

2009 Bill 5

Second Session, 27th Legislature, 58 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 5

MARKETING OF AGRICULTURAL PRODUCTS AMENDMENT ACT, 2009

MR. GRIFFITHS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 5
Mr. Griffiths

BILL 5

2009

MARKETING OF AGRICULTURAL PRODUCTS AMENDMENT ACT, 2009

(Assented to , 2009)

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

Amends RSA 2000 cM-4

1 The *Marketing of Agricultural Products Act* is amended by
this Act.

2 Section 3(4) is amended by striking out “3” and substituting
“2”.

3 Section 12(g) is amended by striking out “services it renders
to” and substituting “any service or function it performs under
this Act for”.

4 Section 15 is repealed and the following is substituted:

Explanatory Notes

1 Amends chapter M-4 of the Revised Statutes of Alberta 2000.

2 Section 3(4) presently reads:

(4) A member of the Council may be reappointed for one additional term of office but is then not eligible to be appointed again as a member of Council until 3 years have expired from the time that the member's last appointment to the Council has terminated.

3 Section 12 presently reads in part:

12 The Lieutenant Governor in Council may make regulations

(g) authorizing the Council to levy assessments and charge fees in respect of services it renders to any person, board or commission;

4 Section 15 presently reads:

15(1) A group of producers may submit to the Council a proposed plan for the establishment

Submission of a proposed plan

15(1) A group of producers may submit to the Council a proposed plan to establish a plan to be administered by a board or commission to do one or more of the following:

- (a) if the plan is to be administered by a board, to control and regulate the marketing or production, or both, of an agricultural product;
- (b) to initiate and carry out projects or programs to commence, stimulate, increase or improve the production or marketing, or both, of an agricultural product.

(2) A proposed plan shall identify the following terms under which the plan is intended to operate:

- (a) if the plan is to be administered by a board,
 - (i) whether the plan will permit the board to control and regulate the marketing or production, or both, of the agricultural product,
 - (ii) the methods, if any, by which the production or marketing, as the case may be, of the agricultural product will be owned, controlled or regulated, and
 - (iii) the regulation-making powers the board might exercise pursuant to an authorization under sections 26 and 27;
- (b) if the plan is to be administered by a commission,
 - (i) the regulation-making powers that the commission might exercise pursuant to an authorization under section 26, and
 - (ii) the circumstances, if any, under which a service charge may be refunded to a producer;
- (c) the agricultural product to which the plan will apply and any class, variety, size, grade or kind of the agricultural product that is exempt from the plan,

- (a) *of a plan that will be administered by a board*
 - (i) *for the control and regulation of the marketing but not the production of an agricultural product, and*
 - (ii) *to initiate and carry out projects or programs to commence, stimulate, increase or improve the production or marketing, or both, of an agricultural product,*
- (b) *of a plan that will be administered by a board*
 - (i) *for the control and regulation of the production and marketing of an agricultural product, and*
 - (ii) *to initiate and carry out projects or programs to commence, stimulate, increase or improve the production or marketing, or both, of an agricultural product,*
- (c) *of a plan that will be administered by a commission*
 - (i) *to initiate and carry out projects or programs to commence, stimulate, increase or improve the production or marketing, or both, of an agricultural product but that will not permit the control or regulation of the production or marketing of that agricultural product, and*
 - (ii) *under which any service charge collected will not be refundable on the request of a producer,*

or

- (d) *of a plan that will be administered by a commission*
 - (i) *to initiate and carry out projects or programs to commence, stimulate, increase or improve the production or marketing, or both, of an agricultural product but that will not permit the control or regulation of the production or marketing of that agricultural product, and*
 - (ii) *under which any service charge collected will be refundable on the request of a producer.*

(2) *A proposed plan shall set out at least the following terms under which the proposed plan is intended to operate:*

- (a) *the agricultural product that is to be the subject of the plan;*

- (d) whether the plan will terminate at the conclusion of a specific period of time and, if so, the method, if any, for winding up the plan,
- (e) the projects or programs, if any, that will be carried out for the purpose of commencing, stimulating, increasing or improving the production or marketing, or both, of the agricultural product,
- (f) whether the plan will apply to all of Alberta and, if not, those parts of Alberta to which the plan will apply,
- (g) any persons that will be exempted from the plan,
- (h) the methods by which the operation of the plan will be financed,
- (i) whether the board or commission intends to establish a fund under section 34 or 35 and, if so, the methods by which the fund will be financed,
- (j) the composition of the board or commission,
- (k) the manner in which members of the board or commission will be elected, and
- (l) the method by which an election of the members of a board or commission may be reviewed.

