



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Bill 15
(*Reprint*)

An Act respecting the marketing of agricultural, food and fish products and amending various legislation

Introduction

Introduced by
Mr Michel Pagé
Minister of Agriculture, Fisheries and Food

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EXPLANATORY NOTES

This bill proposes a revision of the Farm Products Marketing Act (R.S.Q., chapter M-35). It establishes new rules governing product marketing structures, and allows coordination and development chambers to be set up. Their functions include, among other things, seeking, proposing and implementing ways of improving the production and marketing of agricultural and food products.

This bill maintains, with certain amendments, the rules in respect of joint plans and the producer marketing boards entrusted with administering and implementing them. Amalgamations of such boards will henceforth be permitted under its provisions.

It also maintains the rules which allow the making of agreements and the settling of disputes between persons or groups interested in the marketing of agricultural products as well as the rules governing the setting up and administration of a financial liability guarantee plan for purchasers of agricultural products.

The bill introduces new measures as regards the power of the Régie des marchés agricoles et alimentaires to intervene with respect to acts performed by producer marketing boards, persons or partnerships engaged in producing or marketing a regulated product. It also proposes certain amendments with respect to the review of decisions made by the Régie.

Provisions are made to adapt the rules and operational method governing the marketing structures of agricultural products and make them applicable to the marketing of fish products.

It also introduces new rules in respect of offences and allows the court, in certain cases, to impose a fine which takes account of the benefits gained and damage caused as a result of the offence.

Finally, the bill amends other Acts, giving the Régie responsibilities in fields closely related to the marketing of agricultural products, and contains certain transitional provisions.

ACTS AMENDED BY THIS BILL:

- Grain Act (R.S.Q., chapter G-1.1);
- Farm Producers Act (R.S.Q., chapter P-28);
- Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30).

ACT REPLACED BY THIS BILL:

- Farm Products Marketing Act (R.S.Q., chapter M-35).

ACT REPEALED BY THIS BILL:

- Act to promote the development and modernization of regional dairies (R.S.Q., chapter A-19).

Bill 15

An Act respecting the marketing of agricultural, food and fish products and amending various legislation

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TITLE I

SCOPE

1. This bill establishes rules to allow orderly organization of the production and marketing of agricultural and food products and the marketing of fish products.

2. This Act shall not be construed as a means to compete with cooperative marketing of agricultural or fish products. This principle must guide the application of this Act so as not to hamper cooperative action in regions and sectors where it can meet needs effectively and so as to ensure that the establishment and administration of joint plans may benefit as much as possible from the participation of cooperatives.

3. The word “marketing” means the classification, processing, labelling, storage, offering for sale, shipping for sale purposes, transport, sale, purchase, advertizing and financing of operations relating to the selling of the product, and, in the case of an agricultural product, it also includes penning.

TITLE II

RÉGIE DES MARCHÉS AGRICOLES ET ALIMENTAIRES DU
QUÉBEC

CHAPTER I

ESTABLISHMENT AND FUNCTIONS OF THE RÉGIE

4. A body is hereby established under the name of "Régie des marchés agricoles et alimentaires du Québec".

5. The functions of the Régie are to foster the efficient and orderly marketing of agricultural and food products, the development of harmonious relations between the various intervenors, the settlement of disputes arising in connection with the production and marketing of such products, taking into account the interests of consumers and the protection of the public interest.

The Régie shall have the same functions in respect of the marketing of fish products.

6. The Régie shall have its head office in the territory of the Communauté urbaine de Montréal or its immediate vicinity. It shall also have an office in the territory of the Communauté urbaine de Québec.

The Régie may sit anywhere in Québec.

7. The Régie is composed of eight members, including a chairman and three vice-chairmen, appointed by the Government for a term not exceeding five years.

The members of the Régie shall remain in office notwithstanding the expiry of their term until they are reappointed or replaced.

8. The Government shall determine the salaries and other conditions of employment of the members of the Régie. Once fixed, their salaries cannot be reduced.

9. The chairman is responsible for the administration and direction of the Régie.

10. No member of the Régie may, on pain of forfeiture of office, have any direct or indirect interest in any activity related to the

production or marketing of an agricultural, food or fish product putting his personal interest in conflict with the interest of the Régie, or represent any group or sector contemplated by this Act.

However, forfeiture is not incurred if a member acquires such an interest by succession or gift, provided he renounces or disposes of it with diligence.

11. If a member of the Régie is unable to act, the Government may appoint another person to replace him for as long as he is incapacitated.

If the chairman is to be absent at a sitting, he shall designate one of the vice-chairmen to replace him.

12. The Régie may sit simultaneously in divisions composed of not fewer than three members. However, the chairman or a vice-chairman sitting alone may hear and arbitrate a dispute brought before the Régie under subparagraph *d* of the first paragraph of section 46 of the Farm Producers Act (R.S.Q., chapter P-28).

13. Three members of the Régie constitute a quorum.

In case of a tie, the chairman has a casting vote.

14. The members of the Régie cannot be prosecuted for any act performed in good faith in the performance of their duties.

15. The secretary and the other employees of the Régie are appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

16. Every copy of a document emanating from the Régie is authentic if it is signed or certified by the chairman, the secretary or any person designated for that purpose by the Régie.

17. The Government may appoint and assign to the Régie any expert considered necessary and fix his salary.

18. The Government may, at the request of the Régie, appoint for a period not exceeding three months, any person to act as an inspector or investigator for the Régie. It shall fix the salary of any such person.

19. The Régie may review or revoke any of its decisions

(1) where a new fact is discovered which, if it had been known in due time, would have justified a different decision;

(2) where a person interested in the issue was, for reasons considered satisfactory, prevented from being heard;

(3) where a substantive or procedural defect is likely to invalidate the decision.

20. Except in exceptional circumstances, the Régie shall not accept a request for review or revocation filed more than 180 days after the date on which the decision was made.

21. Except on a question of jurisdiction, article 33 of the Code of Civil Procedure (R.S.Q., chapter C-25) does not apply to the Régie and no extraordinary recourse provided for in articles 834 to 850 of the said Code may be exercised nor any injunction granted against the Régie or any of its members acting in its or his official capacity.

22. A judge of the Court of Appeal may, upon a motion, annul summarily any writ, order or injunction issued or granted contrary to section 21.

23. The fiscal year of the Régie shall end on 31 March each year.

24. Not later than 1 September each year, the Régie shall transmit to the Minister a report on its activities for the preceding fiscal year. The report shall be tabled in the National Assembly within 30 days after its receipt if the Assembly is in session or, if it is not sitting, within 30 days after the opening of the next session or resumption.

25. The Régie may adopt rules for its internal management; it shall submit the rules to the Government for approval.

The Régie may also adopt rules of procedure and practice for the conduct and hearing of the matters brought before it. The rules shall come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date determined by the Régie.

CHAPTER II

POWERS OF THE RÉGIE

26. The Régie may settle any dispute which arises in connection with the administration of a joint plan or the operation of a coordination and development chamber.

27. The Régie may, on the conditions and for the purposes it determines, and after giving the parties the opportunity to be heard, confer on a person, on an agricultural cooperative or on a fishermen's cooperative the rights and obligations of a buyer for the purposes of the joint offer for sale of a product marketed under a plan.

Similarly, the Régie may confer on any person who takes part in the production of an agricultural product the rights and obligations of a producer in respect of the product and on any person who takes part in the harvesting of a fish product, the rights and obligations of a fisherman in respect of the product.

28. The Régie may

(1) amend, replace or revoke any provision of a plan, by-law, the constituting instrument of a chamber or a decision of a board of producers or fishermen or of a chamber;

(2) terminate or suspend for any period it determines the application of a plan, by-law, agreement, the constituting instrument or a decision of a chamber or any provision thereof.

The Régie shall give prior notice of the date and place where the representations of interested persons will be heard.

It shall publish a notice in the *Gazette officielle du Québec* containing its decision under this section.

29. The Régie may, after giving the interested person the opportunity to be heard, reduce temporarily or permanently, suspend or cancel the quota of any producer who neglects or refuses to comply with any provision of this Act, or of a plan, by-law, arbitration award or homologated agreement or who ceases to produce the product for which he holds a quota.

30. The Régie may, after giving the interested person the opportunity to be heard, order the removal from office of any director of a board of producers or fishermen who contravenes the provisions of section 89 or fails to comply with a notice of meeting or a request made under the second paragraph of section 76.

Any decision of the board to which this person was a party, taken after he was declared removed by the Régie, shall be null.

31. The Régie may require a marketing board to submit any question relating to the application of this Act to the general meeting

of producers or, as the case may be, fishermen, or of a group or particular class established under section 84.

32. The Régie may at any time submit to the referendum of the producers or fishermen subject to a plan held in accordance with section 54, any question concerning the plan and its administration.

