



PLEASE NOTE

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CHAPTER N-3

NATURAL PRODUCTS MARKETING ACT

HOG COMMODITY MARKETING REGULATIONS

Made by the Lieutenant Governor in Council upon the recommendation of the Prince Edward Island Marketing Council under the *Natural Products Marketing Act* R.S.P.E.I. 1988, Cap. N-3

1. In this Order and in all orders, rules and regulations made hereunder, unless the context otherwise requires, terms defined in the Act shall have the same meaning herein, and

(a) “Act” means the *Natural Products Marketing Act* R.S.P.E.I. 1988, Cap. N-3; Act

(b) “board” means the Prince Edward Island Hog Commodity Marketing Board established pursuant to the Act; board

(c) “Council” means the Prince Edward Island Marketing Council; Council

(d) “county” means Prince, Queens, or Kings County in the Province of Prince Edward Island; county

(e) “hog” means any member of the species *Sus Scrofa L.* (domestic pig); hog

(f) “person” shall include any partnership, corporation, cooperative, syndicate, or other business group formed or existing for the purpose of jointly acquiring or administering assets; person

(g) “plan” means the Prince Edward Island Hog Commodity Marketing Plan; plan

(h) “producer” means a person engaged in the production or feeding of hogs; producer

(i) “registered producer” means a producer registered by the board as hereinafter provided. (EC275/76) registered producer

2. The board known as the Prince Edward Island Hog Commodity Marketing Board as established by Order in Council No. 285/71 of 19 May 1971 is continued as a body corporate. (EC275/76) Continuation of board

3. The head office of the commodity board shall be in the City of Charlottetown, or at such other location in the province as may be determined from time to time by the board. (EC275/76) Head office

Seal	4. The seal, an impression of which is affixed hereto, shall be the common seal of the board, and when used shall be authenticated by the signature of the chairman and of the secretary or of such other person or persons as the board may authorize by resolution. (EC275/76)
Fiscal year	5. The fiscal year of the board shall end on the 31st December in each and every year. (EC275/76)
Filing of information	6. The board shall file with the Council <ul style="list-style-type: none"> (a) a certified copy of the audited financial statement of the board accompanied by the report of operations of the board within ninety days of the close of the fiscal year; (b) a certified copy of all minutes, orders, appointments, agreements, awards, reports, rules, resolutions and regulations of the board within seven days of the passage or making thereof; (c) where the board appoints an agent, the agent shall file with the Council a certified copy of the audited financial statement and annual report of the agent within ninety days of the close of the fiscal year of that agent. (EC275/76)
Records	7. (1) The board shall keep proper books of account which shall be audited for each fiscal year, by an auditor approved by the board.
Audited financial statements	(2) A copy of the audited financial statement accompanied by a report of the operations of the board shall be presented to the board within sixty days of the close of the fiscal year of the board at a regularly scheduled meeting of the board or a special meeting of the board called by the chairman to consider the report.
Copies to producers	(3) Copies of the annual audited financial statement shall be presented to the producers at the annual meeting of producers. (EC275/76)
Membership	8. (1) The board shall consist of six members.
<i>Idem</i>	(2) Two members of the board shall be residents of and registered producers in Prince County, and two members of the board shall be residents of and registered producers in Queens County, and two members of the board shall be residents of and registered producers in Kings County. (EC275/76)
Eligibility to vote	9. (1) To be eligible to vote for a member of the board from a county, a producer shall be a registered producer in the county in which he seeks to vote.
Voting by corporation, etc.	(2) A registered producer that is a partnership, corporation, cooperative or syndicate of any type shall be entitled to one vote only and such vote

shall be cast by the representative of the partnership, corporation, co-operative or syndicate named in writing to the board. (EC275/76)

10. To be eligible for election or appointment to the board, a producer shall hold the qualifications set out in section 9. (EC275/76) Eligibility for election

11. (1) The members of the board shall be elected by the registered producers in each county by mailed ballot. Elections

