

Nova Scotia Greenhouse Vegetable Marketing Plan

made under Section 11 of the

Natural Products Act

R.S.N.S. 1989, c. 308

O.I.C. 88-835 (August 3, 1988), N.S. Reg. 177/88

1 This Plan may be cited as the Nova Scotia Greenhouse Vegetable Marketing Plan.

2 In this Plan, and any orders, rules and regulations made thereunder, unless the context otherwise requires,

(a) "Act" means Chapter 308 of the Revised Statutes of Nova Scotia 1989, the Natural Products Act and any amendments thereto;

(b) "Council" means the Natural Products Marketing Council;

(c) "Commodity Board" means the Nova Scotia Greenhouse Vegetable Marketing Board;

(d) "greenhouse vegetables" means vegetables grown in greenhouses for any purpose;

(e) "licence" means a written document authorized by the Commodity Board for the production and/or marketing of the regulated product;

(f) "marketing" includes advertising, grading, buying, selling, storing, cleaning, transporting, shipping for sale or storage, and offering for sale;

(g) "member" means member of the Commodity Board;

(h) "person" includes any board, association, corporation, firm or partnership;

(i) "Plan" means the Nova Scotia Greenhouse Vegetable Marketing Plan;

(j) "producer" means any person who is engaged in the production or production and marketing of the regulated product in the regulated area, and includes a designated representative of a producer-corporation. To be a producer under this plan, the person must own, lease, or rent a minimum of 7,500 square feet of heated greenhouses used in the production of the regulated product;

(k) "producer-corporation" means any corporation who [that] is engaged in the production or production and marketing of the regulated product in the regulated area;

(l) "production" means production for commercial purposes;

(m) "Province" means the Province of Nova Scotia;

(n) "regulated area" means the Province of Nova Scotia;

(o) "regulated product" means greenhouse vegetables.

3 The purpose of this Plan is to control and regulate in any or all respects the marketing of all greenhouse vegetables sold in Nova Scotia.

4 The Nova Scotia Greenhouse Vegetable Marketing Board is hereby constituted and shall consist of every producer with a production area of 30,000 square feet or more plus one or more elected representative(s) of producers with production areas under 30,000 square feet and over 7,500 square feet. At the time of

commencement of this Plan the Commodity Board will consist of four growers with 30,000 square feet and over, and three growers elected from eight producers with areas between 7,500 and 30,000 square feet.

5 The number of elected representatives will be determined by the following formula: the number of elected representative(s) equals the total of the production areas under 30,000 and over 7,500 square feet divided by 30,000 square feet.

6 For the purposes of becoming a member of the Commodity Board, a producer owns, leases, or rents the property on which greenhouse vegetables are produced, and

(a) where the producer is a corporation, the person, if any, designated in writing in respect of that property by the corporation shall be deemed to be the producer; and

(b) where

(i) the producer is a partnership, or

(ii) one or more persons carry on the production and marketing under a trade name, farm name or other designation, or

(iii) the producer is comprised of two or more persons who are joint owners,

the person, if any, designated in writing, in respect of that property by the owner or joint owners shall be deemed to be the producer.

7 (a) Subject to clause (b), the term of office for members to the Commodity Board shall be three years, except that at the first annual meeting of producers at which the Commodity Board is elected. Producers shall be elected for a one year, two year, and three year term [sic].

(b) No member shall be eligible for re-election following two successive terms of office until one year has elapsed between terms.

8 To be entitled to vote for a member of the Commodity Board, a person shall

(a) be a resident of Nova Scotia;

(b) be a producer with a production area with [of] 7,500 square feet and over;

(c) be the holder of a licence that has not been suspended or revoked;

(d) be entitled to only one vote.

9 Each year an annual meeting of producers shall be held during the month of October

(a) to review the operation of the Commodity Board and the Plan;

(b) to review the financial statements of the Commodity Board during the previous fiscal year;

(c) to elect member(s) to the Commodity Board;

(d) to consider any other matters raised by producers concerning the production and marketing of the regulated product.

10 (a) Notice of the time and place of the annual meeting shall be given in the manner provided in subsection 10(b) and shall be given to each producer not less than fifteen days before the date fixed for the meeting by delivering or mailing the notice to his address as recorded in the records of the Commodity Board.

