

This Act is current to 30 Novembre 2016.

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

MILK INDUSTRY ACT

[RSBC 1996] CHAPTER 289

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Definitions

1 In this Act:

"analyst" means any analyst appointed by the government of Canada or by the government of British Columbia and having authority to make analyses for any public purpose;

"board" means the British Columbia Milk Marketing Board established under section 10 of the Natural Products Marketing (BC) Act;

"bulk tank milk grader" means a person who holds a bulk tank milk grader licence issued under section 12;

"dairy animal" means

- (a) a cow,
- (b) a goat,
- (c) a sheep,
- (d) a water buffalo, or
- (e) any prescribed animal;

"dairy farm" means a place where dairy animals are kept for milking;

"dairy farmer" means the owner or occupier of a dairy farm, and includes the manager or other person in charge of a dairy farm;

"dairy plant" includes every place or building

- (a) where milk is received from dairy farmers, or
- (b) where dairy products are processed, manufactured or pasteurized, unless the processing, manufacture or pasteurization consists only of
 - (i) the incidental manufacture of butter or cheese by a dairy farmer from milk produced only on the farmer's dairy farm, or
 - (ii) the operation and use of any freezing device in a retail store by means of which ice cream mix, purchased from a licensed manufacturer of the mix, is frozen;

"dairy plant personnel" means persons engaged in specific duties in relation to dairy products for the performance of which licences are required under standards and qualifications established by regulation;

"dairy product" means milk, butter, cheese, condensed milk, evaporated milk, milk powder, dry milk, ice cream, malted milk, sherbet or any other product manufactured wholly or mainly from milk;

"inspector" means any inspector under this Act;

"jobber" means any person who regularly distributes milk, and who obtains milk packaged, ready for distribution, from any vendor, but does not include any person who sells milk at retail in any store;

"licence" includes a renewal of a licence;

"manufactured milk product" means a dairy product other than milk in fluid form;

"marketing" means buying, selling, shipping for sale or offering for sale;

"milk" means a normal lacteal secretion obtained from the mammary gland of a dairy animal;

"milk in fluid form" means raw or pasteurized fresh milk, and includes sterile milk or milk specially treated to achieve extended keeping quality or the appearance of freshness that is sold, offered for sale or supplied for the same use or in semblance of fresh milk, but does not include reconstituted milk;

"package" means a receptacle or covering used for packing, wrapping, containing or covering milk or a manufactured milk product;

"pasteurized", in relation to dairy products, means the treatment for the purpose of the destruction of harmful bacteria as provided for by regulation;

"processor" means a person who acquires milk in fluid form and processes it into a manufactured milk product;

"producer" means any dairy farmer who produces milk;

"producer vendor" means any person who distributes milk produced by the person's own dairy animals, but does not include a partnership, corporation or cooperative association owning or controlling more than 2 dairy farms on which qualifying milk is produced;

"qualified producer" means a producer who produces qualifying milk;

"qualifying milk" means milk that

(a) is produced on an approved fluid milk dairy farm certified as such, and

(b) meets the standards for such milk prescribed by regulation under this Act;

"reconstituted milk" means milk remade or compounded in a manner provided for by regulation;

"vendor" means any person dealing in milk, whether by purchase or sale or on the basis of delivery on consignment for sale, and includes

(a) agents for producers and cooperative associations, if the agents and cooperative associations sell and distribute milk produced by their principals or by the members of the associations, and

(b) a jobber, a producer vendor and a processor,
but does not include a producer as such.

Application of Act

2 This Act applies to all vendors, whether cooperative associations or not, despite the Cooperative Association Act, or any other Act, or the terms of any contracts between producers and vendors.

General farm requirements

3 (1) A dairy farmer must, in accordance with standards set by regulations under this Act,

(a) maintain on the farmer's farm suitable milk houses, housing for dairy animals, a sufficient supply of potable water, facilities for providing a sufficient supply of hot water and sufficient facilities for cooling milk, and

(b) use safe and clean methods of production.

(2) A dairy farmer must not deliver or sell milk from any dairy animal that is suffering from any disease.

