

Farm Products Containers Act

R.S.O. 1990, CHAPTER F.7

Consolidation Period: From December 15, 2009 to the e-Laws currency date.

Last amendment: 2009, c. 33, Sched. 1, s. 10.

Definitions

1. In this Act,

“association” means an association of producers; (“association”)

“container” includes any bag, basket, bottle, box, can, carton, crate, pot or other receptacle used or suitable for use in the marketing of farm products; (“contenant”)

“farm products” means such fruit, honey, maple products, vegetables, plants, flowers, mushrooms, seeds and articles of food or drink manufactured or derived in whole or in part from any of those products as are designated in the regulations; (“produits agricoles”)

“licence” means a licence provided for in the regulations; (“permis”)

“Minister” means the Minister of Agriculture, Food and Rural Affairs or such other member of the Executive Council to whom the administration of this Act may be assigned; (“ministre”)

“producer” means a person engaged in the production of farm products and includes a person engaged in the handling, packing, processing, shipping, transporting, purchasing or selling of farm products; (“producteur”)

“regulations” means regulations made under this Act. (“règlements”) R.S.O. 1990, c. F.7, s. 1; 2009, c. 33, Sched. 1, s. 10.

Minister may appoint Director, inspectors

2. The Minister may appoint a Director to administer and enforce this Act and may appoint inspectors, who shall be under the supervision of the Director, to carry out the audits authorized under subsection 4 (1). R.S.O. 1990, c. F.7, s. 2.

Regulations

3. If the Minister receives from an association a request that, for the purpose of defraying the expenses of the association, every producer specified in the request who purchases containers be required to be licensed and to pay licence fees and the Minister is of the opinion that the association is representative of the producers, the Lieutenant Governor in Council may make regulations,

(a) designating the association as one to which this Act applies;

(b) providing for the licensing of every producer and requiring the producer to pay licence fees to the association directly in respect of containers purchased outside Ontario and to the seller on behalf of the association in respect of containers purchased in Ontario;

(c) fixing the amount of the licence fees and the time of payment thereof;

(d) exempting from the regulations any class of producer;

(e) exempting from the regulations any type of container;

(f) designating farm products or classes of farm products to which this Act applies;

(g) requiring every person who sells containers either directly or indirectly to producers to collect the licence fees from the producers and to pay them to the association;

(h) requiring the sellers of containers in Ontario and the producers who purchase containers outside Ontario to pay interest on overdue fees payable and prescribing the rate of interest;

(i) requiring the association to provide an annual written report to the Minister setting out the amount of fees collected and for what purpose the fees were used;

(j) requiring persons engaged in selling containers to producers to furnish to the association such information relating to the sale of containers, including the completing and filing of returns, as the association determines;

(k) requiring the association to appoint auditors to audit the records of producers and sellers of containers;

(l) restricting the purposes for which an association may use licence fees;

(m) prohibiting the association from using any licence fees for the retail or wholesale distribution or processing of the farm product;

(n) providing for the recovery by the association of licence fees in any court of competent jurisdiction, and requiring persons engaged in selling containers to producers to account for licence fees payable to the association;

(o) prescribing fees payable to the Treasurer of Ontario for an audit by an inspector of the records of an association. R.S.O. 1990, c. F.7, s. 3.

Audit by inspector

4. (1) The records of associations that relate to the purchase or sale of containers may be audited by an inspector. R.S.O. 1990, c. F.7, s. 4 (1).

Idem

(2) Every association shall, upon the request of an inspector, produce or furnish their records that relate to the receipt and expenditure of fees received from sellers of containers and producers who have purchased containers outside Ontario. R.S.O. 1990, c. F.7, s. 4 (2).

Audit by association

5. (1) The records of producers and sellers of containers that relate to the purchase or sale of containers may be audited by an auditor appointed by the association. R.S.O. 1990, c. F.7, s. 5 (1).

Records to be produced

(2) Every seller of containers and every producer shall, upon the request of an auditor, produce or furnish their records that relate to the purchase or sale of containers. R.S.O. 1990, c. F.7, s. 5 (2).

Examination of records

6. (1) An inspector or auditor, as applicable, may enter and have access to any premises for the purpose of examining the records mentioned in subsection 4 (1) or 5 (1). R.S.O. 1990, c. F.7, s. 6 (1).

Copies of record

(2) An inspector or auditor may remove the records in order to make copies but shall immediately return them. R.S.O. 1990, c. F.7, s. 6 (2).

Private residence

(3) Subsection (1) is not authority to enter a private residence without the consent of the occupier. R.S.O. 1990, c. F.7, s. 6 (3).

Reasonable times

(4) The authority under subsection (1) shall be exercised only at reasonable times. R.S.O. 1990, c. F.7, s. 6 (4).

Identification to be produced

(5) An inspector or auditor exercising the authority under subsection (1) shall carry identification showing evidence of his or her appointment and shall produce the identification upon request. R.S.O. 1990, c. F.7, s. 6 (5).

Copy as evidence

(6) A copy of a record purporting to be certified by an inspector or auditor to be a copy made under subsection (2) is admissible in evidence in a judicial proceeding and has the same evidentiary value as the original document without proof of the signature of the inspector or auditor or of his or her being in fact the inspector or auditor. R.S.O. 1990, c. F.7, s. 6 (6).

Obstruction of inspector

(7) No person shall hinder or obstruct an inspector or auditor in the course of his or her duties or furnish the inspector or auditor with false information or refuse to furnish him or her with information. R.S.O. 1990, c. F.7, s. 6 (7).

Offence

7. A person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and to a fine of not more than \$10,000 for a subsequent offence. R.S.O. 1990, c. F.7, s. 7.