



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-FIFTH LEGISLATURE

Draft Bill

**An Act to amend the Act to preserve
agricultural land and other legislative
provisions in order to promote the
protection and sustainable development
of farming activities**



**Tabled by
Mr Marcel Landry
Minister of Agriculture, Fisheries and Food**

**Québec Official Publisher
1995**

EXPLANATORY NOTES

The object of this bill amending the Act to preserve agricultural land and the Act respecting land use planning and development is to promote sustainable development of farming activities in agricultural zones.

The bill modifies the criteria on which the Commission de protection du territoire agricole must base its decisions. Two separate registers will be established for the processing of applications filed with the Commission, one for municipal or public projects and another for private projects.

The bill provides for the preparation of a guide to agricultural practice, which will contain proper and generally accepted standards and customs in agriculture. Farm producers exercising farming activities in an agricultural zone according to normal practice will, subject to certain conditions, be protected from legal action, and may not be prevented from exercising their activities.

In addition, specific measures fostering the planned development of farming activities in agricultural zones will be introduced into development plans and complementary documents of regional county municipalities. The services of a mediator, or a mechanism leading to the appointment of a conciliator or arbitrator, will be made available under the bill.

The bill proposes the establishment of an agricultural advisory committee in each regional county municipality, which will be responsible for making recommendations on the planning of agricultural zones and on agricultural practices.

The bill provides that in certain cases, determined by government regulation, it will no longer be necessary to obtain authorization from the Commission, in particular for the alienation of land or the use of land for purposes other than agriculture. The position of

complaints commissioner is abolished, and the provisions relating to the establishment of exclusive sectors are repealed.

Lastly, the bill contains amendments to ensure concordance, and transitional provisions to ensure that municipal by-laws, in particular, are revised to reflect the measures introduced in the bill.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1);
- Act respecting land use planning and development (R.S.Q., chapter A-19.1);
- Act to preserve agricultural land (R.S.Q., chapter P-41.1);
- An Act to amend the Act to preserve agricultural land (1989, chapter 7).

Draft Bill

An Act to amend the Act to preserve agricultural land and other legislative provisions in order to promote the protection and sustainable development of farming activities

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The title of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) is replaced by the following title:

“An Act respecting the preservation of agricultural land and the sustainable development of farming activities”.

2. Division I of the said Act becomes Chapter I, and its title is amended by adding the words “AND SCOPE”.

3. Section 1 of the said Act is amended

(1) by inserting, after paragraph 3, the following paragraph:

“(3.1) “certified association” means the certified association defined in the Farm Producers Act (R.S.Q., chapter P-28);”;

(2) by replacing paragraph 8 by the following paragraph:

“(8) “lot” means an immatriculated parcel of land on a cadastral plan, a parcel of land described by metes and bounds in transfer instruments, or that part of an immatriculated parcel of land which remains after separation of parcels of land described by metes and bounds in transfer instruments and immatriculated parts;”;

(3) by striking out the words “by means of the deposit of a plan and book of reference pursuant in particular to article 2174*b* or 2175 of the Civil Code or” in the first, second and third lines of paragraph 10;

(4) by adding the following paragraph:

“For the purposes of this Act, “regional county municipality” includes Ville de Laval and Ville de Mirabel.”

4. The said Act is amended by inserting, after section 1, the following section:

“1.1 The object of the agricultural land preservation system established by this Act is to secure a lasting territorial basis for the practice of agriculture, and to promote the sustainable development of farming activities in the agricultural zones established under the system.”

5. The said Act is amended by inserting, after section 2, the following heading:

“CHAPTER II

“PRESERVATION OF AGRICULTURAL LAND”.

6. Division II of the said Act becomes Division I of Chapter II.

7. Section 7 of the said Act is amended by adding, at the end, the words “or where an application is entered in the municipal and public register.”

8. Section 12 of the said Act is replaced by the following section:

“12. In the exercise of its functions, the commission shall give proper consideration to the fact that it is in the general interest to preserve agricultural land and farming activities. It shall also give proper consideration to regional characteristics.

The commission may consider all facts that come to its attention.”

9. The said Act is amended by inserting, after section 13, the following section:

“13.1 For the purposes of this chapter and Divisions I and II of Chapter III, the certified association is an interested party.”

10. Section 14 of the said Act is amended by replacing the word “order” in the second line of the first paragraph by the word “authorization”.

11. Section 15 of the said Act is amended by adding, after the fourth paragraph, the following paragraph:

“An attestation issued by any person authorized for that purpose by the commission constitutes proof that a lot is subject to this Act from the date indicated in the attestation.”

12. Section 19.1 of the said Act is amended

(1) by inserting the words “or declaration” after the word “application” in the first line of subparagraph 2 of the first paragraph;

(2) by inserting the words “or declaration” after the word “application” in the third line of subparagraph 2 of the first paragraph;

(3) by striking out the second paragraph.

13. Section 19.2 of the said Act is repealed.

14. Division II.1 of the said Act becomes Division II of Chapter II.

15. Section 26 of the said Act is amended by replacing the words “In a designated agricultural region, no person may” in the first line by the words “Except in the cases and circumstances determined in a regulation under section 80, no person may, in a designated agricultural region,”.