Certification of approved farms

4 (1) On proof of compliance by a dairy farmer with this Act and the regulations, the Animal Contagious Diseases Act (Canada), the Animal Health Act, and the regulations under those Acts, an inspector may issue to the dairy farmer a certificate setting out that the farm is an approved dairy farm for the purpose stated in the certificate.

(2) The certificate of an inspector is conclusive evidence that the dairy farm is approved for the purpose stated in the certificate.

(3) A dairy farmer who owns, occupies, manages or is in charge of a dairy farm certified under subsection (1) must comply with the standards established by regulation.

No sale of milk except from approved farms

5 A person must not sell, offer for sale or supply milk unless the dairy farmer of the dairy farm on which the milk is produced holds a subsisting certificate under section 4.

No sale of dairy products unless pasteurized

6 (1) A person must not sell, offer for sale or supply any dairy product unless the dairy product has been pasteurized in accordance with this Act and the regulations.

(2) Subsection (1) does not apply to cheese sold or offered for sale in compliance with the Food and Drugs Act (Canada).

(3) Dairy products are deemed to be for sale if

(a) contained in closed retail packages on the premises or the delivery truck of a vendor or producer vendor or in a retail store, unless conspicuously labelled "not for sale",

(b) delivered or shipped to a vendor in cans, or

(c) held in a farm holding tank in a milk house on a dairy farm where milk is regularly collected by means of a tank truck, unless it is conspicuously labelled "not for sale".

Inspectors

7 (1-2) [Repealed 2011-13-3.]

(3) The minister may designate any person as an inspector under this Act, and the designation may be in general terms or for any particular case.

Sale of pasteurized milk

8 (1) Except in accordance with a subsisting permit issued by the minister, a person must not sell, offer for sale or supply pasteurized milk in fluid form unless

(a) all the milk

(i) was pasteurized in a dairy plant holding a subsisting dairy plant licence issued under this Act, and

(ii) was produced on dairy farms in accordance with section 5, or

(b) all the milk is pasteurized or processed in a dairy plant and produced on a dairy farm where

(i) standards of operation, construction, maintenance and sanitary control, and

(ii) the compositional and bacteriological standards of the milk produced from the farm and plant are considered by the minister or the minister's authorized representative to be the equivalent of standards required under this Act.

(2) The minister may

(a) issue permits for the sale, offering for sale, and supply of pasteurized milk in fluid form,

(b) set out in a permit whatever directions or conditions the minister considers advisable, and

(c) suspend or cancel any permit.

Municipal inspectors

9 (1) The council of each municipality may appoint a municipal inspector or municipal inspectors for the enforcement of section 10.

(2) A municipal inspector may exercise the powers of an inspector conferred by this Act only for the enforcement of section 10.

Persons suffering from disease

10 (1) A person who is an infected person within the meaning of the Public Health Act must not, until permitted by a medical health officer under that Act, work or assist on or in any dairy farm or any premises where any milk, reconstituted milk or manufactured milk products is or are obtained, produced, handled, supplied, offered for sale or sold.

(2) An owner, occupier, manager or person in charge of any dairy farm or premises described in subsection (1) must not knowingly permit any person suffering or recovering from or who has been exposed to any infectious or contagious disease within the prescribed time, to work or assist in any manner forbidden by this section.

(3) A municipal inspector appointed under this Act or a medical health officer may prohibit the sale of milk, reconstituted milk or manufactured milk products obtained, produced, handled, supplied, offered for sale or sold on or from any farm or any premises in which any person works or assists contrary to this section.

Cleanliness

11 (1) For the purpose of subsections (2) and (3), "milk house" means any place or building to which milk has been removed after extraction from the dairy animals.

(2) An unclean person or person in unclean clothing must not at any time be permitted in any milk house where milk is handled or treated.

(3) An animal must not at any time be permitted in any milk house where milk is handled or treated.

(4) Vessels and utensils and parts of them that are used for obtaining, producing, handling or distributing milk, reconstituted milk or manufactured milk products must be thoroughly cleansed before being used for any of those purposes.

