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B.C. Reg. 188/61

O.C. 3093/61

Natural Products Marketing (BC) Act

**BRITISH COLUMBIA CHICKEN
MARKETING SCHEME, 1961**

[includes amendments up to B.C. Reg. 65/2005, February 25, 2005]

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Division 1 — Interpretation

Scheme name

1.01 This scheme shall be known as the "British Columbia Chicken Marketing Scheme, 1961".

[am. B.C. Reg. 546/80, s. 1.]

Definitions

1.02 In this scheme, unless the context otherwise requires:

"**Act**" means the *Natural Products Marketing (BC) Act*;

"**area to which the scheme relates**" means the Province of British Columbia;

"**board**" means the British Columbia Chicken Marketing Board;

"**broiler**" means any class of the regulated product not raised or used for egg production;

"**grower**" means any person owning or operating a farm for production of the regulated product;

"**hatchery**" means a facility operated by a person for the hatching or incubation of any class of the regulated product for the purpose of sale of the regulated product to a grower;

"**marketing**" includes producing, buying, selling, disposing of and offering for sale or other disposition;

"**permit**" means permission given in writing by the board to any person with regard to the marketing of the regulated product;

"person" includes any partnership, firm or corporation;

"processor" means any person who changes the nature of the regulated product by mechanical means or otherwise, and markets, offers for sale, sells, stores or transports the processed or manufactured product;

"quota" means the maximum quantity of the regulated product or any class, quality or grade thereof that may be produced, transported, packaged, stored or marketed for any purpose as determined by the board;

"regulated product" means any class of chicken under 6 months of age not raised or used for egg production and any article of food or drink wholly or partly manufactured or derived from the regulated product; "roaster" means that class of the regulated product known as pullet and cockerel broilers and being 8 weeks and older;

"trucker" means any person engaged in the transportation of the regulated product who holds or is required to hold, for that purpose, a licence issued by the board under section 4.01 (c), but shall not be deemed to include a grower who uses his own truck to transport the regulated product grown by him, and does not use it to transport the regulated product grown by any other person;

"vehicle" includes any motor vehicle, wagon, railway car, ship, boat or other thing in which the regulated product can be transported.

[am. B.C. Regs. 7/62; 136/72, ss. (1)-(4); 102/73, ss. (1)-(4); 543/78, ss. (ii), (iii); 546/80, s. 2; 432/88, s. 1; 65/2005, s. 1.]

Division 2 — Purpose and Application

Purpose of scheme

2.01 The purpose and intent of this scheme is to provide for the effective promotion, control and regulation, in any and all respects and to the extent of the powers of the Province, of the production, transportation, processing, packing, storage and marketing of the regulated product within the Province, including the prohibition of such transportation, packing, storage and marketing in whole or in part.

[am. B.C. Regs. 102/73, s. (5); 543/78, s. (i).]

Application of scheme

2.02 The scheme shall apply to all persons who produce, transport, pack, store or market the regulated product, and to all kinds and grades of the regulated product.

[am. B.C. Regs. 102/73, s. (6); 543/78, s. (iv).]

Division 3 — Name and Constitution of the Board

Board continued

3.01 The British Columbia Broiler Marketing Board is continued under the name "British Columbia Chicken Marketing Board" and shall administer this scheme.

[en. B.C. Reg. 546/80, s. 3.]

Board members

3.02 The board consists of

- (a) 3 members appointed by the Lieutenant Governor in Council, one of whom is appointed chair by the Lieutenant Governor in Council, and
- (b) 2 members who are registered growers, elected by the registered growers.

[en. B.C. Reg. 91/2004, s. (a).]

Board remuneration

3.02.1 The board may set the remuneration of the chair and its members which must be paid out of money collected by the board under the scheme.

[en. B.C. Reg. 8/2000, s. 2.]

Rules for election of board members

3.02.2 (1) The board must establish and publish rules and procedures for the election of elected board members.

- (2) The British Columbia Farm Industry Review Board must approve the rules and procedures referred to in subsection (1) before those rules take effect.

[en. B.C. Reg. 91/2004, s. (b).]

Register of Growers

3.03 (1) The board shall keep at its head office a record to be known as the "Register of Growers" in which the board shall record

- (a) the names and addresses of all growers registered in accordance with the orders of the board, and
- (b) whether a grower is primarily a grower of broilers or roasters.

(2) If a grower is a partnership, firm or corporation the Register of Growers may record the name of a natural person authorized by the grower as its representative for the purpose of this scheme.

(3) The board shall amend the Register of Growers from time to time by adding the names and addresses of the growers who are entitled to be registered and by deleting the names and addresses of the growers who are not entitled to be registered, in accordance with the orders of the board, but the board shall not remove the name of a grower from the Register of Growers until the board has

- (a) given the grower 2 weeks notice in writing of its intention to remove the name of the grower from the Register of Growers, and
- (b) within the 2 week period heard any submissions to the board as to why the name of the grower should not be deleted from the Register of Growers.

