

NATIONAL ASSEMBLY
Thirty-third Legislature, first session

1987, chapter 29
PESTICIDES ACT

Bill 27

Introduced by Mr Clifford Lincoln, Minister of the Environment

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Passage in principle 8 June 1987

Passage 16 June 1987

Assented to 18 June 1987

Coming into force: on the date fixed by the Government

Acts amended:

Act respecting the Ministère de l'Environnement (R.S.Q., chapter M-15.2)

Act to preserve agricultural land (R.S.Q., chapter P-41.1)





CHAPTER 29

Pesticides Act

[Assented to 18 June 1987]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PRELIMINARY PROVISIONS

- Definition** **1.** In this Act, “pesticide” means any substance, matter or microorganism intended to directly or indirectly control, destroy, mitigate, attract or repel any organism that is injurious to or noxious or troublesome for humans, animal life, vegetation, crops or any other object, or intended for use as a plant growth regulator, except a medication or vaccine.
- Waste** **2.** This Act does not apply to waste consisting in whole or in part of pesticides or contaminated by pesticides.
- Partnership** **3.** For the purposes of this Act, a partnership is considered to be a person.
- Environ-
ment
Quality Act** **4.** This Act neither affects nor limits the application of the Environment Quality Act (R.S.Q., chapter Q-2) in respect of pesticides.
- Legal dis-
charge** Notwithstanding the foregoing, the emission, deposit, issuance or discharge of a pesticide into the environment is not prohibited within the meaning of the second paragraph of section 20 of the Environment Quality Act if it results from an activity carried out in accordance with this Act or the regulations or orders of the Minister made under this Act, unless the risk of harmful effects, damage or impairment referred to in that section is unreasonable.

Forest Act **5.** The rights and obligations arising from the application of this Act prevail over those arising from the application of the Forest Act (1986, chapter 108) and over any inconsistent provision of a plan or program devised pursuant to the Forest Act.

Binding effect **6.** This Act is binding on the Government, government departments and government agencies.

Professional corporations **7.** Nothing in this Act affects the rights and prerogatives of the members of a professional corporation governed by the Professional Code (R.S.Q., chapter C-26).

CHAPTER II

GENERAL DUTIES AND POWERS OF THE MINISTER

Rationalization programs **8.** The Minister of the Environment shall devise and propose to the Government programs fostering a decrease in and the rationalization of the use of pesticides; he shall direct and coordinate the implementation thereof.

Objects The objects of the programs shall be

(1) to promote the analysis, assessment and control of the effects of the use of pesticides on humans and other living species as well as on the environment and on property;

(2) to contribute to the development of alternatives to the use of pesticides, such as biological or integrated pest control, and to promote the use of such alternatives.

Powers of Minister **9.** In the exercise of his duties and for the administration of this Act, the Minister may

(1) coordinate research carried out by government departments and agencies on environmental problems related to the use of pesticides;

(2) carry out or commission research, studies, inquiries or analyses pertaining to the effects of the use of pesticides on the quality of the environment and on human health and, generally, on any topic relating to pesticides and alternatives to their use;

(3) devise, foster and ensure the implementation of plans and programs to train specialists, educate and inform the public and promote awareness in the field of pesticides;

(4) compile, analyse and publish available statistical data relating to pesticides;

(5) make, according to law, any agreement with any government, government agency or other person to facilitate the carrying out of this Act.

CHAPTER III

PROVISIONS APPLICABLE TO ALL ACTIVITIES RELATING TO PESTICIDES

DIVISION I

SCOPE

Scope **10.** This chapter applies to all activities relating to the distribution, sale, storage, transportation or use of any pesticide, pesticide container or equipment used for any such activities.

DIVISION II

PESTICIDE MANAGEMENT CODE

Pesticide Management Code **11.** The object of the Pesticide Management Code prescribed by the Government is to regulate and control the activities referred to in section 10 so as to prevent or mitigate harmful effects on the health of humans and other living species, as well as damage to the environment or to property.

Compliance **12.** Every person who performs any activities referred to in section 10 shall comply with the Pesticide Management Code.

DIVISION III

PREVENTIVE AND CORRECTIVE MEASURES

§ 1.—Orders

Minister's order **13.** The Minister may issue an order requiring a person who is about to carry on or is carrying on activities contemplated in section 10 to comply with the Pesticide Management Code and fix a time limit therefor.

Specific measures He may, in addition, indicate to the person the measures to be taken to comply with the order.

Minister's order **14.** The Minister may issue an order requiring a person who is about to carry on, is carrying on or has carried on an activity contemplated in section 10 to take the measures he indicates within the time he determines, if he is of the opinion that such measures will

make it possible to avoid or mitigate harmful effects on the health of humans or of other living species or damage to the environment or to property.

Restricted
access or
evacuation

The order may, in particular, restrict or prohibit access to or compel closure or evacuation of the place or part thereof where the activity is carried on. The place cannot be reopened nor access allowed to it except by order of the Minister.

