

Natural Products Act

CHAPTER 308 OF THE REVISED STATUTES, 1989

as amended by

1994-95, c.13; 2000, c. 24, s. 29; 2002, c. 1, ss. 19-27



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CHAPTER 308 OF THE REVISED STATUTES, 1989
amended 1994-95, c.13; 2000, c. 24, s. 29; 2002, c. 1, ss. 19-27

**An Act to Provide for
Regulating the Marketing of Certain
Natural Products in Nova Scotia**

Table of Contents

(The table of contents is not part of the statute)

	Section
Short title	1
Interpretation	2
Natural Products Marketing Council	3
Agreements	4
Personnel	5
Powers of Council	6
Inspection	7
Seizure	8
Regulations with Governor in Council approval	8A
Regulations without Governor in Council approval	9
Licensing powers	10
Marketing schemes	11
Tolls and separate fund	12
Penalty	13
Failure to pay set price	14
Summary Proceedings Act	15
Possession as prima facie proof	16
Regulations exempting from plan or scheme or order	17
Regulations by Governor in Council	18
Regulations Act	19

Short title

1 This Act may be cited as the *Natural Products Act*. R.S., c. 308, s. 1.

Interpretation

2 In this Act,

- (a) "commodity board" means a board constituted under a plan;
- (b) "consumer" does not include a person who packs or processes a product or uses a product in the producing of another article;
- (c) "Council" means the Natural Products Marketing Council;
- (d) "marketing" includes advertising, buying, selling, storing, packing, transportation, shipping, pricing, processing, shipping for sale or storage, offering for sale and any other act necessary to prepare a natural product in a form or to make it available at a place and time for purchase, for consumption or use and also includes sale by pedlars, hawkers and traders;
- (e) "Minister" means the Minister of Agriculture and Fisheries;

- (f) "natural product" includes any one or more of
- (i) animals, meats, eggs, poultry, wool, dairy products, grains, seeds, fruit, fruit products, vegetables, vegetable products, maple products, honey and articles of food or drink manufactured or derived in whole or in part from any such product, and
 - (ii) any other product designated as a natural product in regulations made by the Governor in Council;
- (g) "plan" means any plan, for the marketing, production or regulating of any natural product, that is in force in the Province or any part thereof under this Act;
- (h) "production" means production for commercial purposes;
- (i) "regulated area" means any area defined by and to which is related any plan approved or established under this Act;
- (j) "regulated product" means a natural product produced in a regulated area in respect of which a plan is in force. R.S., c. 308, s. 2; 2002, c. 1, s. 19.

Natural Products Marketing Council

3 (1) The Governor in Council may establish a board to be known as the Natural Products Marketing Council, which shall be a body corporate.

(2) The Council consists of such number of persons as the Governor in Council may from time to time determine, and each member shall hold office for a term of up to five years and may be re-appointed.

(2A) Notwithstanding subsection (2), one of the persons appointed pursuant to subsection (2) shall be a person recommended by the Nova Scotia Milk Processors' Division of the Atlantic Dairy Council.

(3) Each member of the Council shall receive such remuneration as the Governor in Council shall determine.

(4) One of the members of the Council shall be appointed by the Governor in Council as chairman, and such number of members as the Governor in Council shall determine constitutes a quorum. R.S., c. 308, s. 3; 2000, c. 24, s. 29; 2002, c. 1, s. 20.

Agreements

4 With the approval of the Governor in Council, the Minister may, on behalf of the Province, enter into an agreement with the Government of Canada providing for the performance by an agency of the Government of Canada, on behalf of the Province, of functions relating to intraprovincial trade in a regulated product or products in relation to which the Council or commodity board may exercise its powers and for such other matters relating thereto as may be agreed upon by the Minister and the Government of Canada and for the performance by an agency of the

Government of Canada, on behalf of the Province, of functions relating to the collection of rates imposed, pursuant to this Act, to recover the costs of establishing and implementing promotional and research programs to stimulate, increase, promote and improve the marketing and production of a natural product and for the performance by the Province or an agency of the Province of functions relating to the collection of levies raised for the same or substantially the same purposes levied by or pursuant to an Act of the Parliament of Canada. R.S., c. 308, s. 4; 1994-95, c. 13, s. 1.

Personnel

5 (1) There shall be appointed in accordance with the *Civil Service Act* such officers, staff and employees as may be required for the proper conduct, management and operation of the Council.

