

Agricultural Marketing Programs Act

[A-3.7]

An Act to establish programs for the marketing of agricultural products, to repeal the Agricultural Products Board Act, the Agricultural Products Cooperative Marketing Act, the Advance Payments for Crops Act and the Prairie Grain Advance Payments Act and to make consequential amendments to other Acts

[Assented to 25th April, 1997]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the Agricultural Marketing Programs Act.

INTERPRETATION

Definitions

2. (1) The definitions in this subsection apply in this Act.

"administrator"

"administrator" means the Board or any of the following organizations that has the power to sue and be sued in its own name:

(a) an organization of producers that is involved in marketing a crop; or

(b) any other organization that the Minister considers is supported by producers and designates as an administrator.

"advance"

"advance" means an advance payment to an eligible producer for a crop.

"advance guarantee agreement"

"advance guarantee agreement" means an agreement under section 5.

"agricultural product"

"agricultural product" means

- (a) an animal, a plant or an animal or plant product; or
- (b) a product, including any food or drink, that is wholly or partly derived from an animal or a plant.

"Board"

"Board" means The Canadian Wheat Board established by section 3 of the Canadian Wheat Board Act.

"crop"

"crop" means

- (a) one or more field crops, or a portion of one or more field crops, grown in Canada, either cultivated or uncultivated, and stored in a non-processed form;
- (b) maple syrup or honey produced in Canada; or
- (c) any other agricultural product designated by the Governor in Council under subsection (2).

"crop unit"

"crop unit" means a unit of a crop, as defined in the advance guarantee agreement relating to the crop.

"crop year"

"crop year" means a period of 12 months or less specified for a crop in the advance guarantee agreement relating to the crop.

"Her Majesty"

"Her Majesty" means Her Majesty in right of Canada.

"lender"

"lender" means a financial institution, as defined in section 2 of the Bank Act,

or any other legal entity that the Minister of Finance may designate for the purposes of this Act on the application of that entity.

"marketing agency"

"marketing agency" means

(a) an association of producers whose object is the marketing, under a cooperative plan, of agricultural products produced by the producers;

(b) a person engaged in the processing of agricultural products for marketing under a cooperative plan;

(c) a person authorized by one or more associations or persons mentioned in paragraphs (a) and (b) to market agricultural products under a single cooperative plan; or

(d) the Board.

"Minister"

"Minister" means the Minister of Agriculture and Agri-Food.

"permit book"

"permit book" means a permit book, as defined in subsection 2(1) of the Canadian Wheat Board Act.

"price guarantee agreement"

"price guarantee agreement" means an agreement under section 28.

"producer"

"producer" means a producer of an agricultural product who is

(a) a Canadian citizen or a permanent resident;

(b) a corporation a majority of whose voting shares are held by Canadian citizens or permanent residents;

(c) a cooperative a majority of whose members are Canadian citizens or permanent residents; or

(d) a partnership or other association of persons where partners or members who are Canadian citizens or permanent residents are entitled to at least 50% of the

profits of the partnership or association.

For the purposes of Parts I and IV, "producer" includes a person or entity mentioned in any of paragraphs (a) to (d) that is entitled to a crop or a share in it as landlord, vendor, mortgagee or hypothecary creditor on a date specified for the purposes of this definition in an advance guarantee agreement. In this definition, "permanent resident" has the same meaning as in subsection 2(1) of the Immigration Act.

"repayment agreement" ½áaccord de remboursement

"repayment agreement" means an agreement under subsection 10(2).

Designation of crops by Governor in Council

(2) The Governor in Council may, by regulation, designate as a crop for the purposes of this Act any agricultural product grown or produced in Canada.

Related producers

3. (1) Producers are related for the purposes of this Act if they do not deal with each other at arm's length.