- (b) *whether the plan is to terminate at the conclusion of a specific period of time and, if so, the method, if any, as to how the plan will be wound up;*
- (c) *in the case of a plan that is to be administered by a board,*
 - (i) *whether the plan is to permit*
 - (A) *the control and regulation of only the marketing of the agricultural product, or*
 - (B) *the control and regulation of the production and marketing of the agricultural product;*
 - (ii) *the methods, if any, by which the production or marketing, as the case may be, of the agricultural product is to be owned, controlled or regulated;*
 - (iii) *the projects or programs, if any, that are to be carried out for the purpose of commencing, stimulating, increasing or improving the production or marketing, or both, of the agricultural product;*
 - (iv) *whether the plan is to apply to all of Alberta or only certain parts of Alberta;*
 - (v) *if the plan is to apply only to parts of Alberta, those parts of Alberta to which the plan will apply;*
 - (vi) *any class, variety, size, grade or kind of the agricultural product that is to be exempted from the plan;*
 - (vii) *the persons, if any, that are to be exempted from the plan;*
 - (viii) *the regulation-making powers that the board wishes to be authorized to exercise under sections 26 and 27;*
 - (ix) *the methods by which the operation of the plan is to be financed;*
 - (x) *whether the board intends to establish a fund under section 34 or 35;*
 - (xi) *if a fund is to be established under section 34 or 35, the methods by which the fund is to be financed;*
 - (xii) *the composition of the board;*

- (xiii) *the method of electing members to the board;*
- (xiv) *the method for reviewing the conduct of elections of members to the board;*
- (d) *in the case of a plan that is to be administered by a commission,*
 - (i) *the projects or programs, if any, that are to be carried out for the purpose of commencing, stimulating, increasing or improving the production or marketing, or both, of the agricultural product;*
 - (ii) *whether the plan is to apply to all of Alberta or only certain parts of Alberta;*
 - (iii) *if the plan is to apply only to parts of Alberta, those parts of Alberta to which the plan will apply;*
 - (iv) *any class, variety, size, grade or kind of the agricultural product that is to be exempted from the plan;*
 - (v) *the persons, if any, that are to be exempted from the plan;*
 - (vi) *the regulation-making powers that the commission wishes to be authorized to exercise under section 26;*
 - (vii) *the methods by which the operation of the plan is to be financed;*
 - (viii) *whether the service charge will be refundable on the request of a producer;*
 - (ix) *whether the commission intends to establish a fund under section 34 or 35;*
 - (x) *if a fund is to be established under section 34 or 35, the methods by which the fund is to be financed;*
 - (xi) *the composition of the commission;*
 - (xii) *the method of electing members to the commission;*
 - (xiii) *the method for reviewing the conduct of elections of members to the commission.*

5 Section 16(2) is repealed and the following is substituted:

(2) The Lieutenant Governor in Council may exempt a proposed plan from the operation of subsection (1) if

- (a) the plan is to be administered by a commission, and
- (b) the service charges collected under that plan may be refunded.

6 Sections 17 and 18 are repealed and the following is substituted:

Establishing plan

17(1) When a vote is in favour of establishing a plan under section 15 or a plan is exempted from a vote under section 16(2), the Lieutenant Governor in Council may make regulations

- (a) establishing a plan setting out provisions that provide for
 - (i) in the case of a plan to be administered by a board, the control and regulation of the marketing or the production, or both, of an agricultural product,
 - (ii) the carrying out of projects or programs to commence, stimulate, increase or improve the production or marketing, or both, of an agricultural product,
 - (iii) the number of members the board or commission is to consist of and the name of office by which those members are to be known,
 - (iv) the manner in which members are to be elected to the board or commission,
 - (v) the method by which vacancies on the board or commission are to be filled, and
 - (vi) the other terms referred to in section 15(2) under which the plan is to operate,

and

5 Section 16(2) presently reads:

(2) Notwithstanding subsection (1), the Lieutenant Governor in Council may exempt a proposed plan referred to in section 15(1)(d) from the requirement of being submitted to a plebiscite.

