

RSNL1990 CHAPTER N-2

NATURAL PRODUCTS MARKETING ACT

Amended:

[2005 c17 ss1-3](#); [2006 c40 s21](#); [2017 c14](#)

CHAPTER N-2

AN ACT RESPECTING THE MARKETING OF NATURAL PRODUCTS

Short title

1. This Act may be cited as the *Natural Products Marketing Act*.

1973 No79 s1

Definitions

2. In this Act

- (a) "board" means the Farm Industry Review Board referred to in [section 3](#);
- (b) "commodity board" means a board constituted under a scheme;
- (c) "consumer" does not include a person who packs or processes a product or uses a product in the producing of another article;
- (d) "marketing" includes advertising, buying, selling, processing, storing, packing, transporting, shipping, shipping for sale or storage and offering for sale, and includes sale by pedlars, hawkers, traders, and a commodity board;
- (e) "minister" means the minister appointed under the [Executive Council Act](#) to administer this Act;
- (f) "natural products" means an agricultural, avicultural, horticultural and forest product, and an article wholly or partially manufactured or derived from that product, and includes animals, meats, eggs, poultry, wool, dairy products, berries, grains, seeds, fruit, fruit products, vegetables, vegetable products and lumber;
- (g) "regulated area" means an area defined by and to which is related a scheme under this Act;
- (h) "regulated product" means a natural product in respect of which a scheme is in force in a regulated area; and

- (i) "scheme" means a scheme or plan for the marketing or regulating of a natural product which is established under this Act.

1973 No79 s2; 1975 No35 s2; 1979 c49 Sch B; 1989 c18 Sch B; [2005 c17 s1](#); [2006 c40 s21](#)

Board

3. (1) The Agricultural Products Marketing Board is continued under the name of the Farm Industry Review Board.

(2) The board is an agent of the Crown.

(3) The board shall consist of not less than 5 and not more than 7 members appointed by the Lieutenant-Governor in Council one of whom shall be a person nominated by the Newfoundland and Labrador Federation of Agriculture.

(4) Members of the board shall be appointed for a 3 year term and are eligible for re-appointment.

(5) A membership on the board continues notwithstanding the expiry of the member's term until he or she is reappointed or replaced.

(6) Notwithstanding subsection (4), of the members of the board first appointed after this section comes into force at least 2 of them shall be appointed for a term of 2 years.

(7) Meetings of the board may be conducted in person or by video conference or teleconference provided that, in a meeting, all participants are able to communicate with one another simultaneously.

(8) A member participating in a meeting of the board by video conference or teleconference shall be counted as a member present at the meeting for the purpose of establishing a quorum.

[2005 c17 s2](#)

Chairperson

4. (1) The Lieutenant-Governor in Council may designate 1 of the members of the board to be chairperson and another to be vice-chairperson of the board.

(2) A majority of the members of the board constitute a quorum.

(3) When, at a meeting of the board, there is an equality of votes, the member of the board presiding at the meeting has a 2nd or casting vote.

(4) Where a vacancy occurs in the membership of the board because of the death, resignation or illness of a member, the Lieutenant-Governor in Council may appoint a person to replace the member.

(5) Notwithstanding the *Legislative Disabilities Act*, where a member of the House of Assembly is or becomes a member of the board, his or her seat does not become vacant by reason only of the member's appointment and acceptance of remuneration as a member of the board.

1973 No79 s6

Remuneration of members

5. A member of the board, who is not an officer of a department under the control of a minister of the Crown, may be paid the salary or other remuneration and expenses that the Lieutenant-Governor in Council may determine.

1973 No79 s7

Chief executive officer

6. (1) The chairperson shall be the chief executive officer of the board, shall be charged with the general direction, supervision and control of the business of the board and shall have the other powers that may be conferred on him or her by the regulations.

(2) During the incapacity or absence of the chairperson or a vacancy in the office of the chairperson, the vice-chairperson, or 1 of the other members of the board designated by the Lieutenant-Governor in Council, has and may exercise the powers of the chairperson and shall discharge his or her duties.