Licences

12 (1) In accordance with standards and qualifications established by the regulations, the minister may issue

- (a) licences to persons for the operation of dairy plants,
 - (b) licences to dairy plant personnel entitling them to be classed as such, and
 - (c) licences to bulk tank milk graders entitling them to be classed as such.
- (2) The minister may suspend or cancel licences issued under subsection (1) in accordance with the regulations, if any.

Licence required to operate dairy plant

13 A person must not operate a dairy plant unless the person is in possession of a subsisting licence issued to the person under this Act.

Use of terms "certified" and "pasteurized"

14 (1) A vendor must not apply the term "certified" to any milk.

(2) A person must not apply the word "pasteurized" to any dairy product unless it has been pasteurized in accordance with the regulations.

Labels and standards

15 A vendor must not sell, offer for sale or supply a dairy product unless the container of the dairy product is labelled as required by regulation and the dairy product is of the standard prescribed by regulation.

Permits for reconstituted milk

16 (1) A person must not make or compound for sale or sell or supply reconstituted milk without having first secured a permit to do so from the minister.

(2) Except as permitted by a permit issued under subsection (1), a person must not sell, offer for sale or supply reconstituted milk unless each container is clearly labelled with the words "reconstituted milk".

(3) The minister may suspend or cancel a permit issued under subsection (1).

Repasteurization of milk only as permitted by regulation

17 A vendor must not pasteurize milk that has already been pasteurized, except as permitted by regulation under this Act.

Accounts

18 (1) A vendor of milk must deliver or cause to be delivered to the owner of the milk an account of the quantity, value and price.

(2) The account must be made up on the basis prescribed by the regulations.

(3) Subject to orders of the board or regulations under this Act, the value and price must be determined by analysis conducted only by a person or persons authorized by regulation to do the analysis.

(4) The account must be delivered at the time and in the form prescribed by orders of the board or by regulations under this Act.

Entry by inspectors on premises and vehicles

19 (1) An inspector may at any reasonable time

- (a) enter the premises of any dairy farm or dairy plant, or of any vendor, producer, wholesaler, retailer, storage company or carrier,
 - (b) stop any vehicle transporting dairy products,
 - (c) take and remove samples of the dairy products found,
 - (d) test or examine or cause the samples to be examined, and
 - (e) do any other things necessary to determine if this Act and the regulations are being carried out.
- (2) A person operating a dairy plant must make correct records, containing information required by regulation, of the milk and cream supplied to the dairy plant.

(3) The records must be kept on the premises of the dairy plant and at all times be open to inspection by the supplier of the milk or cream and an inspector under this Act.

(4) A copy of the records must be made available to the board or to the minister or the minister's duly authorized representative as directed by orders of the board or by regulation.

Visits by inspectors

20 As frequently as necessary, inspectors must visit all dairy farms and dairy plants in British Columbia to see that this Act and the regulations are being carried out.

Prohibition notices by inspectors

21 (1) If an inspector finds

(a) that the premises of any dairy farm, dairy plant, retailer, wholesaler or any vendor's or producer's vehicles are being kept or maintained

(i) contrary to any enactment, or

(ii) in a condition that the inspector considers unfit for the production, manufacture, processing, pasteurizing, handling, transporting or storing of dairy products,

(b) that the methods employed on the premises or vehicles are detrimental to the quality and purity of the dairy products, or

(c) that the dairy products are, in the inspector's opinion, unfit or, by any recognized test the inspector may perform or have performed, found to be unfit to be sold, supplied or offered for sale, the inspector must give to the owner or person in charge a notice in writing prohibiting him or her from selling, supplying or offering for sale the dairy products.

(2) If an inspector finds equipment that in the inspector's opinion is insanitary or unfit to be used in the production, processing, pasteurizing, manufacturing, storing or transporting of dairy products, the inspector must give notice in writing to the owner or person in charge prohibiting him or her from using the equipment.

(3) An owner or person to whom a notice has been given under this section who contravenes the prohibition contained in the notice commits an offence.

