



## **PLEASE NOTE**

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This document is *not* the official version of these regulations. The regulations and the amendments printed in the [Royal Gazette](#) should be consulted to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the [Table of Regulations](#).

If you find any errors or omissions in this consolidation, please notify the Legislative Counsel Office at (902) 368-4291 or by email to [rmmacintyre@gov.pe.ca](mailto:rmmacintyre@gov.pe.ca).

## CHAPTER N-3

### NATURAL PRODUCTS MARKETING ACT

#### POTATO MARKETING PLAN REGULATIONS

Pursuant to subsections 4(2) and (3) of the *Natural Products Marketing Act* R.S.P.E.I. 1988, Cap. N-3 and upon the recommendation of the Prince Edward Island Marketing Council, Council made the following order in council:

1. (1) In these regulations and in all orders and rules 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) “Appeals Tribunal” means the Natural Products Appeals Tribunal; Appeals Tribunal
  - (c) “Board” means the Prince Edward Island Potato Board; Board
  - (c.1) “classification” means the classification of producers into processing, seed or table stock producers; classification
  - (d) “Council” means the Prince Edward Island Marketing Council; Council
  - (e) “dealer” means any person engaged in buying and selling of potatoes and who has been granted a license or has been named an agent by the Board; dealer
  - (f) “district” means a geographic area within the regulated area as defined in these regulations; district
  - (g) “farm unit” means any person or legal business entity that controls a single tract of land or a number of separate tracts held under the same or different tenures and operated as a single unit for agricultural purposes; farm unit
  - (h) “license” means a license provided for under these regulations; license
  - (i) “person” includes any partnership, corporation, co-operative, syndicate, or other business group formed or existing for the purpose of jointly acquiring or administering assets; person
  - (j) “plan” means the plan established by these regulations; plan

potato production unit	(k) “potato production unit” means any part of a farm unit which grows a minimum of 20 acres of potatoes and has the necessary land, buildings and equipment, as determined by Board policy, to carry on the activities of the production unit, or the activities of the production unit in conjunction with other activities of the farm unit;
producer	(l) “producer” means any person engaged in the production of potatoes in the regulated area for his own account;
processing producer	(l.1) “processing producer” means a registered producer who in the previous year held a valid processing contract for a minimum of thirty per cent, based on 240 hundredweight per acre, of the potato production unit’s production;
producer number	(m) “producer number” means the number, which is not transferable, allocated to a registered potato production unit by the Board;
registered producer	(n) “registered producer” means the person or persons designated to exercise voting rights on behalf of a registered potato production unit or farm unit;
regulated area	(o) “regulated area” is the Province of Prince Edward Island.
seed producer	(p) “seed producer” means a registered producer who in the previous year marketed as seed a minimum of thirty per cent, based on 200 hundredweight per acre, of the potato production unit’s production;
table stock producer	(q) “table stock producer” means a registered producer who in the previous year marketed as table stock a minimum of thirty per cent, based on 240 hundredweight per acre, of the potato production unit’s production.
Transitional	(2) A potato production unit which is registered with the Board immediately before the date this subsection comes into force and which grows less than 20 acres of potatoes, is deemed to be a potato production unit and to be registered as such for the purposes of these regulations as long as it meets the other conditions of registration or until it is removed from the register pursuant to subsection 9(7). (EC173/90; 246/95; 92/02)
Potatoes, a regulated product	<b>2.</b> Potatoes are designated as a regulated product. (EC173/90)

#### PURPOSE OF PLAN

Purpose of plan	<b>3.</b> The purpose and intent of this plan is to provide the Prince Edward Island Potato Board with all the necessary powers and authority to <ul style="list-style-type: none"> <li>(a) provide for the promotion, control and regulation in any or all respects of the production and marketing within Prince Edward Island of potatoes, including the prohibition of production and marketing of potatoes, in whole or in part;</li> </ul>
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- (b) act as an agent for, co-operate with or receive the delegation of powers from Canada to regulate the marketing of potatoes; and  
 (c) provide for the control and regulation in any or all respects of the quality of potatoes in Prince Edward Island. (EC173/90)

