

## PRINCE EDWARD ISLAND CATTLE PRODUCERS

ORDER: EFFECTIVE:

April 1, 2017

UNDER the *Natural Products Marketing Act*, R.S.P.E.I. 1988 Cap. N-3, and the *Cattle Marketing Board Regulations*, the Prince Edward Island Cattle Producers makes the following order:

### REGISTRATION & CATTLE MARKETING LEVIES ORDER

1. This Order may be cited as the Prince Edward Island Registration & Cattle Marketing Levies Order.
2. This Order applies to the registration of persons engaged in the production or marketing of cattle in the Province of Prince Edward Island and the fixing, imposing and collecting of the levies payable by such persons .

#### Definitions

3. The following definitions apply in this Order

- (a) “Act” means the *Natural Products Marketing Act* of Prince Edward Island;
- (b) “Agency” means the Canadian Beef Cattle Research, Market Development and Promotion Agency, established under the *Farm Products Agencies Act* (Canada);
- (c) “auction” means a physical or virtual place at which cattle are auctioned to the highest bidder;
- (d) “beef” means flesh of cattle;
- (e) “beef products” means edible products produced in whole or in part from beef;
- (f) “bob calf” means male or female calves not retained for breeding or milking purposes
- (g) “buyer” means a person who purchases cattle from a producer and includes a producer, a drover, an auction and a processor;
- (h) “cattle” means live domesticated bulls, cows, steers, heifers and calves of the bovine species that are marketed for production of beef or beef products, including commercial and purebred breeding stock, veal calves, bob calves, cull cows and dairy cattle marketed for slaughter, but excluding dairy breeding stock and other cattle marketed for dairy purposes;
- (i) “Commodity Board” means the Prince Edward Island Cattle Producers;
- (j) “custom feeding” feeding by a producer on a fee for service basis of cattle that are owned by a person other than a producer.
- (k) “custom kill” means the slaughtering by a processor on a fee for services basis of cattle that are owned by a person other than the processor;
- (l) “drover” means a person who buys cattle from producers for sale or resale to buyers, processors, producers or through auction;
- (m) “federal levy” means the levy imposed by the Beef Cattle Research, Market Development and Promotion Levies Order;
- (n) “Federal Levy Order” means the Beef Cattle Research, Market Development and Promotion Levy Order;
- (o) “levy” means a fee or charge on the sale or slaughter of cattle payable to the Commodity Board under section 25 (1) (c) of the *Cattle Marketing Board Regulations*;

- (p) “person” means a natural person, partnership, corporation, cooperative or business group;
- (q) “processor” means a person who slaughters cattle; and
- (r) “producer” means a person engaged in raising or producing cattle.

## **PART 1 – REGISTRATION**

### **Producer Registration**

4. (1) A producer must register with the Commodity Board by providing information which the Commodity Board considers necessary in the form and manner specified by the Commodity Board, for the purposes of

- (a) the Cattle Marketing Board Regulations,
- (b) this Order,
- (c) the Federal Levy Order, and
- (d) any other regulation made under the Act in respect of the Commodity Board.

(2) When a producer registers with the Commodity Board the Commodity Board may assign that producer a producer registration number.

(3) No fee is payable to register with the Commodity Board under this section.

(4) A producer must notify the Commodity Board within seven (7) days of any changes to the information provided to the Commodity Board under this section.

(5) The registration of a producer is not transferable.

(6) The Commodity Board shall maintain a register of producers containing information provided to the Commodity Board under this section.

(7) In addition to the provisions in the Cattle Marketing Board Regulations, if a producer fails to register with the Commodity Board, or to advise the Commodity Board of any changes pursuant to sub-section (4), the producer will not be in good standing with the Commodity Board and shall not be eligible for any programs or services provided by the Commodity Board.

### **Buyer Registration**

5. (1) Subject to subsection (2), a buyer must register with the Commodity Board by providing information which the Commodity Board considers necessary in the form and manner specified by the Commodity Board, for the purposes of

- (a) the Cattle Marketing Board Regulations,
- (b) this Order,
- (c) the Federal Levy Order, and
- (d) any other regulation made under the Act in respect of the Commodity Board.

