

Nova Scotia Flue-Cured Tobacco Growers' Marketing Plan

made under clauses 11(a) and (b) of the
Natural Products Act
R.S.N.S. 1989, c. 308
O.I.C. 82-1413 (November 23, 1982), N.S. Reg. 236/82
as amended by O.I.C. 85-569 (June 4, 1985), N.S. Reg. 90/85

1 This Plan may be cited as the Nova Scotia Flue-Cured Tobacco Growers' 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) "buyer" means a person who buys tobacco;

(d) "Commodity Board" means the Nova Scotia Flue-Cured Tobacco Growers' Marketing Board;

(e) "marketing" includes advertising, buying, selling, storing, packing, transporting, shipping, shipping for sale or storage and offering for sale;

(f) "marketing agency" means a person designated by the Nova Scotia Flue-Cured Tobacco Growers' Marketing Board to market the whole or any part of the tobacco produced;

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

(h) "Plan" means the Nova Scotia Flue-Cured Tobacco Growers' Marketing Plan;

(i) "processing" includes threshing, cleaning, baling, and otherwise preparing raw flue-cured tobacco for market;

(j) "producer" means a person engaged in the production of tobacco;

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

(l) "tobacco" means unmanufactured flue-cured tobacco produced in Nova Scotia.

3 The purposes of this Plan are to control and regulate in any and all respects the marketing or production of tobacco in Nova Scotia, including the prohibition of marketing or producing in whole or in part.

4 The Nova Scotia Flue-Cured Tobacco Growers' Marketing Board is hereby constituted, and shall consist of six members, each of whom shall be an elected producer representative.

5 For the purpose of electing producer representatives to the Commodity Board, a producer is the owner of a property on which tobacco is produced except where the property is rented to a tenant who produces and markets tobacco on his own account, in which case the producer is the tenant 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;

(b) where the producer is a firm or partnership or one or more persons carrying on the production and marketing under a trade name, farm name or other designation, the person, if any, designated in writing in respect of that property by the owner or owners shall be deemed to be the producer; and

(c) where the producer is comprised of two or more persons who are joint owners, the one of such joint owners who first presents himself to register the vote in respect of that property shall be deemed to be the producer.

6 The term of office for members elected to the Commodity Board shall normally be three years; except that at the first annual meeting of producers at which the said Board is elected, two producers shall be elected for one year terms, two producers shall be elected for two year terms, and two producers shall be elected for three year terms.

7 At the time of the annual meeting of producers, which shall be held during the month of April in each year, the producers assembled shall elect two or more producers to fill the vacancies on the Commodity Board. The names of the producers so elected shall be forwarded to the Secretary of the 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.

Section 7 replaced: O.I.C. 85-569, N.S. Reg. 90/85.

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

9 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 four members of the Commodity Board by giving to each member not less than one week's notice thereof by post.

10 Where a vacancy occurs on 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.

11 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 or elected and qualified.

12 (1) The operating year of the Commodity Board shall be from the first day of March until the last day of February.

(2) 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 annual meeting of 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.

(3) 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 10 days before the annual meeting of producers.

13 Duly certified 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.

Powers of the Commodity Board

14 The Commodity Board shall have the following powers:

(a) to require persons engaged in producing or marketing tobacco to register their names, addresses and occupations with the Commodity Board;

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

(c) to appoint persons to inspect the books, records, documents, land and premises and any tobacco of persons engaged in the marketing or production of tobacco;

(d) to appoint persons to inspect the land and premises and any tobacco of persons engaged in the producing of tobacco;

(e) to stimulate, increase and improve the marketing or production of tobacco by such means as it considers proper;

(f) to cooperate with a marketing board, local board, marketing commission or marketing agency of Canada or of any Province in Canada for the purpose of marketing tobacco; and

(g) 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 provisions of the Act, the regulations and the Plan.