33. The Régie may request that a marketing board negotiate with a certified association any matter which may be the subject of a by-law under section 92, 93, 97, 98 or 100 or, in the absence of certified association, to negotiate with any person interested in the marketing of a product designated by it. The Régie may determine that the conciliation and arbitration procedure provided in Chapter VII of Title III shall apply if no agreement is reached.

This section also applies to any matter regulated under a by-law already in force.

34. The Régie may make regulations to require persons or partnerships engaged in the production or marketing of a product subject to a plan or governed by a coordination and development chamber to register their names, addresses and occupations at the place and in the manner it determines.

35. If no association or group of cooperatives is certified in accordance with section 110, the Régie may, after giving them the opportunity to be heard, extend to persons interested in the marketing of a product marketed under a plan the effects of an agreement between the board administering the plan and the persons marketing the major part of the product, or of an arbitration award which is in lieu of such an agreement.

36. The Régie may, on the conditions and for the period it determines,

(1) exempt any person or category of persons or any partnership engaged in the production or marketing of an agricultural product or the marketing of a fish product or any class or variety of such products from all or some of the effects of the constituting instrument of a chamber, a joint plan, a regulation, a by-law or an agreement;

(2) exclude from a joint plan, a regulation or by-law or from the jurisdiction of a chamber any class or variety of agricultural or fish products.

The Régie shall publish in the *Gazette officielle du Québec* any decision it makes under subparagraph 2 of the first paragraph.

37. The Régie may, on the conditions and for the period it determines and after having given interested persons the opportunity to be heard, exempt a marketing board or its directors from the application of sections 60, 89 and 128 if it considers such exemption necessary to facilitate orderly and efficient marketing of the product concerned in the general interest of the producers or the fishermen, as the case may be, without causing serious prejudice to the other intervenors.

The Régie may, in that case, restrict the exercise, by the marketing board, of certain powers under this Act.

It may, in the same manner, suspend, amend or revoke the exemption if, in addition to the reasons mentioned in section 18, circumstances have changed to an extent which would justify such suspension, amendment or revocation.

38. The Régie may, if it considers such action necessary to ensure the efficient carrying out of a plan or by-law, entrust any person or body it designates with the carrying out of the plan or by-law or any provision thereof and, if need be, replace that person or body.

The Régie shall give prior notice, in a farm journal having general circulation, of the date and place where the representations of the persons subject to the plan or by-law will be heard.

In an emergency, the Régie may designate the person or body mentioned in the first paragraph by a decision made public in any manner it considers appropriate. It shall, as soon as possible, hold the hearing provided for before confirming or varying the appointment.

The person or body designated by the Régie shall succeed by operation of law to the marketing board until then responsible for the administration of the plan or enforcement of the by-law and shall have all the powers, duties and prerogatives of that board.

39. The Régie may take possession of the assets, books and documents used in the administration of a plan or application of a by-law to ensure the conservation and custody thereof or return them to the person or body responsible for the carrying out of the plan or by-law under section 38.

40. The Régie may, by regulation,

(1) determine the activities relating to the production and marketing of an agricultural product for which it requires a permit;

(2) determine the duration and the terms and conditions of issue and renewal of permits for persons or partnerships applying therefor;

(3) establish classes of permits according to the production and marketing activities it determines, categories, classes or varieties of products it identifies, and determine specific conditions of issue and restrictions for each category of permit;

(4) determine the charges and fees exigible for the issue or the renewal of permits.

41. The Régie may, after giving the interested person the opportunity to be heard, suspend, revoke or refuse to renew the permit of any holder

(1) who no longer satisfies the conditions for issue prescribed in a regulation made under section 40;

(2) who has been found guilty of an offence under any provision of this Act or a plan, regulation or by-law, homologated agreement or arbitration award relating directly to the activity authorized by the permit.

42. Every regulation made by the Régie shall come into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date determined by the Régie.

43. The Régie may, of its own initiative or at the request of an interested person, order a marketing board or any person engaged in the production or marketing of a product marketed under a plan, to perform or not to perform a particular act where it is of the opinion that such act or omission may hinder the carrying out of the plan, a by-law, a homologated agreement or an arbitration award.

Any decision made by the Régie under the first paragraph may be homologated by the Superior Court on a motion by the Régie or an interested person, and after homologation it becomes executory as a judgment of the Court.

TITLE III

MARKETING OF AGRICULTURAL PRODUCTS

CHAPTER I

GENERAL PROVISIONS

44. This Title applies to the production and marketing of agricultural and food products.

“Agricultural product” means any agricultural, horticultural, avicultural, livestock or forest product in its raw state or partly or wholly processed by or for the producer, and any beverage or other food products derived therefrom; aquicultural products are considered to be agricultural products.

CHAPTER II

JOINT PLANS

45. Ten or more interested producers may transmit to the Régie a draft joint plan permitting the establishment of conditions for the production and marketing of an agricultural product originating from a designated territory or intended for a specified purpose or a particular buyer, and the constitution of a producer marketing board to administer the plan.

46. An association of producers may also transmit to the Régie a draft joint plan for the marketing of an agricultural product produced by all or some of its members. It shall append to the draft plan a duly certified copy of the resolution of its board of directors approving the draft and authorizing its transmission to the Régie.

47. The request accompanying the draft plan must set out

(1) the names, addresses and occupations of the applicants;

(2) the objective pursued by the applicants and the means by which it can be achieved;

(3) the names, addresses and occupations of the directors of the marketing board which will be responsible for administering the plan;

(4) the reasons why, if any, the plan should not be submitted to a referendum under section 53.

48. The draft plan must set out

(1) the class of producers and the agricultural product subject to the plan;

(2) the territory from which the product may originate and the buyers for whom or the purpose for which it is intended;

(3) the composition of the marketing board which will be responsible for administering the plan;

(4) the method of election and replacement of subsequent directors of the board;

(5) the method for financing the administrative expenses which will be incurred by the marketing board in administering the plan;

(6) any power conferred on marketing boards under this Title but excluded at the request of the applicants;

(7) the particular formalities concerning the exercise by the marketing board of powers conferred under this Title;

(8) any other information required by the Régie.

49. The draft plan may also indicate the establishment, composition, term of office and method of appointment and replacement of members of an advisory committee which will be responsible for advising the marketing board on any matter relating to the administration of the plan and the enforcement of the by-laws made under this Act by the marketing board or the general meeting of producers.

50. In the draft plan, instead of specifying the composition of a marketing board, the applicants may designate, for the administration of the plan, a professional syndicate composed exclusively of producers of the agricultural product to be marketed under the draft plan, or a union or federation of such professional syndicates or an agricultural cooperative whose sole object is the marketing of such product.

51. The Régie shall cause a notice of the filing of the request and of the draft plan, containing the information referred to in paragraphs 1, 2, 5 and 6 of section 48 and indicating the date on which the Régie will hear representations from persons interested in the proposed plan, to be published in the *Gazette officielle du Québec* and in a farm journal having general circulation.

If the applicants requested that the draft plan not be submitted to a referendum, the Régie shall make mention thereof in the notice.

The Régie shall furnish, free of charge, a copy of the draft plan to every person who requests one.

52. After hearing the interested persons, the Régie may grant the request, reject it or make such amendments or restrictions as it sees fit to the draft plan.

In making its decision, the Régie shall consider, among other factors, existing cooperative marketing structures for the product concerned, existing and potential markets, economic conditions and the interests of producers, buyers, other intervenors and consumers.

53. Subject to section 56, where the Régie grants the request, it shall submit the draft plan as filed or as amended pursuant to section 52, where that is the case, to a referendum of the producers held in accordance with the terms and conditions it determines. At the same time, the Régie shall convey to the producers the information furnished pursuant to section 47.

54. To hold the referendum, the Régie shall draw up a list of interested producers who are entitled to vote and determine

- (1) the places where the list of producers may be consulted;
- (2) the time granted to any interested producer whose name does not appear on the list to make representations to the Régie;
- (3) the time granted to contest the status of interested producer of any person whose name appears on the list;
- (4) the procedure for making the final list of interested producers public.

After these formalities have been complied with, the Régie shall draw up the final list of interested producers who are entitled to vote in the referendum and make it public. The list cannot be contested.

The Régie shall determine by regulation the qualifications required of a producer and the requirements he must satisfy, on a specified date, to be considered an interested producer.

55. A draft plan must be approved by not less than two-thirds of the producers having voted. Not less than one-half of the interested producers must have voted.

56. If, after an inquiry, the Régie is of the opinion that a referendum is not advisable in view, particularly, of the urgency of

the situation, public interest considerations or the technical or financial difficulties involved in the holding of a referendum, it shall transmit the file, together with its recommendations, to the Government for approval.

The Government may approve the proposed draft plan with the amendments or restrictions recommended by the Régie, if any.

The draft plan shall in that case be deemed approved in accordance with section 55.

57. The Régie shall cause every approved draft plan to be published in the *Gazette officielle du Québec*. The plan becomes effective 15 days after its publication or on any later date determined by the Régie.

