

# Making Complaints Under the Packers and Stockyards Act

## — A Poultry Grower's Guide

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If you are a poultry grower<sup>1</sup> and you think that you have been treated unfairly by your poultry company, you should think about filing a complaint under the Packers and Stockyards Act (P&S Act), 7 U.S.C. § 181, *et seq.* Complaints should be filed at your regional office of the Packers and Stockyards Administration (P&S Administration). (See page 4.)

You do not need to have a lawyer to file a complaint. The rules for filing complaints are described below. If you properly file a complaint, the Packers and Stockyards Administration will do an investigation. If they determine that the company's actions may have violated the P&S Act, they can take action that may help you.

In addition to learning about your P&S Act rights, you should find out whether your *state* has laws that give you other protections.

### What is the Packers and Stockyards Act?

The P&S Act is a law that is designed to eliminate certain *unfair practices* and *monopoly practices* in the livestock and poultry industries. Although much of the P&S Act has been in effect since 1921, many of the provisions that apply to the poultry industry are new—they just became law in 1987.

### What kinds of things can I complain about to the P&S Administration?

You can complain about three categories of things:

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<sup>1</sup> The definition of "poultry grower" in the Packers and Stockyards Act is "any person engaged in the business of raising and caring for live poultry for *slaughter by another*, whether the poultry is owned by such person or by another, but not an employee of the owner of such poultry." 7 U.S.C. § 182(8) (emphasis added). Therefore, the rights of "poultry growers" as described in this article may not apply to growers whose poultry is not raised for slaughter (for example, the rights may not apply to growers who have egg operations).

(1) *Payment Problems.* You have the right to be paid promptly for poultry that you provide to the company. The details are explained below. If you are not paid on time, complain to your regional P&S office.

(2) *Other Unfair and Deceptive Practices.* If the company does anything that you think is a significant unfair practice, complain. This could include practices such as weighing your poultry inaccurately, breaking promises that you relied on, holding up deliveries of feed or medicine, refusing to continue in business with you because you stood up for your rights, retaliating against you for forming a growers' association, etc.

(3) *Monopoly Practices.* You can complain about any practice that the company uses to restrain competition or control prices.

### **What can they do to help me?**

The answer is different depending on whether your problem is a payment problem.

(1) *Payment Problems.* Poultry companies are required to keep enough specified assets on hand to pay growers promptly. If a company fails to pay a grower and a timely complaint is filed, the P&S Administration will assist the grower in obtaining a court order compelling the poultry company to hold the specified assets in trust.

The P&S Administration may also file a formal administrative complaint against the company, have a hearing, and obtain a "cease and desist" order. Although there are no guarantees, the P&S Administration's involvement may make it much easier for you to get your money.

(2) *Other Problems.* The formal administrative procedure described above is available *only* for payment problems. If you complain about a different kind of problem, the P&S Administration can investigate the problem and then can refer it to the Justice Department. The Justice Department may file a lawsuit against the company for violations of the P&S Act.

### **How do I file a complaint under the P&S Act?**

You do not have to use a specific complaint form. You can simply write a letter. Try to include the following information in the letter:

- 1) Your name and address.
- 2) The name of the poultry company and the city and state in which it does business.
- 3) A description of the problem.
- 4) The date on which the problem happened.
- 5) The amount of money owed to you (if any).

Including all of this information is helpful; but if you leave some of it out, the P&S Administration will still process your complaint.

For *most* types of complaints, you simply need to write a letter to your P&S Administration regional office—you *do not need to notify the company* of your

complaint. This procedure works for complaints about all types of problems *except* payment problems in which you want the protection of the trust fund.

For *payment problems* in which you want the protections of the *trust fund*, you *must* send a letter to your regional P&S Administration office *and to the poultry company*.

### **Is there a deadline for filing the complaint?**

#### **Payment Problems**

*There is a deadline* for preserving your rights regarding *payment from the trust fund*. If your problem is that you were not paid and you want the P&S Administration to act to preserve the trust fund for your benefit, the poultry company and the P&S Administration must receive your written complaint within *30 days* after you had the right to be paid. (See the next question for an explanation of when you have the right to be paid.) If you are paid with a check that is dishonored (that is, it "bounces"), you must file your complaint within 15 business days after you receive the notice that it is dishonored.

If you have missed the deadline, you should still complain. Although you will not have the right to get trust fund protection, the P&S Administration may still be able to force the poultry company to follow the law.

#### **Other Problems**

For all *other* types of complaints (for example, complaints about unfair trade practices), there is no deadline. But even though there is no deadline, the investigation has the best chance of success if you file your complaint soon.

### **When do I have the right to be paid?**

If you are raising poultry *under a growing arrangement* in which the company owns the birds, you have the right to be paid by the close of the 15th day after the week of slaughter. Here's an example:

Suppose the birds are slaughtered on Tuesday, October 9. That week ends on Saturday, October 13. The P&S Administration says that you have the right to be paid by the close of business on Monday, October 29. If you want to preserve your right to receive trust benefits, you must file your complaint within 30 days of that Monday. (See the calendar on the following page.)

If you are selling poultry that you own for *cash* without expressly extending credit, you have the right to be paid before the close of the next business day following the day of purchase. If you want to preserve your right to receive trust benefits, you must file your complaint within 30 days after the day on which you should have been paid.

### **What will happen after I file my complaint?**

First, an investigator from the regional office of the P&S Administration will investigate your complaint. He or she may call you or visit with you in person. The investigator may also visit with the people at the company, examine their records, or take other actions to

investigate your complaint. The investigator will then send the investigation results to the P&S Administration in Washington, D.C.

### **What happens once the investigation results get to Washington?**

If you have a *payment problem*, the Washington office may decide to file a formal administrative complaint against the company. That complaint could lead to an order being entered against the company to force the company to comply with the law.

If you have a problem *other than a payment problem*, there is no formal administrative procedure. However, the P&S Administration may still do something about your problem. Their Washington office may refer the case to the Justice Department. The Justice Department may then decide to file a lawsuit against the company.

### **Can I file an anonymous complaint?**

Yes, for most kinds of problems. The P&S Administration understands that many growers are afraid to sign their names to complaints. You can file an anonymous complaint with the P&S office regarding any type of problem, with one exception: anonymous complaints *will not work* for payment problems in which you want the protections of a trust fund. Anonymous complaints can work for all other types of problems, including unfair and deceptive practice problems and payment problems in which you do not seek the protections of the trust.

The *advantage* of filing an anonymous complaint is that the company will not know that you are complaining. The *disadvantage* of filing an anonymous complaint is that, in some cases, the P&S Administration may have a more difficult time doing an in-depth investigation.

Instead of filing an anonymous complaint, you could try signing your name and asking P&S to keep your name secret. In most cases, they will do their best to keep your name secret, but they cannot give you any guarantees. You could call your regional office on the phone and explain the problem *without* giving your name, and ask them what kinds of protection they can expect to give you if you do sign your name.

### **Can I sue the company myself?**

Yes. You have the right to sue the company for violations of the P&S Act. You have that right regardless of whether you file a complaint under the P&S Act.<sup>2</sup>

### **Can the company retaliate against me for filing a complaint?**

It is illegal for the company to retaliate against you for filing a complaint. If you believe that you have been the victim of such retaliation, file another complaint with the P&S Administration immediately. Explain the situation in the complaint, and state that the retaliation is an unfair practice.

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<sup>2</sup> 7 U.S.C. § 209.