

R.R.O. 1990, REGULATION 414

GRAPES FOR PROCESSING — MARKETING

Consolidation Period: From July 19, 2010 to the e-Laws currency date.

Last amendment: O. Reg. 297/10.

This is the English version of a bilingual regulation.

1. (1) In this Regulation,
“grapes” means grapes produced in Ontario that are used,
 - (a) for processing by a processor, or
 - (b) for producing late harvest juice; (“raisin”)“late harvest juice” means juice that is produced in Ontario by a grape producer from late harvest grapes grown by the producer in Ontario and that is used for processing into ice wine, late harvest wine or other wine, beverage spirits, grape products or juice; (“jus de vendange tardive”)
“local board” means Grape Growers of Ontario; (“commission locale”)
“plan” means the Ontario Grapes for Processing Plan; (“plan”)
“processing” means,
 - (a) in relation to grapes, the manufacture of grape products or juice, beverage spirits or wine from grapes and includes bottling, distilling or fermenting or processing with sugar or sulphur dioxide or any other chemical, but does not include the production of late harvest juice,
 - (b) in relation to late harvest juice, the manufacture of ice wine, late harvest wine or other wine, beverage spirits, grape products or juice from late harvest juice and includes bottling, distilling or fermenting or processing with sugar or sulphur dioxide or any other chemical, but does not include the production of late harvest juice; (“transformation”)“processor” means a person engaged in the business of processing grapes or late harvest juice; (“transformateur”)
“producer” means a person engaged in the production of grapes or in the production of late harvest juice. (“producteur”) O. Reg. 350/00, s. 1; O. Reg. 372/02, s. 1.
 - (2) For the purposes of this Regulation,
 - (a) the growing of grapes and the manufacture of late harvest juice from those grapes are deemed to be a continuous process relating to the production of late harvest juice as a regulated product;
 - (b) the manufacturing of late harvest juice from late harvest grapes is deemed not to be processing; and
 - (c) a producer of late harvest grapes who manufactures late harvest juice from those grapes is deemed not to be a processor but to be the producer of the late harvest juice as a regulated product. O. Reg. 297/10, s. 1.
 2. This plan applies to the control and regulation in any or all respects of the producing and marketing within Ontario of grapes and late harvest juice, including the prohibition of such producing and marketing in whole or in part. O. Reg. 350/00, s. 1.

LICENCES

 3. (1) A person may commence or continue to engage in the processing of grapes or late harvest juice only under the authority of a licence as a processor of grapes or late harvest juice. O. Reg. 350/00, s. 1.
 - (2) A licence expires on the date of expiry set out in the licence. O. Reg. 350/00, s. 1.
 - (3) If no expiry date is set out in a licence, the licence expires when the licensee ceases to engage in the processing of grapes or late harvest juice. O. Reg. 350/00, s. 1.
 - (4) No fee is payable on applying for a licence. O. Reg. 350/00, s. 1.
 4. (1) The Commission may refuse to grant a licence where the applicant is not qualified by experience or equipment to properly engage in the business for which the application was made. O. Reg. 539/91, s. 1.

(2) The Commission may suspend or revoke or refuse to renew a licence for failure to observe, perform or carry out the Act, the regulations, the plan or any order or direction of the Commission or the local board. R.R.O. 1990, Reg. 414, s. 4 (2).

POWERS OF LOCAL BOARD

5. The Commission delegates to the local board the power,

(a) to require persons engaged in producing or marketing grapes or late harvest juice to register their names, addresses and occupations with the local board;

(b) to require persons engaged in producing or marketing grapes or late harvest juice to furnish such information relating to the production or marketing of grapes or late harvest juice, including the completing and filing of returns as the local board determines;

(c) to appoint persons to inspect the books, records, documents, lands and premises and any grapes or late harvest juice of persons engaged in the marketing of grapes or late harvest juice;

(d) to appoint persons to enter on lands or premises used for the producing of grapes or late harvest juice and measure the area of land or premises used to produce grapes or late harvest juice or measure the amount of grapes or late harvest juice;

(e) to stimulate, increase and improve the marketing of grapes and late harvest juice by such means as it considers proper;

(f) to co-operate with a marketing board, local board, marketing commission or marketing agency of Canada or of any province in Canada for the purpose of marketing grapes or late harvest juice;

(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 Act, the regulations and the plan. O. Reg. 350/00, s. 2.

