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C.C.S.M. c. L175

The Livestock Industry Diversification Act

(Assented to November 19, 1996)

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

DEFINITIONS

Definitions

1(1) In this Act,

"court" means the Court of Queen's Bench; (« tribunal »)

"director" means the person appointed under The Civil Service Act as the director for the purpose of this Act; (« directeur »)

"game production animal" means an animal of a species prescribed in the regulations that

(a) is privately owned or, in the case of a wild animal, is in the possession of a person under the authority of a licence or permit issued under The Wildlife Act authorizing the person to keep the animal, and

(b) is in captivity for the purpose or the ultimate purpose of reproduction or sale as breeding stock, meat or non-meat parts; (« gibier d'élevage »)

"game production farm" means a place where game production animals are kept, but does not include a veterinary clinic, abattoir, sales yard, auction mart, or any temporary holding facility of a type provided for in the regulations; (« ferme d'élevage de gibier »)

"inspector" means an inspector appointed under section 17; (« inspecteur »)

"licence" means a licence to operate a game production farm issued under this Act; (« permis »)

"meat" means the flesh or offal or a product or by-product of the flesh or offal of a dead game production animal; (« viande »)

"minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act; (« ministre »)

"non-meat part" means a part or product or by-product of a game-production animal that is not meat, including, but not limited to, hides, antlers, semen and embryos; (« partie non comestible »)

"operator" means a person licensed to operate a game production farm under this Act; (« exploitant »)

"person" includes a partnership and an unincorporated association of persons; (« personne »)

"place" includes a vehicle or other conveyance; (« lieu »)

"process" includes changing the nature, form, size, shape, quality or condition of a game production animal or part of a game production animal by any means, and includes the slaughter of an animal; (« transformation »)

"species" includes a subspecies; (« espèce »)

"wild animal" means a wild animal as defined in The Wildlife Act. (« animal sauvage »)

Reference to "Act" includes regulations

1(2) In this Act, a reference to "this Act" includes the regulations made under this Act.

LICENSING OF GAME PRODUCTION FARMS

Licence required

2(1) No person shall operate a game production farm unless the person holds a licence to do so issued under this Act.

Land interest required

2(2) To be eligible for a licence, a person must

(a) be one of the following in respect of the land on which the farm is located:

(i) registered under The Real Property Act as the owner of an estate in fee simple or a life estate in the land,

(ii) the owner of an estate in fee simple or a life estate in the land under The Registry Act,

(iii) a purchaser of the land under The Real Property Act who has filed a caveat against the land claiming an interest as purchaser,

(iv) a purchaser of the land under The Registry Act who has registered an agreement for sale in the registry office for the district in which the land is located;

(b) be in possession of the land on which the farm is located under a written agreement made with a person referred to in clause (a); or

(c) if the land on which the farm is located is in a reserve as that term is defined in the Indian Act (Canada), have a right of possession of the land under an allotment, a certificate of possession or a lease under that Act.

No licence for Crown lands

2(3) Land referred to in clause (2)(b) cannot be Crown lands that are administered under The Crown Lands Act.

Licence application

3(1) An application for a licence must be made to the director and must contain the information and be accompanied by the fee and any documentation required by the regulations.

Further information may be requested

3(2) The director may require an applicant for a licence to submit any additional information the director considers necessary.

Issuing or refusing a licence

4(1) The director may issue or refuse to issue a licence.

Decision to issue

4(2) The director may issue a licence to an eligible applicant if

(a) the application has been made in accordance with section 3; and

(b) the director is of the opinion that

(i) the game production farm and its proposed operation, as specified in the application, will conform with the requirements of this Act, and

(ii) the application accurately reflects the actual or proposed circumstances of the farm.

Terms and conditions

4(3) The director may issue a licence subject to any terms and conditions the director considers appropriate.

Term of licence

4(4) A licence is valid for the term provided for in the regulations.

Licence not transferable

4(5) A licence is not transferable.

Licence must specify location

5(1) A licence must specify the location of the farm.

Licence must specify species

5(2) A licence must specify the species of game production animal authorized to be kept on the farm.

Refusal to issue a licence

6(1) If the director refuses to issue a licence, the director shall give the applicant a written notice of the refusal, which must give reasons for the refusal.