(2) The Council may engage persons to provide professional, technical or other assistance to or on behalf of the Council.

(3) The Council may engage or appoint persons as inspectors to inspect the books, records and premises of persons engaged in the production or marketing of an agricultural product. 2002, c. 1, s. 21.

Powers of Council

6 (1) The Council may

(a) investigate, arbitrate, adjudicate upon, adjust or otherwise settle

(i) any dispute between any two or more producers, distributors or transporters of natural products, or

(ii) any dispute between producers, distributors or transporters of natural products as classes of persons;

(b) investigate the cost of producing, distributing and transporting any natural products, prices, price spreads, trade practices, methods of financing, management, grading, policies and other matters relating to the marketing or production of natural products;

(c) do such acts and make such orders, regulations and directions as are necessary to enforce the due observance and carrying out of this Act, the regulations or any plan;

(d) with the approval of the Governor in Council, establish commodity boards for the purpose of carrying out any plan established under this Act;

(e) authorize commodity boards to borrow money to carry out any plan established under this Act and determine the amount of money borrowed and the kind and amount of security to be taken or given therefor;

(f) stimulate, increase and improve the marketing or production of a natural product for the purpose of carrying out any plan;

(fa) when requested to do so by a commodity board within the meaning of this Act or a commodity group within the meaning of the *Agriculture and Marketing Act*, establish and implement promotional and research programs for the purpose of stimulating, increasing, promoting and improving the marketing and production of a natural product and recover all expenses incurred thereby by levying and collecting a rate on persons engaged in the producing or marketing of the natural product;

(g) establish price negotiating agencies in connection with any plan and adopt or determine fair or minimum prices for any regulated product or any grade of a regulated product;

(h) exempt from any plan or any order or direction of the Council any person or class of persons engaged in the producing or marketing of any regulated product or any class, variety or grade of regulated product;

(i) require persons engaged in the producing or marketing of a natural product in any area or areas designated by the Council to register with the Council their names, addresses and occupations and the quantity of the natural product produced or marketed by them, and require persons engaged in the producing or marketing of a regulated product to furnish such additional information in regard to the said regulated product as the Council may determine and to inspect the books and premises of such last-mentioned persons;

(j) require, by order, persons designated by it, who are engaged in marketing or the production of a regulated product or any persons who are members of a class of persons designated by it and who are so engaged, to deduct from any amount payable by him to any other person engaged in the production or marketing of a regulated product any amount payable to the Council or commodity board by such other persons by way of licence fees, levies or charges provided for in a plan that the Council or commodity board is authorized to implement and to remit all amounts so deducted to the Council or commodity board;

(k) require the person in charge of any vehicle thought to be conveying any natural product to stop the vehicle and to permit any person appointed by the Council for such purpose to inspect the vehicle and its contents;

(l) co-operate with any board or agency, established under any federal Act or any provincial Act, to market or promote, facilitate, control, regulate or prohibit the marketing or production of any natural product and to act conjointly with any such board or agency;

(m) prohibit any person other than the Council or a commodity board designated by the Council from marketing or producing regulated products;

(n) require the furnishing of security or proof of financial responsibility by any person engaged in the marketing or production of a regulated product;

(o) accept, have and exercise all powers of regulation in relation to the marketing or production of a natural product outside the Province in interprovincial and export trade that are conferred upon it by or pursuant to any Act of the Parliament of Canada and for the purpose of such regulation to exercise all the powers conferred upon the Council by this Act.

(2) The Council may delegate to a commodity board such of its powers as the Council deems necessary for the proper enforcement of any plan under which a commodity board is constituted and may at any time terminate such delegation of power.

(3) The Council may require a commodity board to furnish information relating to any product regulated by the plan under which the commodity board is constituted.

(4) A commodity board authorized to administer any plan is a body corporate for the purposes of this Act, the regulations and the plan under which the commodity board is constituted.

(5) The Council, each commodity board and each member of the Council or a commodity board have, for the purposes of this Act, all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*.

(6) No member of the Council or a commodity board is liable for any actions or decisions made in good faith in carrying out duties or responsibilities as a member of the Council or the commodity board. R.S., c. 308, s. 6; 1994-95, c. 13, s. 2; 2002, c. 1, s. 22.

Inspection

7 (1) Every person, when requested so to do by an officer of the Council or by a person appointed by the Council to inspect the books, records and premises of persons engaged in the producing or marketing of a natural product, shall, in respect of the natural product, produce such books and records and permit inspection thereof and supply extracts therefrom and permit inspection of such premises.