16. Section 28 of the said Act is amended

(1) by replacing the words “No person may, except with” in the first line of the first paragraph by the words “Except in the cases and circumstances determined in a regulation under section 80, no person may, without”;

(2) by replacing the words “identify a residual part of a lot as a separate lot by depositing a plan and book of reference or alienate it” in the second and third lines of the second paragraph by the words “alienate a residual part of a lot”;

(3) by replacing the words “Division IX” in the last line of the second paragraph by the words “Chapter VII”.

17. Section 29 of the said Act is amended

(1) by replacing the word "No" in the first line of the first paragraph by the words "Except in the cases and circumstances determined in a regulation under section 80, no" and by replacing the words "except with" in the same line by the word "without";

(2) by replacing the words "Division IX" at the end of the first paragraph by the words "Chapter VII".

18. Section 30 of the said Act is amended by adding, after the second paragraph, the following paragraph:

"In all cases in which the motion is not filed by the commission, the commission must be impleaded."

19. Section 31 of the said Act is amended by replacing the words "Division IX" in the first three paragraphs by the words "Chapter VII".

20. Section 31.1 of the said Act is amended by replacing the words "Division IX" in the first paragraph by the words "Chapter VII".

21. Section 32 of the said Act is amended by replacing the first paragraph by the following paragraph:

"32. In the cases and circumstances determined in a regulation under section 80, no local municipality, regional county municipality or community may issue a building permit in respect of a lot situated in a designated agricultural region unless the application is accompanied with an authorization from the commission or a declaration of the applicant stating that the project contemplated in the application does not require the authorization of the commission."

22. Section 33 of the said Act is repealed.

23. Section 41 of the said Act is amended

(1) by replacing the figure "20" in the second line of subparagraph 1 of the second paragraph by the figure "30";

(2) by replacing the figure "20" in the second line of subparagraph 2 of the second paragraph by the figure "30".

24. Subdivision 5 of Division III of the said Act is repealed.

25. The said Act is amended by inserting, after the heading of Division IV, the following heading:

“§1. — Agricultural zone decree”.

26. Section 47 of the said Act is amended by replacing the words “Confédération de l’Union des producteurs agricoles” in the fifth line of the first paragraph by the words “certified association”.

27. The said Act is amended by inserting, after section 53, the following heading:

“§2. — Effects of agricultural zone decree”.

28. The said Act is amended by inserting, after section 57, the following heading:

“§3. — Applications entered in the general register”.

29. Section 58 of the said Act is replaced by the following sections:

“58. A person, other than a person referred to in section 59, wishing to do anything for which an authorization or a permit is required in respect of a lot situated in an agricultural zone, or wishing to have a lot included in an agricultural zone, must apply therefor to the local municipality in whose territory the lot is situated, and forward a copy of the application to the commission.

The application must be filed together with any document required by regulation.

“58.1 Upon receipt of the application, the clerk or secretary-treasurer of the local municipality shall advise the applicant and the commission of the date of receipt. The local municipality shall examine the application and may, for that purpose, require such information and documents as it considers relevant.

The local municipality shall, within 45 days of receiving the application, transmit it to the commission together with its recommendation and a statement as to whether the application is consistent with its planning by-laws.

The local municipality shall also transmit to the applicant a copy of all the documents mentioned in the second paragraph.

“58.2 The recommendation must give reasons and must take into consideration the criteria set out in section 62 and the provisions of the planning by-laws. In addition, if the application concerns a new non-agricultural use, the recommendation must include a description of any appropriate areas available elsewhere in the territory of the local municipality, outside the agricultural zone, that could meet the applicant’s needs.

“58.3 An application under section 58 shall be entered in the general register of the commission at the expiry of 45 days.

However, the application is not admissible if the commission has received a statement indicating that the application is inconsistent with the planning by-laws of the local municipality or if it is considered to be an application for exclusion pursuant to section 61.2.

“58.4 Except in the cases to which the second paragraph of section 58.3 applies, an application, including an application for inclusion, may be entered in the municipal and public register on the initiative of the commission, or it may be so entered at the discretion of the commission where requested by a local municipality, a regional county municipality or a community whose territory includes the lot concerned by the application. Sections 59.2 to 59.6 shall apply in such a case.”

30. Section 59 of the said Act is replaced by the following:

“§4. — Applications entered in the municipal and public register

“59. A regional county municipality, a community, a government department, a public agency or an agency providing public services wishing, for its own purposes or for a project of which it is the promoter, to do anything for which an authorization or permit is required in respect of a lot situated in an agricultural zone, must apply therefor to the local municipality in whose territory the lot is situated, and forward a copy of the application to the commission.

A local municipality wishing to make an application under the first paragraph may transmit its application directly to the commission, together with the documents mentioned in the second paragraph of section 59.1 and those required by regulation.

“59.1 Upon receipt of an application, the clerk or secretary-treasurer of the local municipality shall advise the applicant and the commission of the date of receipt. The local municipality shall examine

the application and may, for that purpose, require such information and documents as it considers relevant.

The local municipality shall, within 60 days of receiving the application, transmit it to the commission together with its recommendation and a statement as to whether the application is consistent with its planning by-laws.