(3) The exercise of the powers of the board shall not be impaired because of a vacancy in its membership.

(4) All acts done by the board shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or qualification of a person purporting to be a member of the board, be as valid as if that defect had not existed.

1973 No79 s8

Seal

7. (1) The board shall have an official seal which shall be judicially recognized.

(2) When the official seal of the board is used, it shall be authenticated by the signature of the chief executive officer of the board.

1973 No79 s9

Appointment of staff

8. (1) Subject to the approval of the Lieutenant-Governor in Council, the minister may appoint a secretary to the board and those inspectors, managers, engineers, accountants, other officers, technical and professional and other employees and workers that may be considered necessary, and fix their remuneration.

(2) All officers, clerks, technicians and other employees appointed under subsection (1) shall receive the same benefits with respect to leave and pensions and be subject to the same terms and conditions of service as are applicable to employees of departments of government.

(3) Section 32 of the *Public Service Pensions Act* applies to all members of the board who are not otherwise entitled to participate in the pension plan established by that Act.

1973 No79 s10

Powers and duties of board

9. (1) The board may, under the control and direction of the minister, or concurrently with the minister

(a) purchase, lease or otherwise acquire in the name of the Crown, and sell, lease or otherwise dispose of on behalf of the Crown property, real or personal of every nature and kind, or interest in property, which is considered necessary, convenient or advisable for or incidental to the exercise of the powers, functions or duties conferred by this Act;

(b) co-operate with the Government of Canada or of a province of Canada or a department, agency, board, council, or body under the jurisdiction of the Parliament of Canada or the Legislature of a province of Canada in the manner and to the extent that may be necessary or desirable to market or promote, facilitate, control, regulate or prohibit the production or marketing of a natural product and to act conjointly with the government department agency, board, council or body;

- (c) enter into an agreement with the governments, departments, agencies, boards, councils or bodies referred to in paragraph (b) for the purposes referred to there, including the agreements referred to in the *Farm Products Marketing Agencies Act* (Canada);
- (d) undertake, promote or recommend measures for the development, control and direction of the marketing of natural products in the province;
- (e) collect, compile, analyze and record the statistical and other information relating to the marketing of natural products that may be useful;
- (f) prepare and publish statistics, reports, records, bulletins, pamphlets, circulars and other means of distributing information and advice in relation to the marketing of natural products that may be useful;
- (g) study, report on and advise upon the system and administration of the marketing of natural products;
- (h) foster, through scientific investigation and technology, knowledge of the marketing of natural products and of the means of dealing with conditions relating to the development, control and direction of them;
- (i) receive, from any source, lands, buildings, money or other property, by gift or trust for public use or for the use of the board;
- (j) investigate the cost of producing, distributing and transporting natural products, prices, price spreads, trade practices, methods of financing, management, grading, policies and other matters relating to the marketing of natural products;
- (k) require persons engaged in the marketing of a natural product in an area designated by the board to register with the board their names, addresses and occupations and the quantity of the natural product marketed by them;
- (l) administer schemes in respect of which no commodity board is constituted under subsection 11(1);
- (m) do those acts and make those orders, regulations and directions that are necessary to enforce the observance and carrying out of this Act, the regulations or a scheme;
- (n) hear and determine appeals from a person engaged in the production or marketing of a regulated product arising out of a matter falling within the jurisdiction of a commodity board under the scheme concerning that regulated product, including the hearing and determination of appeals against
 - (i) the allocation of and refusal to allocate quotas for production or marketing a regulated product,
 - (ii) the cancellation or reduction of a quota, or a condition imposed upon the holder of a quota,
 - (iii) the issuing of licences and permits or the refusal to issue licences and permits,
 - (iii.1) the suspension or revocation of licences and permits, and
 - (iv) a matter or thing for which a right of appeal is prescribed in the regulations;
- (n.1) receive applications and make determinations with respect to those applications under Part II of the [Farm Practices Protection Act](#) ;
- (n.2) conduct a study and prepare a report when required to do so under [section 18](#) of the [Farm Practices Protection Act](#) ;
- (o) regulate and control the production or marketing of natural products, and establish or designate an agency as a central marketing agency, for collection, assembly, distribution and marketing of a natural product; and

(p) exercise and discharge those other powers, functions and duties that the minister assigns to it.