6 Sections 17 and 18 presently read:

17(1) Where a vote is in favour of the establishment of a plan referred to in section 15(1)(a) or (b), the Lieutenant Governor in Council may make regulations

- (a) establishing a plan setting out provisions providing for*
 - (i) the control and regulation of the marketing or production and marketing of an agricultural product,*
 - (ii) the carrying out of projects or programs to commence, stimulate, increase or improve the production or marketing, or both, of an agricultural product,*
 - (iii) the number of persons to be elected as members of the board and the name of office by which those persons shall be known,*
 - (iv) the method or methods by which the members of the board shall be elected,*
 - (v) the method by which vacancies on the board are to be filled, and*
 - (vi) the other terms referred to in section 15 under which the plan shall operate,*
- and*
- (b) establishing a board to administer and operate a plan referred to in clause (a).*

(2) A board established under a plan is a corporation.

(b) establishing or continuing a board or commission to administer the plan.

(2) A board or commission established under subsection (1)(b) is a corporation.

(3) Every member of a board or commission must be a producer.

(3) Every member of a board shall be a producer or a representative of a producer if the producer is a corporation.

18(1) Where

- (a) a vote is in favour of the establishment of a plan referred to in section 15(1)(c) or (d), or*
- (b) a plan referred to in section 15(1)(d) is exempted from the requirement of being submitted to a plebiscite,*

the Lieutenant Governor in Council may make regulations as provided in subsection (2).

(2) Where subsection (1) applies, the Lieutenant Governor in Council may make regulations

- (a) establishing a plan setting out provisions providing for*
 - (i) initiating and carrying out projects or programs to commence, stimulate, increase or improve the production or marketing, or both, of an agricultural product,*
 - (ii) the number of persons to be elected as members of the commission and the name of office by which those persons shall be known,*
 - (iii) the method or methods by which the members of the commission shall be elected,*
 - (iv) the method by which vacancies on the commission are to be filled, and*
 - (v) the other terms referred to in section 15 under which the plan shall operate,*

and

- (b) establishing a commission to administer and operate a plan referred to in subsection (1)(a).*

(3) A commission established under a plan is a corporation.

(4) Every member of a commission shall be a producer or a representative of a producer if the producer is a corporation.

7 Section 19 is repealed and the following is substituted:

Interim members of boards and commissions

19(1) The Council may appoint the required members to a board or commission, who may act until members are elected in accordance with this Act, if

- (a) there has yet to be an election for a newly established board or commission, or
- (b) a member is unable or unwilling to act and the regulations do not provide an effective method to fill the vacancy.

(2) An election must be held to elect a member in place of an appointed member no later than one year from the date of appointment.

8 Section 24.1(2)(b) is amended by striking out “director” and substituting “member”.

9 Section 26(1) is amended

- (a) in clause (f)(i) by striking out “from time to time”;
- (b) by repealing clause (g) and substituting the following:
 - (g) respecting the circumstances, if any, under which a service charge may be refunded to a producer;

7 Section 19 presently reads:

19(1) After a board or commission is established under section 17 or 18 and prior to the election of the initial members to the board or commission, the Council may appoint interim members to that board or commission to carry out its functions until the initial members are elected and assume their duties on the board or commission.

(2) Despite section 1(1)(r) of the Financial Administration Act, the appointment of interim members under subsection (1) does not make the board or commission a Provincial corporation.

8 Section 24.1(2)(b) presently reads:

(2) Notwithstanding section 24, if within 60 days after the notice under subsection (1) is served,

(b) the last known director of the board or commission notifies the Council that it is not carrying out the purposes of its plan,

the Council must publish a notice in The Alberta Gazette that, with the approval of the Lieutenant Governor in Council, the plan may be terminated 60 days after the date of publication of the notice without holding a plebiscite under section 24.