The local municipality shall also transmit to the applicant a copy of all the documents mentioned in the second paragraph.

“59.2 An application under section 59 shall be entered in the municipal and public register at the expiry of 60 days.

It shall be examined at a public hearing unless waived in writing by the parties.

“59.3 The commission shall request the regional county municipality or the community and the certified association to forward, within 60 days of the request, their recommendation regarding the application made under section 59.

“59.4 The recommendations referred to in sections 59.1 and 59.3 must give reasons and must take into consideration the criteria set out in section 62.

The recommendation made by the regional county municipality or the community must also take into consideration the objectives of the development plan, the provisions of the complementary document and, where applicable, the provisions of the interim control by-law.

The recommendation made by the local municipality must also take into consideration the provisions of its planning by-laws. In addition, if the application concerns a new non-agricultural use, the recommendation made by the local municipality must include a description of any appropriate areas available elsewhere in the territory of the local municipality, outside the agricultural zone, that could meet the applicant's needs.

“59.5 The regional county municipality or the community shall transmit to the commission, at the same time as the recommendation made under section 59.3, a statement as to whether the application is consistent with the interim control by-law or the objectives of the development plan, and with the provisions of the complementary document.

If, in the territory concerned, a development plan and an interim control by-law are in force simultaneously, and if the application is consistent with the objectives of the development plan but not with the provisions of the interim control by-law or vice versa, the regional county municipality or the community shall, for the purposes of the statement as to consistency it must transmit to the commission, consider the document whose provisions, as they apply to the territory concerned, came into force more recently.

“59.6 Where the commission has received a statement to the effect that an application is inconsistent with the planning by-laws of the local municipality, and a statement to the effect that the application is inconsistent with the interim control by-law or with the objectives of the development plan and of the complementary document, the application is not admissible unless the commission receives a resolution relating to a by-law amending the plan or adopting a revised plan, the effect of which is to render the application consistent with the objectives of the development plan as amended or revised.

“§5. — General provisions”.

31. The said Act is amended by inserting, after section 61, the following sections:

“61.1 Where an application concerns an authorization for a new use for purposes other than agriculture, the applicant must first demonstrate that there is no other area available elsewhere in the territory of the local municipality, outside the agricultural zone, that is appropriate for the purposes for which the application is made.

The commission may reject an application on the sole grounds that there are appropriate areas available outside the agricultural zone.

“61.2 Where an application concerns an authorization for a new use for purposes other than agriculture, and concerns the introduction of a new institutional, commercial or industrial use, or several residential uses on a lot contiguous to the boundaries of an agricultural zone or urbanization perimeter, it shall be considered to be an application for exclusion.

Where an application concerns an authorization for a new use for purposes other than agriculture on a lot situated close to an urbanization perimeter, the commission must satisfy itself that the

application will not cause an extension of that perimeter. If the commission is not so satisfied, the application shall be considered as an application for exclusion.

For the purposes of this section, “new use for purposes other than agriculture” does not include the construction of a public road.”

32. Section 62 of the said Act is amended

(1) by striking out the words “Subject to sections 69.0.7 and 69.0.8,” in the first line of the first paragraph;

(2) by replacing the words “the neighbouring lots” in subparagraph 1 of the second paragraph by the words “the scarcity of land of equivalent soil capability”;

(3) by replacing subparagraph 3 of the second paragraph by the following subparagraph:

“(3) the consequences of an authorization on existing farming activities and the development of farming activities on neighbouring lots, and on the possible agricultural use of those lots;”;

(4) by adding, after subparagraph 9 of the second paragraph, the following subparagraph:

“(10) the socioeconomic conditions necessary for the viability of a rural community where justified by the low population density and the remoteness of the region.”;

(5) by replacing subparagraph 1 of the third paragraph by the following subparagraph:

“(1) a statement transmitted by a regional county municipality or a community to the effect that the application is inconsistent with the interim control by-law or with the objectives of the development plan and with the provisions of the complementary document;”.

33. Section 62.1 of the said Act is amended

(1) by replacing the word and figure “section 62.” in paragraph 3 by the words and figures “sections 12, 61.1, 61.2, 62 and 65.1;”;

(2) by adding, after paragraph 3, the following paragraph:

“(4) the fact that a cadastral plan showing the parcelling out of a lot has been deposited.”

34. Section 62.2 of the said Act is repealed.

35. Section 64 of the said Act is amended by replacing the words “be substantiated” in the first line by the words “include the reasons therefor” and by replacing the words “the community and the municipal corporation in which” in the third line by the words “to the regional county municipality or the community and the local municipality in whose territory”.

36. Section 65 of the said Act is replaced by the following sections:

“65. A regional county municipality or a community wishing to apply for the exclusion of a lot from the agricultural zone, for its own purposes or for the purposes of a project of which it is the promoter, must apply therefor to the local municipality in whose territory the lot is situated and forward a copy of the application to the commission.

A local municipality wishing to make an application under the first paragraph may do so, with the support of the regional county municipality or the community concerned, by transmitting its application directly to the commission together with the documents mentioned in section 59.1 and those required by regulation.

An application for exclusion made by any person other than an applicant mentioned in the first or second paragraph is not admissible.

