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B.C. Reg. 173/67

O.C. 2263/67

Natural Products Marketing (BC) Act

BRITISH COLUMBIA EGG MARKETING SCHEME, 1967

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

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Part 1

Division 1

Title

1 This scheme shall be known as the "British Columbia Egg Marketing Scheme, 1967".

Definitions

2 In this Part:

"**agency**" means the Canadian Egg Marketing Agency established by the Canadian Egg Marketing Agency Proclamation issued pursuant to the *Farm Products Agencies Act* (Canada) [RS1985, c. F-4];

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

"**quota**" means the number of dozens of eggs that an egg producer is entitled to market in intraprovincial trade or to have marketed on the producer's behalf by the board in intraprovincial trade, during a specified period of time;

"**quota system**" means a system whereby egg producers are assigned quotas by the board thus enabling the board to fix and determine the quantity, if any, in which eggs or any variety, class or grade thereof may be marketed in intraprovincial trade by each egg producer and by all egg producers.

[en. B.C. Reg. 166/74; am. B.C. Reg. 29/2000.]

Division 2 — Quota System

Board to establish quota

3 The board shall, on the coming into force of this Part, establish by order or regulation a quota system in order to assign quotas to all members of classes of producers in the Province in such manner that the number of dozens of eggs produced in the Province and authorized to be marketed in intraprovincial trade in the year 1973, when taken together with the number of dozens of eggs produced in the Province and authorized to be marketed in interprovincial and export trade in the same year, pursuant to quotas assigned by the agency and the number of dozens of eggs produced in the Province and anticipated to be marketed in the same year, other than as authorized by a quota assigned by the agency or by the board, will equal the number of dozens of eggs set out in section 4 of this Part.

[en. B.C. Reg. 166/74.]

Number of dozens of eggs for Province

4 For the purposes of section 3 of this Part the number of dozens of eggs set out in this section for the Province is the number of dozens set out in Column 2 of an item of the following table in respect of the Province as set out in Column 1 of that item, such number of dozens representing the percentage set out in Column 3 of that item.

Table

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
British Columbia	57 250 000	12.055%
Alberta	41 344 000	8.704%
Saskatchewan	22 611 000	4.760%
Manitoba	54 189 000	11.408%
Ontario	181 267 000	38.161%
Quebec	78 647 000	16.556%
New Brunswick	8 683 000	1.828%
Nova Scotia	19 504 000	4.106%
Prince Edward Island	3 028 000	0.637%
Newfoundland	8 477 000	1.785%

[en. B.C. Reg. 166/74.]

Number not to be increased or decreased

5 (1) No order or regulation shall be made where the effect thereof would be to increase the aggregate of

(a) the number of dozens of eggs produced in the Province and authorized by quotas assigned by the board and by the agency to be marketed in intraprovincial, interprovincial and export trade, and

(b) the number of dozens of eggs produced in the Province and anticipated to be marketed in intraprovincial, interprovincial and export trade other than as authorized by quotas assigned by the board and by the agency

to a number that exceeds, on a yearly basis, the number of dozens of eggs set out in section 4 of this Part for the Province unless the board has taken into account

(c) the principle of comparative advantage of production in respect of each province,

(d) any variation in the size of the market for eggs,

(e) any failures by egg producers in the Province or other provinces to market the number of dozens of eggs authorized to be marketed,

(f) the feasibility of increased production in each province to be marketed, and

(g) comparative transportation costs to market areas from alternative sources of production and the agency is making a similar order or regulation.

(2) No order or regulation shall be made where the effect thereof would be to decrease the aggregate of

(a) the number of dozens of eggs produced in the Province and authorized by quotas assigned by the board and by the agency to be marketed in intraprovincial, interprovincial and export trade, and

(b) the number of dozens of eggs produced in the Province and anticipated to be marketed in intraprovincial, interprovincial and export trade other than as authorized by quotas assigned by the board and by the agency

to a number that, on a yearly basis, is less than the number of dozens of eggs set out in section 4 of this Part for the Province unless at the same time the number of dozens of eggs produced in each province and so authorized to be marketed in intraprovincial, interprovincial and export trade is decreased proportionately.

(3) When the agency has made an order or regulation pursuant to provisions of a marketing plan similar to the provisions of subsections (1) and (2), the board shall make a similar order or regulation.

(4) Repealed. [B.C. Reg. 409/80, s. 2.]

