



Canadian Grain Commission
Commission canadienne
des grains

OFFICE CONSOLIDATION (English)

CANADA GRAIN ACT

WARNING NOTE

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Canada 

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CHAPTER G-10

An Act respecting grain

SHORT TITLE

Short title 1. This Act may be cited as the Canada Grain Act.
1970-71-72, c. 7, s. 1.

INTERPRETATION

Definitions 2. In this Act,

"cash purchase ticket" means a document in prescribed form issued in respect of grain delivered to a primary elevator, process elevator or grain dealer as evidence of the purchase of the grain by the operator of the elevator or the grain dealer and entitling the holder of the document to payment, by the operator or grain dealer, of the purchase price stated in the document;

"class"
«classe» "class", in respect of grain, means any variety or varieties of grain designated by order of the Commission as a class for the purposes of this Act;

"Commission"
«Commission» "Commission" means the Canadian Grain Commission established by section 3;

"commissioner"
«commissaire» "commissioner" means a commissioner appointed pursuant to section 3;

"contaminated"
«contaminé» "contaminated" means, in respect of grain, containing any substance in sufficient quantity that the grain is unfit for consumption by persons and animals or is adulterated within the meaning of the regulations made pursuant to paragraph 30(1)(a) of the Food and Drugs Act;

"crop year"
«campagne agricole» "crop year" means, subject to any order of the Governor in Council made pursuant to section 115, the period commencing on August 1 in any year and terminating on July 31 in the year next following;

"Division"
«région» "Division" means the Eastern Division or the Western Division;

"dockage"
«impuretés» "dockage" means any material intermixed with a parcel of grain, other than kernels of grain of a standard of quality fixed by or under this Act for a grade of that grain, that must and can be separated from the parcel of grain before that grade can be assigned to the grain;

"Eastern Division"
«région de l'Est» "Eastern Division" means that part of Canada not included in the Western Division;

"eastern grain"
«grain de l'Est» "eastern grain" means grain grown in the Eastern Division;

"elevator"
«installation» ou
«silo» "elevator" means

(a) any premises in the Western Division
(i) into which grain may be received or out of which grain may be discharged directly from or to railway cars or

ships,

(ii) constructed for the purpose of handling and storing grain received directly from producers, otherwise than as a part of the farming operation of a particular producer, and into which grain may be received, at which grain may be weighed, elevated and stored and out of which grain may be discharged, or

(iii) constructed for the purpose of handling and storing grain as part of the operation of a flour mill, feed mill, seed cleaning plant, malt house, distillery, grain oil extraction plant or other grain processing plant, and into which grain may be received, at which grain may be weighed, elevated and stored and out of which grain may be discharged for processing or otherwise,

(b) any premises in the Eastern Division, situated along Lake Superior, Lake Huron, Lake St. Clair, Lake Erie, Lake Ontario or the canals or other navigable waters connecting those Lakes or the St. Lawrence River or any tidal waters, and into which grain may be received directly from railway cars or ships and out of which grain may be discharged directly to ships,

(c) the portion of any premises in the Eastern Division designated by regulation pursuant to subsection 116(3) that is used for the purpose of storing grain,

(d) any premises in the Eastern Division constructed for the purpose of handling and storing grain received directly from producers, otherwise than as a part of the farming operation of a particular producer, and into which grain may be received, at which grain may be weighed, elevated and stored and out of which grain may be discharged, and

(e) any premises in the Eastern Division constructed for the purpose of handling and storing grain as a part of the operation of a flour mill, feed mill, seed cleaning plant, malt house, distillery, grain oil extraction plant or other grain processing plant, and into which grain may be received, at which grain may be weighed, elevated and stored and out of which grain may be discharged for processing or otherwise,

including any such premises owned or operated by Her Majesty in right of Canada or a province or any agent thereof;

"elevator receipt"
«récépissé»

"elevator receipt" means a document in prescribed form issued in respect of grain delivered to an elevator acknowledging receipt of the grain and, subject to any conditions contained therein or in this Act, entitling the holder of the document

(a) to the delivery of grain of the same kind, grade and quantity as the grain referred to in the document, or

(b) in the case of a document issued for specially binned grain, to delivery of the identical grain;

"export standard sample" «échantillon-type d'exportation»	"export standard sample" means, in respect of a grade of grain, a sample of grain of that grade designated by the Commission pursuant to paragraph 26(b);
"foreign grain" «grain étranger»	"foreign grain" means any grain grown outside Canada and includes screenings from such a grain and every grain product manufactured or processed from such a grain;
"foreign material" «matières étrangères»	"foreign material" means any material intermixed with a parcel of grain, other than kernels of grain of a standard of quality fixed by or under this Act for a grade of that grain, that is of such a character and in such limited quantity that it need not be separated from the parcel of grain before that grade can be assigned to the grain;
"grade name" «appellation de grade»	"grade name" means the name, or name and number, assigned to any grade of grain established by or under this Act and includes any abbreviation prescribed for that grade name;
"grain" «grain»	"grain" means any seed designated by regulation as a grain for the purposes of this Act;
"grain dealer" «négociant en grains»	"grain dealer" means a person who, for reward, on his own behalf or on behalf of another person, deals in or handles western grain;
"grain product" «produit céréalier»	"grain product" means any product that is produced by processing or manufacturing any grain alone or with any other grain or substance and that may be presented for storage or handling at an elevator;
"grain receipt" «accusé de réception»	"grain receipt" means a document in prescribed form issued in respect of grain delivered to a process elevator or grain dealer acknowledging receipt of the grain and entitling the holder of the document to payment by the operator of the elevator or the grain dealer for the grain;
"holder" «détenteur»	"holder", in relation to any document that entitles the person to whom it is delivered to the payment of money or the delivery of grain, means the person who, from time to time, is so entitled by virtue of <ul style="list-style-type: none"> (a) the issue or endorsement to him of the document, or (b) the delivery to him of the document after it has been endorsed in blank;
"infested" «infesté»	"infested" means containing any injurious, noxious or troublesome insect or animal pest;
"inspection point" «poste d'inspection»	"inspection point" means any place at which the Commission has made provision for the inspection of grain;
"inspector" «inspecteur»	"inspector" means a person designated as an inspector by the Commission pursuant to section 12;
"lawfully" «légalement»	"lawfully" means <ul style="list-style-type: none"> (a) in accordance with this Act and the Canadian Wheat Board Act, and (b) in respect of <ul style="list-style-type: none"> (i) the offering of grain for delivery to or storage in a

primary elevator,
(ii) the delivery of grain to a terminal elevator, transfer elevator or process elevator or to a consignee at a destination other than an elevator, or
(iii) the delivery of grain to a public carrier for carriage to any elevator or consignee referred to in subparagraph (ii),

deliverable by the owner of the grain, receivable by the public carrier for carriage to the elevator or consignee and receivable by the operator of the elevator or consignee, in accordance with this Act and the Canadian Wheat Board Act;

"licence" «licence»	"licence" means a licence to operate an elevator or to carry on business as a grain dealer issued by the Commission;
"licensed" «agrée»	"licensed" means, in respect of an elevator, licensed for operation under a licence that is held by a licensee;
"licensee" «titulaire de licence»	"licensee" means a person who holds a licence to operate an elevator or to carry on business as a grain dealer;
"manager" «directeur»	"manager" means, in respect of an elevator, the chief executive officer employed at the elevator by the operator or licensee of the elevator;
"Minister" «ministre»	"Minister" means such member of the Queen's Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act;
"official inspection" «inspection officielle»	"official inspection" means the sampling and grading of a parcel of grain by an inspector;
"official sample" «échantillon officiel»	"official sample" means a sample taken from a parcel of grain by a person authorized by the Commission to take the sample or by any sampling device authorized by the Commission;
"official weighing" «pesée officielle»	"official weighing" means the weighing of grain under the supervision of a person authorized by the Commission or in a manner authorized by the Commission;
"operator" «exploitant»	"operator" means, in respect of an elevator, the person in possession of the premises constituting the elevator, either as owner or lessee thereof or as being entitled under a contract with the owner or lessee to operate the elevator for his own benefit and advantage;
"order" «arrêté»	"order" includes any directive to the trade issued by the Commission;
"overage" «excédent»	"overage" means the amount by which the aggregate of the quantity of grain of any grade discharged from an elevator in a period between two consecutive weigh-overs of grain of that grade in the elevator and the quantity of grain of that grade in storage in the elevator at the end of that period exceeds the aggregate of the quantity of grain of that grade in storage in the elevator at the beginning of that period and the quantity of grain of that grade received into the elevator during that period.

"prescribed" Version anglaise seulement	"prescribed" means prescribed by regulation;
"primary elevator" «installation primaire»	"primary elevator" means an elevator the principal use of which is the receiving of grain directly from producers for storage or forwarding or both;
"primary standard sample" «échantillon-type normal»	"primary standard sample" means, in respect of a grade of grain, a sample of grain of that grade designated by the Commission pursuant to paragraph 26(a);
"process elevator" «installation de transformation»	"process elevator" means an elevator the principal use of which is the receiving and storing of grain for direct manufacture or processing into other products;
"public carrier" «transporteur public»	"public carrier" means any railway company, any operator of an extra-provincial truck undertaking within the meaning of the Motor Vehicle Transport Act, 1987 and any owner or operator of a ship;
"railway company" «compagnie de chemin de fer»	"railway company" means any company operating a line of railway in one or more provinces;
"regulation" «règlement»	"regulation" [Repealed, 1994, c. 45, s. 1]
"screenings" «criblures»	"screenings" means dockage that has been removed from a parcel of grain;
"ship" «navire»	"ship" includes any description of vessel or boat used or designed for use in navigation, irrespective of method or lack of propulsion;
"shortage" «déficit»	"shortage" means the amount by which the aggregate of the quantity of grain of any grade discharged from an elevator in a period between two consecutive weigh-overs of grain of that grade in the elevator and the quantity of grain of that grade in storage in the elevator at the end of that period is less than the aggregate of the quantity of grain of that grade in storage in the elevator at the beginning of that period and the quantity of grain of that grade received into the elevator during that period;
"shrinkage" «perte de poids»	"shrinkage" means the loss in weight of grain that occurs in the handling or treating of grain;
"special binning" «stockage en cellule»	"special binning" means the storing of a parcel or parcels of grain pursuant to a contract, in space in an elevator that is specified in the contract, for the purpose of preserving the identity of the grain;
"storage charge" «frais de stockage»	"storage charge" means the charge made by the licensee of an elevator for maintaining in the elevator a stock of grain available for delivery on presentation of an elevator receipt entitling the holder to the delivery of grain in accordance with the receipt;
"terminal elevator" «installation terminale»	"terminal elevator" means an elevator the principal uses of which are the receiving of grain on or after the official inspection and official weighing of the grain and the cleaning, storing and treating of the grain before it is moved forward;

"transfer elevator" «installation de transbordement»	"transfer elevator" means (a) an elevator in the Western Division or the Eastern Division the principal use of which is the transfer of grain that has been officially inspected and officially weighed at another elevator, and (b) an elevator in the Eastern Division the principal uses of which are the transfer of grain that has been officially inspected and officially weighed at another elevator and the receiving, cleaning and storing of eastern grain or foreign grain;
"weigh-over" «pesée de contrôle»	"weigh-over" means the weighing and inspection of all grain of any grade in an elevator for the purpose of determining the amount in stock of grain of that grade in the elevator;
"Western Division" «région de l'Ouest»	"Western Division" means all that part of Canada lying west of the meridian passing through the eastern boundary of the City of Thunder Bay, including the whole of the Province of Manitoba;
"western grain" «grain de l'Ouest»	"western grain" means grain grown in the Western Division. R.S., 1985, c. G-10, s. 2; R.S., 1985, c. 29 (3rd Supp.), s. 25, c. 37 (4th Supp.), s. 1; 1994, c. 45, s. 1.

PART I

CANADIAN GRAIN COMMISSION

Constitution of the Commission and Commissioners

Commission established	3. There is hereby established a Commission to be known as the Canadian Grain Commission consisting of three commissioners to be appointed by the Governor in Council to hold office, during good behaviour, for a renewable term of up to seven years. R.S., 1985, c. G-10, s. 3; R.S., 1985, c. 37 (4th Supp.), s. 2.
Chief commissioner and assistant chief commissioner	4. (1) The Governor in Council shall designate one of the commissioners to be chief commissioner and another commissioner to be assistant chief commissioner.
Commissioner chief executive officer	(2) The chief commissioner is the chief executive officer of the Commission and, subject to section 12, has supervision over and direction of the work and staff of the Commission.
Powers of assistant chief commissioner	(3) The assistant chief commissioner may exercise all the powers and perform all the functions of the chief commissioner in the event of the absence or incapacity of the chief commissioner or if the office of the chief commissioner is vacant. R.S., 1985, c. G-10, s. 4; 1994, c. 45, s. 2.
Salaries and expenses	5. (1) Each commissioner shall be paid a salary to be fixed by the Governor in Council and is entitled to be paid reasonable travel

and other expenses incurred by him while absent from his ordinary place of residence in the course of his duties under this Act.

Superannuation and compensation	(2) The commissioners shall be deemed to be persons employed in the Public Service for the purposes of the Public Service Superannuation Act and to be employed in the public service of Canada for the purposes of the Government Employees Compensation Act and any regulations made pursuant to section 9 of the Aeronautics Act. 1970-71-72, c. 7, s. 5.
Oath of office	6. (1) A commissioner shall, before entering on his duties as such, take and subscribe, before a superior court judge, an oath of office in prescribed form.
Duties to be full-time duties	(2) A commissioner shall devote the whole of his time to the performance of his duties under this Act. (3) and (4) [Repealed, 1994, c. 45, s. 3] R.S., 1985, c. G-10, s. 6; 1994, c. 45, s. 3.
Outside interests	7. A person is not eligible to be appointed or, subject to section 8, to continue as a commissioner if, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise, that person is engaged in commercial dealings in grain or the carriage of grain or has any pecuniary or proprietary interest in grain or the carriage of grain, other than as a producer of grain. 1970-71-72, c. 7, s. 6.
Disposing of interest	8. Any commissioner in whom any interest prohibited under section 7 vests by will or succession for the commissioner's own benefit shall, within six months thereafter, absolutely dispose of that interest. 1970-71-72, c. 7, s. 6.