Suspension or cancellation of licence

6(2) The director may suspend or cancel a licence by giving a written notice of suspension or cancellation to the operator, with reasons, if the director is satisfied that

(a) the operator has failed to comply with

(i) this Act or any other enactment specified in the regulations,

(ii) a term or conditions of the operator's licence, or

(iii) an order made by the director under this Act;

(b) the operator is no longer eligible under subsection 2(2); or

(c) the suspension or cancellation is authorized for another reason specified in the regulations.

Appeal

7(1) A person whose application for a licence is refused or whose licence is suspended or cancelled may appeal the refusal, suspension or cancellation by filing a notice of appeal with the minister within 30 days after the person is notified of the refusal, suspension or cancellation.

Appeal board

7(2) The minister shall appoint an appeal board within 30 days after a notice of appeal is filed, and the board is to consist of not less than three and not more than five persons to hear the appeal.

Chairperson

7(3) The minister shall designate one of the members of the appeal board to be its chairperson.

Fees and expenses

7(4) The minister may pay reasonable fees and expenses to the members of the appeal board.

Hearing

7(5) The minister may specify the time within which the appeal board is to hear the appeal and give a decision, and the minister may extend that time.

Decision

7(6) On concluding the appeal, the appeal board may

- (a) confirm the refusal to issue or the suspension or cancellation of a licence; or
- (b) direct that the application for a licence be approved or reinstate a suspended or cancelled licence, subject to any terms and conditions that the appeal board considers appropriate.

Notice

7(7) The appeal board shall, in writing, promptly notify the minister and the appellant of its decision.

Continued operation after licence cancelled, etc.

8(1) Despite subsection 2(1), a person whose licence

- (a) is suspended or cancelled; or
- (b) expires and is not renewed;

may nevertheless continue to operate the game production farm for a period of three months after the date of suspension, cancellation or expiry, but only to the extent necessary to allow the orderly winding up of the farm operation.

Extension of time

8(2) The director may, on written application, extend the three-month period referred to in subsection (1) for one further period of three months or less if the director considers that the circumstances justify an extension.

Compliance with terms and conditions

8(3) A person who continues to operate a game production farm under this section shall comply with this Act and the terms and conditions of the licence in force immediately before its suspension, cancellation or expiry.

Restriction on purchasing animals

9(1) Except as provided in the regulations, an operator shall not purchase or otherwise acquire a game production animal other than from

- (a) the Government of Manitoba;
- (b) the Government of Canada or the government of another province or territory; or
- (c) an operator of a game production farm licensed under this Act or an operator of game production farm licensed by another province or territory.

Possession restricted

9(2) No operator shall have in his or her possession a game production animal that was purchased or acquired in contravention of subsection (1).

Subsequent sale restricted

9(3) No operator shall, without the director's written approval, sell or otherwise transfer the ownership of a game production animal that was purchased or acquired from the Government of Manitoba.

Health and related requirements

10 No operator shall bring onto a game production farm, or have in his or her possession on a farm, a game production animal that does not comply with the health, genetic and other requirements prescribed in the regulations.

Animals brought into Manitoba

11(1) No person shall bring a game production animal into Manitoba without first providing the director with

(a) a certificate of health for the animal given by a veterinarian approved by the director in a form and containing the information that the director requires; and

(b) any other documentation or information the director may require evidencing that the animal

(i) is not carrying a contagious or infectious disease or another condition that may be hazardous to other animals or humans, and

(ii) meets the health, genetic and other requirements referred to in section 10.

Possession restricted

11(2) No person shall have in his or her possession a game production animal that was brought into Manitoba in contravention of subsection (1).

S.M. 1999, c. 18, s. 16.

Registration and identification of animals

12(1) Subject to the regulations, before bringing a game production animal onto a game production farm, an operator shall

(a) register the animal in accordance with the regulations;

(b) have it identified in accordance with the regulations; and

(c) perform any tests on it that are required by the regulations.

Progeny

12(2) An operator shall register and have identified live progeny born to a female game production animal within the time period provided for in the regulations.

Possession restricted

12(3) No operator shall have a game production animal in his or her possession unless it has been registered, identified and tested in accordance with the regulations.