(2) The minister may by order delegate to a commodity board those powers, functions and duties of the board, other than the powers contained in paragraphs (1)(k), (l) and (n) that may be considered necessary or desirable for the proper application and enforcement of a scheme under which a commodity board is constituted and may terminate the delegation of power.

(3) Orders of the minister made under subsection (2) may be made with retroactive effect.

(4) The board may require a commodity board to provide information relating to a matter governed by a scheme.

(5) A member of the board has, in relation to the hearing and determination of a matter under Part II of the [Farm Practices Protection Act](#), all the powers that are or may be conferred upon a commissioner under the *Public Inquiries Act*.

1973 No79 s11; 1975 No35 s3; 1983 c66 s1; [2005 c17 s3](#); [2017 c14 s1](#)

Regulations

10. (1) The minister may make regulations

- (a) for the purpose of or incidental to the powers, functions or duties of the board set out under [section 9](#);
- (b) prescribing the duties or powers of inspectors and other officers appointed under this Act;
- (c) providing for the holding of a plebiscite of producers or others upon a question of favour of a scheme or revocation of a scheme or a matter respecting the production or marketing of a regulated product;
- (d) requiring the providing of security or proof of financial responsibility by persons who purchase natural products for resale, and providing for the administration, forfeiture and disposition of money or securities so provided;
- (e) requiring and prescribing returns, accounts, records and statements to be made by persons engaged in the production or marketing of natural products, the information to be given in the returns, accounts, records and statements, and by and to whom and in what manner and at what time they shall be made;
- (f) providing for the holding of inquiries into the operation of this Act and into a charge or complaint that a person has contravened this Act, the regulations or a scheme or has made a false statement in a form, return, account or statement required to be completed or made under this Act, the regulations or a scheme, or into another matter arising in the administration of this Act, and providing that the person holding the inquiry shall have any or all of the powers that are or may be conferred upon a commissioner under the *Public Inquiries Act*, including the power to take evidence under oath or affirmation;
- (g) providing for a matter which may be made the subject of an appeal to the board under paragraph 9(1)(n) and regulating the procedure for appeals and making provision for the constitution of a separate appeal tribunal to hear and determine the questions that may be prescribed in the 1st instance or on further appeal from a decision of the board;
- (h) providing for the establishment of stabilization programs;
- (i) providing for the establishment of stabilization boards to administer stabilization programs;
- (j) respecting a matter necessary or desirable to give full effect to an agreement entered into with the Government of Canada under the *Farm Products Marketing Agencies Act* (Canada); and

(k) providing for the making of the orders and the issuing of the directions that are necessary to enforce the observance of this Act, the regulations, a scheme or an order or direction of a commodity board.

(2) Regulations made under this section may be limited as to time or place, or to 1 or more natural products, or to a class, variety or grade of natural products.

1973 No79 s12; 1975 No35 s4; 1983 c66 s2

Schemes

11. (1) The minister may, by order,

- (a) establish schemes for the promotion, control, regulation or prohibition of the production or marketing of a natural product, and vary, alter, amend or revoke such a scheme;
- (b) define the area within which the scheme or a part of it shall be enforced;
- (c) constitute the consultative or advisory body that he or she may consider necessary or expedient, consisting of those representatives of producers, wholesalers, retailers, consumers or other persons that the minister considers appropriate to advise him or her on any or all matters concerning the administration of the scheme;
- (d) constitute commodity boards for the purpose of administering a scheme established under paragraph (a); and
- (e) prescribe the number of members of a commodity board and the method by which the members of the board are to be chosen, whether by appointment or election or partly 1 way and partly the other.