- (b) A notice so given shall be deemed to have been given when it is delivered or mailed to the recorded address, and a notice that is mailed shall be deemed to have been received seven days after being deposited in a post office or public letter box.
- (c) The Commodity Board may change or cause to be changed the recorded address of any producer in accordance with the information believed by it to be reliable.
- (d) The Commodity Board shall, on or before October 1st of each year, prepare a list of producers, arranged in alphabetical order, entitled to vote on general business matters at the annual meeting, as well as a list of producers, arranged in alphabetical order, entitled to vote for the elected representative(s) on the Commodity Board.
- (e) The lists shall be mailed to each producer with the notice of meeting.
- (f) Additions to or deletions from the list may be made at any time by the Commodity Board upon receiving sufficient evidence as to eligibility or ineligibility to vote.
- (g) In case of a dispute as to eligibility, the matter shall be determined by the Council.
- (h) The Commodity Board shall designate a person to be the presiding officer of the annual meeting.
- (i) In the absence of such designation, a presiding officer shall be chosen from among the producers present at the meeting.
- (j) The Secretary-Manager of the Commodity Board shall act as the secretary of the meeting, or in his absence the presiding officer shall appoint a person to be secretary of the meeting.
- (k) The Presiding Officer shall call for nominations from the floor for the position of elected member(s) of the Commodity Board.
- (l) The voting for membership on the Commodity Board shall be by secret ballot and the counting of the ballots shall be supervised by a scrutineer who is not a producer and whose appointment has been approved by the Council.
- (m) The result of the election shall be announced at the meeting and shall be sent to all producers.
- (n) The names of the producers so elected shall be forwarded to the Secretary of the Natural Products Marketing Council for ratification by that Council. Notwithstanding any delay in official appointment to the Commodity Board, newly elected members shall hold office on an interim basis from the date of their election.
- (o) Auditors of the financial records of the Commodity Board shall be appointed annually by the Commodity Board provided that approval for the appointment has first been obtained from the Council.
- (p) The Commodity Board shall pay the fees and expenses of an auditor appointed under Section 10(o).

11 The members of the Commodity Board shall, at a meeting held within 15 days of the annual meeting of producers, elect a chairman from amongst themselves. The Commodity Board may appoint a secretary-manager and such other officers and employees as it from time to time deems necessary.

12 (a) At meetings of the Commodity Board, four members thereof shall constitute a quorum. Meetings of the Commodity Board may be called by the Chairman by giving to each member not less than three days notice thereof by telephone, telegraph, or post; or by any two members of the Commodity Board by giving each member not less than one week's notice thereof by post.

(b) Each member of the Commodity Board shall have one vote. In the event of a tie vote, the Chairman shall vote again to break the tie.

(c) In the absence of the Chairman at a duly called meeting, a chairman shall be appointed from the members present to act as chairman until the Chairman arrives.

13 (a) Where a vacancy occurs during the term of office of a member of the Commodity Board by reason of death, resignation, or any other cause, the remaining members shall appoint a producer to fill such vacancy until the next annual meeting of the producers.

(b) Where any member of the Commodity Board is in violation of an order of the Commodity Board, or has failed to attend three consecutive meetings of the Commodity Board without notifying the Commodity Board of his reason for not attending, the Commodity Board shall appoint a producer to fill the vacancy following a 30 day waiting period.

(c) Any member of the Commodity Board who has failed to attend six consecutive meetings of the Commodity Board, for any reason, shall without notice cease to be a member of the Commodity Board and the vacancy thereby created shall be filled.

14 Notwithstanding any irregularity in the appointment or election and qualification of any member of the Commodity Board, every act of the Commodity Board shall be as valid as if the Commodity Board was duly constituted and every member thereof duly appointed, elected and qualified.

15 (a) The operating year of the Commodity Board shall be from October 1st until September 30th.

(b) The Commodity Board shall keep proper books of account which shall be audited at the end of each operating year by an auditor, appointed at the previous annual meeting of the producers, subject to the approval of the Council. Within one month of the close of each operating year, a report of such audit, accompanied by a report of the operations of the Commodity Board, shall be forwarded to the Council.

(c) A copy of the audited financial statements and the report of the operations of the Commodity Board shall be mailed to all producers at least ten days before the annual meeting of producers.

16 Copies of all orders, directions and determinations of the Commodity Board and copies of the minutes of all meetings of the Commodity Board shall be sent forthwith to the Council.

17 The government of the Commodity Board shall be conducted according to the by-laws set out in Schedule "A" of this regulation, which may be amended from time to time by the Commodity Board with the approval of the Council.

Powers of the Commodity Board

18 The Commodity Board shall have the following powers:

(a) [to] do such acts and make such orders, regulations and directions as are necessary to enforce the due observance and carrying out of the provisions of this Plan;

(b) to borrow money to carry out the Plan;

(c) to stimulate, increase and improve the marketing of the regulated product for the purpose of carrying out the Plan;

(d) to establish price negotiating agencies in connection with the plan and adopt or determine fair or minimum wholesale paying and wholesale selling prices for the regulated product or any grade of the regulated product;