Staff

Assistant commissioners	9. (1) The Governor in Council may appoint six persons as officers of the Commission, to be known as assistant commissioners, to hold office, during good behaviour, for a renewable term of up to five years.
Application of section 5	(2) Section 5 applies, with such modifications as the circumstances require, to assistant commissioners appointed pursuant to subsection (1). R.S., 1985, c. G-10, s. 9; R.S., 1985, c. 37 (4th Supp.), s. 3.
Staff	10. Such officers and employees, other than assistant commissioners, as are necessary for the proper conduct of the

business of the Commission, including managers and employees employed at elevators constructed or acquired by Her Majesty in right of Canada and administered by the Commission pursuant to this Act, shall be appointed in the manner authorized by law. 1970-71-72, c. 7, s. 8.

Head Office, Meetings and Hearings

Head office

11. The head office of the Commission shall be at the City of Winnipeg, in the Province of Manitoba, but the Commission may hold meetings and hearings at such other places as the Commission considers necessary or desirable for the proper conduct of the business of the Commission. 1970-71-72, c. 7, s. 9.

By-laws

By-laws

12. The Commission may make by-laws

- (a) respecting the calling of meetings of the Commission, the regulation of its proceedings and generally for the conduct of its activities;
- (b) distributing among the commissioners duties to be performed by them;
- (c) specifying the duties of officers, managers and employees appointed pursuant to section 9 or as required by section 10;
- (d) designating as an inspector for the purposes of this Act any person who, in the opinion of the Commission, is qualified to be so designated;
- (e) respecting the establishment of committees of the Commission composed of commissioners or other persons or both, the delegation of duties to those committees and the fixing of quorums for meetings thereof;
- (f) designating a seal to be used by the Commission to authenticate any documents issued by it; and
- (g) fixing the allowance to be paid to members of grain standards committees and grain appeal tribunals.

R.S., 1985, c. G-10, s. 12; 1994, c. 45, s. 4.

Objects of the Commission

Objects

13. Subject to this Act and any directions to the Commission issued from time to time under this Act by the Governor in Council or the Minister, the Commission shall, in the interests of the grain producers, establish and maintain standards of quality for Canadian grain and regulate grain handling in Canada, to ensure a

dependable commodity for domestic and export markets.
1970-71-72, c. 7, s. 11.

Functions of the Commission

Functions	<p>14. (1) Subject to this Act, the Commission shall, in furtherance of its objects,</p> <ul style="list-style-type: none"> (a) recommend and establish grain grades and standards for those grades and implement a system of grading and inspection for Canadian grain to reflect adequately the quality of that grain and meet the need for efficient marketing in and outside Canada; (b) establish and apply standards and procedures regulating the handling, transportation and storage of grain and the facilities used therefor; (c) conduct investigations and hold hearings on matters within the powers of the Commission; (d) manage, operate and maintain every elevator constructed or acquired by Her Majesty in right of Canada, the administration of which is assigned by the Governor in Council to the Commission; (e) undertake, sponsor and promote research in relation to grain and grain products and, in so doing, <ul style="list-style-type: none"> (i) wherever appropriate, utilize technical, economic and statistical information and advice from any department or agency of the Government of Canada, and (ii) maintain an efficient and adequately equipped laboratory; (e.1) monitor compliance with end-use certificates provided pursuant to section 87.1; and (f) advise the Minister in respect of such matters relating to grain, grain products and screenings as the Minister may refer to the Commission for its consideration.
Restriction	<p>(2) The Commission shall not, in operating any elevator as a primary elevator pursuant to paragraph (1)(d), purchase grain.</p>
Delegation	<p>(3) The Commission may, by by-law, authorize any person to exercise or perform on the Commission's behalf, subject to such restrictions or limitations as the Commission may specify, any of the powers, duties or functions of the Commission under this Act other than the power to make any regulation, order or by-law. R.S., 1985, c. G-10, s. 14; R.S., 1985, c. 37 (4th Supp.), s. 4; 1988, c. 65, s. 124.</p>

Report 15. The Commission shall during the month of February in each year submit to the Minister a report, in such form as the Minister may direct, on the activities of the Commission during the crop year immediately preceding and the Minister shall cause the report to be laid before Parliament within fifteen days after the receipt thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that either House of Parliament is sitting.
1970-71-72, c. 7, s. 14.

PART II

GRAIN GRADES, GRADING AND INSPECTION

Grain Grades

Grades may be established by regulation 16. (1) The Commission may, by regulation, establish grades and grade names for any kind of western grain and eastern grain and establish the specifications for those grades and set out a method or methods, visual or otherwise, for determining the characteristics of the grain for the purposes of meeting the quality requirements of purchasers of grain.

Coming into force of regulation (2) Unless a regulation made under this section expressly provides otherwise, the provisions of the regulation in relation to western grain shall come into force not earlier than August 1 next following the date the regulation is made and the provisions thereof in relation to eastern grain shall come into force not earlier than July 1 next following the date the regulation is made.

Reduction in value to be minimized (3) Any variation in a grade of grain to be made by a regulation under this section shall, where possible and consistent with increasing the acceptance of Canadian grain in export and domestic markets, be made so as to prevent or minimize any reduction in the value of existing grain of the grade to be so varied.
R.S., 1985, c. G-10, s. 16; R.S., 1985, c. 37 (4th Supp.), s. 5; 1994, c. 45, s. 5.

17. and 18. [Repealed, R.S., 1985, c. 37 (4th Supp.), s. 5]

Grades for grain that is out of condition, etc. 19. The Commission may, by order, establish
(a) grades and grade names for any grain
(i) that is out of condition,
(ii) that has been specially binned,
(iii) that may be marketed on the basis of its specifications rather than a grade established by regulation, or
(iv) that, by reason of its intermixture with another material, would not be eligible to have assigned to it a grade established by regulation; and

(b) grades and grade names, and specifications for those grades, for any screenings.
R.S., 1985, c. G-10, s. 19; R.S., 1985, c. 37 (4th Supp.), s. 6.

Grain Standards Committees

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| Grain standards committees | <p>20. (1) The Commission shall, by by-law, constitute a western grain standards committee and an eastern grain standards committee, in this Part referred to as the Western Standards Committee and the Eastern Standards Committee, for the purpose of</p> <ul style="list-style-type: none"> (a) recommending specifications for grades of grain and selecting and recommending primary standard samples and export standard samples of grain; and (b) performing such other duties in connection with the determination of grain standards as may be assigned to each committee by the Commission. |
| Membership of Western Standards Committee | <p>(2) The Commission shall, with the approval of the Minister, appoint to the Western Standards Committee</p> <ul style="list-style-type: none"> (a) a commissioner, a grain inspector and a scientist; (b) the chairman of the grain appeal tribunal for the Western Division; (c) two persons nominated by the Deputy Minister of Agriculture and Agri-Food; (d) one person nominated by The Canadian Wheat Board; (e) two persons selected from among processors of grain; (f) two persons selected from among exporters of grain; (g) twelve actual producers of western grain; and (h) such additional persons not exceeding three in number as the Commission deems advisable. |
| Membership of Eastern Standards Committee | <p>(3) The Commission shall, with the approval of the Minister, appoint to the Eastern Standards Committee</p> <ul style="list-style-type: none"> (a) a commissioner, a grain inspector and a scientist; (b) one person nominated by the Deputy Minister of Agriculture and Agri-Food; (c) four persons selected from among processors and exporters of grain; (d) not more than four persons representative of producers of eastern grain; and (e) such additional persons not exceeding three in number as the Commission deems advisable. |
| Chairman | <p>(4) A commissioner shall preside as chairman at each meeting of a grain standards committee.
R.S., 1985, c. G-10, s. 20; R.S., 1985, c. 37 (4th Supp.), s. 7; 1994, c. 38, s. 20.</p> |

Oath of office	21. (1) Each member of a grain standards committee who is not a commissioner and is not employed in the public service of Canada shall, before entering on his duties as a member of the committee, take an oath of office in prescribed form.
Term of office	(2) The Commission shall, by by-law, establish the terms of office of those members of a grain standards committee who are not employed in the public service of Canada.
Idem	(3) Notwithstanding subsection (2) and subsections 20(2) and (3), no person, except a person employed in the public service of Canada, shall serve as a member of a grain standards committee for a period of more than seven consecutive years.
Quorum	(4) The quorum of a grain standards committee shall be at least half of the number of members in office. 1970-71-72, c. 7, s. 17.
Remuneration and expenses	22. Each member of a grain standards committee is entitled to be paid (a) if the member is not employed in the public service of Canada, an allowance for the member's services in an amount to be fixed by by-law of the Commission; and (b) reasonable travel and other expenses while absent from his ordinary place of residence in the course of his duties under this Act. R.S., 1985, c. G-10, s. 22; 1994, c. 45, s. 6.

Primary Standard Samples and Export Standard Samples

Preparation of samples	23. As early as possible in each crop year the Commission shall cause to be collected representative samples of the crop of western grain and the crop of eastern grain of that crop year and, from those samples and from such other samples of the stocks of grain from any previous crop year as the Commission considers to be representative of the existing stock of any grain, cause to be prepared representative samples of (a) each grade of grain established by regulation that the Western Standards Committee or the Eastern Standards Committee considers advisable; (b) any other grade of western grain or eastern grain for which, in the opinion of the Commission, it would be appropriate to designate primary standard samples or export standard samples or both; and (c) any grain in respect of which the Commission wishes to obtain a recommendation pursuant to paragraphs 24(2)(b) and (c). R.S., 1985, c. G-10, s. 23; R.S., 1985, c. 37 (4th Supp.), s. 8.
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Meetings to be convened	24. (1) When representative samples of grain have been prepared pursuant to section 23 and such reports on the milling, baking and other qualities of the samples as the Commission deems necessary have been obtained, the Commission shall convene a meeting of each grain standards committee.
Duties of grain standards committees	<p>(2) A grain standards committee shall examine the samples of grain supplied to the committee by the Commission and</p> <p>(a) select and recommend to the Commission samples of each grade of grain for which a representative sample was prepared pursuant to paragraph 23(a) that in the opinion of such committee represent as accurately as possible the minimum of that grade;</p> <p>(b) recommend to the Commission names and specifications for other grades of grain that, in the opinion of the committee, should be established for the current crop year; and</p> <p>(c) select and recommend to the Commission samples of each grade of grain recommended pursuant to paragraph (b) that, in the opinion of the committee, represent as accurately as possible the minimum of that grade.</p>
Definition of "grain standards committee"	<p>(3) In subsection (2), "grain standards committee",</p> <p>(a) in the case of western grain, means the Western Standards Committee; and</p> <p>(b) in the case of eastern grain, means the Eastern Standards Committee.</p>
Recommendation of export standard samples	<p>(4) The Western Standards Committee shall, in respect of</p> <p>(a) each grade of western red spring wheat and western amber durum wheat that, in the opinion of the Commission, is likely to be sold for export, and</p> <p>(b) any other grade of western grain that the Commission refers to it for consideration,</p> <p>examine the samples of grain of that grade supplied to the Committee by the Commission and select and recommend to the Commission samples of the grade that, in the opinion of the Committee, represent as accurately as possible the average of grain of that grade received at any or all elevators at any or all inspection points.</p> <p>R.S., 1985, c. G-10, s. 24; R.S., 1985, c. 37 (4th Supp.), s. 9.</p>
Delegation of duties	<p>25. A grain standards committee may</p> <p>(a) delegate to a subcommittee of its members, which shall include an inspector, any function assigned to the committee by paragraph 24(2)(b) or (c); and</p> <p>(b) if a sample of any grade of grain is not available in a crop year, or if the committee is of the opinion that the quality of a grade of grain has not varied significantly from the immediately preceding crop year, recommend to the Commission a sample approved by the Commission for that grade in a previous crop year.</p>

R.S., 1985, c. G-10, s. 25; R.S., 1985, c. 37 (4th Supp.), s. 10.

Designation of primary standard samples and export standard samples

26. The Commission shall, for each crop year,
 (a) on considering the recommendations of a grain standards committee made pursuant to subsection 24(2), designate primary standard samples of each grade of grain for which a representative sample was prepared pursuant to paragraph 23(a) and of such other grades of grain as the Commission considers advisable; and
 (b) on considering the recommendations of the Western Standards Committee made pursuant to subsection 24(4), designate export standard samples of each grade of western grain for which a representative sample was prepared pursuant to paragraph 23(a) and of such other grades of western grain as the Commission considers advisable.

R.S., 1985, c. G-10, s. 26; R.S., 1985, c. 37 (4th Supp.), s. 11.

Export standard samples

27. (1) The export standard sample that is designated for a grade of grain
 (a) shall be used as the visual grading standard in the grading of western grain of that grade discharged from a terminal elevator, transfer elevator or process elevator; and
 (b) constitutes the minimum visual quality of the grade for that grain.

Primary standard samples

(2) The primary standard sample that is designated for a grade of grain
 (a) shall be used as a visual grading guide in the grading of grain of that grade, other than western grain discharged from a terminal elevator, transfer elevator or process elevator; and
 (b) constitutes the minimum visual quality of the grade for that grain.

Non-visual criteria of quality

(3) Where
 (a) protein content is a criterion of quality that applies to a grade of grain, or
 (b) any other criterion of quality that cannot be determined visually by comparison with a primary standard sample or export standard sample applies to a grade of grain,
 that criterion shall be taken into consideration in determining the grade of the grain.

Limitation

(4) No person shall, on the basis of the use of a primary standard sample,
 (a) assign a grade to any grain that does not meet the specifications for that grade established by or under this Act; or
 (b) refuse to assign a grade to any grain that meets the specifications so established for that grade.

1970-71-72, c. 7, s. 22.

Grain of variety

28. Notwithstanding paragraph 27(4)(b), where grain of any kind

not registered under Seeds Act is of a variety produced from seed of a variety that is not registered under the Seeds Act for sale in or importation into Canada, no person shall, except with the permission of the Commission, assign to that grain a grade that is higher than the lowest grade established by regulation for that kind of grain.
R.S., 1985, c. G-10, s. 28; R.S., 1985, c. 49 (1st Supp.), s. 8, c. 37 (4th Supp.), s. 12.

Inspection of Grain

Provision for inspection 29. The Commission shall make provision for the inspection of grain at such places as the Commission may, by by-law, determine.
1970-71-72, c. 7, s. 23.

