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

**Pullet Production Quota Order\***

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Regulation 127/98  
Registered July 29, 1998

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\* This Order is made under the *Manitoba Egg and Pullet Producers' Marketing Plan Regulation*, Manitoba Regulation 242/87 R, and is Order No. 4, 1998 of Manitoba Egg Producers.

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PART I  
INTERPRETATION

**Definitions**

**1** In this Order,

**"AP"-type producer** means a registered producer who is not a registered egg producer and who is designated by this Board as an "AP"-type producer;

**"B"-type producer** means a registered producer who is also a registered egg producer and who is designated by this Board as a "B"-type producer;

**"annual utilization target"** of a registered producer means a number of pullets equal to 50% of such producer's pullet production quota;

**"chick"** means a pullet that is less than 10 days of age;

**"down-time"** with respect to an "AP"-type producer or a "B"-type producer means the period of time, being not less than fourteen (14) consecutive days, of a production year specified by this Board during which such producer may not raise or keep pullets;

**"facility"** means any building, structure, equipment or land used for raising or keeping pullets;

**"hatchery operator"** means any person engaged in the operation of equipment used for the incubation of eggs of a hen;

**"hen"** means the female of any class of domestic chicken belonging to the species *Gallus Domesticus*;

**"immediate family"** means an individual's spouse, parent, child, grandchild, or the spouse of the individual's child or grandchild;

**"maximum permit"** means pullet production permits aggregating 420,000 pullets per calendar year;

**"maximum quota"** means an annual pullet production quota of 420,000 pullets;

**"production year"** of a registered producer means the twelve consecutive month period specified by this Board for such producer during which such producer may raise or keep pullets pursuant to the pullet production quota allotted to him;

**"permit"** means a temporary pullet production permit or a pullet production permit;

**"pullet"** means any class of hen that is less than 19 weeks of age;

**"pullet production quota"** of a registered producer means the maximum number of pullets determined by this Board which may be raised or kept by such producer during his production year;

**"Pullet Rearing Certificate"** means a certificate issued by this Board to a registered producer authorizing such producer to buy or take delivery of chicks, confirming the maximum number of pullets such producer may raise or keep at any point in time during all or a portion of his production year, specifying the facility in which such pullets must be raised during such period of time, and specifying such producer's down-time;

**"Quality Assurance Program"** means the program approved by the Board and designated with that name, as same may be amended or varied from time to time;

**"registered producer"** means a pullet producer who is duly registered with this Board and whose registration is in good standing.

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M.R. 122/2012

## PART II

### ALLOCATION OF QUOTA

#### **Application for quota**

**2** Any person may apply to this Board for the allotment of a pullet production quota pursuant to Parts X or XI. Every application shall be in writing in a form prescribed by this Board and must be signed by the applicant and forwarded to the head office of this Board at Suite 18 – 5 Scurfield Boulevard, Winnipeg, Manitoba R3Y 1G3.

#### **Criteria for allotment of quota**

**3** Each applicant for an allotment of a pullet production quota must be the registered owner or the sole operator of a facility that meets all of the requirements or standards for buildings, equipment, operation, and animal health established by the Board from time to time.

#### **Conditional allotment of quota**

**4** The Board may allot a pullet production quota conditional upon the acquisition of a facility within a specified period of time.

#### **List to indicate quota**

**5** Subject to the provisions of this Order, a registered producer's pullet production quota shall be equal to the number of pullets shown opposite his name on the list of registered producers approved by the Board on April 29, 1999, as same may be amended by resolution of the Board from time to time to reflect alterations or additions or deletions to same.

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M.R. 99/99

#### **Designation of producers**

**6** Each producer shall from time to time be designated by the Board as an "AP"-type producer, or as a "B"-type producer. A producer may apply to the Board from time to time for a change in designation. The designation of each producer shall be shown opposite his name on the list of registered producers referred to in section 5.

**Amendments to list**

**7(1)** Subject to subsections (2) and (3), the Board may also, by resolution, amend the list referred to in section 5 from time to time to increase or decrease the pullet production quota of registered producers on a pro rata basis to reflect each registered producer's share of the anticipated requirements for pullets raised in Manitoba during such period of time, or to otherwise distribute equitably among registered producers a share of the anticipated requirements for pullets raised in Manitoba.

**7(2)** The pullet production quota of a producer shall not be reduced below 500 pullets under subsection 7(1).

**7(3)** A producer may ask that the Board not increase the pullet production quota allotted to him under section 7 or Part XI until further notice to the Board.

**Quota not to exceed maximum quota**

**8** The pullet production quota of a registered producer shall not exceed maximum quota.

**Production year**

**9** The production year of each registered producer shall be specified by the Board. A registered producer may apply to the Board from time to time for a change in the production year specified for him. The production year specified for each registered producer shall be shown opposite his name on the list of registered producers referred to in section 5.

**Activities within a production year**

**10** In allotting a pullet production quota, the Board may specify the commencement dates and the termination dates during which time the producer may raise or keep all or a portion of the pullets he is entitled to raise or keep during such production year pursuant to his production quota, and may specify his downtime. Such information will be shown on the Pullet Rearing Certificate issued to such producer. A producer may apply to the Board from time to time for a change in such activity dates.

**Catch-up during a production year**

**11** Where a producer markets less than the number of pullets he was entitled to raise or keep during a portion of his production year, such producer may apply for an increase in the number of pullets he may raise or keep during the balance of his production year in an amount equal to such shortfall.

## PART III

## PULLET PRODUCTION PERMITS

**Special pullet production permits**

**12(1)** Any registered producer may apply to the Board for a special pullet production permit. Any application shall be in the form prescribed by the Board for such purpose and must be accompanied by any necessary permit application fee established by the Board for such purpose.

M.R. 221/2004

**12(2)** If the Board estimates that Manitoba producers will not be able to achieve adequate and timely supplies of pullets during a particular period of time and does not want to alter quotas in the manner set out in section 7, it may issue special pullet production permits to selected registered producers for a term of not more than twenty weeks in an amount not to exceed, in aggregate, such anticipated shortfall.

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M.R. 221/2004

**12(3)** The Board may also issue a special pullet production permit to a non-registered person to permit the production and marketing of pullets provided that

(a) the Board is satisfied that sufficient pullet supplies during a particular period of time cannot be met by the issue of special pullet production permits pursuant to subsection (2) hereof;

(b) the Board is satisfied that such pullets will be raised and marketed under conditions satisfactory to the Board; and

(c) satisfactory arrangements have been made with respect to the payment of any penalties in connection with any activities of the permit holder that may be inconsistent with the terms and conditions established by the Board in issuing a special pullet production permit to the permit holder.

Any application shall be in the form prescribed by the Board for such purpose and must be accompanied by any necessary permit application fee established by the Board for such purpose.

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M.R. 221/2004

#### **Permits for industrial egg program**

**12.1(1)** Any registered producer may apply to the Board for a pullet production permit to produce laying hens for the industrial egg program of the Board.

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M.R. 221/2004

**12.1(2)** The Board may issue a pullet production permit to a registered producer who has entered into a contract with the Board providing for the sale of all pullets pursuant to the terms of such contract.

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M.R. 221/2004

**12.1(3)** The Board may cancel or reissue a pullet production permit at the same time and for the same reasons it cancels a pullet production quota.