Unreasona-
ble risk

15. Where the Minister considers that an activity contemplated in section 10 constitutes an unreasonable risk of harmful effects to the health of humans or other living species or of damage to the environment or to property, he may make an order requiring a person, temporarily or permanently, not to carry on or to cease carrying on that activity or part thereof.

Prior notice

16. The Minister shall, before issuing an order under section 13, 14 or 15, transmit to the person to whom the order applies a prior notice of at least fifteen days indicating the grounds which appear to justify the order and the proposed date on which it shall take effect and giving the person an opportunity to make representations. The notice shall be accompanied with a copy of any analysis or research report or any other technical report taken into account by the Minister before issuing the order.

Copy to
complainant

The Minister shall also transmit a copy of the prior notice to any person having submitted a sworn complaint to him in respect of the facts giving rise to its issue.

Publication

Notice of the proposed order shall be published twice in a daily newspaper distributed in the locality where the events giving rise to the application of this section occurred or, if none is distributed in that locality, in a daily newspaper distributed in the nearest locality.

Copy to
municipality

The Minister shall also transmit a copy of the prior notice to the secretary-treasurer or clerk of the municipality where the facts giving rise to the application of this section occurred. The secretary-treasurer or clerk shall make the notice available to the public during the period of fifteen days prescribed in the first paragraph.

Immediate
danger

17. Notwithstanding the preceding section, the Minister may, without prior notice but for a period of not over 30 days, issue an order contemplated in section 13, 14 or 15 if he is of the opinion that an activity contemplated in section 10 is likely to cause an immediate danger to the health of humans and other living species or serious or irreparable damage to property.

- 18.** The Minister, before issuing an order to a municipality, urban or regional community or intermunicipal board which entails expenses for the latter, shall consult the Minister of Municipal Affairs.
- 19.** Subject to Division VI of the Act respecting municipal and school debts and loans (R.S.Q., chapter D-7), no approval other than that of the Minister of Municipal Affairs is required by a municipality or an urban or regional community to contract a loan in order to comply with an order of the Minister.
- 20.** Where a person to whom an order of the Minister applies refuses or neglects to carry it out, any person frequenting the place or the immediate vicinity of the place where the events giving rise to the issue of the order occurred may apply to the Superior Court for an injunction requiring the person to comply with the order.
- The Attorney General, any municipality where the facts giving rise to the order occurred or any urban or regional community that includes the municipality also may apply for the injunction.
- 21.** Where an interlocutory injunction is applied for, the security under article 755 of the Code of Civil Procedure (R.S.Q., chapter C-25) shall not exceed \$500.
- 22.** Every action or motion brought under section 20 shall be served on the Attorney General.
- 23.** Every application for an injunction made under section 20 shall be heard and decided by preference.
- 24.** The court, in granting an injunction, may order, if necessary, that measures be taken at the expense of the person it indicates or authorize the Minister to take them at the expense of that person.
- 25.** An order issued to the owner of an immovable may be registered against the immovable.
- The Minister may register, by deposit, a copy of the order at the registry office of the registration division where the immovable is situated. The order may thenceforth be set up against any purchaser whose title is registered subsequently and that purchaser is required to assume the obligations imposed on the former owner pursuant to the order.

§ 2.—*Other measures available to the Minister*

Mitigating
measures

26. The Minister, to prevent or mitigate harmful effects on human health or serious or irreparable damage to the environment or to property, may take any necessary measures to clean up, collect or contain pesticides emitted, deposited, released or discharged in the course of activities contemplated in section 10.

Claim for
costs

The Minister may claim the costs entailed by the measures taken from the person who carried on the activities, in the same manner as any debt owing to the Government, whether or not the person has been prosecuted for an offence under this Act. Where there are several debtors, they are jointly and severally liable.

Restoring
measures

27. Where an offender has been found guilty of or pleaded guilty to an offence under this Act or the regulations thereunder, the Minister may take any necessary measure to restore the conditions existing prior to the offence.

Claim for
costs

The Minister may claim the costs entailed by the measures taken from the offender in the same manner as any debt owing to the Government.

CHAPTER IV

RIGHT TO PERFORM CERTAIN ACTIVITIES RELATING TO PESTICIDES

DIVISION I

SCOPE AND DEFINITIONS

Scope

28. This chapter applies to all activities relating to the sale of pesticides or to the performance of work involving the use of pesticides.

Scope

29. This chapter applies to both sales for resale and sales for consumption.

Definition

30. Work involving the use of pesticides is any work intended to control, destroy, mitigate, attract or repel, directly or indirectly, by means of a pesticide, any organism that is injurious to or noxious or troublesome for humans, animal life, vegetation, crops or any other property and any work intended to control plant growth by means of a pesticide.

Exclusions

31. The following work is not considered to be work involving the use of pesticides:

(1) analysis and research work carried on in a laboratory;

(2) work which, in an industrial process, consists in incorporating a pesticide into a manufactured product, if the pesticide is incorporated on the premises where the product is manufactured.

Regulations **32.** The Government, by regulation, shall designate, among the classes of pesticides it establishes, those for which a permit or certificate is required and, for the purposes of the second paragraph of section 34, classes of household pesticides.

Contents The contents of the regulations under the first paragraph may vary according to the factors referred to in section 101.

