; R.S.S. 1940, c.201, s.24.

Powers of inspection and examination

25 The board, or any person authorized by the board to make an inquiry or report, may:

- (a) enter upon and inspect any place, building, plant or property other than a dwelling house;
- (b) require the attendance of all such persons as it or he thinks fit to summon and examine and require answers or returns to such inquiries as it or he thinks fit to make;
- (c) require the production of books, records, papers and other documents;
- (d) administer oaths, affirmations or declarations;

and shall have the like power to summon witnesses, enforce their attendance and compel them to give evidence and produce the books, records, papers and other documents, which it or he may require them to produce, as is vested in the Court of King's Bench.

1934-35, c.58, s.25; 1939, c.74, s.7; R.S.S. 1940, c.201, s.25.

Powers of inspectors

26 An officer or inspector appointed under this Act may:

- (a) enter and inspect any place, building, plant or property other than a dwelling house;
- (b) stop and search any vehicle and inspect any package or container if, in his opinion, such vehicle, package or container is being used for the purpose of distributing milk;
- (c) require answers or returns to such inquiries as he thinks fit to make;
- (d) require the production of books, records, papers and other documents;
- (e) seize all or any portion of any milk found to be in the possession of any person when, in his opinion, such milk is being distributed, and may dispose of it in such manner as the board may direct;
- (f) take such quantities of any lot of milk as may be reasonably required for the purpose of ascertaining the composition of the same.

1939, c.74, s.8; R.S.S. 1940, c.201, s.26.

Obstructing officials

27 Any person who refuses admission to or obstructs an officer or inspector in the performance of his duty shall be guilty of an offence and liable on summary conviction to a fine of not less than \$10 nor more than \$100 and, in default of payment, to imprisonment for a period not exceeding thirty days.

1939, c.74, s.8; R.S.S. 1940, c.201, s.27.

Licence required

28 No person who is required to be licensed under the authority of this Act shall keep for sale or sell milk or engage in the production, processing or distribution thereof without a licence.

1934-35, c.58, s.26; R.S.S. 1940, c.201, s.28.

Restriction on grant of licence

29 No licence shall be issued to any person unless the board is satisfied that the applicant is qualified by experience, financial responsibility and equipment to conduct the business in a proper manner and that the issue of such licence is in the public interest.

1939, c.74, s.9; R.S.S. 1940, c.201, s.29.

Refusal, suspension and cancellation of licences

30 The board may refuse to issue or renew a licence or may suspend or cancel a licence issued by it if, after due notice and opportunity of a hearing to the applicant or holder of a licence, the board is satisfied that such applicant or holder has failed to observe, perform and carry out the provisions of this Act or any regulations or orders made thereunder or to provide for and continue in effect proof of financial responsibility.

1939, c.74, s.9; R.S.S. 1940, c.201, s.30.

Compliance with Act

31 No person shall keep for sale or sell milk or engage in the production, processing or distribution thereof except as provided by and in accordance with this Act and the regulations and orders of the board made thereunder.

1934-35, c.58, s.27; R.S.S. 1940, c.201, s.31.

Appeal to Court of Appeal

32(1) An appeal shall be from the board to the Court of Appeal upon a question of jurisdiction, but such appeal shall not lie unless leave to appeal is obtained from a judge of the Court of King's Bench sitting in chambers within one month after the making of the order or decision sought to be appealed from or within such further time as the judge, under the special circumstances of the case, shall allow, after notice to the opposite party stating the grounds of appeal.

(2) Upon such leave being obtained, the registrar shall set the appeal down for hearing at the next sittings; and the party appealing shall, within ten days, give the parties affected by the appeal, or the solicitors, if any, by whom such parties were represented before the board, notice in writing that the case has been so set down and the appeal shall be heard by the court as speedily as practicable.

(3) On the hearing of the appeal the court may draw all such inferences as are not inconsistent with the facts expressly found by the board and are necessary for determining the question of jurisdiction, and shall certify its opinion to the board and the board shall make an order in accordance with such opinion.

(4) The board shall be entitled to be heard by counsel or otherwise, upon the argument of any such appeal.

(5) The Court of Appeal shall have power to fix the costs and fees to be taxed, allowed and paid upon such appeal and to make rules of practice respecting appeals under this section, and until such rules are made the rules and practice applicable to appeals from a judge of the Court of King's Bench to the Court of Appeal shall be applicable to appeals under this Act.