(2) No person shall hinder or obstruct an officer of the Council or a person appointed by the Council to inspect the books, records and premises of persons engaged in the producing or marketing of a natural product in the performance

of his duties, refuse to permit him to carry out his duties, refuse to furnish him with information or furnish him with false information.

(3) The production by any person of a certificate, of his appointment by the Council to inspect the books, records and premises of persons engaged in the producing or marketing of a natural product purporting to be signed by the chairman and secretary of the Council, shall be accepted by any person engaged in the producing or marketing of the natural product as *prima facie* proof of such appointment. R.S., c. 308, s. 7.

Seizure

8 (1) Whenever an officer of the Council or a person appointed by the Council to inspect the books, records and premises of persons engaged in producing or marketing a natural product believes on reasonable grounds that this Act or the regulations, or any plan or any order or direction of the Council or a commodity board has been violated, he may seize the natural products and other things by means of or in relation to which he reasonably believes a violation was committed.

(2) Natural products and other things seized pursuant to subsection (1) shall not be detained after

(a) this Act, the regulations or the plan, order or direction, as the case may be, has, in the opinion of the inspector, been complied with; or

(b) the expiration of ninety days from the day of seizure,

unless before that time proceedings have been instituted in respect of the violation, in which event the natural products and other things may be detained until the proceedings are finally concluded.

(3) Where a person has been convicted of a violation of this Act or the regulations, or any plan or any order or direction of the Council or a commodity board, every natural product or other thing by means of or in relation to which the offence was committed is, upon the conviction, in addition to any penalty imposed, forfeited to Her Majesty in right of the Province if such forfeiture is directed by the court.

(4) The Governor in Council may make regulations

(a) respecting the detention of natural products or other things seized under this Section and for preserving or safeguarding the same; and

(b) respecting the disposition of natural products or other things forfeited under this Section.

(5) Any natural product or other things detained under this Section or the regulations is at all times at the risk and expense of the owner, but the inspector shall immediately give written notice to the owner or person having pos-

session of the product or things that the products or things are detained. R.S., c. 308, s. 8; 2002, c. 1, s. 23.

Regulations with Governor in Council approval

8A Subject to the approval of the Governor in Council, the Council may make regulations regulating, controlling or prohibiting the transfer or sale of quota outside of the Province. 2002, c. 1, s. 24.

Regulations without Governor in Council approval

- 9 (1)** The Council may from time to time make regulations
- (a) regulating and controlling the marketing or production of natural products, including the agency through which such products may be marketed, within the Province;
 - (b) providing for the licensing of persons engaged in the marketing or production of any natural product, fixing the licence fees payable by such persons at different amounts and providing for the payment of such licence fees in instalments, which licence fees may be made payable to the commodity board constituted under a plan to use for the purpose of carrying out the provisions of the Act, the regulations and the plan under which the commodity board is constituted;
 - (c) providing for
 - (i) the marketing or production of a regulated product on a quota basis,
 - (ii) the fixing and allotting to persons of quotas for the marketing or production of a regulated product on such basis as the Council deems proper,
 - (iii) the refusal to fix and allot to any person a quota for the marketing or production of a regulated product for any reason that the Council deems proper,
 - (iv) the transfer of quotas among producers and the terms and conditions under which such transfers may take place, and
 - (v) the cancellation or reduction of, or the refusal to increase, a quota fixed and allotted to any person for the marketing or production of a regulated product for any reason that the Council deems proper;
 - (d) prohibiting
 - (i) any person to whom a quota has not been fixed and allotted for the marketing or production of a regulated product from marketing any of the regulated product,

- (ii) any person to whom a quota has been fixed and allotted for the marketing or production of a regulated product from marketing or producing any of the regulated product in excess of such quota,
- (iii) any person, to whom a quota has been fixed and allotted for the marketing or production of a regulated product produced on land in respect of which such quota was fixed and allotted, from marketing or producing any of the regulated product other than the regulated product produced on such land, and
- (iv) any person to whom a quota has been fixed and allotted from transferring or assigning the quota;
- (e) providing the form of licences and the terms and conditions upon which licences may be issued, renewed, suspended or revoked;
- (f) providing for the making of returns or the furnishing of information by any licensed person under this Act;
- (g) providing for the carrying out of any plan;
- (h) providing for the furnishing of security or proof of financial responsibility by persons who purchase farm products for resale;
- (ha) providing for the establishment of rates pursuant to clause 6(1)(fa) and establishing procedures for the collection of such rates;
- ~~(ha)~~(hb) respecting licence fees, levies or charges payable under plans or regulations and providing ranges for such licence fees, levies or charges within which the Council or a commodity board may fix the licence fees, levies or charges payable pursuant to the plans or regulations;
- (i) exempting any person or class of persons from the provisions of the regulations or any portion thereof;
- (j) *repealed 2002, c. 1, s. 25.*