Definitions **33.** In this chapter,

“farmer” “**farmer**” means any person who is engaged in the cultivation of the soil, the growing of crops or the raising of livestock;

“forest manager” “**forest manager**” means any person who is engaged in a forest management activity or who uses the soil for forest management purposes.

DIVISION II

PERMITS

Required permit **34.** A permit issued by the Minister for the classes of pesticides designated by regulation is required of

(1) every person who sells pesticides or offers them for sale;

(2) every person who, for others and in return for remuneration, performs or offers to perform work involving the use of pesticides;

(3) every forest manager who performs or offers to perform, otherwise than through a permit holder, work involving the use of pesticides.

Required permit A permit is also required of every person who performs or offers to perform, otherwise than through a permit holder, work involving the use of pesticides not of a class designated for domestic use by regulation.

Exceptions **35.** No permit is required of

(1) a natural person who acts as an employee or a person authorized to act on behalf of the permit holder;

(2) a forest manager who, in respect of the work he performs or offers to perform not as a business for forest purposes, has less than ten employees in his forest management operation, apart from any director, executive officer, manager or foreman;

(3) a farmer, for the work he performs or offers to perform, not as a business, for agricultural purposes;

(4) a natural person who acts as an employee or person authorized to act on behalf of a forest manager or farmer referred to in paragraph 2 or 3.

Authorized
activities

36. A permit authorizes its holder to carry on the activities allowed according to the class or subclass of the permit, with respect to the class of pesticides indicated on the permit.

Application

37. Every person wishing to obtain a permit must apply therefor in writing to the Minister. The application shall contain the information prescribed by regulation.

Partnership
or legal
person

Any application made by a partnership or legal person shall be submitted by one of its directors or other executive officers, duly authorized.

Require-
ments

38. A permit shall be issued to any person

(1) who is domiciled or has a residence, establishment or place of business in Québec;

(2) who has not been, or none of whose executive officers has been convicted of or pleaded guilty to an offence contemplated in Chapter IX in the twelve months preceding the application;

(3) who is not the holder of a permit of the same class or subclass;

(4) who pays the fees fixed by regulation;

(5) who establishes to the Minister's satisfaction that the activities covered by the permit and requiring a certificate for their performance will be carried out by a natural person holding a certificate prescribed by regulation or by a natural person who, on the premises where the activity is carried out, acts under the supervision of the holder of such a certificate;

(6) who furnishes the guarantee required by regulation, where such is the case;

(7) who furnishes an attestation of civil liability insurance where such insurance is required by regulation;

(8) who meets the other requirements and furnishes the information and documents prescribed by regulation.

Cancelled
permit

Notwithstanding the foregoing, the Minister may refuse to issue a permit if the applicant held a permit which was cancelled in the twelve months preceding the application.

Renewal

39. A permit is valid for a two-year term. The Minister shall renew the permit for the same term provided its holder

(1) meets the requirements prescribed in subparagraphs 1, 5, 6 and 7 of section 38 and, where such is the case, meets the requirements for renewal prescribed by regulation;

(2) has paid the fees prescribed by regulation;

(3) has complied with this Act and the regulations during the term which is ending.

Shorter
term

Notwithstanding the foregoing, the Minister may issue or renew a permit for a shorter term if he considers it advisable.

Non-
resident

40. Notwithstanding subparagraph 1 of section 38, the Minister may issue a temporary permit for a term of six months to any person who has neither domicile nor residence, establishment or place of business in Québec.

Renewal

The Minister shall renew the permit for the same term provided its holder applies to him therefor in writing and meets the requirements for renewal contemplated in section 39, except that of subparagraph 1 of section 38.

Shorter
term

Notwithstanding the foregoing, the Minister may issue or renew a temporary permit for a shorter period if he considers it advisable.

Modified
permit

41. A permit may be modified at the request of its holder upon payment of any fees fixed by regulation.

Require-
ments

In order to change the subclass of the permit or the class of pesticides indicated thereon or to add a subclass or class to the permit, the holder must meet the requirements for obtaining a permit of the subclass of permit or for the class of pesticides he is applying for.

Cancellation

42. A permit may also be cancelled at the request of its holder if the Minister considers it advisable.

- Transfer **43.** No person may transfer a permit without the authorization of the Minister.
- Compliance with requirements **44.** The holder of a permit shall comply with the requirements prescribed by regulation.
- Performance of activities **45.** A permit holder shall cause the activities authorized by his permit and requiring a certificate for their performance to be carried out by a natural person holding the certificate prescribed by regulation or by a natural person who, on the premises where the activity is carried out, acts under the supervision of the holder of such a certificate.
- Registers **46.** Every permit holder shall keep up to date registers prescribed by regulation, in accordance with the regulations.
- Statements Every permit holder shall prepare and transmit to the Minister the statements prescribed by regulation, as and when prescribed therein.
- Preservation of documents **47.** Every permit holder shall keep the registers and other documents prescribed by regulation for the period indicated therein.
- Notice of change **48.** Every permit holder shall inform the Minister of any change which makes the information furnished for the issue or renewal of his permit inaccurate or incomplete.
- Cessation of activities He shall also notify the Minister of the cessation of his activities.
- Information to Minister Every partnership or legal person which holds a permit shall inform the Minister of any amalgamation, sale or transfer to which it is subject and of any change in its firm name.
- Posting up of permit **49.** Every permit holder contemplated in subparagraph 1 or 2 of section 34 shall post his permit or a duplicate thereof issued by the Minister in full view in each of his establishments or places of business.
- Temporary permit The holder of a temporary permit or his representative shall, when carrying on his activities in Québec, have his permit or, as the case may be, a duplicate thereof issued by the Minister, in his possession. He shall produce his permit to an inspector upon request.