[en. B.C. Reg. 546/80, s. 3; am. B.C. Reg. 432/88, s. 3.]

Sections Repealed

3.04 to 3.07 Repealed. [B.C. Reg. 8/2000, s. 3.]

Sections Spent

3.08 and 3.09 Spent.

Sections Repealed

3.10 to 3.14 Repealed. [B.C. Reg. 8/2000, s. 3.]

Annual general meeting

3.15 The board shall cause to be held at least once in each year in the month of May or as soon afterwards as may be conveniently possible a general meeting of the growers whose names are recorded on the Register of Growers, and shall cause to be given, to each of the growers whose names are recorded on the Register of Growers on the last day of the month preceding the month in which notice of the meeting is given, not less than 14 days notice of the meeting and of the time and place at which the meeting will be convened.

[en. B.C. Reg. 546/80, s. 3.]

Other meetings

3.16 In addition, the board may convene other meetings of the growers recorded in the Register of Growers as the board thinks necessary and shall cause to be given, to each of the growers whose names are recorded on the Register of Growers on the last day of the month in which notice of the meeting is given, not less than 14 days notice of the meeting and the time and place at which the meeting will be convened.

[en. B.C. Reg. 546/80, s. 3.]

Election of auditor

3.17 At the meeting of growers held pursuant to section 3.15 the growers there present

(a) shall elect a person who meets the requirements of section 42 of the *Society Act*, as auditor, for the purpose of auditing the books of account and affairs of the board.

(b) Repealed. [B.C. Reg. 8/2000, s. 4.]

[en. B.C. Reg. 546/80, s. 3; am. B.C. Reg. 8/2000, s. 4.]

Minutes of meetings

3.18 (1) The board shall keep or cause to be kept minutes of its proceedings and deliberations.

(2) The minutes shall be open for examination by any grower whose name is recorded on the Register of Growers upon the grower giving 7 days written notice to the board requesting an examination of the minutes, provided that the board may decline to permit minutes of any meeting to be examined

(a) until more than 15 days after the meeting of which the minutes are a record, or

(b) where the board has reasonable grounds to believe that

(i) the grower has no direct interest in the proceedings recorded in the minutes, and

(ii) the minutes contain information concerning a business competitor of the person requesting the examination.

[en. B.C. Reg. 13/88.]

Section Repealed

3.19 Repealed. [B.C. Reg. 8/2000, s. 5.]

Division 3.1 — Pricing and Production Advisory Committee

Pricing and Production Advisory Committee

3.20 (1) The board must establish a Pricing and Production Advisory Committee composed of

(a) 3 growers, appointed by the board after consultation with the British Columbia Chicken Growers Association,

(b) 3 processors appointed by the board after consultation with the Primary Poultry Processors Association, and

(c) further persons appointed by the board to broaden the scope of experience available to the committee in its deliberations.

(2) The role of the committee is to advise the board, on the request of the board or on the initiative of the committee, concerning any matter relating to the pricing or production decisions the board has made or may make.

(3) The board must consult with the committee and consider the committee's advice before the board makes any decision relating to pricing or production.

[en. B.C. Reg. 514/95, s. 1.]

Division 4 — Powers of the Board

Powers of board

4.01 Subject to section 4.02 (2), the board shall have power within the Province to promote, regulate and control in any and all respects, to the extent of the powers of the Province, the production, transportation, packing, storing and marketing, or any of them, of the regulated product, including the prohibition of such transportation, packing, storing and marketing, or any of them, in whole or in part, and shall have all powers necessary or useful in the exercise of the powers hereinbefore or hereinafter enumerated, and without limiting the generality thereof shall have the following powers:

(a) to regulate the time and place at which, and to designate the agency through which, any regulated product shall be packed, stored or marketed; to determine the manner of distribution, the quantity and quality, grade or class of the regulated product that shall be produced, transported, packed, stored or marketed by any person at any time; to prohibit the production, transportation, packing, storage or marketing of any grade, quality or class of any regulated product; and to determine the charges that may be made for its services by any designated agency;

(b) to exempt from any determination or order any person or class of persons engaged in the transportation, production, packing, storing or marketing of the regulated product or any class, variety or grade thereof;

(b.1) with the prior approval of the Provincial board, to classify and regulate producers by area of production within British Columbia;

(c) to require any or all persons engaged in the production, transportation, packing, storing or marketing of the regulated product to register with and obtain licences from the board;

(c.1) to establish, issue, permit transfer, revoke or reduce quotas to any person as the board in its discretion may determine from time to time, whether or not the same are in use, and to establish the terms and conditions of issue, revocation, reduction and transfer of quotas, but such terms and conditions shall not confer any property interest in quotas, and such quotas shall remain at all times within the exclusive control of the board;

(c.2) to issue permits upon such terms and conditions as to issuance and revocation as is deemed necessary;