(2) A buyer who is a producer and who has registered with the Commodity Board in accordance with section 4, is not required to register with the Commodity Board as a buyer.

(3) Notwithstanding subsection (2), a buyer who is also a producer, may register with the Commodity Board as a buyer, in accordance with subsection (1), in addition to being registered as a producer.

(4) When a buyer registers with the Commodity Board the Commodity Board may assign that buyer a buyer registration number.

(5) No fee is payable to register with the Commodity Board under this section.

(6) A buyer must notify the Commodity Board within seven (7) days of any changes to the information provided to the Commodity Board under this section.

(7) The registration of a buyer is not transferable.

(8) The Commodity Board shall maintain a register of buyers containing information provided to the Commodity Board under this section.

(9) The Commodity Board shall publish the names, contact information and registration numbers of all registered buyers on the Commodity Board's website.

## **PART 2 – LEVY**

### **Levy**

6. (1) A producer must pay to the Commodity Board a levy of

- (a) \$6.00 plus HST for each head of cattle sold by that producer,
- (b) \$6.00 plus HST for each head of cattle the producer slaughters or causes to be slaughtered without selling the cattle to another person, and
- (c) \$6.00 plus HST for each head of cattle custom fed in PEI for more than seven days

(2) Where, in the ordinary course of business as a drover, a drover feeds or owns cattle for a period of not more than 7 days, the drover is deemed not to be a producer and is not liable to pay the levy to the Commodity Board under subsection (1).

### **Deduction of levy - buyers**

7. (1) With respect to the levy referred to in section 6(1)(a), where cattle are sold to or through a buyer, that buyer shall

- (a) deduct the amount of the levy from the amount owing to the producer,
- (b) forward the amount deducted to the Commodity Board and account to the Commodity Board for the amount deducted, in the form prescribed by the Commodity Board, by the 15th day of the month next following the month in which the cattle were sold, and
- (c) provide to that producer a document that clearly shows
  - (i) the number of cattle sold,
  - (ii) the total amount of the levy that was deducted,
  - (iii) the name, address, telephone number and registration number of the buyer, and
  - (iv) the date of the transaction in respect of which the deduction was made.

(2) If the buyer fails to deduct and forward the levy to the Commodity Board in accordance with subsection (1),

the buyer and the producer are jointly liable to the Commodity Board for the payment of the levy.

### **Collection of levy - custom kill**

**8.** (1) With respect to the levy referred to in section 6(1)(b), if a processor custom kills cattle for which a levy is not deducted as required under this Order, the processor shall

- (a) collect the amount of the levy from the producer at the time the cattle are custom killed,
- (b) forward the amount collected to the Commodity Board and account to the Commodity Board for the amount collected, in the form prescribed by the Commodity Board, by the 15th day of the month next following the month in which the cattle were custom killed, and
- (c) provide to that producer a document that clearly shows
  - (i) the number of cattle custom killed,
  - (ii) the total amount of the levy that was charged,
  - (iii) the name, address, telephone number and registration number of the processor, and
  - (iv) the date of the custom kill in respect of which the collection was made.

(2) If the processor fails to collect and forward the levy to the Commodity Board in accordance with subsection (1), the processor and the producer are jointly and severally liable to the Commodity Board for the payment of the levy.

### **Payment of levy - producers**

**9.** (1) With respect to the levy referred to in section 6(1)(a) and (b), if the levy is not deducted or collected and remitted by the buyer or processor in accordance with sections 7 and 8, the producer shall,

- (a) pay the levy to the Commodity Board, and
- (b) account to the Commodity Board for the levy, in the form prescribed by the Commodity Board,

by the 15th day of the month next following the month in which the cattle were sold or custom killed.

### **Debt due to the Commodity Board**

**10.** (1) The amount of the levy that

- (a) is not deducted and forwarded to the Commodity Board by the buyer in accordance with section 7;
- (b) is not collected and forwarded to the Commodity Board by the processor in accordance with section 8;
- (c) is not paid to the Commodity Board by the producer in accordance with section 9

is a debt owing to the Commodity Board and the Commodity Board may take legal action to recover the levy.