DIVISION III

CERTIFICATES

- Required certificate **50.** The following persons are required to hold a certificate issued by the Minister:

(1) every natural person who performs an activity for which a permit is required;

(2) every natural person who, as a forest manager, farmer or as a person or employee authorized to act on behalf of a forest manager or farmer, is not required to hold a permit and who performs work involving the use of pesticides of a class designated by regulation;

(3) every natural person who is responsible for supervising on premises where an activity contemplated in paragraph 1 or 2 is performed.

Supervision
by holder

51. No certificate is required of a person who, on the premises where an activity is carried on, acts under the supervision of the holder of a certificate and who performs an activity which the holder is authorized to supervise.

Authorized
activities

52. The certificate attests to the certificate holder's competence in the field of pesticides and authorizes him to carry on activities of the class or subclass indicated on the certificate with respect to the class of pesticides indicated therein.

Application

53. Every person wishing to obtain a certificate must apply therefor in writing to the Minister. The application shall contain the information prescribed by regulation.

Require-
ments

54. A certificate shall be issued to any natural person

(1) who has successfully completed the examination prescribed or recognized by the Minister for the issuance of the certificate applied for or who, in the case of a natural person having neither domicile nor residence in Québec, has established to the Minister's satisfaction that he has the required competence to obtain the certificate;

(2) who has not been convicted of or pleaded guilty to an offence contemplated in Chapter IX in the twelve months preceding the application;

(3) who is not the holder of a certificate of the same class or subclass;

(4) who pays the fees fixed by regulation;

(5) who meets the other requirements and furnishes the information and documents prescribed by regulation.

Cancelled
certificate

Notwithstanding the foregoing, the Minister may refuse to issue a certificate if the applicant was the holder of a certificate cancelled within the twelve months preceding the application.

- Renewal** **55.** A certificate is valid for a three-year term. The Minister shall renew the certificate for the same term provided its holder
- (1) has successfully completed the examination, if any, required pursuant to paragraph 4 of section 61;
 - (2) has paid the fees fixed by regulation;
 - (3) has complied with this Act and the regulations during the term which is ending.
- Shorter term** Notwithstanding the foregoing, the Minister may issue or renew a certificate for a shorter term if he considers it advisable.
- Modified certificate** **56.** A certificate may be modified at the request of its holder upon payment of any fees fixed by regulation.
- Requirements** In order to change the subclass of the certificate or the class of pesticides indicated thereon or to add a subclass or class thereto, the holder must meet the requirements for obtaining a certificate applicable to the subclass of certificate or the class of pesticides he is applying for.
- Cancellation** **57.** The certificate may also be cancelled at the request of its holder if the Minister considers it advisable.
- Transferability** **58.** A certificate is not transferable.
- Compliance with requirements** **59.** Every certificate holder shall comply with the requirements prescribed by regulation.
- Notice of change** **60.** Every certificate holder shall inform the Minister of any change that makes the information furnished for the issue or renewal of his certificate inaccurate or incomplete.
- Examination** **61.** The Minister may require a certificate holder to submit to the examination referred to in subparagraph 1 of section 54
- (1) where the holder's certificate has been suspended;
 - (2) where the holder, in performing work involving the use of pesticides or in selling pesticides, has failed to comply with this Act or the regulations;
 - (3) where the holder seeks the modification of the class or subclass of his certificate or the class of pesticides he is authorized to sell or use;

(4) where he is of opinion that new developments in the field of pesticides require it.

Production
of certificate

62. Every holder of a certificate shall have it in his possession when carrying on his activities. He shall produce it to an inspector upon request.

DIVISION IV

NULLITY OF CONTRACT

Action in
nullity

63. Any person may institute legal proceedings in nullity of a contract he has entered into to cause the performance of work involving the use of pesticides if he ascertains

(1) that the work has been or very likely will be performed by a natural person who is neither the holder of a certificate prescribed by regulation nor, on the premises where he performs the work, under the supervision of such a holder;

(2) that the work has been or very likely will be performed in contravention of the Pesticide Management Code.

Monetary
restitution

64. Nullity entitles the plaintiff to equivalent monetary restitution of all the prestations he has made under the contract without his being required to make any restitution to the defendant.

Excessive
advantage

Notwithstanding the foregoing, the court may, by way of exception, withdraw the plaintiff's right to restitution of prestations where restitution would have the effect of giving him an excessive advantage, having regard to all the circumstances.

