

Bill C-48, An Act to amend the Canada Grain Act: Key Points

Prepared by the National Farmers Union, March 2015

The National Farmers Union urges MPs to vote against Bill C-48 because:

- ➔ C-48 stops the Canadian Grain Commission from carrying out its work in the interests of grain farmers
- ➔ C-48 allows government to end bond security system that now pays farmers if a licensed grain company defaults
- ➔ C-48 creates room for political interference with Standards Committee appointments, a critical component of grain grading system
- ➔ C-48 requires imported grain to be given best possible Canadian grade
- ➔ C-48 provides government with increased powers that can be used to enforce plant breeders rights on behalf of seed companies

At minimum, MPs should ensure the CGC mandate is not changed.

Bill C-48, *An Act to amend the Canada Grain Act*, introduced on December 9, 2014, makes significant changes to how the Canadian Grain Commission (CGC) operates, **changes the CGC's mandate** and **eliminates the CGC's duty to report to Parliament** annually.

What is the Canadian Grain Commission? Established in 1912 through the *Canada Grain Act*, the CGC's purpose is to 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. The CGC has provided **a strong foundation for Canada's grain industry**, upholding the quality of our products and fairness in our processes. It:

- was **set up to protect farmers' interests**;
- administers the *Canada Grain Act* and its Regulations;
- resolves disputes between farmers and grain companies;
- deals with elevators; weighing, handling, transportation and storage of grain, including grading and all types of inspection;
- conducts grain-related research;
- allocates producer cars* and oversees their administration and management.

Importance of CGC Mandate: Bill C-48 changes the mandate of the CGC. Rather than carrying out its work in the interests of grain producers, the CGC will instead be mandated to act "in the interests of Canadians and grain producers". The difference may seem to be very minor, but it means that **the**

* **Producer cars** are railway cars that farmers are entitled to use for shipping their own grain as an alternative to using and paying for the services and facilities owned by grain companies.

CGC will no longer be empowered to put farmers' interests ahead of those of multi-billion dollar grain companies. This single change removes Canada's official recognition of the power imbalance that exists when thousands of farmers must individually deal with the few multinational grain companies that dominate the industry.

C-48 shifts cost and risk of Producer Payment Protection onto farmers: Bill C-48 enables **the current bond-based system of** for producer payment protection to be **replaced with a government-administered insurance system** that can be initiated after regulations are adopted.

Today, all licensed elevator companies and grain dealers are required to maintain bond security, with the amount set by the CGC based on mandatory monthly reporting of outstanding liabilities (payments owed to farmers). The CGC uses that security bond to pay farmers what they are owed should a licensed company refuse to pay, become insolvent or close without paying for grain it has received.

In 2013, the federal government tried and failed to replace the bond system with a private credit insurance system because the government's proposal **did not comply with insurance industry rules.** (See the NFU's brief, *Comments on Producer Payment Protection Amendments to Canada Grain Act* <http://www.nfu.ca/story/comments-producer-payment-protection-amendments-canada-grain-act> and *Grain commission bonding replacement plan stalls*, Manitoba Co-operator, August 8, 2014. <https://tinyurl.com/pyr32sw>)

Bill C-48's proposed system is similar to the failed 2013 initiative, with the federal government, instead of the insurance industry, administering it. Bill C-48's proposed producer protection fund would have the federal government:

- **collect fees** (which could be \$0.00) from licensed elevators and grain dealers based on the company's risk of non-payment
- **deposit fees** in a government account
- **require farmers to fill out claim forms** correctly and submit them within a time limit
- provide **only partial payment of amount owed** to farmer claimants

Large grain companies would benefit from this change, as it would give them access to the capital that they are currently required to hold in security bonds. **Small companies would likely have higher fees** -- with smaller volumes and more limited markets, they would be considered a higher risk for non-payment. Higher fees would reduce small companies' ability to compete with the multinational dealers and thus promote concentration of ownership in the grain industry. **Large and small companies alike would seek to pass the cost of the fee on to farmers** as a component of basis[†]. **The result would be farmers subsidizing the business risks of grain companies in return for only partial coverage.**

C-48 opens door to political interference in grain grading: Currently the CGC Commissioner appoints Standards Committee members who then serve until their terms expire. **Bill C-48, however, gives the Minister the power to appoint and dismiss members of the Western and Eastern Standards Committees,** which are responsible for recommending official samples that represent as accurately as possible the average quality of grain of each grade received at elevators at inspection points. These standard samples are used to assess grades assigned when farmers deliver grain to country

[†] **Basis** is the difference between a futures market price for a commodity and the local cash price offered at a country elevator. Basis levels are the prerogative of the grain buyer and are not subject to government regulation.

elevators. If a farmer and buyer disagree on grade the CGC uses the standard grade to settle the dispute. **Bill C-48, therefore, introduces the potential for political influence in grain grading by giving the Minister discretion to hire and fire.**

C-48 allows grain companies to sell imported grain using Canada's grades: Today foreign grain is not graded; it is only identified as to its country of origin. Bill C-48 creates a new provision that allows imported grain to be graded and requires CGC inspectors to assign it the highest possible grade for which it is eligible. Thus Bill C-48 opens the door to companies sourcing grain in other countries and obtaining the benefits of Canada's grading system when re-selling it.

C-48 increases capacity to enforce Plant Breeders Rights: Bill C-48 extends the CGC's authority to include container-loading elevators and to country elevators, terminals and grain processing facilities that handle/use grain grown in Eastern Canada. Between the CGC's expanded jurisdiction and its increased authority, **the federal government obtains greater capacity to enforce the exclusive rights granted to seed companies through the *Agricultural Growth Act* by using the following new powers.**

Bill C-48:

- allows elevators to refuse to take delivery of any grain of a variety not registered under the *Seeds Act* for sale in or importation into Canada. Under the current Act, elevators may only refuse delivery of out of condition grain or grain likely to go out of condition (i.e. too moist and likely to rot).
- gives CGC the authority to enter and inspect the premises of anyone suspected of carrying on business as a grain dealer without a required license.
- authorizes the CGC to obtain samples from licensed premises to verify compliance or to "further the objects of this Act."
- Increases fines, with maximum \$500,000 for corporations on indictment.
- gives the courts the power to issue orders to prevent continuation of or repetition of offences and to impose other conditions.

With Bill C-48's change to its mandate, the CGC will be required to ignore the difference between the interests of grain companies and farmers. **There is, therefore, no guarantee that the CGC's new powers and scope will be beneficial to farmers or the broader public interest.**

Therefore we urge Members of Parliament to vote against Bill C-48

Full text of Bill C-48: <https://tinyurl.com/nh3athj>

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