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Farm Products Marketing Act

ONTARIO REGULATION 125/04

APPLES — MARKETING

Consolidation Period: From May 2, 2018 to the e-Laws currency date.

Last amendment: 353/18.

Legislative History: [+]

This is the English version of a bilingual regulation.

Definitions

1. In this Regulation,

“apple” includes apples of every variety produced in Ontario, including juice apples; (“pomme”)

“juice apples” means apples produced in Ontario to be used for pressing and includes apples that are to be made into juice, cider or concentrate; (“pommes à jus”)

“local board” means the Ontario Apple Growers established under Ontario Regulation 123/04; (“commission locale”)

“producer” means,

- (a) any person who is the beneficial owner of a property of 10 or more acres on which apple trees are growing, if the property is not rented, or
- (b) if a property described in clause (a) is rented, the person who is the tenant of the property. (“producteur”) O. Reg. 125/04, s. 1.

DELEGATION OF POWERS TO LOCAL BOARD

Delegation of powers

2. The following powers of the Commission have been delegated to the local board by the Commission under subsection 3 (3) of the Act:

- 1. Requiring persons engaged in producing or marketing a regulated product to register their names, addresses and occupations with the local board.
- 2. Requiring persons engaged in producing or marketing apples to furnish such information relating to the production or marketing of apples, including the completing and filing of returns, as the local board determines.
- 3. Appointing persons to,
 - i. inspect the books, records, documents, lands and premises and any apples of persons engaged in producing or marketing apples in order to determine quantity and minimum prices for juice apples bought in Ontario, and
 - ii. enter on lands or premises used for producing apples and measure the area of land used to produce apples.
- 4. Stimulating, increasing and improving the marketing of apples by such means as it considers proper.

5. Co-operating with a marketing board, a local board or a marketing agency of any other province for the purpose of marketing apples.
6. Doing such acts, making such orders and issuing such directions as are necessary to enforce the due observance and carrying out of the Act and the regulations. O. Reg. 125/04, s. 2.

DELEGATION OF REGULATION-MAKING POWERS TO THE LOCAL BOARD

Delegation of regulation-making powers

3. The following regulation-making powers of the Commission have been delegated to the local board by the Commission under subsection 7 (7) of the Act:

1. Providing for the licensing of any or all persons before commencing or continuing to engage in the producing of apples.
2. Imposing of such terms and conditions upon a licence as the local board considers proper.
3. Prohibiting producers from engaging in the producing and marketing of apples except under the authority of a licence and except in compliance with the terms and conditions of the licence.
4. Providing for the refusal to grant or renew a licence or for the suspension or revocation of a licence where the applicant or licensee has failed to comply with or has contravened the Act, the regulations, or any order or direction of the Commission or local board.
5. Providing for the imposition, amount, disposition and use of penalties where, after a hearing, the local board is of the opinion that the producer has failed to comply with or has contravened any term or condition of the licence or the Act or the regulations, or any order or direction of the Commission or the local board.
6. Providing for the fixing of producer licence fees and the payment thereof by any or all persons producing apples and the collecting of the licence fees and their recovery by suit in a court of competent jurisdiction.
7. Prescribing the form of licences.
8. Authorizing the fixing of prompt payment discounts, delayed payment penalties and interest on licence fees owing by any producer.
9. Requiring any person who produces and processes apples to furnish to the local board statements of the amounts of apples that the person produced in any year and used for processing.
10. Providing for the exemption from any or all of the regulations, or orders or directions under the regulation, of any class, variety, grade or size of apples, or any person or class of persons engaged in the producing or marketing of apples or any class, variety, grade or size of apples.
11. Requiring any person that receives apples to deduct from money payable for the apples any licence fees in arrears payable to the local board by the producer from whom the person received the apples and to forward such licence fees to the local board as directed by the local board. O. Reg. 125/04, s. 3.

OTHER POWERS OF LOCAL BOARD

Other powers of local board

4. The local board may,

- (a) use any class of licence fee or other money payable to the local board for the purposes of paying its expenses or of carrying out and enforcing the Act and the regulations;
- (b) establish a fund for the purposes of paying the local board's expenses and of carrying out and enforcing the Act and the regulations; and
- (c) appoint agents, prescribe their duties and conditions of employment and provide for their remuneration. O. Reg. 125/04, s. 4.