#### PRINCE EDWARD ISLAND POTATO BOARD

- 4.** There is constituted a commodity board to be known as the Prince Edward Island Potato Board for the promotion, control and regulation of potatoes in the Province of Prince Edward Island. (EC173/90) Establishment of commodity board
- 5.** The Board is a body corporate. (EC173/90) Corporation
- 6.** The head office of the Board shall be at such location in the province as the Board may determine. (EC173/90) Head office
- 7.** The common seal of the Board shall be authenticated by the signature of the chairman and of the secretary or of such other person as the Board may authorize by resolution. (EC173/90) Seal
- 8. (1)** The fiscal year of the Board shall end on the 30th day of June in each and every year. Fiscal year
- (2)** The Board shall file with Council Filing documents
- (a) a certified copy of the audited financial statement of the Board accompanied by the report of operations of the Board on or before September 15 in each 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) all notices and agenda for Board, general producer, special or annual meetings, and within seven working days of each meeting shall notify the Council as to what action was taken with respect to each agenda item.
- (3)** Where, pursuant to section 45, the Board appoints an agent, the agent shall file with the Board and the Council a certified copy of the audited financial statement and annual report of the agent on or before September 15 in each year. Agency documents
- (4)** The Board shall keep proper books of account which shall be audited for each fiscal year by an auditor appointed by the Board. Books
- (5)** 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 Report

scheduled meeting of the Board or a special meeting of the Board called by the chairman to consider the report.

Statements (6) Copies of the annual audited financial statement shall be presented to the producers at the annual meeting of producers. (EC173/90)

#### REGISTER OF PRODUCTION UNITS

Register of production units **9.** (1) The Board shall maintain a register of production units by district which shall be available for inspection by registered producers without charge during normal business hours of the Board.

*Idem* (1.1) The Board shall update the register of production units on June 30 each year.

*Idem* (1.2) Notwithstanding subsection (1.1), the Board may update the register of production units at any other time during a year where a ballot vote is being taken among registered production units.

Rights (2) Rights and privileges in the industry, including the right to vote, are vested in the potato production unit subject to subsections (3) and (4).

Exercise of rights (3) Each potato production unit shall register with the Board and the rights and privileges of the unit shall be exercised by the person or persons designated by notice in writing from the potato production unit to the Board.

Voting (4) Each potato production unit shall have one vote in plebiscites or elections or at meetings called by the Board respecting industry matters.

Multiple votes, production units (5) Notwithstanding subsection (4), where a potato production unit grows more than 50 acres of potatoes, the potato production unit may designate up to three natural persons to exercise voting rights on behalf of the potato production unit if each of those persons  
 (a) directly or indirectly owns at least 10 per cent of the equity ownership in the potato production unit;  
 (b) is 18 years of age or over; and  
 (c) is actively engaged in the farming activities of the potato production unit,  
 but a natural person may not be designated to exercise voting rights on behalf of more than one potato production unit.

Requirements (6) In order to exercise the rights conferred by subsection (5), the proprietors of the potato production unit must

- (a) show to the satisfaction of the Board that the potato production unit is established as a business entity in accordance with the law of the province; and
- (b) designate in writing to the Board the natural persons who will exercise the voting rights and provide a copy of the signature of those persons.

(7) The Board may remove from the register any potato production unit by giving thirty days notice in writing stating the grounds therefor, mailed to the latest known address of such unit. Removal from register

(8) A production unit may appeal the removal of its name from the register to the Appeals Tribunal; in the event of such appeal the name shall remain on the register until the appeal is heard. (EC173/90; 371/05) Appeal

**10.** (1) Where potato production units are operated as and form part of a farm unit that is operated as a single business enterprise, and the farm unit grows in aggregate more than 50 acres of potatoes, the farm unit may designate up to three natural persons to exercise voting rights on behalf of the farm unit if each of these persons Farm units, multiple votes

- (a) directly or indirectly owns at least 10 per cent of the equity ownership in the farm unit;
- (b) is 18 years of age or over; and
- (c) is actively engaged in the farming activities of the farm unit.