Order of inspection 30. (1) Subject to the regulations, an inspector
(a) shall, on application for inspection and in the order of receipt of applications for inspection, make an official inspection of grain at any place where provision for inspection has been made; and
(b) on making an official inspection of grain, shall take an official sample of the grain in the manner prescribed and retain the sample for fifteen days or such longer period as may be prescribed.

Grading of unofficial samples (2) An inspector may, on application for grading, grade unofficial samples of grain in the prescribed manner.
R.S., 1985, c. G-10, s. 30; 1994, c. 45, s. 7.

Sample to be property of the Commission 31. A sample of grain taken pursuant to section 30 or otherwise sent to the Commission thereupon becomes the property of the Commission and shall be sold or disposed of by the Commission in the prescribed manner.
R.S., 1985, c. G-10, s. 31; R.S., 1985, c. 37 (4th Supp.), s. 13.

Inspection certificates 32. (1) Subject to this Act, an inspector, after making an official inspection of grain pursuant to this Act, shall issue an inspection certificate in prescribed form,
(a) where the grain was grown in Canada,
(i) assigning to the grain a grade established by or under this Act or, if the grain is eligible to be assigned more than one grade, assigning to the grain the grade constituting the highest level of excellence for which the grain is eligible, and
(ii) stating the dockage to be separated from the grain in order that it may be eligible for the grade so assigned; or
(b) where the grain was grown outside Canada, stating the country of origin of the grain or stating that the grain is foreign grain.

Where assignation of grade not necessary	(1.1) An inspector may, with the approval of the Commission, issue an inspection certificate in prescribed form in respect of grain that has been specially binned or that is or may be marketed on the basis of its specifications rather than a grade established by regulation without assigning any grade to the grain and, in that case, shall indicate in the certificate that the grain is specially binned or, in the case of grain that is or may be marketed on the basis of its specifications, the specifications.
Additional information	(2) An inspection certificate shall contain such information, in addition to the information specified in subsection (1) or (1.1), as the case may be, as may be authorized by the Commission. R.S., 1985, c. G-10, s. 32; R.S., 1985, c. 37 (4th Supp.), s. 14.
Transmission of inspection certificate	33. An inspection certificate issued when grain is discharged out of a terminal elevator or transfer elevator shall be transmitted with the shipping documents relating to the grain. 1970-71-72, c. 7, s. 27.
Cancellation of inspection certificate	34. An inspection certificate issued in respect of any grain later found to have gone out of condition shall be cancelled and, after a subsequent official inspection of the grain, a new inspection certificate shall be substituted for the cancelled certificate. 1970-71-72, c. 7, s. 28.

Grain Appeal Tribunals

Grain appeal tribunals	35. (1) The Commission shall, by by-law, constitute a grain appeal tribunal for each Division.
Membership in tribunal for Western Division	(2) The Commission shall appoint to the grain appeal tribunal for the Western Division (a) a chairman who is an officer of the Commission and is, in the opinion of the Commission, qualified to inspect and grade grain; and (b) not more than eight other persons who are qualified to inspect and grade grain, are engaged in buying, selling, milling or exporting grain and are not employed in the public service of Canada.
Membership in tribunal for Eastern Division	(3) The Commission shall appoint to the grain appeal tribunal for the Eastern Division (a) a chairman who shall be the principal inspector of the Commission in that Division; and (b) not more than eight other persons who are qualified to inspect and grade grain, are engaged in buying, selling, milling or exporting grain and are not employed in the public service of Canada.

Acting chairman	(4) Where the chairman of a grain appeal tribunal is unable to act, the Commission shall appoint to act as chairman another person who, in the opinion of the Commission, is qualified to inspect and grade grain. 1970-71-72, c. 7, s. 29.
Term of office	36. (1) The Commission shall, by by-law, establish the terms of office of members of a grain appeal tribunal.
Oath of office	(2) Each member of a grain appeal tribunal, except a chairman employed in the public service of Canada, shall, before entering on his duties as a member of the tribunal, take an oath of office in prescribed form.
Quorum	(3) A quorum of a grain appeal tribunal shall consist of the chairman and two other members of the tribunal to be selected by him.
Restriction	(4) No member of a grain appeal tribunal shall act as a member of the tribunal on an appeal relating to grain in which that member has any pecuniary interest. 1970-71-72, c. 7, s. 29.
Remuneration and expenses	37. Each member of a grain appeal tribunal is entitled to be paid (a) if the member is not employed in the public service of Canada, an allowance for the member's services in an amount to be fixed by by-law of the Commission; and (b) reasonable travel and other expenses while absent from his ordinary place of residence in the course of his duties under this Act. R.S., 1985, c. G-10, s. 37; 1994, c. 45, s. 8.
Additional duties of chairman	38. The Commission may assign to the chairman of the grain appeal tribunal for the Western Division such duties, in addition to his duties as chairman of the tribunal, as, in the opinion of the Commission, will not prejudice his independence as chairman but, in so doing, shall not assign duties that require the chairman to inspect or grade grain other than as chairman of the tribunal. 1970-71-72, c. 7, s. 29.

Appeals of Grain Grades

Right of appeal	39. (1) Any person who is dissatisfied with the grade assigned to grain by an inspector on an official inspection of the grain may appeal from the decision of that inspector in respect of any characteristics of the grain, by way of an application for reinspection of the grain, to (a) the principal inspector at the place or for the district in which the grain then is;
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	<p>(b) the chief grain inspector for Canada; or</p> <p>(c) the grain appeal tribunal for the Division.</p>
Further appeal	<p>(2) Where an appeal is taken to a principal inspector pursuant to subsection (1), a further appeal, by way of an application for reinspection, lies to the chief grain inspector for Canada or the grain appeal tribunal for the Division.</p>
Idem	<p>(3) Where an appeal is taken to the chief grain inspector for Canada pursuant to subsection (1) or (2), a further appeal, by way of an application for reinspection, lies to the grain appeal tribunal for the Division.</p>
Time for appeal	<p>(4) Except with the permission of the Commission, no appeal lies under this section unless, within fifteen days of the making of the decision that is the subject of the appeal, notice of the appeal is given to the inspector or tribunal to whom or to which the appeal is being taken.</p> <p>1970-71-72, c. 7, s. 30.</p>
Restriction on appeals	<p>40. Except as may be prescribed, no appeal lies under section 39 from the decision of an inspector in respect of the grade assigned</p> <p>(a) in respect of a sample of grain taken on receipt of the grain into a primary elevator; or</p> <p>(b) to any grain on the discharge of the grain from an elevator.</p> <p>1970-71-72, c. 7, s. 30.</p>
Duties of inspector or tribunal on appeal	<p>41. Where an appeal is taken pursuant to section 39 to a principal inspector or the chief grain inspector for Canada or to a grain appeal tribunal, the inspector or tribunal shall</p> <p>(a) inspect the grain or a sample of the grain to which the appeal relates;</p> <p>(b) review the decision appealed from;</p> <p>(c) assign to the grain the grade that the inspector or tribunal considers to be the appropriate grade for the grain; and</p> <p>(d) where a grade is assigned to the grain that is different from the grade previously assigned to it, require all inspection certificates, and all other documents specified by the Commission, relating to the grain to be revised accordingly.</p> <p>R.S., 1985, c. G-10, s. 41; R.S., 1985, c. 37 (4th Supp.), s. 15.</p>

PART III

LICENCES AND LICENSEES

Licences

Classes of licences	<p>42. The following classes of licences are hereby established for the purposes of this Act:</p> <ul style="list-style-type: none"> (a) a primary elevator licence, being a licence to operate a primary elevator; (b) a terminal elevator licence, being a licence to operate a terminal elevator; (c) a transfer elevator licence, being a licence to operate a transfer elevator; (d) a process elevator licence, being a licence to operate a process elevator; and (e) a grain dealer's licence, being a licence to carry on business as a grain dealer. <p>1970-71-72, c. 7, s. 32.</p>
Subclasses of licences	<p>43. The Commission may, with the approval of the Governor in Council, make regulations prescribing</p> <ul style="list-style-type: none"> (a) subclasses of the licences established by section 42; and (b) any terms and conditions of a licence of any class or subclass. <p>R.S., 1985, c. G-10, s. 43; 1994, c. 45, s. 9.</p>
Prohibition	<p>44. No person shall</p> <ul style="list-style-type: none"> (a) operate an elevator of a type referred to in section 42 unless <ul style="list-style-type: none"> (i) that person is the holder of a licence issued in respect of the elevator, or (ii) the elevator has been exempted from the licensing requirements of this Act pursuant to section 117; or (b) carry on business as a grain dealer unless <ul style="list-style-type: none"> (i) that person is the holder of a grain dealer's licence, (ii) the business of that person as a grain dealer has been exempted from the licensing requirements of this Act pursuant to section 117, or (iii) that person deals in grain only in the course of operating a licensed elevator or as a broker trading on a recognized grain exchange. <p>1970-71-72, c. 7, s. 34.</p>
Issue of licences - - primary and process elevators and grain dealers	<p>45. (1) Where a person who proposes to operate a primary or process elevator or to carry on business as a grain dealer applies in writing to the Commission for a licence and the Commission is satisfied that the applicant and the elevator, if any, meet the requirements of this Act, the Commission may</p> <ul style="list-style-type: none"> (a) issue to the applicant a licence of a class or subclass

determined by the Commission to be appropriate to the type of operation of that elevator or the business of that grain dealer; and

(b) subject to the regulations, fix the security to be given by the applicant, by way of bond, insurance or otherwise, having regard to the applicant's potential obligations for the payment of money or the delivery of grain to producers of grain who are holders of cash purchase tickets, elevator receipts or grain receipts issued pursuant to this Act in relation to grain produced by the holders.

Issue of licences -
- terminal and
transfer elevators

(2) Where a person who proposes to operate a terminal or transfer elevator applies in writing to the Commission for a licence and the Commission is satisfied that the applicant and the elevator, if any, meet the requirements of this Act, the Commission may

(a) issue to the applicant a licence of a class or subclass determined by the Commission to be appropriate to the type of operation of that elevator; and

(b) subject to the regulations, fix the security to be given by the applicant, by way of bond, insurance or otherwise, having regard to the applicant's obligations for the payment of money or the delivery of grain to holders of elevator receipts issued pursuant to this Act.

Terms and
conditions of
licence

(3) A licence issued pursuant to this section shall be

(a) for a term not exceeding five years; and

(b) subject to such conditions, in addition to any prescribed conditions, as the Commission deems appropriate in the public interest for facilitating trade in grain.

R.S., 1985, c. G-10, s. 45; 1994, c. 45, s. 10.

Refusal to issue
elevator licence

46. (1) The Commission may refuse to issue an elevator licence if the applicant has not given the security fixed pursuant to section 45 or fails to establish to the satisfaction of the Commission that

(a) the premises that the applicant proposes to use are appropriate for the storage and handling of grain; or

(b) the elevator is or will be of such a type and in such condition and the equipment of the elevator is or will be of such a type and size and in such condition as to enable the applicant to provide, at the location where the applicant proposes to operate the elevator, the services required by or pursuant to this Act to be provided at that location by a licensee holding a licence of the class for which the applicant has applied.

Refusal to issue
grain dealer's
licence

(2) The Commission may refuse to issue a grain dealer's licence if the applicant has not given the security fixed pursuant to section 45.

- Refusal of licence re convictions (3) The Commission may refuse to issue a licence if the applicant has been convicted of an offence under this Act within the twelve months immediately preceding the application for the licence and the Commission is satisfied that it would not be in the public interest to issue a licence to the applicant.
- Interpretation (4) Nothing in this section shall be construed as a limitation on the powers of the Commission to issue or refuse to issue a licence pursuant to any other provision of this Act.
R.S., 1985, c. G-10, s. 46; R.S., 1985, c. 37 (4th Supp.), s. 16; 1994, c. 45, s. 10.
47. [Repealed, 1994, c. 45, s. 10]
- Consultation 48. (1) The Commission shall, at the request of an applicant for a licence, consult with the applicant with regard to any conditions that the Commission proposes to attach to the licence pursuant to paragraph 45(3)(b).
- Amendment of licence (2) The Commission may, subject to the regulations and on application by a licensee, amend any condition of a licence issued to the licensee.
R.S., 1985, c. G-10, s. 48; 1994, c. 45, s. 11.
- Additional security 49. (1) Where the Commission has reason to believe and is of the opinion that any security given by a licensee pursuant to this Act is not sufficient, the Commission may, by order, require the licensee to give, within such period as the Commission considers reasonable, such additional security as, in the opinion of the Commission, is sufficient.
- Enforcement or realization of security (2) Any security given by a licensee as a condition of a licence may only be realized or enforced by
(a) the Commission; or
(b) any holder referred to in section 45 who has suffered loss or damage by reason of the refusal or failure of the licensee to
(i) comply with this Act or any regulation or order made thereunder, or
(ii) meet any of the licensee's payment or delivery obligations to that holder on the surrender of any cash purchase ticket, elevator receipt or grain receipt issued by the licensee pursuant to this Act.
- (2.1) [Repealed, 1994, c. 45, s. 12]
- Limitation -- primary or process elevator or grain dealers (3) Notwithstanding subsection (2), a security given by a licensee as a condition of a licence to operate a primary or process elevator or to carry on business as a grain dealer may be realized or enforced in relation to a cash purchase ticket, an elevator receipt or a grain receipt only if
(a) the licensee fails or refuses to meet any of their payment or delivery obligations to the producer of the grain to which the

ticket or receipt relates within such period as may be prescribed after the day on which the grain was delivered to the licensee; and

(b) the producer of the grain has given notice in writing of the failure or refusal to the Commission within thirty days after the failure or refusal.

Limitation --
terminal and
transfer elevator

(4) Notwithstanding subsection (2), a security given by a licensee as a condition of a licence to operate a terminal or transfer elevator may be realized or enforced in relation to an elevator receipt only if the holder of the receipt has given notice in writing to the Commission within thirty days after the failure or refusal of the licensee to meet any of their delivery obligations to the holder.

Limitation --
prescribed
percentage

(5) Notwithstanding any other provision of this Act, the Commission may prescribe by regulation the percentage of the value of a cash purchase ticket, an elevator receipt or a grain receipt that may be realized or enforced against security given by a licensee, and the security may be realized or enforced in relation to the cash purchase ticket, elevator receipt or grain receipt only to the extent of the prescribed percentage.