NEGOTIATING AGENCIES

Establishment of negotiating agency

5. (1) A negotiating agency shall be established in accordance with section 6 for the purpose of adopting an agreement between the local board and processors of apple juice in Ontario in relation to the following matters:

1. Minimum prices for any class, variety, grade or size of juice apples.
 2. Terms and conditions for the sale of juice apples. O. Reg. 125/04, s. 5 (1).
- (2) The negotiating agency shall be established on or before May 1, 2004 and subsequently, on or before May 1 of any year in which an agreement referred to in subsection (1) expires. O. Reg. 125/04, s. 5 (2).
- (3) The agreement referred to in subsection (1) shall take effect on September 16 following the appointment of the negotiating agency and shall terminate on the date specified in the agreement. O. Reg. 125/04, s. 5 (3); O. Reg. 353/18, s. 1.
- (4) Every processor of apple juice shall comply with an agreement referred to in subsection (1). O. Reg. 125/04, s. 5 (4).

Composition and appointment of agency

6. (1) The negotiating agency shall be composed of six members, consisting of three members appointed by the local board and three members appointed by the processors of apple juice. O. Reg. 125/04, s. 6 (1).
- (2) On or before May 1 of a year in which an agreement referred to in subsection 5 (1) expires,
- (a) the local board shall give notice to the Commission of the names of the members it has selected to appoint to the negotiating agency; and
 - (b) the processors of apple juice in Ontario shall give notice to the Commission of the names of the members they have selected to appoint to the negotiating agency. O. Reg. 125/04, s. 6 (2).
- (3) The members of a negotiating agency shall hold office until December 31 following their appointment. O. Reg. 125/04, s. 6 (3).
- (4) If a member of a negotiating agency dies, resigns or is otherwise unable to act, the local board or the processors who appointed the member shall appoint a replacement within 10 days of the vacancy occurring. O. Reg. 125/04, s. 6 (4).
- (5) If a replacement is not appointed under subsection (4) within 10 days of a vacancy occurring, the Commission shall appoint the replacement member. O. Reg. 125/04, s. 6 (5).
- (6) A replacement member appointed under subsection (4) or (5) shall hold office until the end of the negotiating agency's term under subsection (3). O. Reg. 125/04, s. 6 (6).

Negotiation of agreement

7. (1) The negotiating agency shall enter into negotiations and endeavour to reach an agreement on the matters referred to in subsection 5 (1) on or before 9:00 a.m. on August 31 in the year the agency was established. O. Reg. 125/04, s. 7 (1); O. Reg. 353/18, s. 2.
- (2) The three members of the negotiating agency appointed either by the local board or by the processors of apple juice may convene a meeting of the agency by giving notice of the place and time of the meeting to the other members of the agency at least seven days before the meeting. O. Reg. 125/04, s. 7 (2).
- (3) On or before June 1 after their appointment, the members of the negotiating agency shall submit a list of names of individuals who might be appointed by the Commission to an arbitration board under section 8, if the negotiating agency is not able to reach an agreement with respect to any of the matters referred to in subsection 5 (1). O. Reg. 125/04, s. 7 (3).

Arbitration

8. (1) If the negotiating agency does not reach an agreement in respect of matters referred to in subsection 5 (1) on or before 9:00 a.m. on August 31, it shall notify the Commission of its failure to reach an agreement on that day. O. Reg. 125/04, s. 8 (1); O. Reg. 353/18, s. 3 (1).
- (2) If, at any time during its negotiations, the negotiating agency decides that it will not be possible for it to reach an agreement in respect of any of the matters referred to in subsection 5 (1), it may notify the Commission of this fact. O. Reg. 125/04, s. 8 (2).

(3) A notice under subsection (1) or (2) shall include a statement of the matters remaining in dispute between the local board and the processors and a statement of the final position of the parties with respect to each of those matters. O. Reg. 125/04, s. 8 (3).

(4) The matters in dispute shall be subject to final offer arbitration. O. Reg. 125/04, s. 8 (4).

(5) The Commission shall appoint an arbitration board to settle the matters in dispute from the list of possible arbitrators prepared by the negotiating agency under subsection 7 (3). O. Reg. 125/04, s. 8 (5).