No removal

12(4) An operator shall not remove a game production animal from a game production farm unless it has been registered and identified in accordance with this section.

Ownership not affected

12(5) Registration or identification under this section does not affect the ownership of a game production animal.

Restriction on species

13 An operator shall not keep a game production animal captive on a game production farm unless the operator's licence authorizes animals of that species to be kept on the farm.

SLAUGHTER AND SALE

Slaughter of animals

14(1) No person shall slaughter a game production animal except at a slaughterhouse approved under The Public Health Act.

Carcass to be marked

14(2) A person who slaughters a game production animal shall have its carcass or the parts of its carcass marked in accordance with the regulations.

Exception

14(3) Subsection (1) does not apply to a slaughter that is

(a) carried out for humane reasons under the supervision of a veterinarian;

(b) approved by the director; or

(c) conducted in accordance with an order made under any law authorizing the slaughter elsewhere than at a slaughterhouse approved under The Public Health Act.

Sale of meat

15 No person shall sell or purchase the meat of a game production animal that has been slaughtered in contravention of section 14.

Sale of non-meat parts

16 No person shall sell a non-meat part of a game production animal unless the part is prescribed in the regulations as a part that may be sold.

ENFORCEMENT

Appointment of inspectors

17(1) The minister may appoint any person as an inspector for the purpose of this Act.

Designation

17(2) The minister may, on such terms and conditions as the minister may specify, designate any qualified person or class of persons to act as an inspector in relation to any matter referred to in the designation.

Certificate to be produced

17(3) Each inspector is to be provided with a certificate of appointment or designation and, on entering any place under this Act, an inspector shall show the certificate to the person in charge of the place if the person requests proof of the appointment or designation.

Agreements

18(1) For the purposes of this Act, the minister may enter into an agreement with any qualified person or an organization for the performance of such duties or functions under this Act as the minister may specify, on such terms and conditions as the minister may specify.

Terms

18(2) An agreement may authorize any qualified person or organization to keep any fees, charges or costs they are entitled to recover under section 28 and use them, among other things, to defray the costs of performing the duties and functions specified in the agreement.

No obstruction

19(1) No person shall obstruct or hinder, or make a false or misleading statement to, an inspector who is carrying out duties or functions under this Act.

Assistance to inspector

19(2) The owner or person in charge of a place referred to in section 20 and every person found in that place shall give the inspector all reasonable assistance to enable the inspector to carry out his or her duties and shall furnish the inspector with any information the inspector may reasonably require.

Entry and inspection

20(1) An inspector may, at any reasonable time and where reasonably required to determine compliance with this Act,

(a) stop any vehicle or enter and inspect any place in which the inspector believes on reasonable grounds there is any animal or thing in respect of which this Act applies;

- (b) open any receptacle, package, cage or other thing that the inspector believes on reasonable grounds contains any animal or thing in respect of which this Act applies;
- (c) require any person to present any animal or thing for inspection in the manner and under such conditions as the inspector reasonably considers necessary to carry out the inspection;
- (d) examine any animal or thing and take samples of it;
- (e) require any person to produce for inspection or copying any record or document that the inspector believes on reasonable grounds contains information relevant to the administration of this Act; and
- (f) conduct any tests or analyses or take any measurements.

Driver of vehicle must stop

20(2) When an inspector signals or requests a person driving a vehicle to stop, the person shall immediately bring the vehicle to a stop and shall not proceed until permitted to do so by the inspector.

Use of data processing system and copying equipment

20(3) In carrying out an inspection at any place under this section, an inspector may

- (a) use a data processing system at the place to examine any data contained in or available to the system;
- (b) reproduce any record from the data in the form of a print-out or other intelligible output and take the print-out or other output for examination or copying; and
- (c) use any copying equipment at the place to make copies of any record or other document.

Records

20(4) An inspector may remove any records or documents that he or she is entitled to examine or copy or otherwise reproduce but shall give a receipt to the person from whom they were taken and shall promptly return them on completion of the examination.

Warrant to enter a dwelling place

21(1) An inspector may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant.

