

NATIONAL ASSEMBLY

SECOND SESSION

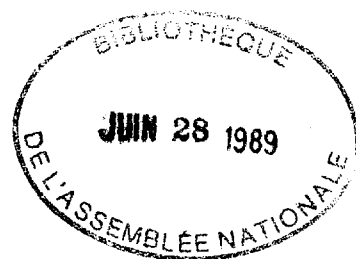
THIRTY-THIRD LEGISLATURE

Bill 160

**An Act respecting the marketing of
agricultural and food 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 agricultural product marketing structures and, in particular, allows coordination and development chambers to be set up. Their functions include, among other things, seeking and proposing ways of improving production and marketing of the 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. Mergers of such boards will henceforth be permitted under its provisions.

It also maintains the rules which allow the making of agreements as well as the rules governing the setting up and administration of a financial liability guarantee plan for purchasers of agricultural products.

As far as the powers of the Régie are concerned, the bill introduces new measures particularly as regards its power to intervene with respect to acts performed by producer marketing boards and other parties engaged in producing and marketing agricultural products. It also proposes certain amendments to provisions concerning the review of decisions of the Régie.

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, it modifies 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:

- Act respecting the marketing of agricultural products (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ACT REPEALED BY THIS BILL: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 160

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

SCOPE AND DEFINITIONS

1. This Act applies to the marketing of agricultural products. It establishes rules to govern marketing bodies and determines their methods of operation so as to allow producers, buyers, processors and other interested persons or groups to organize the orderly production and marketing of agricultural products.

2. This Act shall not be interpreted as tending to compete with existing cooperative structures engaged in the marketing of agricultural products. This principle must guide the application of this Act so as not to hamper cooperative action in the regions and sectors where such action can meet needs effectively and so that the implementation and administration of joint plans may benefit as much as possible from the participation of cooperatives.

3. In this Act, unless the context indicates a different meaning,

“agricultural product” means any agricultural, horticultural, aquicultural, 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;

“joint plan” means a plan established under this Act for the production and marketing of agricultural products;

“marketing” means the sale, grading, processing, purchasing, storage, penning and shipping for sale purposes, offering for sale and transportation of any agricultural product, as well as advertising and the financing of operations relating to the selling of the product on the market;

“producer marketing board” means a body established to implement and administer a joint plan or any other body designated for such purpose under section 29.

CHAPTER II

RÉGIE DES MARCHÉS AGRICOLES ET ALIMENTAIRES DU QUÉBEC

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

5. The function of the Régie is, generally, to foster the efficient and orderly marketing of agricultural products, the development of harmonious relations between producer groups and intermediaries, the settlement of disputes among the various intervenors and the protection of the public interest.

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 not more than 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 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 and perform his duties.

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 sued or 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.

The Government may also, 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.

18. 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.

19. A judge of the Court of Appeal may, upon a motion, annul summarily any writ, order or injunction issued or granted contrary to section 18.

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

21. 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 thirty days after its receipt if the Assembly is in session or, if it is not sitting, within thirty days after the opening of the next session or resumption.

22. 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 III

ADVISORY COMMITTEES

23. The Government may form, for the period it determines, advisory committees to examine specific problems relating to the production or marketing of agricultural products.

The members of advisory committees shall not be remunerated except in such cases, on such conditions and to such extent as the Government may determine. However, they are entitled, in the cases, on the conditions and to the extent determined by the Government, to reimbursement for expenses incurred in the exercise of their duties.

CHAPTER IV

JOINT PLAN

24. Ten or more interested producers may transmit to the Régie a draft joint plan for the marketing of an agricultural product from a designated territory or intended for a specified purpose or a particular buyer.

25. The application accompanying the draft joint plan must set out

(1) the names, given 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, given names, addresses and occupations of the proposed directors of the producer marketing board to be charged with implementing and administering the joint plan;

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

26. An association of producers may transmit to the Régie a draft joint plan for the marketing of an agricultural product produced by all or some of its members. In so doing, the association shall observe the formalities set out in section 25, adapted as required, and shall append to the draft plan a duly certified copy of the resolution of its board of directors approving and authorizing the transmission of the draft joint plan.

27. The draft joint plan must set out

(1) the class of producers and the agricultural product contemplated by the draft plan, the territory of origin of the product and the buyers for whom or the purpose for which it is intended;

(2) the composition of the producer marketing board to be charged with implementing and administering the joint plan;

(3) the mode of election and replacement of subsequent directors of the board;

(4) the proposed mode of financing of the administrative expenses to be incurred by the producer marketing board in implementing the joint plan;

(5) any other information required by the Régie.