Presumption

(2) In the absence of proof to the contrary, producers are presumed not to deal with each other at arm's length if they are related as follows:

(a) individuals who are cohabiting or are connected by

(i) blood relationship, in the sense that one is the child or other descendant of the other or one is the brother or sister of the other,

(ii) marriage, in the sense that one is married to the other or to a person who is connected with the other by blood relationship, or

(iii) adoption, in the sense that one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is connected with the other by blood relationship, otherwise than as a brother or sister;

(b) a corporation and a person who

(i) holds shares in the corporation,

(ii) is a member of a group of persons that holds shares in the corporation, or

(iii) is related, as described elsewhere in this subsection, to a person who holds shares in the corporation or to the member of the group;

(c) any two corporations if

(i) one person or group of persons holds shares in both corporations,

(ii) a person who holds shares in one of the corporations is related, as described elsewhere in this subsection, to a person who holds shares in the other corporation,

(iii) a person who holds shares in one of the corporations is related, as described elsewhere in this subsection, to a member of a group of persons that holds shares in the other corporation, or

(iv) they are both related, as described in paragraph (b) or subparagraph (i), (ii) or (iii), to a third corporation;

(d) members of the same group of persons; or

(e) persons related, as described in paragraphs (a) to (c), to members of the same group of persons.

Groups of persons

(3) For the purposes of subsection (2), "group of persons" means a producer that is a partnership, cooperative or other association of persons.

PART I

ADVANCE PAYMENTS PROGRAM

Advance Guarantee Agreements

Purpose

4. The purpose of this Part is to improve marketing opportunities for crops of eligible producers by guaranteeing the repayment of the advances made to them as a means of improving cash-flow at or after harvest.

Agreements to guarantee repayment of advances

5. (1) Subject to the other provisions of this Act, the Minister may make an agreement with an administrator for the purpose of guaranteeing the repayment of advances that the administrator makes to eligible producers from money borrowed

for the purpose of making the advances, together with any interest on the advances.

Administrator qualifications

(2) The administrator must demonstrate to the Minister that

(a) it represents eligible producers in an area who produce in that area a significant portion of the crop for which the advances will be made; and

(b) the administrator is capable of meeting its obligations under the advance guarantee agreement.

Terms and conditions

(3) In addition to designating the crop and specifying any other terms and conditions governing advances and their repayment, the advance guarantee agreement must provide that the administrator agrees

(a) to make an agreement with each buyer mentioned in subparagraph 10(2)(a)(i), other than the administrator, to withhold amounts as provided in that subparagraph and to remit them immediately to the administrator;

(b) to withhold amounts as provided in subparagraph 10(2)(a)(i) in cases where the administrator is the buyer;

(c) to make the advances from money borrowed from a lender;

(d) to ensure that the interest rate on the money borrowed by the administrator will not exceed the rate specified in the advance guarantee agreement;

(e) to take steps, in accordance with the terms and conditions of the advance guarantee agreement, to ensure that before an advance is made the crop is harvested, of marketable quality and adequately stored by the producer so as to remain of marketable quality until disposed of in accordance with the repayment agreement;

(f) to repay the money it borrows from the lender, together with the interest, by paying to the lender, within the period specified in the advance guarantee agreement, the amounts the administrator receives as repayment of advances;

(g) if a producer defaults, to pay

(i) to the lender, within the period specified in the advance guarantee agreement, the administrator's percentage, as determined under the regulations,

of the amount of the producer's liability under paragraph 22(a), and

(ii) to the Minister within the same period the same percentage of the amount of interest paid by the Minister under subsection 9(1);

(h) to pay to the Minister any additional interest resulting from its failure to make payments required by paragraphs (f) and (g); and

(i) to pay to the Minister, within the period specified in the advance guarantee agreement, the Minister's percentage, as determined under the regulations, of an amount repaid to the administrator under a repayment agreement by a defaulting producer if the Minister has previously made a payment for the producer under subsection 23(1).

Administration fees

(4) The administrator may charge fees to producers for administrative services, including fees for receiving and dealing with applications for advances and for administering advances. The fees may be charged only for the purpose of recovering administrative costs under this Part and are subject to any terms and conditions of the advance guarantee agreement.

Maximum contingent liability

(5) The aggregate contingent liability of Her Majesty in relation to principal outstanding under guarantees made under advance guarantee agreements must not at any time exceed \$1.9 billion, or any greater amount that the Governor in Council may prescribe by regulation.