(2) The board shall appoint a returning officer who shall cause to be published in at least two daily or weekly newspapers a notice of the holding of an election; such notice shall be published not later than the last day of the fiscal year and shall advise where nomination forms may be obtained. Returning Officer

(3) Nominations shall be received or postmarked not later than the last day of the month next following the end of the fiscal year. Nominations

(4) Every nomination shall be in writing and shall be on a form prescribed by the board and shall be signed by at least five registered producers resident in the county in which the election is to be held. Form of nomination

(5) Acceptance of a nomination by the nominee shall be evidenced by a notice in writing from the nominee to the board and such notice shall accompany the nomination. Notice of acceptance

(6) If no nomination is received from a county for which an election is being held, the board member for that county whose term of office has expired will be considered to have been re-elected for the ensuing term. No nomination received

(7) If not more than one nomination is received from a county for which an election is being held, the registered producer so nominated shall be declared elected for the ensuing term. Single nominee

(8) If more than one nomination is received from a county for which an election is being held, the returning officer shall conduct an election for such county by mailed ballot. Election by mailed ballot

(9) For the purpose of conducting an election the register of producers shall be closed on the last day of the month next following the end of the fiscal year. (EC275/76; 801/96) Close of register

12. (1) Persons whose names appear on the register of producers in the county on the last day of the next month following the end of the fiscal year shall be the only persons eligible to cast a ballot. Eligibility

(2) Every registered producer is entitled to one vote for one candidate in the county in which the registered producer is a resident. Voting

- Idem* (3) No person shall cast more than one ballot in an election.
- Ballot (4) The Returning Officer shall cause to be mailed to each registered producer in the county for which an election is being held a ballot which shall bear the name of each candidate nominated to represent such county.
- Notice (5) The registered producer shall be deemed to have received any notice or ballot under subsection (4) which is addressed to him with postage prepaid at the address appearing on the register of producers; failure of any producer to receive such notice or ballot shall not invalidate any election.
- Counterfoil (6) The counterfoil shall be signed by the registered producer completing the ballot.
- Return of ballots (7) All ballots shall be returned by mail, with the counterfoil attached, to the Returning Officer and shall be postmarked not later than the last day of the second month next following the end of the fiscal year.
- Scrutineer (8) Each candidate in an election is entitled to appoint one scrutineer to represent him at the opening and counting of ballots.
- Witnesses (9) The Returning Officer may appoint such persons as he feels necessary to witness the counting of ballots.
- Council (10) The Council may appoint an additional witness to represent the Council.
- Validity (11) The failure of a scrutineer or witness to witness the counting of ballots shall not invalidate the election.
- Comparison of signatures (12) The Returning Officer shall compare the producer's signature on the counterfoil of the ballot with the producer's signature appearing in the register of producers, or on the application for license.
- Valid ballots (13) Only those ballots of which the counterfoil signature has been validated by the Returning Officer shall be counted.
- Idem* (14) All ballots shall have the counterfoil removed before being placed in the ballot box.
- Counting (15) Ballots shall be opened and counted by the Returning Officer not later than the 15th day of the third month after the end of the fiscal year, in the presence of the scrutineers and witnesses and a complete report of the results, bearing the signatures of those present shall be filed with the Council.

(16) The candidate or candidates receiving the greatest number of votes shall then be declared elected by the Returning Officer. Declaration

(17) In the event of two or more candidates for election receiving an equal number of votes, the Returning Officer shall cast a ballot, in his discretion, in favour of one of the candidates having an equal number of votes to complete the election and such candidate shall be deemed to have been duly elected. (EC275/76) Casting vote

13. Each member of the board shall be elected for a three-year term and shall assume office on the first day of the month next succeeding his election. (EC275/76) Term of office

14. A producer, having served two full consecutive terms as a member of the board, shall not be eligible for re-election until the expiry of one full year after the completion of his second term. (EC275/76) Eligibility for re-election