(2) The voting rights conferred by this section are in substitution for the voting rights conferred on a production unit by section 9. Voting

(3) In order to exercise the rights conferred by this section the proprietors of the farm unit must Requirements

- (a) show to the satisfaction of the Board that the farm unit is established as a business entity in accordance with the law of the province;
- (b) identify the registered potato production units on behalf of which the farm unit will exercise voting rights; and
- (c) designate in writing to the Board the natural persons who will exercise the voting rights and provide a copy of the signature of those persons.

(4) A natural person may not be designated to exercise voting rights on behalf of more than one farm unit. (EC173/90) Exercise of voting rights

#### ELECTIONS

**11.** (1) The Board shall consist of 12 members, all of whom must be registered producers, and of the 12 members, four shall be seed Composition of Board

producers, four shall be tablestock producers and four shall be processing producers, and

(a) one each of the seed, tablestock and processing producer members of the Board shall be residents of and elected from the West Prince District, consisting of that portion of the province that is situated to the west side of Route 166, running south from Bideford to Tyne Valley, then along Route 178 from Tyne Valley to Northam, then along Route 132 from Northam to Route 2, then in an easterly direction on Route 2 to Route 128, then in a southerly direction on Route 128 to Saint Chrysostome;

(b) one each of the seed, tablestock and processing producer members of the Board shall be residents of and elected from the Summerside District, consisting of that portion of the province situated between the east side of the West Prince District and a point starting from Browns Road along Route 238 to Route 6, then along Route 6 to Stanley Bridge, then along Route 254 to Route 2, then along Route 2 to Route 231, then along Route 231 to Victoria;

(c) one each of the seed, tablestock and processing producer members of the Board shall be residents of and elected from the Charlottetown District, consisting of that portion of the province situated between the east side of the Summerside District and a point starting at Savage Harbour along the Queens County Line to Route 214, then along Route 214 to Route 216, then along Route 216 to the Vernon River, then along the Vernon River to the Northumberland Strait; and

(d) one each of the seed, tablestock and processing producer members of the Board shall be residents of and elected from the Montague-Souris District, consisting of that portion of the province situated on the east side of the Charlottetown District.

Transitional

(2) Notwithstanding subsection (1), members who were elected to the Board prior to the enactment of these regulations shall be deemed to be elected to represent the district in which they are registered in and resident of until the expiration of their terms.

*Idem*

(3) The Board shall hold elections for the districts in which a vacancy occurs as a result of the enactment of these regulations within three months from the date of the enactment of these regulations, and the terms of office for those elected shall be staggered on a rotating basis so that each year the term of one member in each district expires.(EC246/95; 371/05)

Term of office

**12.** (1) Board members shall serve three-year terms.

(2) Board members shall be elected on a three-year rotating basis with the term of one board member in each district expiring each year. *Idem*  
(EC173/90; 246/95; 371/05)

**13.** To be eligible to vote for a member of the Board from a district, a producer must be resident in the district in which he seeks to vote.  
(EC173/90) Eligibility to vote

**14.** To be eligible for election or appointment to the Board, a producer must be eligible to vote and meet the classification requirements for the nomination. (EC173/90; 246/95) Eligibility to nominate

**15.** (1) The members of the Board shall be elected by the registered producers in each district by mailed or hand-delivered ballot. Election

(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 election which notice shall be published not later than the last day of June and shall advise where nomination forms may be obtained. Returning officer

(3) Nominations shall be received by the returning officer or postmarked not later than the last day of the month of July in each 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 ten registered producers resident in the district in which the election is to be held. Form