[en. B.C. Reg. 166/74; am. B.C. Regs. 316/76; 409/80, s. 2.]

Board may set price of excess eggs

6 The board may require each egg producer to whom a quota is assigned, as a condition of the assignment thereof, to make available to the board or its agent all eggs produced by him and available to be marketed in excess of the quota assigned to him at a price not exceeding the difference, if any, between the price realized by the board or its agent on the marketing of such eggs and its expenses related to such marketing.

[en. B.C. Reg. 166/74.]

Board may market eggs

7 (1) The board may market eggs made available to it or its agent on an individual or collective basis and may pool the receipts from the marketing thereof and deduct from the pool the expenses incurred by it or by its agent in marketing such eggs before any payment is made to the producers.

(2) The board shall not market any quantity of the products made available to it in excess of the number of eggs referred to in sections 3 and 4 or as modified pursuant to section 5 of this Part, without prior consultation with the agency.

[en. B.C. Reg. 166/74.]

Board to administer orders and regulations

8 The board shall, with the concurrence of the agency, administer on its behalf all orders and regulations made by it for the purpose of establishing and implementing a quota system

or any such orders or regulations necessary to implement the provisions of the Canadian Egg Marketing Agency Proclamation and similar provisions of this Part.

[en. B.C. Reg. 166/74.]

Board to make, approve and implement orders and regulations

9 The board shall make, approve and implement any order or regulation necessary to reflect any provisions of this Part.

[en. B.C. Reg. 166/74.]

Division 3 — Licences

Board to give agency evidence of registration or licensing system

10 The board shall make available to the agency any document or extract of documents establishing the registration or licensing of producers, when any such system is in force.

[en. B.C. Reg. 166/74.]

Division 4 — Levies

Board to collect levies for agency

11 The board shall, with the concurrence of the agency, collect on its behalf any levies imposed by the agency.

[en. B.C. Reg. 166/74.]

Division 5 — Sales Verification

Board to monitor sales

12 (1) The board shall make regulations and orders requiring producers, graders, graders-producers, dealers, wholesalers and processors to give all the information necessary to monitor sales.

(2) The board shall establish a verification system of sales.

(3) The board shall provide all information obtained from the implementation of the system referred to in subsection (2) to the agency when requested.

[en. B.C. Reg. 166/74.]

Division 6 — General

Board to cooperate with agency

13 The board shall take all reasonable steps to promote a high degree of cooperation between itself and the agency and, without limiting the generality of the foregoing, shall

(a) make available to the agency the records, minutes and decisions of the board in relation to any matter that is of concern to the agency,

(b) allow an officer or employee of the agency who is designated by the agency for such purpose to attend meetings of the board at which any matter that is of concern to the agency is likely to be discussed and for such purpose shall give notice of all such meetings to the officer or employee so designated, and

(c) give notice of each order or regulation that it proposes to make to the agency that is likely to be affected in its operations by the enactment of the order or regulation.

[en. B.C. Reg. 166/74.]

Application of this Part

14 The authorities and powers referred to in sections 16, 17, 33, 34, 35 and 37 of Part 2 of the British Columbia Egg Marketing Scheme, 1967 are restricted by and subject to the provisions of this Part.

[en. B.C. Reg. 166/74.]

Part 2

Division 1 — Interpretation

Definitions

15 In this scheme, unless the context otherwise requires:

"Act" means the *Natural Products Marketing (BC) Act* and all amendments thereto;

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

"board" means the British Columbia Egg Marketing Board;

"consumer" means a person who buys eggs or layers for use by himself or his household and not for resale in any form;

"egg production unit" means the land and buildings comprising a poultry farm at which a registered producer keeps layers owned by him and used for the purpose of producing eggs to be marketed in accordance with marketing quota or marketing permit;

"Interior" means that part of the Province which excludes those areas defined as the Lower Mainland and Vancouver Island;

"layer" as applied to chickens means laying hens and layers and any class of female chicken hatched for the purposes of egg production;

"Lower Mainland" means that part of the Province bounded as follows: Commencing at the intersection of the 49th parallel of latitude with the 121st meridian of longitude, thence due north to the 50th parallel of latitude, thence due west to the 123rd meridian of longitude, thence due north to the 51st parallel of latitude, thence due west to the western boundary of the Province, thence southerly and easterly along the western and southern

boundaries of the Province to the point of commencement, but excluding Vancouver Island and all the other islands lying along the coast of the Province;