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M.R. 221/2004

## PART IV

## REDUCTION OR CANCELLATION OF QUOTA

**Cancellation for undermarketing for two years**

**13** Where a registered producer fails to market a quantity of pullets raised or kept by him equal to his annual utilization target in any production year, for two consecutive production years, the pullet production quota allotted to such producer may be cancelled by the Board.

**Stand downs and relief from reductions and cancellations**

**14** The Board may exempt from the provisions of section 13, any producer who:

(a) received permission from the Board in writing, because of anticipated surplus marketing conditions for pullets at the time his pullets would be ready for marketing, to temporarily curtail pullet production, provided a written application for such permission has been received by this Board at least one (1) month in advance of the commencement of the placement of such reduced flock; or

(b) received permission from the Board in writing, because of major repairs and/or renovations to his facility, to temporarily curtail pullet production, provided a written application for such permission has been received by this Board at least one month in advance of the commencement of such major repairs and/or renovations; or

(c) is reallocated a quota pursuant to section 37 or section 38; or is allotted an increase in a quota as a result of being a successful bidder in a Retirement and Quota Reallocation Program; provided that such producer applies to the Board for such exemption within 30 days of such allotment or reallocation, such exemption to be for a period not to exceed twelve months from the date of the allotment or reallocation of such quota, and following such exemption period, such producer's annual utilization target for the then current production year shall be reduced to a lesser amount, based upon the portion of the production year remaining at the end of such twelve month period; or

(d) was unable to market his annual utilization target because of lack of chicks or because his facility was lost due to fire or other causes beyond his control, or because his pullets were subject to disease (as certified by a qualified veterinarian) or because of suffocation of his pullets (accompanied by a veterinarian's certificate) or because of serious illness of the producer, provided such producer applies to the Board in writing as soon as reasonably possible following such event, but in any event no later than three months following the end of the year in which such event occurred; or

(e) received permission from the Board in writing, to reduce or close down his facility as a result of a notification to the Board in writing that he plans to apply for a payment from the Retirement and Quota Reallocation System, subject to such terms and conditions as the Board may establish at the time such permission is granted; or

(f) has otherwise obtained permission from the Board in writing to reduce or close down his facility for a period of time, subject to such terms as the Board may establish at the time such permission is granted.



**Cancellation of quota on retirement, death, winding up, etc.**

**15(1)** The Board may cancel the quota allotted to a registered producer in the event of the death of the registered producer, the winding up or dissolution of the registered producer that is a corporation, or the dissolution of the registered producer that is a partnership.

**15(2)** The Board may also cancel the quota allotted to a registered producer in the event the registered producer receives permission from the Board under clause 14(e), and fails to meet the terms or conditions established by the Board in granting such permission.

**Cancellation of quota on cancellation of registration**

**16** The quota allotted to a person shall be automatically cancelled in the event he ceases to be a registered producer.

**Other reduction or cancellation of quota**

**17** The Board may suspend, reduce or cancel, either on a temporary basis or on a permanent basis, a quota:

- (a) as set out in this Order; or
- (b) where a producer has failed to comply with any regulation, order, or directive of the Board; or
- (c) where the producer has failed to meet the requirements or standards for buildings, equipment, operation, or animal health established by the Board; or
- (d) where a producer becomes insolvent or bankrupt or applies for a receiving order or has such an order made against it or takes a benefit from any Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to facilities used by a producer; or
- (e) where a producer has entered into a contract or agreement that would
  - (i) deprive him of his right to the proceeds from the marketing of pullets raised by him, or
  - (ii) deprive him of his right to a payment or an entitlement to a payment or an anticipated payment from the Retirement and Quota Reallocation System to another person without the prior written consent of the Board; or
  - (iii) require him to purchase a product or a service in connection with the raising or marketing of pullets by him; or
  - (iv) obligate him in any way with respect to the raising or marketing of pullets by him in connection with the acquisition of a product or a service by him; or
- (f) where the Board has determined that the producer has failed to comply with the Quality Assurance Program; or
- (g) if the Board has reasonable grounds for believing that such action is in the interests of Manitoba producers, consumers, or the pullet industry.

M.R. 122/2012

## PART V

## OWNERSHIP OF QUOTAS AND PERMITS

**Quotas and permits owned by the Board**

**18** Quotas and permits are owned by the Board.

**Quotas and permits non-transferable**

**19** No person shall

(a) transfer, assign, or sell a quota or permit to another person; or

(b) offer to transfer, assign, or sell a quota or permit to another person, or receive payment for a quota or permit, or offer to buy a quota or permit from a producer or make payment to a producer for a quota or permit.

**Retirement and quota reallocation system payments non-transferable**

**20** No person shall offer to assign or assign a payment or an entitlement to a payment or an anticipated payment from the Retirement and Quota Reallocation System to another person without the prior written consent of the Board.

## PART VI

## PROHIBITIONS

**Prohibitions**

**21(1)** No person shall take possession of chicks without first receiving from the Board a Pullet Rearing Certificate issued to him with respect to such chicks.

**21(2)** No hatchery operator shall deliver possession of chicks to a person without first requiring that person to present to such hatchery operator a Pullet Rearing Certificate issued to such person with respect to such chicks.

**21(3)** No person shall raise or keep pullets unless he has been allotted a pullet production quota or a permit by this Board.

**21(4)** No person to whom this Board has allotted a pullet production quota shall raise or keep pullets during his production year which aggregate in excess of the pullet production quota allotted to him by this Board.

**21(5)** No person to whom this Board has issued a permit shall raise or keep pullets in excess of the number of pullets specified on such permit.

**21(6)** No person to whom this Board has allotted a pullet production quota shall raise or keep pullets during his down-time.

**21(7)** Unless otherwise permitted by this Board in writing, no person shall raise or keep pullets other than in or on a facility that has been certified by this Board for such purpose.

**21(8)** No person shall raise or keep pullets unless he has been issued a Pullet Rearing Certificate by this Board.

**21(9)** No person shall raise or keep pullets other than in or on the facility specified on the current Pullet Rearing Certificate issued to such person by this Board.

**21(10)** No person shall raise or keep pullets in or on a facility at any point in time in excess of the number of the pullets comprising the pullet production quota, or the portion of the pullet production quota, or the permit allotted or issued to him by this Board for that facility for that point in time.

**21(11)** No registered producer shall raise or keep pullets during his down-time.

**Other prohibitions**

**22** No "AP"-type producer shall raise or keep more than 299 laying hens.

M.R. 23/2018

PART VII

GENERAL

**Effect of sharing**

**23** Where two or more persons keep pullets in partnership, or in circumstances where there is a sharing by them whether familial, communal, or otherwise, of facilities, equipment, labour or services provided directly or indirectly by all or any of them, or pursuant to a contract jointly or severally with the same corporation, firm, or individual, for the purpose of this Order, the pullets kept by one of those persons shall be deemed to have been kept by the other or others.

**Acquisitions of interests in excess of maximum prohibited**

**24(1)** Notwithstanding anything contained in this Order, but subject to section 25, the Board will take appropriate action to prevent a person from acquiring control of or acquiring a direct or indirect interest in:

- (a) pullet production quotas in excess of maximum quota;
- (b) permits in excess of maximum permit.