Notice to
Minister

65. Every person who avails himself of this division shall notify the Minister thereof without delay.

DIVISION V

REVISION, SUSPENSION AND CANCELLATION OF A PERMIT OR CERTIFICATE

Revision,
suspension,
cancellation

66. The Minister may revise, suspend or cancel a permit or a certificate issued by him where the holder

(1) does not meet or no longer meets the requirements prescribed in this Act and the regulations thereunder for obtention or renewal of the permit or certificate;

(2) fails to comply with the requirements, obligations and restrictions that apply to the carrying out or performance of his activities;

(3) has failed or refused to submit to the examination required under section 61;

(4) has ceased his activities.

Hearing

67. Before rendering a decision under section 66, the Minister shall give the holder of a permit or certificate an opportunity to be heard.

CHAPTER V

APPEAL

Appeal

68. Any person contemplated by an order issued by the Minister under this Act may appeal from the decision to the Provincial Court.

Appealable
decisions

The same applies in all cases where the Minister

(1) refuses to issue, extend, renew or revise a permit or certificate;

(2) fixes the term of a permit at less than two years and that of a certificate at less than three years;

(3) requires a change in an application made to him;

(4) suspends or cancels a permit or certificate;

(5) refuses to authorize the transfer of a permit; or

(6) requires, in cases contemplated in section 61, that a certificate holder submit to an examination.

Decision

69. Every decision susceptible of appeal must be substantiated in writing. It must be transmitted to the interested person by certified or registered mail and accompanied with a notice informing him of his right of appeal.

Suspension
of decision

70. An appeal suspends execution of the decision of the Minister except with respect to any orders he has issued.

Motion

71. The appeal is brought by way of a motion served on the Minister within fifteen days from receipt of the decision by the interested person.

Transmis-
sion to
Court

72. The Minister, on receiving the motion, shall transmit it to the clerk of the Provincial Court for the judicial district where the appellant has his domicile or a residence, establishment or place of business or where the facts giving rise to the decision or order occurred.

Judicial district If the Minister cannot determine the judicial district on the criteria set forth in the first paragraph, he shall transmit the motion to the clerk of the judicial district indicated by the appellant.

Copy of record The Minister shall at the same time transmit a certified copy of the record pertaining to the appealed decision.

Publication of notice **73.** The appellant, within fifteen days after service of his motion for appeal, shall cause a notice to be published twice in a daily newspaper distributed in the territory of the judicial district of the court to which the appeal is submitted.

Filing Proof of publication of the notices shall be filed in the office of the Provincial Court.

Copies to concerned persons **74.** The Minister shall transmit a copy of the motion for appeal to every person who has made written representations to him pertaining to the decision appealed from.

Publication Where more than one municipality, including an urban or regional community, or more than twenty-five persons have made written representations to him, the Minister, instead of transmitting a copy of the motion for appeal to them, may cause a notice of the motion for appeal to be published in a daily newspaper distributed in the territory of the judicial district of the court to which the appeal is submitted. The notice shall briefly state the grounds invoked by the appellant.

Procedure **75.** Subject to the other provisions of this chapter, the appeal and the hearing thereof are subject to the procedure governing ordinary actions before the Provincial Court.

Preference **76.** Appeals brought under this chapter shall be heard and decided by preference.

No appeal The decision of the Provincial Court is final and without appeal.

Transmission of decision **77.** The clerk of the Provincial Court shall, within ten days after the decision on the appeal, transmit a copy of the decision to the appellant and to the Minister by registered or certified mail.

Copies Any other person, on payment of the costs of reproduction and transmission, may obtain a copy of the decision rendered on the appeal.

Rules of practice **78.** The Provincial Court may, in accordance with article 47 of the Code of Civil Procedure (R.S.Q., chapter C-25), make the rules of

practice which, in its judgment, are necessary for the carrying out of this chapter.

CHAPTER VI

INSPECTION, SEIZURE AND CONFISCATION

Inspector **79.** For the purposes of this Act and the regulations thereunder, the Minister may generally or specially authorize any person to act as an inspector.

Certificate of capacity **80.** An inspector shall, on request, identify himself and produce the certificate of his capacity signed by the Minister.

Hindrance of inspector **81.** No person may hinder an inspector in the performance of his duties, mislead him by concealment or false declarations, refuse to provide him with any information or document he is entitled to require or examine under section 83, or hide or destroy any document or property necessary for an inspection.

Immunity **82.** No inspector may be prosecuted for official acts done in good faith in the performance of his duties.

Powers of inspector **83.** In the performance of his duties, an inspector may

- (1) have access at any reasonable time to any place where an activity governed by this Act and the regulations is carried on, and inspect it;
- (2) examine the products or other things contemplated by this Act and the regulations which are found in that place;
- (3) take samples free of charge, install measuring devices and make analyses;
- (4) examine the records, files or any other document related to activities governed by this Act and the regulations and obtain copies thereof;
- (5) require any information or document related to activities governed by this Act and the regulations.

Seizure **84.** Where, in conducting an inspection, the inspector has reasonable grounds to believe that any pesticide or other thing referred to in this Act or the regulations has been used to commit an offence under the terms thereof or that an offence has been committed thereunder, he may seize it.