- (e) to exempt from any order any person or class of persons engaged in the producing or marketing of the regulated product, or any class, variety, or grade of the regulated product;
- (f) to require persons engaged in the producing or marketing of the regulated product in the regulated area designated by the Council to register with the Commodity Board their names, addresses and occupations and the quantity of the regulated product produced or marketed by them; and require persons engaged in the producing or marketing of the regulated product to furnish such additional information in regard to the said regulated product as the Commodity Board may determine and to inspect the books, records, and premises and supply extract therefrom such last mentioned persons; [sic]
- (g) to require, by order, persons designated by it who are engaged in marketing or the production of the regulated product or any persons who are members of a class of persons designated by it and who are so engaged, to deduct from any amount payable by him to any other person engaged in the production or marketing of the regulated product any amount payable to the Commodity Board by such other persons by way of licence fees, levies or charges provided for in the plan that the Commodity Board is authorized to implement, and to remit all amounts so deducted to the Commodity Board;
- (h) to require the person in charge of any vehicle thought to be conveying any regulated product to stop the vehicle and permit any person appointed by the Commodity Board for such purpose to inspect the vehicle and its contents;
- (i) to cooperate with any board or agency established under any Dominion Act or any Provincial Act, to market or promote, facilitate, control, regulate or prohibit, the marketing or production of the regulated product and to act conjointly with any such Board or agency;
- (j) to provide assistance when requested by a producer in the marketing of the regulated product;
- (k) to designate officers to inspect the books, records and premises of persons engaged in the production or marketing of the regulated product;
- (l) to seize or place under detention the regulated product by means of or in relation to which he reasonably believes a violation was committed until such time as the reason for seizure or detention has been complied with;
- (m) to provide for the licensing of persons engaged in the production or marketing of the regulated product, and fixing the licence fees payable by such persons at different amounts and providing for the payment of such licence fees in instalments;
- (n) to refuse to grant or renew any licence provided for under the regulations and suspend or revoke any such licence for failure to observe, perform or carry out any of the provisions of this Act, the regulations, or Plan or any order or direction of the Commodity Board; provided that in every such case the applicant shall be afforded an opportunity of appearing before the Council to show cause why the licence should not be refused, [suspended or revoked,] as the case may be.

Body corporate

19 The Commodity Board shall be a body corporate for the purposes of this Plan.

Schedule "A" - Nova Scotia Greenhouse Vegetable Marketing Plan By-laws

Head office

1 The head office of the Commodity Board shall be at Halifax in the province of Nova Scotia or at such other location in Nova Scotia as the members of the Commodity Board may from time to time determine.

Seal

2 The Commodity Board shall at its first meeting adopt a seal which shall be kept in the custody of the Secretary-Manager.

Meetings of Commodity Board

3 (1) Meetings of the Commodity Board shall be held from time to time at such a place and at such time and on such day as any of the officers or members set out in subsection (2) may determine, and the Secretary-Manager when so directed or authorized shall give or cause to be given notice of the meeting.

(2) A meeting of the Commodity Board may be called by the Chairman, Vice-Chairman, [or] Secretary-Manager with the consent of another member, or any two members of the Commodity Board.

(3) Notice of a meeting shall

(a) include the date, time, and place of the meeting; and

(b) be given

(i) in writing by prepaid mail or telegraph, or

(ii) orally or by telephone.

(4) Notice of a meeting given in writing by prepaid mail shall be given not fewer than ten days before the date on which the meeting is to be held.

(5) Notice of a meeting if given by telegraph, orally or by telephone shall be given not less than five hours before the time at which the meeting is to be held.

(6) No notice of any meeting of the members of the Commodity Board shall be necessary if all the members of the Commodity Board are present or if those absent waive notice of the meeting and such waiver, whether given before or after the meeting, cures any default in the giving of notice of the meeting.

(7) Notice in writing by prepaid mail or by telegraph shall be sufficiently given if mailed or telegraphed to a member at his last address as recorded in the books of the Commodity Board, and deposited in a post office or a public letterbox or when delivered or telephoned to the appropriate telegraph office.

(8) In computing the date when notice must be given under the provisions of subsection (4), the date of giving the notice and the date of the meeting shall be excluded.

Telephone conference call meetings of the Commodity Board

4 (1) A meeting of the Commodity Board may be held by means of a telephone conference call whereby all persons participating can hear each other.

(2) A meeting held pursuant to this Section is subject to the conditions set out in subsections (3) to (7).

(3) No advance notice of a meeting need be given, but the person or persons calling the meeting must attempt to contact all members of the Commodity Board, including the Secretary-Manager, within the Province, to enable them to participate in the meeting.

(4) A meeting may be called by the Chairman, the Vice-Chairman, or the Secretary-Manager with the consent of another member of the Commodity Board.

(5) Participation in a meeting constitutes presence in person of each person so participating.

(6) The minutes of the meeting shall be taken by the Secretary-Manager or in his absence the Chairman or Vice-Chairman who shall mail them to each member of the Commodity Board within seven days of the date of the meeting.