Interpretation --
failure to meet
payment
obligations

(6) If the failure on the part of a licensee to meet the licensee's payment obligations is a result of their giving to the producer a cash purchase ticket or other bill of exchange that the bank or other financial institution on which it is drawn subsequently refuses to honour, that failure occurs when the cash purchase ticket or other bill of exchange is given to the producer. R.S., 1998, c. 22, ss. 6(3)

(7) [Repealed, 1998, c. 22, s. 6]

Insurance

(8) The Commission may require an applicant for or the holder of a primary elevator licence, a terminal elevator licence or a transfer elevator licence to obtain insurance, in accordance with the regulations, against loss of or damage to the grain stored in the elevator.

R.S., 1985, c. G-10, s. 49; R.S., 1985, c. 37 (4th Supp.), s. 17; 1994, c. 45, s. 12.

Restrictions -- no
liability for
improper delivery
of grain

49.1 (1) The Commission is not liable to a producer who has delivered grain

(a) to a person who is not a licensee; or

(b) to a licensee, if the producer has not obtained a cash purchase ticket, an elevator receipt or a grain receipt from the licensee.

Restrictions -- no
liability for
insufficient
security

(2) The Commission is not liable if a licensee fails to fulfill any payment or delivery obligation owed to a holder of a grain receipt, elevator receipt or cash purchase ticket.

1994, c. 45, s. 13, R.S. 1998, c. 22, s. 8

Charges by Licensees

Charges to be filed	50. (1) Each licensee who operates an elevator shall, before the commencement of each crop year, file with the Commission a schedule of the charges to be made at the licensed elevator in the crop year for each service to be performed under their licence.
Amendment of charges	(2) A licensee who operates an elevator may, during a crop year, file with the Commission an amended schedule of charges for services to be performed under the licence in that crop year.
Condition	(3) An amended schedule of charges is not effective until it has been filed with the Commission. R.S., 1985, c. G-10, s. 50; R.S., 1985, c. 37 (4th Supp.), s. 18; 1994, c. 45, s. 14.
Charges that may be made	51. (1) No licensee who operates an elevator shall charge or receive for any services performed under the licence at that elevator any sum greater than the lesser of (a) the maximum charges that may be fixed by the regulations for the services, and (b) such charges for the services as are set out in the schedule of charges filed by the licensee with the Commission.
Charge fixed includes charge determined	(2) The reference in paragraph (1)(a) to maximum charges fixed by the regulations includes a maximum charge determined pursuant to the regulations.
Temporary maximum charges	(3) Notwithstanding subsection (1), the Commission, on receiving a written complaint from an interested person with respect to the charge for a service provided by the operator of a licensed elevator, may, by order, after giving all interested persons an opportunity to be heard, fix the maximum charge or a manner for determining the maximum charge for that service.
Period of validity of order	(4) An order made under subsection (3) becomes effective on the day specified in the order, which day shall not be earlier than the day the Commission determines that the facts giving rise to the complaint occurred, and ceases to be effective at the end of the crop year in which the order is made or on such earlier day as is set out in the order for its expiration.
Cease to be in force	(5) Subsections (3) and (4) cease to be in force on July 31, 1996. R.S., 1985, c. G-10, s. 51; 1994, c. 45, s. 14.
Time limitation on charges	52. (1) No storage charge in respect of grain referred to in an elevator receipt shall be made by the licensee of an elevator in respect of time subsequent to

- (a) the delivery of the grain out of the elevator into a railway car or other conveyance; or
- (b) the expiration of twenty-four hours after
 - (i) a railway car or other conveyance that is capable of receiving grain discharged from the elevator and to which the grain may lawfully be delivered has been placed at the elevator to receive the grain,
 - (ii) all charges accrued in respect of the grain have been paid or tendered, and
 - (iii) elevator receipts requiring delivery of the grain have been surrendered or tendered.

Exception relating to ships

(2) For the purpose of subsection (1), where the conveyance placed at an elevator is a ship, the holder of elevator receipts requiring the delivery of grain shall be deemed to surrender or tender on any day only receipts for a quantity of grain that can reasonably be discharged from the elevator into the ship within twenty-four hours from the time the receipts are deemed to be surrendered or tendered.
1970-71-72, c. 7, s. 40.

Charges where licensee is unable to deliver grain

53. (1) Where, by reason of the condition of any licensed elevator or as a result of any labour stoppage by employees of a licensee of an elevator or any lockout at any licensed elevator, the licensee of the elevator is, for any period, unable to deliver grain, grain products or screenings stored in any type of storage in the elevator in accordance with an elevator receipt issued by the licensee, whether or not the holder has requested delivery pursuant to the receipt, notwithstanding section 51, the licensee shall not charge the holder of the receipt, in respect of any part of that period after the first seven days thereof, any storage charge that accrues under the receipt that exceeds the appropriate maximum storage charge prescribed pursuant to subsection (2) with respect to that type of storage.

Regulations -- special maximum storage charge

(2) The Commission shall, with the approval of the Governor in Council, make regulations prescribing, with respect to a period referred to in subsection (1), a special maximum storage charge relating to any type of storage of grain, grain products or screenings in licensed elevators of any type that is lower than the maximum storage charge authorized to be charged for that storage pursuant to section 51 and, in so doing, the Commission may prescribe a different maximum storage charge with respect to any period within that period.

Application

(3) A special maximum storage charge prescribed pursuant to subsection (2) applies only in respect of a period of inability to deliver described in subsection (1) that commences after the effective date of the provision of any regulations in which that special maximum storage charge is prescribed.
R.S., 1985, c. G-10, s. 53; R.S., 1985, c. 37 (4th Supp.), s. 19;

1994, c. 45, s. 15.

Payment before
delivery

54. Nothing in this Act requires a licensee, on a request for the delivery of grain by the holder of an elevator receipt, to deliver the grain referred to in the receipt to the holder unless the receipt has been surrendered and all charges accrued under this Act have been paid.

R.S., 1985, c. G-10, s. 54; R.S., 1985, c. 37 (4th Supp.), s. 20.

Recovery of
charges

54.1 (1) Where an elevator receipt issued by the licensee of a terminal elevator or transfer elevator has been outstanding for more than one year and any charges accruing under the receipt have accrued for more than one year and are unpaid, the licensee, with the written permission of the Commission, after giving such notice of sale to the last known holder of the receipt as may be specified by the Commission, may, on such terms and conditions as may be specified in writing by the Commission, sell the grain referred to in the receipt or grain of the same kind, grade and quantity to recover the charges.

Obligation of
licensee after sale

(2) Where the licensee of an elevator sells grain under subsection (1), the licensee has no obligation to the holder of the elevator receipt issued in respect of the grain, other than to pay to the holder on surrender of the receipt the amount that the licensee received for the grain sold less the aggregate of the costs, if any, incurred in the sale of the grain and the charges accrued under this Act in respect of the grain to the date of the sale.

Warning

(3) Each elevator receipt issued by the licensee of a terminal elevator or transfer elevator shall bear the following warning:
"WARNING: Where the charges accruing under this receipt have been unpaid for more than one year, the grain may be sold and thereafter the holder is entitled to receive, on surrender of this receipt, only the money received for the grain less those charges and the costs of sale.

AVERTISSEMENT : En cas de non-paiement, pendant plus d'un an, des droits exigibles aux termes d'un récépissé, le grain peut être vendu, le détenteur du récépissé n'ayant droit par la suite, sur remise de ce document, qu'au produit de la vente, déduction faite de ces droits et des frais exposés pour la vente."

R.S., 1985, c. 37 (4th Supp.), s. 20.

PART IV

ELEVATORS AND GRAIN DEALERS AND THE HANDLING OF
GRAIN BY LICENSEES AND OTHER PERSONS

Declaration

Works for the general advantage of Canada 55. (1) All elevators in Canada heretofore or hereafter constructed, except elevators referred to in subsection (2) or (3), are and each of them is hereby declared to be a work or works for the general advantage of Canada.

Idem (2) All elevators in the Eastern Division heretofore or hereafter constructed, as defined in paragraph (d) of the definition "elevator" in section 2, are and each of them is hereby declared to be a work or works for the general advantage of Canada.

Idem (3) All elevators in the Eastern Division heretofore or hereafter constructed, as defined in paragraph (e) of the definition "elevator" in section 2, are and each of them is hereby declared to be a work or works for the general advantage of Canada.
1970-71-72, c. 7, s. 43.

Elevators Generally

Facilities, equipment and maintenance 56. (1) A licensee operating an elevator of any type shall install in it such equipment, provide such facilities and maintain the equipment and structure of the elevator in such condition as may be prescribed in respect of elevators of that type or required by order of the Commission in respect of that elevator to ensure, as may be applicable, the efficient and accurate weighing, sampling, inspection, grading, drying, cleaning and accommodation of all grain, grain products and screenings received into or discharged from the elevator. R.S. 1998, c. 22, s. 11

Restriction (2) Notwithstanding subsection (1), no operator of a primary elevator shall be required pursuant to that subsection to install cleaning or drying equipment.
1970-71-72, c. 7, s. 44.

Prohibited receipt into elevators 57. Except as may be authorized by regulation or by order of the Commission, no licensee operating an elevator shall receive into the elevator (R.S. 1998, c. 22, s. 12)

(a) any grain, grain product or screenings unless the grain, grain product or screenings is weighed at the elevator immediately

- before or during receipt;
- (b) any material or substance for storage other than grain, grain products or screenings;
- (c) [Repealed, 2005]
- (d) any grain that the operator has reason to believe is infested or contaminated.

1970-71-72, c. 7, s. 45.

Grain out of condition

58. Except as required by order of the Commission, no operator of a licensed elevator is required to receive into the elevator any grain that has gone or is likely to go out of condition.

1970-71-72, c. 7, s. 46.

Operator to exercise care and diligence

59. The operator of a licensed elevator shall exercise reasonable care and diligence to prevent any grain in the elevator from suffering damage or from deteriorating or going out of condition.

1970-71-72, c. 7, s. 47.

Primary Elevators

Receipt of grain

60. Subject to section 58 and any order made under section 118, the operator of every licensed primary elevator shall, at all reasonable hours on each day on which the elevator is open, without discrimination and in the order in which grain arrives and is lawfully offered at the elevator, receive into the elevator all grain so lawfully offered for which there is, in the elevator, available storage accommodation of the type required by the person by whom the grain is offered.

1970-71-72, c. 7, s. 48.

Procedure on receipt of grain

61. Where grain is lawfully offered at a licensed primary elevator for sale or storage, other than for special binning,

(a) if the producer and the operator of the elevator agree as to the grade of the grain and the dockage, the operator shall, at the prescribed time and in the prescribed manner, issue a cash purchase ticket or elevator receipt stating the grade name, grade and dockage of the grain, and forthwith provide the producer with the cash purchase ticket or elevator receipt; and

(b) if the producer and the operator of the elevator do not agree as to the grade of the grain or the dockage, the operator shall

(i) take a sample of the grain in the manner prescribed,

(ii) deal with the sample in the manner prescribed,

(iii) issue an interim elevator receipt in the prescribed form, and

(iv) on receipt of a report from the Commission assigning a grade in respect of the sample and determining the dockage, issue, at the prescribed time and in the prescribed manner, a cash purchase ticket or elevator receipt stating the grade name of the grain, the grade assigned in respect of the

sample and the dockage so determined, and forthwith provide the producer with the cash purchase ticket or elevator receipt.

R.S., 1985, c. G-10, s. 61; 1994, c. 45, s. 16.

Receipts for specially binned grain	62. (1) Where grain is lawfully offered at a licensed primary elevator for special binning and the operator of the elevator agrees to specially bin the grain, the operator shall specially bin the grain offered and issue an elevator receipt in prescribed form indicating special binning.
Samples of grain to be specially binned	(2) On the receipt at a licensed primary elevator of grain to be specially binned, the operator of the elevator shall, in the manner prescribed, take a sample of the grain and deal with the sample.
Disputes	(3) Where a dispute arises between the holder of an elevator receipt indicating special binning and the operator of a licensed primary elevator in relation to the special binning, the Commission may, after affording any interested person a full and ample opportunity to be heard, examine the sample of the grain taken pursuant to subsection (2) and, if it determines that the identity of the grain has not been preserved in the elevator, make such order for payment or for the delivery of grain or both as it deems just.
Restriction	(4) No order shall be made under subsection (3) unless written notice of the dispute has been received by the Commission within thirty days from the delivery of the grain that is the subject of the dispute to a terminal elevator, transfer elevator or process elevator. 1970-71-72, c. 7, s. 50.
Requested treatment of grain	63. Where (a) a person lawfully offers grain for storage at a licensed primary elevator equipped to treat the grain in a particular manner and requests that the grain be treated in that manner before the type of storage or the grade of the grain or both are determined, and (b) the operator of the elevator agrees to receive the grain or is required by this Act or an order of the Commission to receive the grain, the operator shall, in such manner as may be prescribed, weigh, handle and treat the grain as requested and shall issue an elevator receipt for the grain. 1970-71-72, c. 7, s. 51.
Verification of weight	64. The operator of a primary elevator shall afford to any person who delivers grain to the elevator full facilities to verify the correct weight of the grain while the grain is being weighed. 1970-71-72, c. 7, s. 52.
Compulsory removal of grain	65. (1) Subject to subsection (2), the operator of a licensed primary elevator may, on at least ten days notice in writing, in a

form and manner prescribed, to the last known holder of an elevator receipt issued by the operator, require the holder to take delivery from the elevator of the grain referred to in the receipt.

Restriction applicable to specially binned grain

(2) Except with the written permission of the Commission, no operator of a licensed primary elevator shall, pursuant to subsection (1), require the holder of an elevator receipt for specially binned grain to take delivery of the grain.

Failure to take delivery

(3) Where the holder of an elevator receipt issued by the operator of a licensed primary elevator fails to take delivery of the grain referred to in a notice given pursuant to subsection (1) within a period for taking delivery set out in the notice, whether or not the notice has been brought to the attention of the holder, and the holder or a subsequent holder later requests delivery of the grain referred to in the receipt, the operator of the elevator may, at the option of the operator, on surrender of the elevator receipt and payment of all charges accruing under this Act to the day on which the receipt is surrendered,

(a) deliver grain pursuant to the surrendered receipt;

(b) pay to the holder of the surrendered receipt the market price, on the day that the receipt is surrendered, for grain of the same kind, grade and quantity as the grain referred to in the receipt; or

(c) deliver to the holder of the surrendered receipt an elevator receipt issued by the operator of a licensed terminal elevator or licensed transfer elevator for grain of the same kind, grade and quantity as the grain referred to in the surrendered receipt.