Pesticides in
mixture

85. Where an inspector discovers that pesticides contemplated in section 84 are mixed or combined with other materials or substances so as to make it impossible or very difficult to distinguish one from the other, he may seize the materials or substances with which the pesticides are mixed or combined.

Minute of
seizure

86. Every inspector effecting a seizure under this Act or the Summary Convictions Act (R.S.Q., chapter P-15) shall draw up a minute setting out

- (1) the date and place of the search or seizure;
- (2) the warrant under which the seizure was made or, in the absence of a warrant, the grounds for the seizure;
- (3) a summary description of the thing seized;
- (4) the name of the person from whom the thing was seized;
- (5) any information permitting the owner or lawful possessor of the thing seized to be identified or located;
- (6) the name and capacity of the seizer.

Duplicate

87. The inspector shall remit a duplicate of the minute to the person from whom the thing has been seized or, if no one is on the premises, he shall deposit the duplicate in the office of the clerk of the Court of the Sessions of the Peace for the judicial district in which the thing has been seized.

Notice

If there is no one on the premises while a search or inspection is carried on, the person conducting the search or inspection shall leave a notice in a conspicuous place stating that a search or inspection of the premises has been conducted. If anything has been seized, the notice shall also indicate the office where the duplicate of the minute of the seizure has been filed and where to obtain information on the place of detention of the thing seized.

Report to
Minister

88. The inspector shall, without delay, forward a report in writing to the Minister of any seizure effected by him.

Custody

89. The owner or lawful possessor of the thing seized pursuant to this Act or the Summary Convictions Act shall have custody of it. The inspector may, where he considers it advisable, transfer the thing seized to other premises for purposes of safekeeping.

Safekeeping

The thing seized or, in the cases described in section 91, the proceeds of the sale thereof shall remain under safekeeping until they are disposed

of in accordance with sections 92 to 96 or, if proceedings are instituted, until a court decides otherwise in accordance with section 97.

Authorization **90.** No person may use or remove the thing seized or allow it to be used or removed except with the authorization of the inspector.

Perishables **91.** If any of the things seized are perishable, the person who has custody of them may apply to a justice of the peace for authorization to sell them.

Sale The sale shall be made on the terms and conditions fixed by the justice of the peace and by the person designated by him.

Notice At least one clear day's notice of the filing of the application shall be served on the inspector and on the owner or lawful possessor of the thing seized, if known, unless he has custody of it.

Imminent deterioration Where the deterioration of the thing is imminent, the justice of the peace may exempt the person having custody of it from the service of the notice.

Applicable provisions The proceeds of the sale are deemed proceeds of a judicial sale and the Deposit Act (R.S.Q., chapter D-5) applies, adapted as required.

Time limit **92.** In no case may the thing seized or the proceeds of sale thereof be retained more than 90 days from the date of seizure unless proceedings are instituted or an order to extend that period is issued.

Extension **93.** Before the expiry of the detention period, the seizer may apply to a justice of the peace for an extension of the period for not over 90 days.

Notice Prior notice of the application for extension shall be served on the person from whom the thing has been seized and on the persons claiming entitlement to the thing seized or the proceeds of sale thereof.

Return of thing seized **94.** The seizer shall return the thing seized or the proceeds of sale thereof to the person from whom the thing has been seized as soon as detention thereof is no longer necessary in the interests of justice.

Release **95.** The owner or lawful possessor of the thing seized may at any time apply to a justice of the peace to obtain the release of the thing.

Service of application The application shall be served on the seizer or, if proceedings are instituted, on the prosecutor.

Grounds for release The justice of the peace shall grant the application if he is satisfied that the applicant will suffer serious or irreparable damage if detention

of the thing is maintained and the release of the thing will not hinder the course of justice.

Confiscation **96.** If the owner or lawful possessor of the thing seized or of the proceeds of sale thereof is unknown or cannot be found, the thing seized shall be confiscated ninety days after the day it was seized; it shall then be disposed of according to the Minister's instructions.

Confiscation **97.** Where a seizure is made under this Act or the Summary Convictions Act, the justice of the peace, in imposing a penalty for an offence referred to in section 110 or 111, may order the things seized or the proceeds of sale thereof confiscated.

Disposal The Minister shall prescribe the manner in which anything confiscated under this section is to be disposed of.

CHAPTER VII

INQUIRY

Inquiry **98.** The Minister or any person designated by him may inquire into any matter related to this Act or the regulations thereunder.

Powers and immunity For the purposes of the inquiry, the Minister or the person designated by him shall be vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

Application to Minister **99.** Where a person believes that any harm to his health or damage to his property may be attributable to any activity referred to in this Act, he may, within thirty days of ascertaining the harm or damage, apply to the Minister for an inquiry.

Results of inquiry **100.** The Minister shall send a report of the results of any inquiry he considers necessary under section 99 to the person who, in his opinion, is responsible for the harm or damage, to the complainant and to the municipality in which the facts justifying the inquiry occurred.