Obligations of administrators

6. A guarantee is not effective unless the administrator complies with this Act and the advance guarantee agreement.

Emergency advance

7. (1) Despite paragraph 5(3)(e), the advance guarantee agreement may authorize the administrator to pay a portion of an advance as an emergency advance to an eligible producer if the producer has difficulty harvesting a crop because of unusual weather conditions and it is reasonable to expect the crop to be harvested in a marketable condition. Payment of the emergency advance is subject to any terms and conditions set out in the advance guarantee agreement.

Maximum amount

(2) The maximum amount of the emergency advance is the lesser of a \$25,000 and 50% of the advance that the administrator expects to make to the producer on the basis of the amount of the crop that will be harvested.

Lender guarantee

8. A guarantee under the advance guarantee agreement may, with the approval of the Minister of Finance, be made to the lender instead of to the administrator if the Minister is satisfied that doing so will reduce the interest payable to the lender.

Payment of interest

9. (1) The Minister must, in relation to each producer, pay to the lender specified in the advance guarantee agreement the interest accruing during a crop year on the amounts borrowed by the administrator to pay the first \$50,000 of the total of the following amounts advanced during the crop year, or any shorter period specified in the advance guarantee agreement:

- (a) amounts advanced to the producer for all their crops; and
- (b) the percentage of the amounts advanced to all related producers for all their crops that is attributable to the producer under subsection (2).

Attribution

(2) The amounts advanced to related producers are attributable to the producer as follows:

- (a) if the related producer is an individual, the attributable percentage is 100%;
- (b) if the related producer is a corporation, the attributable percentage is the percentage of the voting shares that the producer holds in the related producer;
- (c) if the related producer is a cooperative, the attributable percentage is the percentage prescribed by the regulations; and
- (d) if the producer and the related producer are partners or members of the same partnership or other association of persons, the attributable percentage is the percentage of the profits of the partnership or association to which the producer is entitled.

Interest on emergency advances

(3) The Minister is not required to pay the interest for an emergency advance, unless the advance guarantee agreement provides for its payment.

Reduction of principal

(4) When an amount is repaid on account of a guaranteed advance, the amount on which the Minister must pay interest is reduced by the amount of the repayment.

Eligibility and Repayment

Eligibility requirements for producers

10. (1) For a producer to be eligible for a guaranteed advance during a crop year,

(a) the producer must, in accordance with any regulations, own the crop continuously and be responsible for marketing it;

(b) if the producer is an individual, the producer must have attained the age of majority in the province where his or her farming operation is carried on and must be principally occupied in that operation or be entitled to the crop or a share in it as landlord, vendor, mortgagee or hypothecary creditor;

(c) if the producer is a corporation with only one shareholder, the shareholder must

(i) have attained the age of majority in the province where the producer's farming operation is carried on,

(ii) be principally occupied in that operation or be entitled to the crop or a share in it as landlord, vendor, mortgagee or hypothecary creditor, and

(iii) agree in writing to be personally liable to the administrator for any liability of the producer under section 22 and to provide any security for the repayment of the advance that the administrator may require;

(d) if the producer is a corporation with two or more shareholders, a partnership, a cooperative or another association of persons,

(i) at least one of the shareholders, partners or members, as the case may be, must have attained the age of majority in the province where the producer's farming operation is carried on and must be principally occupied in that operation or be entitled to the crop or a share in it as landlord, vendor, mortgagee or hypothecary creditor, and

(ii) each of the shareholders, partners or members, as the case may be, must agree in writing to be jointly and severally liable to the administrator for any liability of the producer under section 22 and must provide any security for the repayment of the advance that the administrator may require;

(e) the producer and, to the extent provided in the advance guarantee agreement, any related producers must have repaid all guaranteed advances received during the previous crop year for a crop of the same designation, unless the Minister otherwise directs when staying a default under subsection 21(2) by the producer or any of the related producers;

(f) the producer and, to the extent provided in the advance guarantee agreement, any related producers must not be in default under a repayment agreement;

(g) the producer must not be ineligible under subsection 21(4); and

(h) the producer must not have given the crop as security ranking in priority to the security interest created by section 12.

Sharing security

(1.1) For the purposes of paragraph (1)(h), the producer's eligibility is not affected by the administrator sharing its security interest with another lender in accordance with terms and conditions specified in the advance guarantee agreement.