Adulterated or contaminated products

22 A person must not sell, offer for sale or supply a dairy product that is adulterated or contaminated.

Repealed

23 [Repealed 1997-9-10.]

Adulterated products

24 (1) [Repealed 1997-9-11.]

(2) Any dairy product found to be adulterated or contaminated may be

(a) seized by an inspector, who may dispose of the dairy products,

(b) denatured by the addition of colouring matter or odorous substance by or at the direction of the inspector, or

(c) ordered by the minister or the minister's authorized representative to be withheld from being sold, offered for sale or supplied for a period of time specified in writing.

(3) [Repealed 1997-9-11.]

Testing

25 (1) If testing is contemplated under section 18, 22 or 24 or by a regulation made under section 40, the minister may designate laboratories to perform any or all of those tests.

(2) A person who is working at a laboratory designated under subsection (1) is deemed to have been approved by the minister for the purposes of sections 18, 22 and 24.

(3) Unless no laboratories are designated, tests contemplated under sections 18, 22, 24 and the regulations must only be done in designated laboratories.

Storing of dairy products

26 Milk and manufactured milk products must be handled and stored so that

(a) the quality of the milk or manufactured milk products will not be impaired, and

(b) odours or flavours from meats, fish, poultry, fruits or other things will not be imparted to the milk or manufactured milk products.

False grade name

27 A person must not sell or offer for sale, advertise for sale or hold in possession for sale any milk or manufactured milk product under a grade name established by the regulations unless the milk or manufactured milk product

(a) conforms to the standards prescribed by the regulations for that grade, or

(b) is graded, packed and marked in accordance with the regulations.

Grade name on ungraded produce

28 A person must not apply to any milk or manufactured milk product that is not graded in accordance with the regulations, or to any package containing milk or a manufactured milk product, or use in association with that milk or manufactured milk product, any grade or other designation so closely resembling a grade name established by the regulations that it is likely to be mistaken for it.

No destruction of grade name

29 Unless authorized in writing by an inspector, a person other than the final purchaser or consumer must not alter, destroy, efface or obliterate any grade name applied to any milk or manufactured milk product or any container for them.

Inspector may seize dairy products or other things

30 (1) Whenever an inspector has reasonable grounds for believing that an offence against this Act or the regulations has been committed, the inspector may seize all milk or manufactured milk products and other things by means of or in relation to which the inspector reasonably believes the offence was committed.

(2) All milk or manufactured milk products or other things seized under subsection (1) may be

(a) removed to a public warehouse and detained until all the provisions of this Act and the regulations with respect to the milk or manufactured milk products have been complied with, or

(b) disposed of by direction of the minister.

Repealed

31 [Repealed 1997-9-15.]

Proof of contravention

32 If anyone contravenes a provision of this Act or of the regulations, the person on whose behalf the dairy product is received, graded, tested, pasteurized, processed, manufactured, sold, offered, exposed, had in possession for sale or supplied is deemed to have committed the contravention unless that person proves

(a) that the contravention was not committed by that person, and

(b) that it was not committed by anyone who at the time of the contravention had authority from that person to perform those functions with respect to dairy products.

Certificate as evidence

33 (1) In any prosecution under this Act, a certificate as to the grade of any dairy product signed, or purporting to be signed, by an inspector is evidence of the facts stated in the certificate and conclusive evidence of the authority of the person giving or making the certificate without any proof of appointment or signature.

(2) In any prosecution under this Act, a certificate as to the composition of any product or material signed, or purporting to be signed, by an analyst is evidence of the facts stated in the certificate and conclusive evidence of the authority of the person giving or making the certificate without any proof of appointment or signature.

Seized products forfeited

34 (1) If a person is convicted of an offence under this Act, the milk or manufactured milk products by means of or in relation to which the offence was committed is, on the conviction, forfeited to the government, and may be disposed of as the minister may direct.

(2) The forfeiture provided for under subsection (1) is in addition to any penalty imposed.

Obstructing inspector

35 (1) Subject to section 36, a person commits an offence if the person obstructs or impedes an inspector under this Act in the performance of any duty imposed on or in the exercise of any power conferred on the inspector under this Act.