15. If no member is elected in accordance with this Order in Council or if an elected member becomes unwilling or unable to act, or if a vacancy occurs on the board for any other reason, the Council may appoint a registered producer from that county to fill the unexpired term of office of the member being replaced, or until the date of the next election. (EC275/76) Vacancies

16. The Council may declare vacant the office of any member of the board who has been convicted of an offence under the Act or under the *Criminal Code* (Canada) R.S.C. 1985, Chap. C-46 or who has failed to attend three consecutive meetings of the board without reasonable cause. (EC275/76) *Idem*

17. (1) The board shall, at the first meeting in the fourth month following the end of the fiscal period, elect from its members a chairman and a vice-chairman and shall appoint a secretary and a treasurer; the same person may be appointed secretary and treasurer. Officers

(2) The board may also appoint such officers and employees as it deems necessary. (EC275/76) *Idem*

18. The chairman of the board shall Duties of chairman

- (a) arrange for the calling of meetings and the time and place thereof;
- (b) chair all meetings he is able to attend;
- (c) be a signing officer of the board;

and may vote on all motions. (EC275/76)

- Vice-chairman **19.** The vice-chairman of the board shall perform all duties and functions of the chairman in his absence, or in the event of his inability or refusal to act. (EC275/76)
- Secretary **20.** The duties of the secretary are:
- (a) to attend all meetings of the board and keep true minutes thereof and to send a copy of the minutes to every member of the board within ten days of the meeting;
 - (b) to attend all meetings of producers called by the board and keep true minutes thereof;
 - (c) to conduct the correspondence of the board;
 - (d) to sign all orders and regulations of the board;
 - (e) to keep a record of
 - (i) all business transactions of the board,
 - (ii) all orders, directions or determinations of the board,
 - (iii) all reports of committees that are from time to time appointed by the board, and
 - (iv) all annual statements, auditor's reports and annual reports;
 - (f) to maintain at the head office of the board true copies of all regulations and orders of the board and the secretary shall permit any registered producer to inspect same without charge during normal business hours of the board;
 - (g) maintain a register of producers by county in which shall be recorded the names of all producers resident in that county, and the secretary shall permit any registered producer to inspect such register without charge during normal business hours of the board; and
 - (h) perform such other duties as may be prescribed from time to time by the board. (EC275/76)
- Treasurer **21.** The duties of the treasurer are
- (a) under the direction of the board, to provide for the deposit of money, the safekeeping of securities and the disbursement of funds of the board;
 - (b) to keep full and accurate books of account in which shall be recorded all receipts and disbursements of the funds of the board;
 - (c) to prepare reports showing the financial position of the board as the board may direct; and
 - (d) to perform such other duties as may be prescribed from time to time by the board. (EC275/76)
- Duties of members **22.** The members of the board shall
- (a) attend the meetings of the board;
 - (b) act in the best interests of the industry in the province; and

(c) subject to clause (b) represent the registered producers of his county. (EC275/76)

23. (1) Any powers and duties of an officer to whom an assistant has been appointed by the board may be exercised and performed by the assistant. Assistants

(2) The board may add to or limit the powers and duties of an officer or his assistant. Variation of functions

(3) Every member or official of the board shall hold office until a replacement is elected or appointed. (EC275/76) Term of office

24. The annual meeting of the board for the purpose of electing or appointing officers of the board shall be held not later than the last day of the fourth month next following the end of the fiscal year. (EC275/76; 598/82) Annual meeting

25. (1) Meetings of the board shall be held from time to time at such place, at such time and on such day as the chairman or in his absence the vice-chairman or any two members of the board shall determine and the secretary, when directed or authorized by either of the said officers or by any two members of the board, shall give or cause to be given notice of the meeting. Other meetings

(2) Unless otherwise stated in the notice calling the meeting, meetings of the board shall be held at the head office. Place

(3) Notice of a meeting shall Notice
(a) include the date and time of the meeting; and
(b) shall be given, in writing by mail, or orally or by telephone.