**24(2)** For the purpose of this section, a person shall be considered to have a direct or indirect interest in the pullet production quota or the permit allotted to a pullet producer if that person has an interest in an employment arrangement, a management arrangement or a loan or a guarantee involving that pullet producer; provided however that the lending of money to a pullet producer in the ordinary course of business by a bank, credit union, trust company, the Farm Credit Canada, the Manitoba Agricultural Services Corporation, or any other commercial lender recommended by the board and approved by the Manitoba Council, shall not be considered a direct or indirect interest in the pullet production quota or permit allotted to that pullet producer for the purpose of this section.

M.R. 107/2007

**24(3)** For the purpose of this section, a membership or share interest in a cooperative corporation engaged in the production of pullets will not be considered a direct or indirect interest by a registered producer in pullet production quotas or permits allotted to that cooperative corporation, provided such cooperative corporation has at least 50 other members who are also registered producers.

**Exception for financial assistance to children**

**25** Notwithstanding section 24, the Board may approve the provision of financial assistance by a registered producer to one or more children of the registered producer or of a shareholder of a registered producer or of a partner of a registered producer for the purpose of enabling such child or children to acquire facilities and to become a registered producer. Any such approval will be subject to the applicants' satisfying the Board that

(a) the pullet production business of the child or children will be completely separate from and independent of the pullet production business of such registered producer (i.e. the businesses will be carried on on separate parcels of land, in separate facilities; there will be no sharing on a day-to-day basis of labour; there will be no commingling of supplies or feed; there will be no mutual ownership of any assets used in the businesses on a day-to-day basis; there will be no sharing of profits or losses; the parties keep and maintain separate financial statements and file income tax returns as separate entities); and

(b) such financial assistance is unsecured, directly or indirectly, with respect to the facilities and pullets owned by the child or children; and

(c) the pullet production business to be carried on by the child or children of the registered producer will operate completely independent of the parent.

The applicants shall provide the Board with an Undertaking in a form acceptable to the Board with respect to the matters set out in clauses (a) to (c) above.

**Step-transactions prohibited**

**26** Notwithstanding anything contained in this Order, the Board will take appropriate action to prevent a person from acquiring control of, or acquiring a direct or indirect interest in quotas through a process:

(a) that involves more than one application to the Board; or

(b) that does not disclose to the Board, in conjunction with an application to the Board for any reallocation of quota, particulars of all contemplated or proposed future transactions which may involve

(i) a subsequent reallocation of quota, or

(ii) a future change in the legal or beneficial ownership of an entity, or

(iii) an application to transfer quota from one facility to another facility.

PART VIII  
CHANGES IN BENEFICIAL OWNERSHIP OF  
REGISTERED PRODUCERS

**Special definitions**

**27** In this Part,

"**controlling party**" means a person who directly or indirectly is the legal or beneficial owner of an aggregate of more than 50% of any class of the issued shares of, assets of, or interest in an entity;

"**entity**" includes an association, partnership, body corporate, trust or other organization;

"**substantial holder**" means a person who directly or indirectly is the legal or beneficial owner of an aggregate of 10% of any class of the issued shares of, assets of, or interest in an entity;

"**transfer**" includes a sale, assignment, gift, bequest, devolution, purchase, mortgage, declaration of trust, or change in legal or beneficial rights.

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M.R. 16/2013

**Transfers by a substantial holder**

**28** In the event all or part of the beneficial or legal ownership of an interest in a substantial holder in an entity that is a registered producer is transferred by the legal or beneficial owner of such interest, the Board may cancel or reduce the quotas of such registered producer unless the parties to such transfer have requested in writing that the Board waive this provision and have each provided the Board, by Statutory Declaration and Certificate in a form acceptable to the Board, with full particulars of the proposed transfer, and any other information with respect to the assets and liabilities of the entity at the effective date of such transfer, and the Board has in its discretion waived this provision either conditionally or unconditionally.

The registered producer and the parties to the transfer will each be required to provide to the board a written undertaking, in a form satisfactory to the board, stating that such party will not apply

(a) for a retirement payment under the Retirement and Quota Reallocation Program;

(b) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part VIII;

(c) for the approval of an association of the registered producer with another registered producer pursuant to Part IX;

(d) for the reallocation of the quotas allotted to the registered producer pursuant to Part X; or

(e) to relocate the facilities of the registered producer under section 52;

for a minimum of five years following such waiver unless such party has first received the approval of the Manitoba Council to such application.

M.R. 107/2007

#### **Grounds for non-waiver re transfers**

**29** The provisions of section 28 will not be waived by the Board if the Board has reasonable grounds for believing that as a result of such transfer a person would have a direct or indirect interest in a quota or quotas which aggregate in excess of maximum pullet production quota.

#### **Bankruptcy or receivership of a controlling party**

**30** In the event a controlling party in an entity that is a registered producer becomes bankrupt or applies for a receiving order or has a receiving order made against it or takes the benefit of an Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to any interest of the controlling party in such registered producer, the Board may cancel or reduce the quotas of such registered producer unless the registered producer or the trustee or receiver requests in writing that the Board waive this provision and provides the Board, by Statutory Declaration and Certificate in a form acceptable to the Board, with full particulars of such happening and the Board has in its discretion waived this provision either conditionally or unconditionally, provided however that the Board will only waive such discretion on a temporary basis, and on terms and conditions, in order to allow the Trustee in Bankruptcy or Receiver reasonable time to dispose of such interest in the controlling party.

#### **False or misleading information re transfers**

**31** In the event that the Board has reasonable grounds for believing that any information provided to it by Statutory Declaration or Certificate is false or misleading, or that any conditions established by the Board in waiving the provisions of section 28 or section 30 have not been met by the parties, the Board may cancel or reduce the quotas of the registered producer whether or not the provisions of section 28 or section 30 have been previously waived by the Board.

#### **Reduction of requirements re certain transfers**

**32** The Board may establish policies from time to time reducing its requirements under section 28

1. with respect to a change in the membership of a Hutterite Colony where that Hutterite Colony is a registered producer or is the sole legal and the sole beneficial owner of all of the issued shares of a corporation that is a registered producer;
2. with respect to the transfer of shares of a corporation that is a registered producer
  - (a) from an individual to a member of that individual's immediate family, or
  - (b) listed on a public stock exchange unless 10% or more of the total outstanding shares of that class of the corporation are transferred, provided that this clause does not apply in respect of a series of transfers of shares within a period of 18 months by or to any one person that in the aggregate total 10% or more of the outstanding shares of that class of the corporation,

(c) from a shareholder of the corporation (the "departing shareholder") to another shareholder of the corporation (the "continuing shareholder") provided that

(i) the continuing shareholder is the legal and beneficial owner of at least  $66 \frac{2}{3}\%$  of the issued voting shares of the corporation prior to the proposed transfer, or

(ii) the shares being transferred by the departing shareholder represent 50% or less of the total issued voting shares of the corporation, and the shares being acquired by the continuing shareholder do not represent more issued voting shares of the corporation than are already held by the continuing shareholder,

and further provided this clause (c) does not apply unless

(A) the continuing shareholder and the departing shareholder have each held such shares for a minimum period of five years prior to the date of the proposed transfer,

(B) the Board has obtained the approval of the Manitoba Council to waive the requirements under section 28 without the necessity for the applicants to submit to the Board information relating to the consideration paid and received with respect to the proposed transfer.

