
THE FARM PRODUCTS MARKETING ACT
(C.C.S.M. c. F47)

Chicken Broiler Quota Order, amendment*

Regulation 177/2018
Registered December 14, 2018

Manitoba Regulation 228/2006 amended

**1 The *Chicken Broiler Quota Order*, Manitoba Regulation 228/2006,
is amended by this Order.**

2 The definition "maximum allotment**" in section 1 is replaced with
the following:**

"acquisition limit" for a category means:

(a) with respect to Cornish game hen only—a basic allotment or basic allotments aggregating 170,000 kilograms of chicken broiler per marketing cycle; provided that in determining the acquisition limit applicable to a person or to a person associated with that person, the 170,000 kilograms amount must be reduced by an amount equal to the extra-provincial amount attributed to that person or to a person associated with that person,

(b) with respect to Regular chicken broiler only—a basic allotment or basic allotments aggregating 200,000 kilograms of chicken broiler per marketing cycle; provided that in determining the acquisition limit applicable to a person or to a person associated with that person, the 200,000 kilograms amount must be reduced by an amount equal to the extra-provincial amount attributed to that person or to a person associated with that person,

* This Order is made under the *Manitoba Chicken Broiler Producers Marketing Plan Regulation*, Manitoba Regulation 246/2004 and is Order No. 1, 2018 of Manitoba Chicken Producers.

(c) with respect to Roaster only—a basic allotment or basic allotments aggregating 275,500 kilograms of chicken broiler per marketing cycle; provided that in determining the acquisition limit applicable to a person or to a person associated with that person, the 275,500 kilograms amount must be reduced by an amount equal to the extra-provincial amount attributed to that person or to a person associated with that person, and

(d) with respect to basic allotments allotted to a registered producer consisting of a combination of Cornish game hen, Regular chicken broiler, and Roasters, an amount not to exceed the equivalent of 25,000 kilograms of chicken meat per week; provided that in determining the acquisition limit applicable to the producer or to a person associated with that producer, the 25,000 kilograms must be reduced by an amount equal to the extra-provincial amount attributed to that producer or to a person associated with that producer.

3 The following is added after section 7:

Preservation of production diversity

7.1 No person will be permitted to make an application made under Part X, XII, or XIII of this Order if the effect of the approval of the application would result in that person or a person associated with that person having a direct or indirect interest in a basic allotment or basic allotments of a category in excess of the acquisition limit for that category.

4 Clauses 9(b) and (c) are replaced with the following:

(b) If the aggregate of all chicken broilers of a category which could be produced if allocations were made in accordance with clause (a) (after estimating the anticipated production of chicken broiler of a category raised in Manitoba during any period of time by persons who are not registered producers and any adjustments as a result of the application of Parts III, III.1, V and VI) would be more than the anticipated market demand for chicken broilers of that category raised in Manitoba during any period of time, the market allotment allotted to each registered producer for that category will be determined by the board in a manner that all registered producers share, as nearly as possible, a pro-rata reduction from the market allotment that they would have received under clause (a) (applying the equivalent calculation set out in section 20) in a manner that the board deems reasonable, so that the anticipated market requirements for chicken broiler of that category during that period of time ought not to be exceeded;

(c) If the aggregate of all chicken broilers of a category which could be produced if allocations were made in accordance with clause (a) (after estimating the anticipated production of chicken broiler of a category raised in Manitoba during any period of time by persons who are not registered producers and any adjustments as a result of the application of Parts III, III.1, V and VI) during any period of time would be less than the anticipated market demand for chicken broiler of that category raised in Manitoba during that period of time (hereinafter called the "Shortfall"), the market allotment allotted to each registered producer for that category will be determined by the board in a manner so that the market allotment allotted to each registered producer for each category will be equal to the basic allotment allotted to the registered producer for that category, and unless the board otherwise directs, the Shortfall will be allotted by

(i) approximately 1/3 of the Shortfall or a lesser amount as the Manitoba council may approve as basic allotment and an equal market allotment to selected persons wishing to engage in chicken broiler production who have applied for registration and an allotment on the terms that the board deems proper; provided no person shall be entitled to an allotment in excess of 30,000 kilograms of Regular chicken broiler (or the equivalent of Cornish game hen or Roasters, or a combination thereof, applying the equivalent calculation set out in section 20) under this provision, and

(ii) allotting the balance of the Shortfall as basic allotment and an equal market allotment to registered producers who have applied for an increase in basic allotment as follows; 50% of the balance of the Shortfall on an equal share basis to each registered producer, and 50% of the balance of the Shortfall on a pro rata basis to each registered producer based on the basic allotment of each registered producer;

provided however that in the event the board is of the opinion that all or a portion of the Shortfall is temporary in nature, the board may allot the Shortfall as market allotment to registered producers on a pro rata basis based on the basic allotment of each registered producer.