(4) No notice of a meeting is required to be given where, in addition to the members of the board present, those absent waive notice of meeting either before or after the meeting. Waiver of notice

(5) Notice in writing by mail is sufficiently given if mailed to a member at his last address as recorded in the books of the board. Mail

(6) A majority of the members of the board constitutes a quorum for the transaction of business. Quorum

(7) All questions arising at a meeting of the board are decided by the majority of the votes of the members present and in the event of a tie vote, the motion shall be tabled for reconsideration. Majority vote

Absence	(8) Where the chairman and the vice-chairman are absent from a meeting, the board may elect a chairman for the purpose of that meeting from among the members present.
<i>Idem</i>	(9) Where the secretary is absent from a meeting, the board may appoint a secretary for the purpose of that meeting. (EC275/76)
Transaction of business	<p>26. (1) The board may transact business matters other than at a meeting called and conducted in accordance with sections 24 and 25 upon condition that</p> <ul style="list-style-type: none"> (a) the chairman of the board is of the opinion that the matter of business should be decided sooner than a meeting can be called; (b) the chairman submits the matter to be decided to the secretary of the board; (c) the chairman or the secretary submits the matter for decision to the members of the board by mail or orally or by telephone; and (d) the secretary makes a record in the minute book of the board of the matter to be decided and the decision of each member.
Record	(2) Where the conditions prescribed in subsection (1) have been complied with and the record shows a majority of members in favour of, or against, the matter of business, it shall be decided accordingly.
Confirmation of record	(3) Where the secretary of the board makes a record in the minute book under subsection (1), the record shall be read and confirmed at the next meeting of the board. (EC275/76)
Finance	<p>27. (1) An order passed by the board</p> <ul style="list-style-type: none"> (a) for borrowing money on the credit of the board; (b) for issuing, selling or pledging securities of the board; (c) for charging, mortgaging, hypothecating or pledging all or any of the real or personal property of the board, including book debts and unpaid calls, rights, powers, 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 board, <p>shall state the purpose or purposes for which the money, credit, debt or liability is to be used.</p>
Majority on financial resolution	(2) No order referred to in subsection (1) is effective unless it is passed at a meeting of the members of the board called for the purpose of considering the order and not less than two-thirds of the total board members are present and vote in favour thereof. (EC275/76)
Bond	28. (1) The board shall require the treasurer to furnish a bond for the faithful discharge of his duties in such form and with such security as the board may from time to time prescribe.

(2) The board may require such other officers and such employees and agents as the board deems advisable to furnish bonds for the faithful discharge of their duties in such form and with such security as the board may from time to time prescribe. *Idem*

(3) The board shall pay the cost of any bond required under subsection (1) or (2). (EC275/76) *Costs*

29. The board shall not invest any surplus funds of the board other than in investment certificates or trust funds of a chartered bank, trust company, credit union, or the provincial or federal treasurers. (EC275/76) *Investment*

30. (1) The board shall cause its accounts to be audited annually by one or more auditors within sixty days of the end of the fiscal year of the board. *Audit*

(2) The auditor shall make a report to the board based on the accounts examined by him and on every balance sheet laid before the board at a general meeting and in the report shall state whether, in his opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the board's affairs as shown by its books and the treasurer's financial statements. *Auditor's report*

(3) The board shall file or cause to be filed a true copy of every audited financial statement with the Council within ninety days of the close of the fiscal year. (EC275/76) *Filing financial statements*

31. (1) The secretary of the board shall maintain a continuous up-to-date register of producers by county which shall be available for inspection by registered producers without charge at all times during normal business hours of the board, and copies shall be provided to registered producers at a cost determined by the board. *Register of producers*

(2) Every producer who has attained the age of eighteen years and who has owned a minimum of ten brood sows during the previous twelve months, or who has owned and marketed a minimum of fifty hogs during the previous twelve months is eligible for registration. *Eligibility*

(3) In the event that a producer who complies with subsection (2) is a corporation, partnership or syndicate or business group, that producer shall be registered in the corporate or firm name of such producer and all rights and privileges and responsibilities of such producer shall be exercised by a natural person designated by notice in writing from the producer to the board. *Registration of corporations, etc.*