(2) The minister may confer upon a commodity board any or all of the powers set out in [section 12](#) with power to limit, restrict or vary each power as the minister considers necessary for the proper operation of the scheme.

(3) A commodity board, constituted under a scheme, shall be an independent corporation, and it and the members of it shall be considered to have the powers and privileges set out in [section 19](#) of the [Interpretation Act](#).

(4) The minister may cause the board to hold a plebiscite of producers or other persons upon a question of the favour or disfavour of the establishment or revocation of a scheme.

1973 No79 s13; 1975 No35 s5; 1981 c85 s12; 1983 c66 s3

Powers of a commodity board

12. In constituting a commodity board under a scheme established under [section 11](#), the minister may confer upon the commodity board any or all of the following powers, functions and duties, with power, either in the scheme or by amendment or variation, to limit, restrict or vary each power, function or duty so conferred:

- (a) exempting from the scheme a person or class of persons engaged in the production or marketing of the regulated product, or a class, variety or grade of the regulated product;
- (b) adopting, determining or setting fair, minimum or maximum prices for the production or marketing at a level of the regulated product or a class, variety or grade of the regulated product;
- (c) requiring persons engaged in the production or marketing of the regulated product to provide the information in regard to the regulated product that the commodity board may determine and to inspect the books and premises of the last-mentioned persons;
- (d) requiring the providing of security or proof of financial responsibility by a person engaged in the production or marketing of the regulated product;

- (e) providing for the fixing, imposing and collecting of levies or service charges for the production or marketing of the regulated product;
- (f) requiring the person in charge of a vehicle thought to be conveying the regulated product to stop the vehicle and to permit an inspector or other person appointed by the commodity board for the purpose to inspect the vehicle and its contents;
- (g) seizing, detaining and disposing of a regulated product which is being produced or marketed in violation of a scheme, in circumstances and subject to the conditions set out in the scheme for the seizure, detention and disposal;
- (h) providing for the licensing of persons engaged in the production or marketing of the regulated product, and fixing the licence fees payable by those persons at different amounts and providing for the payment of the licence fees in instalments;
- (i) providing the form of licences and the terms and conditions upon which licences may be issued, refused, renewed, suspended or revoked;
- (j) prohibiting persons from engaging in the production or marketing of the regulated product, except under the authority of a licence;
- (k) providing for the refusal to issue a licence to engage in the production or marketing of the regulated product where the applicant is not qualified by experience, financial responsibility or equipment to engage properly in the business for which the application was made, or for another reason that the commodity board considers appropriate;
- (l) requiring the providing of security or proof of financial responsibility by a person engaged in the production or marketing of the regulated product, and providing for the administration, forfeiture and disposition of money or securities so provided;
- (m) providing for
 - (i) the production or marketing of the regulated product on a quota basis,
 - (ii) the fixing and allotting to persons of quotas for the production or marketing of the regulated product on the basis that the commodity board considers appropriate,
 - (iii) the refusing to fix and allot to a person a quota for the production or marketing of the regulated product for a reason that the commodity board considers appropriate,
 - (iv) the cancelling or reducing of, or the refusing to increase, a quota fixed and allotted to a person for the production or marketing of the regulated product for a reason that the commodity board considers appropriate, and
 - (v) the terms and conditions upon which a person may produce or market the regulated product in excess of the quota fixed and allotted to him or her;
- (n) prohibiting
 - (i) a person to whom a quota has not been fixed and allotted for the production or marketing of the regulated product or whose quota has been cancelled from marketing the regulated product, and
 - (ii) a person to whom a quota has been fixed and allotted for the production or marketing of the regulated product from marketing the regulated product in excess of the quota;
- (n.1) prescribing quality standards and practices in relation to a regulated product;
- (n.2) respecting the imposition of penalties;