28. The draft joint plan may also set out

(1) any power conferred on producer marketing boards by this Act but excluded at the request of the applicants;

(2) the establishment, composition, term of office and mode of appointment and replacement of members of an advisory committee charged with advising the producer marketing board on any matter relating to the implementation of the joint plan and the by-laws adopted under this Act by the board or the general meeting of producers.

29. In the draft joint plan, instead of specifying the composition of a producer marketing board which would be charged with implementing and administering the plan, the applicants may designate, for that purpose, a professional syndicate composed exclusively of producers of the agricultural product contemplated by 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.

30. The Régie shall publish in the *Gazette officielle du Québec* and in a farm journal having general circulation a notice of the filing of the application and of the draft joint plan, containing the information referred to in paragraphs 1 and 4 of section 27 and stating the date on which the Régie will hear all interested persons.

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

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

31. After hearing the interested persons, the Régie may admit the application, reject it or make such amendments or restrictions as it sees fit to the draft joint plan.

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

32. Subject to section 35, where the Régie accepts the application, it shall submit the draft joint plan as filed or as amended pursuant to section 31, where that is the case, to a referendum of the producers held in the manner it prescribes. At the same time, the Régie shall convey to the producers the information furnished pursuant to section 25.

33. The Régie shall determine by by-law the qualifications required of a producer and the requirements he must satisfy, on a

specified date, to be considered an interested producer for the purposes of this section.

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

- (1) the places where the list of producers may be consulted;
- (2) the time granted to any person who believes he is an interested producer and 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 entitled to vote in the referendum and make it public. The list cannot be contested.

34. To come into force, a joint 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.

35. If the Régie is of the opinion, after an inquiry, 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 joint plan, with such amendments or restrictions as are recommended by the Régie, where that is the case.

The joint plan shall in that case be deemed approved in accordance with section 34.

36. The Régie shall cause every approved joint plan to be published in the *Gazette officielle du Québec*. The joint plan comes into effect fifteen days after its publication or on any later date determined by the Régie.

37. Any person or partnership engaged in the production or marketing of the product subject to a joint plan is bound by the

obligations provided for in this Act from the coming into force of the joint plan.

38. Any person who or partnership which is both a producer of the product subject to a joint plan and engaged in the marketing of that product has the rights and is bound by the obligations attached to both activities.

39. No producer marketing board may engage in the business of processing or trading in the product subject to the joint plan it administers.

Where a producer marketing board engages in processing or trading in the product subject to the joint plan it administers, the producers subject to the plan shall, within the time determined by the Régie, replace the producer marketing board.

40. From the coming into force of a joint plan, the producer marketing board may exercise every power conferred on such boards by this Act, subject to any restriction or condition set out in the joint plan or determined by the Régie.

The producer marketing board is, thereafter, the negotiating agent for the producers and the sales agent for the product subject to the plan it administers.

41. The alienation or assignment of the whole or part of the enterprise of a person or partnership engaged in the marketing of the product subject to a joint plan shall not invalidate the joint plan, an agreement under this Act, an arbitration award or any procedure relating to the approval or implementation of a joint plan or of such an agreement or arbitration award.

Notwithstanding the alienation or assignment of the whole or part of such an enterprise or the division or merger or any change in the legal structure of such an enterprise, any new buyer for whom the product subject to the plan is intended is bound by the joint plan, the agreement under this Act 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 former buyer.

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

42. At the request of the Régie and not less than once every five years, every producer marketing board must demonstrate, before the Régie or before the persons designated by the Régie to report thereon to it, that the joint plan and the by-laws it prescribes serve the interests of the producers generally and conduce to the efficient and orderly marketing of the product.

43. A joint plan does not apply to sales made directly from a producer to a consumer.

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

CHAPTER V

PRODUCER MARKETING BOARD

DIVISION I

FUNCTIONS AND POWERS OF A BOARD

44. From the coming into force of a joint plan, the producer marketing board charged with its implementation and administration is a corporation within the meaning of the Civil Code.

A body designated pursuant to section 29 to implement and administer a joint 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.

45. Where a body is designated pursuant to section 29 to implement a joint plan, it shall keep separate accounts for the administration of the joint plan.

46. No person or body may use the designation "producer marketing board" or "joint plan", 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 established under this Act.

47. A producer marketing board may pursue any remedy of a producer under an agreement homologated by the Régie, an

arbitration award or a by-law of a board under this Act, without having to prove an assignment of the producer's claim.

48. 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 jurisdiction in first instance and in appeal.

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

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

(1) establish a file for the recording of the name, given name and address of each producer known to the producer marketing board as being subject to the joint plan. It is incumbent upon the producer to verify, in the manner stated in the by-law, the entry concerning him in the file;

(2) establish a retention schedule applicable to the documents relating to the administration of the joint plan. The producer 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 fees exigible for the examination or reproduction of documents.

