

Nova Scotia Potato Marketing Plan
made under Section 11 of the
Natural Products Act
R.S.N.S. 1989, c. 308
O.I.C. 85-157 (February 19, 1985), N.S. Reg. 33/85
as amended to O.I.C. 2014-463 (November 12, 2014), N.S. Reg. 171/2014

- 1 This Plan may be cited as the Nova Scotia Potato Marketing Plan.
- 2 In this Plan, and any orders, rules and regulations made thereunder, unless the context otherwise requires

“Act” means Chapter 308 of the Revised Statutes of Nova Scotia, 1989, the Natural Products Act and any amendments thereto;

“Commodity Board” means the Nova Scotia Potato Marketing Board;

“Council” means the Natural Products Marketing Council;

“marketing” includes advertising, buying, selling, storing, packing, assembling, shipping, transporting, pricing, processing, shipping for sale or storage, reselling or any other act necessary to prepare potatoes in a form or to make potatoes available at a place and time for purchase for consumption or use;

“Marketing Agency” means a person designated by the Nova Scotia Potato Marketing Board to market the whole or any part of the potatoes produced;

“person” includes any board, association, corporation, firm or partnership;

“Plan” means the Nova Scotia Potato Marketing Plan;

“potatoes” means potatoes produced in Nova Scotia;

“processing” means changing the nature of potatoes, by mechanical means or otherwise, in preparing them for market;

“processor group” means processors who are engaged in the same or a similar form of processing.

“producer” means a person engaged in the production of potatoes for sale as seed, for table consumption or for processing;

“production” means production for commercial purposes;

Section 2 clause letters removed and definitions alphabetized: O.I.C. 2014-463, N.S. Reg. 171/2014.

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

4 The Nova Scotia Potato Marketing Board is hereby constituted and shall consist of 4 members, each of whom shall be an elected producer representative.

Section 4 amended: O.I.C. 2002-432, N.S. Reg. 118/2002; O.I.C. 2014-463, N.S. Reg. 171/2014.

5 For the purposes of electing producer representatives to the Commodity Board, a producer is the owner of a property on which potatoes are produced except where the property is rented to a tenant who produces and markets potatoes 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 be three years; except that at the first annual meeting of producers at which the board is elected, three producers shall be elected for a one year term, three producers shall be elected for a two year term, and three producers shall be elected for a three year term.

7 At the time of the annual meeting of producers, which shall be held no later than 60 days following the end of each operating year of the Commodity Board, the producers assembled shall elect one 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 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.

8 To fairly represent all producing sectors, members of the Commodity Board shall be elected to represent table potato producers, processing potato producers and, when possible, seed potato producers.

Section 8 replaced: O.I.C. 2002-432, N.S. Reg. 118/2002.

9 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 amongst themselves. The Commodity Board may appoint a secretary-manager and such other officers and employees as they from time to time deem necessary.

10 (1) A meeting of the Commodity Board may be called by

- (a) the Chairperson, giving each member at least 3 days' notice by telephone, fax, e-mail or post; or
- (b) any 3 members of the Commodity Board, giving each member at least 7 days' notice by telephone, fax, e-mail or post.

Subsection 10(1) replaced: O.I.C. 2014-463, N.S. Reg. 171/2014.

- (2) Three members present at a meeting of the Commodity Board shall constitute a quorum.

Subsection 10(2) amended: O.I.C. 2014-463, N.S. Reg. 171/2014.

Section 10 replaced: O.I.C. 2002-432, N.S. Reg. 118/2002.

- 11 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.
- 12 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.
- 13 (1) The operating year of the Commodity Board shall be from the first day of December until the last day of November.
 - (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 previous meeting of producers, subject to the approval of the Board. Within 90 days 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.
- 14 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

15 The Commodity Board shall have the following powers:

- (a) to require persons engaged in producing or marketing potatoes to register their names, addresses and occupations with the Commodity Board;
- (b) to require persons engaged in producing or marketing potatoes to furnish such information relating to the production or marketing of potatoes, including the completing and filing of returns, as the Commodity Board determines;

- (c) with the approval of the Council, to appoint persons to inspect the books, records, documents, land and premises and any potatoes of persons engaged in the marketing of potatoes;
- (d) to stimulate, increase and improve the marketing or producing of potatoes by such means as it considers proper;
- (e) to cooperate or enter into agreements with a marketing board, local board, marketing commission or marketing agency of Canada or of any province in Canada established for the purpose of marketing potatoes; and
- (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 provisions of the Act, the Plan and the regulations.