Warning

(4) Each elevator receipt issued by the operator of a licensed primary elevator shall bear the following warning:

"WARNING: The right of the holder of this receipt to obtain delivery of the grain described in the receipt may be altered by the issuer by notice to the last holder known to the issuer. Every holder of a receipt should immediately notify the issuer of their name and address.

AVERTISSEMENT : L'exploitant qui a délivré le récépissé peut, par avis au dernier détenteur connu, modifier le droit de celui-ci d'obtenir livraison du grain faisant l'objet du récépissé. Les nouveaux détenteurs doivent lui communiquer sans délai leurs nom et adresse."

R.S., 1985, c. G-10, s. 65; 1994, c. 45, s. 17.

Waiver

66. (1) The holder of an elevator receipt issued by the operator of a licensed primary elevator may, in writing in prescribed form on the receipt, waive the right to demand the delivery from the elevator of the grain referred to in the receipt.

Subsequent holders

(2) The rights of subsequent holders of an elevator receipt referred to in subsection (1) are subject to a waiver given pursuant to that subsection.

1970-71-72, c. 7, s. 54.

- Discharge of grain from primary elevator 67. (1) Where the holder of an elevator receipt who is entitled to the delivery of grain referred to in the receipt from a licensed primary elevator
- (a) may lawfully deliver the grain to a terminal elevator, transfer elevator or process elevator or to a consignee at a destination other than an elevator, and
 - (b) has caused to be placed at the elevator, to transport the grain, a railway car or other conveyance that is capable of receiving grain discharged out of the elevator and to which the grain may lawfully be delivered,
- the operator of the elevator shall, subject to section 86, discharge forthwith into the conveyance, to the extent of the capacity of the conveyance, the identical grain or grain of the same kind, grade and quantity, as the elevator receipt requires.
- Movement of grain forward (2) Forthwith on the loading of a conveyance at a licensed primary elevator pursuant to subsection (1), the operator of the elevator shall, if so requested by the holder of the elevator receipt for the grain so loaded,
- (a) cause the conveyance to be billed to such elevator or consignee as the holder may have lawfully directed; and
 - (b) on surrender of the elevator receipt and payment of the charges accrued under this Act in respect of the grain, deliver the receipt of the consignee or such other receipt as may be prescribed to the person who surrendered the elevator receipt.
- 1970-71-72, c. 7, s. 55.
- Purchase of elevator receipt by operator 68. Where an operator of a licensed primary elevator who has issued an elevator receipt for grain purchases the receipt, the operator shall issue to the holder of the receipt, on the surrender of the receipt, a cash purchase ticket for the purchase price.
- 1970-71-72, c. 7, s. 56.
- Surrender of elevator receipt by holder 68.1 An elevator receipt issued pursuant to section 61 or 62 entitles its holder to delivery of grain only if the elevator receipt is surrendered for the delivery of grain within such period as is prescribed and, where an elevator receipt is not surrendered within that period,
- (a) the elevator operator who issued the elevator receipt is deemed to have purchased the grain to which the receipt relates on the day the period expires and at the market price of that day less any charges accrued under this Act in respect of the grain; and
 - (b) the elevator operator shall issue a cash purchase ticket in respect of the grain.
- R.S., 1985, c. 37 (4th Supp.), s. 21; 1994, c. 45, s. 18.

Receipt of grain	<p>69. (1) Subject to section 58 and any order made under subsection (2) or section 118, the operator of every licensed terminal elevator and licensed transfer elevator shall, at all reasonable hours on each day on which the elevator is open, without discrimination and in the order in which grain arrives and is lawfully offered at the elevator, receive into the elevator all grain so lawfully offered for which there is, in the elevator, available storage accommodation of the type required by the person by whom the grain is offered.</p>
Orders respecting receipt of grain	<p>(2) The Commission may, by order, on such conditions as it may specify, authorize or require the operator of a licensed terminal elevator or licensed transfer elevator to receive grain lawfully offered for storage or transfer at the elevator otherwise than as required by subsection (1). 1970-71-72, c. 7, s. 57; 1984, c. 40, s. 34.</p>
Procedure on receipt of grain	<p>70. Except as may be authorized or required by regulation or by order of the Commission, every operator of a licensed terminal elevator or licensed transfer elevator shall</p> <ul style="list-style-type: none"> (a) cause grain received into the elevator to be officially weighed; (b) unless the grain has been officially inspected prior to receipt, cause it to be officially inspected forthwith on receipt; (c) remove from the grain the dockage that is required by the inspection certificate relating to the grain to be removed therefrom; and (d) on discharge of the grain from the elevator, cause the grain to be again officially weighed and officially inspected. <p>1970-71-72, c. 7, s. 58.</p>
Elevator receipt	<p>71. (1) On the receipt of grain into a licensed terminal elevator or licensed transfer elevator, the operator of the elevator shall</p> <ul style="list-style-type: none"> (a) forthwith issue an elevator receipt for the grain and any screenings that he is required to report; and (b) on surrender of the bill of lading relating to the grain, together with evidence of the payment of the charges accrued on the grain prior to the receipt into the elevator of the grain, deliver the elevator receipt to or on the order of the holder of the bill of lading.
Receipt for grain containing excessive moisture or intermixed with other material	<p>(2) Notwithstanding any provision of this Act relating to the delivery of grain of the same kind, grade and quantity as that referred to in an elevator receipt, where the operator of a licensed terminal elevator or licensed transfer elevator issues an elevator receipt for grain to which any grade would, but for excessive moisture in the grain or its intermixture with another material removable by treatment, be assignable, that operator, on the drying or treatment of the grain, as the case may be, to such extent that it meets the grade, shall recall the receipt and, on surrender thereof, issue a new elevator receipt for grain of that grade adjusted to its</p>

dried quantity or quantity remaining after the treatment.

Warning	(3) An elevator receipt issued for grain referred to in subsection (2) on the receipt of the grain into a licensed terminal elevator or licensed transfer elevator shall state that the receipt is subject to recall and adjustment.
Grain owned by licensee	(4) Where the operator of a licensed terminal elevator or licensed transfer elevator becomes the owner of grain removed from screenings in that elevator, the operator may, with the permission of the Commission, issue an elevator receipt in his own name for the grain. 1970-71-72, c. 7, s. 58.
Mixing and specially binning grain restricted	72. (1) The operator or manager of a licensed terminal elevator or licensed transfer elevator shall not, except as may be authorized by regulation, specially bin any grain. 72. (1) (a) [Repealed, 2005]
Orders respecting the mixing of grain	72. (2) [Repealed, 2005]
Unauthorized mixing on discharge prohibited	72. (3) [Repealed, 2005]
Priority of claims	73. Subject to subsection 77(3), the holder of an elevator receipt issued in respect of grain in a licensed terminal elevator or licensed transfer elevator is entitled, in priority to all other claims affecting the grain, to the grain described in the receipt or to grain in the elevator of the same kind, grade and quantity as the grain described in the receipt. R.S., 1985, c. G-10, s. 73; 1994, c. 45, s. 19.
Discharge from elevator	74. (1) Where the holder of an elevator receipt for grain issued by the operator of a licensed terminal elevator or licensed transfer elevator who may lawfully deliver grain referred to in the receipt to another elevator or to a consignee at a destination other than an elevator (a) requests that the grain be shipped, (b) causes to be placed at the elevator to transport the grain a conveyance that is capable of receiving grain discharged from the elevator and to which the grain may lawfully be delivered, and (c) surrenders the elevator receipt and pays the charges accrued under this Act in respect of the grain referred to in the receipt, the operator of the elevator shall, subject to section 86, forthwith discharge into the conveyance, to the extent of the capacity of the conveyance, the identical grain or grain of the same kind, grade

and quantity, as the receipt requires.

Idem	<p>(2) The operator of an elevator shall be deemed to have discharged grain forthwith as required by subsection (1) if the operator discharges grain in respect of which elevator receipts have been tendered or surrendered and the charges accrued under this Act have been tendered or paid, in the order in which conveyances for the grain are presented and as rapidly as due diligence, care and prudence justify.</p> <p>1970-71-72, c. 7, s. 61.</p>
Limitation on receipt and discharge	<p>75. No operator or manager of a licensed terminal elevator or licensed transfer elevator shall, except with the written permission of the Commission,</p> <p>(a) permit any grain that has been officially inspected on discharge from the elevator to be again received into the elevator; or</p> <p>(b) permit any grain containing dockage to be discharged from the elevator.</p> <p>1970-71-72, c. 7, s. 62.</p>
Procedure where grain requires treatment or must be disposed of	<p>76. (1) Where, in a licensed terminal elevator or licensed transfer elevator, any grain is found to be infested or contaminated, or to have gone or to be likely to go out of condition or otherwise to require treatment,</p> <p>(a) the operator of the elevator shall forthwith inform the Commission, the principal inspector at the nearest inspection point and, if the grain is specially binned, the persons having an interest in the grain;</p> <p>(b) the Commission shall, if it deems it necessary, arrange for the inspection of the grain;</p> <p>(c) the Commission, or a person authorized by the Commission, shall give such directions as to the treatment or disposal of the grain as the circumstances require; and</p> <p>(d) the operator of the elevator shall forthwith treat or dispose of the grain as so directed.</p>
Mixing prohibited	<p>(2) Except with the permission of the Commission, no grain in respect of which a direction has been given pursuant to subsection (1) shall thereafter be mixed with other grain.</p>
Costs of treatment, etc.	<p>(3) Where, under a direction given pursuant to subsection (1), grain referred to in an elevator receipt indicating special binning issued by the operator of a licensed terminal elevator or licensed transfer elevator has been treated, shipped or otherwise disposed of, the costs incurred by the operator of the elevator in complying with the direction are recoverable from the persons having an interest in the grain in proportion to their respective interests.</p>
Operator not relieved of	<p>(4) Nothing in this section shall be construed as relieving the operator of a licensed terminal elevator or licensed transfer elevator</p>

statutory or contractual obligation	from the performance of any obligation imposed on that operator by or pursuant to this Act or any contract under which any grain came into or remains in the operator's possession. 1970-71-72, c. 7, s. 63.
Compulsory removal of grain	77. (1) The operator of a licensed terminal elevator or licensed transfer elevator may, with the written permission of the Commission on at least thirty days notice in writing, in a form and manner prescribed, to the last known holder of an elevator receipt issued by the operator, require the holder to take delivery from the elevator of the grain referred to in the receipt.
Sale of grain	(2) Where the holder of an elevator receipt issued by the operator of a licensed terminal elevator or licensed transfer elevator fails to take delivery of the grain referred to in a notice given pursuant to subsection (1) within a period for taking delivery set out in the notice, whether or not the notice has been brought to his attention, the operator of the elevator may, on such terms and conditions as may be specified in writing by the Commission, sell the identical grain or grain of the same kind, grade and quantity.
Obligation on sale	(3) Where an operator of an elevator sells grain under subsection (2), the operator has no obligation to the holder of the elevator receipt issued in respect of the grain, other than to pay to the holder on surrender of the receipt the amount that the operator received for the grain sold less the aggregate of the costs, if any, incurred in the sale of the grain and the charges accrued under this Act in respect of the grain to the date of the sale.
Warning	(4) Each elevator receipt issued by the operator of a licensed terminal elevator or licensed transfer elevator shall bear the warning set out in subsection 65(4). 1970-71-72, c. 7, s. 64.

Process Elevators

Receipt	78. (1) Subject to any provision of this Act, any regulation or any order of the Commission, the operator of a licensed process elevator shall receive into the elevator grain lawfully delivered to the elevator at the discretion of the operator.
Issuance of receipt or ticket	(2) On the receipt of grain from a producer into a licensed process elevator, the operator of the elevator shall, at the prescribed time and in the prescribed manner, issue a grain receipt or a cash purchase ticket stating the grade name, grade and dockage of the grain, and immediately provide the producer with the grain receipt or cash purchase ticket.
Limitation on	(3) Except with the permission of the Commission, no operator

discharge

of a licensed process elevator shall discharge grain from the elevator, otherwise than for direct manufacture or processing into another product, unless the grain is officially inspected and officially weighed at the time of discharge and assigned a grade pursuant to this Act.

R.S., 1985, c. G-10, s. 78; R.S., 1985, c. 37 (4th Supp.), s. 22; 1994, c. 45, s. 20.

Weigh-overs at Elevators

Weigh-overs at primary elevators	<p>79. The operator of a licensed primary elevator shall, in such manner and at such intervals as may be prescribed,</p> <p>(a) weigh over the grain, grain products and screenings contained in the elevator to determine whether there is an overage or shortage of grain, grain products or screenings in the elevator; and</p> <p>(b) thereupon supply to the Commission a stock report in prescribed form.</p> <p>R.S., 1985, c. G-10, s. 79; 1994, c. 45, s. 21.</p>
Weigh-overs at terminal and transfer elevators	<p>80. (1) The Commission shall weigh over the grain, grain products and screenings contained in every licensed terminal elevator and licensed transfer elevator within such intervals, or on the basis of such volume of handling of grain, as may be specified by the Commission or prescribed to determine whether there is an overage or shortage of grain, grain products or screenings in the elevator.</p>
Maximum overage to be prescribed	<p>(2) The Commission shall prescribe the maximum overage arising out of the operation of a licensed terminal elevator or licensed transfer elevator that may be retained in respect of any grain of any grade by the operator of the elevator.</p>
Minimum for maximum overage	<p>(3) The maximum overage prescribed pursuant to subsection (2) in respect of grain of any grade shall not be less than one-sixteenth of one per cent of the total quantity of grain of that grade received between consecutive weigh-overs at an elevator.</p>
Property in overage	<p>(4) Subject to subsection (5), where, on a weigh-over at a licensed terminal elevator or a licensed transfer elevator, it appears that the handling of grain in that elevator has resulted in an overage of grain of any grade, the grain in excess of the prescribed maximum overage shall</p> <p>(a) if the grain is grain of any kind that the Canadian Wheat Board is required to market pursuant to the Canadian Wheat Board Act, be the property of that Board,</p> <p>(b) if the grain is grain of any kind that will be marketed by a single person or agency, be the property of that person or agency, and</p> <p>(c) if the grain is grain other than grain referred to in paragraph (a) or (b), be the property of the Commission,</p> <p>and any grain that is the property of the Commission pursuant to paragraph (c) shall be disposed of by the Commission in such manner as the Governor in Council may direct.</p>
Allowance for shortage	<p>(5) Where, on a weigh-over at a licensed terminal elevator or</p>

licensed transfer elevator, it appears that the handling of grain in that elevator has resulted in an overage of grain of any grade and a shortage of grain of another grade, the Commission may, before determining the amount of any overage, make an allowance for any shortage.