58. Any person or partnership engaged in the production or marketing of the product marketed under a plan is bound by the obligations provided for in this Act from the coming into force of the plan.

59. Any person who or partnership which is both a producer and engaged in the marketing of a product marketed under a plan has the rights and is bound by the obligations attached to both activities.

60. No marketing board may trade in or engage in the processing of the product marketed under the plan administered by it.

Where a marketing board trades in or engages in the processing of the product marketed under the plan it administers, the producers subject to the plan shall, within the time determined by the Régie, replace the marketing board.

61. The alienation or transfer of the whole or part of the undertaking of a person or partnership engaged in the marketing of a regulated product shall not invalidate a joint plan, a homologated agreement, an arbitration award or any procedure relating to the approval or carrying out of a plan, agreement or arbitration award.

Notwithstanding the alienation or transfer of the whole or part of such an undertaking or the division or merger or any change in the legal structure of such an undertaking, the subsequent acquirer is bound by the plan, the agreement or the arbitration award as though he were named in it, and he shall become *ipso facto* a party without continuance of suit to any proceeding relating thereto, in the place and stead of the transferor.

The Régie may render any decision it considers necessary to evidence the transfer of the rights and obligations arising from this section and to settle any dispute resulting from its application.

62. At the request of the Régie and not less than once every five years, every marketing board must demonstrate, before the Régie or the persons designated by the Régie to report to it, that the plan and its by-laws serve the interests of all the producers and promote the efficient and orderly marketing of the product.

The Régie shall give persons interested in the marketing of the product the opportunity to be heard on the administration of the plan and enforcement of the relevant by-laws.

63. A joint plan does not apply to sales made directly by a producer to a consumer.

Nevertheless, the Régie may, by regulation, on the conditions it determines, subject such sales to any provision of a plan, by-law, homologated agreement or arbitration award if it is of the opinion that such sales seriously affect their application.

CHAPTER III

PRODUCER MARKETING BOARDS

DIVISION I

FUNCTIONS AND POWERS OF A MARKETING BOARD

64. The producer marketing board is established upon the coming into force of a plan; it is responsible for administering the plan and may exercise every power conferred by this Title, subject to any restriction or condition set out in the plan or determined by the Régie.

The marketing board is a corporation within the meaning of the Civil Code.

65. The marketing board is the negotiating agent for the producers and the sales agent for the product marketed under the plan.

The marketing board may also, with the approval of the Régie, carry out any function with respect to the production and marketing of the product in order to promote, defend and develop the interests of the producers who are subject to the plan.

66. A body designated under section 50 to administer a plan is vested under its corporate name with the powers, duties and prerogatives of a producer marketing board; it shall exercise such powers, duties and prerogatives through its board of directors except those reserved for the general meeting of producers. It shall keep separate accounting records for the management of the plan.

67. No person or body may use the designation "producer marketing board" or any other designation including the words "producer marketing board" or "joint plan", to designate any person, body or enterprise other than a producer marketing board or a joint plan.

68. A marketing board may pursue any remedy available to a producer under a homologated agreement, under an arbitration award or under any by-law made under this Title, without having to prove the assignment of the producer's claim.

69. The remedies of several producers against the same person may be joined in a single suit and, notwithstanding article 67 of the Code of Civil Procedure (R.S.Q., chapter C-25), the total amount of the claim shall determine court jurisdiction in first instance and in appeal.

70. The directors of a marketing board cannot be prosecuted for any act performed in good faith in the performance of their duties.

71. Upon the coming into force of the plan it administers, a marketing board shall make by-laws to

(1) establish a file to register the name and address of each producer known to the marketing board as being subject to the plan. It is incumbent upon the producer to verify, in the manner stated in the by-law, that his name has been entered in the file;

(2) establish a retention schedule applicable to the documents relating to the administration of the plan. The marketing board may restrict access to certain documents it determines to the producers subject to the plan or to the members of its board of directors, and determine the fee exigible for the examination or reproduction of documents.

The by-laws come into force in accordance with the procedure set out in sections 101 and 102. In the case of a by-law under subparagraph 1 of the first paragraph, the marketing board shall, in addition, cause it to be published in a farm journal having general circulation in the territory where the joint plan applies.

72. A marketing board may make rules consistent with this Act regarding any other procedural matter it is by law or by a joint plan authorized to regulate.

Within three months after the coming into force of the plan it administers, a marketing board shall make rules for its internal management. The rules come into force upon approval by the Régie.

DIVISION II

GENERAL MEETING OF PRODUCERS

73. A marketing board shall call a general meeting of producers at least once a year. The meeting shall adopt the annual report on the activities of the board, approve the financial statements for the preceding fiscal year and, when necessary, elect directors. It shall also appoint an auditor for the current fiscal year.

74. A marketing board may call a special general meeting whenever it considers it expedient.

A marketing board shall, however, call a special general meeting upon the written request of one-tenth of the producers registered in the file or whenever the Régie considers it necessary.

75. A marketing board may also call a meeting of a class of producers established in accordance with subparagraph 2 of the first paragraph of section 84 whenever it considers it expedient.

The board must, however, call such a meeting upon the written request of one-tenth of the producers of that class in respect of an issue concerning them exclusively, or whenever the Régie considers it necessary.

76. If a marketing board fails to hold a general meeting, the Régie may call the meeting and designate a person to preside it.

The officers of the board and the auditor must comply with a notice requiring them to attend a meeting and must furnish any information they are requested to furnish by the Régie or by the designated chairman.

77. Not later than 20 days before a general meeting, the marketing board shall send a written notice of the meeting to every producer registered in the file on the date of sending. The notice shall state the place, date and time of the meeting as well as any matter which the marketing board wishes to submit to the producers.

The producer marketing board shall transmit to the Régie, within the time specified in the first paragraph, a copy of the notice of meeting and copies of the financial statements and of the auditor's report which will be submitted to the general meeting.

78. In the case of a meeting of a class of producers, the marketing board shall, not later than 20 days before the meeting, send notice of the meeting to every producer of that class whose name is registered in the file.

79. A general annual meeting, a special general meeting or a meeting of a class of producers shall consist of the producers or, where the marketing board has passed a by-law under subparagraph 1 of the first paragraph of section 84, the delegates present.

80. During the meeting, the producers may debate any issue concerning the plan and the conditions governing the marketing of the product concerned. However, by-laws may be passed only in respect of matters appearing on the agenda.

81. A general meeting of producers, duly called for such purpose, may, by resolution,

(1) replace the marketing board and entrust the administration of the plan to a professional syndicate composed exclusively of producers of agricultural products marketed under the plan or a union or federation of such professional syndicates, to an agricultural cooperative whose sole object is the marketing of such products, or to a marketing board the composition and method of election, replacement or appointment of members of which shall be decided by the general meeting;

(2) replace the negotiating agent or the sales agent;

(3) modify the powers, duties and prerogatives of the agents or of the marketing board;

(4) make any other amendment to the plan that does not affect its scope.

The resolution must be approved by two-thirds of the votes and submitted for approval to the Régie which shall publish a notice of its filing in a farm journal having general circulation and give the producers subject to the plan an opportunity to be heard.

The Régie may assess, in the manner it considers appropriate, the opinion of the producers on the resolution.

The Régie shall publish every resolution it has approved in the *Gazette officielle du Québec* and in a farm journal having general circulation. The resolution takes effect on the date of its publication or on any later date determined by the Régie.

82. The financial statements submitted to the annual general meeting must be accompanied with an auditor's report stating

(1) whether the financial statements accurately present the financial position of the marketing board according to the information given to the auditor and as shown by the books of the board;

(2) any other information required by the Régie.

83. The auditor shall have access to all books, registers, accounts and other records of the marketing board; the directors and officers of the board shall facilitate his examination thereof and provide him with any information necessary for the carrying out of his duties as auditor.

84. A marketing board may, by by-law,

(1) divide the producers into groups according to geographic criteria and determine, for each group, a procedure for the election of a specific number of delegates;

(2) divide the producers into classes according to their activity and set out the criteria governing such division and the procedure for settling any dispute that may arise in connection with its application.

The board shall record in the file the class of activity carried on by each producer.

The by-laws shall be submitted to the Régie for approval and come into force in accordance with the procedure set out in sections 101 and 102.

85. Every producer subject to a plan whose name is registered in the file on the date of sending of the notice of meeting may take part in the deliberations and is entitled to vote at a general meeting or a meeting of a class of producers. However, where delegates have been elected pursuant to section 84, they alone are entitled to vote.

86. A producer or, as the case may be, a delegate to a general meeting is entitled to only one vote which cannot be given by a proxy, except in the case of a corporation whose vote may be given by a proxy provided he has a power of attorney.

87. Decisions of the general meeting are taken by majority vote except where this Act provides otherwise.

88. A body designated to administer a plan pursuant to section 50 shall hold the annual general meeting of producers separately from that of its members.