(6) The arbitration board shall determine all matters referred to it no later than September 15 of any given year. O. Reg. 125/04, s. 8 (6); O. Reg. 353/18, s. 3 (2).

Deadline not falling on business day

8.1 (1) If the date on or before which something is required to be done under sections 5 to 8 falls, in any given year, on a day that is not a business day, the requirement is satisfied if the thing is done on or before the next business day. O. Reg. 353/18, s. 4.

(2) In this section,

“business day” means a day that is not a Saturday or a day that is a holiday within the meaning of section 88 of the *Legislation Act, 2006*. O. Reg. 353/18, s. 4.

ADVISORY COMMITTEES

Juice Apple Advisory Committee

9. (1) There shall be a Juice Apple Advisory Committee established in accordance with this section. O. Reg. 125/04, s. 9 (1).

(2) The members of the Juice Apple Advisory Committee shall be appointed for a one year term that shall begin on March 1 of any given year and end on the last day of February of the following year. O. Reg. 125/04, s. 9 (2).

(3) The Juice Apple Advisory Committee shall be composed of seven members appointed as follows:

1. Three members shall be appointed by the local board.
2. Three members shall be appointed by the apple juice processors in Ontario.
3. One member shall be appointed by the Commission. O. Reg. 125/04, s. 9 (3).

(4) The member appointed by the Commission under paragraph 3 of subsection (3) shall be the chair of the Juice Apple Advisory Committee. O. Reg. 125/04, s. 9 (4).

(5) A member of the Juice Apple Advisory Committee shall hold office until their successor takes office, despite the expiry of his or her term of office. O. Reg. 125/04, s. 9 (5).

(6) The Juice Apple Advisory Committee shall advise the local board and any juice processor in respect of,

- (a) the promotion of harmonious relationships between persons engaged in the production and processing of juice apples;
- (b) the promotion of greater efficiency in the production and processing of juice apples;
- (c) the prevention and correction of irregularities and inequities in the marketing of juice apples;
- (d) the improvement of the quality and variety of juice apples;
- (e) the improvement of the circulation of market information respecting juice apples;
- (f) any matter with respect to which the Commission or local board may make regulations. O. Reg. 125/04, s. 9 (6).

(7) The Juice Apple Advisory Committee shall meet at least once a year and at such other time as may be required by the Chair of the Committee. O. Reg. 125/04, s. 9 (7).

Fresh Apple Advisory Committee

10. (1) There shall be a Fresh Apple Advisory Committee established in accordance with this section. O. Reg. 125/04, s. 10 (1).

(2) The members of the Fresh Apple Advisory Committee shall be appointed for a one year term that shall begin on March 1 of any given year and end on the last day of February of the following year. O. Reg. 125/04, s. 10 (2).

(3) The Fresh Apple Advisory Committee shall be composed of seven members appointed as follows:

1. Three members shall be appointed by the local board.
2. Three members shall be appointed by the Apple Marketer's Association of Ontario.
3. One member shall be appointed by the Commission. O. Reg. 125/04, s. 10 (3).

(4) The member appointed by the Commission under paragraph 3 of subsection (3) shall be the chair of the Fresh Apple Advisory Committee. O. Reg. 125/04, s. 10 (4).

(5) A member of the Fresh Apple Advisory Committee shall hold office until their successor takes office, despite the expiry of his or her term of office. O. Reg. 125/04, s. 10 (5).

(6) The Fresh Apple Advisory Committee shall advise the local board and any apple marketer in respect of,

- (a) the promotion of harmonious relationships between persons engaged in the production and marketing of fresh apples;
- (b) the promotion of greater efficiency in the production and marketing of fresh apples;
- (c) the prevention and correction of irregularities and inequities in the marketing of fresh apples;
- (d) the improvement of the quality and variety of fresh apples;
- (e) the improvement of the circulation of market information respecting fresh apples;
- (f) any matter with respect to which the Commission or local board may make regulations. O. Reg. 125/04, s. 10 (6).

(7) The Fresh Apple Advisory Committee shall meet at least once a year and at such other time as may be required by the Chair of the Committee. O. Reg. 125/04, s. 10 (7).

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