Sections 59.1 to 59.6, adapted as required, apply to an application for exclusion.

“65.1 In examining an application for exclusion, the commission shall, in addition to taking into consideration the criteria set out in section 62, satisfy itself that the exclusion answers a need and meets a development objective of the local municipality, the regional county municipality or the community, having regard to the objectives of the development plan.”

37. Division IV.0.1 of the said Act is repealed.

38. Section 69.1 of the said Act is amended by replacing the words “Confédération de l’Union des producteurs agricoles” in the third line of the fourth paragraph by the words “certified association”.

39. The said Act is amended by inserting, after section 74, the following section:

“74.1 The permit shall be signed by the president or the secretary or by any person authorized for that purpose by the commission, upon payment of the duties determined in a regulation under section 80.

The Government may, however, subject to the conditions it determines, allow that the required signature be affixed by means of an automatic device or that a facsimile of the required signature, having the same force and effect as the signature itself, be affixed on the permit.”

40. Section 75 of the said Act is amended by replacing the word “two” in the first line by the word “five”.

41. The said Act is amended by replacing Division V.1 by the following chapter:

“CHAPTER III

“FARMING ACTIVITIES AND THE SUSTAINABLE DEVELOPMENT OF AGRICULTURE IN AGRICULTURAL ZONES

“DIVISION I

“GENERAL PROVISIONS

“79.1 For the purposes of this chapter,

(1) “farming activities” means the practice of agriculture, including the practice of allowing land to lie fallow, the storage and use of chemical, organic or mineral products and the use of farming machinery and equipment for agricultural purposes.

The storage, processing, packaging and sale of agricultural products on a farm by a producer whose main occupation is agriculture shall be regarded as farming activities;

(2) “director” means the person designated under section 79.34;

(3) “normal agricultural practice” means farming activities exercised in a manner consistent with customs generally accepted for the exercise of such activities and the application of means to mitigate the consequences that the activities may have on neighbouring land and the environment, in keeping with the evolution of technologies.

“79.2 The Minister shall, in conjunction with the Minister of Municipal Affairs and the Minister of the Environment and Wildlife, prepare, update and distribute a guide to agricultural practice.

The guide shall contain proper and generally accepted standards and customs relating to the practice of agriculture; it shall, in addition, propose parameters to determine the distance that must, in given circumstances, separate an agricultural building or premises put to an agricultural use from a non-agricultural building or premises put to a non-agricultural use, whether or not the non-agricultural building or premises are situated in an agricultural zone or in a zone contiguous to the agricultural zone in which the agricultural building or premises concerned are situated.

The guide shall describe the agricultural practices most likely to mitigate the consequences of farming activities on neighbouring land and the environment.

For the preparation of the guide, the Minister shall consult, in particular, the certified association and the unions grouping Québec municipalities.

“DIVISION II

“REGULATION OF FARMING ACTIVITIES

“§1. — *Measures to secure the exercise of farming activities*

“79.3 With respect to its agricultural zone, a regional county municipality or a community shall, in accordance with section 5 of the Act respecting land use planning and development (chapter A-19.1), include in its development plan or complementary document the specific measures it considers to be most appropriate for the planned development of farming activities and their exercise and, where appropriate, for the preservation and development, in a manner compatible with farming activities, of the non-agricultural uses authorized by law.

Within an agricultural zone, the use of the land for agricultural purposes may not be restricted or prohibited by the application of a planning by-law except to the extent that the development plan or complementary document of the regional county municipality or the community includes particular provisions to that effect.

“79.4 Dust, smoke, noise, odours and light resulting from a farming activity exercised according to normal agricultural practice

in an agricultural zone may not be considered to be nuisances by a local municipality.

“79.5 A local municipality may issue a building permit to a person wishing to erect, on his lot, a non-agricultural building that does not comply with a distance standard imposed on neighbouring farming operations pursuant to any Act, regulation or by-law in force at the time of the erection, or imposed as a condition under a certificate of authorization issued under the Environment Quality Act (chapter Q-2).

However, the permit may not be issued to the person unless he has filed, for entry in the land register at the registry office concerned, a declaration of agricultural servitude whereby he waives, in respect of each of the neighbouring farming operations required to comply with the distance standard, the remedies that would have been available to him had he complied with the standards imposed.

Notwithstanding article 1181 of the Civil Code of Québec, the servitude is established by means of a declaration registered against the lot for which the application is made and against each lot on which the buildings or infrastructures used for the farming activity subject to the distance standards are situated.

“§2. — Mediation

“79.6 Any person suffering injury because his current or projected exercise of a farming activity in an agricultural zone is restricted or prevented by reason of the application of a municipal planning by-law or nuisance by-law may apply for the intervention of a mediator.

The intervention of a mediator may also be applied for if a proposed by-law, once adopted, would restrict or prevent the exercise of a farming activity in an agricultural zone.

“79.7 The role of the mediator is to allow the parties to present their points of view, and to seek agreement between the parties.

The mediator may also give an opinion on the dispute, if it subsists, and make recommendations.

“79.8 No proceedings may be brought against the mediator for any act performed or omission made in good faith in the performance of his duties.