In the event a registered producer is associated with one or more other registered producers, for the purpose of allocating part of the Shortfall on an equal share basis, those registered producers will be treated as single registered producer and the equal share amount will be allocated on a pro rata basis between those associated producers.

Any allotment of a share of the Shortfall made pursuant to subclause (c)(i) or (ii) will be conditional upon the selected person or the registered producer satisfying the board that the party is the registered owner or the sole operator of a facility that meets all of the requirements and standards for buildings or equipment established by the board for the purpose of producing the party's proposed allotment of a share of the Shortfall within 24 months of the date of the receipt of notice from the board of the proposed allotment.

5 Section 10 is replaced with the following:

Limitation on market allotment

10 No person will be entitled, directly or indirectly, to a market allotment or market allotments in any marketing cycle for a category which exceeds 8% of the aggregate of all market allotments of chicken broilers of that category allotted to registered producers for that marketing cycle.

6 Subsection 42(2) is replaced with the following:

Acquisitions of interests in excess of the acquisition limit prohibited

42(2) Notwithstanding anything contained in this Order, but subject to sections 43, 44 and 54, the board will take appropriate action to prevent any person from acquiring control of or acquiring a direct or indirect interest in any manner whatsoever in a basic allotment or basic allotments in excess of the acquisition limit.

7 Section 43 is replaced with the following:

Exception for grandfathered operations in excess of the acquisition limit

43 Notwithstanding section 42, the board may

(a) approve the reallocation of a basic allotment in excess of the acquisition limit to a person who does not have a direct or indirect interest in any manner whatsoever in a basic allotment at the time of any proposed reallocation; and

(b) suspend the provisions of section 48 if the proposed new beneficial or legal owner does not have a direct or indirect interest in any manner whatsoever in a registered producer at the time of the transfer of beneficial or legal ownership to the proposed new owner.

8 Section 48 is amended

(a) by adding "basic" before "allotments"; and

(b) striking out "maximum allotment" and substituting "the acquisition limit".

9 Subsection 52(2) is replaced with the following:

Association of producers

52(2) For the purpose of this Order, a producer shall be deemed to be associated with another producer if one person has a direct or indirect legal or beneficial interest in any manner whatsoever in the producer, and a person associated with that person has a direct or indirect interest in any manner whatsoever in the other producer.

10 Section 54 is replaced with the following:

Grounds for non-waiver re association

54 The provisions of section 53 will not be waived by the board if the basic allotments allotted to the associated producers aggregate more than the acquisition limit or if the board has reasonable grounds for believing that a person would directly or indirectly in any manner whatsoever have a legal or beneficial interest in basic allotments which aggregate more than the acquisition limit.

11 The following is added after section 55:

Avoidance of association

55.1 In the event that the Board has reasonable grounds for believing that the legal structure or organization of a person, partnership, voting trust or other entity was undertaken or arranged primarily to avoid association with another person then the person, partnership, voting trust or other entity shall be deemed to be associated with that person for the purpose of this Order.

12 Section 65 is replaced with the following:

Reallotment and acquisition limit

65 Subject to section 43, no quota or allotment will be reallotted to an applicant corporation or partnership if

(a) any beneficial shareholder of the applicant corporation or any beneficial owner of the assets of the applicant partnership is

(i) a registered producer,

(ii) a beneficial shareholder in a corporation which is a registered producer, or

(iii) a beneficial owner of the assets of a partnership which is a registered producer,

that has been allotted basic allotments which are equal to or aggregate in excess of the acquisition limit; or

(b) the board has reasonable grounds for believing that as a result of the reallotment a person would directly or indirectly in any manner whatsoever control or have an interest in basic allotments which aggregate more than the acquisition limit.

13 Section 8 of Schedule A is amended by striking out "maximum allotment" and substituting "acquisition limit".

Coming into force

14 This Order comes into force on February 17, 2019, or on the day it is registered under *The Statutes and Regulations Act*, whichever is later.

November 15, 2018

Manitoba Chicken Producers:

Jake Wiebe, Chair

Wayne Hiltz, Executive Director

APPROVED

December 12, 2018

Manitoba Farm Products Marketing Council:

Ed Helwer, Chair

Ingrid Peters-Fransen, Secretary