Only the members of the body who are entitled to vote may elect the directors thereof and make decisions concerning matters not related to the carrying out of the plan.

89. No director of a marketing board responsible for the administration of a plan may be a director of an undertaking engaged in processing or trading in the product marketed under the plan, except if the undertaking also engages in the production of the product.

90. A marketing board may consult a class of interested producers on matters concerning them exclusively or principally.

91. A marketing board may submit, to a class of producers duly called to a meeting for such purpose, any draft by-law that concerns them exclusively. If the draft by-law is subsequently adopted by the board, it shall be submitted to the Régie for approval and comes into force in accordance with the procedure set out in sections 101 and 102.

CHAPTER IV

REGULATORY POWERS OF A MARKETING BOARD

92. A marketing board may, by by-law,

(1) determine conditions governing the production, storage, preparation, handling and transport of the product marketed under the plan it administers, as well as standards respecting the quality, form and composition, container or packaging and the inscription which must appear on the product, its container or packaging;

(2) prescribe the classification and identification of the product marketed under the plan it administers, determine for that purpose particular grades, categories and appellation and determine the conditions on which such classification and identification must be made.

93. A marketing board may, by by-law, fix production and marketing quotas for the product marketed under the plan it

administers and, for that purpose, subject production and marketing to the conditions, restrictions and prohibitions it determines.

Without restricting the scope of the first paragraph, a board may, by by-law,

(1) determine the times and places a product marketed under the plan it administers may be produced and marketed;

(2) require that every producer be the holder of an individual quota allocated by the board and authorizing him to produce or market the product marketed under the plan it administers, fix the minimum and maximum quotas the producer may hold, individually or in association with other persons, and determine the proportion of the quota each producer must produce himself within his operation;

(3) determine the conditions governing the allocation, maintenance or renewal of an individual quota, and the manner in which it is issued;

(4) establish equivalences based on the area under cultivation or operation or the number of animals reared or marketed, for the purpose of fixing the quota of a producer;

(5) determine the manner and conditions applicable to the temporary or permanent reduction of the quota of a producer who produces or markets a larger or smaller quantity of the product marketed under the plan than is permitted by his quota;

(6) impose on any producer who contravenes a by-law made under this section, a penalty based on the volume or value of the product marketed or the area under cultivation or operation, and prescribe the use of this penalty for particular purposes;

(7) provide for the cancellation or use by another person of any part of a quota not produced or marketed during a specified period;

(8) determine the circumstances, the extent and the conditions on which a producer holding a quota may produce or market a product otherwise than according to his quota or a standard determined by the marketing board;

(9) establish an overall limit of individual quotas which may be allocated to producers by the marketing board, and prescribe standards for proportional reduction of the quotas when the limit has been or is about to be reached;

(10) determine standards for periodical adjustment of individual quotas according to market needs;

(11) determine the manner and conditions according to which the board may reallocate quotas which have been suspended, reduced or cancelled;

(12) determine any part of the overall quota and of individual quotas which have been suspended or permanently reduced that it may keep in reserve;

(13) establish the manner and conditions governing the allocation or reallocation of the reserve referred to in paragraph 12, and limit the allocation of quotas from the reserve to one or more classes of producers;

(14) determine the cases of and the conditions applicable to the transfer of a quota from one producer to another, set aside a part of that quota for the reserve mentioned in paragraph 12, determine the terms, conditions and modalities of such a transfer, and make any such transfer subject to its approval;

(15) determine the terms and conditions according to which a quota or part of a quota may be leased from a producer to another;

(16) determine the conditions subject to which an operation may be leased by a producer who wishes to produce all or part of his quota elsewhere than within his own operation, and make such lease subject to the approval of the marketing board;

(17) suspend any transfer of individual quotas for a specified period or for a period which may be determined according to the standards established by the marketing board;

(18) divide the territory covered by the plan into zones and restrict or prohibit the transfer of quotas from one zone to another;

(19) determine the length of time allowed to a new holder of a quota or the holder of a new quota to produce or market the product subject to the quota.

94. Where a marketing board makes a by-law under section 93, no person may produce or market the product concerned unless he holds a quota, except in the circumstances and on the conditions determined in the by-law.

95. Only the person or partnership producing the product marketed under a plan may hold and exploit a quota allocated by a marketing board.

However, this provision shall not prevent a new producer from becoming the holder of a quota.

The first paragraph does not apply to a creditor who temporarily holds a quota in execution of a guarantee, provided he disposes or takes measures to dispose of the quota within a reasonable time.

96. A marketing board may, by by-law, establish methods for fixing the price of the product marketed under the plan it administers, or of a class or variety thereof. The price may vary from one region to another.

97. A marketing board may, by by-law,

(1) require any producer of the product marketed under the plan it administers to register his operation in the manner and in accordance with the terms and conditions it prescribes;

(2) determine the information and documents that the producers of the product marketed under the plan it administers must keep and furnish for the purposes of the plan and the by-laws made under this chapter.

98. A marketing board may, with regard to the product subject to the plan it implements, make by-laws to

(1) establish a procedure of joint offer for sale permitting producers to receive, after deduction of all or part of the marketing costs determined by the board, the same price for an identical product of equal quality and in the same quantity marketed during a particular period on a particular market, independently of the variation in the sales price due to reasons unconnected with the actual value of the product;

(2) determine the method and conditions according to which a product may be marketed and offered for sale jointly;

(3) determine the standards for the fixing and payment of the sales price; these standards may provide for the fixing of a provisional price before sale and a final price after sale;

(4) determine the terms and conditions of payment of the sales price applicable to all buyers; these standards may provide for the

payment of an initial instalment on delivery and subsequent instalments at intervals determined by the marketing board;

(5) determine the terms and conditions of apportionment among the producers of the net profit from the sale of the product or a particular class of it;

(6) require every buyer to pay the price of the product to the marketing board or to the sales agent designated for its apportionment among the producers;

(7) require every producer to sell the product to or through the board or designated sales agent;

(8) retain, out of the sales price, the amounts necessary for marketing the product, together with any other contribution imposed under this Title;

(9) determine what constitutes the net profit on sales for the purposes of this section.

99. A board may, by by-law, establish a procedure to apportion and pool the transport costs of the product so each producer, or each producer in a group determined in the by-law, pays the same price for the transport of his product, in equal quantity, independently of the distance between the production site and the place of delivery.

100. A marketing board may, by by-law, determine what quantity of the product marketed under the plan constitutes a surplus of that product for any period it determines.

It may pay all or part of the expenses or losses resulting from the sale of the surplus out of the contributions referred to in sections 123 and 124.

101. Every by-law made by a marketing board shall be submitted to the Régie for approval. The Régie may assess the opinion of the producers in respect of such a by-law in any manner it deems appropriate, and, if it considers it necessary, it may require the marketing board to submit the by-law to the general meeting for ratification.

102. The Régie shall publish in the *Gazette officielle du Québec* every by-law it has approved. The by-law comes into force on the date of publication, or on any later date determined by the Régie.

CHAPTER V

AMALGAMATION OF MARKETING BOARDS AND AMALGAMATION
OF PLANS

DIVISION I

AMALGAMATION OF MARKETING BOARDS

103. Marketing boards may amalgamate and make agreements therefor.

104. Producer marketing boards planning to amalgamate shall prepare a deed of agreement setting out

(1) the terms and conditions of amalgamation;

(2) the name of the marketing board resulting from the amalgamation and the name, address and occupation of each provisional director;

(3) the method of election and replacement of subsequent directors;

(4) any other measure necessary to effect the amalgamation and provide for the administration and operation of the marketing board resulting from the amalgamation.

105. The deed of agreement shall be submitted for ratification to a general meeting of the producers subject to the plans administered by each of the interested marketing boards.

If the deed of agreement is ratified by each general meeting, the boards planning to amalgamate shall jointly submit the deed of agreement to the Régie for approval.

106. The Régie may approve the deed of agreement and, if it approves it, it shall publish it in the *Gazette officielle du Québec*; the deed of agreement comes into force on the date specified therein. The boards are amalgamated and form a single marketing board under the name appearing in the deed of agreement.

107. The marketing board resulting from the amalgamation shall have the rights and powers, be vested with the property and assume the obligations and duties of the amalgamated boards and suits to which they are party may be continued by or against it without continuance of suit.

By-laws and agreements made by the amalgamated boards are deemed to have been made by the marketing board resulting from the amalgamation and remain in force.

Within three months after the coming into force of the new plan, the marketing board shall transmit to the Régie a report on the transfer of assets.

DIVISION II

AMALGAMATION OF PLANS

108. Producers subject to two or more plans may, at a general meeting of producers subject to each such plan specially called for such purpose, decide to amalgamate their plans.

The proposed amalgamation must be ratified by way of a resolution adopted by two-thirds of the producers present. The new plan, setting out the information prescribed by sections 48 and 49, and the resolution shall be filed with the Régie.

