

Farm Products Marketing Act

R.R.O. 1990, REGULATION 402

CHICKENS — MARKETING

Consolidation Period: From April 20, 2011 to the e-Laws currency date.

Last amendment: O. Reg. 129/11.

This is the English version of a bilingual regulation.

1. In this Regulation,

“chicken” means a chicken or any class or part thereof produced from the egg of a domestic hen;
 (“poulet”)

“local board” means Chicken Farmers of Ontario; (“commission locale”)

“plan” means the Ontario Chicken Plan; (“plan”)

“processor” means a person who slaughters chickens, and “processing” has a corresponding meaning;
 (“transformateur”)

“producer” means a person engaged in the production of chickens. (“producteur”) R.R.O. 1990, Reg. 402, s. 1; O. Reg. 528/96, s. 1.

2. This Regulation provides for the control and regulation in any or all respects of the producing and marketing within Ontario of chickens, including the prohibition of such producing and marketing in whole or in part. R.R.O. 1990, Reg. 402, s. 2.

3. Revoked: O. Reg. 404/95, s. 1.

Powers of Local Board

4. The Commission delegates to the local board the power,

(a) to require persons engaged in producing or marketing chickens to register their names, addresses and occupations with the local board;

(b) to require persons engaged in producing or marketing chickens to furnish such information relating to the production or marketing of chickens, including the completing and filing of returns, as the local board determines;

(c) to appoint persons to,

(i) inspect the books, records, documents, lands and premises and any chickens of persons engaged in producing or marketing chickens, and

(ii) enter on lands or premises used for the producing of chickens and perform a count of chickens;

(d) to stimulate, increase and improve the marketing of chickens by such means as it considers proper;

(e) to co-operate with a marketing board, local board, marketing commission or marketing agency of Canada or of any province in Canada for the purpose of marketing chickens;

(f) to do such acts and make such orders and issue such directions as are necessary to enforce the due observance and carrying out of the Act, the regulations and the plan. R.R.O. 1990, Reg. 402, s. 4.

5. The Commission delegates to the local board its powers to make regulations with respect to chickens,

(a) providing for the licensing of any or all persons before commencing or continuing to engage in the producing, marketing or processing of chickens;

(b) prescribing or providing for classes of licences and the imposition of terms and conditions of any class of licence;

(c) prohibiting persons from engaging in the producing, marketing or processing of chickens except under the authority of a licence and except in compliance with the terms and conditions of the licence;

(d) providing for the refusal to grant or renew, or the suspension or revocation of, a licence,

(i) where the applicant or licensee is not qualified by experience, financial responsibility or equipment to properly engage in the business for which the application was made or the licence granted, or

(ii) where the applicant or licensee has failed to comply with or has contravened the Act, the regulations, the plan or any order or direction of the Commission or local board or of a marketing agency of Canada;

(d.1) providing for the imposition, amount, disposition, and use of penalties, where, after a hearing, the local board is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of the licence or any provision of the Act, the regulations, any plan or any order or direction of the local board;

(e) prescribing the form of licences;

(f) providing for the exemption from any or all of the regulations, orders or directions under the plan of any class, variety, grade or size of chickens, or any person or class of persons engaged in the producing or marketing of chickens or any class, variety, grade or size of chickens;

(g) providing for the fixing of licence fees payable yearly, half-yearly, quarterly or monthly at different amounts or in instalments from any or all persons producing or marketing chickens and the collecting of the licence fees and the recovering of such licence fees by suit in a court of competent jurisdiction;

(h) requiring any person who receives chickens to deduct from the money payable for the chickens any licence fees payable to the local board by the person from whom he, she or it receives the chickens, and to forward such licence fees to the local board;

(i) requiring and providing for the furnishing of security or proof of financial responsibility or of a performance bond by a person or class of persons engaged in the producing, marketing or processing of chicken and providing for the administration, forfeiture and disposition of any money or securities so furnished and the proceeds therefrom;

(j) providing for the control and regulation of the marketing of chickens, including the times and places at which chickens may be marketed;

(k) providing for the control and regulation of agreements entered into by producers of chickens with persons engaged in marketing or processing chickens, and the prohibition of any provision or clause in such agreements;

(l) requiring any person who produces chickens to offer to sell and to sell the chickens through the local board;

(m) prohibiting any person from processing, packing or packaging any chickens that have not been sold by or through the local board;

(n) providing for the making of agreements relating to the marketing of chickens by or through the local board, and prescribing the terms and conditions of such agreements; and

(o) providing for the making of such orders and the issuing of such directions as are necessary to enforce the due observance and carrying out of the Act, the regulations, the plan or any order or direction of the local board. R.R.O. 1990, Reg. 402, s. 5; O. Reg. 404/95, s. 2; O. Reg. 443/97, s. 1; O. Reg. 264/02, s. 1.