The by-laws come into force in accordance with the procedure set out in sections 96 and 97. In the case of a by-law under subparagraph 1 of the first paragraph, the producer marketing board shall, in addition, cause it to be published in a farm journal having general circulation in the territory under its jurisdiction.

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

Within three months after the coming into force of the joint plan it administers, a producer 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

52. Every producer 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.

53. A producer marketing board may order the holding of a special general meeting whenever it considers it expedient.

A producer marketing board must order the holding of a special general meeting upon the written request of one-tenth of the producers whose names are recorded in the file provided for in section 50 or whenever the Régie considers it necessary.

54. A producer marketing board may also order the holding of a meeting of a class of producers when it considers it expedient. It must order the holding of such a meeting upon the written request of one-tenth of the producers of that class or whenever the Régie considers it necessary.

55. If a producer marketing board fails to call and 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 of the meeting.

56. Not less than fifteen days before a general meeting, the producer marketing board shall send a written notice of the meeting to every producer whose name is recorded 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. During the meeting, the producers may debate any issue concerning the joint plan and the conditions governing the marketing of the product subject to the plan. However, by-laws may be adopted only in respect of matters appearing on the agenda.

The producer marketing board shall transmit to the Régie, within the time set out in the first paragraph, a copy of the notice of meeting

and copies of the financial statements and the auditor's report to be submitted to the general meeting.

57. In the case of a meeting of a class of producers, the producer marketing board shall, not less than fifteen days before the meeting, send a notice of the meeting to every producer of that class whose name is recorded in the file.

58. A general annual meeting, a special general meeting or a meeting of a class of producers shall be made up of the producers or, where the producer marketing board has made a by-law pursuant to subparagraph 1 of the first paragraph of section 63, the delegates present.

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

(1) replace the body charged with implementing the joint plan and entrust the implementation and administration of the joint plan to a professional syndicate composed exclusively of producers of agricultural products subject to the plan or a union or federation of such professional syndicates, to an agricultural cooperative whose sole object is the marketing of such agricultural products, or to a producer marketing board the composition and mode 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 said agents or the powers, duties and prerogatives of the producer marketing board;

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

Every resolution under this section must be approved by two-thirds of the votes and must be submitted to the Régie for approval; the Régie 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, if it approves the resolution, publish it 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.

60. No director of a producer marketing board may be a director of an enterprise engaged in processing or trading in a product subject to a joint plan.

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

(1) whether the financial statements accurately represent the financial position of the producer marketing board according to the information given to the auditor and the books of the board;

(2) any other information required by the Régie.

62. The auditor shall have access to all books, registers, accounts and other records of the producer marketing board; the directors and officers of the board shall facilitate his examination thereof and provide him any information he may need to carry out his duties as auditor.

63. A producer marketing board may, by by-law,

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

(2) divide the producers into classes based on their principal activity and set out the criteria governing such division and the procedure for settling any dispute that may arise as a result of its implementation.

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 96 and 97.

64. Every producer subject to the joint plan whose name is recorded 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 63, they alone are entitled to vote.

65. 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.

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

67. Where a body designated under section 29 is charged with implementing a joint plan, the body shall hold the annual general meeting of the producers separately from that of its members.

Only the members of the body who are entitled to vote shall elect the directors and make any decision not related to the carrying out of the joint plan.

68. A producer marketing board may consult a class of producers regarding matters that concern that class exclusively or principally.

69. A producer marketing board may submit, to a class of producers duly called to a meeting for such purpose, any draft by-law that concerns that class 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 96 and 97.

CHAPTER VI

AMALGAMATION OF MARKETING BOARDS AND JOINT PLANS

DIVISION I

AMALGAMATION OF PRODUCER MARKETING BOARDS

70. Producer marketing boards incorporated under section 44 may amalgamate and make agreements for such purpose.

71. Producer marketing boards planning to amalgamate shall draft a deed of agreement setting out

(1) the conditions and mode of amalgamation;

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

(3) the mode 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 board resulting from the amalgamation.

72. The deed of agreement shall be submitted for approval to a general meeting of the producers subject to the plans administered by each of the interested producer 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.

73. Where expedient, the Régie shall approve the deed of agreement and cause it to be published 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 producer marketing board under the name appearing in the deed of agreement.

74. The producer 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 amalgamating 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 producer marketing board resulting from the amalgamation and remain in force.

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

DIVISION II

AMALGAMATION OF JOINT PLANS

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

The proposed amalgamation must be approved by way of a resolution adopted by two-thirds of the producers present. The new joint plan, setting out the information prescribed by sections 27 and 28, and the resolution shall be filed with the Régie.