For the purpose of this clause (c) the voting shares of the corporation must include a pro rata right, with all other voting shares issued by the corporation, to any and all dividends declared by the corporation and to a pro rata share of the assets of the corporation upon winding up of the corporation;

3. with respect to a change in the beneficial or legal ownership of an interest in a partnership that is a registered producer

(a) where the legal or beneficial ownership of an interest of such partnership is transferred to by an individual to a member of that individual's immediate family, or

(b) where a partnership interest is transferred from a partner of the partnership (the "departing partner") to another partner of the partnership (the "continuing partner") provided that

(i) the partnership interest of the continuing partner immediately prior to the transfer entitles the continuing partner to at least  $\frac{2}{3}$  of the profits of the partnership and makes the continuing partner responsible for at least  $\frac{2}{3}$  of the losses of the partnership, or

(ii) the partnership interest of the departing partner being transferred represents 50% or less of the entitlement of the partners to the profits of the partnership and 50% or less of the responsibilities of the partners for losses of the partnership, and the partnership interest being acquired by the continuing partner does not represent a larger entitlement to the profits of the partnership or a larger responsibility for the losses of the partnership than the partnership interest possessed by the continuing partner immediately prior to the transfer,

and further provided this clause (b) does not apply unless

(A) the continuing partner and the departing partner of each held such partnership interests for a minimum period of five years prior to the date of the proposed transfer, and

(B) the Board has obtained the approval of the Manitoba Council to waive the requirements under section 28 without the necessity for the applicants to submit to the Board information relating to the consideration paid and received with respect to the proposed transfer.

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M.R. 16/2013

## PART IX

### ASSOCIATION OF REGISTERED PRODUCERS

#### **Allotments to associated producers**

**33(1)** If two or more producers are associated, the Board may treat the quotas allotted or the permits issued to one of them as having been allotted or issued to any of them.

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M.R. 171/2008

#### **Deemed association**

**33(2)** For the purpose of this Order, a person is deemed to be associated with another person if:

- (a) one person is an entity of which the other person is an officer, director or substantial holder;
- (b) one person is an entity of which the other person is a partner;
- (c) one person is an entity that is controlled, directly or indirectly, by the other person;
- (d) both persons are entities and one entity is controlled, directly or indirectly, by the same individual or entity that controls, directly or indirectly, the other person;
- (e) both persons are members of a voting trust where the trust controls or operates or has an interest in the other person; or
- (f) both persons are associated within the meanings of clauses (a) to (e) with the same person.

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M.R. 171/2008



**Association of producers**

**33(3)** 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 the producer, and a person associated with that person has a direct or indirect interest in the other producer.

M.R. 171/2008

**Association of registered producers**

**34** In the event that a registered producer is or becomes associated with another registered producer, the Board may cancel or reduce the quotas or permits of such registered producers unless the registered producers have requested in writing that the Board waive this provision and have each provided the Board, by Statutory Declaration and Certificate, in a form acceptable to the Board, with full particulars of all persons having a direct or indirect interest in such registered producers and the Board has in its discretion waived this provision either conditionally or unconditionally.

M.R. 107/2007; 171/2008

**Grounds for non-waiver re association**

**35** The provisions of section 34 will not be waived by the Board if the quotas allotted or permits issued to such registered producers aggregate more than maximum quota or more than maximum permit, or if the Board has reasonable grounds for believing that a person would directly or indirectly have a legal or beneficial interest in a quota or quotas which aggregate more than maximum quota or in a permit or permits which aggregate more than maximum permit.

M.R. 171/2008

**False or misleading information re association**

**36** In the event that the Board has reasonable grounds for believing that any information provided to it by Statutory Declaration or Certificate is false or misleading, or that any conditions established by the Board in waiving the provisions of section 34 have not been met by the parties, the Board may cancel or reduce the quota of the registered producers whether or not the provisions of section 34 have been previously waived by the Board.

## PART X

## REALLOTMENT OF QUOTA

**Complete farm sales**

**37** In the event a registered producer sells the land, buildings, and equipment used by him for raising or keeping pullets, the Board may reallocate the quotas used in association with such facility to any purchaser provided it is satisfied that no value has been attributed to such quotas and that no more than appraised value has been paid for such facility.

In applying this provision the Board may require an appraisal of the facility by a qualified appraiser to ascertain the appraised value of the facility using an appraisal method or methods approved by the Manitoba Council, such costs to be borne by the applicant(s).

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Board confirming the sale and purchase consideration (both direct and indirect). All agreements between the registered producer and the purchaser (including a detailed listing of all assets included in such sale) shall be appended to such Statutory Declaration.

In the event that the Board has reasonable grounds for believing that any information provided in a Statutory Declaration is false or misleading, the Board may reduce or cancel the quotas in question, whether or not such quotas were reallocated.

The purchaser will be required to provide to the board a written undertaking, in a form satisfactory to the board, stating that the purchaser will not apply

- (a) for a retirement payment under the Retirement and Quota Reallocation Program;
- (b) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part VIII;
- (c) for the approval of an association of the registered producer with another registered producer pursuant to Part IX;
- (d) for the reallocation of the quotas allotted to the registered producer pursuant to Part X; or
- (e) to relocate the facilities of the registered producer under section 52;

for a minimum of five years following such reallocation unless such party has first received the approval of the Manitoba Council to such application.

M.R. 107/2007

#### **Sale of moveable buildings and equipment**

**38** In the event a registered producer sells a building used by him in raising or keeping pullets, the Board may reallocate the quotas used in association with such building (and any equipment included in such sale) to such purchaser provided it is satisfied that:

- (a) the condition of such building allows for the moving of the building to a new foundation on property owned by the purchaser; and
- (b) the condition of such building and any such equipment included in such sale is such that same is capable of being used for the balance of the estimated useful life of such building and equipment after relocation and installation on the new foundation; and
- (c) no more than the appraised value has been paid for such building and equipment.

In applying this provision the Board may require an appraisal of the building and equipment by a qualified appraiser to ascertain the appraised value of the building and such equipment using an appraisal method or methods approved by the Manitoba Council, such costs to be borne by the applicant(s). In ascertaining whether no more than appraised value has been paid for the building and such equipment, the costs of removing such building and equipment and relocating same on a new foundation on property owned by the purchaser shall be borne by the purchaser and shall be deducted from the appraised value of such building and equipment.

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Board confirming the sale and purchase consideration (both direct and indirect) and any of the matters set out above. All agreements between the registered producer and the purchaser (including a detailed listing of all assets included in such sale) shall be appended to such Statutory Declaration.

The purchaser will be required to provide to the board a written undertaking, in a form satisfactory to the board, stating that the purchaser will not apply

- (a) for a retirement payment under the Retirement and Quota Reallocation Program;
- (b) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part VIII;
- (c) for the approval of an association of the registered producer with another registered producer pursuant to Part IX;
- (d) for the reallocation of the quotas allotted to the registered producer pursuant to Part X; or
- (e) to relocate the facilities of the registered producer under section 52;

for a minimum of five years following such reallocation unless such party has first received the approval of the Manitoba Council to such application.

In the event that the Board has reasonable grounds for believing that any information provided in such Statutory Declaration is false or misleading, the Board may reduce or cancel the quotas in question, whether or not such quotas were reallocated.

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M.R. 107/2007

### **Lease of complete farm**

**39** In the event a registered producer leases the land, buildings, and equipment used by him for raising or keeping pullets for a term not to exceed two (2) years in length, the Board may temporarily reallocate the quota used in association with such land, buildings, and equipment to any lessee for the term of the lease provided it is satisfied that no value has been attributed to such quota and that no more than fair market rental for such facility is being paid under the lease arrangement directly or indirectly for the lease of such facility, or any other assets included in such lease (including any transaction with respect to pullets).