6. (1) All chickens shall be marketed through the local board. R.R.O. 1990, Reg. 402, s. 6 (1).

(2) No person shall market chickens except through the local board. R.R.O. 1990, Reg. 402, s. 6 (2).

7. The Commission vests in the local board the following powers:

1. To direct and control by order or direction, either as principal or agent, the marketing of chickens, including the times and places at which chickens may be marketed.

1.1 To determine the quality of each class, variety, grade and size of chickens that shall be marketed by each producer.

2. To prohibit the marketing of any class, variety, grade or size of chickens.

3. Revoked: O. Reg. 194/92, s. 1.

4. To fix and impose service charges from time to time for the marketing of chickens.

5. To purchase or otherwise acquire such quantity or quantities of chickens as the local board considers advisable and to sell or otherwise dispose of any chickens so purchased or acquired. R.R.O. 1990, Reg. 402, s. 7; O. Reg. 194/92, s. 1; O. Reg. 129/11, s. 1.

7.1 The Commission vests in the local board the power to make regulations,

(a) providing for the seizure and detention of chickens or of any class, variety, grade or size of chickens by a person appointed under clause 3 (1) (g) of the Act where the person believes on reasonable grounds an offence against the Act or the regulations has been committed in respect of the chickens;

(b) providing for the release from detention of chickens where the local board is satisfied that the owner of the chickens complies with the Act and the regulations respecting the chickens;

(c) providing for the disposal of chickens that have been seized and detained and providing for the administration and disposition of any money derived from any such disposal; and

(d) prescribing the manner in which chickens shall be seized, detained, released and disposed of. O. Reg. 7/06, s. 1.

8. (1) Any person who produces and processes chickens shall, not later than the 31st day of January in any year, furnish to the local board a statement of the amount of chicken produced and used for processing in the preceding year. R.R.O. 1990, Reg. 402, s. 8 (1).

(2) Any person who produces and processes chickens shall pay licence fees monthly to the local board in the same amounts as are prescribed by the local board under clause 5 (g) for every kilogram of chicken produced and processed. R.R.O. 1990, Reg. 402, s. 8 (2).

(3) Any person who produces and processes chickens shall forward to the local board the licence fees payable in any month not later than the 15th day of the following month. R.R.O. 1990, Reg. 402, s. 8 (3).

9. The local board may recover from any person by suit in a court of competent jurisdiction any licence fees payable to the local board. R.R.O. 1990, Reg. 402, s. 9.

Quotas

10. (1) The Commission authorizes the local board,

(a) to require that chickens be marketed on a quota basis;

(b) to prohibit any person to whom a quota has not been fixed and allotted for the marketing of chickens or whose quota has been cancelled from marketing any chickens;

(c) to prohibit any person to whom a quota has been fixed and allotted for the marketing of chickens from marketing any chickens in excess of such quota; and

(d) to prohibit any person to whom a quota has been fixed and allotted for the marketing of chickens produced on lands or premises in respect of which such quota has fixed and allotted from marketing any chickens other than chickens produced on such lands or premises. R.R.O. 1990, Reg. 402, s. 10 (1).

(2) The Commission authorizes the local board,

(a) to fix and allot to persons quotas for the marketing of chickens on such basis as the local board considers proper;

(b) to refuse to fix and allot to any person a quota for the marketing of chickens for any reason that the local board considers proper; and

(c) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for the marketing of chickens for any reason that the local board considers proper. R.R.O. 1990, Reg. 402, s. 10 (2).

11. (1) The Commission authorizes the local board,

(a) to require that chickens be produced on a quota basis;

(b) to prohibit any person to whom a quota has not been fixed and allotted for the producing of chickens or whose quota has been cancelled from producing any chickens;

(c) to prohibit any person to whom a quota has been fixed and allotted for the production of chickens from producing any chickens in excess of such quota; and

(d) to prohibit any person to whom a quota has been fixed and allotted for the producing of chickens on lands or premises in respect of which such quota was fixed and allotted from producing any chickens other than chickens produced on such lands and premises. R.R.O. 1990, Reg. 402, s. 11 (1).