If the Régie approves the joint plan resulting from the amalgamation, it shall cause it to be published in the *Gazette officielle*

du Québec and the joint plan comes into force on the date specified therein; the Régie shall terminate the amalgamating joint plans on the same date.

76. The marketing board administering the joint plan resulting from the amalgamation of the plans shall have the rights and powers, be vested with the property and assume the obligations of the amalgamating plans 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 marketing boards administering the amalgamating plans are deemed to have been made by the board administering the joint plans resulting from the amalgamation and they remain in force.

All assets relating to the administration of the amalgamating joint plans are transferred to the producer marketing board charged with the administration of the new joint plan upon its coming into force.

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

CHAPTER VII

CERTIFICATION

77. Every cooperative group or association of persons interested in the marketing of an agricultural product subject to a joint 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 a class of the product or in the marketing of the product produced in a part of the territory covered by the joint plan.

If the Régie considers the cooperative group or the association sufficiently representative of such interested persons, 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 later 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 Act.

78. The Régie may also certify an association or body as the representative of the class of persons determined by the Régie, in respect of the joint plan or the coordination and development chamber contemplated by section 111 it specifies and for the purposes it shall specify.

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 Act.

79. The members of a certified association which is a member of a coordination and development chamber 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. They may, in the same manner, ratify a by-law determining the amount of the contribution required to cover the costs relating to the obligations deriving from their association's membership in a chamber.

The association shall inform every person or partnership affected by the certification of its intention to adopt 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 cause every approved by-law to be published in the *Gazette officielle du Québec*. The by-law comes into force fifteen days after the publication or on the date determined by the Régie. Every person or partnership affected by the certification is bound to pay the contribution.

80. The Régie may, after giving a certified association the opportunity to be heard, terminate its certification for any cause it considers valid and cancel any by-law made under section 79.

CHAPTER VIII

MARKETING AGREEMENT

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

82. Where a producer marketing board negotiates with a person or partnership engaged in the marketing of the product subject to the joint 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.

83. Every agreement entered into pursuant to sections 81 and 82 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.

84. Failing agreement between a producer marketing board and other persons engaged in the marketing of a product subject to a joint plan, the Régie, on the application of any interested parties, 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.

85. If conciliation has not resulted in an agreement, the Régie, on the application 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 within which they must render their decision.

86. An arbitration award is executory and binding on the interested parties until, on the application 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 revise it.

87. If a producer marketing board or a person or partnership subject to a joint 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 subject to the 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, lay down 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.

88. Where efficient marketing of a product subject to a joint plan so requires, the Régie may authorize a producer marketing board to negotiate with another board agreements on matters within the jurisdiction of either board.

Every agreement entered into between such boards must, to be valid, be homologated by the Régie. A homologated agreement is binding upon the bodies party to it and all the producers subject to the joint plans that such bodies are charged with implementing.

The arbitration procedure set out in sections 84 to 86 applies to negotiations under this section.

CHAPTER IX

REGULATORY POWERS OF MARKETING BOARDS

89. A producer marketing board may, by by-law,

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

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

90. A producer marketing board may, by by-law, fix production and marketing quotas for the product subject to the plan it administers and, for that purpose, subject production and marketing to the conditions, restrictions and prohibitions that it determines.

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

(1) determine when and where a product subject to a 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 subject to the plan administered by the board, fix the minimum and maximum quotas which the producer may hold, individually or in association with other persons, and determine the proportion of the quota which each producer must produce himself within his operation;

(3) determine the conditions for allocating, maintaining or renewing an individual quota, and the terms and conditions of its issue;

(4) establish equivalences based on the area under cultivation or the number of animals reared or marketed in order to establish the quota of a producer;

(5) determine the terms and conditions for suspending or temporarily or permanently reducing the quota of a producer who does not comply with a plan, by-law, homologated agreement or arbitration award, or where he produces or markets a larger or smaller quantity of the regulated product than is permitted by his quota;

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

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

(8) determine in what situation, to what extent and on what conditions a producer who holds a quota may produce or market the product otherwise than according to the quota or a standard determined by the board;

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

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

(11) determine how and on what conditions the board may reallocate the quotas which have been suspended, reduced or cancelled;

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

(13) establish the terms and conditions for allocating or reallocating the reserve referred to in paragraph 12, and limit the allocation of quotas from the reserve to one or more categories of producers;

(14) determine the cases and conditions for transferring a quota from one producer to another, the methods of transfer, and make any transfer subject to its approval;

(15) determine the terms and conditions on which a quota or part of it may be rented out by one 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 operation, and make such lease subject to the approval of the board;

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

(18) divide the territory subject to 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.