In applying this provision the Board may require an appraisal of the facility to ascertain the fair market rental of the facility using an appraisal method or methods approved by the Manitoba Council, such cost to be borne by the applicant(s).

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Board confirming the rent consideration (both direct and indirect) and any of the matters set out above. All agreements between the registered producer and the lessee (including a detailed listing of all assets included in such lease) shall be appended to such Statutory Declaration.

In the event that the Board has reasonable grounds for believing that any information provided in such Statutory Declaration or any requested Certificate is false or misleading, the Board may reduce or cancel the quota in question, whether or not the quota was temporarily reallocated.

At the end of the lease term such quota shall automatically be reallocated by the Board back to the lessor. Any extension or renewal of a term under a lease will be treated as a new lease.

**Bankruptcy or receivership of a registered producer**

**40** Notwithstanding clause 17(d), where a person who is a registered producer becomes a bankrupt or applies for a receiving order or has such an order made against him or takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or if a receiver is appointed with respect to facilities of a registered producer, the Board may, upon written request of the Trustee in Bankruptcy or the Receiver, temporarily reallocate to the Trustee in Bankruptcy or Receiver the quota allotted to such producer upon terms and conditions as may be established by the Board at the time of such temporary reallocation.

**Reallocation of quota and dispensing with financial information on death, disability or retirement**

**41** In the event of the death, disability or retirement of an individual who is a registered producer, the Board may, on written request of such registered producer or of the personal representative of such deceased registered producer, reallocate the quota allotted to such registered producer to the heir or designated member of such registered producer's immediate family

(a) who becomes the owner of the pullet production business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for keeping pullets; or

(b) who becomes the owner of the pullet production business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the land and buildings used by such registered producer in connection with such business as the successor in possession to such registered producer;

without the necessity to provide the Board with an appraisal of the facility or confirmation of any sale and purchase consideration.

**Reallocation of quota and dispensing with financial information on establishment of family partnership**

**42** Where an individual who is a registered producer enters into a partnership with a member of his immediate family, the Board may, on written request of such registered producer, reallocate the quota allotted to such registered producer to such partnership

(a) which becomes the owner of the pullet production business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for keeping pullets; or

(b) which becomes the owner of the pullet production business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the land and buildings used by such registered producer in connection with such business as the successor in possession to such registered producer;

without the necessity to provide the Board with an appraisal of the facility or confirmation of any sale and purchase consideration.

**Reallotment of quota and dispensing with financial information on establishment of a corporation**

**43** Where an individual who is a registered producer incorporates a corporation controlled by himself and/or members of his immediate family, or where the partners who are registered producers incorporate a corporation owned by themselves in the same proportion as they owned interests in the partnership, or where a registered producer which is a corporation incorporates a wholly owned subsidiary, the Board may, on written request of such registered producer, reallot the quota allotted to such registered producer to such corporation or subsidiary

(a) which becomes the owner of the pullet production business carried on by the registered producer and of the land, buildings and equipment used by the registered producer for keeping pullets; or

(b) which becomes the owner of the pullet production business carried on by the registered producer and of any assets owned by such registered producer in connection with such business, and becomes entitled to possession of the land and buildings used by such registered producer in connection with such business as the successor in possession to such registered producer;

without the necessity to provide the Board with an appraisal of the facility or confirmation of any sale and purchase consideration.

**Partial and complete reallotment of quota to related persons**

**44** The Board may, upon application of a registered producer in writing, (herein called "the applicant") reallot all or a portion of the quota allotted to such applicant to another person (herein called "the recipient") in the following circumstances:

(a) with respect to an individual applicant, where the recipient is a member of such applicant's immediate family;

(b) with respect to a partnership applicant where all partners in the partnership are members of the same immediate family and where the recipient is a member of that immediate family;

(c) with respect to a corporation applicant, where all legal and beneficial shareholders in such applicant are members of the same immediate family and where the recipient is a member of such immediate family;

(d) with respect to a Hutterite Colony applicant (or a corporation applicant which is a wholly owned subsidiary of a Hutterite Colony) where the recipient is a wholly owned subsidiary of such applicant, or a daughter-Hutterite Colony, or a corporation wholly owned by a daughter-Hutterite Colony. For the purpose of this provision a daughter-Hutterite Colony shall mean a Hutterite Colony recently created as a result of the division of the assets and the membership of a Hutterite Colony;

provided that no such reallocation will be made until the recipient has established a separate facility owned and operated solely by him in which to keep pullets, and further provided that the Board is satisfied that no value has been attributed to such quota.

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Board setting out the information specified therein and in the event that the Board has reasonable grounds for believing that any information provided in such Statutory Declaration or an Application is false or misleading, the Board may cancel or reduce the quotas in question, whether or not such quotas were reallocated.

The applicant and the recipient will each be required to provide to the board a written undertaking, in a form satisfactory to the board, stating that such party will not apply

- (a) for a retirement payment under the Retirement and Quota Reallocation Program;
- (b) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part VIII;
- (c) for the approval of an association of the registered producer with another registered producer pursuant to Part IX;
- (d) for the reallocation of the quotas allotted to the registered producer pursuant to Part X; or
- (e) to relocate the facilities of the registered producer under section 52;

for a minimum of five years following the reallocation unless such party has first received the approval of the Manitoba Council to such application.

M.R. 107/2007

#### **Consolidation of existing pullet raising operations**

**44.1** Any two or more registered producers (the "applicants") may apply to the Board to have all of the quotas allotted to the applicants reallocated to a single entity (the "intended recipient") for use in connection with a single facility as a single business operation.

The intended recipient may be a corporation or a partnership which is wholly owned, both legally and beneficially, by the applicants in such manner as may be satisfactory to the Board.

The applicants will each be required to provide a Statutory Declaration in a form acceptable to the Board confirming such information as may be requested by the Board. All agreements between the applicants and with the intended recipient must be appended to such Statutory Declaration.

In the event the Board has reasonable grounds for believing that any information provided in a Statutory Declaration is false or misleading, the Board may reduce or cancel the quotas in question, whether or not such quotas were reallocated.

The applicant and the intended recipient will each be required to give to the board a written undertaking, in a form satisfactory to the board, stating that such party will not apply

- (a) for a retirement payment under the Retirement and Quota Reallocation Program;
- (b) for the approval of a change in the beneficial ownership of the registered producer pursuant to Part VIII;
- (c) for the approval of an association of the registered producer with another registered producer pursuant to Part IX;
- (d) for the reallocation of the quotas allotted to the registered producer pursuant to Part X; or
- (e) to relocate the facilities of the registered producer under section 52;

for a minimum of five years following the reallocation unless such party has first received the approval of the Manitoba Council to such application.

M.R. 107/2007

#### **Reallocation and maximum quota**

**45** No quota will be reallocated to an applicant corporation or partnership if the Board has reasonable grounds for believing that as a result of such reallocation a person would directly or indirectly control or have an interest in quotas which aggregate more than maximum quota.

## PART XI

### RETIREMENT AND QUOTA REALLOCATION SYSTEM

#### **Reallocation of quotas under system**

**46** Pullet production quotas may be cancelled and reallocated by the Board in accordance with the procedure set out in Schedule "A" hereto.

#### **Acceptance of applications discretionary**

**47** The Designated Staff referred to in Schedule "A" may refuse to accept or may postpone the processing of any application to participate in the Retirement and Quota Reallocation System for such reasons or on such terms as they deem appropriate.