Authority to issue warrant

21(2) A justice who is satisfied by information on oath that

- (a) the conditions for entry described in section 20 exist in relation to a dwelling place;
- (b) entry to the dwelling place is necessary for a purpose relating to the administration of this Act; and

(c) entry to the dwelling place has been refused or there are reasonable grounds to believe that entry will be refused;

may at any time issue a warrant authorizing the inspector and any other person named in the warrant to enter the dwelling place, subject to any conditions that may be specified in the warrant.

Warrant to search and seize

22(1) A justice who is satisfied by information on oath that there are reasonable grounds to believe that

(a) an offence under this Act has been committed; and

(b) there is to be found in any place any animal or thing that will afford evidence in respect of the commission of an offence;

may at any time issue a warrant authorizing an inspector and any other person named in the warrant to enter and search the place for the animal or thing, and to seize and detain it.

Use of force

22(2) An inspector and any other person named in the warrant may use whatever reasonable force is necessary to execute the warrant and may call on a police officer for assistance in executing it.

Additional seizure powers

22(3) An inspector who executes a warrant may seize and detain, in addition to any animal or thing mentioned in the warrant, any animal or thing which the inspector believes on reasonable grounds is being used to commit an offence or which is evidence of an offence.

Where warrant not necessary

22(4) An inspector may exercise any of the powers mentioned in this section without a warrant if the conditions for obtaining a warrant exist but, because of exigent circumstances, it would not be practical to obtain a warrant.

Storage of seized animals or things

23(1) When an inspector seizes and detains an animal or thing under this Act, the director may

(a) require it to be stored at the place where it was seized or remove it to any other place for storage, in which case the costs of storage or removal are to be paid by the owner or the person in possession of the animal or thing at the time of its seizure; or

(b) require its owner or the person having the possession, care or control of it at the time of the seizure to remove it to any other place and to store it.

Disposal of seized animals and perishable things

23(2) When an inspector seizes and detains an animal or a perishable thing, the director may cause it to be disposed of, and any proceeds realized from its disposition, with interest to be paid at a rate fixed from time to time by the Lieutenant Governor in Council, shall be held pending the outcome of the proceedings.

Disposal of things after proceedings

23(3) When proceedings in respect of a seized animal or thing have been finally resolved,

(a) if the accused has been convicted, the court may order that the animal or thing, or the proceeds of sale and accumulated interest referred to in subsection (2), be forfeited to the Crown; and

(b) if the court does not order forfeiture, the animal or thing, or the proceeds of disposition and accumulated interest referred to in subsection (2), must be returned or paid to the person who is lawfully entitled to possess it or them.

Disposal of forfeited things

23(4) An animal or thing that has been ordered to be forfeited under clause (3)(a) shall be disposed of as directed by the director.

Failure to meet genetic requirements

24(1) Despite section 23, if the director is satisfied that an animal seized under this Act has failed or cannot meet the requirements of a genetic test of a kind provided for in the regulations and that it is in the public interest to do so, the director may, by order, require the owner of the animal or person entitled to possession of it to dispose of it within the time period specified in the order.

If owner fails to comply

24(2) If an order under subsection (1) is not complied with, the director may have the animal killed or otherwise disposed of, without compensation to the owner or person entitled to possession of it.

Certificates and reports

25 In any prosecution or proceeding under this Act, a certificate or report of the director or an inspector, purporting to have been signed by the director or inspector, is admissible in evidence without proof of the signature or official character of the person appearing to have signed it and, in the absence of evidence to the contrary, is proof of the matters asserted in it.

GENERAL PROVISIONS

Management fund

26(1) For any species of animal designated as a game production animal under this Act, the minister may establish a management fund for the purpose of funding

- (a) programs for the protection and enhancement of animals of the species designated and of their habitat;
- (b) the capture of such animals from the wild and their maintenance and disposition;
- (c) research programs and demonstration projects; and
- (d) costs associated with administering this Act.

Deposit in the Consolidated Fund

26(2) Money in the fund is to be deposited in the Consolidated Fund in trust for the fund, and a separate account in the fund may be established for each species of animal designated as a game production animal under this Act.