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

"order" means the standing order of the British Columbia Egg Marketing Board;

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

"producer-vendor" means any grower who produces and markets, offers for sale, sells, stores or transports all or any portion of the regulated product grown by him but does not process, market, offer for sale, sell, store or transport the regulated product grown by any other person;

"quota" means any marketing quota issued to a registered producer by the board;

"registered producer" means any person owning layers in the area to which the scheme relates, and who is registered under this scheme;

"regulated product" means layers and all classes of eggs of the domestic hen, including eggs wholly or partly manufactured or processed;

"trucker" means any person to whom this scheme applies under section 17 who transports the regulated product;

"Vancouver Island" means that part of the Province consisting of Vancouver Island and all the other islands lying along the coast of the Province;

"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. 285/70, ss. (3), (4); 111/72; 297/72, ss. (1)-(5); 316/76; 86/79, s. 3; 65/2005.]

Division 2 — Purpose and Application

Purpose of scheme

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

[am. B.C. Regs. 297/72, s. (6); 86/79, s. 5.]

Application of scheme

17 The scheme shall apply to all persons who produce, transport, pack, store or market the regulated product but in no way applies to a consumer who acquires the regulated product from a producer.

[am. B.C. Regs. 297/72, s. (7); 86/79, s. 4.]

Division 3 — Name and Constitution of the Board

Board constituted

18 (1) The board consists of the following:

(a) a chair appointed by the Lieutenant Governor in Council;

(b) 4 members who are registered producers, elected by the registered producers.

(2) Despite subsection (1), the member serving as chair when this regulation comes into force continues to hold that office until the Lieutenant Governor in Council makes an appointment under subsection (1) (a).

[en. B.C. Reg. 93/2004, s. 1.]

Rules for election of board members

18.1 (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. 93/2004, s. 2.]

Sections Repealed

18.2 to 18.4 Repealed. [B.C. Reg. 93/2004, s. 3.]

Voting, pay and benefits

18.5 (1) The chair must cast a second deciding vote in any case where the members are equally divided on a matter.

(2) Remuneration and employment benefits, if any, of the chair and other members of the board shall be paid from monies collected by the board under the scheme.

(3) The board may fix the remuneration and employment benefits of the employees of the board.

(4) The registered producers at a general meeting of the registered producers may fix the remuneration and employment benefits, if any, of the chair and other members of the board.

[en. B.C. Reg. 37/96, s. 1.]

General meeting and auditor

18.6 (1) The board must, at least once in every year, hold a general meeting of the registered producers and give the registered producers not less than 21 days notice of the time and place of the general meeting.

(2) The registered producers present at the general meeting must appoint 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.

[en. B.C. Reg. 37/96, s. 1.]

Section Spent

19 Spent.

Sections Repealed

20 to **31** Repealed. [B.C. Reg. 261/92, s. 2.]

Register of producers

32 The board shall keep at its head office a register of producers containing names, addresses and quotas of all producers who are registered under the scheme. Such record shall be amended from time to time by the addition thereto of the names and addresses of all producers who are entitled to be registered and by the deletion therefrom of the names, addresses and quotas of producers who are not entitled to be registered.

Register available for inspection

33 The register of producers shall be open for inspection to any registered producer during regular business hours, and an up-to-date copy of the register of producers shall be sent to any registered producer on request.

Warning before removal from register

34 Before the name of any registered producer can be removed from the register of producers, the board shall give that producer a warning in writing by registered mail that there is an infraction of the regulations of the scheme or of the orders of the board. If the infraction continues, the board shall give that producer 2 weeks notice in writing, by registered mail, of its intention to remove his name from the register of producers. Such notice shall include the date, time and place of hearing before the board, at which the registered producer shall be entitled to state his case. If the registered producer so chooses, he may institute legal proceedings, and provided that proof that such proceedings have been instituted is submitted to the board, his name shall be retained in the register of producers and his licence shall remain in effect until a ruling has been obtained from the courts.

Orders of the board

35 All orders of the board shall be in writing, signed on behalf of the board by a member of the board, and copies of all such orders shall be kept in the head office of the board. Any registered producer shall have the right of access to copies of all orders in the head office of the board during normal business hours.

Division 3.1 — Egg Industry Advisory Committee

Composition and role of committee

- 36** (1) The board must establish an Egg Industry Advisory Committee composed of
- (a) 3 producers appointed by the board after consultation with The British Columbia Egg Producers Association,
 - (b) 3 processors appointed by the board after consultation with the British Columbia Egg Processors Council, 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. 37/96, s. 2.]