## PART XII

### FACILITIES

#### **Quota and permit to be allotted for a facility**

**48** In allotting a quota or a permit to a registered producer, the Board may specify the facility in which the producer's pullets, or any portion of such pullets, must be raised or kept.

**Standards for equipping and operating facilities**

**49** It is a condition of the allotment of a quota or a permit to a registered producer that such registered producer

(a) equip and operate the facility in or on which such producer raises or keeps pullets in such a manner as to provide adequate space, proper ventilation, temperature control, feed, water, lighting and sanitation for the pullets kept in such facility and in accordance with the applicable provisions of the Quality Assurance Program;

(b) maintain at all times a policy of insurance providing the type of coverage specified under the applicable provisions of the Quality Assurance Program, in such amounts as may be specified by the Board;

(c) otherwise care for and handle pullets raised or kept by such producer in accordance with the applicable provisions of the Quality Assurance Program; and

(d) allow representatives of the Board to enter such facility, measure the exterior and the internal space in the facility as well as cage floor area, inspect such facility and take samples from such facility as well as observe and monitor production and marketing activities within such facility.

M.R. 138/99; 122/2012

**Standards for operating facilities**

**50** Subject to the provisions of the Plan, it is a condition of the allotment of a quota or a permit to a registered producer that such registered producer care for and handle chicks and pullets raised or kept by such registered producer in accordance with the applicable provisions of the *Recommended Code of Practice for the Care and Handling of Pullets, Layers and Spent Fowl* distributed by Canadian Agri-Food Research Council (2003 and updates).

M.R. 138/99; 107/2007

**Capacity limitations for facilities**

**51(1)** The board may certify the capacity of the facility of a registered producer from time to time. Such certified capacity shall only include useable production space, and shall be calculated by the board using the *Recommended Code of Practice for the Care and Handling of Pullets, Layers and Spent Fowl* distributed by Canadian Agri-Food Research Council (2003 and updates).

M.R. 138/99; 107/2007

**51(2)** [Repealed]

M.R. 138/99

**Relocation and consolidation of facilities**

**52(1)** Subject to section 53, in the event that a registered producer has been allotted a portion of the quotas or permits allotted to him for one facility and a portion for another facility or facilities, he may apply to the Board to transfer all or part of such quotas or permits from one facility to another facility or facilities, on a temporary or permanent basis. A registered producer may make application to relocate his pullet production facilities to a new location.



**Creditor consent for relocation**

**52(2)** In conjunction with an application under subsection (1), such registered producer shall provide the Board with such information as the Board may require and such consents which the Board may request from any creditor who has been given security on the facilities used by the registered producer.

**No application for change of facility for five years**

**53** In the event the board

(a) approves a change in the beneficial ownership of a registered producer pursuant to Part VIII;

(b) approves an association of persons who are registered producers pursuant to the provisions of Part IX; or

(c) reallocates the quotas allotted to a registered producer pursuant to Part X;

it shall be a condition of such reallocation or such approval that the applicants for such approval or reallocation must acknowledge that only in the event of an unforeseen contingency acceptable to the Manitoba Council will a party be permitted to apply to transfer such quotas from the facility specified for use in connection with such quotas at the time of the change, association or reallocation, to a facility located on another property for a period of at least five years following the approval of such change, association or reallocation.

M.R. 107/2007

**Exception to five year moratorium on applications**

**54** The Board may exempt a person from the provisions of section 53 with respect to a transfer or a change of the nature outlined in section 32, or with respect to reallocation of quota pursuant to sections 41 to 43 inclusive.

**Emergency relocation**

**55** The Board may allow a registered producer to temporarily relocate his pullets to another location in the event of an emergency even if the registered producer is not the registered owner or the sole operator of the facility on that new location.

**Examination of facilities**

**56** It is the condition of the allotment of quota or the issuance of a permit to a registered producer that such registered producer allow any duly authorized representative of the Board to examine and measure the interior and exterior dimensions of his facility and to calculate minimum space requirements per pullet from time to time for the purpose of certification or re-certification of such facility by the Board and to examine his facility to ensure compliance of same with the provisions of sections 49 to 51 inclusive. Prior to such examination, the Board will give reasonable notice to such registered producer of its intention to conduct such examination.

## PART XIII

## THE PLAN AND NON-APPLICATION

**Extract from plan**

**57** This order is subject to the provisions of section 28 of the Plan which presently read as follows:

"Association

28. Where two or more persons keep laying hens or pullets in partnership, or in circumstances in which there is a sharing by them whether familial, communal or otherwise, of facilities, equipment, labour or services provided directly or indirectly by all or any of them, or pursuant to a contract jointly or severally with the same corporation, firm or individual, for the purposes of this Plan and the regulations and orders made by the producer board, the laying hens or pullets kept by one of those persons shall be deemed to have been kept by the other or others."

**Exemptions for certain persons**

**58** This Order does not apply to:

- (a) Any person who keeps less than 300 pullets;
- (b) Any designated small nonregistered producer under Manitoba Regulation 268/88 who raises or keeps a number of pullets equal to or less than his verified number of laying hens established pursuant to such Regulation;
- (c) Any designated multi-family non-registered producer under Manitoba Regulation 268/88 who keeps less than 500 pullets.

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M.R. 23/2018

**Non-application to certain pullets**

**59** This Order, with the exception of subsections 21(1) and (2) with respect to Pullet Rearing Certificates, does not apply to pullets raised or kept by or for a hatchery operator for use by such hatchery operator to produce a hatchery supply flock, provided that:

- (a) such pullets are raised or kept pursuant to the terms of a written contract entered into by such producer and such hatchery operator before the producer commenced raising or keeping such pullets; and
- (b) the Board has issued a Pullet Rearing Certificate with respect to such pullets; and
- (c) such pullets are actually used by the hatchery operator as a hatchery supply flock.

**Other non-application**

**60** This Order does not apply to broiler-type chicks and pullets raised or kept for sale to registered producers under the *Manitoba Chicken Broiler Producers' Marketing Plan* for chicken broiler meat production, or for sale to registered producers under the *Manitoba Broiler Hatching Egg Marketing Plan* for broiler hatching egg production.

**Effect of subsection 27(1) of M.R. 70/2005**

**60.1** This Order is subject to subsection 27(1) of the *Manitoba Egg and Pullet Producers Marketing Plan Regulation*, Manitoba Regulation 70/2005.

**Application of definitions from M.R. 70/2005**

**60.2** Terms defined in the *Manitoba Egg and Pullet Producers Marketing Plan Regulation*, Manitoba Regulation 70/2005, and used in this Order have the same meaning in this Order as in that regulation.

**Repeal**

**61** The *Pullet Production Quota Order*, Manitoba Regulation 161/90 is repealed.

July 7, 1998     MANITOBA EGG PRODUCERS:

Harold Froese  
Chairman

Penny Kelly  
Secretary

APPROVED

July 27, 1998     THE MANITOBA NATURAL PRODUCTS  
MARKETING COUNCIL:

Howard Motheral  
Chairman

Gordon H. MacKenzie  
Secretary

## SCHEDULE "A"

## (PART XI)

## RETIREMENT AND QUOTA REALLOCATION SYSTEM

**Quotas owned by Board**

**1** Notwithstanding the terms and provisions in this Schedule or of any forms or materials used in connection with this Schedule, as stated in section 18 of this Order, quotas are the property of the Board, and any quotas allotted pursuant to the procedure set out in this Schedule may be suspended, reduced or cancelled in accordance with this Order.