(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 nominations are received from a district, the Council, on the advice of the Board, will make an appointment to be in effect until the term of office for that position expires. Appointment

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

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

(9) For the purpose of conducting an election, those persons who are registered producers and are designated in the district by or on the last day of June in each year shall be eligible to nominate and run for Board office as well as vote in the election. (EC173/90; 508/04) Eligibility for office



Eligibility to vote	<b>16.</b> (1) Persons who are registered producers and who are designated by or on the last day of June in each year, shall be the only persons eligible to cast a ballot.
Voting	(2) Each person designated by a registered production unit is entitled to one vote for one candidate in the district in which the registered producer is resident.
<i>Idem</i>	(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 district for which an election is being held <ul style="list-style-type: none"> <li>(a) a ballot which shall bear the name and classification of each candidate nominated to represent such district;</li> <li>(b) a ballot envelope;</li> <li>(c) a return addressed envelope; and</li> <li>(d) voting instructions.</li> </ul>
Notice	(5) The registered producer shall be deemed to have received a ballot under subsection (4) which is addressed to him with postage prepaid at the address appearing on the register of producers two days after the mailing thereof by the returning officer. Failure of any producer to receive such ballot shall not invalidate any election.
Counterfoil	(6) Each ballot envelope shall have a counterfoil attached to the ballot envelope and the counterfoil shall contain the name of the production unit and the producer's name.
Return of ballots	(7) All ballots shall be returned by mail or hand-delivered, with the counterfoil attached, to the returning officer and shall be postmarked not later than the last day of August in each year.
Scrutineers	(8) Each candidate in an election is entitled to appoint one scrutineer to represent him at the opening and counting of the ballots.
Witnesses	(9) The returning officer may appoint such persons as he feels necessary to witness the counting of ballots.
<i>Idem</i>	(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.
<i>Idem</i>	(12) Revoked by EC371/05.
<i>Idem</i>	(13) A returning officer shall not count a ballot unless the returning officer has validated the counterfoil of the ballot envelope for the ballot.

(14) All ballot envelopes shall have the counterfoil removed before being placed in the ballot box. Counterfoil removed

(15) Ballots shall be opened and counted by the returning officer not later than September 15 of each 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. Counting

(16) The candidate or candidates receiving the greatest number of votes shall 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 break the tie. (EC173/90; 508/04; 371/05) Casting vote

**17.** Each member of the Board shall assume office at the first meeting of the Board following the annual meeting of producers but in any event not later than November 30 in each year. (EC173/90; 508/04) Assumption of office

**18.** A registered producer who has served two full terms as a member of the Board is not eligible for re-election until the expiry of at least one full year after the completion of the registered producer's last term. (EC173/90; 371/05) Re-election

**19.** If no member is elected in accordance with these regulations 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 district to fill the unexpired term of office of the member being replaced, or until the date of the next election. (EC173/90) Vacancies

**20.** The Council may declare vacant the office of any member of the Board who has failed to attend three consecutive meetings of the Board or six Board meetings in a fiscal year. (EC173/90) *Idem*

**21.** The Council may declare vacant the office of any member of the Board who has been convicted of any offence under the Act or any indictable offence under the Criminal Code. (EC173/90) *Idem*

**22.** The Council may declare vacant the office of any member of the Board who discontinues being a registered producer during his term. (EC173/90) *Idem*

#### OFFICERS

**23.** (1) The Board shall, at the first meeting following the annual meeting of producers, elect from its members a chairman and a vice-chairman and Officers

shall appoint a secretary and a treasurer; the same person may be appointed secretary and treasurer.