If the Régie approves the plan resulting from the amalgamation, it shall cause it to be published in the *Gazette officielle du Québec* and the plan comes into force on the date specified therein; the Régie shall terminate the amalgamated plans on the same date.

109. The marketing board resulting from the amalgamation of the plans shall have the rights and powers, be vested with the property and assume the obligations of the marketing boards which administered the amalgamated plans and suits to which the marketing boards are party may be continued by or against it without continuance of suit.

By-laws and agreements made by the marketing boards which administered the amalgamated plans are deemed to have been made by the marketing board resulting from the amalgamation and they remain in force.

All assets relating to the management of the amalgamated plans are transferred to the marketing board responsible for administering the new plan upon its coming into force.

Within three months after the coming into force of a new plan, the marketing board shall transmit to the Régie a report on the transfer of assets.

CHAPTER VI

CERTIFICATION

110. Any group of cooperatives or association of persons interested in the marketing of an agricultural product marketed under a plan may apply to the Régie for certification as the representative of all or a class of the persons interested in the marketing of the product or of a class of the product, or in the marketing of the product produced in a part of the territory covered by the plan.

If the Régie considers the association or group sufficiently representative, it may grant it certification, specifying the interested persons or class of interested persons that the group or association may so represent. The certification comes into force on the date of publication of a notice to that effect in the *Gazette officielle du Québec* or on any other date specified therein by the Régie.

The group or association shall then represent all such interested persons for the purposes of negotiation or agreement with the marketing board or, as the case may be, conciliation or arbitration under this Title.

111. The Régie may also certify an association or body as the representative of the class of persons it determines, in respect of the plan or the chamber or with a view to forming a coordination and development chamber under Chapter X which it specifies and for the purposes which it determines.

Unless the Régie decides otherwise, such certification does not allow the association or body to act as representative for the purposes of negotiation and agreement with the marketing board, conciliation or arbitration under this Title.

The Régie may, after giving the certified association or body the opportunity to be heard, terminate its certification for any cause it considers valid.

CHAPTER VII

MARKETING AGREEMENT

112. At the request of a marketing board, every person or partnership engaged in the marketing of a product marketed under a plan must negotiate with the board or its negotiating agent all terms and conditions relating to the production and marketing of the product.

113. Where a marketing board negotiates with a person or partnership engaged in the marketing of the product marketed under the plan it administers, the Régie may require, if it considers it expedient, that the board also negotiate with all other persons and partnerships engaged in the marketing of the product.

114. Every agreement entered into pursuant to sections 112 and 113 must, to be valid, be homologated by the Régie. The agreement takes effect on the date specified therein or determined by the Régie upon homologating the agreement.

115. Failing agreement between a marketing board and any other person or partnership engaged in the marketing of the product marketed under a plan, the Régie, at the request of an interested party, shall appoint a conciliator to confer with the parties for the purpose of reaching an agreement.

The conciliator shall report to the Régie within the time determined by the Régie or agreed upon in writing by the parties.

116. If conciliation has not resulted in an agreement, the Régie, at the request of an interested party, shall arbitrate the dispute.

The Régie may establish an alternate mode of arbitration if it considers it expedient under the circumstances; it may, in that case, appoint one or more arbitrators and fix the time granted to render their decision.

117. An arbitration award is executory and binding on the interested parties until, at the request of one of the parties and after giving the other parties the opportunity to be heard, the Régie considers it expedient to suspend the application of the award or to terminate or amend it.

118. If a marketing board or a person or partnership subject to a plan refuses without due cause, in the opinion of the Régie, to negotiate the terms and conditions relating to the production or marketing of the product marketed under a plan, to appear for or participate in conciliation or arbitration after being called for such purpose, or to sign an agreement the terms of which it or he does not contest, the Régie may, after giving the interested parties the opportunity to be heard, prescribe the terms and conditions relating to the production and marketing of the product.

The decision of the Régie is in lieu of and has the same effects as an arbitration award.

119. Where efficient marketing of a product marketed under a plan so requires, the Régie may authorize a marketing board to negotiate with another board agreements on matters within the competence of either board.

Every agreement entered into between such boards must, to be have effect, be homologated by the Régie. A homologated agreement is binding upon the bodies party to it and upon all the producers subject to the plans administered by them.

The arbitration procedure set out in sections 115 to 117 applies to negotiations under this section.

CHAPTER VIII

AGREEMENTS WITH OTHER GOVERNMENTS AND GOVERNMENT BODIES

120. The Government may authorize the Régie or, as the case may be, the Régie and a marketing board, to make agreements with the government of Canada or of another province, or with a body of any such government, respecting

- (1) the production or marketing of an agricultural product;
- (2) any matter within the competence of the Régie or a marketing board respecting an agricultural product.

121. The Government may, on the conditions it determines, allow a marketing board

- (1) to act as an agent of the Governor General in Council;
- (2) to entrust a body authorized under an Act of the Parliament of Canada to regulate the marketing of an agricultural product, with any function that the marketing board may exercise under this Act;
- (3) to perform, on behalf of any body authorized under an Act of the Parliament of Canada to regulate the marketing of an agricultural product, any function which that body may perform under such Act.

The Government may, on the conditions it determines, amend a joint plan, a regulation or a by-law made under this Title, to ensure the carrying out of the provisions of or an agreement made under this chapter.

CHAPTER IX

CONTRIBUTIONS

122. The producers subject to a joint plan shall pay the expenses incurred for the purposes of the plan and by-laws by means of contributions prescribed in the plan or in a by-law made under section 123 or 124.

123. A general meeting of the producers, called for that purpose, may make by-laws

(1) to vary the amount of the contribution prescribed in the plan;

(2) to classify the producers into groups and fix for each group the level of contribution required from each producer who is a member of it for the purposes of the plan, the by-laws and this Act;

(3) to impose a special contribution to pay the expenses related to the carrying out of a provision of a plan, a by-law or this Act;

(4) to impose a special contribution to cover losses resulting from the marketing of the product marketed under the plan, whether or not such product is produced by the producer required to pay the contribution;

(5) to impose a special contribution to permit the equalization or adjustment among producers of sums of money received from the sale of the product marketed under the plan, during such period as the board may determine;

(6) to impose a special contribution to permit the board to pay its share of the activities and operating costs of a coordination and development chamber.

124. The producer marketing board, if authorized to do so by a general meeting of the producers called for that purpose, may, by by-law, establish

(1) a reserve fund or working capital to pay expenses relating to the administration of a plan or the carrying out of a by-law;

(2) a contribution, which may vary, to permit it to fulfil obligations contracted under Chapter VIII;

(3) methods to be used for the collection or calculation of a contribution imposed under this chapter.

125. The contributions provided for in sections 123 and 124 may be calculated according to the volume of production marketed, the area cultivated or in operation, the units of production needed to market the product or other equivalent criteria accepted by the Régie.

126. Any producer who is late in paying the contribution prescribed in the plan or a by-law made under section 123 or 124, may be required to pay such amount of interest as is fixed by a by-law of the general meeting of producers.

127. By-laws made under sections 123, 124 and 126 require the approval of the Régie and come into force according to the procedure set out in sections 101 and 102.

128. No marketing board may in any way use contributions collected from producers under any provision of a plan or by-law to finance the setting up or operation of a commercial undertaking, or to hold capital stock or any other form of interest in a commercial undertaking.

Any marketing board which, on (*insert here the date of coming into force of this section*), has used contributions described in the first paragraph shall, within three months from that date, present to and have approved by the Régie a program for the recovery of such contributions. Failing presentation and approval of a program, the board shall be required to apply the program determined by the Régie.

129. The Régie may, by regulation made of its own initiative or at the request of a marketing board,

(1) require any person other than a consumer who buys or receives from a producer a product subject to a plan, to withhold from the price or value of the product to be paid to the producer all or part of the contributions fixed under sections 123 and 124 and to remit the amounts so withheld to the board, according to the terms and conditions prescribed in the regulation;

(2) determine the information which must be furnished in respect of the amounts so withheld.

130. Any person who fails to comply with a regulation of the Régie made under paragraph 1 of section 129 becomes liable to the marketing board for the amount of the contributions that he should have withheld or remitted to it. He may also be required to pay annual interest at the rate fixed by regulation.

131. Any person bound by a homologated agreement, arbitration award or decision of the Régie pursuant to section 117 which prescribes the terms and conditions governing the withholding or remitting of contributions, who does not comply with his obligation, becomes liable to the marketing board for the amount of the contributions that he should have withheld or remitted to it. He may also be required to pay annual interest at the rate indicated in the agreement, arbitration award or decision.

132. A producer bound by a plan who is a member of a professional syndicate which administers the plan is not required to pay the annual fee to be a member of the syndicate for a year in which he pays the contribution required of him for the administration of the plan.