16 The Commodity Board shall have authority to make regulations with respect to potatoes

- (a) providing for the licensing of any or all persons before commencing or continuing to engage in the marketing or production of potatoes;
- (b) prohibiting persons from engaging in the marketing or production of potatoes 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 potatoes where the applicant is not qualified by experience, financial responsibility or equipment to be properly engaged in 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 Plan or any order or direction of the Commodity Board;
- (e) providing for the fixing of licence fees, levies or charges and the terms of their payment from any or all persons marketing or producing potatoes and the collecting of the licence fees, levies or charges and the recovering of such licence fees, levies or charges 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 potatoes, or any persons or class of persons engaged in the marketing or production of potatoes or any class, variety or grade of potatoes;
- (h) requiring any person who produces potatoes to furnish to the Commodity Board statements of the amounts of potatoes produced or intended to be produced in any year;

- (i) providing for
 - (i) the marketing or production of potatoes on a quota basis,
 - (ii) the fixing and allotting to persons of quotas for the marketing or production of potatoes on such basis as the Commodity Board considers proper, and
 - (iii) the refusing to fix and allot to any person a quota for the marketing or production of potatoes 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 potatoes for any reason that the Commodity Board considers proper;
- (j) prohibiting
 - (i) any person to whom a quota has not been fixed and allotted for the marketing or production of potatoes from marketing or producing any potatoes, and
 - (ii) any person to whom a quota has been fixed and allotted for the marketing or production of potatoes from marketing or producing any potatoes in excess of such quota;
- (k) providing for the control and regulation of agreements entered into by producers of potatoes with persons engaged in marketing of processing potatoes, and the prohibition of any provision or clause in such agreements;
- (l) providing for the control and regulation of the marketing or production of potatoes;
- (m) prohibiting any person from processing any potatoes that have not been sold by or through the Commodity Board;
- (n) providing for the making of agreements relating to the marketing or production of potatoes through the Commodity Board and prescribing the forms and terms and conditions of such agreements.

17 The Commodity Board shall have the authority to

- (a) use any class of licence fees, levies or charges for the purpose of paying the expenses of the Commodity Board, carrying out and enforcing the Act and carrying out the purpose of the Plan;
- (b) require the price or prices payable or owing to the producers for potatoes 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 potatoes;
 - (d) appoint agents and to prescribe their duties and terms and conditions of employment and to provide for their remuneration; and
 - (e) establish fair or minimum prices for table potatoes and seed potatoes.
- 18 (1)** The Commodity Board may establish a Processing Potato Marketing Board Negotiating Committee with respect to each form of processing and each committee shall be known as a “Negotiating Committee for Potatoes” and be composed of such persons as are appointed annually after the 31st day of October and before the 1st day of January, as provided in subsections (2) and (3).
- (2) Every processor group, the members of which are licensed by the Commodity Board, or where there is no processor group every processor licensed by the Commodity Board, shall appoint one voting member and two non-voting members to the Negotiating Committee for Potatoes established with respect to the form of processing in which the processor group or processor is engaged and shall notify the Commodity Board in writing not later than the 20th day of December in each year of the names and addresses of the persons so appointed.
 - (3) The Commodity Board shall appoint one voting and two non-voting members to each Negotiating Committee for Potatoes and by not later than the 20th day of December in each year, shall notify in writing the Board and the processor group or processor of the names and addresses of the persons so appointed.
 - (4) Subject to subsection (6), the members of each Negotiating Committee for Potatoes appointed under subsections (2) and (3) are appointed annually.
 - (5) The Council shall appoint an independent chairman of each Negotiating Committee for Potatoes, acceptable to the Commodity Board and the processor group or processor which appointed members to such committee, and who may cast a vote.
 - (6) Where a member of a Negotiating Committee for Potatoes appointed under subsections (2) and (3) dies or resigns or is unavailable to act before the expiration of his term of membership, the processor group, processor or Commodity Board, as the case may be, which appointed the member, shall appoint a person for the unexpired term of the member who died, resigned or is unavailable to act.
- 19** Every Negotiating Committee for Potatoes is empowered to adopt or settle by agreement
- (a) minimum prices for potatoes or for any class, variety or grade of potatoes;
 - (b) terms, conditions and the form of agreements relating to the marketing of potatoes including the times and places at which potatoes may be marketed; and