Payments into the fund

26(3) The following shall be paid directly into the fund, notwithstanding The Financial Administration Act:

- (a) one-half of
 - (i) the proceeds realized by the government from the sale or disposition, to operators, of animals intended as game production animals, and
 - (ii) any fees paid by operators for permits or licences authorizing them to keep such animals;
- (b) the whole or any portion of fees paid for licences or other authorizations that is prescribed in the regulations as payable into the fund;
- (c) any other amounts prescribed in the regulations as payable into the fund;
- (d) income accruing to the fund.

Payments out of the fund

26(4) The fund is to be managed by the minister, who may make payments from the fund

- (a) for any of the purposes for which the fund is established; and
- (b) to meet the expenses of operating the fund.

Fiscal reporting

26(5) Each year, the minister shall cause a financial statement of the fund to be prepared, which is to be included in the annual report of the department over which the minister presides.

Advisory committee

27(1) The minister may appoint an advisory committee to provide advice and recommendations to the minister about matters concerning this Act.

Terms of reference

27(2) The minister may determine the terms of reference and the procedures of an advisory committee.

Remuneration and expenses

27(3) Members of an advisory committee may be paid expenses and remuneration determined by the minister.

Recovery of fees, charges or costs

28(1) The government, and any person or organization that has entered into an agreement with the minister under section 18, may recover from a person referred to in subsection (2) any prescribed fees or charges and any costs incurred by the government or the other person or organization in relation to anything required or authorized under this Act, including, but not limited to,

(a) the inspection, testing or analysis of a place, animal or thing, or the identification, storage, removal, disposal or return of an animal or thing, required or authorized under this Act; and

(b) the forfeiture, disposal, seizure or detention of an animal or thing under this Act.

Persons liable

28(2) The fees, charges and costs are recoverable jointly and severally from the owner or occupier of the place or the owner of the animal or thing and from the person having the possession, care or control of it immediately before its inspection, detention, forfeiture, testing, analysis, identification, storage, removal, return or disposal or, in the case of an animal or thing seized under this Act, immediately before its seizure.

Unpaid fees, charges or costs

28(3) Any fees, charges or costs that are recoverable by the government or a person or organization that has entered into an agreement with the minister under section 18 may be recovered as a debt due.

Liability for trespassing animals

29(1) If a game production animal escapes from a game production farm and

(a) the animal damages property;

(b) a person attempting to capture the animal damages property; or

(c) a person incurs reasonable expenses in attempting to capture, maintain or transport the animal;

the operator and, if the operator is not the animal's owner, the animal's owner, are jointly and severally liable for the damage or expense, except to the extent that it is due to the fault or negligence of the person suffering the damage or expense.

Contribution

29(2) An operator or owner who is liable for damage or expense under this section is entitled to recover contribution and indemnity from any other person in proportion to the degree to which the other person's fault or negligence caused or contributed to the damage or expense.

Fencing

29(3) Damage or expense shall not be treated as due to the fault or negligence of the person suffering it by reason only that he or she could have prevented it by fencing his or her land.

Right of the Crown

29(4) The Crown has a right of action under this section for damage or expense suffered by it.

Protection from liability

30(1) No proceeding for compensation or damages shall be instituted against the director, an inspector or any person engaged in the administration of this Act for any act done in good faith in the performance or intended performance of a duty or in the exercise or intended exercise of a power under this Act, or for any neglect or default in the performance or exercise in good faith of the duty or power.

Protection from liability for hunters

30(2) No proceeding for compensation or damages may be instituted against a person who kills or injures a game production animal that has escaped from a game production farm if the person was at the time hunting big game lawfully and in accordance with The Wildlife Act and had no reason to believe that the animal was an escaped game production animal.

Relationship to The Wildlife Act

31 A person is deemed not to contravene The Wildlife Act in respect of an activity concerning a game production animal that is also a wild animal if

- (a) the activity is authorized under this Act; and
- (b) it is carried out in compliance with this Act.

OFFENCES

Offences

32(1) A person who

- (a) contravenes any provision of this Act; or
- (b) fails to comply with an order made by the director under this Act;

is guilty of an offence and, except as provided in subsection (2), is liable to a fine of not more than \$10,000., or to imprisonment for a term of not more than six months, or both.

