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Natural Products Marketing (BC) Act

**NATURAL PRODUCTS MARKETING (BC) ACT
REGULATIONS**

[includes amendments up to B.C. Reg. 516/2004, December 3, 2004]

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Definitions

1 In these regulations, unless the context otherwise requires:

“**Act**” means the *Natural Products Marketing (BC) Act*;

“**appellant**” means a person aggrieved or dissatisfied by an order, decision or determination of a marketing board or commission;

“**commission**” means a marketing commission established under section 12 of the Act;

“**marketing board**” or “**board**” means a marketing board established under section 10 of the Act;

“**person**” includes any corporation or partnership;

“Provincial board” or “board” means the British Columbia Farm Industry Review Board constituted under section 3 of the Act.

[am. B.C. Reg. 350/2003, s. (c).]

Application of regulations

2 The regulations shall apply to every scheme of marketing approved under the Act whether approved before or after this regulation becomes effective, and to every marketing board or commission constituted, appointed or elected in accordance with the provisions of any such scheme of marketing.

Powers of marketing boards

3 Except as otherwise provided in a scheme established by order in council pursuant to the Act, every marketing board or commission shall have the following subsidiary powers, duties and obligations and shall be subject to the following limitations:

- (a) copies of all minutes, orders, reports, rules and regulations of every marketing board or commission shall be forwarded forthwith, as they are made or amended, to the Provincial board;
- (b) every marketing board or commission shall keep books and records of all its transactions, and except where exempted from so doing in writing by the Provincial board shall employ a chartered accountant or certified general accountant to audit the same annually;
- (c) every marketing board or commission shall have a corporate seal except when exempted from so doing in writing by the Provincial board, and the seal may be affixed by any member of the board or commission if authorized by resolution of the board or commission;
- (d) in the event of any vacancy in the membership of any marketing board or commission, where such membership consists of 3 or more members, the remaining members shall constitute the board or commission until the vacancy is filled;
- (e) if any member of any marketing board or commission is absent from the Province for 3 consecutive months or fails to attend to his duties for a like period the other members may declare his office vacant;
- (f) any member of any marketing board or commission shall cease to hold office if he is convicted of any offence under the Act or of the scheme established by order in council pursuant to the Act under which he is elected or appointed, or if by notice in writing to the board he resigns his office, or if his office is declared vacant in accordance with the next preceding paragraph;
- (g) if any vacancy occurs in the membership of any marketing board or commission by reason of death or through any member ceasing to hold office as aforesaid, the remaining members, if constituting a quorum, may appoint a member to fill the vacancy, the said appointment to be subject to approval by the Provincial board;

(h) every marketing board or commission shall take all steps necessary to carry out the provisions of the scheme established by order in council pursuant to the Act under which it is constituted relative to the election of members, and except as otherwise provided in these regulations or in the said scheme shall have complete control of such elections;

(i) in the event of 2 or more candidates for election to any marketing board or commission receiving an equal number of votes, the chairman of the marketing board or commission about to vacate office shall cast a ballot in favour of so many of the candidates having an equal number of votes as may be necessary to complete the election of the members and the candidate or candidates for whom such ballot is cast shall be deemed to have been duly elected;

(j) the acts of every marketing board or commission shall notwithstanding any defect or irregularity in the appointment or election or qualifications of any member thereof be as valid as if the board or commission and every member thereof had been duly appointed or elected and were duly qualified;

(k) every marketing board or commission consisting of 2 or more members shall choose a chairman and vice-chairman and appoint a secretary. Any member shall be eligible to hold the office of secretary;

(l) every marketing board or commission shall by resolution determine the procedure to be followed for calling and conducting its meetings;

(m) a majority of the members of any marketing board or commission shall constitute a quorum and all matters shall be decided by a majority vote of the members present provided that a resolution in writing signed by all members shall be as valid as if passed at a meeting regularly called and properly constituted;

(n) every marketing board or commission shall have power to employ and dismiss officers, clerks and servants;

(o) no person shall become ineligible to be a member of any marketing board or commission or a delegate under any scheme by reason of being or having been a member or delegate under any scheme;

(p) every partnership or corporation qualified to vote under any scheme shall in writing appoint a person to vote in its behalf and shall file with the marketing board, commission or returning officer a copy of such appointment;

(q) during any period that any person or the product produced or marketed by any person is exempt by order of any marketing board or commission from regulation under any scheme that person shall not be entitled to vote under the scheme;

(r) every voters' list, register or producers' or other list or register of the names of persons entitled to vote under any scheme shall be open to inspection at all reasonable times at the head office of the marketing board or commission authorized or directed to compile the same.

Powers of Provincial board

4 The Provincial board shall have a general supervision over the operations of all marketing boards, commissions or their designated agencies constituted or authorized under the Act and without limiting the generality of the foregoing may

- (a) order the marketing board or commission administering any scheme to hold a poll at any time to determine whether the producers to whom the scheme applies wish the scheme to be continued in operation and direct the manner in which the poll shall be conducted and appoint the returning officer to count the ballots cast,
- (b) fix or alter the remuneration of the chairman and/or members of any marketing board or commission upon application of a majority of the producers eligible to vote in the election of the members of the board,
- (c) require any marketing board or commission to hold an election in any case where the producers or delegates have failed to elect a member or members,
- (d) fill any vacancy in the membership of any marketing board or commission when the member or members do not constitute a quorum,
- (e) exercise a casting vote in any case where the members of any marketing board or commission are equally divided on any matter, and
- (f) require any marketing board or commission to make proper provision for preventing the marketing of any natural product in any manner or in any place prejudicial to the operations of any other marketing board or commission.

Investigation of irregularities

4.1 Where the Provincial board has reason to believe that a marketing board or commission, or a person appointed or licensed by a marketing board or commission, is not adhering to or enforcing the provisions of its scheme, the Provincial board may order that the marketing board or commission, or the person appointed or licensed by the marketing board or commission,

- (a) provide, at any reasonable time and upon one day's notice, access to its premises for the purposes of conducting audits and investigating matters within the supervisory authority of the Provincial board,
- (b) furnish information or product documentation, within a specified time, relating to an investigation, and
- (c) provide copies of information furnished or documentation produced under paragraph (b).

[en. B.C. Reg. 55/90.]

Sections Repealed

5 and **6** Repealed. [B.C. Reg. 516/2004, s. (d) (iv).]

Fee for filing an appeal

6.1 The fee for filing an appeal under section 8 (1) of the Act is \$100.

[en. B.C. Reg. 516/2004, s. (d) (iv).]

Section Repealed

7 Repealed. [B.C. Reg. 516/2004, s. (d) (iv).]

Termination of former agency designations

8 Notwithstanding anything to the contrary contained in any scheme, every designation of an agency heretofore made by a marketing board shall be effective only until December 31, 1975, unless approved in writing by the Provincial board and no designation of any agency thereafter shall be effective unless approved in writing by the Provincial board.

Publication of schemes and amendments

9 The Minister of Agriculture, Fisheries and Food for British Columbia may order that any scheme or any amendment thereto or notice of such scheme or amendment shall be published in the "British Columbia Gazette" or in any newspaper.

[am. B.C. Reg. 223/94, s. 2.]

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