- (c) any charges, costs or expenses relating to the marketing of potatoes.
- 20** (1) The members of the Negotiating Committee for Potatoes, appointed by the Commodity Board or by the processor group or processors, may convene a meeting by written notice, stating time and place, to the other members of the Negotiating Committee for Potatoes, at least 7 days, but not more than 10 days before the date of the meeting.
- (2) The Negotiating Committee for Potatoes shall meet at least annually between February 1 and March 15 for the purpose of negotiating an agreement for the same calendar year, or at other times and for purposes that are mutually agreed by members of the Negotiating Committee.
- (3) Subject to subsection (2), in the event that the business of the Negotiating Committee for Potatoes cannot be resolved by March 15, the meeting may be adjourned to complete the business.
- (4) Written consent of all voting members of the Negotiating Committee for Potatoes shall be required to adjourn any portion of the Annual Meeting of the Negotiating Committee for Potatoes to a date after March 15 in the same calendar year.
- (5) In the event an agreement is not reached by the Negotiating Committee for Potatoes by March 15 in any calendar year or by the last day of any adjournment agreed to by the voting members pursuant to subsection (3), any terms on which agreement has not been reached shall be referred immediately to the independent chairman.
- (6) The independent chairman shall, upon referral pursuant to subsection (5), render a report within 30 days, but in no case later than April 1, stating reasons for each of the terms at issue separately whether
- (a) the final offer or position of the voting members appointed by the processor group or processors is acceptable; or
- (b) the final offer or position of the voting members appointed by the producers is acceptable.
- (7) A final offer referred to in subsection (6) means the final offers of the processor group and the producer group on the table at the time when negotiations between the two parties are suspended and the matter is referred to the independent chairman for resolution.
- (8) No offer other than a final offer shall be referred to or considered by the independent chairman.
- (9) The decision of the independent chairman referred to in subsection (6) is final and binding upon the processors and the producers.
- (10) Minutes of the meetings of each Negotiating Committee for Potatoes shall be kept by an independent secretary chosen by the independent chairman and satisfactory

to the other voting members of the Committee, and the secretary shall present typewritten copies of the minutes to each member of the Committee upon the resumption of negotiations following an adjournment of more than 12 hours.

- (11) A typed copy of each set of minutes, prepared pursuant to subsection (10) approved and signed by the voting members including the chairman shall be filed by the secretary with the Commodity Board at the conclusion of every meeting.

Section 20 replaced: O.I.C. 95-720, N.S. Reg. 152/95.

- 21 (1) The Commodity Board may establish a Pricing Advisory Committee in respect to table potatoes which shall be composed of such persons as are appointed annually after the 1st day of January and before the 1st day of April each year, as provided in subsections (2), (3), and (4).
- (2) The Commodity Board shall appoint to the Pricing Advisory Committee two persons, one of whom shall be a producer of table potatoes registered with the Commodity Board and one who shall be a packer of table potatoes licensed by the Commodity Board.
- (3) Council shall appoint, on the recommendation of the Atlantic Fresh Produce Committee, to the Pricing Advisory Committee one person who is engaged in the wholesale distribution of Nova Scotia table potatoes and one person who is engaged in the retail sales of Nova Scotia table potatoes within the province of Nova Scotia.
- (4) The Natural Products Marketing Council shall appoint to the Pricing Advisory Committee an independent chairman of the Pricing Advisory Committee who shall be acceptable to other appointed members.
- (5) Where a member of the Pricing Advisory Committee appointed under subsections (2), (3), and (4) dies or resigns or is unavailable to act before the expiration of his term of membership, the group who that person represented shall appoint a person for the unexpired term of the member who died, resigned or is unavailable to act.

Section 21 added: O.I.C. 89-395, N.S. Reg. 47/89.

- 22 (1) The Pricing Advisory Committee shall meet from time to time at the request of the Commodity Board and shall recommend to the Commodity Board prices for potatoes of any class, variety, grade, or package size in relation to any market on which they may be offered.

Subsection 22(1) added: O.I.C. 89-395, N.S. Reg. 47/89.

- (2) The Commodity Board shall promptly consider any recommendation received from the Pricing Advisory Committee and may implement or vary any term or condition contained in the recommendation or may decline to implement the recommendation and shall immediately advise the Committee members of its decision.

Subsection 22(2) added: O.I.C. 95-720, N.S. Reg. 152/95.