9 Section 26(1)(f) and (g) presently read:

26(1) For the purpose of enabling a board or commission to operate a plan, the Council, with the approval of the Minister, may by regulation authorize a board or commission to make regulations

(f) providing for

(i) the assessment, charging and collection of service charges, levies and licence fees, as the case may be, from producers from time to time for the purposes of the plan, and

10 Section 27(1) is amended

- (a) in clause (c) by striking out** “and prescribing the conditions and procedures applicable to the transfer of quotas, if any, that the board considers appropriate”;
- (b) in clause (m) by striking out** “determining from time to time” **and substituting** “determining or respecting the determination of”;
- (c) by adding the following after clause (o):**
 - (o.01) regulating and controlling agreements entered into by producers of a regulated product with persons engaged in marketing or processing of the regulated product, including to prohibit any provision in the agreements;

11 Section 29 is amended

- (a) in subsection (2)**
 - (i) by striking out** “45” **and substituting** “90”;
 - (ii) by adding** “for approval” **before** “, it shall”;
- (b) by repealing subsection (3) and substituting the following:**
 - (3)** If the Council does not comply with subsection (2), the Council is deemed to have approved of the regulation.

- (ii) the taking of legal action to enforce payment of the service charges, levies and licence fees, as the case may be;*
- (g) in the case of a commission, providing for the refund of service charges;*

10 Section 27(1)(c) and (m) presently read:

27(1) For the purpose of enabling a board to operate a plan, the Council, with the approval of the Minister, may, in addition to an authorization made under section 26, by regulation authorize a board to make regulations

- (c) governing the transferability or non-transferability of quotas and prescribing the conditions and procedures applicable to the transfer of quotas, if any, that the board considers appropriate;*
- (m) determining from time to time the minimum price or prices that shall be paid to producers for the regulated product or any class, variety, size, grade, volume, weight, components, contents or kind of the regulated product and determining different prices for different parts of Alberta;*

11 Section 29 presently reads:

29(1) A regulation made by a board or a commission under section 26 or 27, as the case may be, shall not be filed in accordance with the Regulations Act unless it is submitted to and approved by the Council.

(2) Within 45 days from the day the Council receives a copy of a regulation from a board or commission, it shall

- (a) approve the regulation,*
- (b) request the board or commission to vary the regulation and to re-submit the regulation to the Council under this section, or*
- (c) disapprove the regulation,*

and notify the board or commission of its action.

12 Section 30 is amended by adding the following after subsection (2):

(3) If a review of a request under subsection (1) is applied for under section 36(4), the time period referred to in subsection (2) is suspended until the Council gives its decision.

13 Section 33 is amended

(a) in subsection (1)

(i) by adding the following after clause (a):

(a.1) determining the composition of negotiation agencies;

(ii) by repealing clause (d) and substituting the following:

(3) Notwithstanding subsection (2), if the Council does not within the 45-day period take any action under subsection (2),

- (a) the board or commission, as the case may be, may file the regulation in accordance with the Regulations Act, and*
- (b) the regulation is deemed to have been approved by the Council.*

(4) This section does not apply if the regulation referred to in subsection (1) is, pursuant to a regulation made under section 12(d), required to be approved by the Lieutenant Governor in Council before it is filed in accordance with the Regulations Act.

12 Section 30 presently reads:

30(1) At any time after a regulation made by a board or commission under section 26 or 27, including a regulation approved by the Lieutenant Governor in Council pursuant to a regulation made under section 12(d), is filed in accordance with the Regulations Act, the Council may request in writing the board or commission, as the case may be,

- (a) to amend the regulation as directed by the Council, or*
- (b) to repeal the regulation.*

(2) If a board or commission does not comply with a request of the Council made under subsection (1) within 45 days from the day the board or commission is served with the request, the Council may, with the approval of the Minister, amend or repeal the regulation in accordance with the request it made to the board or commission.

13 Section 33 presently reads in part:

33(1) With the approval of the Minister, the Council may in respect of a plan administered by a board make regulations

- (a) providing for the establishment, in connection with any plan established under Part 2, of negotiating agencies that may be empowered to adopt or settle by agreement or to establish, by agreement, a method to determine any or all of the following matters:*

- (d) respecting the appointment of arbitrators or arbitration boards;
- (d.1) regulating the practice and procedures of a negotiation agency, arbitrator or arbitration board, including the practices and procedures that apply if a mediator is used by a negotiating agency;
- (d.2) respecting an agreement entered into by a negotiation agency or an award of an arbitrator or arbitration board, including
 - (i) the terms or conditions that apply to an agreement or an award, and
 - (ii) prohibiting the inclusion of a provision or type of provision in an agreement or award;
- (iii) **by repealing clause (e);**
- (b) **in subsection (2.1) by striking out “Every” and substituting “Subject to a regulation authorized under section 26 or 27, every”;**
- (c) **by repealing subsection (3).**