- (n.3) respecting the terms and conditions under which the penalties referred to in paragraph (n.2) are payable, the amount of the penalties, the method by which the penalties are calculated and the times at which the penalties are payable;
- (o) requiring and prescribing returns, accounts, records and statements to be made by persons holding licences, the information to be given in the returns, accounts, records and statements, and by whom and in what manner and at what time they shall be made;
- (p) providing that service charges or licence fees or a part of the charges or fees, are made payable to the commodity board, and that the commodity board may use the money received for the purpose of carrying out the provisions of the scheme by which the commodity board is constituted;
- (q) stimulating, increasing and improving the production or marketing of a regulated product for the purpose of carrying out a scheme;
- (r) establishing price negotiating agencies in connection with a scheme;
- (s) entering into an agreement with the Government of Canada under the *Farm Products Marketing Agencies Act* (Canada) and implementing the provisions of it by making those rules, orders and regulations and carrying out those acts that may be necessary to implement and to enable a person or agency referred to in the agreement to implement a plan contemplated by the agreement;
- (t) imposing charges or tolls in respect of the production or marketing of a regulated product and applying those charges or tolls to the carrying out of the provisions of the scheme by which the commodity board is constituted; and
- (u) respecting a matter necessary or desirable to administer and implement the provisions of the scheme by which the commodity board is constituted, including power to purchase, lease or otherwise acquire, and to sell and dispose of real and personal property, power to borrow money upon security, and with other powers, but subject always to the limitations and restrictions that may be specified in the scheme.

1973 No79 s14; 1975 No35 s6; [2017 c14 s2](#)

Offence

13. A person who contravenes this Act or the regulations or a scheme or an order or direction of the board or of a commodity board, or makes a false statement in an application, form, return, account, record, statement or other document made under this Act or the regulations or a scheme is guilty of an offence and liable on summary conviction to a fine of not more than \$500 for a 1st offence and not more than \$1,000 for a subsequent offence, and, for either a 1st or subsequent offence, in default of payment of a fine or in addition to a fine, to imprisonment for a period not exceeding 6 months.

1973 No79 s15

Further penalty

14. (1) A person who fails to pay the fair or minimum price properly and validly adopted, determined or set by a commodity board for a regulated product shall, in addition to the penalty provided for in [section 13](#), incur a penalty of an amount equal to the amount of the fair or minimum price less an amount paid by the person as payment in full or part payment for the regulated product.

(2) The penalties imposed under this section shall be paid to the board or the commodity board, whichever is administering the scheme relative to the regulated product, and the board or commodity board shall distribute the amount so received proportionally among the persons who failed to receive the fair or minimum price.

1973 No79 s16

Disposal of assets

15. (1) The Lieutenant-Governor in Council may by order, where a scheme is terminated, dispose of the assets of a commodity board established or constituted for the purposes of that scheme, and may make provision in the order for the assumption or discharge of liabilities of the commodity board.

(2) An order of the Lieutenant-Governor in Council under this section may be made with retroactive effect.

1973 No79 s17

Members not to contract with commodity board

16. (1) A member of a commodity board shall not directly or indirectly undertake or enjoy in whole or in part a contract, agreement or work with or for the commodity board.

(2) Subsection (1) does not apply to a member of a commodity board by reason only of his or her being a member of a company or firm which enters into or upon or does a contract, agreement or work with or for or otherwise has dealings with a commodity board, but that member shall not vote in the meetings of the commodity board in respect of that contract, agreement or work and if he or she does vote, the vote shall not be counted.

1973 No79 s18

Expenditures of board

17. (1) All expenditures of the board, including remuneration of staff and payment of allowances, shall be met by the Minister of Finance, on the request of the minister, out of the Consolidated Revenue Fund of the province from the funds that may be voted annually by the Legislature.

(2) All receipts of money by the board shall be deposited into the Consolidated Revenue Fund when the money comes into the hands of the board.

1973 No79 s19