The first paragraph also applies where the syndicate is part of a union or federation of professional syndicates which administers the plan and notwithstanding the provisions of sections 2 and 3 of the Professional Syndicates Act (R.S.Q., chapter S-40).

133. The members of a certified association or a class of such members may, at a general meeting of the association called for such purpose, ratify a by-law made by the association to determine the amount of the contribution required to cover the costs relating to the duties and obligations deriving from certification or from their association's membership in a coordination or development chamber.

The association shall inform every person or partnership affected by the certification of its intention to pass such a by-law.

The Régie may assess, in the manner it considers appropriate, the opinion of the interested persons regarding the by-law and grant its approval. The Régie shall publish every approved by-law in the *Gazette officielle du Québec*. The by-law comes into force 15 days after the publication or on the date determined by the Régie. Every person or partnership affected by the certification is required to pay the contribution.

134. The Régie may, after giving a certified association the opportunity to be heard, revoke any by-law made under section 133. The association shall, in that case, submit to the Régie, for approval, a method of disposing of the balance of the contributions collected under the said section. Failing such approval, it must apply the method of disposal determined by the Régie.

CHAPTER X

COORDINATION AND DEVELOPMENT CHAMBERS

135. The marketing boards, associations or other persons interested in the production, marketing or distribution of an agricultural or food product, or the development of any such activity, may agree to request the Régie to establish a coordination and development chamber for the production or marketing of the product.

136. A chamber may take any action to promote, improve, coordinate and develop the production and marketing of an agricultural or food product.

For this purpose it may, among other things,

(1) study, coordinate and propose ways of planning the conditions of production and marketing of the product;

(2) seek and propose ways of improving the production and marketing of the product;

(3) prepare, finance or administer programs of research, quality improvement, promotion, advertising or sale of the product;

(4) propose training programs and more efficient ways of producing and marketing the product to producers, buyers, any person engaged in the marketing of the product and any other intervenor;

(5) seek and develop markets for the product;

(6) make representations on behalf of the members in connection with any matter related to the production or marketing of the product;

(7) establish or promote appellations according to the quality or particular characteristics of production or presentation of the product, reserve and allow their use on the conditions it determines;

(8) own and use initials or a trade mark to identify a product of which it coordinates the marketing.

137. The applicants shall join to their request a copy of their agreement and a duly certified copy of a resolution of their board of directors authorizing the presentation of the request and supporting the project.

The applicants must represent producers and at least one group of other persons interested in marketing the product in question.

138. The request shall specify

- (1) the name and address of every applicant;
- (2) the composition of the board of directors of the chamber and the method of appointment and replacement of the directors;
- (3) the objectives pursued by the chamber and the means by which they can be achieved;
- (4) the name under which the chamber will exercise its functions;
- (5) the financing method used by the chamber;
- (6) the method of apportionment among the members of the expenses incurred for the operation and activities of the chamber;
- (7) the terms and conditions of joining or withdrawing from the chamber;
- (8) the distribution of votes for decisions to be made by the board of directors of the chamber;
- (9) any other information required by the Régie.

139. The board of directors of a chamber shall consist of at least one director representing each of its members.

The Minister may appoint a person to represent the interests of consumers and delegate an observer to the proceedings of the board of directors of the chamber.

140. The Régie shall cause to be published in the *Gazette officielle du Québec* and in a farm journal having general circulation, a notice of the filing of a request for the establishment of a chamber containing the information mentioned in paragraphs 1, 3 and 4 of section 138 and specifying the date and place where persons interested in the matter may be heard.

141. If it grants the request and authorizes a chamber to be established, the Régie shall cause a notice to that effect to be published in the *Gazette officielle du Québec* and in a farm journal having general circulation. The chamber shall be formed on the date of publication, or from any later date determined by the Régie.

142. If it considers it appropriate, the Government may entrust a chamber with any mandate related to its functions.

143. Upon being formed, the chamber is a corporation within the meaning of the Civil Code.

It may from that moment make rules respecting its internal management and the conduct of its business; these rules shall come into force upon being approved by the Régie.

144. The members of a chamber may request the Régie to change the composition and aims of the chamber as well as the apportionment of its operating expenses and expenses incurred for its activities. Sections 140 and 141, adapted as required, apply to such requests.

145. A chamber shall call a general meeting of its members at least once a year; the meeting shall adopt the report on the activities of the chamber, approve the financial statements for the preceding fiscal year, examine the estimates of expenses for the current fiscal year, elect the directors and appoint an auditor.

After the general meeting, the chamber shall forward to the Régie a copy of its report of activities, the financial statements for the preceding fiscal year and the estimate of its expenses.

146. No chamber may trade in or process any agricultural or food product.

147. No person or body may use the designation “coordination and development chamber”, or any other designation including the words “coordination chamber” or “development chamber”, to designate any person, body or enterprise other than a coordination and development chamber within the meaning of this chapter.

CHAPTER XI

GUARANTEE OF PAYMENT FOR AGRICULTURAL PRODUCTS

148. For the purposes of this chapter, “certified association” means a certified association within the meaning of the Farm Producers Act (R.S.Q., chapter P-28).

149. The Régie may, by by-law,

(1) require any person other than a consumer who buys or receives from a producer, directly or through an agent, any

agricultural product designated by the Régie to deposit with the Régie a guarantee of financial liability to secure payment of the amounts due to the producers for the marketing of their products;

(2) fix the amount of guarantee exigible under paragraph 1, or establish standards which allow fluctuations in the amount of business transacted to be determined and taken into account;

(3) determine the requirements, other than deposit of the guarantee, which any person or partnership must fulfil to obtain a guarantee certificate or the renewal of a guarantee certificate, and the information and documents the person or partnership must furnish;

(4) determine the duration of the certificate and establish the fee exigible for its issue or renewal;

(5) determine the form or content of any certificate which it may issue to attest that a guarantee of financial liability has been deposited;

(6) determine the requirements to be fulfilled and the procedure to be followed by a producer so that a guarantee of financial liability may be applied to the payment of a debt owed to him, the time when such guarantee becomes exigible and the percentage of such debt he will be entitled to claim.

150. No person or partnership referred to in paragraph 1 of section 149 may buy or receive an agricultural product from a producer, directly or through an agent, if the required guarantee of financial liability has not been deposited by that person or partnership.

151. The Régie may, after giving the interested parties the opportunity to be heard, exempt a person, a group of persons or certain transactions from the effects of a by-law made under section 149.

152. The Régie may revoke a certificate or suspend it for any length of time it determines if the holder no longer fulfils the requirements prescribed for its issue.

153. Before revoking or suspending a certificate, the Régie must give the holder the opportunity to be heard.

Notwithstanding the first paragraph, the Régie may, before hearing the holder, suspend a certificate for not more than 15 days

if it has reasonable grounds for believing that he is or is about to become insolvent.

The Régie shall send a certified copy of its decision, stating the grounds upon which it is based, by registered or certified mail to the interested person and to the marketing board concerned or to the certified association, as the case may be.

154. A marketing board may pass a by-law to set up a fund to guarantee payment of all or part of any sum due to producers following the marketing of the product marketed under the plan it administers, and fix the terms and conditions governing the management of the fund.

The by-law may provide for

(1) the imposition of and methods of collecting from the producers contributions required to set up the fund;

(2) classification of producers into groups and the level of contribution to be paid by each producer according to the group to which he belongs;

(3) the requirements a producer must fulfil and the procedure he must follow to file a claim with the fund, and the percentage of the debt owed to him he will be entitled to claim;

(4) the time when the claim of a producer becomes exigible;

(5) the possibility for the board to pay a producer advances from the fund, toward the payment of his claim;

(6) the possibility for the board to determine the proportion of his claim to be received by each creditor when funds are insufficient to cover the claims of all the producers;

(7) the procedure applicable to the winding up of the fund.

The by-law shall be submitted for ratification to a general meeting of the producers subject to the plan held for that purpose.

155. A certified association may, by by-law, exercise the same powers in respect of all the farm producers it represents as those granted to a general meeting of producers under section 154, adapted as required.

156. By-laws passed under sections 154 and 155 require the approval of the Régie, which may assess the opinion of the producers in any manner it considers appropriate.

Every by-law so approved shall come into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date determined by the Régie.

157. Sums collected from producers by a marketing board or certified association to set up a fund pursuant to section 154 or 155, shall be deposited with the Caisse de dépôt et placement du Québec on the conditions agreed between them.

The sums and the net revenue produced by them must be used exclusively for the payment of debts due by the fund and its administration costs.

No money may be withdrawn from the fund without the prior authorization of the Régie.

158. A marketing board or certified association shall be subrogated in the rights of a producer against a debtor for any debt paid out of the fund set up under section 154 or 155, and may recover from the debtor the sums paid on his behalf to the producer.

A marketing board or certified association may also pursue the remedies of a producer for the purpose of realizing upon a guarantee deposited under paragraph 1 or 2 of section 149.