(2) The Commission authorizes the local board,

(a) to fix and allot to persons quotas for the producing of chickens on such basis as the local board considers proper;

(b) to refuse to fix and allot to any person a quota for the producing of chickens for any reason that the local board considers proper;

(c) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing chickens for any reason that the local board considers proper, and without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board believes on reasonable grounds that the person to whom the quota was fixed and allotted has contravened the Act or the regulations; and

(d) to permit any person to whom a quota has been fixed and allotted for the producing of chickens to produce any chickens in excess of such quota on such terms and conditions as the local board considers proper. R.R.O. 1990, Reg. 402, s. 11 (2).

12. (1) The Commission authorizes the local board to use any class of licence fees, service charges and other money payable to it, for the purpose of paying the expenses of the local board, carrying out and enforcing the Act and the regulations and carrying out the purposes of the plan. R.R.O. 1990, Reg. 402, s. 12 (1).

(2) The Commission authorizes the local board to establish a fund in connection with the plan for the payment of any money that may be required for the purposes mentioned in subsection (1). R.R.O. 1990, Reg. 402, s. 12 (2).

13. Revoked: O. Reg. 194/92, s. 2.

Power to Conduct Pools

14. The Commission authorizes the local board to conduct a pool or pools for the distribution of all money received from the sale of chickens and, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the money received from the sale in such manner that every producer receives a share of the remainder of the money received from the sale in relation to the amount, class, variety, grade or size of chickens delivered by the producer, and authorizes the local board to make an initial payment on delivery of the chickens and subsequent payments until all of the remainder of the money received from the sale is distributed to the producers. R.R.O. 1990, Reg. 402, s. 14.

15. The Commission authorizes the local board to require the price or prices payable or owing to the producers for chickens to be paid to or through the local board and to recover such price or prices by suit in a court of competent jurisdiction. R.R.O. 1990, Reg. 402, s. 15.

16. The Commission authorizes the local board to appoint agents, to prescribe their duties and terms and conditions of employment and to provide for their remuneration. R.R.O. 1990, Reg. 402, s. 16.

Negotiating Agency

17. (1) There shall be a negotiating agency consisting of two parties, one of which represents the local board and one of which represents the licensed Ontario chicken processors. O. Reg. 264/02, s. 2.

(2) The local board shall appoint five members to the negotiating agency. O. Reg. 264/02, s. 2.

(3) The licensed Ontario chicken processors shall appoint five members to the negotiating agency. O. Reg. 264/02, s. 2.

(4) The members appointed under subsections (2) and (3) shall be appointed for every quota period fixed by the local board. O. Reg. 264/02, s. 2; O. Reg. 494/05, s. 1 (1).

(5) The local board and the licensed processors shall notify each other and the Commission in writing of the names and addresses of their appointees at least eight weeks before the beginning of the quota period for which they are negotiating the price. O. Reg. 264/02, s. 2; O. Reg. 494/05, s. 1 (2).

(6) If the Commission is not notified by the time set out in subsection (5), it shall appoint the members necessary to complete the negotiating agency. O. Reg. 264/02, s. 2.

(7) If a member of the negotiating agency dies, resigns, or is unable or unwilling to act, the local board, the licensed processors or the Commission, as the case may be, shall appoint a replacement and advise the other parties of his or her name and address. O. Reg. 264/02, s. 2.

18. (1) Subject to subsections (6) and (7), the negotiating agency may settle by agreement minimum live prices for chickens or for any class, variety, grade or size of chickens in accordance with this section. O. Reg. 264/02, s. 2.

(2) The chick price and feed price components of the minimum live price for chickens as described in the Schedule shall be negotiated every quota period fixed by the local board. O. Reg. 494/05, s. 2 (1).

(3) The producer margin component of the minimum live price for chickens as described in the Schedule shall be negotiated once every six quota periods fixed by the local board. O. Reg. 494/05, s. 2 (1).

(4) Despite subsection (3), the producer margin component of the minimum live price for chickens as described in the Schedule may be renegotiated more often than once every six quota periods if exceptional and unforeseen circumstances exist. O. Reg. 264/02, s. 2.