(2) Any regulation made under this Section may be limited as to time or place, to one or more natural products or to any grade or class thereof. R.S., c. 308, s. 9; 1994-95, c. 13, s. 3; 2002, c. 1, s. 25.

Licensing powers

10 The Council may refuse to grant or renew any licence provided for under the regulations and may suspend or revoke any such licence for failure to observe, perform, or carry out any of the provisions of this Act, the regulations, any plan or any order or direction of the Council, but in every such case the applicant shall be afforded an opportunity of appearing before the Council to show cause why

the licence should not be refused, suspended or revoked or why the renewal should not be refused, as the case may be. R.S., c. 308, s. 10.

Marketing schemes

11 The Governor in Council may or, subject to the approval of the Governor in Council, the Council may

(a) from time to time establish plans for the promotion, control, regulation or prohibition of the marketing or production of any natural product and may constitute commodity boards to administer any such plan, provided that no such plan is established by the Council unless there has been submitted to the Council evidence satisfactory to the Council that the producers or persons engaged in the marketing or production of the product have had an opportunity to vote on the establishment of the plan and not less than two thirds of those voting are in favour of the establishment of the plan;

(b) vary, alter, amend or revoke any such plan;

(c) define the area or areas within which any such plan or any part thereof is in force;

(d) empower commodity boards to exercise such of the powers and authority of the Council, mentioned in Section 9, as it deems necessary for the proper operation of a plan. R.S., c. 308, s. 11.

Tolls and separate fund

12 For the purpose of carrying out any plan, the Council may establish a separate fund and may impose direct charges or tolls in respect of the marketing or production of the whole or any part of such natural product, which charges and tolls shall be payable by such persons engaged in the production or marketing of such natural product as the Council may determine. R.S., c. 308, s. 12.

Penalty

13 Any person who violates any of the provisions of this Act or the regulations, or of any plan or any order or direction of the Council or of a commodity board, is guilty of an offence and liable on summary conviction to the penalty provided for in the *Summary Proceedings Act*. R.S., c. 308, s. 13; 2002, c. 1, s. 26.

Failure to pay set price

14 (1) Any person who fails to pay the fair or minimum price adopted or determined by the Council for any regulated product shall, in addition to the penalty provided for in Section 13, incur a penalty of an amount equal to the amount of such fair or minimum price less any amount paid by such person as payment in full or part payment for such regulated product.

(2) The penalties imposed under this Section shall be paid to the Council and the Council may, subject to the approval of the Minister, distribute the

amount so received *pro rata* among the persons who failed to receive such fair or minimum price. R.S., c. 308, s. 14.

Summary Proceedings Act

15 The penalties imposed under this Act are recoverable under the *Summary Proceedings Act*. R.S., c. 308, s. 15.

Possession as prima facie proof

16 In any prosecution under this Act or the regulations or any plan, the fact that the person charged had a natural product in his possession is *prima facie* proof that such natural product is a regulated product. R.S., c. 308, s. 16.

Regulations exempting from plan or scheme or order

17 Notwithstanding anything contained in this Act, the Governor in Council may by regulation exempt, from any plan, scheme or order of any board,

- (a) any person or class of persons engaged in the marketing or production of a regulated product or any class, variety or grade thereof;
- (b) any land used in the production of a regulated product of such acreage or less as the Governor in Council may determine. R.S., c. 308, s. 17.

Regulations by Governor in Council

18 The Governor in Council may make regulations

- (a) defining any word or expression used but not defined in this Act;
- (b) considered necessary or advisable to carry out effectively the intent and purpose of this Act. 2002, c. 1, s. 27.

Regulations Act

19 The exercise of the authority contained in Section 6, subsection 8(4), subsection 9(1) or Sections 17 or 18 is regulations within the meaning of the *Regulations Act*. 2002, c. 1, s. 27.