15 The Commodity Board shall have authority to make regulations with respect to tobacco

(a) providing for the licensing of any or all persons before commencing or continuing to engage in the marketing or production of tobacco;

(b) prohibiting persons from engaging in the marketing or production of tobacco except under the authority of a licence issued by the Commodity Board;

(c) providing for the refusal to grant a licence for the marketing or production of tobacco where the applicant is not qualified by experience, financial responsibility and equipment to engage in properly the business for which the application was made, or for any other reason that the Commodity Board considers proper;

(d) providing for the suspension or revocation of, or the refusal to renew, a licence for failure to observe, perform or carry out the provisions of the Act, the regulations, the Plan or any order or direction of the Commodity Board;

(e) providing for the fixing of licence fees and the terms of their payment from any or all persons marketing or producing tobacco and the collecting of the licence fees and the recovering of such licence fees by suit in a court of competent jurisdiction;

(f) providing for the form of licences;

(g) providing for the exemption from any or all of the regulations, orders or directions under the Plan of any class, variety or grade of tobacco, or any person or class of persons engaged in the marketing or production of tobacco of any class, variety or grade of tobacco;

(h) requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of tobacco, and providing for the administration and disposition of any monies or securities so furnished;

(i) requiring any person who produces and processes tobacco to furnish to the Commodity Board statements of the amounts of tobacco that he produced in any year and used for processing;

(j) providing for

(i) the marketing or production of tobacco on a quota basis,

(ii) the fixing and allotting to persons of quotas for the marketing or production of tobacco on such basis as the Commodity Board considers proper,

(iii) the refusing to fix and allot to any person a quota for the marketing or production of tobacco for any reason that the Commodity Board considers proper, and

(iv) the cancelling or reducing of, or the refusing to increase, a quota fixed and allotted to any person for the marketing or production of tobacco for any reason that the Commodity Board considers proper;

(k) prohibiting

(i) any person to whom a quota has not been fixed and allotted for the marketing or production of tobacco from marketing any tobacco, and

(ii) any person to whom a quota has been fixed and allotted for the marketing or production of tobacco from marketing any tobacco in excess of such quota;

(l) providing for the seizing, removing, destroying or otherwise disposing of any tobacco marketed or produced in violation of the Act or the regulations and the retention or disposition by the Commodity Board of any of the proceeds of the sale thereof;

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

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

(o) prohibiting any person from processing, packing or packaging any tobacco that has not been sold by or through the Commodity Board;

(p) providing for the making of agreements relating to the marketing of tobacco through the Commodity Board and prescribing the forms and the terms and conditions of such agreements.

16 The Commodity Board shall have authority to

(a) use any class of licence fees and other monies payable to it, for the purpose of paying the expenses of the Commodity Board, carrying out and enforcing the Act and regulations and carrying out the purposes of this Plan;

(b) require the price or prices payable or owing to the producers for tobacco to be paid to or through the Commodity Board and to recover such price or prices by suit in a court of competent jurisdiction;

(c) prohibit the marketing or production of any class, variety, or grade of tobacco; and

(d) appoint agents, to prescribe their duties and terms and conditions of employment and to provide for their remuneration.

17 The Commodity Board shall have authority to conduct a pool or pools for the distribution of all monies received from the sale of tobacco and, after deducting all necessary and proper disbursements and expenses, to distribute the remainder of the monies received from the sale in such manner that every producer receives a share of the remainder in relation to the amount, class, variety or grade of tobacco delivered by him, and authorizes the Commodity Board to make an initial payment on delivery of tobacco and subsequent payments until all the remainder of the monies received from the sale is distributed to the producers.

Negotiating agency

18 (1) There shall be a negotiating agency to be known as the "Negotiating Committee for Tobacco" composed of such persons as are appointed annually after the 15th day of July and before the 1st day of October, as provided in subsections (2) and (3).

(2) Every buyer licensed by the Commodity Board may appoint one member to the negotiating agency and shall notify the Council and the Commodity Board in writing of his name and address not later than the 15th day of September in each year.

(3) The Commodity Board shall appoint a number of members to the negotiating agency that is equal to the number of members of the negotiating agency appointed by the buyers under subsection (2) and shall notify the Council and the buyers who appointed members to the negotiating agency under subsection (2) of their names and addresses not later than the 1st day of October in each year.