*Idem* (2) The Board may also appoint such officers and employees as it considers necessary. (EC173/90)

Chairman **24.** The chairman of the Board shall  
 (a) arrange for the calling of meetings and the time and place thereof;  
 (b) chair all meetings he is able to attend; and  
 (c) be a signing officer of the Board,  
 and may vote only for the purpose of breaking a tie vote. (EC173/90)

Vice-chairman **25.** 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. (EC173/90)

Secretary **26.** 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 producer to inspect same without charge during normal business hours of the Board;  
 (g) to maintain a register of production units by district in which shall be recorded the names of all producers resident in that district, and the secretary shall permit any producer to inspect such register without charge during normal business hours of the Board; and  
 (h) to perform such other duties as may be prescribed from time to time by the Board. (EC173/90)

Treasurer **27.** 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 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. (EC173/90)

**28.** Each member of the Board shall Members

- (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 producers of his district. (EC173/90)

**29.** (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. Limitation

(3) Except as provided in section 18, every member or official of the Board shall hold office until a replacement is elected or appointed. (EC173/90) Tenure

#### MEETINGS

**30.** The annual meeting of the Board for the purpose of electing or appointing officers of the Board shall be held subsequent to the annual meeting of producers but in any event prior to November 30 in each year. (EC173/90; 508/04) Annual meeting

**31.** (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 four 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. Notice

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

(3) Notice of a meeting shall Terms of notice

- (a) include the date and time of the meeting which shall be not less than 72 hours after notice is given,
- (b) be given in writing, or orally or by telephone, and
- (c) state the nature of the business to be transacted at the meeting.

Waiver	(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 before the meeting.
Mail	(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.
Quorum	(6) A majority of the members of the Board constitutes a quorum for the transaction of business.
Majority vote	(7) All questions arising at a meeting of the Board are decided by the majority of the votes of the members present.
Absence	(8) Where the chairman and 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. (EC173/90)
Decisions without meeting	<b>32.</b> (1) The Board may transact business matters other than at a meeting called and conducted in accordance with sections 30 and 31 upon condition that <ul style="list-style-type: none"> <li>(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;</li> <li>(b) the chairman submits the matter to be decided to the secretary of the Board;</li> <li>(c) the chairman or the secretary submits the matter for decision to the members of the Board by facsimile transmission or orally or by telephone; and</li> <li>(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.</li> </ul>
<i>Idem</i>	(2) Where the conditions prescribed in subsection (1) have been complied with and the record shows a majority of members in favor of, or against, the matter of business, it shall be decided accordingly.
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. (EC173/90)

#### FINANCE

Finance	<b>33.</b> (1) An order passed by the Board, <ul style="list-style-type: none"> <li>(a) for borrowing money on the credit of the Board;</li> <li>(b) for issuing, selling or pledging securities of the Board;</li> </ul>
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(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,  
 shall state the purpose or purposes for which the money, credit, debt or liability is to be used.

(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 two thirds of those present vote in favour thereof. (EC173/90)

Majority on  
financial resolution

**34.** (1) The Board may 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.

Bond

(2) The Board may require such other officers and such employees and agents as the Board considers 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). (EC173/90)

Costs

**35.** 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 government. (EC173/90)

Investment

**36.** (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.

Report

(3) The Board shall file or cause to be filed a true copy of every audited financial statement with the Council on or before September 15 in each year. (EC173/90)

Filing

**37.** (1) The Board shall call

Meetings

- (a) an annual meeting of producers under the plan; or
- (b) annual district meetings under the plan for each district.

*Idem* (2) The annual meeting or the annual district meetings of producers shall be held on or before November 30 in each year at such time and at such place and on such date as the Board determines.

Presentation of financial statements (3) At every annual meeting or at each annual district 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 year. (EC173/90; 508/04)

#### GENERAL

Special meeting **38.** (1) Where the Board receives a petition or request signed by at least ten per cent 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.

Agenda (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) or (2) may be called

- (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.