(6) Neither the board nor any member of the board shall in any case be liable to costs by reason or in respect of an appeal or application.

(7) Every decision or order of the board shall be final and, except as hereinbefore especially provided, no regulation, order, decision or proceeding of the board shall be questioned or reviewed, restrained or removed by prohibition, injunction, certiorari, or other process or proceeding in any court.

MISCELLANEOUS

Evidence of documents

33(1) Every document purporting to be signed by the chairman of the board and by any member, or either of them, or by a person authorized by the board, shall, without proof of the signature, be *prima facie* evidence that such document was duly signed, and shall be sufficient notice to a company and all parties interested, if served in the manner provided by section 15 for service of notice, that such document was duly signed and issued by the board or person authorized by the board, as the case may be.

(2) If such document purports to be a copy of any regulation, order, direction, decision or report, made or given by the board, or person authorized by the board, it shall be *prima facie* evidence of such regulation, order, direction, decision or report and, when served in the manner provided by section 15, shall be sufficient notice of such regulation, order, direction, decision or report from the time of such service.

(3) A copy of any regulation, order or other document in the custody of the chairman or any member of the board or of record with the board, purporting to be certified by the chairman or any member of the board to be a true copy, and purporting to be sealed with the seal of the board, shall be *prima facie* evidence of such regulation, order or document, without proof of the signature of the chairman or any member of the board.

1934-35, c.58, s.29; R.S.S. 1940, c.201, s.33.

Certificate of analyst

34 In any prosecution under this Act, the certificate of analysis furnished by the Provincial Analyst or an assistant Provincial Analyst or any other person engaged by the board for the purpose shall be accepted as *prima facie* evidence of the facts stated therein and of the authority of the person giving or issuing the certificate without further proof of appointment or signature.

1939, c.74, s.10; R.S.S. 1940, c.201, s.34.

Penalties

35(1) Every person who violates any of the provisions of this Act or any regulation or order of the board made under section 7 or any regulation or order adopted by the board under subsection (1) of section 8 or so adopted and amended by the board, shall be guilty of an offence and liable on summary conviction, in the case of a first offence, to a fine of not less than \$5 nor more than \$50 and in default of payment to imprisonment for a period not exceeding thirty days; and, in the case of a subsequent offence, to a fine of not less than \$10 nor more than \$100 and in default of payment to imprisonment for a period not exceeding two months.

(2) In case of a continuing offence the offender shall from time to time be liable on summary conviction to a fine of not less than \$5 nor more than \$25 for each day during which the offence continues or to imprisonment for not less than one month or to both fine and imprisonment.

1939, c.74, s.11; R.S.S. 1940, c.201, s.35.

Regulations

36 For the purpose of carrying out the provisions of this Act according to their true intent and of supplying any deficiency therein the board may make regulations not inconsistent with the spirit of this Act which shall have the same force and effect as if incorporated herein.

1934-35, c.58, s.31; R.S.S. 1940, c.201, s.36.

Advance for expenses

37 The Lieutenant Governor in Council may authorize the Provincial Treasurer to lend from time to time to the board, upon such terms and conditions as may be deemed advisable, such sums as are necessary for the purpose of carrying out the provisions of this Act. The moneys advanced shall be a first charge on revenues of the board under this Act.

1934-35, c.58, s.32; R.S.S. 1940, c.201, s.37.

Annual report

38(1) The board shall make an annual report in writing to the President of the Executive Council not later than the thirty-first day of January in each year showing a record of meetings, a statement of revenues and expenditures and an abstract of proceedings during the preceding calendar year and containing such other matter as the board considers to be in the public interest or which the Lieutenant Governor in Council may direct.

(2) The report shall be laid before the Legislative Assembly during the first fifteen days of the then next ensuing session or within fifteen days of its receipt if the Legislature is then sitting.

1934-35, c.58, s.33; R.S.S. 1940, c.201, s.38.

Receipts and expenditures

39 All moneys received and expended by the board shall be accounted for in accordance with regulations made or to be made by the Treasury Board.

1934-35, c.58, s.34; R.S.S. 1940, c.201, s.39.

Audit

40 The Provincial Auditor shall audit all accounts of the board.

1934-35, c.58, s.35; R.S.S. 1940, c.201, s.40.