14 Sections 36 to 40 are repealed and the following is substituted:

- (b) *providing for the arbitration by an arbitrator or arbitration board of any matter not adopted or settled by agreement under clause (a);*
- (c) *providing for the arbitration by an arbitrator or arbitration board of any dispute arising out of*
 - (i) *any agreement adopted or settled under clause (a), or*
 - (ii) *any award made under clause (b);*
- (d) *determining*
 - (i) *the composition of negotiating agencies, and*
 - (ii) *the appointment of arbitrators or arbitration boards, and regulating the practice and procedure of those agencies and arbitration boards;*
- (e) *authorizing a board, subject to any terms or conditions prescribed in the authorization,*
 - (i) *to make regulations regulating and controlling agreements entered into by producers of a regulated product with persons engaged in marketing or processing of the regulated product, and*
 - (ii) *to prohibit any provision in the agreement.*

(2.1) Every agreement and award made under the regulations referred to in subsection (1) is binding on and enforceable against the producers, processors and the board of the plan with respect to which the agreement is made.

(3) The Arbitration Act applies to arbitrations conducted under this Act or the regulations under this Act except where there is a conflict between the Arbitration Act and this Act or the regulations, in which case this Act and the regulations prevail.

14 Sections 36 to 40 presently read:

36(1) A person affected by an order, direction or decision of a board or commission may, within 60 days from the day that the person is served with it, apply to the board or commission, as the

Review and appeals of decisions

36(1) A person affected by a decision of a board, commission or the Council may apply to the decision maker to review its decision within 60 days from the day the person is notified of the decision or served with the decision, whichever is sooner.

(2) A decision made by a board or commission pursuant to a review under subsection (1) may be appealed to an appeal tribunal within 60 days from the day the party requesting the review was served with the review decision.

(3) An application under subsection (1) or (2) must be made in accordance with the regulations.

(4) Despite subsection (1), if the decision being reviewed is a request of the Council made under section 30(1), the application must be served on the Council within 15 days of the day the board or commission was served with the request.

case may be, to have the board or commission review its order, direction or decision.

(2) A review under this section shall be commenced by serving an application for the review on the board or commission.

37(1) A person, board or commission affected by an order, direction or decision of the Council may, within 60 days from the day that the person, board or commission is served with it, apply to the Council to have the Council review its order, direction or decision.

(2) A review under this section shall be commenced by serving an application for the review on the Council.

(3) Notwithstanding subsection (1), if a board or commission is applying to the Council for a review of a request made under section 30, the application for the review shall be served on the Council within 15 days from the day that the board or commission was served with the request.

(4) An application for a review referred to in subsection (3) suspends the period of time referred to in section 30(2) from running until the Council gives its decision in respect of the matter being reviewed.

38(1) A decision made by a board or commission pursuant to a review under section 36 may be appealed to an appeal tribunal within 60 days from the day that the party requesting the review is served with the decision made pursuant to the review.

(2) An appeal under this section shall be commenced by serving a written notice of appeal on the Council.

(3) On receiving the notice of appeal, the Council shall forthwith send a copy of the notice of appeal

(a) to the Minister, and

(b) to the board or commission that conducted the review.

39(1) For the purpose of hearing an appeal under this Part, the Minister shall appoint not more than 5 and not fewer than 3 persons as an appeal tribunal and designate one of them as the chair of the appeal tribunal.

(2) A person who is a member of the Council is not eligible to be a member of an appeal tribunal.

(3) The Minister may prescribe

(a) the remuneration and expenses payable to the chair and the other members of an appeal tribunal, and

(b) if an appeal tribunal is appointed to hear more than one specific appeal, the term of office of the members of the appeal tribunal, which shall not exceed 2 years.

(4) A term of office of a member of an appeal tribunal may be renewed.

(5) Notwithstanding subsection (4), a person shall not serve as a member of an appeal tribunal for more than 6 consecutive years.

(6) In accordance with the Public Service Act, there may be appointed employees to provide administrative services in respect of appeals heard under this Part.