159. The Régie, of its own initiative or at the request of a marketing board or certified association, may, by regulation,

(1) require any person other than a consumer who buys or receives an agricultural product from a producer, to withhold all or part of the contributions imposed under sections 154 and 155 from the price or value of the product to be paid to the producer, and remit the amount withheld to the board or association on behalf of the producer according to the terms and conditions prescribed;

(2) determine the information which must be furnished in respect of the amounts so withheld;

(3) fix and adjust the rate of interest payable where a person referred to in paragraph 1 is late in remitting a contribution to the marketing board or certified association.

160. Every person subject to a regulation made by the Régie under section 159 shall be liable to the marketing board or certified

association for the amount of contributions which he should have withheld or remitted to it. He must also pay interest annually at the rate fixed in the regulation.

161. The Deposit Act (R.S.Q., chapter D-5) does not apply to the Régie in respect of any amount it receives for or on behalf of producers in execution of a guarantee of financial responsibility furnished under section 149.

162. The Act respecting insurance (R.S.Q., chapter A-32) and the Insurance Brokers Act (R.S.Q., chapter C-74) do not apply to the Régie or its members, to a marketing board or a certified association, or to their directors, officers and employees to the extent that they perform acts which relate to a fund established under section 154 or 155.

CHAPTER XII

INVESTIGATIONS AND INSPECTIONS

163. The Régie, or any person authorized by it, may investigate any matter relating to the production and marketing of an agricultural product and may require information from a marketing board or from any person or partnership concerning any matter to which this Act applies.

164. The Régie may, by regulation, require persons engaged in the production or marketing of an agricultural product, including marketing boards, to keep, for any length of time it determines, the books and registers it prescribes, to make reports to it and to provide it with information respecting their operations.

165. For the purposes of an investigation or hearing, the Régie may, with the signature of its secretary or one of the members, summon witnesses and require the filing of documents useful for the conduct of the investigation or hearing.

The secretary or a member of the Régie has the power to require any person giving evidence before the Régie to take an oath or make a solemn affirmation.

166. Any person authorized by the Régie to make an investigation may

(1) stop a motor vehicle or other conveyance when he has reasonable grounds for believing that it is transporting an agricultural product, enter it and inspect the product;

(2) at any reasonable time, enter the office of a marketing board or an establishment or premises used for producing or marketing an agricultural product or the office of an undertaking producing or marketing an agricultural product, inspect the product and obtain a sample of it.

167. Any person authorized by the Régie to make an investigation or an inspection may, at any reasonable time, examine the books, registers or other documents relating to the production or marketing of an agricultural product and take extracts from or copies of them.

168. In the absence of any evidence to the contrary, every person in possession of an agricultural product in a quantity that exceeds the needs of his own consumption is presumed to intend it for sale.

169. A marketing board may appoint a person to make such investigations and verifications upon the producers subject to the plan it administers as may be necessary for the purposes of the plan, by-laws, homologated agreements and arbitration awards.

The person appointed may, at any reasonable time, enter an office, establishment or premises if he has reasonable grounds for believing that such place is used for the production of the product marketed under the plan, examine the production areas and the product, examine the books, registers or documents relating to the production and take extracts from or copies of them.

170. No person may, in any way, hinder a person authorized by the Régie or a marketing board to make an investigation or an inspection, or mislead him by inaccurate or false statements, or refuse to make available to him the books, registers or documents he is permitted to examine under this Act.

A person authorized by the Régie or a marketing board to make an investigation or an inspection shall, on request, identify himself and exhibit a certificate attesting his authority signed by the chairman of the Régie or of the marketing board, as the case may be.

CHAPTER XIII

WINDING UP

171. Where a plan is terminated by the Régie, the marketing board responsible for the administration of the plan shall continue to

exist for the sole purpose of winding up its affairs. Within 30 days after the termination of the plan, the Régie shall appoint a liquidator who shall be entitled to immediate possession of the property of the marketing board.

172. The Régie shall, without delay, publish notice of the appointment of the liquidator in the *Gazette officielle du Québec*.

Any action or proceedings against the property of the marketing board must be suspended upon publication of the notice.

The costs incurred by a creditor after he or his attorney becomes aware of the winding up, shall not be collocated out of the proceeds of the property of the marketing board that are distributed in consequence of the winding up.

Nevertheless, a judge of the Superior Court in the district in which the corporate seat of the marketing board is located may, on such conditions as he considers proper, authorize the institution of proceedings or the continuance of any proceedings commenced.

173. The liquidator shall furnish to the Régie any information it may require respecting the affairs and the winding up of the marketing board.

The Régie may replace any liquidator who has become unable to perform his duties.

It may also take any step it considers necessary to ensure the protection of the rights of interested persons and the orderly liquidation of the property of the marketing board.

174. For the purposes of the winding up, the liquidator shall have all the powers mentioned in section 10 of the Winding-up Act (R.S.Q., chapter L-4).

175. The liquidator shall pay the debts of the marketing board and the costs of winding up. He shall distribute the balance proportionally among the producers who were subject to the plan during the two years preceding the date of its termination, according to the terms and conditions fixed by the Régie.

However, when a new plan intended for the same group of producers replaces the cancelled plan, the liquidator shall remit to the new marketing board the balance resulting from the winding up.

176. When the winding up is completed, the liquidator shall submit a report to the Régie, and shall hand over to it the documents of which he took possession at the time of his appointment.

177. When the winding up is completed, the Régie shall cause a notice of the dissolution of the marketing board to be published in the *Gazette officielle du Québec*. From the date of the publication, the marketing board is dissolved.

In the case of a body designated under section 50, the notice shall indicate that the body has ceased to act in its capacity as administrator of the plan.

178. The provisions of sections 171 to 177, adapted as required, apply where the Régie terminates the activities of a coordination and development chamber.

TITLE IV

MARKETING OF FISH PRODUCTS

CHAPTER I

GENERAL PROVISIONS

179. This Title applies to the marketing of fish products.

180. “Fish product” means any marine mammal, fish, shellfish, crustacean, echinoderm, any part of such animals and any product derived therefrom.

181. The provisions relating to the marketing of agricultural products apply, adapted as required, to the marketing of fish products, subject to the provisions of Chapter II.

182. The body responsible for administering a joint plan for the marketing of a fish product is a fishermen’s marketing board. It has the same powers and shall assume the same obligations in respect of fish products as a producer marketing board in respect of the marketing of the agricultural product marketed under the plan it administers.

183. A coordination and development chamber established for a fish product has the same powers and exercises the same functions as a coordination and development chamber in respect of the marketing of an agricultural or food product.

CHAPTER II

SPECIAL PROVISIONS

184. A joint plan may have as its object the marketing of a fish product originating from a designated landing site or intended for a specified purpose or particular buyer.

185. The draft plan shall indicate the landing site from which the product originates or the buyer or purpose for whom or which it is intended.

186. To come into force, a draft joint plan must be approved by

(1) the majority of the fishermen who have voted;

(2) the fishermen whose landed catches represent, in weight, more than half the landed catches of the product subject to the draft plan.

The approval is valid only if not less than half the interested fishermen have voted and if the weight of the products landed by them is equal to more than half the total weight of the fish product subject to the draft plan.

187. Any resolution to approve a proposal to amalgamate joint plans shall be made in the manner provided for in section 186.

188. The Régie shall, by regulation, establish the basis and method of computing the weight of fish products for the purposes of section 186.

189. No person or body may use the designation "fishermen's marketing board" to designate any person, body or undertaking other than a fishermen's marketing board within the meaning of this Title.

190. No fishermen's marketing board may establish quotas for the marketing of a product marketed under the joint plant it administers.

191. Where Titles II and III provide that a notice shall be published in a farm journal, it shall, for the purposes of this Title, be published in a journal having general circulation in the territory covered by the notice.

TITLE V

OFFENCES AND PENALTIES

192. Every person other than a producer or fisherman who seeks to hinder the establishment or administration of a joint plan or seeks to prevent a producer or fisherman from participating in the establishment or administration of a joint plan is guilty of an offence and is liable to the penalties prescribed in section 193.

193. Every person who contravenes any of sections 67, 147, 150, 170 and 189 or who contravenes a provision of a plan, of a by-law made under section 92, 97, 98, 123, 124, 133, 154, 155 or 164, of a regulation of the Régie, or a provision of a homologated agreement or of an arbitration award, is guilty of an offence and is liable,

(1) for a first offence, to a fine of not less than \$350 nor more than \$2 000 in the case of a natural person, or not less than \$800 nor more than \$4 000 in the case of a legal person;

(2) for any subsequent offence, to a fine of not less than \$650 nor more than \$6 000 in the case of a natural person, or not less than \$1 400 nor more than \$13 000 in the case of a legal person.