(2) If an inspector has been obstructed or impeded as outlined in subsection (1), the inspector may call to his or her assistance constables and peace officers, and they may do those things necessary for the execution of the provisions of this Act and the regulations.

(3) In any prosecution under this Act if it appears that the defendant has done any act or has committed any act or omission in respect of which, were the defendant not duly licensed, the defendant would be liable to some penalty under this Act, it is up to the defendant to prove that the defendant is duly licensed.

Evidence of authority

36 An inspector under this Act must, on request, produce to any person whose premises the inspector enters under this Act an authority in writing, showing that the inspector is duly authorized under this Act to enter and inspect the premises or the products on them.

Offences

37 (1) A person who contravenes this Act, any regulation made under it, or any order of the board, commits an offence.

(2) A corporation that commits an offence under subsection (1) is liable on conviction to a penalty of not less than \$50 or more than \$5 000.

(3) An individual who commits an offence under subsection (1) is liable on conviction to a penalty of not less than \$10 or more than \$500.

Injunction

38 If the board has reason to believe that there is or will be a contravention of one of its orders, it may apply to the Supreme Court for an injunction restraining a person from contravening the order and, pending final disposition of the action, the court may grant an interim injunction.

Certificate of payment

39 (1) A vendor who

(a) pays a producer of milk the producer price set by the board for qualifying milk, and

(b) produces to the board the books, records and accounts and other proof of payment the board requires, is entitled to be issued by the board, on request of the vendor, a certificate stating that the vendor has paid all money due by the vendor to the producer under the orders of the board for the qualifying milk supplied by the vendor as specified in the certificate.

(2) Except to the extent that it is proved that the books, records, accounts or other proof of payment provided by the vendor to the board on which the certificate was based do not accurately set out the matters contained in them, the vendor is not liable to the producer for the payment of any further money for the qualifying milk in respect of which the certificate was issued.

Power to make regulations

40 (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 standards for approved dairy farms, including, without restriction, standards regarding methods of production;

(b) prescribing the form and content of certificates issued under section 4 and the fees payable for the issue of certificates;

(c) providing for a system of ensuring payment to producers or to other dairy plants by dairy plant licensees for qualifying milk or cream supplied by producers or by other dairy plants to the dairy plant licensee, and in particular

(i) directing every dairy plant licensee, as a condition of the licence, to pay a fee that is related to the receipt, by the dairy plant licensee, of qualifying milk or cream from producers or from other dairy plants,