R.S., 1985, c. G-10, s. 80; R.S., 1985, c. 37 (4th Supp.), s. 23.

Grain Dealers

Requirement to issue grain receipt or cash purchase ticket	<p>81. (1) With respect to the purchase of western grain from a producer of that grain, every licensed grain dealer shall, at the prescribed time and in the prescribed manner, issue a grain receipt or cash purchase ticket stating the grade name, grade and dockage of the grain, and immediately provide it to the producer.</p> <p>(2) [Repealed, R.S., 1985, c. 37 (4th Supp.), s. 24]</p>
Commission contracts	<p>(3) No licensed grain dealer who acts for any person on a commission basis in relation to the purchase or sale of western grain by a grade name shall, except with the consent of that person, buy, sell or have any interest directly or indirectly beyond the dealer's agreed commission in the purchase or sale of the grain.</p>
Prohibitions	<p>(4) No licensed grain dealer shall</p> <p>(a) except with the permission of the Commission, enter into a contract relating to western grain that the dealer has reason to believe is infested or contaminated; or</p> <p>(b) enter into a contract that provides for the delivery of western grain to an elevator or a consignee if the grain is not lawfully receivable by the operator of the elevator or other consignee.</p> <p>R.S., 1985, c. G-10, s. 81; R.S., 1985, c. 37 (4th Supp.), s. 24; 1994, c. 45, s. 22.</p>
Records and reports	<p>82. Every licensed grain dealer shall maintain such records of his business as a grain dealer and make such reports to the Commission in respect of that business as may be prescribed.</p> <p>1970-71-72, c. 7, s. 68.</p>

Grain Receipts

Consequence of not surrendering grain receipt in prescribed time	<p>82.1 Where a grain receipt issued by the operator of a licensed process elevator or by a licensed grain dealer is not surrendered for payment within such period as is prescribed,</p> <p>(a) the purchase price of the grain to which the receipt relates is deemed to be the market price of the grain on the day the period expires; and</p>
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(b) the operator of the licensed process elevator or the licensed grain dealer shall issue a cash purchase ticket in respect of the grain.

R.S., 1985, c. 37 (4th Supp.), s. 25; 1994, c. 45, s. 23.

Grain Handling Generally

Contracts to be made only by licensees

83. (1) No person in the Western Division shall, for reward, by way of a profit, commission or otherwise,

(a) act on behalf of any other person in buying, selling or arranging for the weighing, inspection or grading of western grain, or

(b) make any contract for the purchase of western grain, unless that person is a licensee or is employed by a licensee and acts only on behalf of his employer.

Exception

(2) Subject to this Act, a transaction referred to in subsection (1) may be entered into by a person who is not a licensee where the transaction is

(a) a contract for the purchase of grain without reference to any grade name on terms whereby the consideration payable under the contract for the purchase of the grain is to be paid in full at the time of the making of the contract or the delivery of the grain;

(b) a contract for the purchase of grain whereby the grain is purchased by a producer of grain for use as seed in the producer's farming operation;

(c) a contract for the purchase of grain whereby a person who raises livestock or poultry purchases the grain for feeding the livestock or poultry; or

(d) a contract made on the premises of a recognized grain exchange by or through a broker who is a member of the exchange and duly recorded pursuant to the rules of the exchange.

R.S., 1985, c. G-10, s. 83; 1994, c. 45, s. 24.

PART V

CARRIAGE OF GRAIN

General

Transport, except by public carrier, restricted

84. Except with the written permission of the Commission or in accordance with prescribed terms and conditions, no person, other than a public carrier, shall transport or cause to be transported any grain

(a) from the Western Division to the Eastern Division or from the

Eastern Division to the Western Division; or
 (b) into or out of Canada.
 R.S., 1985, c. G-10, s. 84; 1994, c. 45, s. 25.

Inspection of conveyances

85. (1) An inspector
 (a) may, at any time, require a public carrier to hold a conveyance of the public carrier containing grain, grain products or screenings at an inspection point for inspection or official inspection of the grain, grain products or screenings; and
 (b) shall, within twenty-four hours of requiring the public carrier to hold the conveyance, inspect or officially inspect the grain, grain products or screenings.

Time for inspection

(2) A public carrier who is required to hold a conveyance at an inspection point pursuant to subsection (1)
 (a) shall hold the conveyance at the inspection point until after the inspection or official inspection or the expiration of twenty-four hours from the time when the carrier is so required to hold the conveyance, whichever occurs first; and
 (b) may then move the conveyance forward.

Inspection of conveyances

(3) An inspector
 (a) may, at any reasonable time, inspect any conveyance that has been placed at any elevator to receive grain; and
 (b) where the inspector believes on reasonable grounds that any prescribed condition exists in the conveyance to such extent that the conveyance is not in fit condition to receive grain, shall direct that grain not be discharged into the conveyance until the condition has been corrected.
 R.S., 1985, c. G-10, s. 85; 1994, c. 45, s. 26.

Discharge of grain into unfit conveyance prohibited

86. No person shall discharge any grain out of an elevator into a conveyance and no public carrier or other person shall permit the discharge of any grain out of an elevator into any conveyance owned or operated by him, where
 (a) the person or public carrier has reason to believe that any prescribed condition exists in the conveyance to such extent that the conveyance is not in fit condition to receive grain; or
 (b) an inspector has directed, pursuant to subsection 85(3), that grain not be discharged into the conveyance.
 1970-71-72, c. 7, s. 70.

Producer Railway Cars

Application for railway cars

87. (1) One or more producers of grain, not exceeding the number designated by order of the Commission, having grain, in sufficient quantity to fill a railway car, that may be lawfully delivered to a railway company for carriage to a terminal elevator, transfer elevator or process elevator or to a consignee at a destination

other than an elevator may apply in writing to the Commission, in prescribed form, for a railway car to receive and carry the grain to the elevator or other consignee.

Allocation of cars (2) The Commission shall, in each week, allocate to applications made by producers of grain pursuant to subsection (1), in the order in which the applications are received, available railway cars that enter each shipping control area in that week up to such number or percentage of the available cars entering the area in that week and under such terms and conditions as the Commission may order. R.S., 1985, c. G-10, s. 87; 1994, c. 45, s. 27(F).

PART V.1

IMPORTATION OF GRAIN

End-use certificates 87.1 (1) The Commission shall, for the purpose of the importation of grain into Canada pursuant to paragraph 46(b.1) of the Canadian Wheat Board Act, provide, on request therefor and in the prescribed form, certificates, to be known as "end-use certificates", to persons requiring such certificates.

Commission to receive submitted certificates (2) All end-use certificates accompanying grain imported into Canada pursuant to paragraph 46(b.1) of the Canadian Wheat Board Act shall be submitted to persons employed in the administration or enforcement of the Customs Act for forwarding to the Commission. 1988, c. 65, s. 125.

Commission may require the provision of information 87.2 Where an end-use certificate has been completed and submitted in respect of grain imported into Canada pursuant to paragraph 46(b.1) of the Canadian Wheat Board Act,
 (a) the person who completed the certificate shall provide the Commission, within such time as is prescribed, with prescribed documents and information respecting the delivery of the grain referred to in the certificate; and
 (b) the person referred to in the certificate as the consignee of the grain shall provide the Commission, at such times as are prescribed, with prescribed information, in the prescribed form, respecting the consumption of the grain. 1988, c. 65, s. 125; 1994, c. 45, s. 28(F).

Commission may examine feed use grain 87.3 The Commission may examine any grain imported into Canada for feed use pursuant to paragraph 46(b.1) of the Canadian Wheat Board Act to determine if the grain has been denatured in a manner prescribed under that Act and, for that purpose, the Commission may take such samples thereof as the Commission

considers appropriate.
1988, c. 65, s. 125.

PART VI

ENFORCEMENT AND ENFORCEMENT PROCEDURES

Inspection and Seizure

Inspection	<p>88. (1) Subject to subsection (1.1), an inspector may, at any reasonable time, enter</p> <p>(a) any elevator, any premises of the licensee of an elevator or any premises of a licensed grain dealer in which the inspector believes on reasonable grounds there is any grain, grain product or screenings owned or possessed by the licensee or any books, records or other documents relating to the operation of the elevator or the business of the grain dealer, or</p> <p>(b) any premises referred to in an end-use certificate submitted in respect of grain imported into Canada pursuant to paragraph 46(b.1) of the Canadian Wheat Board Act as being premises to which the grain is consigned or any premises in which the inspector believes on reasonable grounds that grain to which such a certificate relates has been delivered, R.S. 1998, c. 22, s. 17 (other than paragraph (a))</p> <p>and may</p> <p>(c) examine the premises and any equipment, grain, grain products and screenings found in the premises, and</p> <p>(d) examine any books, records, bills of lading and other documents that, on reasonable grounds, the inspector believes contain any information relevant to the enforcement of this Act and make copies of them or take extracts from them.</p>
Warrant required to enter dwelling-house	<p>(1.1) Where any premises referred to in subsection (1) is a dwelling-house, an inspector may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant issued under subsection (1.2).</p>
Authority to issue warrant	<p>(1.2) Where on ex parte application a justice of the peace is satisfied by information on oath</p> <p>(a) that the conditions for entry described in subsection (1) exist in relation to a dwelling-house,</p> <p>(b) that entry to the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and</p> <p>(c) that entry to the dwelling-house has been refused or that there are reasonable grounds for believing that entry thereto will be refused,</p> <p>the justice of the peace may issue a warrant under his hand authorizing the inspector named therein to enter that dwelling-</p>

house subject to such conditions as may be specified in the warrant.

- Use of force (1.3) In executing a warrant issued under subsection (1.2), the inspector named therein shall not use force unless the inspector is accompanied by a peace officer and the use of force has been specifically authorized in the warrant.
- Certificate to be produced (2) An inspector shall be furnished with a certificate of his designation as an inspector and, on entering any elevator or premises referred to in subsection (1), shall, if so required, produce the certificate to the person in charge thereof.
- Assistance to inspectors (3) The licensee or person in charge of any elevator or premises entered by an inspector pursuant to subsection (1) and every person found therein shall give the inspector all reasonable assistance to enable the inspector to carry out his duties and functions under this Act and shall furnish the inspector with any information he may reasonably require with respect to the administration of this Act and the regulations.
R.S., 1985, c. G-10, s. 88; R.S., 1985, c. 31 (1st Supp.), s. 13; 1988, c. 65, s. 126.
- Obstruction 89. (1) No person shall obstruct or hinder an inspector in the carrying out of his duties and functions under this Act.
- False statements (2) No person shall knowingly make any false or misleading statements, either orally or in writing, to an inspector engaged in carrying out his duties and functions under this Act.
1970-71-72, c. 7, s. 72.
- Seizure and report 90. (1) An inspector who believes on reasonable grounds that
(a) any offence under this Act has been committed,
(b) any grain, grain product or screenings in an elevator is infested or contaminated,
(c) any equipment in an elevator is in such condition that grain, grain products or screenings cannot safely or accurately be weighed or handled in the elevator,
(d) an elevator is in such condition as to cause danger to persons or loss or deterioration of grain, grain products or screenings stored therein, or
(e) an overage at a primary elevator is in excess of a prescribed maximum amount,
may seize any documents or records that the inspector believes, on reasonable grounds, contain or are evidence that an offence under this Act has been committed and, in any event, shall forthwith report to the Commission the facts ascertained by the inspector.
- Detention (2) Documents or records seized pursuant to subsection (1) shall not be detained after the expiration of thirty days from the seizure unless before that time proceedings in respect of an offence under

this Act, in respect of which the documents or records contain or are evidence, have been instituted, in which event the documents or records may be detained until the proceedings are finally concluded.

R.S., 1985, c. G-10, s. 90; 1988, c. 65, s. 127; 1994, c. 45, s. 29.

Investigations and Arbitration

Investigations

91. (1) The Commission has jurisdiction to and may, on receiving a report from an inspector pursuant to section 90 or at any other time, investigate

- (a) the grading and weighing of any grain at an elevator;
- (b) the deduction made from any grain for dockage or shrinkage at an elevator;
- (c) any overage or shortage appearing on the delivery of grain into or out of an elevator;
- (d) any allegation that an elevator is operated in an unfair or a discriminatory manner;
- (e) the loss or deterioration of any grain during storage or treatment at an elevator;
- (f) the charges for services provided by a licensee pursuant to his licence;
- (g) any failure or refusal of a licensee to pay any fees for services provided by the Commission or to comply with any provisions of this Act or any regulation, order or licence made or issued pursuant to this Act;
- (g.1) whether any grain in respect of which an end-use certificate has been submitted in respect of grain imported into Canada pursuant to paragraph 46(b.1) of the Canadian Wheat Board Act is consumed at the facility referred to in the certificate;
- (h) any complaint by a person with respect to any matter within the jurisdiction of the Commission; and
- (i) any other matter arising out of the performance of the duties of the Commission.

Designation

(2) The Commission may designate one commissioner to conduct any investigation under this section that is not in the nature of a hearing.

R.S., 1985, c. G-10, s. 91; 1988, c. 65, s. 128.

Arbitration

92. The Commission or a commissioner has capacity, with the consent of the parties involved, to act as an arbitrator in any dispute respecting grain or commercial transactions relating to grain.
1970-71-72, c. 7, s. 75.