40 For the purpose of an appeal or a review under this Part, the following rules apply:

(a) an application for a review or a notice of appeal, as the case may be, shall set out

(i) the matter being reviewed or appealed, and

(ii) the name and address of the party applying to have a review or an appeal;

(b) in the case of a review, written notice of the time and place of the review shall be sent by the Council or the board or commission conducting the review to the party applying for the review;

(c) in the case of an appeal, written notice of the time and place of the appeal shall be sent by or on behalf of the appeal tribunal

(i) to the parties to the appeal, and

(ii) to the board or commission that conducted the review;

- (d) a review shall be heard and a decision made within 60 days from the day that the Council or the board or commission, as the case may be, received the application for the review;*
- (e) an appeal shall be heard and a decision made within 90 days from the day that the Council received the notice of appeal;*
- (f) the granting and duration of an adjournment is in the sole discretion of the Council or the board, commission or appeal tribunal conducting the review or appeal, as the case may be;*
- (g) the time limit prescribed in clause (d) or (e) does not run during a period of adjournment;*
- (h) in the case of an appeal, the chair and members of an appeal tribunal have the same power as is vested in the Court for the trial of civil actions*
 - (i) to summon and enforce the attendance of witnesses, other than members of the Council or employees under the Council's administration,*
 - (ii) to compel witnesses, other than members of the Council or employees under the Council's administration, to give evidence on oath or otherwise, and*
 - (iii) to compel witnesses, other than members of the Council or employees under the Council's administration, to produce any record or thing that relates to the matter being appealed;*
- (i) the person on whose behalf a review or an appeal is commenced has a right to attend all hearings held in respect of the review or appeal;*
- (j) in the case of a review, the Council or the board or commission conducting the review shall receive the evidence that it considers relevant to the matter being reviewed;*
- (k) in the case of an appeal, the appeal tribunal may, in addition to receiving the evidence presented at the review, receive new evidence that was not presented at the review that it considers relevant to the matter being appealed;*
- (l) a person appearing at a review or appeal, as the case may be, may be represented by legal counsel;*

- (m) *the parties to a review or an appeal shall be given adequate opportunity to make representations, present evidence and cross-examine witnesses, if any;*
- (n) *an appeal tribunal may take evidence under oath;*
- (o) *any member of an appeal tribunal may administer oaths for the purpose of taking evidence;*
- (p) *the rules of evidence applicable to judicial proceedings do not apply;*
- (q) *in the case of an appeal, all oral evidence received shall be taken down in writing or recorded by electronic means;*
- (r) *in the case of an appeal, all the evidence taken down in writing or recorded by electronic means and all documentary evidence and things received in evidence at an appeal form the record of the proceeding;*
- (s) *if a person on whose behalf a review or appeal is commenced fails to appear for the review or appeal within one hour from the time set out in the notice given under clause (b) or (c) for the review or appeal, the review or appeal, as the case may be, may be dismissed, or conducted and determined in that person's absence;*
- (t) *in making a decision, an appeal tribunal may*
 - (i) *confirm or rescind the order, direction or decision of the board or commission, or*
 - (ii) *rescind the order, direction or decision of the board or commission and refer the matter back to the board or commission that conducted the review for a re-hearing with those recommendations, if any, that the appeal tribunal considers appropriate;*
- (u) *notice of the decision made pursuant to a review and any written reasons respecting the decision shall be sent promptly to the parties to the review;*
- (v) *notice of the decision made pursuant to an appeal and any written reasons respecting the decision shall be sent promptly to*
 - (i) *the parties to the appeal,*

15 Section 41 is amended by striking out “Notwithstanding section 40, if” **and substituting** “If”.

- (ii) *the Council, and*
- (iii) *the board or commission that conducted the review;*
- (w) *in the case of an appeal tribunal, a decision of the majority of the members of the appeal tribunal is the decision of the appeal tribunal and if there is not a majority, the decision of the chair of the appeal tribunal is the decision of the appeal tribunal;*
- (x) *the Council may publish in any manner it considers appropriate any decision of an appeal tribunal;*
- (y) *notwithstanding clauses (b), (i) and (m), with the consent of the person on whose behalf a review is commenced,*
 - (i) *a review may be conducted without a hearing being held, and*
 - (ii) *all matters concerning the matter being reviewed may be submitted in writing or otherwise to the board, commission or Council, as the case may be;*
- (z) *notwithstanding clause (d), if a review is conducted under clause (y), the decision of the board, commission or Council, as the case may be, shall be made within 30 days from the day that the person on whose behalf the review is commenced consented to the review being conducted under clause (y);*
- (aa) *where a decision of a board or commission is being appealed or an order, direction or decision of the Council is being reviewed, the board or commission has the same rights under this section as a person;*
- (bb) *the provisions of the Alberta Rules of Court relating to the payment of conduct money or witness fees apply to matters heard under this Act.*