6. The Ontario Farm Products Marketing Commission delegates to the local board its powers to make regulations with respect to grapes and late harvest juice,

(a) providing for the licensing of any or all persons before commencing or continuing to engage in the producing or marketing of grapes or late harvest juice;

(b) prohibiting persons from engaging in the producing or marketing of grapes or late harvest juice except under the authority of a licence issued by the local board;

(c) providing for the refusal to grant a licence where the applicant is not qualified by experience, financial responsibility or equipment to properly engage in the business for which the application was made;

(d) providing for the suspension or revocation of, or the refusal to renew, a licence for failure to observe, perform or carry out the Act, the regulations, the plan or any order or direction of the local board;

(e) providing for the fixing of licence fees payable yearly, half-yearly, quarterly or monthly at different amounts or in instalments from any or all persons producing or marketing grapes or late harvest juice and the collecting of the licence fees and the recovering of such licence fees by suit in a court of competent jurisdiction;

(f) requiring any person who receives grapes or late harvest juice to deduct from the money payable for the grapes or late harvest juice any licence fees payable to the local board by the person from whom he, she or it receives the grapes or late harvest juice, and to forward such licence fees to the local board;

(g) requiring any person who produces and processes grapes or late harvest juice to furnish to the local board statements of the amount of grapes or late harvest juice produced in any year and used for processing;

(h) prescribing the form of licences;

(i) requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of grapes or late harvest juice and providing for the administration and disposition of any money or securities so furnished;

(i.1) authorizing the fixing of prompt payment discounts, delayed payment penalties and interest on licence fees owing by any person engaged in the producing, marketing or processing of grapes or late harvest juice;

(j) providing for the control and regulation of the marketing of grapes and late harvest juice, including the times and places at which grapes and late harvest juice may be marketed;

(k) providing for the control and regulation of agreements entered into by producers of grapes or late harvest juice with persons engaged in marketing or processing grapes or late harvest juice, and the prohibition of any provision or clause in such agreements;

- (l) requiring any person who produces and processes grapes or late harvest juice to furnish to the local board statements of the amounts of grapes or late harvest juice produced in any year and used for processing;
- (m) requiring any person who produces grapes or late harvest juice to offer to sell and to sell the grapes or late harvest juice through the local board;
- (n) prohibiting any person from processing, packing or packaging any grapes or late harvest juice that has not been sold through the local board;
- (o) providing for the making of agreements relating to the marketing of grapes or late harvest juice through the local board, and prescribing the forms and the terms and conditions of such agreements;
- (p) providing for the exemption from any or all of the regulations, orders or directions under any plan of,
 - (i) any class, variety, grade or size of grapes or of any class, variety or grade of late harvest juice, or
 - (ii) any person or class of persons engaged in the producing or marketing of any class, variety, grade or size of grapes or of any class, variety or grade of late harvest juice. O. Reg. 350/00, s. 2; O. Reg. 395/01, s. 1; O. Reg. 297/10, s. 2.

7. (1) The Commission authorizes the local board to use any class of licence fees and other money payable to it, for the purposes of paying the expenses of the local board, carrying out and enforcing the Act and the regulations and carrying out the purposes of the plan. R.R.O. 1990, Reg. 414, s. 7 (1).

(2) The Commission authorizes the local board to establish a fund in connection with the plan for the payment of any money that may be required for the purposes mentioned in subsection (1). R.R.O. 1990, Reg. 414, s. 7 (2).

8. The Commission authorizes the local board to do the following:

- 1. The local board may conduct a pool or pools for the distribution of all money received from the sale of grapes or late harvest juice.
- 2. The local board may, after deducting all necessary and proper disbursements and expenses, distribute the remainder of the money received from the sale in such manner that every producer receives a share of the remainder of the money received from the sale in relation to the amount, class, variety, grade or size of the grapes or the amount, class, variety or grade of the late harvest juice delivered.
- 3. The local board may make an initial payment on delivery of the grapes or late harvest juice and subsequent payments until all of the remainder of the money received from the sale is distributed to the producers. O. Reg. 350/00, s. 3.

9. The Commission authorizes the local board to require the price or prices payable or owing to the producers for grapes or late harvest juice to be paid to or through the local board and to recover such price or prices by suit in a court of competent jurisdiction. O. Reg. 350/00, s. 3.

10. The Commission authorizes the local board to prohibit the marketing of any class, variety, grade or size of grapes or of any class, variety or grade of late harvest juice. O. Reg. 350/00, s. 3.