CHAPTER VIII

REGULATIONS

DIVISION I

GENERAL PROVISIONS

Nature of
activities

101. The content of the Pesticide Management Code and of the other regulations may vary according to the nature, importance and extent of the activities carried on, the classes of persons carrying them on, the environment in which the activities are carried on, the means or systems used, the pesticides or classes of pesticides or the classes or subclasses of permits or certificates.

Prevailing
provisions

102. The provisions of the Pesticide Management Code and of the other regulations of this Act prevail over any inconsistent provision of any by-law passed by a municipality or an urban or regional community.

Municipal
by-laws

103. The Minister may transmit a notice to a municipality or an urban or regional community indicating the provisions of its by-laws which he considers to be inconsistent. He shall cause a copy of the notice to be published in the *Gazette officielle du Québec*.

Correction
of inconsis-
tency

The municipality or urban or regional community shall, as soon as possible after publication of the notice contemplated in the first paragraph, amend, replace or repeal the indicated provisions to remedy the situation, even if the provisions had the approval of the Minister.

Reserved
areas and
agricultural
zones

104. No provision of the Pesticide Management Code or of any regulation that could affect the immovables comprised in a reserved area or agricultural zone established under the Act to preserve agricultural land (R.S.Q., chapter P-41.1) applies to that area or zone unless the regulation expressly indicates it.

DIVISION II

PESTICIDE MANAGEMENT CODE

Pesticide
Manage-
ment Code

105. The Government shall enact by regulation a Pesticide Management Code which may prescribe rules, restrictions or prohibitions respecting activities related to the distribution, storage, transportation, sale or use of any pesticide, pesticide container or any equipment used for any of those activities.

Mandatory
rules

106. The Pesticide Management Code may cause any rule elaborated by another government or by a body to be mandatory.

Manufactu-
rer's ins-
tructions

In addition, the code may cause any instructions of the manufacturer of a pesticide or of equipment used for any activity referred to in the code to be mandatory.

Offences

107. The Government may prescribe that the contravention of the provisions of this Code which it determines constitutes an offence.

DIVISION III

OTHER REGULATIONS

Farmers

108. The regulations applicable to farmers, to their employees or to persons authorized to act on their behalf and referred to in paragraphs 2 and 3 of section 50, and which are enacted under section 32 or paragraphs 3 to 12 of section 109, are regulations separate from any other regulation under this Act.

Forest
managers

The same rule applies to regulations applicable to forest managers, to their employees or to persons authorized to act on their behalf and referred to in paragraphs 2 and 3 of section 50, and which are enacted under the same provisions.

Regulations

109. In addition to its other regulation-making powers under this Act, the Government may, by regulation,

- (1) establish classes of pesticides;
- (2) exempt any pesticide from the application of all or part of the provisions of Chapter IV or the regulations thereunder, on the conditions it may determine;
- (3) establish classes and subclasses of permits and certificates, and fix for each the date from which the permits or certificates become exigible;
- (4) determine conditions applicable to the issue or renewal of a permit or certificate and the documents and information to be furnished;
- (5) fix the fees exigible for the issue, the renewal and, in such cases as it may determine, the modification of a permit or certificate, which may vary according to the term, class or subclass of permit or certificate, or according to the extent or importance of the activities;
- (6) prescribe a charge for the issue of duplicates of permits or certificates;

(7) require, as a condition prior to issue or renewal of a permit and in such cases as it may determine, that a person provide a guarantee to enable the Minister to take or cause to be taken measures required under section 24, 26 or 27, the cost of which may be payable by the person, fix the nature and the amount of the guarantee and the conditions on which the guarantee may be used by the Minister and on which it may be released;

(8) prescribe the requirements to be observed by the holder of a permit or certificate;

(9) require, as a condition prior to issue of a permit, that a person take out civil liability insurance and maintain it in force during the term of his permit, prescribe the kind, coverage and the amount thereof and the other applicable conditions;

(10) indicate the records to be kept and the statements to be prepared and transmitted to the Minister by all or certain permit holders, and prescribe the applicable requirements and the time for transmitting the statements;

(11) indicate the records or other documents to be preserved by all or certain permit holders and prescribe the applicable requirements and the time for which they must be preserved;

(12) prescribe that contravention of the provisions of the regulations which it indicates constitutes an offence;

(13) prescribe any other measure required to facilitate the carrying out of this Act.

CHAPTER IX

PENAL PROVISIONS

Offence and
penalty

110. Every person who fails to comply with an order issued under section 13, 14, 15 or 17 is liable, in addition to costs,

(1) in the case of a natural person, to a fine of not less than \$3 000 nor more than \$30 000 or to imprisonment for not more than six months or to both the imprisonment and the fine;

(2) in other cases, to a fine of not less than \$6 000 nor more than \$60 000.

Offence and
penalty

111. Every person who contravenes any of the provisions of section 34, 45 or 50 is liable, in addition to costs,

(1) in the case of a natural person, to a fine of not less than \$2 000 nor more than \$20 000 or to imprisonment for not more than six months or to both the fine and the imprisonment;

(2) in other cases, to a fine of not less than \$4 000 nor more than \$40 000.