“79.9 The application must include the reasons therefor and be submitted in writing to the regional county municipality or the community. A copy of the application must be forwarded by the applicant to the local municipality.

The application must also set out the facts of the case, state the injury caused, and include any relevant document.

“79.10 Within 15 days of receipt of the application, the warden of the regional county municipality or the chairman of the community shall designate a mediator acceptable to the parties.

If a mediator is not so designated, the applicant may present his application to the director, who shall designate a mediator.

“79.11 The parties shall provide the mediator with all the information or documents he requires for the examination of the application.

“79.12 In examining the application, the mediator shall take into consideration, particularly, proper and generally accepted agricultural standards, and the consequences of the municipal by-law or proposed by-law on the current or projected farming activities of the applicant, and on those of the other producers in the agricultural zone.

“79.13 In examining the application, the mediator may require expert opinions from a member of the personnel of the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation, the Ministère de l'Environnement et de la Faune, the Ministère des Affaires municipales and the Ministère des Ressources naturelles, designated by the Minister responsible for each department.

“79.14 The mediator may convene any person to obtain his point of view.

“79.15 The mediator may refuse or cease to examine an application where he considers

(1) that the application is frivolous or made in bad faith, or that, in the circumstances, his intervention serves no purpose;

(2) that the applicant has refused or neglected to supply information or documents required under section 79.11;

(3) that the by-law has already been found to be consistent with the provisions contained in the development plan pursuant to subparagraph 9 of the first paragraph and the fourth paragraph of section 5 of the Act respecting land use planning and development.

“79.16 The mediator shall refuse or cease to examine an application where judicial proceedings based on similar facts and bearing on the same by-law are in progress or have been the subject of a final decision disposing of the application.

“79.17 Where the mediator refuses or ceases to examine an application, he shall advise the warden of the regional county municipality, the chairman of the community or the director, as the case may be, as well as the applicant and the local municipality, in writing, of the grounds for his decision.

“79.18 Where the mediator considers it advisable to intervene, he shall, as soon as possible, submit a report of his findings or recommendations to the persons referred to in section 79.17.

The mediator may make any recommendation he considers appropriate in order to settle the dispute. He may also, where he considers it appropriate, transmit his report to any other interested person.

“79.19 The local municipality shall, within 60 days of receiving the mediator’s report, inform the mediator and the applicant in writing of the action it intends to take in response to any recommendations made and, if it intends to take no action, of the reasons for its decision.

“DIVISION III

“CIVIL REMEDIES

“§1. — *Limitation of remedies*

“79.20 In an agricultural zone, no person shall incur liability toward a third person by reason of dust, smoke, noise, odours or light resulting from farming activities and inherent to normal agricultural practice or may be prevented by such a third person from exercising such farming activities provided that he does not contravene

(1) the regulatory provisions under the Environment Quality Act;

(2) the provisions of the Pesticides Act (chapter P-9.3) and the regulations thereunder;

(3) the municipal by-laws made pursuant to the Act respecting land use planning and development in accordance with the objectives of the development plan that takes into account governmental policy regarding the protection and sustainable development of farming activities in agricultural zones;

(4) any arbitration award rendered under section 79.30.

“§2. — *Arbitration*

“79.21 Any person who believes he has suffered injury by reason of the presence of dust, smoke, noise, odours or light resulting from a farming activity in an agricultural zone may apply to the director in writing for his intervention. The application must include the reasons therefor.

Any person who is cited as causing such injury in a formal notice may, similarly, refer the matter to the director.

“79.22 The deposit of a written document under section 79.21 shall suspend any other right of action and any prescription running in respect of such a right until the application has been disposed of in accordance with this division or until the director advises the applicant that he does not intend to intervene.

“79.23 The director, where he has reasonable grounds to believe that the matter justifies his intervention, shall appoint a conciliator; otherwise, he shall advise the applicant forthwith.

Sections 79.7 and 79.8, adapted as required, apply to the conciliator.

“79.24 If the parties come to an agreement as to the measures to be taken to settle their dispute, they shall make a transaction within the meaning of article 2631 of the Civil Code of Québec; an original copy of the transaction shall be transmitted to the director by the conciliator, who shall also send a copy to the local municipality in which the farming activity involved is exercised.

“79.25 If the conciliator is of the opinion that an agreement between the parties is not possible, he shall make a report to the director who shall refer the dispute to arbitration, unless the applicant withdraws his application.

“79.26 Arbitrators shall be designated from a panel established annually by the Minister, after consulting the certified association and the unions grouping Québec municipalities, and approved by the Government. The Minister may, following the same procedure, modify the panel in the course of a year.

The panel must consist of persons with a recognized knowledge of agriculture.

“79.27 The director shall transmit a list of available arbitrators to the disagreeing parties to allow them to select an arbitrator jointly.

The director shall designate the arbitrator selected by the parties or, where he has not been informed of their selection within 10 days of transmitting the list, the arbitrator he selects.

“79.28 An arbitrator must not be related to any party; he must have no pecuniary interest in the dispute submitted to him, and he must not have played a part in the dispute in any capacity whatsoever.

The director may at any time, if he has cause to believe that an arbitrator does not meet the conditions of the first paragraph or is unable to act, designate another arbitrator on his own initiative.

