
AGRICULTURE

AG301*

Agricultural Produce Commission Act 1988

Agricultural Produce (Horticultural Industry) Regulations 2001

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Agricultural Produce (Horticultural Industry) Regulations 2001*.

2. Interpretation

In these regulations unless the contrary intention appears —

“**dealer**” means any person who —

- (a) purchases any horticultural produce direct from a producer wholesale for resale;
- (b) receives horticultural produce from a producer for wholesale sale on behalf of the producer;
- (c) being a producer sells on his or her own behalf by wholesale or retail sale any horticultural produce produced by him or her;
- (d) packs or fills a container with a horticultural produce on behalf of a producer; or
- (e) receives any horticultural produce from a producer or wholesaler for processing;

“**horticultural produce**” means —

- (a) wine, fruit and the juices of fruit, whether fresh or processed;
- (b) vegetables and the juices of vegetables, whether fresh or processed;
- (c) nuts including processed nuts;
- (d) flowers, whether fresh or dried;
- (e) plants, including grass and other herbaceous plants, grown for sale as living plants;

“producer” means a producer of horticultural produce in relation to which a producers’ committee is established under the Act;

“sale” includes barter or exchange.

3. Prescribed services that may be provided by a producers’ committee established in relation to a horticultural produce

For the purpose of section 12(1) of the Act, the services referred to in section 12(1)(a) to (m) of the Act are prescribed as services that a producers’ committee may provide in relation to the horticultural produce in relation to which it was established.

4. Prescribed statistical information

- (1) In subregulation (2) **“specified”** means specified by the Commission by notice in writing addressed to the person who produces the kind of horticultural produce in question.
- (2) The following information is prescribed statistical information for the purposes of section 13 of the Act in relation to the producers’ committee or a proposed producers’ committee —
 - (a) the quantity of specified horticultural produce produced for sale by a person;
 - (b) the area of land cultivated by a person for the purposes of the cultivation of the specified horticultural produce;
 - (c) the outlets through which the specified horticultural produce is sold.

5. Dealer to collect and pay charges

- (1) A producer is liable to pay such charges as are imposed by the Commission under section 14(1) of the Act.
- (2) Any charge referred to in subregulation (1) must be collected by a person who is a dealer in horticultural produce produced by a producer.
- (3) Subject to regulation 6, a person who is a dealer in horticultural produce produced by a producer who does not collect a charge referred to in subregulation (1) commits an offence.
- (4) A dealer who collects any charge under subregulation (3) and does not 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 commits an offence.
- (5) A charge imposed under section 14(1) of the Act becomes due and payable by a producer on the day specified in the notice of the charge, being a day not less than 14 days after the day on which the notice was published.

Penalty applicable to subregulations (3) and (4): \$2 000.

6. Local government to collect and pay certain charges

- (1) If a charge referred to in regulation 5(1) is imposed by the Commission under section 14(1) of the Act for the purpose of the provision by a producers' committee of a service to control or to develop a means of controlling a pest or disease specified in a notice published under section 19A(2)(a), the charge must be collected by the local government of any district in which the producers' committee provides the service.
- (2) A local government that collects a charge under subregulation (1) 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.

7. Publication of notice of charge imposed under section 14 of the Act

A notice that requires publication for the purposes of section 14(3) of the Act must be published in a newspaper circulating in the area or areas of the State where the producers, on whom the charge referred to in the notice is imposed, are located.

8. Information to be furnished

- (1) A dealer must, not later than 14 days after the end of each month during which the dealer has dealt in horticultural produce, furnish to the Commission a return in the form approved by the Commission showing all dealings by the dealer in horticultural produce.
- (2) A dealer referred to in subregulation (1), if requested to do so by the Commission, must furnish to the Commission —
 - (a) the names of the producers with whom the dealer dealt and the quantities of horticultural produce supplied by those producers; or
 - (b) in the case of a producer selling on his or her own behalf, the amount of horticultural produce produced,

during the period to which the return relates.

Penalty applicable to subregulations (1) and (2): \$2 000.

9. *The Horticultural Produce Commission General Regulations 1991 repealed*

The Horticultural Produce Commission General Regulations 1991 are repealed.

10. Transitional and saving

- (1) In this regulation —
“**commencement day**” means the day on which these regulations come into operation.

- (2) A producer who is liable to pay a charge imposed by the Commission under section 14 of the Act immediately before the *Horticultural Produce Commission Amendment Act 2000* came into operation is, on and after the commencement day, to be taken to be liable to pay that charge under section 14(1) of the Act as if it had been imposed by the Commission on the commencement day.
- (3) These regulations apply to a charge referred to in subregulation (2) as if the charge had been imposed by the Commission on the commencement day under section 14(1) of the Act.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