(5) If the producer margin is renegotiated in accordance with subsection (4), any renegotiated producer margin shall take effect on the first day of the next quota period and shall remain in effect for the balance of the six quota periods set out in subsection (3). O. Reg. 494/05, s. 2 (2).

(5.1) A negotiation under subsection (2), (3) or (4) shall be conducted in accordance with the formula for minimum live prices for chickens in the Schedule. O. Reg. 494/05, s. 2 (2).

(6) Subject to subsection (8), whenever the negotiating agency negotiates to determine the category pricing grid, it shall give notice to interested organizations who have requested to receive such notice, including the Canadian Restaurant and Foodservices Association, and those organizations shall be entitled to participate in the negotiations. O. Reg. 264/02, s. 2.

(7) Subject to subsection (8), if an interested organization, including the Canadian Restaurant and Foodservices Association, wishes the negotiating agency to negotiate the category pricing grid, the organization may, upon request to the negotiating agency, initiate and participate in the negotiations. O. Reg. 264/02, s. 2.

(8) The participation by interested organizations under subsections (6) and (7) is limited to participation in the negotiations to determine the category pricing grid, but does not include the right to proceed under section 19 to arbitration and to file a statement with the Commission under clause 19 (1) (b). O. Reg. 264/02, s. 2.

Arbitration

19. (1) If the negotiating agency does not arrive at an agreement under subsection 18 (2), (3) or (4) by 4 p.m. on the day specified in subsection (2), or decides before that date that an agreement cannot be reached, it shall submit in writing to the Commission,

(a) a signed agreement concerning any matters agreed to in relation to the relevant negotiation; and

(b) a statement of the final position of each of the parties on each matter in dispute. O. Reg. 494/05, s. 3.

(2) The day referred to in subsection (1) is,

(a) in the case of a negotiation under subsection 18 (2), the day that is three weeks before the beginning of the quota period;

(b) in the case of a negotiation under subsection 18 (3), the day that is seven weeks before the beginning of the first of the six quota periods set out in that subsection; or

(c) in the case of a negotiation under subsection 18 (4), the day that is seven weeks before the beginning of the next quota period. O. Reg. 494/05, s. 3.

(3) The Commission shall refer the matters in dispute in a negotiation under subsection 18 (2), (3) or (4), as the case may be, to an arbitration board. O. Reg. 494/05, s. 3.

(4) An arbitration board shall be composed of one member, who shall be appointed by the members of the negotiating agency. O. Reg. 494/05, s. 3.

(5) The Commission shall appoint the member of an arbitration board if he or she has not been appointed,

(a) in the case of an arbitration relating to a negotiation under subsection 18 (2), at least two weeks before the beginning of the quota period;

(b) in the case of an arbitration relating to a negotiation under subsection 18 (3), at least six weeks before the beginning of the first of the six quota periods; or

(c) in the case of an arbitration relating to a negotiation under subsection 18 (4), at least six weeks before the beginning of the next quota period. O. Reg. 494/05, s. 3.

(6) If the member of an arbitration board dies, resigns or is unable or unwilling to act before he or she has made an award, the negotiating agency or the Commission, as the case may be, shall appoint a new member and the new member shall continue and complete the arbitration. O. Reg. 494/05, s. 3.

(7) An arbitration board shall make its award by 4 p.m. on the day specified in subsection (8) by selecting, without modification, one of the final positions on each matter submitted by the parties, and shall provide written reasons for the selection before the beginning of the next quota period. O. Reg. 494/05, s. 3.

(8) The day referred to in subsection (7) is,

(a) in the case of an arbitration relating to a negotiation under subsection 18 (2), the day that is one week before the beginning of the quota period;

(b) in the case of an arbitration relating to a negotiation under subsection 18 (3), the day that is two weeks before the beginning of the first of the six quota periods; or

(c) in the case of an arbitration relating to a negotiation under subsection 18 (4), the day that is two weeks before the beginning of the next quota period. O. Reg. 494/05, s. 3.

(9) An arbitration board shall not make an award under subsection (7) if the parties reach an agreement on all matters in dispute and inform the board of that fact before an award is made. O. Reg. 494/05, s. 3.