91. Only the person or partnership engaged in the production of a product subject to a plan may hold and exploit a quota allocated by a board.

However, this provision shall not prevent a new producer from undertaking to market the product subject to the quota.

The provision shall not apply to a credit institution which temporarily holds a quota following realization on a security, provided it disposes of the quota within a reasonable time.

92. A producer marketing board may, by by-law, establish methods for fixing the price of the product subject to the plan it administers, or of a class or variety thereof.

The price fixed in accordance with the first paragraph may vary from one region to another.

93. A producer marketing board may, by by-law,

(1) compel any producer of the product subject to the plan it administers to register his operation with the board in the manner and in accordance with the terms and conditions prescribed by it;

(2) determine the information and documents which producers of the product subject to the plan it administers must keep and furnish for the purposes of the plan and the regulations and by-laws made under this Act.

94. A producer marketing board may, by by-law, with regard to the product subject to the plan it administers,

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

(2) determine the mode and conditions of a joint offer for sale;

(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 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 category of it;

(6) compel every buyer to pay the price of the product to the board or a sales agent designated by it, to ensure that the net profit is apportioned among the producers;

(7) compel every producer to sell the product to or through the board or to a sales agent designated by it;

(8) retain, out of the sales price, the amounts necessary for marketing the product, together with any other charge or fee imposed under this Act;

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

95. A producer marketing board may, by by-law, determine what quantity of the product subject to the plan it administers 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 charge or fee contemplated by sections 101 and 102.

96. Any by-law made by a board shall be submitted for approval to the Régie. The Régie may appreciate the opinion of the producers in respect of such a by-law in any way it deems appropriate, and, if it considers it necessary, it may compel the board to submit the by-law to the general meeting for ratification.

97. 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 X

AGREEMENTS WITH OTHER GOVERNMENTS AND GOVERNMENT BODIES

98. The Government may authorize the Régie or, as the case may be, the Régie and a producer 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 producer marketing board respecting an agricultural product.

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

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

The Government may, on the conditions it determines, amend a joint plan or a regulation made under this Act, to ensure the implementation of the provisions of or an agreement made under this division.

CHAPTER XI

CONTRIBUTIONS

100. The producers who are subject to a joint plan shall pay the expenses incurred for the implementation and administration of the plan and by-laws by means of contributions prescribed in the plan or in a by-law made under section 101 or 102.

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

(1) to change 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 implementation of a provision of a plan, by-law or this Act;

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

(5) to impose a special contribution to allow the sums of money realized from the sale of the product subject to the plan, during such period as the board may determine, to be equalized or adjusted among producers;

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

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

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

(2) a contribution, which may vary if need be, to allow it to fulfil the obligations contracted under Chapter X;

(3) the terms and conditions of collection or calculation of a contribution imposed under this chapter.

103. The contributions provided for in sections 101 and 102 may be calculated according to the volume of production marketed, the area cultivated, the units of production needed to market the product or other equivalent factors accepted by the Régie.

104. The by-laws made under sections 101, 102 and 105 shall be submitted for approval to the Régie and shall come into force in accordance with the procedure prescribed in sections 96 and 97.

105. Any producer who is late in paying the contribution prescribed in the plan or a by-law made under section 101 or 102, may be required to pay interest as determined by a by-law of the general meeting of producers.

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

107. The Régie may, by by-law made of its own initiative or at the request of a producer marketing board,

(1) compel 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 101 and 102 and to remit the amounts so withheld to the board, according to the terms and conditions prescribed in the by-law;

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

108. Any person who fails to comply with a by-law of the Régie made under paragraph 1 of section 107 shall become liable to the producer 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 by-law.

109. Any person bound by a homologated agreement, arbitration award or decision of the Régie pursuant to section 87 which prescribes the terms and conditions governing the withholding or remitting of contributions, who does not comply with his obligation, shall become liable to the 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 set out in the agreement, arbitration award or decision.

110. Notwithstanding sections 2 and 3 of the Professional Syndicates Act (R.S.Q., chapter S-40), when a professional syndicate or a union or federation of professional syndicates is entrusted with the implementation of a plan, no producer bound by the plan who is a member of such syndicate or of a syndicate forming part of such a union or federation, is required to pay the fee payable to be a member of that syndicate for a year during which contributions must be withheld out of amounts attributed to him to be remitted to the syndicate, union or federation under a by-law, homologated agreement or arbitration award made or rendered under this Act.

CHAPTER XII

COORDINATION AND DEVELOPMENT CHAMBER

111. The producer marketing boards, associations or other persons interested in the production or marketing of an agricultural product may agree to apply to the Régie for the formation of a coordination and development chamber for the production or marketing of the product.