Offence and
penalty

112. Every person who contravenes any of the provisions of sections 46 to 48 or section 60 is liable, in addition to costs, to a fine of not less than \$500 nor more than \$3 000.

Offence and
penalty

113. Every person who makes false or misleading declarations or allows or authorizes their entry in any record, statement or other document required under this Act or the regulations thereunder is liable, in addition to costs, to a fine of not less than \$2 000 nor more than \$20 000.

Offence and
penalty

114. Every person who contravenes the first paragraph of section 49 is liable, in addition to costs, to a fine of not less than \$500 nor more than \$3 000.

Offence and
penalty

115. Every person who contravenes any of the provisions of the second paragraph of section 49 or of section 81 or 90 is liable, in addition to costs, to a fine of not less than \$3 000 nor more than \$30 000.

Offence and
penalty

116. Every person who contravenes the provisions of section 62 is liable, in addition to costs, to a fine of not less than \$100 nor more than \$500.

Offence and
penalty

117. Every person who transfers his permit without the Minister's authorization or who transfers his certificate is liable, in addition to costs, to a fine of not less than \$3 000 nor more than \$20 000.

Offence and
penalty

118. Every person who contravenes any provision of a regulation the contravention of which is an offence is liable, in addition to costs, to a fine of not less than \$500 nor more than \$30 000.

Complicity

119. Every director, employee or representative of a legal person who authorizes or permits the commission of an offence referred to in sections 110 to 118 or who consents thereto or otherwise participates therein is guilty of an offence where he knew or should have known that his acts would probably result in the commission of the offence.

Penalty

The person referred to in the first paragraph is liable to the same penalty as that prescribed for the offence.

120. Where an offence contemplated in section 110, 111, 112, 114 or 118 continues for more than one day, a separate offence shall be counted for each day or part of a day during which it continues.

Notwithstanding subsection 2 of section 12 of the Summary Convictions Act, separate offences may be described in a single count.

121. Penal proceedings must be instituted within two years of the commission of the offence.

Notwithstanding the first paragraph, where false or misleading declarations are made to the Minister or an inspector, penal proceedings must be instituted within one year from knowledge by such persons of the facts giving rise thereto.

122. No civil proceedings shall be suspended on the ground that they pertain to an act or an omission that constitutes an offence under this Act.

123. Penal proceedings instituted under this Act are instituted in accordance with the Summary Convictions Act.

CHAPTER X

PROVISIONAL MEASURES

124. When the Government has determined the date from which a given class of certificate is required, every natural person carrying on the activities that are the subject of that class of certificate shall register with the Minister within the time prescribed by regulation.

Registration under the first paragraph ceases to be required on the date from which the class of certificate is required.

125. The Minister shall effect the registration of any person upon compliance with the formalities prescribed by regulation.

The Minister shall issue an attestation of registration specifying the activities carried on by the registered person and the classes of pesticides involved.

126. The Government may, by regulation,

(1) prescribe classes and subclasses of registration and for each such class or subclass, the time within which registration is required;

(2) prescribe the registration formalities and the information required for the issue of an attestation of registration.

CHAPTER XI

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Analysis
certificate

127. In any proceedings instituted pursuant to this Act and in any appeal brought under Chapter V, any pesticide analysis certificate signed by the person who made the analysis at the request of the Minister, an inspector or an investigator shall be admitted in lieu of the testimony of that person in respect of the facts stated therein. In the absence of any evidence to the contrary, the certificate is proof of the capacity of the person having signed it.

Cost

The cost of such analysis forms part of the costs that may be awarded in favour of the prosecutor.

Access to
information

128. Every person, in addition to his rights under section 118.4 of the Environment Quality Act, has the right to obtain, from the Ministère de l'Environnement, a copy of any available information concerning the activities contemplated by this Act and which may be communicated pursuant to Chapters II and III of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

Register

129. The Minister shall keep a register of

(1) all applications for a permit or certificate made pursuant to this Act;

(2) all permits and certificates issued pursuant to this Act;

(3) all registrations provided for in section 124;

(4) all orders of the Minister and all prior notices in respect thereof issued pursuant to this Act;

(5) all appeals brought pursuant to this Act and all decisions rendered on appeal.

Public
information

The information contained in the register is public information.

c. M-15.2,
s. 10,
replaced

130. Section 10 of the Act respecting the Ministère de l'Environnement (R.S.Q., chapter M-15.2) is replaced by the following section:

Duties,
powers of
Minister

10. The Minister has the duties assigned to him and the powers vested in him by those Acts for whose administration he is responsible."

c. P-41.1,
s. 97, am.

131. Section 97 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) is amended by replacing the words "or in the Environment Quality Act (chapter Q-2)" in the third and fourth lines by the words "in the Environment Quality Act (chapter Q-2) or in the Pesticides Act (1987, chapter 29)".

Minister
responsible

132. The Minister of the Environment is responsible for the administration of this Act.

Required
sums

133. The sums required for the administration of this Act for the fiscal year 1987-88 are taken out of the consolidated revenue fund to the extent determined by the Government.

Coming into
force

134. This Act comes into force on the date or dates fixed by the Government.

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