**No assignment of payment**

**2** As stated in section 20 of this Order, no person shall offer to assign or assign a payment or an entitlement to a payment or an anticipated payment under the Retirement and Quota Reallocation System to another person without the prior written consent of the Board.

**Definitions**

**3** In this Schedule,

"**Bid**" means a request to be allotted a quota unit upon payment of an administration fee pursuant to the procedure set out in this Schedule;

"**bidder**" means a registered producer or an eligible person who in the opinion of Designated Staff has submitted a Bid in an acceptable form;

"**Designated Staff**" means those employees of the Board designated from time to time to operate the Retirement and Quota Reallocation System;

"**eligible person**" means a person who is not a registered producer and who has met the criteria set out in section 3 of this Order;

"**Offer**" means an application to have quota units cancelled upon receipt of a retirement payment pursuant to the procedure set out in this Schedule;

"**offeror**" means a registered producer who in the opinion of Designated Staff has submitted an Offer in an acceptable form with respect to quota units allocated to such registered producer by the Board;

"**quota**" means pullet production quota;

"**quota unit**" means a quota equal to one pullet;

"**program clearing amount**" ("PCA") on a Retirement and Quota Reallocation Program means the least amount, expressed in dollars and cents per quota unit, at which the cumulative volume (in an ascending order of amounts) of quota units offered for cancellation equals or most closely equals the cumulative volume (in a descending order of amounts) of quota units requested for allotment;

"**Reallocation Day**" means the day on which a Retirement and Reallocation Program is operated;

**"Reserve"** means an account established by the Board to which any quota acquired to balance a Retirement and Quota Reallocation Program in the manner contemplated by clause 8(12)(b) is credited; and to which any monies received for quota added to balance a Retirement and Quota Reallocation Program in the manner contemplated by clause 8(12)(a) are credited;

**"Retirement and Quota Reallocation Program"** means the procedure operated from time to time pursuant to this Schedule, whereby a registered producer may offer to have the whole or a portion of the quota allotted to such registered producer cancelled in the manner provided in this Schedule, and a registered producer or an eligible person may request that quota units be allotted to such person in the manner provided in this Schedule.

#### **Retirement and quota reallocation system administration**

**4** The Retirement and Quota Reallocation System shall be operated by the Designated Staff. The Designated Staff shall be responsible for receiving and processing Offers, establishing the date of each Reallocation Day, publishing such dates, receiving and processing Bids, operating each Retirement and Quota Reallocation Program, and reporting the results to the Board.

The Manitoba Council may appoint Members of its Staff to act as observers and auditors of each Retirement and Quota Reallocation Program.

Except as provided in subsection 8(13) and to the extent necessary to provide notices required under subsection 8(5) or as otherwise required in this Schedule, all particulars with respect to an individual Offer or to an individual Bid shall be kept confidential by the Designated Staff and Manitoba Council observers and auditors, and shall not be disclosed to the Members of the Board, Board staff who are not Designated Staff, or any other person whatsoever.

The Board may prescribe forms to be used in the operation of a Retirement and Quota Reallocation Program from time to time. The Designated Staff may accept a Bid or an Offer, or an amendment or a withdrawal of a Bid or an Offer which is not in a prescribed form, as long as same is in writing and in the opinion of the Designated Staff substantially complies with any such prescribed form.

#### **Application fees**

**5** The Board may by Resolution from time to time establish a non-refundable application fee for Offers under this Schedule. Each Offer must be accompanied by any necessary application fee. All application fees shall be credited to an operating account of the Board.

#### **Retirement fund**

**6** All administration fees paid by successful bidders shall be credited to a trust fund established by the Board (the Retirement Fund). All retirement payments made to successful offerors shall be debited from the Retirement Fund.

**Administration fees and retirement payments**

**7** In this Schedule, and in all forms and materials used in connection with the Retirement and Quota Reallocation System, all references to administration fees, and all references to retirement payments shall be expressed or shall be assumed to be expressed on a quota unit basis.

Each administration fee paid by a successful bidder must be paid on each quota unit allocated to such person.

Each retirement payment paid to a successful offeror will be paid on each quota unit cancelled.

**Retirement and quota reallocation program procedures**

**8(1)** The Designated Staff shall operate a Retirement and Quota Reallocation Program on or before the 5th day of the month following the month in which notification of receipt of an Offer is given by the Board to registered producers and eligible persons.

**8(2)** Designated Staff may cancel, or may postpone, for up to 7 days at any time, the operation of any Retirement and Quota Reallocation Program for any reason they deem advisable.

**8(3)** A person wishing to submit an Offer must do so in writing, either by letter, fax or e-mail, in a form satisfactory to the Designated Staff, to the Board's head office.

**8(4)** Each Offer must include any necessary application fee established by the Board for processing an Offer, together with the following information:

- (a) the name, address and signature of the offeror;
- (b) the Producer Registration Number of the offeror;
- (c) the amount of quota, expressed in quota units, offered for cancellation;
- (d) the retirement payment, to the nearest cent per quota unit, which the offeror is willing to accept upon cancellation of the quota units offered for cancellation;
- (e) the Retirement and Quota Reallocation Program (month) to which the Offer applies; and
- (f) an undertaking that the Offer will not be withdrawn by the offeror once a notice has been given to a registered producer of the Offer pursuant to subsection 8(5).

The Designated Staff may require an offeror to provide proof of the consent of any secured creditor of the offeror to the submission of such Offer.

**8(5)** Upon receipt of an Offer in an acceptable form, the Designated Staff shall cause a notice to be mailed, faxed or e-mailed to each registered producer and each eligible person indicating the fact that an Offer has been received; the number of offerors; the retirement payment per quota unit which each offeror is willing to accept upon cancellation of the quota units offered for cancellation by that offeror; the number of quota units offered for cancellation by each offeror at the proposed retirement payment level; the total number of quota units offered for cancellation; and the Reallocation Day. The notice may contain such other information with respect to the Offer and the options available to the registered producer as the Designated Staff deems appropriate.

**8(6)** A registered producer or an eligible person wishing to submit a Bid on a Retirement and Quota Reallocation System must do so in writing, either by letter, fax or e-mail to the Board's head office, in a form satisfactory to the Designated Staff, which Bid must be received by the Designated Staff prior to 4:00 p.m. of the last working day before the month in which the proposed Retirement and Quota Reallocation Program is to be held.

Each Bid on a particular Retirement and Quota Reallocation Program must include the following information:

- (a) the name, address and signature of the bidder;
- (b) the Producer Registration Number of the bidder, where applicable;
- (c) the amount of quota, in quota units, requested for allotment;
- (d) the administration fee, which the bidder is willing to pay upon allotment of the quota requested for allotment; and
- (e) the Retirement and Quota Reallocation Program (month) to which the Bid applies.

In order for a Bid to be eligible to be processed on a Program, the bidder must submit a separate bank draft or credit union primary order (or other method of payment acceptable to the Designated Staff) payable to the Board representing the full amount of the administration fee such bidder proposes to pay in connection with that Bid no later than 4:00 p.m. of the working day before the day on which the Retirement and Quota Reallocation Program is to be held.