15 Section 41 presently reads:

41(1) Notwithstanding section 40, if a person, board or commission is of the opinion that certain evidence to be received by the appeal tribunal should not be disclosed to the other parties to the appeal because

16 The following is added after section 43:

Regulations re reviews and appeals

43.1 The Minister may make regulations

- (a) providing for or establishing an appeal tribunal;
- (b) respecting reviews and appeals, including the charging of a fee and the recovery of costs.

17 Section 52 is repealed and the following is substituted:

Service of documents

52(1) Unless otherwise specified, a document required to be served under this Act may be served

- (a) by personal service,
- (b) by registered mail, or

- (a) *the evidence is of a confidential nature,*
- (b) *the information would provide an unfair advantage to other persons, or*
- (c) *the information required includes information that is not associated with the appeal,*

that person, board or commission may, on prior notice to the other parties to the appeal, apply to the appeal tribunal to have the evidence received confidentially and without being disclosed to the other parties.

(2) On considering an application under subsection (1), the appeal tribunal may

- (a) *receive the evidence confidentially and without disclosing it to other parties to the appeal,*
- (b) *receive the evidence confidentially or in a restricted manner subject to the conditions that it considers appropriate, or*
- (c) *refuse to receive the evidence confidentially.*

16 Regulations re reviews and appeals.

17 Section 52 presently reads:

52(1) Any document that is to be served under this Act may be served

- (a) *by personal service, or*
- (b) *by certified or registered mail.*

(c) subject to subsection (2), by electronic means.

(2) A document may be served by electronic means only if the electronic method provides

(a) the sender with proof of having electronically sent the document, and

(b) the recipient with the ability to have a printed copy of the document.

(3) If a partnership or corporation is required to be served under this Act, the document will be considered to be served on the partnership or corporation if the document is served

(a) by personal service on a partner, officer, director or adult employee of the partnership or corporation, or

(b) by registered mail or electronic means to the head office or chief place of business of the partnership or corporation.

(4) A document served by registered mail is deemed to have been served 10 days from the date the document is mailed.

18 Section 54 is repealed.

(2) For the purposes of this Act, a document that is served under this Act is deemed to have been served

(a) in a case where the document is personally served, at the time of service, and

(b) in a case where it is served by certified or registered mail, 10 days from the day that the document is mailed.

(3) Subject to service under section 45, for the purposes of this Act, a document that is served under this Act is deemed to have been served on a person if

(a) the document or a copy of it is delivered personally to an officer or an adult employee of a corporation or to a partner or an adult employee of a partnership, or

(b) the document or a copy of it is mailed by ordinary mail to the head office or chief place of business in Alberta of a corporation or partnership of which the person to be served is a member or employee.

18 Section 54 presently reads:

54(1) If before the coming into force of this Act there is a plebiscite under section 16 in favour of the establishment of a plan respecting milk and dairy products, before the coming into force of this Act

(a) the Council may, with respect to Alberta Milk, make appointments under section 19, and

(b) the Lieutenant Governor in Council may, with respect to milk and dairy products and a plan related to Alberta Milk, grant approvals under section 50 with respect to authorizations of the Council granted to Alberta Milk, and

(i) make regulations under sections 12 and 17,

(ii) despite Alberta Milk not being established, make regulations that a board or commission authorized by the Council could make under sections 26 and 27,

19 This Act comes into force on Proclamation.

(iii) *despite Alberta Milk not being established, make regulations that the Council with the approval of the Minister could make under section 33,*

(iv) *make regulations under section 28 that the Council with the approval of the Minister could make prescribing conditions and restrictions and limiting authority,*

and despite section 29 and without the approval of the Council or the Minister, the regulations may be submitted for filing in accordance with the Regulations Act, and the regulations may be made to come into force on the coming into force of the Dairy Industry Omnibus Act, 2002.

(2) In this section, "Alberta Milk" means Alberta Milk, a board respecting milk and dairy products to be established under this Act on the coming into force of the Dairy Industry Omnibus Act, 2002.

19 Coming into force.