Orders Respecting Operations or Suspending Licences

Restriction of operations and suspension of licence

93. (1) Where, on receiving the report of an inspector pursuant to section 90 or on making an investigation pursuant to section 91, the Commission believes on reasonable grounds that an offence under this Act has been committed by a licensee of an elevator or by a licensed grain dealer or that a condition referred to in paragraph 90(1)(b), (c), (d) or (e) exists in a licensed elevator, the Commission may, by order,

(a) require a weigh-over of any grain, grain products or screenings in the elevator by the licensee or a person authorized for the purpose by the Commission and, for that purpose, prohibit, for such period not exceeding thirty days as is specified in the order, the receipt into or removal from the premises of the elevator, or both, of any grain, grain products or screenings;

(b) in the case of a condition referred to in paragraph 90(1)(b), (c) or (d),

(i) require that the condition be remedied in such manner and within such time as is specified in the order,

(ii) require that such grain, grain products and screenings in the elevator as are specified in the order be stored or disposed of in such manner as the Commission considers equitable, and

(iii) prohibit, for such period not exceeding thirty days as is specified in the order, any particular use of the elevator or its equipment; and

(c) whether or not the Commission exercises any of the powers conferred by paragraphs (a) and (b), in its discretion, suspend the licence to operate the elevator or the licence to carry on business as a grain dealer for such period not exceeding thirty days as is specified in the order.

Licensee's opportunity to be heard

(2) Subject to subsection (3), the Commission may not make an order pursuant to subsection (1) unless the Commission has afforded the licensee or a representative of the licensee full and ample opportunity to be heard.

Immediate restriction or suspension

(3) Where, in the circumstances of any particular case, the Commission deems it necessary in the public interest to do so, it may make an order pursuant to subsection (1) without first affording a licensee or a representative of the licensee an opportunity to be heard but, in such event, the Commission shall, as soon as possible after making the order, afford to the licensee a full and ample opportunity to be heard.

R.S., 1985, c. G-10, s. 93; 1994, c. 45, s. 30.

Reinstatement of licence and discontinuance of restriction

94. (1) A prohibition or requirement contained in an order made pursuant to subsection 93(1) may be discontinued and a licence suspended pursuant to that subsection may be reinstated before the expiration of any period of prohibition or suspension specified in

the order if, in the opinion of the Commission, the prohibition, requirement or suspension has ceased to be or is no longer necessary.

Extension of period of prohibition or suspension

(2) Subject to subsection (3), the Commission may, on notice in writing to any licensee affected by an order made pursuant to subsection 93(1), extend a period of prohibition or suspension ordered pursuant to that subsection and, in any such case, shall forthwith notify the licensee affected by the order of the Commission's action.

Limitation

(3) A period of prohibition or suspension ordered pursuant to subsection 93(1) shall not be extended for any period that would result in the aggregate period of the prohibition or suspension being longer than thirty days unless

(a) before the expiration of thirty days from the commencement of the period of prohibition or suspension, proceedings have been instituted against the licensee or against the manager of the elevator in respect of an offence under this Act, in which event the period of prohibition or suspension is deemed to be extended, unless otherwise ordered by the Commission, until fourteen days after the proceedings are finally concluded; or
 (b) the licensee has failed to comply with any requirement of an order made pursuant to subsection 93(1) but the Commission is satisfied that

(i) the licensee has taken all reasonable measures to comply with the order and will be able to comply with it within a reasonable time, and

(ii) the revocation of the licence of the licensee or the institution of proceedings referred to in paragraph (a) is not warranted in the circumstances of the case,

in which event the period of prohibition or suspension may be extended by order of the Commission for such further period as the Commission deems reasonable.

1970-71-72, c. 7, s. 76.

Revocation of Licences

Revocation of licence

95. (1) Where

(a) a licensee has failed or refused to comply with any requirement of an order made under subsection 93(1), in relation to the operation of an elevator, before the expiration of any period of prohibition or suspension specified in that order or any order made under paragraph 94(3)(b),

(b) a licensee or the manager of a licensed elevator is convicted of an offence under this Act, or

(c) a licensee has failed to give additional security as required by any order made under subsection 49(1),

the Commission may, by order, revoke the licence to operate the

elevator to which the order or conviction relates or the licence to carry on business as a grain dealer, as the case may be.

Limitation

(2) Subject to subsection (3), except with the consent of the licensee, no licence shall be revoked pursuant to subsection (1) unless the licensee or a representative of the licensee has been afforded a full and ample opportunity to be heard in the matter in relation to which the licence may be revoked.

Prior opportunity to be heard

(3) Where the Commission has, pursuant to section 93, afforded a licensee or a representative of the licensee an opportunity to be heard in relation to any matter, the Commission may, in accordance with this section, revoke the licence to operate the elevator or to operate as a grain dealer without affording the licensee a further opportunity to be heard in relation thereto.
1970-71-72, c. 7, s. 77.

Review by Minister

Review by Minister

96. The Minister may, on application made by any interested person, review any order made by the Commission refusing to issue a licence or revoking a licence and where, after considering the application and any material submitted to the Minister in connection therewith, the Minister is of the opinion that the issue of a licence should not have been refused or the licence should not have been revoked, the Minister may in his discretion direct the Commission to issue a licence or to reinstate the revoked licence, as the case may be, on such conditions, if any, relating to the licence as the Minister deems proper.
1970-71-72, c. 7, s. 78.

Orders for Payment

Orders on investigation

97. The Commission may, after any investigation instituted under section 91 and after affording all persons having an interest in the matter under investigation a full and ample opportunity to be heard, make an order

(a) for the payment, by any complainant, licensee or other person to whom the jurisdiction of the Commission extends, of compensation to any person for loss or damage sustained by that person resulting from a contravention of or failure to comply with any provision of this Act or any regulation, order or licence made or issued pursuant to this Act;

(b) for the payment by any licensee of any fees for services payable by the licensee to the Commission pursuant to this Act;
and

(c) in the case of any shortage of grain delivered into or out of any licensed elevator, for the apportionment of any loss among any complainant, the licensee of the elevator and any public carrier taking part in the carriage of the grain, having regard, in the discretion of the Commission, to any overage accruing to any person concerned.

1970-71-72, c. 7, s. 79.

Public Hearings

Public hearings	<p>98. (1) A public hearing may be held by the Commission if the Commission is satisfied that it would be in the public interest to hold such a hearing in connection with</p> <ul style="list-style-type: none"> (a) an investigation commenced under section 91; and (b) any other matter in respect of which the Commission deems a hearing to be desirable.
Public hearings on request	<p>(2) Where</p> <ul style="list-style-type: none"> (a) this Act requires that any person be given an opportunity to be heard in connection with the issue, refusal to issue, suspension or revocation of a licence or in connection with any investigation into a complaint referred to in paragraph 91(1)(h), and (b) the applicant for the licence, the licensee or the person who is the subject of the complaint requests a public hearing, <p>the Commission shall hold a public hearing to hear all persons having an interest in the matter and wishing to be heard in connection therewith.</p>
Powers of Commission	<p>(3) The Commission has, in relation to any public hearing held under this section, the powers of a Commissioner under Part I of the Inquiries Act.</p>
Representation by counsel	<p>(4) Any person who may be heard at a public hearing under this section may be represented by counsel at the hearing.</p> <p>1970-71-72, c. 7, s. 80.</p>

Procedure

Notification of order	<p>99. (1) A copy of an order of the Commission refusing to issue a licence or revoking a licence or for the payment of any money or apportionment of any loss, together with any written reasons for the decision, shall, after the making of the order, be forwarded in accordance with any rules made pursuant to subsection (2) to each person affected by the order and to such other persons as may be specified in those rules.</p>
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- Rules
- (2) The Commission may make rules
- (a) respecting the procedure for making applications, representations and complaints to the Commission and for the conduct of public hearings held by it; and
- (b) generally respecting the conduct of the business of the Commission in relation to investigations and public hearings.
- 1970-71-72, c. 7, s. 81.

Enforcement of Orders for Payment

- Filing of orders in Court
100. (1) An order of the Commission for the payment of any money or apportionment of any loss may be filed in the Federal Court, in this Part referred to as "the Court", after thirty days following the date on which the order is made.
- Registration of order
- (2) On filing in the Court under subsection (1), an order of the Commission referred to in that subsection shall be registered in the Court and, subject to subsection (4), when registered has the same force and effect, and all proceedings may be taken thereon, as if the order were a judgment obtained in the Court for a debt of the amount specified in the order plus interest to the date of payment as provided for in the order of the Commission.
- Costs and charges
- (3) The reasonable costs and the charges attendant on the registration of an order pursuant to this section are recoverable in like manner as if they were an amount included in the order of the Commission.
- Stay of execution
- (4) The Court may direct a stay of execution of an order registered pursuant to this section pending disposition of an appeal pursuant to section 101 on such terms as to the Court seem just.
- 1970-71-72, c. 7, s. 82; R.S., c. 10(2nd Supp.), s. 64.

Appeals to Court

- Appeal to Court
101. (1) An appeal from an order of the Commission for the payment of any money or apportionment of any loss lies to the Court.
- Institution of appeal
- (2) An appeal under subsection (1) shall be instituted by filing a notice of appeal in the Court within thirty days after the making of

the order sought to be appealed from or within such further time as the Court under special circumstances allows.

Service

(3) Notice of an appeal under this section shall be served forthwith after the filing thereof on the Commission and on all interested parties.
1970-71-72, c. 7, s. 83.

Prohibitions, Offences and Punishment

Prohibition
respecting grade
names

102. (1) No person shall, in the purchase or sale of grain, use a grade name established by or under this Act in any record or acknowledgement of the receipt or discharge of grain unless the person is licensed under this Act.

Exceptions

(2) Subsection (1) does not apply to a sale of grain by a producer who produced the grain.
R.S., 1985, c. G-10, s. 102; 1994, c. 45, s. 31.

Prohibition
respecting forms

103. No person other than a licensee shall issue a cash purchase ticket, an elevator receipt or a grain receipt or any other document that so closely resembles one of them that confusion may be caused.

(2) [Repealed, R.S., 1985, c. 37 (4th Supp.), s. 26]
R.S., 1985, c. G-10, s. 103; R.S., 1985, c. 37 (4th Supp.), s. 26;
1994, c. 45, s. 32.

Prohibitions
respecting
elevator
operations

104. No operator of a licensed elevator shall

- (a) issue a cash purchase ticket acknowledging the purchase of any grain or an elevator receipt or other document purporting to acknowledge the receipt of any grain if the grain has not been purchased or received into the elevator;
- (b) permit to be outstanding in respect of a quantity of grain in the elevator more than one cash purchase ticket or more than one elevator receipt or other document acknowledging receipt of the grain;
- (c) except under the regulations or an order of the Commission, receive into or discharge from the elevator any grain, grain product or screenings that is infested or contaminated or that may reasonably be regarded as being infested or contaminated; or
- (d) except with the permission of the Commission, mix with any grain in the elevator any material other than grain.

1970-71-72, c. 7, s. 86.

General
prohibitions

105. No person shall

- (a) use any grade name established by or under this Act in dealing in, handling or describing any grain that does not

- possess the characteristics of grain of that grade;
- (b) use any name, or name and number, so nearly resembling any grade name as to be calculated or likely to cause confusion with that grade name;
- (c) offer for sale or storage or submit for official inspection grain that has been so treated, mixed or dealt with as to conceal its true characteristics; or
- (d) except under the regulations or an order of the Commission, deliver to or receive from an elevator any grain, grain product or screenings that is infested or contaminated or that may reasonably be regarded as being infested or contaminated.

1970-71-72, c. 7, s. 87.

Other use

105.1 No person shall knowingly use any grain in respect of which an end-use certificate has been submitted in respect of grain imported into Canada pursuant to paragraph 46(b.1) of the Canadian Wheat Board Act for any use other than consumption at the facility referred to in the certificate.

1988, c. 65, s. 129.

Fraudulent or false acts

106. No person shall

- (a) make such representation in respect of grain, or so handle grain, that the representation or handling might reasonably be regarded as being a misleading representation made for the purpose of obtaining the issuance of an incorrect inspection certificate;
- (b) represent any grain inspection certificate or end-use certificate as relating to any grain other than grain to which it properly relates; or
- (c) being the operator of an elevator or an inspector or a weigher,
 - (i) knowingly state an incorrect weight in respect of any grain delivered into or discharged from an elevator, or
 - (ii) knowingly take or claim excessive dockage from grain received into an elevator.

R.S., 1985, c. G-10, s. 106; 1988, c. 65, s. 130.

Offence and punishment

107. (1) Every operator of an elevator who contravenes or fails to comply with section 72 is guilty of an offence and

- (a) if an individual, is liable
 - (i) on summary conviction, to a fine not exceeding nine thousand dollars or to imprisonment for a term not exceeding two years, or to both, or
 - (ii) on conviction on indictment, to a fine not exceeding eighteen thousand dollars or to imprisonment for a term not exceeding four years, or to both; or
- (b) if a corporation, is liable
 - (i) on summary conviction, to a fine not exceeding thirty thousand dollars, or
 - (ii) on conviction on indictment, to a fine not exceeding sixty thousand dollars.

- Idem (1.1) Every person who contravenes section 105.1 is guilty of an offence and is liable
- (a) on summary conviction
 - (i) if an individual, to a fine not exceeding nine thousand dollars, or to imprisonment for a term not exceeding two years, or to both, or
 - (ii) if a corporation, to a fine not exceeding thirty thousand dollars; or
 - (b) on conviction on indictment
 - (i) if an individual, to a fine the amount of which is at the discretion of the court, or to imprisonment for a term not exceeding four years, or to both, or
 - (ii) if a corporation, to a fine the amount of which is at the discretion of the court.
- Idem (2) Every person who contravenes any provision of this Act, other than section 72 or 105.1, or of the regulations or any order of the Commission, other than an order for the payment of any money or apportionment of any loss, is guilty of an offence and
- (a) if an individual, is liable
 - (i) on summary conviction, to a fine not exceeding six thousand dollars or to imprisonment for a term not exceeding one year, or to both, or
 - (ii) on conviction on indictment, to a fine not exceeding twelve thousand dollars or to imprisonment for a term not exceeding two years, or to both; or
 - (b) if a corporation, is liable
 - (i) on summary conviction, to a fine not exceeding nine thousand dollars, or
 - (ii) on conviction on indictment, to a fine not exceeding eighteen thousand dollars.
- R.S., 1985, c. G-10, s. 107; R.S., 1985, c. 37 (4th Supp.), s. 27; 1988, c. 65, s. 131.
- Offence by manager, employee or agent 108. (1) Any manager of an elevator, or any other employee or agent of the operator or licensee of an elevator, who does any act or thing directed to the commission of an offence under this Act by the operator or licensee of the elevator is a party to and guilty of the offence.
- Idem (2) Any employee or agent of a licensed grain dealer who does any act or thing directed to the commission of an offence under this Act by the licensed grain dealer is a party to and guilty of the offence. 1970-71-72, c. 7, s. 90.
- Documentary evidence 109. In any prosecution for an offence under this Act, a document purporting to have been signed by a commissioner or any officer or employee of the Commission in the course of the performance of his duties is evidence of the facts stated in the document without proof of the signature or of the official character of the person appearing to have signed the document.