Eligible producers must make repayment agreements

(2) An eligible producer must make a repayment agreement with the administrator under which the producer agrees

(a) to repay the advance

(i) by selling the crop for which the advance is to be made to a buyer or buyers named by the administrator, and authorizing in writing each buyer to withhold from any amount they pay to the producer for each crop unit an amount determined in accordance with the repayment schedule specified in the agreement,

(ii) by selling or otherwise disposing of the crop for which the advance is to be made and paying directly to the administrator, for each crop unit in accordance with the terms and conditions specified in the agreement, an amount determined in accordance with the repayment schedule specified in the agreement,

(iii) without proof that the crop has been sold, up to an amount prescribed by the regulations, or

(iv) by a combination of the methods described in subparagraphs (i) to (iii);

(b) to keep the crop adequately stored so as to remain of marketable quality until disposed of under the agreement; and

(c) to comply with any other terms and conditions set out in the agreement, including terms and conditions governing the delivery of the crop and the payment of interest, both before and after any default.

Terms and conditions governing emergency advances

(3) Terms and conditions in the advance guarantee agreement relating to emergency advances must also be included in the repayment agreements of producers who receive those advances.

Required information

(4) The producer must provide to the administrator any information that it requests for the purpose of applying this Act.

Unmarketable crop

11. If a crop for which a guaranteed advance is made ceases to be in marketable condition, in whole or in part, the producer becomes liable to repay immediately to the administrator that portion of the guaranteed advance, together with the interest on it from the date of the advance, that is attributable to the unmarketable portion of the crop.

Security interest in crop

12. An administrator that makes a guaranteed advance to a producer has a security interest in the crop for which the advance was made, and in any crop subsequently grown by the producer, for the amount of the producer's liability under sections 22 and 23.

Canadian Wheat Board

Powers to make arrangements and agreements

13. (1) For the purpose of making guaranteed advances under this Act, the Board may make any arrangements, contracts or agreements that it considers necessary or advisable for the administration of this Part, including borrowing money by any means, for example, by issuing, reissuing, selling and pledging bonds, debentures, notes and other evidences of indebtedness of the Board.

Borrowing guarantee

(2) The Minister of Finance may, subject to any terms and conditions approved by the Governor in Council, guarantee the repayment of money borrowed under subsection (1) together with the interest on it.

Cash purchase tickets

14. Despite the Canada Grain Act, the manager or operator of an elevator or other person authorized by the Board to make guaranteed advances on its behalf may make advances by means of cash purchase tickets.

Non-application of certain provisions

15. (1) Paragraphs 5(3)(c) and (f), subparagraph 5(3)(g)(i) and paragraph 5(3)(h) do not apply to the Board.

Payment of interest by Minister

(2) Interest payable by the Minister under subsection 9(1) in relation to amounts borrowed by the Board is payable to the Board.

Delivery of permit book

16. (1) At any time after a producer applies to the Board for an advance, the Board may require the producer to deliver to it any permit book issued to the producer or to any related producer.

Endorsement

(2) The Board may require an endorsement to be made in the permit book in a form specified by the Board, indicating that amounts for all crops delivered under the permit book must be deducted and paid to the Board in accordance with the repayment agreement with the producer.

Deductions on delivery

17. (1) If a delivery of a crop is made under a permit book that bears an endorsement, the person receiving the delivery shall

(a) deduct and pay to the Board, in priority to all other persons, the portion of the payment for the crop that the repayment agreement with the producer authorizes to be deducted from each payment until the advance has been repaid; and

(b) make an appropriate entry of the deduction in the permit book and in any other permit book that has the same endorsement and is presented to the person receiving the delivery.

Cancellation of endorsement

(2) When the guaranteed advance has been repaid, the Board must cancel the endorsement.

Endorsements in permit books

18. A producer whose permit book has been endorsed under subsection 16(2) is not entitled to receive and shall not use any other permit book, including a permit book of any related producer, in substitution for the endorsed permit book for the same or any subsequent crop year, unless the guaranteed advance is repaid or the endorsement is also made in the other permit book.