Offence against section 9, 15 or 16

32(2) A person who is convicted of an offence against section 9,15 or 16 is liable

(a) to a fine in an amount that is not more than \$20,000. plus an amount equal to three times the value of the game production animal or meat or non-meat part of a game production animal in respect of which the offence was committed; or

(b) to imprisonment for a term of not more than 12 months;

or to both a fine and imprisonment.

Prosecution within four years

32(3) A prosecution under this Act or the regulations may be commenced not later than four years after the commission of the alleged offence.

Directors and officers of corporations

32(4) When a corporation is guilty of an offence, a director or officer of the corporation who authorized, permitted or acquiesced in the offence is also guilty of the offence and is liable on summary conviction to the penalty for the offence provided for in this section.

REGULATIONS

Lieutenant Governor in Council regulations

33(1) The Lieutenant Governor in Council may make regulations prescribing species of animals that are game production animals.

Recommendation

33(2) A regulation under this section that prescribes a species of wild animal as a game production animal may be made only on the recommendations of both the minister and the minister charged with the administration of The Wildlife Act.

Ministerial regulations

34(1) The minister may make regulations

(a) prescribing types of temporary holding facilities for the purpose of the definition of "game production farm" in section 1;

(b) respecting the licensing of game production farms, including the information to be contained in and the fee and documentation required to accompany applications for licences, the term of licences, and grounds for suspension and cancellation in addition to those provided for in subsection 6(2);

- (c) specifying sources from which operators may purchase or otherwise acquire game production animals in addition to those mentioned in subsection 9(1);
- (d) respecting the identification and registration of game production animals;
- (e) respecting the testing of game production animals, including establishing standards for testing;
- (f) prescribing health, genetic and other requirements for game production animals for the purpose of section 10 and governing the manner of ensuring that those requirements are complied with;
- (g) providing for the control of inventories of game production animals on game production farms;
- (h) respecting the design, construction, maintenance and operation of game production farms;
- (i) respecting the humane care of game production animals and the control of animal diseases on game production farms;
- (j) governing procedures to be used by operators and other persons when removing non-meat parts from game production animals and for marking parts so removed;
- (k) for the purpose of subsection 14(2), governing the marking of carcasses and parts of carcasses of game production animals;
- (l) for the purpose of section 16, prescribing the non-meat parts of game production animals that may be sold;
- (m) prohibiting or regulating the collection, possession, processing, distribution or sale of any meat or non-meat part of game production animals;
- (n) providing for the licensing or other authorization of persons who collect, process, distribute, sell or otherwise deal with the meat or non-meat parts of game production animals, and respecting requirements for licensing and other authorizations and all related matters, including the fees for application and the issue, suspension and cancellation of licences or other authorizations, and for a right of appeal;
- (o) respecting the keeping and submission of records by operators or persons who collect, process, distribute, sell or otherwise deal with the meat or non-meat parts of game production animals;
- (p) respecting the provision of information, reports and returns concerning game production animals and the meat and non-meat parts of game productions animals;
- (q) providing for systems to ascertain the places of origin or destination of game production animals and the meat or non-meat parts of game production animals;
- (r) governing the transportation of game production animals;
- (s) governing the recapture of game production animals that have escaped from game production farms and permitting the disposition of such animals if not recaptured;

- (t) respecting the operation and administration of the fund established under section 26;
- (u) prescribing amounts that are to be paid into the fund established under section 26;
- (v) prescribing any fees or charges, or the manner of calculating any fees or charges, required for carrying out the purposes and provisions of this Act;
- (w) exempting or excluding any class of person or activity from the application of all or any part of this Act;
- (x) defining any word or expression used but not defined in this Act;
- (y) respecting any matter the minister considers necessary or advisable to carry out the intent and purpose of this Act.

Scope of regulations

34(2) A regulation made under this section may be general or particular in its application.

CONSEQUENTIAL AMENDMENTS, CITATION AND COMING INTO FORCE

35 to 39

NOTE: These sections contained consequential amendments to other Acts, which amendments are now included in those Acts.

C.C.S.M. reference

40 This Act may be cited as The Livestock Industry Diversification Act and referred to as chapter L175 of the Continuing Consolidation of the Statutes of Manitoba.

Coming into force

41 This Act comes into force on a day fixed by proclamation.

NOTE: S.M. 1996, c. 37 was proclaimed in force February 1, 1997.