“79.29 Sections 79.11 to 79.17, adapted as required, apply to the arbitrator.

“79.30 The arbitrator shall decide whether the dust, smoke, noise, odours or light resulting from the farming activity and complained of by the applicant are inherent to normal agricultural practice.

The arbitrator may also order the person exercising the farming activity involved to cease a practice that is found not to be normal or to modify the practice in the manner indicated by the arbitrator so as to make it consistent with normal agricultural practice.

“79.31 The arbitrator shall transmit his decision to the director, to the parties and to the local municipality in which the farming activity involved is exercised.

“79.32 The costs of the arbitration, including the fees and expenses of experts other than an expert referred to in section 79.13, shall be borne by the losing party unless the arbitrator

considers it more equitable, given the circumstances of the case, to apportion the costs between the parties.

“79.33 An arbitrator may correct, at any time, a decision containing an error in writing or calculation or any other clerical error. He may also, on his own initiative or at the request of a party, revise or revoke, for cause, any decision he has made.

“DIVISION IV

“DIRECTOR

“79.34 The Minister shall designate a person to act as director for the purposes of sections 79.6 to 79.19 and 79.21 to 79.33.

“79.35 The functions of the director shall be

- (1) to receive the applications filed with him;
- (2) to designate, from among the personnel at his disposal, the persons needed to act as mediators or conciliators;
- (3) to designate arbitrators, if necessary.”

42. Division VI of the said Act becomes Chapter IV.

43. Section 80 of the said Act is amended

(1) by inserting the words “of Chapter II” after the words “Division v” in the second line of paragraph 2;

(2) by replacing the word “where” in the first line of paragraph 3 by the words “and circumstances in which”;

(3) by inserting the words “of Chapter II” after the words “Division v” in the first line of paragraph 4;

(4) by inserting, after paragraph 6, the following paragraphs:

“(6.1) determine the cases and circumstances in which a rudimentary building may be erected to serve as a shelter in a wooded area without the authorization of the commission;

“(6.2) determine the cases and circumstances in which a residential site built upon before the issue of the designated agricultural region decree may be enlarged so as to comply with

environmental standards without the authorization of the commission;

“(6.3) determine the cases and circumstances in which all or part of a lot may be alienated in favour of agricultural producers without the authorization of the commission;

“(6.4) determine the cases and circumstances in which advertising billboards may be erected without the authorization of the commission;

“(6.5) determine the cases and circumstances in which surplus expropriated land may be retroceded by a municipality without the authorization of the commission;

“(6.6) determine the cases and circumstances in which an application referred to in section 32 must be accompanied with a declaration;”;

(5) by striking out paragraph 7.1;

(6) by replacing paragraph 8 by the following paragraph:

“(8) determine the tariff of duties, fees, expenses and costs payable in respect of any matter or declaration submitted to the commission or in respect of any matter submitted to the appeal tribunal, and the classes of persons which may be dispensed from paying them;”;

(7) by inserting, after paragraph 8, the following paragraph:

“(8.1) fix the remuneration of arbitrators and determine the expenses to which they are entitled;”.

44. Section 81 of the said Act is repealed.

45. Division VII of the said Act becomes Chapter V.

46. Subdivision 1 of Division VII of the said Act becomes Division I of Chapter V.

47. Section 85 of the said Act is amended by adding, after the second paragraph, the following paragraph:

“In all cases in which the motion is not filed by the commission, the commission must be impleaded.”

48. Subdivision 2 of Division VII of the said Act becomes Division II of Chapter V.

49. Division VIII of the said Act becomes Chapter VI.

50. Section 96 of the said Act is amended by striking out the words "The Government may, in addition, authorize the exclusion of a lot situated in an exclusive sector." in the sixth, seventh and eighth lines of the second paragraph.

51. Section 100.1 of the said Act is amended

(1) by striking out the words "by means of the deposit of a plan and book of reference" in the first and second lines of the first paragraph;

(2) by striking out the words "by means of the deposit of a plan and book of reference" in the second line of the third paragraph;

(3) by adding, at the end, the following paragraph:

"The right granted by the seventh paragraph may, however, be exercised only before the Superior Court, and only where the dispute to which it pertains has already been brought before that court."

52. Division IX of the said Act becomes Chapter VII.

53. Division X of the said Act becomes Chapter VIII.

54. Section 115 of the said Act is amended by striking out the words "Subject to section 79.11," in the first line.

ACT RESPECTING THE ACQUISITION OF FARM LAND BY NON-RESIDENTS

55. Section 34 of the Act respecting the acquisition of farm land by non-residents (R.S.Q., chapter A-4.1) is replaced by the following section:

34. The commission is responsible for supervising the application of this Act, and, to that end, sections 7, 8, 11, 13, 13.1, 14, 16, 17, 18.5, 19 and 21.0.1 to 21.0.11 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) adapted as required, apply."

ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

56. Section 5 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) is amended

(1) by adding, after subparagraph 8 of the first paragraph, the following subparagraph:

“(9) contain that which the regional county municipality considers appropriate to give effect to section 79.3 of the Act respecting the preservation of agricultural land and the sustainable development of farming activities (chapter P-41.1).”;

(2) by adding, at the end, the following paragraph:

“The complementary document provided for in the second paragraph must also contain that which the regional county municipality considers appropriate to give effect to section 79.3 of the Act respecting the preservation of agricultural land and the sustainable development of farming activities.”