194. Every person who refuses or neglects to comply with a summons or to file the documents required under section 165 is guilty of an offence and is liable,

(1) for a first offence, to a fine of not less than \$700 nor more than \$2 000 in the case of a natural person, or not less than \$1 600 nor more than \$4 000 in the case of a legal person;

(2) for any subsequent offence, to a fine of not less than \$1 300 nor more than \$6 000 in the case of a natural person, or not less than \$2 800 nor more than \$13 000 in the case of a legal person.

195. Every person who contravenes a by-law made under paragraph 1 of section 129 or paragraph 1 of section 159, or who purchases a product subject to a plan for a price less than the price agreed upon or fixed pursuant to a by-law made under section 96, shall be liable to the penalty provided in section 193.

Every contravener found guilty of an offence under the first paragraph shall, in addition, be required to pay to the Régie, an amount equal to the amount he has so refused or neglected to withhold or remit or equal to the difference between the price paid and the

minimum price or as the case may be, the price agreed upon or prescribed.

196. No proceedings may be brought under section 195 unless the Régie has sent to the contravener, by registered or certified mail, a notice of not less than 10 days describing the offence and enjoining him to perform his obligations.

Payment of the required amounts within the time fixed in the notice is a bar to penal proceedings.

197. Where proceedings are brought under section 195 against a person who refuses or neglects to withhold contributions payable to a marketing board or remit to it the contributions withheld from the producers or fishermen subject to a joint plan, it shall be sufficient to prove that the contributions were not withheld or that the marketing board did not receive the sums that should have been remitted to it in accordance with section 129 to justify a conviction.

198. The Régie shall distribute the amounts collected under section 195 among the producers or fishermen who did not receive the equivalent of the price, proportionately to their respective losses or, in the case of contributions, it shall remit them to the marketing board to which they belong. However, where the marketing board has made a by-law under section 98, the Régie shall pay the amounts collected to the marketing board so that it may dispose of them in the manner prescribed in the by-law.

199. When an offence punishable by the penalty prescribed in section 193, 194, 195 or 201 is committed by a corporation, every director or officer of that corporation who prescribed or authorized the commission of the offence or consented to it, is deemed to have participated in the offence and is liable to the same penalty as that prescribed for a corporation, whether or not the corporation has been prosecuted or found guilty.

200. The Attorney General and any interested person may pursue any penal remedy under this Act, a by-law of a marketing board or of the Régie, a homologated agreement or an arbitration award.

The pursuit of a remedy shall not affect the right of any interested person to apply for an injunction.

201. The court may, in respect of any offence under section 94, impose a fine established in consideration of the material damage

suffered by all the producers or a class of them as a result of the offence, and the benefits and income gained by the person found guilty of the offence.

TITLE VI

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

CHAPTER I

FINAL PROVISIONS, AMENDMENTS AND REPEALS

202. The Government may form, for the periods it determines, advisory committees to examine specific problems relating to the production or marketing of agricultural and food products or the marketing of fish products.

The members of advisory committees shall receive no remuneration except in such cases, on such conditions and to such extent as the Government may determine. However, they are entitled, on the conditions and to the extent determined by the Government, to reimbursement for expenses incurred in the performance of their duties.

203. The provisions of Divisions III and IV of the Regulations Act (R.S.Q., chapter R-18.1) respecting publication and coming into force of draft regulations and regulations do not apply to the joint plans, draft by-laws or by-laws which may be made by a general meeting of producers, a marketing board or a certified association or the regulations which may be made by the Régie pursuant to the third paragraph of section 54.

204. The Minister of Agriculture, Fisheries and Food is responsible for the administration of this Act.

205. The Act to promote the development and modernization of regional dairies (R.S.Q., chapter A-19) is repealed.

206. Section 39 of the Grain Act (R.S.Q., chapter G-1.1) is replaced by the following section:

“39. The board may suspend, revoke or refuse to renew, for a fixed period, the permit of every holder who

(1) no longer fulfils the conditions governing the issue of a permit determined in the Act or in a by-law made pursuant to section 58;

(2) has been found guilty of an offence under any provision of the Act relating directly to the activity authorized by the permit, or of a by-law made pursuant to section 58;

(3) does not comply with a restriction contained in the permit.”

207. Division IX of the said Act is repealed.

208. Section 59 of the said Act is repealed.

209. Section 1 of the Farm Producers Act (R.S.Q., chapter P-28) is amended

(1) by replacing paragraph *g* by the following paragraph:

“(g) “**marketing**”: marketing within the meaning of the Act respecting the marketing of agricultural, food and fish products (1990, chapter *insert here the chapter number of this Act in the annual volume of the Statutes of Québec for 1990*);”;

(2) by replacing paragraph *i* by the following paragraph:

“(i) “**joint plan**”: a plan established under the Act respecting the marketing of agricultural, food and fish products and the regulations relating to it;”;

(3) by replacing paragraph *k* by the following paragraph:

“(k) “**agricultural product**”: any agricultural, horticultural, avicultural, livestock or forest product in its raw state or partly or wholly processed by or for the producer, and any beverage or food product derived therefrom; aquicultural products are considered to be agricultural products;”;

(4) by replacing paragraph *m* by the following paragraph:

“(m) “**Régie**”: the Régie des marchés agricoles et alimentaires du Québec.”

210. Section 39 of the said Act is amended

(1) by adding the words “or remitted to it” at the end of the second paragraph after the word “withheld”;

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

“The Régie, in making an order under the first paragraph, may fix and adjust the rate of interest exigible where the person

contemplated is late in remitting a contribution to the certified association.”

211. Section 11 of the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30) is amended by striking out the second paragraph.

212. Section 33 of the said Act is replaced by the following section:

“33. Before issuing a permit, the Régie shall take account of the marketing conditions which exist in that sector of activity, the conditions governing milk supply to processing factories and the effects of the project for the dairy industry as a whole and for the consumers.

The Régie may prescribe any condition which it sees fit; the permit shall indicate the conditions so prescribed.”

213. Section 35 of the said Act is amended by striking out the second paragraph.

214. Section 40 of the said Act is replaced by the following section:

“40. The Government may, of its own motion and in the public interest, amend any order issued by the Board pursuant to paragraph e of section 38.”

215. Section 48.1 of the said Act is amended by adding, after the first paragraph, the following paragraph:

“He may also seize any container, package or product intended to serve as container or packaging for a dairy product or a dairy product substitute if such container, package or product does not meet the prescribed standards.”

216. Section 60 of the said Act is repealed.

CHAPTER II

TRANSITIONAL PROVISIONS

217. In any Act or statutory instrument, the expression “Régie des marchés agricoles du Québec” is replaced by the expression “Régie des marchés agricoles et alimentaires du Québec”, with the required adaptations, unless the context indicates otherwise.

218. The term of office of the members and experts of the Régie des marchés agricoles du Québec in office on *(insert here the date of the day preceding the date of coming into force of section 4 of this Act)* ends on that date; however they remain in office until they are appointed or replaced under this Act.

219. The personnel of the Régie des marchés agricoles du Québec shall become the personnel of the Régie des marchés agricoles et alimentaires du Québec, without further formality.

220. The records and documents of the Régie des marchés agricoles du Québec shall become the records and documents of the Régie des marchés agricoles et alimentaires du Québec, without further formality.

221. Every marketing board responsible for the administration of a plan on *(insert here the date of coming into force of section 72)*, shall, within 30 days following that date, submit the rules respecting its internal management to the Régie for approval.

222. Every director of a marketing board who is also a director of an undertaking referred to in section 89 must, not later than *(insert here the date of the day occurring three months after the date of coming into force of this section)*, renounce either his office of director of the marketing board or his office of director of the undertaking.

Failing this, the Régie shall demand formally that he choose one or other of the offices within a fixed time. If he refuses to comply with this demand within the time allowed, the Régie shall declare him removed from the office of director of the plan. Any decision of the board to which this person was a party, taken after he was declared removed by the Régie, shall be null.

223. Every plan approved, by-law made, agreement homologated or arbitration award rendered under any provision of the Farm Products Marketing Act shall continue to have effect until it is repealed, replaced or terminated in accordance with this Act.

224. Matters pending before the Régie des marchés agricoles du Québec shall be continued before the Régie des marchés agricoles et alimentaires du Québec in accordance with the provisions of the Farm Products Marketing Act (R.S.Q., chapter M-35) as they read on *(insert here the date of the day preceding the day on which this section comes into force)*.

225. Subject to the provisions of section 29 and paragraphs 5, 7 and 10 of section 93 and notwithstanding the first paragraph of section 95, every holder of an individual quota on (*insert here the date of coming into force of section 95*) may continue to be the holder thereof until he disposes of it.

226. Appropriations granted to the Régie des marchés agricoles du Québec shall be transferred to the Régie des marchés agricoles et alimentaires du Québec to the extent determined by the Government.

227. This Act replaces the Farm Products Marketing Act (R.S.Q., chapter M-35).

228. The provisions of this Act come into force on the date or dates to be fixed by the Government.

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