Removal from register	(4) The board may remove from the register any producer who does not comply with subsection (2) by giving thirty days notice in writing mailed to the last known address of such producer.
Appeal	(5) A producer may appeal the removal of his name from the register to the board; in the event of such appeal his name shall remain on the register until the appeal is heard. (EC275/76; 202/82)
Annual meeting	32. (1) The board shall call <ul style="list-style-type: none"> (a) an annual meeting of producers under the plan, or (b) annual county meetings under the plan for each county.
Date of meeting	(2) The annual meeting or the annual county meetings of producers shall be held within three months of the end of the fiscal year of the board at such time and at such place and on such date as the board determines.
Statements to be presented	(3) At every annual meeting or at each annual county meeting the board shall present the audited financial statement for the preceding fiscal period along with the annual report of the board and shall announce the appointment of auditors for the next succeeding annual meeting or meetings. (EC275/76)
Special meeting	33. (1) Where the board receives a petition or request signed by at least ten percent of the registered producers requesting that a special meeting of producers be held for discussion of matters respecting the operation of the plan or of the board, the board shall call a special meeting of producers within thirty days of the receipt of such a petition or request.
Matters for discussion	(2) A petition or request shall contain or be accompanied by a statement of the matters for discussion at the special meeting.
Notice	(3) A meeting referred to in subsection (1) of (2) may be called <ul style="list-style-type: none"> (a) by giving notice thereof, in writing, to each registered producer; or (b) by publication of such notice in at least two newspapers in the province, and such notice shall contain a statement of the matters for discussion and shall be given at least two weeks prior to the date of such meeting.
Agenda	(4) At such special meeting only those matters contained in the notice of meeting may be brought before the meeting. (EC275/76)
Board not bound	34. The board shall not be bound by any decision arising from a special, annual or county meeting. (EC275/76)
Committees	35. The board may appoint committees, the members of which need not be members of the board, to advise or assist it in its work, but shall not

sub-delegate any powers delegated to the board under the plan. (EC275/76)

36. The actions of the board are, notwithstanding any defect or irregularity in the appointment or election or qualifications of any member thereof, as valid as if the board and every member thereof has been duly appointed or elected and were duly qualified. (EC275/76) Validity of actions

37. No action shall be brought against any person who at any time acts, purports to act or who hereafter acts or purports to act under or pursuant to the provisions of the Act for anything done by him in good faith in the performance or intended performance of his duties. (EC275/76) Liability

38. Every member or officer of the board and his heirs, executors and administrators, and estate and effects, respectively, shall, from time to time at all times, be indemnified and saved harmless out of the funds of the board, from and against Indemnity

(a) all costs, charges and expenses whatsoever which such member or officer sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office; and

(b) all other costs, charges and expenses which he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own willful neglect or default. (EC275/76)

39. (1) The remuneration to be paid to members of the board shall be such *per diem* allowance as the board may from time to time determine. Remuneration

(2) The members are also entitled to be paid their travelling or other expenses properly incurred by them in connection with the business of the board. Expenses

(3) The members may also by resolution award special remuneration to any member undertaking any special services on behalf of the board. (EC275/76) Special services

40. The Lieutenant Governor in Council hereby vests in the Prince Edward Island Hog Commodity Marketing Board all powers necessary to enable it effectively to promote, control and regulate the marketing of hogs within the province including the power to prohibit any aspect of the marketing of hogs, and without limiting the generality of the foregoing or any other provisions of these regulations it has the following additional powers: Powers of the board