112. A chamber may take any action to promote, improve and coordinate the production and marketing of a particular agricultural 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, publicity 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 respecting the production or marketing of the product;

(7) establish or promote designations or trade marks according to the quality or particular characteristics of production or presentation of the product, reserve and allow its 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.

113. The applicants shall join to their application 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 the producers and at least one group of other persons interested in the marketing of the agricultural product which is the subject of their application.

114. The application must set out

- (1) the identity of the applicants;
- (2) the composition of the board of directors of the chamber and the mode 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 shall carry out its duties;
- (5) the method of financing the chamber;
- (6) the method of apportionment among the members of the operating expenses of the chamber;
- (7) the terms and conditions of joining or leaving the chamber;
- (8) the distribution of votes for the decisions of the board of directors of the chamber;
- (9) any other information required by the Régie.

115. The board of directors of a chamber shall be made up of at least one director from each of its members.

The Minister may delegate an observer to the proceedings of the board of directors of the chamber.

116. 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 formation of a chamber containing the information mentioned in paragraphs 1, 3 and 4 of section 114 and specifying the date and place where persons interested in the matter may be heard.

117. If it receives the request and authorizes a chamber to be formed, 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 on any later date that the Régie determines.

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

119. 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 after they are approved by the Régie.

120. The members of a chamber may request the Régie to change the composition, aims and the apportionment of the operating expenses of the chamber. Sections 116 and 117, adapted as required, apply to such requests.

121. The 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 remit to the Régie a copy of its report of activities, the financial statements for the preceding fiscal year and the estimate of its expenses.

122. No chamber may trade in or process any agricultural product.

123. 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 established under this Act.

CHAPTER XIII

SPECIAL POWERS OF THE RÉGIE

124. The Régie has the power to settle any dispute which arises within the context of the implementation of a joint plan or the operation of a coordination and development chamber, and any issue between persons or partnerships engaged in the production or marketing of an agricultural product subject to a plan or chamber.

125. 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 or agricultural cooperative the rights and obligations of a buyer for the purposes of the joint offer for sale of a product subject to 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.

126. The Régie may

(1) amend, replace or repeal any provision of a plan, by-law, the constituting instrument of a chamber or a decision of a board or 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 the interested persons will be heard.

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

127. The Régie may, after giving the interested party 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 decision or homologated agreement.

128. The Régie may, after giving the interested party the opportunity to be heard, order any director of a producer marketing

board removed from office who contravenes the provisions of section 60 or who fails to comply with a convocation or a request made under the second paragraph of section 55.

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

129. The Régie may require a producer marketing board to submit any question relating to the application of this Act to the general meeting of a group or particular category of producers established under section 63.

130. The Régie may at any time submit to the referendum of the producers subject to a plan held in accordance with section 33, any question respecting the plan and its implementation.

131. The Régie may request that a producer marketing board negotiate with a certified association any matter which may be the subject of a by-law under sections 89, 90, 93, 94 and 95 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 VIII shall apply if no agreement is reached.

This section also applies to any matter which is the subject of a by-law already in force.

132. For the purposes of the marketing of agricultural products, the Régie may make by-laws to compel persons or partnerships engaged in the production or marketing of a product subject to a plan to register their names, given names, addresses and occupations at the place and in the manner it determines.

133. If no association or cooperative group is certified in accordance with section 77, the Régie may, after giving them the opportunity to be heard, extend to persons interested in the marketing of a product subject to a plan the effects of an agreement between the board administering the plan and the persons marketing the majority of the product, or of an arbitration award which is in lieu of such an agreement.

134. 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

any class or variety of that product from all or some of the effects of the constituting instrument of a chamber, a joint plan, a by-law or an agreement;

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

The decision made by the Régie shall be published in the *Gazette officielle du Québec*.

135. The Régie may, if it considers such action necessary to ensure efficient implementation of a plan or a by-law made to implement that plan, entrust any person or body it designates with implementing a plan, 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 in the second paragraph before confirming or amending the appointment.

136. The person or body designated by the Régie under section 135 shall succeed by operation of law to the board until then charged with the implementation of the plan or by-law and shall have all the powers, duties and prerogatives of that board.

The Régie may take possession of the assets, books and documents used in implementing the plan or a by-law to ensure the conservation and custody thereof or return them to the person or body charged with implementing the plan or by-law under section 135.

137. The Régie may, by by-law,

(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 such permits to the persons or partnerships applying for them;

(3) establish the classes of permits according to the production and marketing activities it determines, the 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.

138. By-laws of the Régie 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.

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

(1) who no longer satisfies the conditions for issue prescribed in a by-law made under section 137;

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

140. The Régie may, on its own initiative or at the request of an interested person, order a board or any person engaged in the production or marketing of a product subject to a plan, to perform or not to perform a particular act if it feels that such act or omission may hinder the implementation of the plan, a homologated agreement or a by-law made under this Act.