**8(7)** In the case of an omission or defect in a Bid or in an Offer the Designated Staff may not make changes or additions to such Bid or Offer, and the Bid or Offer will be rejected. A member of the Designated Staff shall attempt to contact the bidder or offeror and to advise him/her of such rejection. The fact that a Bid or an Offer is rejected shall not preclude the bidder or offeror from submitting a subsequent Bid or Offer.

**8(8)** A Bid may be amended or withdrawn, provided such withdrawal or amendment is in writing and in the form of a letter, fax or e-mail satisfactory to the Designated Staff, sent by the bidder, and is received at the head office of the Board prior to 4:00 o'clock in the afternoon of the last working day before the month in which the proposed Retirement and Quota Reallocation Program is to be held. Such withdrawal or amendment must be clear and unambiguous and must identify the bidder by name and the Producer Registration Number, where applicable, and must specify the Bid that is to be withdrawn or amended.

Any Bid which is received after any deadline for submission for that Program will be rejected by the Designated Staff.

**8(9)** As provided in section 47 of this Order, the Designated Staff may refuse to accept or may postpone processing of any Bid or any Offer. Any decision to postpone the processing of a Bid or an Offer, or to reject a Bid or Offer made by the Designated Staff shall be final. The Designated Staff may also establish terms and conditions before a Bid or an Offer will be processed in the future. Any person who is not satisfied with the terms and conditions established by the Designated Staff before a Bid or Offer will be processed in the future may appeal such decision in writing to the Board.

**8(10)** On each Reallocation Day, the Designated Staff shall qualify all valid Bids and proceed to match as closely as possible the cumulative volume, in an ascending order of quota units offered, in the Offer(s) with the cumulative volume, in a descending order of quota units submitted, in the Bids. This procedure shall be known as "clearing" the Retirement and Quota Reallocation Program. The program clearing amount (PCA), as determined by clearing the Retirement and Quota Reallocation Program, shall be the least amount at which the cumulative volumes most closely match, and shall be the amount of the administration fee payable to the Board by a successful bidder and the amount of the retirement allowance payable by the Board to a successful offeror under that Retirement and Quota Reallocation Program.

**8(11)** Subject to subsection (12) herein and to the acceptance of the results by the Board under subsection (13),

(a) if a bidder has submitted a Bid with an administration fee equal to, or higher than, the PCA, then that Bid shall be deemed successful and the Board may negotiate the bank draft or primary order representing the full amount of the administration fee submitted by the bidder as payment for the quota units bid;

(b) if an offeror has submitted an Offer at a retirement allowance equal to or lower than, the PCA, then that Offer shall be deemed successful and the offeror shall be entitled to receive from the Board a retirement allowance equal to the PCA for such quota units offered upon cancellation of the quota.

**8(12)(a)** Upon the clearing of a Retirement and Quota Reallocation Program

(i) if it is determined by the Designated Staff that, at the PCA, the cumulative volume of quota units in the Offers are less than 75% of the cumulative volume of quota units in the Bids, the Designated Staff may cancel the Program, and



(ii) if it is determined by the Designated Staff that, at the PCA, the cumulative volume of quota units in the Offers are equal to 75% or more of the cumulative volume of quota units in the Bids, the Designated Staff may add to the Offers, on behalf of the Reserve, additional quota units, at the PCA, in an amount not to exceed the deficiency, or alternatively may deem the successful bidders to have Bid, at the PCA, a percentage of their Bid based on the ratio of the quota units comprising the successful Offers to the quota units comprising the successful Bids, in which case, the bidder shall be entitled to a refund of that portion of the administration fee submitted by the bidder in excess of the fee payable under the deemed Bid.

**8(12)(b)** Upon the clearing of a Retirement and Quota Reallocation Program, if it is determined by the Designated Staff that, at the PCA, the cumulative volume of quota units in the Bids is less than the cumulative volume of quota units in the Offers, the Designated Staff may:

(i) bid, on behalf of the Reserve, at the PCA, a number of quota units equal to the deficiency, or

(ii) cancel the Program.

**8(13)** Following the conduct of a Retirement and Quota Reallocation Program, the Designated Staff shall report to the Board the number of Offers received, particulars of the Offers as set out in subsection 8(5), the number of Bids received, the number of quota units and the amounts bid or offered in each Bid or Offer, together with the PCA and particulars of the successful Bids and successful Offers. The Board will review such report and if satisfied, in its sole discretion, that there have been no irregularities or deficiencies in the operation of the Retirement and Quota Reallocation Program, the Board may pass a resolution to accept such results.

Following the acceptance of the results of a Retirement and Quota Reallocation Program, the Board will pass a resolution to allot quotas to successful bidders and to cancel quota of successful offerors in order to implement such results.

Such allotment and cancellation of quotas will be effective as of the first day of the month following the month in which the Retirement and Quota Reallocation Program was conducted.

**8(14)** Following the Board's consideration of the results of a Retirement and Quota Reallocation Program, each participant in the Retirement and Quota Reallocation Program will be advised in writing by the Designated Staff whether his Offer or Bid was successful, and if the Bid or the Offer was successful, the effective date of the allotment or cancellation.

**8(15)** All funds submitted by unsuccessful bidders as proposed administration fees will be returned to such bidder.

**Limits on bids and offers**

**9(1)** A successful bidder will not subsequently be eligible to receive a retirement allowance in connection with the cancellation of the equivalent number of quota units under the System if all quota units allotted to such producer are cancelled within five years of such successful Bid. In the event such person subsequently submits an Offer of all quota units allotted to such person during such five-year period, an equivalent number of quota units shall be debited against the number of quota units offered, so that the offeror will only be entitled to receive a retirement payment with respect to the balance of such quota units, and the quota units so debited shall be credited to the Reserve.

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**9(2)** No Bid, when aggregated with any other Bids submitted by that bidder on that Reallocation Day, shall be processed if the number of quota units comprising the Bid, when aggregated with the quota units allocated to such bidder, would exceed maximum quota.

An offeror shall not be allowed to be a bidder on the same Retirement and Quota Reallocation Program and only the Offer will be processed.

**Retirement fund**

**10(1)** All administration fees paid to the Board by successful bidders will be allocated to the Retirement Fund.

**10(2)** All retirement payments made by the Board to successful offerors will be paid from the Retirement Fund.

**Allocation from the Reserve**

**11** The Board may, from time to time, allocate quota units from the Reserve to registered producers in equal numbers (except to those registered producers who have asked the Board not to increase the pullet production quota allotted to such producers as provided in subsection 7(3) of this Order), and further provided that the quota units allocated to a registered producer shall not be increased above maximum quota.

**Limitation re new producers**

**12** In the event a person is allotted a pullet production quota (the "initial allotment") and becomes a registered producer pursuant to an application to the board, such person shall not be entitled to submit an Offer which would result in the remaining quota allotted to that person being reduced below the initial allotment to such person for a minimum of five years from the date of such initial allotment and thereafter the general limitations in section 9 of this Schedule will continue to apply to such person.

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**Information**

**13** The Board will make available to each registered producer, on request and in a form approved by the Manitoba Council, within 10 days following such Board approval, the results of the Retirement and Quota Reallocation Program.

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January 2, 2002

MANITOBA EGG PRODUCERS:

Kurt Siemens  
Chairman

Penny Kelly  
Secretary

APPROVED

April 4, 2002

MANITOBA FARM PRODUCTS  
MARKETING COUNCIL:

Howard Motheral  
Chairman

Gordon H. MacKenzie  
Secretary