57. Section 113 of the said Act is amended by replacing subparagraph 1 of the third paragraph by the following subparagraph:

“(1) subparagraph 4 of the second paragraph applies only for the purposes of protecting a water supply or mitigating the effects of the dust, smoke, noise, odours or light resulting from a farming activity within the meaning of section 79.1 of that Act;”.

58. Chapter V.1 of Title I of the said Act is replaced by the following chapter:

“CHAPTER V.1

“AGRICULTURAL ADVISORY COMMITTEE

“148.1 Every regional county municipality whose territory includes an agricultural zone established under the Act respecting the preservation of agricultural land and the sustainable development of farming activities (chapter P-41.1) shall establish an agricultural advisory committee.

Any other regional county municipality may pass a by-law to establish such a committee.

“148.2 A regional county municipality having established an agricultural advisory committee shall determine, by by-law, the number of members who will sit on the committee.

The members must be selected from among the following groups:

(1) the members of the council of the regional county municipality;

(2) the farm producers, within the meaning of the Farm Producers Act (chapter P-28), who are not eligible under subparagraph 1 and who reside in the territory of the regional county municipality;

(3) the persons who are not eligible under subparagraph 1 or 2 and who reside in the territory of the regional county municipality.

The regional county municipality may determine, by by-law, the number of members who must be selected under each subparagraph of the second paragraph.

“148.3 The regional county municipality shall appoint the committee members.

A person may be appointed under subparagraph 2 of the second paragraph of section 148.2 only on the recommendation of the certified association within the meaning of section 1 of the Farm Producers Act (chapter P-28).

“148.4 The members shall serve for an indeterminate period of time.

A member shall cease to be a member upon being replaced, resigning, or ceasing to be eligible under the second paragraph of section 148.2. A member appointed under a particular subparagraph of that paragraph, pursuant to the by-law made under the third paragraph of the said section, shall also cease to be a member upon ceasing to be eligible under that subparagraph.

A member may resign by transmitting a signed resignation to the regional county municipality. The resignation takes effect from its date of receipt.

“148.5 The regional county municipality shall designate the chairman of the committee from among the committee members.

“148.6 The chairman shall hold office for an indeterminate period of time.

The chairman shall cease to hold office upon being replaced, ceasing to be a member of the committee or resigning from the office of chairman.

The chairman may resign by transmitting a signed resignation to the regional county municipality. The resignation takes effect from its date of receipt.

“148.7 The function of the committee is to examine, at the request of the council of the regional county municipality or on its own initiative, any matter relating to the planning of agricultural land, the practice of farming activities, within the meaning of section 79.1 of the Act respecting the preservation of agricultural land and the sustainable development of farming activities (chapter P-41.1), and the environmental aspects pertaining to such planning and practice.

A further function of the committee is also to make, to the council of the regional county municipality, the recommendations it considers appropriate regarding the matters it has examined.

The regional county municipality may, by by-law, determine any other matter relating to the planning of its territory in respect of which the committee may exercise its powers of examination and recommendation.

“148.8 The committee may establish rules for its internal management.

Subject to sections 148.9 to 148.12, the meetings of the committee shall be convened and conducted according to such rules.

“148.9 The chairman of the committee shall preside at meetings of the committee.

Where the chairman is unable to act, or where the office of chairman is vacant, the members of the committee who are present at a meeting shall designate a person from among their number to preside at the meeting.

“148.10 A majority of the members of the committee shall constitute a quorum at meetings of the committee.

“148.11 Each member of the committee has one vote.

“148.12 The internal management rules and the recommendations of the committee shall be approved by a majority of the votes cast.

The committee shall report on its work and make its recommendations in a report signed by the chairman or by a majority of the committee members.

The report shall be submitted at a sitting of the council of the regional county municipality.

“148.13 The regional county municipality may allocate funds and assign personnel to assist the committee in fulfilling its functions.

“148.14 For the purposes of the legislative provisions governing the regional county municipality with respect to the reimbursement of expenses of the council members, the office of chairman or other committee member shall be considered to be an office for which the members of the council may be entitled to the reimbursement of expenses.

The regional county municipality may, following the same procedure as for the reimbursement of expenses of council members, establish rules governing the reimbursement of expenses for the chairman and other committee members who are not council members.”

TRANSITIONAL AND FINAL PROVISIONS

59. For the purposes of sections 60 to 62, “regional county municipality” means, in addition to its ordinary meaning, an urban community, Ville de Laval and Ville de Mirabel.

60. Section 56 shall not operate to require a regional county municipality to amend its development plan in force on (*insert here the date of coming into force of section 56*).

61. No regional county municipality may, before a report of the agricultural advisory committee it has instituted pursuant to section 148.1 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1), enacted by section 58, has been submitted at a sitting of the council of the regional county municipality, or before the expiry of a period of 30 days after the council requested the committee to submit its report if the committee has failed to do so within such period, approve or withhold approval of, pursuant to section 137.3 of that Act, a planning by-law pertaining specially to an agricultural zone established under the Act respecting the preservation of agricultural land and the sustainable development of farming activities (R.S.Q., chapter P-41.1) or relating to farming

activities, within the meaning of section 79.1 of that Act as amended by section 3, that can be exercised in that zone.