Any decision taken 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 judgement of the Court.

141. The Régie may review or cancel 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 substantial or procedural defect is likely to invalidate the decision.

142. Except in exceptional circumstances, the Régie shall not accept a request for revision filed more than 120 days after the date on which the decision was made.

CHAPTER XIV

GUARANTEE OF PAYMENT FOR AGRICULTURAL PRODUCTS

143. 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).

144. The Régie may, by by-law,

(1) order that 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 be required 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 required from a person or partnership contemplated by the first paragraph, or establish standards which allow fluctuations in the amount of business transacted to be determined and taken into account;

(3) determine the conditions, 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 set 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 conditions to be fulfilled and the procedure to be followed by a producer for a guarantee of financial liability to be applied to payment of his claim, the time when such guarantee becomes exigible and the percentage of the debt he will be entitled to claim.

145. No person or partnership contemplated by section 144 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.

146. 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 144.

147. The Régie may cancel a certificate or suspend it for any length of time it determines if the holder no longer satisfies the conditions prescribed for its issue.

148. Before cancelling 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 fifteen 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 producer marketing board concerned or to the certified association, as the case may be.

149. The producer marketing board may make a by-law to set up a fund to guarantee payment of all or part of any sum due to the producers as a result of the marketing of the product subject to the plan it administers, and fix the terms and conditions of 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 conditions which a producer must satisfy and the procedure he must follow to file a claim with the fund, and the percentage of his debt which 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 set up under the first paragraph, 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 terms and conditions governing 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 called for that purpose.

150. 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 149, adapted as required.

151. The by-laws made under sections 149 and 150 shall be submitted for approval to the Régie, which may appreciate 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.

152. The sums collected from producers by a producer marketing board or certified association to set up a fund pursuant to the first paragraph of section 149 or to section 150, shall be deposited with the Caisse de dépôt et placement du Québec on the conditions agreed between the parties.

The sums and the revenue produced by them must be used exclusively for the payment of claims filed with the fund and its administration costs.

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

153. The producer marketing board or certified association shall be subrogated in the rights of a producer against a debtor for any debt paid by it out of the fund set up under the first paragraph of section 149 or section 150, as the case may be, and it may recover from the debtor the sums paid on his behalf to the producer.

The producer marketing board or certified association may also pursue the remedies of a producer for the purpose of realizing upon a security provided for in section 144.

154. The Régie, of its own initiative or at the request of a producer marketing board or certified association, may, by by-law,

(1) compel 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 149 and 150 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 the person contemplated by paragraph 1 is late in remitting a contribution to the board or certified association.

155. Every person subject to a by-law made by the Régie under section 154 shall be liable to the producer 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 by-law.

156. The Deposit Act (R.S.Q., chapter D-5) does not apply to the Régie in respect of any amount it receives on behalf of producers in compliance with a guarantee of financial liability furnished under section 144.

157. 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 producer marketing board or a certified association, or to their directors, officers and employees to the extent that the acts they perform relate to a fund established under section 149 or 150.

CHAPTER XV

INQUIRIES AND INSPECTIONS

158. The Régie, or any person authorized by it, may conduct inquiries into any matter relating to the production and marketing of an agricultural product and may require information from a producer marketing board or from any person or partnership respecting any matter to which this Act applies.

159. The Régie may, by by-law, compel persons engaged in the production or marketing of an agricultural product, including producer marketing boards, to keep, for any length of time it determines, the books and registers it prescribes, to make reports to it and to furnish it with information respecting their operations.

160. For the purposes of an inquiry 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 inquiry or hearing.

161. Any person authorized by the Régie to conduct an inspection 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 producer marketing board or an establishment or premises used for producing or marketing an agricultural product or the office of an enterprise producing or marketing an agricultural product, inspect the product and obtain a sample of it.

162. Any person authorized by the Régie to conduct 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.

163. 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.

164. A producer marketing board may appoint a person to conduct such inspections and verifications upon the producers subject to the plan administered by it 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 subject to 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.

165. No person may, in any way whatsoever, hinder a person authorized by the Régie or a marketing board to conduct an inquiry or an inspection, or mislead or attempt to mislead him by concealment or misrepresentation, 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 the board to conduct an inquiry 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 XVI

WINDING UP

166. Where a plan is terminated by the Régie, the producer marketing board charged with carrying out the plan shall continue to exist for the sole purpose of winding up its affairs. Within thirty 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.

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

Upon publication of the notice, any action or any proceedings by way of seizure by garnishment, seizure before judgement or seizure in execution, or any other action or proceedings against the movable and immovable property of the board, shall be suspended.