1970-71-72, c. 7, s. 91.

Time for
commencing
proceedings

110. (1) Any proceedings by way of summary conviction in respect of an offence under this Act may be instituted at any time within two years after the time when the subject-matter of the prosecution arose.

Trial of offences

(2) A complaint or an information in respect of an offence under this Act may be heard, tried or determined by a court if the accused is resident or carrying on business within the territorial jurisdiction of that court although the matter of the complaint or information did not arise in that territorial jurisdiction.

1970-71-72, c. 7, s. 92.

PART VII

GENERAL

Cash Purchase Tickets and Elevator Receipts

Transfer from
holder to holder

111. (1) A cash purchase ticket or elevator receipt in prescribed form entitling the holder named in that document to the payment of money or delivery of grain in accordance with the terms of the document, and the rights arising under the document, may be transferred from holder to holder by the endorsement and delivery of the document to the endorsee.

Exception

(2) Subsection (1) does not apply to an elevator receipt issued by the operator of a licensed transfer elevator in prescribed form that has clearly appearing on the face of it the words "Not Negotiable".
1970-71-72, c. 7, s. 93.

Restriction on
creation of charge
or interest

112. Notwithstanding anything in the Bank Act, no charge on or interest in grain referred to in an elevator receipt that affects the interest of the holder of the receipt may be created by the holder, or by the operator of a licensed elevator who issued the receipt, other than by the endorsement or delivery of the receipt to the person in whose favour the charge or interest is created.
1970-71-72, c. 7, s. 94.

Registration of
elevator receipts

113. (1) The Commission shall register elevator receipts issued for grain by the operators of licensed terminal elevators and licensed transfer elevators at such places and in such manner as may be prescribed.

Idem

(2) The operator of each licensed terminal elevator or licensed transfer elevator shall transmit to the Commission for registration each elevator receipt for grain issued in respect of grain received

into the elevator before delivery of the receipt to the person delivering the grain.

Rights subject to registration

(3) An elevator receipt issued pursuant to this Act by the operator of a licensed terminal elevator or licensed transfer elevator does not confer on the holder of the receipt any rights to the grain referred to in the receipt unless the receipt is registered pursuant to this section.

1970-71-72, c. 7, s. 95.

Cancellation of registered receipts

114. The operator of a licensed terminal elevator or licensed transfer elevator shall, within such time and together with such reports as may be prescribed, tender to the Commission for cancellation of registration,

(a) where grain is discharged from the elevator,

(i) registered receipts for grain of the same kind, grade and quantity as the grain discharged from the elevator, or

(ii) where grain of different grades has been mixed, such registered receipts as the Commission may direct; and

(b) in such other circumstances as may be required by order of the Commission or prescribed, such registered receipts as are referred to in the order or prescribed.

1970-71-72, c. 7, s. 96.

Regulations and Orders

Orders of the
Governor in
Council

115. The Governor in Council may, by order,

- (a) where the Governor in Council considers it necessary in the public interest to do so, require a railway company to supply railway cars for the carriage of grain and place them at any point at which the railway company supplies a service;
- (b) notwithstanding anything in this Act or the Canadian Wheat Board Act, authorize and direct any minister of the Crown or any agency of the Government of Canada to exercise the powers in respect of the allocation of available railway cars contained in any provision of this Act, other than paragraph (a), or of the Canadian Wheat Board Act;
- (c) direct that any allocation of railway cars be guided by the principle that the producer or producers should have the right to select such elevator as the producer or producers may choose or to load directly;
- (d) direct that any grade established pursuant to this Act be assigned only to grain being officially inspected on discharge from a terminal elevator or a transfer elevator;
- (e) vary the period of a crop year to another period of not less than three hundred and sixty-five days;
- (f) direct the Commission as to the manner in which any of its operations, powers and duties shall be conducted, exercised or performed; and
- (g) provide for any other matter necessary to give effect to this Act.

R.S., 1985, c. G-10, s. 115; R.S., 1985, c. 37 (4th Supp.), s. 28(E).

Regulations

116. (1) The Commission may, with the approval of the Governor in Council, make regulations

- (a) designating any seed as a grain for the purposes of this Act;
- (b) prohibiting for any period of time or regulating the delivery of grain to elevators, the discharge of grain from elevators, the handling and treating of grain in elevators and the shipping of grain to or from elevators for the purpose of ensuring the orderly movement of grain;
- (b.1) governing the handling and treatment of grain in elevators;
- (c) prescribing, in respect of samples of grain, the circumstances and manner in which they may be taken;
- (d) specifying the procedure to be followed by the parties to any contract for special binning for the purpose of ensuring the preservation of the identity of specially binned grain;
- (e) prescribing the returns to be made for dockage;
- (e.1) determining what constitutes a hazardous substance and governing the use, handling and storage of hazardous substances by licensed elevator operators;
- (f) fixing the maximum shrinkage allowance that may be made on the delivery of grain to an elevator;
- (g) governing the sale of grain by sample;
- (h) respecting the receipt, inspection, handling and storage at elevators of foreign grain and prescribing the period of time that foreign grain may remain in storage at any elevator;

- (i) prescribing the procedure to be followed on appeals as to grades of grain to an inspector or a grain appeal tribunal;
- (j) specifying the information required to be furnished by applicants for licences, including information relating to the applicant's financial situation, and the conditions on which licences may be issued;
- (k) respecting the security to be given, by way of bond, insurance or otherwise, by applicants for licences and by licensees;
- (k.1) prescribing the types and amounts of insurance that applicants for and holders of primary, transfer and terminal elevator licences must obtain;
- (l) prescribing any records to be kept by a licensee, the reports to be made by a licensee, the system of transmission or communication of those reports and the times the reports are to be made;
- (m) fixing, or prescribing the manner for determining, the maximum charges for services to be made by licensees under this Act and prescribing the manner in which those charges are to be published;
- (n) prescribing the form of cash purchase tickets and elevator receipts and prescribing other forms to be used pursuant to this Act and the manner in which those forms are to be used, transmitted and related to each other;
- (o) prescribing the use of any system of keeping and issuing cash purchase tickets and elevator receipts;
- (p) requiring licensees to submit to the Commission such information relating to the conduct and management of their affairs as the regulations may specify;
- (q) respecting the circumstances and manner in which inspection certificates are to be cancelled;
- (r) fixing, or prescribing the manner for determining, the fees for any service performed by or on behalf of the Commission and the fees for any licence issued by the Commission and prescribing the time and manner of payment of those fees;
- (s) specifying the standards to be complied with in the construction, alteration and maintenance of any elevator and the installation and maintenance of any equipment therein;
- (s.1) governing the disposal of contaminated grain;
- (t) prescribing any matter that under this Act is to be prescribed; and
- (u) generally for carrying into effect the purposes and provisions of this Act.

Forms and systems other than prescribed

(2) The Commission may, in writing, permit a licensee to use any form or any system of keeping or issuing cash purchase tickets, elevator receipts or any other document designated by the Commission in addition to or in place of a prescribed form or system.

Storage premises

(3) The Commission may, by regulation made with the approval

of the Governor in Council, establish a list of premises in the Eastern Division used either in whole or in part for the storage of grain.

R.S., 1985, c. G-10, s. 116; R.S., 1985, c. 37 (4th Supp.), s. 29; 1994, c. 45, s. 33.

Exemption from requirements of Act and regulations

117. Where, in the opinion of the Commission, the control of any type of elevator or type of grain handling operation or any particular elevator or grain handling operation is not essential for maintaining the quality, safe-keeping and orderly and efficient handling of grain in Canada, the Commission may,

(a) by regulation made with the approval of the Governor in Council, exempt that type of elevator or operation from the licensing or any other requirements of this Act or the regulations, or

(b) by order, exempt that particular elevator or operation from the licensing or any other requirements of this Act or the regulations,

on such conditions and for such period as may be set out in the regulation or order.

R.S., 1985, c. G-10, s. 117; 1994, c. 45, s. 34.

Orders of the Commission

118. The Commission may make orders

(a) subject to any order made by the Governor in Council under section 115, governing the allocation of available railway cars to terminal elevators and transfer elevators and among shipping points on any line of railway;

(b) providing for the supervision of the disposition of grain contained in any elevator on the suspension or revocation of the licence issued in respect of the elevator;

(c) requiring or authorizing the operator of an elevator to receive into the elevator and store or treat, in such manner as the Commission considers appropriate, grain that has gone or is likely to go out of condition;

(d) seizing infested or contaminated grain or requiring the operator of an elevator to treat or dispose of infested or contaminated grain in a manner approved by the Commission;

(e) for the purpose of ensuring the orderly movement of grain, fixing the maximum quantity of grain of any kind and grade that may be stored in any elevator at any time;

(f) providing for the equitable apportionment among shippers of the use of elevator storage space in licensed terminal elevators and licensed transfer elevators;

(g) subject to any order made under the Canadian Wheat Board Act, providing for the acceptance of deliveries of grain in the interests of producers; and

(h) constituting directives to the trade.

1970-71-72, c. 7, s. 100.

Her Majesty

Binding on Her Majesty

119. This Act is binding on Her Majesty in right of Canada or a province.
1970-71-72, c. 7, s. 101.

Changes in Grades

Changes in grades

120. Where any grade of grain or screenings is varied or discontinued or any grain is removed from the operation of this Act

(a) the holder of an elevator receipt for any grain or screenings of a kind or grade so varied, discontinued or removed from the operation of this Act is entitled, subject to any other provisions of this Act, on presentation of the elevator receipt and payment of the charges accrued under this Act to delivery, in accordance with the elevator receipt, of grain or screenings of the varied or discontinued grade or to grain of the kind that has been removed from the operation of this Act; and

(b) the Commission shall, on request of an owner of grain or screenings, to enable the owner to meet the requirements of an agreement made in respect of the grain or screenings prior to the coming into force of the variation, discontinuance or removal, grade the grain or screenings on the basis of the grade that has been varied or discontinued or grade the grain that has been removed from the operation of this Act as if it had not been so removed.

R.S., 1985, c. G-10, s. 120; R.S., 1985, c. 37 (4th Supp.), s. 30.

Coming into Force

Commencement

121. (1) Paragraphs (d) and (e) of the definition "elevator" in section 2 and subsections 55(2) and (3) or any of those provisions shall come into force on a day or days to be fixed by proclamation.

Idem

(2) A proclamation bringing into force paragraph (d) or (e) of the definition "elevator" in section 2 or subsection 55(2) or (3) shall fix as the day on which such paragraph or subsection is to come into force a day that is not earlier than six months after the day the issue of the proclamation is authorized.

1970-71-72, c. 7, s. 116.

SCHEDULES I AND II

[Repealed, R.S., 1985, c. 37 (4th Supp.), s. 31]

RELATED PROVISIONS

— R.S., 1985, c. 37 (4th Supp.), s. 17(2):

"(2) Subsections 49(2) and (2.1) of the said Act, as enacted by subsection (1), apply only in respect of cash purchase tickets, elevator receipts and grain receipts issued after the coming into force of this section."

— R.S., 1985, c. 37 (4th Supp.), s. 20(2):

"(2) Section 54 of the said Act, as it read immediately prior to the coming into force of this section, shall continue to apply in respect of any elevator receipts issued by the licensee of an elevator before the coming into force of this section."

— R.S., 1985, c. 37 (4th Supp.), s. 21(2):

"(2) Section 68.1 of the said Act, as enacted by subsection (1), applies only in respect of elevator receipts issued after the coming into force of this section."

— R.S., 1985, c. 37 (4th Supp.), s. 24(2):

"(2) Subsection 81(1) of the said Act, as enacted by subsection (1), applies only in respect of purchases made after the coming into force of this section."

— R.S., 1985, c. 37 (4th Supp.), s. 25(2):

"(2) Section 82.1 of the said Act, as enacted by subsection (1), applies only in respect of grain receipts issued after the coming into force of this section."

— 1994, c. 45, s. 35:

Regulations deemed to be approved by Governor in Council

35. (1) Each of the regulations set out in the schedule shall be deemed for all purposes to have been approved by the Governor in Council, pursuant to the *Canada Grain Act*, on the day on which they were made by the Canadian Grain Commission.

Orders, directions and documents

(2) Every order, direction and document made or issued before the day on which this section comes into force that contains a reference to any thing established by a regulation set out in the schedule shall be deemed for all purposes to have had the same force and effect as if the reference were to a thing established by a regulation made by the Canadian Grain Commission with the approval of the Governor in Council pursuant to the *Canada Grain Act*.

Actions taken

(3) Every action taken before the day on which this section comes into force, under the authority of any order, direction or document made or issued before the day on which this section comes into force that contains a reference to any thing established by a regulation set out in the schedule, shall be deemed for all purposes to have had the same force and effect as if it had been taken under the authority of an order, direction or document that contains a reference to a thing established by a regulation made by the Canadian Grain Commission with the approval of the Governor in Council pursuant to the *Canada Grain Act*.

Pending proceedings

(4) Any proceedings before a court of competent jurisdiction

that were commenced before the day on which a bill entitled *An Act to amend the Canada Grain Act and respecting certain regulations made pursuant to that Act* is first introduced in Parliament and that were not finally disposed of before that day, in which the validity of any regulation referred to in subsection (1), any order, direction or document referred to in subsection (2) or any action referred to in subsection (3) is in issue, may be dealt with in all respects as if this section had not come into force, but no decision, order or judgment in any such proceedings shall operate to have effect so as to render invalid, otherwise than for the purposes of those proceedings, any of those regulations, orders, directions, documents or actions that would otherwise be valid.

SCHEDULE

(Section 35)

1. *List of Elevators in the Eastern Division Regulations* (SOR/90-324)
Repealed July 28/99 (SOR/99-336)
2. *Canada Grain Regulations*, amendment (SOR/90-324)
3. *Canada Grain Regulations*, amendment (SOR/91-282)
4. *List of Premises in the Eastern Division Regulations* (SOR/92-127)
Repealed July 28/99 (SOR/99-336)
5. *Canada Grain Regulations*, amendment (SOR/92-172)
6. *Canada Grain Regulations*, amendment (SOR/93-362)

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