The time limit provided in section 137.3 of the Act respecting land use planning and development begins to run on the day the report is submitted or, as the case may be, upon the expiry of the period referred to in the first paragraph.

In addition to the reason for withholding approval set out in that section, the regional county municipality may withhold approval of a by-law on the grounds that it is not consistent with governmental policy communicated to the regional county municipality regarding the preservation and sustainable development of farming activities in agricultural zones. Where approval is withheld on those grounds, sections 137.4 and 137.5 of the Act respecting land use planning and development apply and, for that purpose, the dispute submitted to the Commission municipale du Québec and the decision to be rendered by the Commission shall bear on the conformity of the by-law with governmental policy.

If the regional county municipality is not required, pursuant to section 137.3 of the Act respecting land use planning and development, to approve or withhold approval of the by-law referred to in the first paragraph because it has adopted it itself, the regional county municipality cannot bring the by-law into force until a report of its agricultural advisory committee has been submitted at a sitting of the council of the regional county municipality or until the expiry of a period of 30 days after the council requested the committee to submit its report if the committee has failed to do so within such period.

If the regional county municipality is not required to approve or withhold approval of the by-law because there is no development plan in force in its territory, sections 137.2 to 137.5 and 137.15 of the Act respecting land use planning and development and the first two paragraphs of this section apply and, for that purpose, the decision to be made by the regional county municipality and, where applicable, the dispute submitted to the Commission municipale du Québec and the decision to be rendered by the Commission shall bear on the conformity of the by-law with governmental policy referred to in the third paragraph.

The first paragraph does not apply to a by-law which the regional county municipality has, on *(insert here the date of coming into force of this section)*, approved or withheld approval of or in respect of which the time limit granted to the regional county municipality for

such purpose has expired. The fourth and fifth paragraphs do not apply to a by-law which is already in force on that date.

The first six paragraphs shall cease to apply in the territory of a regional county municipality upon the coming into force of the first original or revised development plan, or the first by-law amending the development plan, as the case may be, that takes into account governmental policy referred to in the third paragraph.

62. Where the agricultural advisory committee of a regional county municipality considers that a municipal planning by-law, applicable in the territory of the regional county municipality and in force on (*insert here the date of coming into force of this section*), unduly restricts or prohibits, having regard to governmental policy referred to in the third paragraph of section 61, a farming activity within the meaning of section 79.1 of the Act respecting the preservation of agricultural land and the sustainable development of farming activities (R.S.Q., chapter P-41.1) as amended by section 3 in an agricultural zone established under that Act, the committee may recommend that the regional county municipality amend its development plan in order that the by-law be amended for concordance purposes.

Any concordance by-law resulting from an amendment to the development plan following a recommendation under the first paragraph shall be adopted, notwithstanding section 58 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1), within 90 days of the coming into force of the by-law amending the development plan.

63. For the purposes of sections 65 to 67, the words "amended Act" mean the Act to preserve agricultural land (R.S.Q., chapter P-41.1) as it stands following the coming into force of this Act, and the words "current Act" mean that Act as it stood before (*insert here the date of coming into force of sections 29 and 30 of this Act*), together with section 35 of the Act to amend the Act to preserve agricultural land (1989, chapter 7).

64. Section 35 of the Act to amend the Act to preserve agricultural land (1989, chapter 7) is repealed.

65. Applications made to a local municipality before the date of coming into force of sections 29 and 30 of this Act, but having yet to be filed at the record office of the commission, shall be governed by the provisions of the amended Act.

66. Applications filed at the record office of the commission before the date of coming into force of sections 29 and 30 of this Act but having yet to be heard on that date shall be governed by the provisions of the amended Act, with the proviso that they may not be deemed not admissible for the reasons set out in section 58.3, enacted by section 29 of this Act, in section 59.6, enacted by section 30 of this Act, or in section 65, replaced by section 36 of this Act.

67. Applications filed at the record office of the commission before (*insert here the date of coming into force of sections 29 and 30 of this Act*), and having been heard on that date, shall be governed by the provisions of the current Act.

68. The term of office of the commissioner appointed to hear complaints with respect to the preservation of agricultural land shall end on (*insert here the date of coming into force of section 41 of this Act*).

However, the commissioner must continue to process complaints that he has yet to dispose of on that date. Sections 79.12 to 79.19 of the Act respecting the preservation of agricultural land and the sustainable development of farming activities, adapted as required, shall apply.

69. The records and other documents of the commissioner shall become the records and documents of the director, to the extent and in the manner determined by the Government.

70. The monies placed at the disposal of the commissioner shall be transferred to the director to the extent and in the manner determined by the Government.

71. In any other Act and in any regulation, by-law, decree, order in council, ministerial order, proclamation, order, contract, agreement, accord or other instrument, the words "Act to preserve agricultural land" are replaced by the words "Act respecting the preservation of agricultural land and the sustainable development of farming activities".

72. This Act comes into force on the date or dates to be fixed by the Government.