Amount of Advances

Amount of advance

19. (1) The amount of an advance eligible for a guarantee under this Part is calculated by multiplying

(a) the number of crop units for which the advance is to be made

by

(b) the rate per crop unit specified in the advance guarantee agreement for that crop in the crop year in which the advance is made.

Rate per crop unit

(2) The rate per crop unit may be specified for a particular crop in a particular area, but it must not exceed one half of the average price that, in the Minister's opinion, will be payable to producers of the crop in that area.

Annual maximum guarantee for each producer

20. (1) The maximum amount of advances in any crop year that are eligible for a guarantee under this Act

(a) for a particular crop produced by an eligible producer, is an amount specified in the advance guarantee agreement for that crop; and

(b) for all crops produced by the producer or by any related producers, to the extent that advances for the crops are attributable to the producer under subsection (2), is the lesser of a \$250,000 and an amount determined by the Minister.

Attribution

(2) Amounts advanced to related producers are attributable to the producer as follows:

(a) if the related producer is an individual, the attributable percentage is 100%;

(b) if the related producer is a corporation, the attributable percentage is the percentage of the voting shares that the producer holds in the related producer;

(c) if the related producer is a cooperative, the attributable percentage is the percentage prescribed by the regulations; and

(d) if the producer and the related producer are partners or members of the same partnership or other association of persons, the attributable percentage is the percentage of the profits of the partnership or association to which the producer is entitled.

Default

Circumstances constituting default

21. (1) For the purposes of this Part, a producer is in default under a repayment agreement if the producer

(a) has not met any of their obligations under the agreement within 20 days after the day on which the administrator mails or delivers a notice to the producer stating that the producer has had, in the opinion of the administrator, adequate opportunity to meet the obligation, and requesting the producer to meet it;

(b) has not met all of their obligations under the agreement at the end of the crop year in which the advance was made;

(c) has not met all of their obligations under the agreement when the producer files an assignment under the Bankruptcy and Insolvency Act or a receiving order is made under that Act against the producer;

(d) at any time breaches an obligation under the agreement; or

(e) provides false or misleading information to the administrator for the purpose of obtaining a guaranteed advance, or evading compliance with an undertaking to repay it.

Stay of default

(2) If a default is impending, the Minister may, at the request of the administrator, order the default to be stayed for a specified period on any terms that the Minister may establish.

When default ceases

(3) A producer ceases to be in default on the full discharge of the producer's liability under sections 22 and 23.

Ineligibility period

(4) An advance guarantee agreement may provide that a producer continues to be ineligible for a guaranteed advance for any period specified in the agreement, even though the producer has ceased to be in default.

Liability of defaulting producer to administrator

22. A producer who is in default under a repayment agreement is liable to the administrator for

- (a) the outstanding amount of the guaranteed advance;
- (b) the interest at the rate specified in the repayment agreement on the outstanding amount of the advance, calculated from the date of the advance; and
- (c) costs incurred by the administrator to recover the outstanding amount and interest, including legal costs approved by the Minister.

Payments to be made by Minister

23. (1) If a producer is in default under a repayment agreement and the Minister receives a request for payment from the administrator, the Minister must, subject to any regulations made under paragraph 40(g), pay to the lender or the administrator, as specified in the advance guarantee agreement, an amount equal to the Minister's percentage of

- (a) the amounts mentioned in paragraphs 22(a) and (c); and
- (b) the interest at the rate specified in the advance guarantee agreement on the

outstanding amount of the advance, calculated from the date of the advance.

Subrogation

(2) The Minister is, to the extent of any payment under subsection (1), subrogated to the administrator's rights against the producer in default and against persons who are personally liable under paragraphs 10(1)(c) and (d).

Recovery of interest and costs

(3) The producer is liable to the Minister for interest on the subrogated amount, calculated in accordance with the repayment agreement, and the costs incurred by the Minister to recover that amount, including legal costs.

Board deductions

24. (1) If a producer is in default under a repayment agreement with the Board or any other administrator, the Board may, for the purpose of repaying the producer's liability under sections 22 and 23, make deductions from any amounts owing under section 33 of the Canadian Wheat Board Act to the producer or to another producer whose permit book the producer uses.