11. The Commission vests in the local board the power to purchase or otherwise acquire such quantity or quantities of grapes or late harvest juice as the local board considers advisable and to sell or otherwise dispose of any of the grapes or late harvest juice so purchased or acquired. O. Reg. 350/00, s. 3.

APPOINTMENT OF AGENTS

12. The Commission authorizes the local board to appoint agents, to prescribe their duties and terms and conditions of employment and to provide for their remuneration. R.R.O. 1990, Reg. 414, s. 12.

NEGOTIATING AGENCIES

- 13. (1) There shall be two negotiating agencies, one for each of the following:
 - 1. Classes 1, 2 and 3 grapes.
 - 2. All other classes of grapes and late harvest juice. O. Reg. 350/00, s. 4.
- (2) Each negotiating agency shall be composed of six members to be appointed annually as follows:
 - 1. Three members to represent the producers appointed by the local board.
 - 2. Three members to represent the processors appointed as follows:
 - i. One member appointed by the Wine Council of Ontario.
 - ii. Two members appointed by the Winery and Grower Alliance of Ontario. O. Reg. 297/10, s. 3 (1).
- (3) The local board, the Wine Council of Ontario and the Winery and Grower Alliance of Ontario shall, on or before July 1, 2010 and on or before June 1 of every subsequent year,
 - (a) make their appointments to the negotiating agencies; and

(b) notify the Commission in writing of the name and address of the appointees. O. Reg. 297/10, s. 3 (1).

(4) Subject to subsections (5) and (6), the members of a negotiating agency shall hold office until the 31st day of December of the year in which they are appointed. O. Reg. 274/92, s. 2.

(5) If a member of a negotiating agency dies, resigns before the expiration of his or her term of office or is otherwise unable to act for the remainder of his or her term, the entity that appointed the member, whether the local board, the Wine Council of Ontario or the Winery and Grower Alliance of Ontario, shall appoint a person for the remainder of the member's term. O. Reg. 297/10, s. 3 (2).

(6) If the local board, the Wine Council of Ontario or the Winery and Grower Alliance of Ontario, as the case may be, fail to appoint the members under subsection (2), the Commission shall appoint such persons as are necessary to complete the negotiating agency. O. Reg. 274/92, s. 2; O. Reg. 297/10, s. 3 (3).

(7) If the local board, the Wine Council of Ontario or the Winery and Grower Alliance of Ontario, as the case may be, fail to make an appointment under subsection (5) within seven days after a vacancy occurs, the Commission may appoint such persons as are necessary to complete the negotiating agency. O. Reg. 274/92, s. 2; O. Reg. 297/10, s. 3 (4).

14. (1) The role of a negotiating agency is for the members representing the producers and those representing the processors to negotiate, adopt and settle by agreement each year the minimum prices for,

(a) the class of grapes for which the negotiating agency is responsible, including any grade, variety or size of such class of grapes; or

(b) any late harvest juice for which the negotiating agency is responsible, including any class, grade, variety or size of such juice. O. Reg. 297/10, s. 4.

(2) For the purposes of negotiating an agreement on matters referred to in subsection (1) with the members representing the producers, the members of the negotiating agency representing the processors, the one appointed by the Wine Council of Ontario and the two members appointed by the Winery and Grower Alliance of Ontario, shall present a single position on behalf of the processors by the appropriate date referred to in subsections 16 (2) and (3). O. Reg. 297/10, s. 4.

(3) If the member of the negotiating agency appointed by the Wine Council of Ontario and the two members appointed by the Winery and Grower Alliance of Ontario fail to present a single position on behalf of the processors when negotiating with the members representing the producers within the required time, the matter shall be subject to final offer arbitration and subsections 16 (5) to (10) shall apply with necessary modifications to the arbitration. O. Reg. 297/10, s. 4.

15. (1) A meeting of a negotiating agency may be convened by a notice in writing given by the three members of the negotiating agency appointed by the local board, or by the three members of the negotiating agency appointed to represent the processors, to the other members of the negotiating agency. O. Reg. 297/10, s. 5.

(2) A notice under subsection (1) shall be given at least seven days, but not more than ten days, before the date of the meeting proposed in the notice and shall state the time and place of the meeting. O. Reg. 297/10, s. 5.