(d) to fix and collect yearly, half-yearly, quarterly or monthly licence fees from any or all persons producing, transporting, packing, storing or marketing the regulated product; and for this purpose to classify such persons into groups and fix the licence fees payable by the members of the different groups in different amounts; to fix and collect from such persons fees for services rendered or to be rendered by the board; and to recover such licence and other fees by suit in any court of competent jurisdiction;

(e) to cancel any licence or permit for violation of any provision of the scheme or of any order of the board or of the regulations;

(f) to require full information relating to the production, transportation, packing, storing and marketing of the regulated product from all persons engaged therein; and to require periodic returns to be made by such persons; and to inspect the books and premises of such persons;

(g) to fix the price or prices, maximum price or prices, minimum price or prices, or both maximum and minimum prices at which the live chickens over 2 days old that are regulated product, 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, and may fix different prices for different parts of the Province;

(h) to establish and conduct, or to authorize any marketing agency approved by the board under the scheme to conduct a pool or pools for the distribution of proceeds

received from the sale of the regulated product, after deducting all necessary and proper disbursements, expenses and charges, in such a manner that each person receives a share of the net proceeds in relation to the amount, variety, size, grade and class of the regulated product delivered by him and to make payments in respect thereof until the total net proceeds are distributed;

(i) to require the person in charge of any vehicle in which the regulated product could be transported to permit any member or employee of the board to search the vehicle;

(j) to seize and dispose of any of the regulated product produced, kept, transported, packed, stored or marketed in violation of any order of the board;

(k) to use any moneys received by the board in carrying out the purposes of the scheme, and in paying the expenses of the board, and in paying to the British Columbia Broiler Growers' Association any portion or all of the expenses incurred by the said association with the authority of the board in carrying out the purposes of the scheme;

(l) to make such orders, rules and regulations as are deemed by the board necessary or advisable to promote, control and regulate effectively the production, transportation, packing, storage or marketing of the regulated product, and to amend or revoke the same;

(m) to refuse to issue any licence to any person who previously held a licence which was cancelled by the board, and to any person who was associated with any person who previously held a licence which was cancelled by the board, and to any person who has, within 6 months of the date of his application for a licence, committed any act which would be an act of bankruptcy under the *Bankruptcy and Insolvency Act* (Canada) [RS1985, c. B-3], and to any person who fails to satisfy the board that he has the production, transportation, packing, storing and marketing facilities deemed by the board necessary to properly protect the interests of the growers;

(n) to promote the broiler industry by advertising in such manner as may seem advisable, and by compiling, publishing, distributing and furnishing information with respect thereto;

(o) to delegate its powers to such extent and in such manner as the board may from time to time deem necessary or advisable for the proper operation of the scheme; provided that this paragraph shall not permit the delegation by the board of the powers contained in paragraphs (c), (d), (e) and (m) of this section;

(p) the powers set out in section 11 (1) (o) (i), (ii), (iv) and (v) and (1) (v) of the *Natural Products Marketing (BC) Act*.

[am. B.C. Regs. 136/72, s. (5); 102/73, ss. (7)-(10); 543/78, ss. (i)-(iii); 217/89; 176/93; 514/95, s. 2; 8/2000, s. 6; 159/2001, s. (a).]

2001 Federal Provincial Agreement for Chicken

4.02 (1) For the purpose of enabling the board, in cooperation with the federal board, to exercise effective control of the marketing of chicken to the full extent intended by the Act and the federal Act, the board may enter into an agreement in substantially the form of the draft 2001 Federal-Provincial Agreement for Chicken, dated May 15, 2001, that is on file with the Provincial board.

(2) For the purpose of subsection (1), the board may

(a) carry out a term or satisfy a condition applicable to it under the agreement referred to in subsection (1), or

(b) exercise a power under section 4.01

in the manner provided by that agreement or by section 4.01.

(3) Subject to subsections (1) and (2), the board may not enter into or amend an agreement with the federal board without the prior approval of the provincial board.

[en. B.C. Reg. 159/2001, s. (b).]

Approvals under sections 5 and 6 of the Act

4.03 Approval is given for the board to

(a) exercise an authority or function conferred on it by or under a federal Act or by a federal board, or

(b) grant authority to a federal board to perform a function or exercise a power of the board relating to trade in British Columbia on the board's behalf if the grant is made in the agreement referred to in section 4.02 (1) or an agreement approved under section 4.02 (3).

[en. B.C. Reg. 8/2000, s. 7; am. B.C. Reg. 159/2001, s. (c).]

Division 5 — Quota

Vancouver Island quota

5.01 Despite section 4.01, the board must not permit a disposition or transfer of quota issued to a person to produce regulated product on Vancouver Island to any area of the Province other than Vancouver Island unless the board sets aside quota exclusively for purposes of the production of regulated product on Vancouver Island in an amount equal to the amount the board permits disposed of or transferred off Vancouver Island.

[en. B.C. Reg. 182/2000.]

[Provisions of the *Natural Products Marketing (BC) Act*, R.S.B.C. 1996, c. 330, relevant to the enactment of this regulation: sections 2, 5, 6, 11 and 22]