(2) If levies are not remitted in accordance with this Order then the producer is not in good standing with the Commodity Board, and shall not be eligible for any programs or services provided by the Commodity Board.

### **Use of levy**

**11.** (1) The Commodity Board may use the levy or other money payable to or received by the Commodity Board for the purpose of paying the Commodity Board's expenses and for administering the Cattle Marketing Board Regulation, this Order, and any agreements entered into between the Commodity Board and the Agency.

(2) The Commodity Board may pay a portion of the levy collected to the Agency for services performed by the Agency on behalf of the Commodity Board pursuant to any agreement entered into between the Commodity Board and the Agency.

### **Agreements with the Agency**

**12.** (1) Subject to subsection (2), the Commodity Board may enter into agreements with the Agency for the following purposes:

- (a) to promote the marketing and production of cattle and beef products for the purposes of interprovincial trade, export trade and import trade;
- (b) to conduct and promote research activities related to cattle and beef products to further the purposes mentioned in clause (a);
- (c) to manage the Agency and the collection and distribution of the levies paid to the Agency; and
- (d) any other matters incidental to the administration of the agreements.

(2) Any agreement entered into pursuant to subsection (1) must specify:

- (a) the portion of the levy to be remitted by the Commodity Board with respect to each head of cattle sold or slaughtered; and
- (b) the timing of remittances by the Commodity Board to the Agency.

(3) The Commodity Board may enter into any agreement with the Agency that provides for:

- (a) the collection by the Commodity Board on behalf of the Agency of the federal levy, and the remittance of the federal levy by the Commodity Board to the Agency; and
- (b) any other matters incidental to the administration of the federal levy order.

### **Alternative Dairy Producer Levy Prepayment Program**

**13.** (1) For the purpose of this section:

(a) “dairy producer” means a quota holder as defined in the *Dairy Farmers of Prince Edward Island Regulations* under the *Natural Products Marketing Act*;

“DFPEI” means the Dairy Farmers of Prince Edward Island, a body corporate, established under the *Natural Products Marketing Act* of Prince Edward Island;

“total production quota (TPQ)” means a quota allotted by the DFPEI in accordance with its regulations to represent a portion of an individual’s share of the provincial quota expressed in kilograms (Kg) of butterfat.

(2), The Commodity Board may establish an Alternative Dairy Producer Levy Prepayment Program to be administered by DFPEI under an agreement with the Commodity Board, for the annual collection and remittance of the levy payable by dairy producers pursuant to section 6, in lieu of the payment provisions set forth in sections 7, 8 and 9.

(3) A dairy producer, may elect to remit the levy prescribed by section 6 annually through the Alternative Dairy Producer Levy Prepayment Program in lieu of the payment provisions set forth in sections 7, 8 and 9.

(4) A dairy producer, may enroll in the Alternative Dairy Producer Levy Prepayment Program by providing information which the Commodity Board considers necessary for the collection of the levy on the sale of cattle by dairy producers, in the form and manner specified by the Commodity Board.

(5) A dairy producer must enroll with DFPEI before December 31 in order to participate in the Alternative Dairy Producer Levy Prepayment Program for the following year. Participation in the program shall continue until the dairy producer provides direction and authorization to cancel in writing.

(6) A dairy producer must notify DFPEI within seven (7) days of any changes to the information provided to the DFPEI under this section.

(7) The calculation of the Total Levy (TL) under this section 13 shall be based on the dairy producer's TPQ as of the first day of the following month.

(8) Under the Alternative Dairy Producer Levy Prepayment Program, a dairy producer's annual levy shall be calculated using the following formula:

$$TL = (TPQ \times 0.884 \times L) + HST$$

where L represents the levy, before HST, per head of cattle established pursuant to section 6.

(9) DFPEI shall remit the levy to the Commodity Board on behalf of each dairy producer enrolled in the Alternative Dairy Producer Levy Prepayment Program, at the rate determined under subsection 13(8), together with all of the information for each participant as well as any additional information that may be prescribed by the Commodity Board from time to time.