Votes to govern

5 (1) A majority of members of the Commodity Board shall constitute a quorum at any meeting of the Commodity Board including a telephone conference call meeting.

(2) All questions at a meeting of the Commodity Board at which a quorum is present shall be decided by the majority of the votes of the members present and in the event of a tie vote, the Chairman of the meeting shall have a second or casting vote.

(3) Voting by proxy shall not be permitted.

Election of Chairman and Vice-Chairman

6 (1) At the first regular meeting of the Commodity Board in each year following the election of a member or members thereto, the Commodity Board shall from its members elect a chairman and vice-chairman.

(2) During the absence of the Chairman, or if the Chairman is unable or refuses to act, or if the office of chairman becomes vacant, the Vice-Chairman may perform the duties of the Chairman, and exercise the powers of that office.

(3) When the Chairman and Vice-Chairman are absent from a meeting, the Commodity Board may elect a chairman for the purpose of that meeting from the members present at the meeting.

(4) The Chairman and Vice-Chairman of the Commodity Board shall hold office until their successors are elected.

Officers

7 (1) The Chairman shall,

(a) when present, preside at all meetings of the Commodity Board;

(b) arrange for the calling of meetings, time and place thereof; and

(c) be a signing officer of the Commodity Board.

(2) The Chairman and the Vice-Chairman shall, in accordance with the by-laws perform such duties and exercise such powers as the Commodity Board may prescribe.

Secretary-Manager

8 (1) A secretary-manager shall be appointed to serve a dual role of secretary and manager of the Commodity Board. The Secretary-Manager shall be an ex officio member of the Commodity Board but shall not vote at meetings of the Commodity Board. He shall be directed by and be responsible to the Commodity Board.

(2) In the absence of the Secretary-Manager, or in the event of his inability to act, the duties of the Secretary-Manager shall be performed by the Vice-Chairman of the Commodity Board. The duties of the Secretary-Manager of the Commodity Board shall include:

(a) acting as secretary at all meetings of the Commodity Board;

(b) managing the business of the Commodity Board;

- (c) being a signing officer of the Commodity Board;
- (d) supervising the staff, agents and employees of the Commodity Board;
- (e) assuring that adequate books are kept to show the state of the finances of the Commodity Board; and
- (f) performing such other duties as may be assigned to him from time to time by the Commodity Board.

Borrowing

9 (1) A resolution passed

- (a) for borrowing money on the credit of the Commodity Board;
- (b) for issuing, selling, or pledging securities of the Commodity Board;
- (c) for charging, mortgaging, [or] hypothecating all or any of the real or personal property of the Commodity Board, including book debts, franchises and undertakings; or
- (d) to negotiate for any securities or any money borrowed, or other debt, or any other obligation or liability of the Commodity Board,

shall state the purpose or purposes for which the moneys, credit, debt, or liability are to be used.

(2) No resolution referred to in subsection (1) is effective unless passed at a meeting of the members of the Commodity Board and approved by the Council.

Banking

10 The banking business shall be transacted with such bank, trust company or other firm or corporation carrying on a banking business as the Commodity Board may designate, appoint or authorize from time to time by resolution and all such banking business, or any part thereof, shall be transacted on the Commodity Board's behalf by the Secretary-Manager or the person acting as secretary-manager, including, but without restricting the generality of the foregoing, the operation of the Commodity Board's accounts; the making, signing, drawing, accepting, endorsing, negotiating, lodging, depositing or transferring of any cheques, promissory notes, drafts, acceptances, bills of exchange and orders for the payment of money; the giving of receipts for and orders relating to any property of the Commodity Board; the execution of any agreement relating to any such banking business and defining the rights and powers of the parties thereof; and the authorizing of any officer of such banker to do any act or thing on the Commodity Board's behalf to facilitate such banking business.

Fiscal year

11 The fiscal year shall end on the 30th day of September in each year.

Annual audits

12 (1) The accounts of the Commodity Board shall be audited annually by an auditor appointed for that purpose, and the Commodity Board shall distribute a report of the audit to its members and the Council within two months of the close of its fiscal year.

(2) The Commodity Board shall within three months of the close of its fiscal year, send a copy of the audited statement to all licensed producers.

General

13 The procedure for the conduct of the meeting of the Commodity Board shall be taken from the book "Bourinot Rules of Order" except where dealt with specifically within this Plan and except where contrary to law.

14 The Commodity Board may form committees to advise, assist or carry out duties as may be defined by the Commodity Board, but shall not sub-delegate any of the powers delegated to it under this Plan.

Allowances and expenses

15 Members of the Commodity Board shall be paid a reasonable allowance together with necessary travelling expenses for the time spent in attending meetings of the Commodity Board or by discharging other duties assigned to them by the Commodity Board. Rates of allowances and travelling expenses will be reviewed annually by the Commodity Board.