This Act is Current to July 5, 2017

FARMING AND FISHING INDUSTRIES DEVELOPMENT ACT

[RSBC 1996] CHAPTER 134

Contents

Definitions

1 In this Act:

"aquatic plants" includes any parts, products or by-products of these plants;

"commodity" means a product derived from plants or animals, including parts, products or by-products, and fish or aquatic plants, that are raised or gathered for profit;

"council" means a council established under section 2;

"fish" means an aquatic animal, including aquatic invertebrates, and any parts, products or by-products of such an animal;

"fund" means a fund established under section 2;

"producer" includes a gatherer of plants or animals.

Plan, council and fund

2 (1) Before the minister may establish a fund under this Act to promote the interests of all producers of a commodity, producers of that commodity must

(a) obtain the minister's approval to a plan for

(i) informing the producers about

(A) the proposed fund, levy and council,

(B) whether there will be any provision for refunding all or part of the levy, and

(C) any other related matters that the minister requires, and

(ii) determining whether the producers of the commodity support the proposals, and

(b) in accordance with the approved plan, satisfy the minister that the producers of the commodity support the proposals in the plan.

(2) The minister may require different levels of support for

(a) different plans, or

(b) different proposals in the same plan.

(3) The plan must meet the minimum requirements established by regulation respecting the content of the proposals and the method for informing producers about the proposals and for determining whether they support the proposals.

(4) Subject to subsection (5), on being satisfied that there is producer support, the minister may

(a) appoint a council composed of

(i) one or more representatives of the government, at least one of whom must be a representative of the ministry which administers this Act,

(ii) producers of the commodity in sufficient numbers to constitute a majority of the council, and

(iii) one or more persons who the minister considers represent people involved in

(A) the supply of goods or services to the producers, or

(B) the processing, distribution or consumption of the commodity, and

(b) establish and name a fund for that commodity.

(5) If a plan

(a) is supported by the producers,

(b) is approved by the minister, and

(c) establishes a method by which the producer members of a council are to be chosen by election, by appointment or partly by election and partly by appointment,

the minister must comply with the plan's proposals about the appointment or election of producer members to the council.

(6) If, in relation to a commodity, a council and fund are established under this section,

(a) the council is responsible to the minister for the administration of the fund, and

(b) the management, administration and control of the fund are vested in the council.

(7) If a council exists on July 24, 1992,

(a) the council, the fund it administers and the regulation that relates to the council and the fund are continued,

(b) section 5 applies as if the Lieutenant Governor in Council has prescribed a regulation that allows a refund,

(c) a plan is not required in respect of the commodity that relates to the council and subsection (1) does not apply to the producers of that commodity, and

(d) the council may present to the minister a plan for determining producer support for a levy that is not refundable or for any proposal that producers may present to the minister under subsection (1), and this Act applies as if the plan were presented by the producers of the commodity.

Powers of a council

3 (1) A council is a corporation and, subject to subsections (2) and (3), has all the powers of a corporation under section 17 of the Interpretation Act.

(2) The Lieutenant Governor in Council may make regulations

(a) restricting the powers of a council under subsection (1), and

(b) authorizing a council to exercise powers in addition to the powers under subsection (1).

(3) A council may not enter into an agreement to co-operate with or act as agent of any entity established by an Act or regulation of Canada or of any province or territory, without the approval of the minister.

Revenue and expenditure

4 (1) Subject to the approval of the Lieutenant Governor in Council, a council must establish a levy or class of levy that at the time and in the manner specified in the regulations must be paid by producers or a class of producers of the commodity for which the fund was established.

(2) The council may pay out of the fund the amounts it considers appropriate to

(a) pay an expense approved by the minister as being necessary for or incidental to the administration of this Act in relation to the fund, or

(b) pay to a person, including a person representing the producers of a commodity, a sum to

(i) benefit and promote the industry in British Columbia in respect of a commodity, or

(ii) conduct or support research or educational programs in British Columbia in respect of the development and promotion of a commodity.

(3) The Lieutenant Governor in Council, by regulation, may prohibit a council from making payment for purposes specified in the regulations.

Refund of levy

5 (1) If the Lieutenant Governor in Council has prescribed a regulation that allows a refund of a levy or class of levy, a producer who has paid to a council a levy established under section 4 (1) may apply to the council to have the levy refunded

(a) as prescribed by the minister, and

(b) not later than January 31 in the year following the year that the producer paid the levy.

(2) On receiving an application in compliance with subsection (1), the council must refund the levy to the applicant.

Audits

6 (1) For the purpose of ensuring compliance with this Act and the regulations, any person authorized in writing by the council may

(a) at any reasonable time, enter the business premises of a person required to collect and remit levies, and

(b) inspect records relating to that requirement.

(2) A person required to collect and remit levies under this Act must make the records referred to in subsection (1) available for inspection.

Annual report

7 (1) Within 3 months of the end of a council's financial year, each council must make to the minister a report of its business and affairs during that year.

(2) A report under subsection (1) must contain

(a) a balance sheet,

(b) a statement of revenue and expenditures, and

(c) other particulars the minister requires.

Annual general meeting

8 (1) A council must hold an annual general meeting in accordance with the regulations.

(2) A person who is required to pay or collect the levy may attend the annual general meeting, but only a person who is required to pay the levy may vote unless a regulation provides otherwise.

Offence and penalty

9 (1) A person who fails to comply with or contravenes this Act commits an offence.

(2) A person who commits an offence is liable on conviction

(a) to a fine of not more than $500, if the person is a corporation, and

(b) to a fine of not more than $200, if the person is an individual.

Power to make regulations

10 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) establishing the time and manner for payment of a levy established under section 4 (1);

(b) requiring one or more of the following persons to collect the levy established under section 4 (1) in the manner and within the time prescribed and to remit the amount collected, less any prescribed commission, to a prescribed person in the manner and within the time prescribed:

(i) a producer of the commodity;

(ii) a distributor of the commodity;

(iii) the first person who purchases the commodity from the producer;

(iv) a person who supplies goods or services to the producer;

(v) any other person involved in the production, processing, distribution or retailing of the commodity;

(c) authorizing a council to charge interest, at a rate determined by the council from time to time, on an amount that has not been remitted within the time prescribed under paragraph (b);

(d) respecting section 4 (2);

(e) exempting a class of producers from payment of a levy, a class of levy or all levies;

(f) providing for refunds of levies;

(g) establishing practices and procedures for a council;

(h) requiring a council to report particulars of its operations in a manner and at times specified by the regulations;

(i) respecting the minimum requirements referred to in section 2 (3);

(j) respecting the calling of annual general meetings by a council and the matters required to be dealt with and the conduct of business and votes at those meetings;

(k) respecting business plans and operational guidelines for councils;

(l) respecting the election of council members;

(m) respecting procedures that can be used by persons who are entitled to vote at annual general meetings to dissolve a council and distribute the fund and the council's assets;

(n) respecting a plan, including implementing a proposal in a plan.

(3) A regulation made under subsection (1) or (2) may

(a) make different provisions for different commodities, councils, classes of producers or persons who may be subject to a levy,

(b) authorize a council or person to exercise a discretionary power, and

(c) delegate a matter to a council or person.

(4) The Lieutenant Governor in Council may make regulations

(a) authorizing a council to exercise a power or perform a duty conferred on it under an Act or regulation of Canada, and

(b) granting to an entity established by an Act or regulation of Canada some or all of the powers and duties that a council has under this Act or that a council may be given by a regulation made under this Act.
