

# — PART 1 —

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## AGRICULTURE AND FOOD

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AG301\*

Agricultural Produce Commission Act 1988

### Agricultural Produce (Horticultural Industry) Amendment Regulations 2009

Made by the Governor in Executive Council.

#### 1. Citation

These regulations are the *Agricultural Produce (Horticultural Industry) Amendment Regulations 2009*.

#### 2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

#### 3. Regulations amended

These regulations amend the *Agricultural Produce (Horticultural Industry) Regulations 2001*.

#### 4. Regulation 2 amended

- (1) In regulation 2 insert in alphabetical order:

*charge* means a charge imposed under section 14 of the Act;

- (2) In regulation 2 in the definition of *dealer*:

- (a) delete paragraph (c);
- (b) delete paragraph (d) and “or” after it;

- (c) after each of paragraphs (a) and (b) insert:

or

**5. Regulation 4 amended**

In regulation 4(2):

- (a) delete “for the purposes of section 13 of the Act in relation to the producers’ committee or a proposed producers’ committee —” and insert:

a producer may be required to produce for the purposes of section 13 of the Act —

- (b) in paragraph (a) delete “a person;” and insert:

the producer during a specified period or on a specified date;

- (c) in paragraph (b) delete “the area of land cultivated by a person” and insert:

the location and area of land cultivated by the producer during a specified period or on a specified date

- (d) delete paragraph (c) and insert:

- (c) the name and address of each dealer to whom the producer has sold or supplied specified horticultural produce during a specified period or on a specified date;
- (d) the quantity of specified horticultural produce sold or supplied to each dealer referred to in paragraph (c) during a specified period or on a specified date;
- (e) the quantity of specified horticultural produce sold or supplied by the producer during a specified period or on a specified date otherwise than to a dealer.

**6. Regulation 5 amended**

- (1) Delete regulation 5(2) and insert:

- (2) A producer of horticultural produce who sells the produce to a person other than a dealer must pay any

charge that relates to the produce to the Commission not later than 14 days after the end of the month during which the produce was sold or within such longer period as the Commission allows.

- (2) Delete regulation 5(3), (4) and (5).
- (3) In regulation 5 delete the Penalty.

Note: The heading to amended regulation 5 is to read:

**Liability for charges**

**7. Regulation 6A inserted**

After regulation 5 insert:

**6A. Collection by dealer**

- (1) A charge required under subregulation (2) to be collected by a dealer becomes due and payable by a producer on the day on which the dealer is required to collect the charge from the producer.
- (2) Except where collection is required under regulation 6, a dealer who purchases or receives horticultural produce from a producer must, on the day on which the dealer purchases or receives the produce, collect from the producer any charge that relates to the produce and for which the producer is liable under regulation 5(1).  
Penalty: a fine of \$2 000.
- (3) A dealer may collect a charge referred to in subregulation (2) —
  - (a) by deducting the amount of the charge from moneys owed to the producer by the dealer; or
  - (b) as a separate transaction.
- (4) A dealer who collects a charge from a producer under subregulation (3)(a) must, within 28 days of making the deduction, give the producer a written statement of the amount deducted.
- (5) A dealer who collects a charge under this regulation holds the charge on behalf of the Commission.
- (6) A dealer who collects any charge under subregulation (2) must pay the charge so collected to the Commission not later than 14 days after the end of the month during which the charge was collected or within such longer period as the Commission allows.  
Penalty: a fine of \$2 000.

- (7) The payment by a dealer to the Commission of a charge collected under this regulation —
  - (a) if collected by way of deduction from an amount owed by the dealer to a producer, is a discharge of the dealer's obligation to pay the amount of the deduction to the producer; and
  - (b) is a discharge of the producer's liability to pay that charge.

**8. Regulation 6 amended**

After regulation 6(2) insert:

- (3) A charge referred to in regulation 5(1) that is required to be collected by a local government under this regulation is payable on and from the day specified in the notice of the charge as being the day on and from which the charge is imposed.

**9. Regulation 7 amended**

- (1) In regulation 7 delete "A notice" and insert:

- (1) A notice

- (2) At the end of regulation 7 insert:

- (2) The notice must be published at least 14 days before the day specified in the notice as the day on and from which the charge referred to in the notice is imposed.

**10. Regulation 8 replaced**

Delete regulation 8 and insert:

**8. Returns**

- (1) A dealer must, not later than 14 days after the end of each month during which the dealer has dealt in horticultural produce or within such longer period after the end of that month as the Commission allows, furnish to the Commission a return in the form approved by the Commission showing all dealings by the dealer in horticultural produce during that month.  
Penalty: a fine of \$2 000.

- (2) A dealer referred to in subregulation (1), if requested to do so by the Commission, must include in the return the following information —
- (a) the names of the producers with whom the dealer dealt;
  - (b) the quantities of horticultural produce supplied by those producers;
  - (c) each type of horticultural produce supplied by those producers.

Penalty: a fine of \$2 000.

- (3) A producer must, not later than 14 days after the end of each month during which the producer has sold horticultural produce produced by the producer to a person other than a dealer, give to the Commission a return in relation to that produce in the form approved by the Commission.

Penalty: a fine of \$2 000.

- (4) A return under subregulation (3) must show the following information —
- (a) the quantities of each type of horticultural produce;
  - (b) the types of horticultural produce.
- (5) A return may be given to the Commission in a hard copy or electronic form.

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.