Division 4 — Authority of the Board

Authority of board

37 The board shall have authority within the Province to promote, regulate and control the production, transportation, packing, storing and marketing, or any of them, of the regulated product, including the prohibition of such production, transportation, packing, storing and marketing, or any of them, in whole or in part, and without limiting the generality of the foregoing shall have the following authority:

- (a) to regulate the time and place at which, and to designate the agency through which, the regulated product shall be produced, packed, stored or marketed; to determine the manner of distribution, the quality, grade or class of the regulated product that shall be transported, produced, 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 by the board for its services;
- (b) to institute a central marketing agency or agencies;
- (c) to issue quotas to registered producers as is deemed necessary, such quotas to remain at all times the property of the board and, subject to prior approval of the Provincial board, to vary such quotas and prescribe the terms and conditions upon which they shall be issued or transferred, provided that the board shall not at any time issue to any registered producer a quota in excess of 5% of the total of all such quotas issued;
- (c.1) to issue permits upon such terms and conditions as to issuance, transfer and revocation as is deemed necessary;

- (d) to revoke or reduce in whole or in part unused quotas or portions of quotas, and to reissue such quotas in whole or in part as the board may deem proper;
- (e) 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;
- (f) 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;
- (g) 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 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;
- (h) 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;
- (i) 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;
- (j) Repealed. [B.C. Reg. 38/96, s. (a).]
- (j.1) to fix the price or prices paid to the registered producer for all classes or categories of eggs, with power to fix different prices for different areas of the Province;
- (k) 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 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;
- (k.1) to purchase, lease or otherwise acquire such property, real and personal, as it may require for its purposes, and to sell or otherwise dispose of property no longer required for its purposes; to borrow money for the purpose of financing the acquisition of property and to give security for such borrowings upon the property of the board;
- (l) to require the person in charge of any vehicle in which the regulated product could be transported to permit any properly identified member or employee of the board to search the vehicle;
- (m) to seize and dispose of any of the regulated product kept, transported, processed, packed, stored or marketed in violation of any order of the board;
- (n) to use any moneys received by the board to carry out the purposes of the scheme and to pay the expenses of the board;
- (o) 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;

- (p) to refuse, for a period of 12 months, to reissue any licence to any person, partnership or corporation whose licence was previously cancelled by the board;
- (q) to promote the egg industry by advertising, in such manner as may seem advisable, and by compiling, publishing, distributing and furnishing information with respect thereto;
- (r) to delegate its authority 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 authorities contained in paragraphs (f), (g), (h) and (p) of this section;
- (s) to exercise any authority or function conferred upon it under the *Farm Products Agencies Act* [RS1985, c. F-4] or by the Canadian Egg Marketing Agency established pursuant to the *Farm Products Agencies Act* (Canada) [RS1985, c. F-4];
- (t) to cooperate with the Canadian Egg Marketing Agency to bring about parallel coordination of this scheme and the Federal Marketing Plan established by the Canadian Egg Marketing Agency;
- (u) to grant authority to the Canadian Egg Marketing Agency established pursuant to the *Farm Products Agencies Act* (Canada) to perform on the board's behalf any power or function relating to intraprovincial trade that the board may perform;
- (v) to exercise the powers set out in section 11 (1) (o) and (r) through (v) of the Act.

[am. B.C. Regs. 297/72, ss. (9)-(19); 166/74, s. 14; 316/76; 306/77; 90/78; 86/79, ss. 5, 6; 409/80, s. 3; 157/86; 38/96, ss. (a) and (b); 93/2004, s. 4.]

Board must conduct review

38 If requested to do so by the British Columbia Farm Industry Review Board, the board must

- (a) conduct a review of the continued appropriateness and adequacy of the provisions of section 37, and
- (b) report the conclusions of that review to the British Columbia Farm Industry Review Board.

(2) A review under subsection (1) must be conducted by the board in consultation with the Egg Industry Advisory Committee, the British Columbia Farm Industry Review Board and the Ministry of Agriculture, Fisheries and Food.

[en. B.C. Reg. 37/96, s. 3; am. B.C. Regs. 350/2003, s. (c); 93/2004, s. 5.]

Schedule A

Repealed. [B.C. Reg. 38/96, s. (c).]

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