- (ii) providing that the fees paid under subparagraph (i) constitute a fund whose maximum and minimum size must be set by the Lieutenant Governor in Council, who may suspend provision of payments into the fund or may reimpose provision of payments according to the amount of money in the fund,
- (iii) providing for procedures for establishing claims against the fund and for payments into and out of the fund,
- (iv) providing for how the fund is to be established, managed and operated, and
- (v) providing for enforcement of the fee assessment and the manner and frequency of payment of fees;
- (d) defining the conditions under which reconstituted milk may be sold;
- (e) providing that, in emergency circumstances, compliance with the provisions of section 16 (1) is not required, and defining the conditions under which noncompliance may be permitted;
- (f) providing for examinations as to competency of dairy plant personnel or bulk tank milk graders, the nature and extent of examinations and standards required for the passing of them, the fees to be paid for them, and prescribing the duties to be performed by the dairy plant personnel or bulk tank milk graders;
- (g) prescribing the qualifications to entitle dairy plant personnel or bulk tank milk graders to licences entitling them to be classed as such, providing for classifying licences in accordance with the qualifications of the applicants and the fees to be paid for licences, and providing for their cancellation;
- (h) prescribing the standards and their maintenance for barns, loafing barns, sheds, shelters, milk houses, milking parlours, milking rooms, farm tanks and tank trucks, tank trailers and dairy plants, and the equipment and qualifications of personnel requisite for the operation of them, requiring that milk produced be produced, kept, transported, processed, manufactured and pasteurized by and under sanitary and healthful methods and conditions, and providing for the duties of inspectors in relation to any such matters;
- (i) providing for the issue of licences to persons operating dairy plants and the term of the licences and the fees to be paid for them;
- (j) covering the matters set out in section 6 as they apply to rural areas to be defined in orders in council as milk pasteurization areas;
- (k) providing for the suspension and cancellation of any certificate of approval of any dairy farm, and setting the periods within which and the conditions under which a certificate may be suspended, cancelled and reinstated, and the notices to be given in that respect, and the filing of the notices with the ministry and with the board;
- (l) providing for the examination of all dairy animals, the notices to be sent when they are found to be suffering from general or local diseases, and the steps to be taken to ascertain that the dairy animals are free from disease and the notices to be given in that respect;
- (m) providing that milk must not be delivered or sold from any dairy animal within the time after the dairy animal has received any veterinary treatment prescribed by the regulations;
- (n) providing the maximum bacteria content of dairy products before or at the time of delivery or sale to vendors or consumers;
- (o) providing that inspectors may, for the purposes of this Act, enter premises and stop vehicles at any time and take and remove samples of water and milk, reconstituted milk, and manufactured milk products in or on the premises or vehicles, and make tests necessary for the grading and testing set out in the regulations, and for the purpose of making any other tests and examinations that may be necessary in the public interest, and to determine whether the provisions of this Act are being carried out;
- (p) providing minimum standards of composition under which dairy products may be offered for sale or sold;
- (q) for controlling the quality of milk by
 - (i) imposing on and collecting from a producer penalties if milk supplied by the producer does not comply with the prescribed standards of quality for that milk or is produced on premises or with equipment that does not comply with the regulations,
 - (ii) prescribing the conditions under which, and the time at which, the penalties are payable,
 - (iii) prescribing the amount of the penalties and the method by which they must be calculated, the maximum penalty not to exceed 5¢/litre of milk for a period not exceeding one month, and
 - (iv) prescribing that the penalties collected must be applied to the fund established under section 41;
- (r) prescribing methods to be followed and equipment to be used in testing, grading, processing, manufacturing and pasteurizing dairy products;
- (s) prescribing the basis, whether on butterfat content or otherwise, on which payment must be made for milk or manufactured milk products, and prescribing the books, records and accounts that must be kept, and the accounting that must be made, in respect of the milk or manufactured milk products, and the time or times after their delivery within which grades must be allotted to milk or cream;

- (t) prescribing the measures to be taken for preventing contamination on dairy farms or in dairy plants;
- (u) establishing definitions, standards of quality and composition, grades and grade names for dairy products;
- (v) and (w) [Repealed 1997-9-21.]
- (x) prescribing an animal for the purposes of the definition of "dairy animal".

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

- (a) providing for weighing, measuring, testing, grading and sampling any or all lots, deliveries or shipments of dairy products, and for the conditions under which they may be weighed, measured, tested, graded and sampled;
- (b) providing for the manner and conditions of analysis of dairy products;
- (c) providing for checking dairy equipment for sanitation and compliance with regulations, and checking measuring devices and calibration of farm holding tanks;
- (d) providing for the manner and conditions of weighing dairy products transported in tank trucks;
- (e) prescribing fees for and determining the basis on which the amount and liability for payment of the fees are to be set, and providing for the collection and payment of the fees, including the setting of and collection of penalties to enforce payment;
- (f) providing for the issue of certificates respecting weights, volume, tests and grades of dairy products;
- (g) providing for the form of the certificates and the condition on which they may be issued;
- (h) providing that inspectors may enter any premises and examine any products, equipment, books, accounts and records to determine whether producers are receiving credit for correct weights, volume, grades and tests of dairy products delivered by them;
- (i) providing for the size, dimensions and other specifications for packages of milk and manufactured milk products weighed, measured or graded as outlined above;
- (j) providing for the manner in which milk and manufactured milk products or packages may be branded or marked as to their contents, and the standards and grades of the contents;
- (k) limiting the sale of dairy products to packages of specified sizes, and specifying the sizes of the packages by weight or by dimensions or by volume;
- (l) providing for the quality of any milk or manufactured milk product that may be used;
- (m) prescribing requirements for the labeling of packages, including the form, content and manner of placements for labels;
- (n) prescribing the materials and the amounts of those materials that may be used as colouring, flavouring, stabilizer or other ingredients of dairy products;
- (o) providing for procedure at meetings of the board and for voting there;
- (p) defining areas of production in addition to the areas described in this Act;
- (q) [Repealed 2011-13-8.]
- (r) defining a word or expression used but not defined in this Act.