Business (4) At such special meeting only those matters contained in the notice of meeting may be brought before the meeting. (EC173/90)

Board not bound **39.** The Board shall not be bound by any decision arising from a special, annual or district meeting. (EC173/90)

Committees **40.** 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 subdelegate any powers delegated to the Board under the plan. (EC173/90)

Irregularity **41.** 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 fully qualified. (EC173/90)

**42.** 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 or anything done by him in good faith in the performance or intended performance of his duties. (EC173/90) Liability

**43.** Every member or officer of the Board and his heirs, executors and administrators, and estate and effects, respectively, shall, from time to time and 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 wilful neglect or default. (EC173/90)

**44.** (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 and which is approved by Council. Remuneration

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

(3) The members may also by resolution make special remuneration to any member undertaking any special services on behalf of the Board. (EC173/90) Special services

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

(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, potatoes are to be marketed;

(b) to determine the manner of distribution, the quantity and quality, grade or class of potatoes that are to be marketed;

(c) to prohibit any aspect of the marketing of any grade, quality or class of potatoes;



- (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 potatoes 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 potatoes, to register with and obtain licenses from the Board and to establish requirements for the issue of licenses;
- (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 potatoes, 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 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 under the Act or the regulations thereunder;
- (l) to require full information relating to the production and any aspect of marketing of potatoes from all persons engaged therein;
- (m) to require periodic returns to be made by those persons;
- (n) to inspect the books and premises of those persons;
- (o) to fix price or prices, minimum price or prices, at which potatoes, or any grade or class thereof, may be bought or sold in the province, or that shall be paid for the regulated product by a designated agency;
- (p) to acquire, possess, purchase and sell potatoes;
- (p.1) 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 the Board;
- (p.2) to borrow, raise or secure the payment of money in such manner as the Board may think fit for the purpose of carrying out the objects of the plan;
- (p.3) to draw, make, accept, endorse, execute, issue hypothecate, or assign promissory notes, bills of exchange and other negotiable or transferable instruments;
- (p.4) 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 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 detain or seize, and dispose of any potatoes marketed in violation of any order of the Board;
- (r) to require the person in charge of any vehicle to permit any agent or employee authorized by the Board to search the vehicle;
- (s) to use in carrying out the purposes of the plan and paying the expenses of the Board any money received by the 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 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 and rules affecting the production or marketing of potatoes;
- (v) to establish and operate a quota system with respect to the production and marketing of potatoes providing for
- (i) the marketing of potatoes on a quota basis,
  - (ii) the fixing and allotting to persons of quotas for the marketing of potatoes on such basis as the Board considers proper,
  - (iii) the refusing to fix and allot to any person a quota for the marketing of potatoes for any reason that the Board considers proper,
  - (iv) the cancelling or reducing of, or the refusing to increase, a quota fixed and allotted to any person for the marketing of potatoes for any reason that the Board considers proper,
  - (v) the compensation to be allotted to any person whose quota has been cancelled, reduced, or withheld for any reason, and
  - (vi) the terms and conditions upon which a person may market a quantity of potatoes in excess of the quota fixed and allotted to him;
- (w) to investigate and arbitrate any dispute arising from the sale of any potatoes 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. (EC173/90)

**46.** Notwithstanding clause 45(v), the Board shall not have the power to implement a supply management system without there first being a producer plebiscite in which the majority of those voting indicate their support for such a system. (EC173/90)

Supply management

Acquisition of shares	<b>47.</b> Notwithstanding clause 45(p.4), the Board shall not have the power to take or otherwise acquire and hold, shares, debentures or other securities in any company having objects altogether or in part similar to those of the Board without there first being a plebiscite in which the majority of those voting indicate their support therefor. (EC173/90)
Single desk selling	<b>48.</b> (1) Notwithstanding clauses 45(a) and (p), the Board shall not have the power to implement a single desk selling system without there first being a plebiscite in which the majority of those voting indicate their support therefor.
Saving	(2) Notwithstanding subsection (1), the Board is not precluded from acquiring, possessing, purchasing or selling potatoes in conjunction with any aspect of the operation of an elite seed program or the implementation of a surplus removal program. (EC173/90)
Dual capacity	<b>49.</b> 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. (EC173/90)