(4) Subject to subsection (5), the members of the negotiating agency appointed under subsections (2) and (3) are appointed annually.

(5) Where a member of the negotiating agency appointed under subsections (2) and (3) dies or resigns or is unavailable to act before the expiration of his term of membership, the buyer or the Commodity Board, as the case may be who appointed him, shall appoint a person for the unexpired term of the member who died, resigned or was unavailable to act.

19 The Negotiating Committee for Tobacco is empowered to adopt or settle by agreement

(a) minimum prices for tobacco or for any class, variety or grade of tobacco;

(b) terms, conditions and forms of agreement relating to the marketing of tobacco; and

(c) any charges, costs or expenses relating to the marketing of tobacco.

20 A meeting of a negotiating agency may be convened by a notice in writing given by the members of the negotiating agency appointed by the Commodity Board or appointed by the buyers to the other members of the negotiating agency at least 7 days, but not later than 10 days before the date of the meeting, stating the time and the place of the meeting.

Arbitration Board

21 (1) Where a meeting of the negotiating agency is held and the negotiating agency does not arrive at an agreement respecting all matters that it is empowered to adopt or settle by agreement, the negotiating agency may refer the matters in dispute to an Arbitration Board.

(2) Where the negotiating agency refers the matters in dispute to an Arbitration Board, it shall so notify the Council.

22 (1) Where the Commodity Board or any of the buyers fail to appoint a member or members to the negotiating agency in accordance with the provisions of subsection[s] (2) [and (3)] of Section 46[18], or where a meeting of the negotiating agency is not held in accordance with the notice required by Section 48[20], the Commodity Board shall so notify the Council.

(2) Where a meeting of the negotiating agency is held and the negotiating agency does not arrive at an agreement respecting all matters that [it] is empowered to adopt or settle by agreement and does not refer the matters in dispute to an Arbitration Board under subsection (1) of Section 49[21], the negotiating agency shall so notify the Council and shall submit in writing to the Board, a statement or statements of the matters in dispute.

(3) Where the Council receives a notice pursuant to subsection (1) or (2), it may refer the matters which have not been agreed upon to an Arbitration Board.

- (4) Where the Council refers the matters to an Arbitration Board, it shall so notify
- (a) the Commodity Board and the buyers, if no meeting of the negotiating agency has been held; or
 - (b) the negotiating agency, if a meeting of the negotiating agency has been held.

23 (1) The Arbitration Board shall be composed of three members.

(2) Where no meeting of the negotiating agency has been held

- (a) the Commodity Board may appoint one member; and
- (b) the buyers may appoint one member,

within 7 days of the mailing of the notice referred to in subsection (4) of Section 20[22].

(3) Where a meeting of the negotiating agency has been held

- (a) the members of the negotiating agency appointed by the Commodity Board may appoint one member; and
- (b) the members of the negotiating agency appointed by the buyers may appoint one member;

within 7 days of the date of the mailing of the notice referred to in subsection (4) of Section 20[22].

(4) Where two members are appointed to the Arbitration Board in accordance with subsection (2) or (3), the two members so appointed may appoint a third member to the Arbitration Board but where the two members fail to agree on the third member within 7 days of the date of mailing of the notice referred to in subsection (4) of Section 20[22], the Council shall appoint the third member.

(5) Where the Commodity Board, the members of the negotiating agency appointed by the Commodity Board, ~~the buyers of~~ [or] the members of the negotiating agency appointed by the buyers, as the case may be, fail to appoint a member to the Arbitration Board within 7 days of the date of mailing of the notice referred to in subsection (4) of Section 20[22], the Council shall appoint such members as are necessary to complete the Arbitration Board.

(6) The Council shall submit to the Arbitration Board any statement or statements of matters in dispute received from the negotiating agency under subsection (2) of Section 20[22].

(7) The Arbitration Board shall meet forthwith after the appointment of the three members thereof and shall make an award in respect of the matters referred to it, or all matters that the negotiating agency is empowered to adopt or settle by agreement, as the case may