Liability extinguished

(2) On making the deduction, the Board's liability to the producer is extinguished to the extent of the deduction.

Payments out of the C.R.F.

25. Payments that the Minister or the Minister of Finance is liable to make under this Part are to be made out of the Consolidated Revenue Fund.

PART II

PRICE POOLING PROGRAM

Purpose

26. The purpose of this Part is to facilitate the marketing of agricultural products under cooperative plans by guaranteeing minimum average prices of products sold by marketing agencies.

Conditions for price guarantee agreements

27. The Minister may, with the approval of the Minister of Finance, establish

conditions under which price guarantee agreements may be made.

Minister may make agreements

28. (1) Once the Minister has established the conditions, the Minister may make a price guarantee agreement with a marketing agency.

Contents of agreement

(2) The price guarantee agreement must provide that

(a) the Minister is to pay amounts based on the difference obtained by subtracting

(i) the average wholesale price of an agricultural product

from

(ii) the initial payment made by the marketing agency for the agricultural product, together with the marketing agency's costs;

(b) the initial payment and the marketing agency's costs applicable to the agricultural product are those relating to the volume, grade, type and variety of the product at the time of sale;

(c) the average wholesale price is to be a reasonable price, as determined at the time of sale and, in case of a dispute, the Minister determines the price;

(d) the initial payment, the marketing agency's costs and the average wholesale price are to be determined in the manner specified in the agreement, including specified maximum amounts; and

(e) the marketing agency is to comply with this Part and any other terms and conditions specified in the agreement.

Requirements for marketing agency

(3) The cooperative plan administered by the marketing agency must apply to

(a) a significant portion of the producers in the area where the plan applies;
or

(b) a significant portion of the agricultural product produced in that area.

In addition, the Minister must be satisfied that marketing the product under the

cooperative plan will benefit the producers.

Cooperative plan

(4) The cooperative plan must be an agreement or arrangement for marketing that provides for

(a) an initial payment to producers for delivery, in accordance with the agreement or arrangement, of an agricultural product produced in Canada;

(b) pooling the proceeds of the sale of the agricultural product;

(c) equal returns to the producers for like grades, varieties and types of the agricultural product; and

(d) returning to the producers the proceeds of the sale of all of the agricultural product delivered under the agreement or arrangement and produced during a period of 12 months or less specified in the agreement or arrangement, after deducting the marketing agency's costs and any reserves.

Production and delivery of product

29. (1) The agricultural product must be

(a) produced by the producer who received the initial payment during the period specified under paragraph 28(4)(d); and

(b) delivered during that period to the marketing agency under a single cooperative plan.

Discontinuing delivery

(2) During the period specified under paragraph 28(4)(d), the Minister may give notice to the marketing agency that the price guarantee agreement will not apply to any quantity of the agricultural product delivered after the date specified in the notice.

Payment of liabilities under agreement

30. The Minister of Finance may, with the approval of the Governor in Council, pay out of the Consolidated Revenue Fund any amount that the Minister of Agriculture and Agri-Food becomes liable to pay under a price guarantee agreement.

PART III

GOVERNMENT PURCHASES PROGRAM

Powers of Minister

31. (1) The Minister may, with the authorization of the Governor in Council,

(a) sell or deliver agricultural products to a government or government agency of any country under an agreement made by Her Majesty with the government or government agency, and for that purpose may purchase agricultural products and make any arrangements for their purchase, sale or delivery that the Minister considers necessary or desirable;

(b) purchase, or negotiate contracts for the purchase of, agricultural products on behalf of a government or government agency of any country;

(c) buy, sell or import agricultural products;

(d) require any person on reasonable notice to give, at a specified time, any information about agricultural products that may be necessary for the administration of this Part; and

(e) store, transport or process agricultural products, or make contracts for their storage, transportation or processing.

Limitation

(2) Except with the approval of the Governor in Council, the Minister may not sell an agricultural product under paragraph (1)(a) or (c) at a price lower than the purchase price plus handling, storage and transportation costs.

PART IV

GENERAL PROVISIONS

Contractual and Financial Matters

Cost recovery regulations

32. For the purpose of recovering costs incurred by the Minister under this Act, the Minister may make regulations for charging fees related to making advance guarantee agreements and price guarantee agreements and fees for any other services provided by the Minister under this Act.