(10) The Commodity Board shall distribute a list of all dairy producers participating in the Alternative Dairy Producer Levy Prepayment Program to all registered buyers.

### **PART 3 – COLLECTION OF INFORMATION**

#### **Cattle information**

**14.** (1) A producer, buyer, drover and auction must maintain a complete and accurate record of all sales and purchases of cattle, including but not restricted to

(a) cattle sales records showing

- (i) the number of cattle sold,
- (ii) the date of the sale,
- (iii) the name and contact information of the purchaser,

(b) cattle purchase records showing

- (i) the number of cattle purchased,
- (ii) the name and contact information of the person from whom the cattle were purchased,
- (iii) the name and contact information of the producer of the cattle,
- (iv) the date of the purchase.

(2) A processor must maintain a complete and accurate record with respect to the following:

- (a) the number of cattle slaughtered;

- (b) the date on which cattle were slaughtered;
  - (c) the name and contact information of the producer of each cattle slaughtered;
- (3) A producer must maintain a complete and accurate record of all matters relating to the slaughtering of cattle that are slaughtered without being sold, including but not restricted to
- (a) the number of cattle slaughtered,
  - (b) the date of slaughter,
  - (c) the name and contact information of the owner of the cattle.

### **Retention of information**

- 15.** (1) A person who is required to maintain information, records and documents under this Part must
- (a) maintain that information and those records and documents for not less than 7 years from the day that the information was received, the record was made or the document was created, and
  - (b) make the information and those records and documents available to the Commodity Board when requested to do so by the Commodity Board pursuant to Part 5.

## **PART 5 - ACCESS TO INFORMATION BY COMMODITY BOARD**

### **Request for information**

**16.** (1) The Commodity Board may request any producer, buyer, drover, auction or processor to furnish the Commodity Board with any information or record relating to the sale, purchase, transport or slaughtering of cattle that the Commodity Board considers necessary for the purposes of administering

- (a) the Cattle Marketing Board Regulations,
- (b) this Order,
- (c) the Federal Levy Order, as a collector under that Order, and
- (d) any other regulation made under the Act in respect of the Commodity Board.

(2) Where the Commodity Board requests a person to furnish information under subsection (1), that person must furnish that information to the Commodity Board by the 15th day of the month following the month in which the request was made for the information.

### **Inspection of premises and records**

**17.** (1) If the Commodity Board is of the opinion that circumstances warrant it, the Commodity Board may in writing require any producer, buyer, drover, auction or processor to:

- (a) allow the Commodity Board to inspect the premises of the producer, buyer, drover, auction or processor; and
- (b) produce for the Commodity Board's inspection any information or record in the possession or under the control of that person that relates to the sale, purchase, transport or slaughtering of cattle or to the deduction, remittance and payment of levy by that person.

### **Form of request for information**

**18.** (1) A request by the Commodity Board for information or records under sections 16 and 17

- (a) must be in writing, and
- (b) may be sent
  - (i) by personal delivery,
  - (ii) by postmarked mail or courier to the person's last address shown on the records of the Commodity Board, or
  - (iii) by fax or e-mail to the person's last fax number or e-mail address shown on the records of the Commodity Board.

**Prohibition**

19. No person shall create false records or provide false information for the purposes of this Order.

**Confidentiality**

20.(1) The information obtained by the Commodity Board and any buyer, auction, drover or processor under this Order shall be held in confidence and used only for the purposes of ensuring compliance with:

- (a) the Cattle Marketing Board Regulations,
- (b) this Order,
- (c) the Federal Levy Order, and
- (d) any other regulation made under the Act in respect of the Commodity Board.

**PART 5 – GENERAL**

21. Cattle Producers of Prince Edward Island order # CP07-1 dated November 3, 2007 is hereby revoked.

22. This order shall come into force on April 1, 2017.

DATED at Charlottetown, Prince Edward  
Island, this    day of                    2017.

Prince Edward Island Cattle Producers:

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Brian Morrison, Chair

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Derek Annema, Secretary