(4) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:

- (a) delegate a matter to a person;
- (b) confer a discretion on a person;
- (c) make different regulations for different dairy animal species or different classes of dairy animals.

Fund for promoting dairy products

41 (1) If, on the holding of a plebiscite among holders of fluid milk dairy farm certificates who have their dairy farms within the area for which the plebiscite is held, those voting in favour of the establishment of a fund to promote dairy products constitute at least 2/3 of those eligible to vote and who cast ballots, the Lieutenant Governor in Council may do one or more of the following:

- (a) establish a fund to be used for promoting dairy products in accordance with regulations that may be made by the Lieutenant Governor in Council;
- (b) provide for the collection of a fee by dairy plant licensees or in any other manner that the regulations may direct and for the remission of those fees to the fund in accordance with the regulations;
- (c) set the fees to be collected under the regulations;
- (d) determine, in accordance with the regulations, the manner in which a dairy farmer may direct all or a portion of his or her fees to be allocated;
- (e) exempt from payment of fees those who, in writing as directed by the regulations, indicate their wish not to have fees deducted for the promotion of dairy products;

(f) authorize the minister to appoint a person or persons to manage and administer the fund and to make payments from it under the regulations, and to establish terms of reference, duties and responsibilities for the person or persons.

(2) The Lieutenant Governor in Council may

(a) set the area for which a plebiscite must be held and the date or dates on which it must be held in accordance with subsection (1), and

(b) by regulation, prescribe the manner of holding the plebiscite and give all necessary direction for it.

(3) If requested to do so in writing by at least 25% of those dairy farmers from whom fees are being collected for the fund in an area prescribed under subsection (2), the Lieutenant Governor in Council may at any time set a date or dates on which another plebiscite must be held in accordance with regulations made under subsection (2).

(4) If, on the holding of a plebiscite under subsection (3) among holders of fluid milk dairy farm certificates who have their dairy farms within the area for which the plebiscite is held, those voting against the continuation of the collection of fees under this section constitute not less than 51% of those eligible to vote and who cast ballots, the Lieutenant Governor in Council may revoke the application of any orders and regulations made under subsection (1) to persons in that area.

Incorporation of codes or standards

42 (1) In making any regulation under this Act, the Lieutenant Governor in Council may incorporate in it by reference any code or standard or rule or any part of one relating to the subject matter of this Act, as amended before or after the making of the regulation, that the Lieutenant Governor in Council may consider applicable.

(2) If a code, standard, rule or part is adopted by regulation, publication in the Gazette of a notice of the adoption referring to the code, standard or rule and stating the extent of its adoption and setting out any variations to which the adoption is subject, is deemed sufficient publication without publishing in the Gazette the text of the code, standard, rule or part adopted.

Provisions as to constitutionality and intent of Legislature

43 (1) The purpose and intent of the Legislature is to confine the provisions of this Act within the competence of the Legislature, and all the provisions must be construed to give effect to that purpose and intent.

(2) If a provision of this Act is held or found to be beyond the powers of the Legislature, the provision must be read distributively, and the provision so far as it deals with matters within the competence of the Legislature is valid and operative, and has the same effect as if the provision had dealt with those matters exclusively.

(3) The remaining provisions of this Act must not be deemed or held to be inoperative or beyond the powers of the Legislature, but are valid and operative, and have the same effect as if they had been originally enacted as separate and independent enactments and as the only provisions of this Act.

(4) All the provisions of this Act that are within the powers of the Legislature remain in full force and effect, even if some provisions are held to be beyond the powers of the Legislature, the intention of the Legislature being to give separate and independent effect to the extent of its powers to every enactment and provision contained in this Act.

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