Expenditures of the Board

33. All expenditures made by the Board in the administration of this Act, other than those reimbursed to the Board by the Minister under section 23, are deemed to be expenses of the Board for the purposes of section 33 of the Canadian Wheat Board Act.

Offences and Punishment

Information relating to advance guarantees

34. (1) An administrator commits an offence if, for the purpose of obtaining a guarantee from the Minister under Part I or evading compliance with any obligation relating to the guarantee, the administrator

- (a) gives false or misleading information to the Minister; or
- (b) fails to disclose any relevant information to the Minister.

Information relating to guaranteed advances

(2) A person commits an offence if, for the purpose of obtaining a guaranteed advance under Part I, or evading, or helping someone evade, compliance with an undertaking to repay it, the person

- (a) gives false or misleading information to an administrator or to the Minister; or
- (b) fails to disclose any relevant information to an administrator or to the Minister.

Deductions and entries in permit books

(3) A person who contravenes section 17 commits an offence.

Use of permit books

(4) A person who uses a permit book in contravention of section 18 commits an offence.

Information relating to price guarantee agreements

35. (1) A marketing agency commits an offence if, for the purpose of negotiating a price guarantee agreement, or obtaining a payment or evading compliance with any obligation under the agreement, the marketing agency

- (a) gives false or misleading information to the Minister; or
- (b) fails to disclose any relevant information to the Minister.

Information relating to payments

(2) A person commits an offence if, for the purpose of obtaining a payment under Part II, the person

- (a) gives false or misleading information to a marketing agency or to the Minister; or
- (b) fails to disclose any relevant information to a marketing agency or to the Minister.

Non-compliance with information requirements

36. (1) A person who does not comply with a requirement to provide information under paragraph 31(1)(d) commits an offence.

Evidence of requirements

(2) In a prosecution under subsection (1), evidence of a requirement may be given by the production of a copy of the requirement appearing to be certified as a copy by the Minister or another official of the Department of Agriculture and Agri-Food.

Punishment

37. A producer, administrator, marketing agency or other person who commits an offence under this Act is

- (a) if the offence is committed wilfully, liable on proceedings by way of indictment to a fine of not more than \$500,000, to imprisonment for a term of not more than five years, or to both; and
- (b) in any other case, liable on summary conviction to a fine of not more than \$10,000, to imprisonment for a term of not more than six months, or to both.

Prosecution of partnership

38. (1) A prosecution under this Act against a partnership may be brought in the name of the partnership and, for the purpose of the prosecution, the partnership is deemed to be a person. Anything done or omitted by a partner or agent of the

partnership within the scope of their authority to act on behalf of the partnership is deemed to have been done or omitted by the partnership.

Officers, etc., of corporations or partnerships

(2) If a corporation or partnership commits an offence under this Act, whether or not it has been prosecuted or convicted, any officer, director, partner or agent of the corporation or partnership who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable to the punishment provided for the offence.

Limitation period

39. A prosecution under this Act may be instituted no later than five years after the act or omission giving rise to the prosecution occurred.

Regulations

Governor in Council regulations

40. (1) The Governor in Council may make regulations

(a) defining

(i) "supported" for the purposes of the definition "administrator" in subsection 2(1),

(ii) "non-processed" for the purposes of the definition "crop" in subsection 2(1), and

(iii) "continuously own" and "responsible for marketing" for the purposes of paragraph 10(1)(a);

(b) for determining for the purposes of paragraph 5(2)(a) what is a significant portion of a crop;

(c) for determining a method of calculating the administrator's percentage mentioned in paragraph 5(3)(g), but the percentage must be at least 1% and not more than 15%;

(d) for determining a method of calculating the Minister's percentage mentioned in paragraph 5(3)(i) and subsection 23(1);

(e) prescribing attributable percentages for the purposes of paragraphs 9(2)(c) and 20(2)(c);

- (f) prescribing an amount for the purposes of subparagraph 10(2)(a)(iii);
- (g) respecting the attempts to be made by an administrator to collect on a producer's liability under section 22 before and after the administrator requests payment from the Minister under subsection 23(1);
- (h) for determining for the purposes of subsection 28(3) what is a significant portion of producers or agricultural product; and
- (i) generally, for carrying out the purposes and provisions of this Act.