ARBITRATION

16. (1) This section applies when a negotiating agency,

(a) has not met on or before the appropriate date referred to in subsection (2) or (3);

(b) has not reached an agreement about all matters that it is authorized to settle by agreement on or before the appropriate date referred to in subsection (2) or (3); or

(c) notifies the Commission that it cannot reach an agreement. O. Reg. 274/92, s. 5.

(2) For a negotiating agency for classes 1, 2 and 3 grapes, the date shall be August 21 in any year. O. Reg. 350/00, s. 6; O. Reg. 372/06, s. 1.

(3) For a negotiating agency for the remaining classes of grapes and late harvest juice, the date shall be July 31 in any year. O. Reg. 350/00, s. 6.

(4) The parties shall be subject to final offer arbitration unless they have agreed otherwise at the beginning of negotiations. O. Reg. 274/92, s. 5.

(5) The parties to the negotiations shall advise the Commission of the matters in dispute and, if they are subject to final offer arbitration, of their final positions on the matters in dispute. O. Reg. 274/92, s. 5.

(6) The Commission shall refer all matters in dispute to an arbitration board. O. Reg. 274/92, s. 5.

(7) The arbitration board shall be composed of one member, who shall be appointed by the members of the negotiating agency. O. Reg. 427/05, s. 1.

(8) If the member of the arbitration board has not been appointed within seven days after the appropriate date referred to in subsection (2) or (3), the Commission shall make the appointment. O. Reg. 427/05, s. 1.

(9) If the member of the arbitration board dies, resigns or is unable or unwilling to act before he or she has made an award, the negotiating agency or the Commission, as the case may be, shall appoint a new member, and the new member shall continue and complete the arbitration. O. Reg. 427/05, s. 1.

(10) The arbitration board shall determine all matters referred to it and, if the parties are subject to final offer arbitration, shall do so in accordance with the final positions submitted by the parties. O. Reg. 427/05, s. 1.

17. REVOKED: O. Reg. 274/92, s. 5.

ADVISORY COMMITTEE

18. (1) There shall be an advisory committee to be known as "The Grapes for Processing Industry Advisory Committee" composed of a chair and eight members. R.R.O. 1990, Reg. 414, s. 18 (1).

(2) After the 1st day of April and before the 30th day of April in each year,

(a) the Commission shall appoint the chair;

(b) the local board shall appoint four members;

(c) the Wine Council of Ontario shall appoint two members; and

(d) the Winery and Grower Alliance of Ontario shall appoint two members,

of The Grapes for Processing Industry Advisory Committee. R.R.O. 1990, Reg. 414, s. 18 (2); O. Reg. 297/10, s. 6 (1).

(3) Subject to subsections (4) and (5), the members of the Advisory Committee appointed under subsection (2) are and remain members thereof until the 30th day of April in the year next following the year in which they were appointed. R.R.O. 1990, Reg. 414, s. 18 (3).

(4) Where a member of the Advisory Committee dies or resigns or is unavailable to act before the expiration of his or her term, the person or persons who appointed him or her shall appoint a person for the unexpired term of the member who died or resigned or was unavailable to act. R.R.O. 1990, Reg. 414, s. 18 (4).

(5) Where the local board, the Wine Council of Ontario or the Winery and Grower Alliance of Ontario, as the case may be, fail to appoint a member or members to the Advisory Committee in accordance with subsection (2) or (4), the Commission may appoint such members as are necessary to complete the Advisory Committee. R.R.O. 1990, Reg. 414, s. 18 (5); O. Reg. 297/10, s. 6 (2).

(6) The Grapes for Processing Advisory Committee is empowered to advise and make recommendations to the local board, the Wine Council of Ontario, or to the Winery and Grower Alliance of Ontario in respect of,

(a) the promotion of harmonious relationships between persons engaged in the production and marketing of grapes and late harvest juice;

(b) the promotion of greater efficiency in the production and marketing of grapes and late harvest juice;

(c) the prevention and correction of irregularities and inequities in the marketing of grapes and late harvest juice;

(d) the improvement of the quality and variety of grapes and late harvest juice;

(e) the improvement of the circulation of market information respecting grapes and late harvest juice; and

(f) without limiting the generality of any of the foregoing, any matter with respect to which the Commission or the local board may be empowered to make regulations under the Act. O. Reg. 350/00, s. 7; O. Reg. 297/10, s. 6 (3).

FORMS 1, 2 REVOKED: O. Reg. 274/92, s. 6.