- (a) to regulate the time and place at which and to designate the agency or sub-agency, or the agencies or sub-agencies through which hogs are to be marketed;
- (b) to determine the manner of distribution, the quantity and quality, grade or class of hogs that are to be marketed;
- (c) to prohibit any aspect of the marketing of any grade, quality or class of hogs;
- (d) to determine the charges that may be made for its services by any designated agency;
- (e) to exempt from any determination or order any person or class of persons engaged in the production of, or any aspect of marketing of hogs or any class, variety, or grade thereof;
- (f) to require any or all persons engaged in the production of, or any aspect of marketing of hogs to register with and obtain licenses from the commodity board;
- (g) to fix and collect yearly, half yearly, quarterly, or monthly license fees from any or all persons engaged in the production of, or any aspect of the marketing of hogs, and for this purpose to classify such persons into groups and fix the license fees payable by the members of the different groups;
- (h) to fix and collect from such persons fees and levies for services rendered or to be rendered by the commodity board;
- (i) to recover such license, levies or other fees by suit in any court of competent jurisdiction;
- (j) to suspend or revoke at any time any license granted under the Act and to establish appeal procedures;
- (k) to impose penalties as provided by regulation for violation of any determination or order made under this Act;
- (l) to require full information relating to the production and any aspect of marketing of hogs from all persons engaged therein;
- (m) to require periodic returns to be made by such persons;
- (n) to inspect the books and premises of such persons;
- (o) to fix price or prices, minimum price or prices, at which hogs, or any grade or class thereof may be bought or sold in the province, or that shall be paid for hogs by a designated agency;
- (p) to conduct or authorize any marketing agency or sub-agency appointed under the plan to conduct a pool or pools for the distribution of all proceeds received from the sale of hogs and requiring any such marketing agency to distribute the proceeds of sale, after deducting all necessary and proper disbursements, expenses, and charges, in such manner that each person receives a share of the total proceeds in relation to the amount, variety, size, grade and class of hogs delivered by him and to make payments in respect thereof until the total net proceeds are distributed;

- (p.1) to acquire, possess, purchase and sell hogs;
- (p.2) to purchase, take on lease or in exchange, or otherwise acquire real property for the purposes of its business and to sell or otherwise dispose of or mortgage real property acquired by a commodity board;
- (p.3) to borrow, raise or secure the payment of money in such manner as the commodity board may think fit for the purpose of carrying out the objects of the plan;
- (p.4) to draw, make, accept, endorse, execute, issue, hypothecate, or assign promissory notes, bills of exchange and other negotiable or transferable instruments;
- (p.5) to take, or otherwise acquire and hold, shares, debentures or other securities of any company having objects altogether or in part similar to those of the commodity board, or carrying on any business capable of being conducted so as, directly or indirectly, to benefit producers, and to sell or otherwise deal with the same;
- (q) to seize and dispose of any hogs marketed in violation of any order of the commodity board;
- (r) to require the person in charge of any vehicle to permit any agent or employee authorized by the commodity board to search the vehicle;
- (s) to use in carrying out the purposes of the plan and paying the expenses of the commodity board any money received by such board;
- (t) to delegate its powers to any agent or employee authorized by the board for the proper operation of the plan under which the commodity board is constituted, provided that this clause shall not permit the delegation by such board of the powers contained in clauses (f), (g) and (j);
- (u) to make orders, rules and regulations affecting the production or marketing of hogs;
- (v) to establish and regulate sales and production quotas, and to prohibit the marketing or production of regulated products in excess of such quotas, or by persons to whom a quota has not been allotted;
- (w) to investigate and arbitrate any dispute arising from the sale of the natural product between producers, shippers, transporters and distributors;
- (x) to require proof of financial responsibility by any person engaged in marketing; and
- (y) to establish price stabilization programs and to fix and collect from producers fees and levies to be used for services rendered or to be rendered to establish a price stabilization program and for the general purposes of orderly marketing. (EC275/76; 236/85)

Dual capacity

41. Every person who operates in more than one of the capacities dealt with in this plan shall be deemed to act in each of such capacities separately from the others, and to contract in each of such capacities with himself in each of the other capacities in which he acts, for the purposes of this plan, and shall comply with all provisions in the Act, this plan, and all orders, rules, and regulations of the board that apply to him or his operations in each capacity. (EC275/76)