Exception for crop years beginning in 1997 or 1998

(2) Despite any regulations made under paragraph (1)(c), the administrator's percentage for crop years beginning in 1997 or 1998 is 2%, except for crops for which the Board is the administrator, in which case the prescribed percentage is 0%.

Reports to Parliament

Annual report

41. At the end of each fiscal year, the Minister must prepare a report on the administration of this Act, including the agreements made under it, and must have the report laid before each House of Parliament on any of the first 15 days on which it is sitting after the report is completed.

Five-year review

42. (1) During the fifth year after this Act is assented to, the Minister must review the provisions and operation of this Act in consultation with the Minister of Finance.

Tabling of report

(2) The Minister must have a report on the review laid before each House of Parliament on any of the first 30 days on which it is sitting after the report is completed.

PART V

REPEALS, TRANSITIONAL PROVISIONS, CONSEQUENTIAL AMENDMENTS AND COMING INTO FORCE

Repeals

43. to 46. [Repeals]

Transitional Provisions

Agricultural Products Board Act

Definition of "Board"

47. In sections 48 and 49, "Board" means the Agricultural Products Board, established under subsection 3(1) of the Agricultural Products Board Act.

Rights and obligations transferred

48. (1) All rights and property held by or in the name of or in trust for the Board and all obligations and liabilities of the Board are deemed to be rights, property, obligations and liabilities of Her Majesty.

References

(2) Every reference to the Board in any deed, contract or other document executed by the Board in its own name is to be read as a reference to Her Majesty, unless the context requires otherwise.

Closing out affairs

(3) The Minister may do anything necessary for or incidental to closing out the affairs of the Board.

Legal proceedings against Her Majesty

49. (1) Any action, suit or other legal proceeding in respect of any obligation or liability incurred by the Board, or by the Minister in closing out the affairs of the Board, may be brought against Her Majesty in any court that would have had jurisdiction if the action, suit or proceeding had been brought against the Board.

Legal proceedings by Her Majesty

(2) Any action, suit or other legal proceeding in respect of any right of the Board, or any right acquired by the Minister in closing out the affairs of the Board, may be brought by Her Majesty in any court that would have had jurisdiction if the action, suit or proceeding had been brought by the Board.

Continuation of legal proceedings

(3) Any action, suit or other legal proceeding to which the Board is party pending in any court on the coming into force of this section may be continued by or against Her Majesty in the like manner and to the same extent as it could have been continued by or against the Board.

Agricultural Products Cooperative Marketing Act

No agreements after December 31, 1996

50. No agreements may be made under section 3 of the Agricultural Products Cooperative Marketing Act after December 31, 1996.

Advance Payments for Crops Act

No guarantees of advances after March 31, 1997

51. The Minister may not guarantee under section 4 of the Advance Payments for Crops Act any advances made after March 31, 1997 or any interest attributable to those advances.

Defaults

51.1 For the purpose of applying paragraph 10(1)(f), a default under a repayment agreement includes a default in repaying an advance under the Advance Payments for Crops Act.

Prairie Grain Advance Payments Act

No advances after May 31, 1997

52. (1) The Board may not make any advances under section 3 of the Prairie Grain Advance Payments Act after May 31, 1997.

Subrogation

(2) The Minister is, to the extent of any payment under section 19 of the Prairie Grain Advance Payments Act, subrogated to the Board's rights against the producer in default and against persons who are personally liable for any amount in default.

Defaults

52.1 For the purpose of applying paragraph 10(1)(f), a default under a repayment

agreement includes a default in repaying an advance payment under the Prairie Grain Advance Payments Act.

Consequential Amendments

53. to 55. [Amendments]

Coming into Force

Coming into force - general

56. (1) This Act, except sections 44 to 46, comes into force on January 1, 1997.

Coming into force - sections 44 to 46

*(2) Sections 44 to 46 come into force on a day or days to be fixed by order of the Governor in Council.

*[Note: Sections 44 to 46 not in force.]