(10) In an award or agreement made under this section in relation to a negotiation under subsection 18 (4), any revised or renegotiated producer margin shall take effect on the first day of the next quota period and shall remain in effect for the balance of the six quota periods. O. Reg. 494/05, s. 3.

(11) Every arbitration shall be conducted in accordance with the formula for minimum live prices for chickens in the Schedule. O. Reg. 494/05, s. 3.

Advisory Committee

20. (1) There shall be an advisory committee to be known as “The Chicken Industry Advisory Committee” established in accordance with this section. O. Reg. 525/10, s. 1.

(2) The members of the advisory committee shall be appointed for a one-year term that shall begin on January 1 of any given year and end on December 31 of that year. O. Reg. 525/10, s. 1.

(3) The advisory committee shall be composed of nine members, appointed as follows:

1. Three members shall be appointed by the Commission.

2. Three members shall be appointed by the local board.

3. Three members shall be appointed by the Association of Ontario Chicken Processors. O. Reg. 525/10, s. 1.

(4) The Commission shall appoint one of the members it appoints under paragraph 1 of subsection (3) as the chair of the advisory committee. O. Reg. 525/10, s. 1.

(5) If the Chair of the advisory committee dies, resigns or is unable to act, the Commission shall appoint a replacement chair from among the remaining members of the advisory committee. O. Reg. 525/10, s. 1.

(6) If a member of the advisory committee other than the Chair dies, resigns or is unable to act, the body that appointed the member shall appoint a replacement member to fill the vacancy for the remainder of the member’s term. O. Reg. 525/10, s. 1.

(7) If any of the bodies referred to in subsection (3) fails to appoint a member in accordance with that subsection or to appoint a replacement member in accordance with subsection (6), the Commission may appoint the member or replacement member. O. Reg. 525/10, s. 1.

(8) The advisory committee may advise and make recommendations to the local board in respect of,

- (a) the promotion of harmonious relationships between persons engaged in the production and marketing of chickens;
- (b) the promotion of greater efficiency in the production and marketing of chickens;
- (c) the prevention and correction of irregularities and inequities in the marketing of chickens;
- (d) the improvement of the quality and variety of chickens;
- (e) the improvement of the circulation of market information respecting chickens; and
- (f) any matter with respect to which the local board may be empowered to make regulations under the Act. O. Reg. 525/10, s. 1.

Schedule

1. In this Schedule,

“chick” means a chicken that is less than seven days of age; (“poussin”)

“chick price” means,

- (a) for the purposes of paragraph 2, the regulated live chick price established by the Ontario Broiler Hatching Egg and Chick Commission for sexed mixed chicks expressed in cents per kilogram of live chicken as set for Quota Period A45, and adjusted as necessary in accordance with this Regulation,
- (b) for the purposes of paragraph 5, the regulated live chick price established by the Ontario Broiler Hatching Egg and Chick Commission for sexed mixed chicks expressed in cents per chick as set for Quota Period A45, and adjusted as necessary in accordance with this Regulation; (“prix du poussin”)

“feed” means broiler chicken feed; (“nourriture”)

“feed price” means,

(a) for the purposes of paragraph 2, the weighted average stated price derived from a minimum of three independent feed mills located in Ontario, with the largest volume of sales of chicken broiler feed, expressed in cents per kilogram of live chicken as set for Quota Period A45, and adjusted as necessary in accordance with this Regulation,

(b) for the purposes of paragraph 4, the weighted average stated price derived from a minimum of three independent feed mills, located in Ontario, with the largest volume of sales of chicken broiler feed, expressed in dollars per tonne as set for Quota Period A45, and adjusted as necessary in accordance with this Regulation; (“prix de la nourriture”)

“producer margin” is \$0.379 per kilogram until the end of Quota Period A50, and thereafter means the producer margin that is negotiated in accordance with this Regulation. (“marge de profit du producteur”)

2. The formula to determine the minimum live price for chicken is as follows:

minimum live price = producer margin + chick price + feed price

3. In each case the producer margin component, as determined by negotiation and if necessary arbitration, will take into account the impact of the costs incurred by producers in the producing and marketing of chickens.

4. For every \$5/tonne change in the feed price, the minimum live price will be adjusted by one cent in the corresponding direction.

5. For every one-cent change in the chick price, the minimum live price will be adjusted by one-half cent in the corresponding direction.

O. Reg. 264/02, s. 3; O. Reg. 321/02, s. 2.