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 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 board is located may, on such conditions as he considers proper, authorize the institution of proceedings or the continuance of any proceedings commenced.

168. The liquidator shall furnish the Régie with any information it may require respecting the winding up and the affairs of the board.

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

The Régie may take any step it considers necessary to ensure the protection of the rights of the interested parties and an orderly winding up of the property of the board or chamber.

169. 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).

170. The liquidator shall pay the debts of the board and the costs of winding up. In the case of a plan, 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 producer marketing board the balance resulting from the winding up.

171. 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.

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

Where the administration of the plan is entrusted to an organization designated pursuant to section 29, the notice shall indicate that the organization has ceased to act in its capacity as administrator of the plan.

173. The provisions of sections 166 to 172, adapted as required, apply where the Régie terminates the activities of a coordination and development chamber.

CHAPTER XVII

OFFENCES AND PENALTIES

174. Every person is guilty of an offence who

(1) except as a producer, seeks to hinder the making or implementation of a joint plan;

(2) seeks to prevent a producer from participating in the making or implementation of a joint plan.

175. Every person who contravenes any of sections 46, 123, 145 and 165 or who contravenes a provision of a plan, of a by-law made under section 89, 92, 93, 94, 101, 102, 149 or 150, of a by-law 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, and not less than \$800 nor more than \$4 000 in the case of a legal person;

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

176. Every person who refuses or neglects to comply with a summons or to file the documents required under section 160 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, and not less than \$1 600 nor more than \$4 000 in the case of a legal person;

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

177. Every person who contravenes a by-law of the Régie made under paragraph 1 of section 107 or paragraph 1 of section 154, or who buys a product subject to a plan for a price less than the minimum price or prescribed price,

(1) shall be bound to pay to the Régie an amount equal to the amount that he has so refused or neglected to withhold or remit, or to the difference between the price paid and the minimum price or the price agreed upon or prescribed, as the case may be;

(2) shall be liable to the penalty provided in section 175.

178. No proceedings may be brought under section 177 unless the Régie has sent to the offender, by registered or certified mail, a notice of not less than ten 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.

179. Where proceedings are brought under section 177 against a person who refuses or neglects to withhold contributions payable to a producer marketing board or remit to it the contributions withheld from the producers subject to a joint plan, it shall be sufficient to prove that the contributions were not withheld or that the producer marketing board did not receive the sums that should

have been remitted to it in accordance with section 107 to justify a conviction.

180. The amounts collected under paragraph 1 of section 177 are payable to the Régie which distributes the amounts collected among the producers 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 producer marketing board to which they belong. However, in the case of a joint offer for sale of the product subject to a plan, the Régie shall pay the amounts collected to the producer marketing board charged with the implementation of the joint plan so that the board may dispose of them in the manner prescribed in the by-law of joint offer for sale.

181. When an offence punishable by the penalty prescribed in section 175, 176, 177 or 184 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.

182. When a producer marketing board adopts a by-law under section 90, no person may produce or market the product contemplated therein without having been allocated a quota, except in the circumstances and on the conditions prescribed in the by-law.

183. The Attorney General and any interested person may bring an action to pursue any remedy under this Act, a by-law of a producer marketing board, a by-law of the Régie, an agreement homologated by the Régie or an arbitration award rendered under Chapter VIII.

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

184. The court may, in respect of any offence under section 182, impose a fine established in consideration of the material damage suffered by all the producers or a category of them as a result of the offence, and the benefits and income gained by the person found guilty of the offence.

CHAPTER XVIII

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

DIVISION I

FINAL PROVISIONS, AMENDMENTS AND REPEALS

185. 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, by-laws or rules which may be made by the Régie pursuant to the second paragraph of section 32, or by a general meeting of producers, a marketing board or a certified association.

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

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

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

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

(1) no longer complies with 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.”

189. Division IX of the said Act is repealed.

190. Section 59 of the said Act is repealed.

191. 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 and food products and

amending various legislation (1989, chapter *(insert here the chapter number of this Act in the annual edition of the Statutes of Québec of 1989)*);”;

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

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

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

“(k) “farm product”: any agricultural, horticultural, aquicultural, 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;”;

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

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

192. 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 payable where the person contemplated is late in remitting a contribution to the certified association.”

193. 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.

194. 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.”

195. The said Act is amended by inserting, after section 34, the following section:

“**34.1** To retain a permit issued under section 3, the holder shall obtain the approval of the Régie before any change in the control of his capital stock may occur.”

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

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

“**40.** The Government may, on its own initiative and for reasons of public interest, amend any order made by the Régie under paragraph *e* of section 38.”

198. 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.”

199. Section 60 of the said Act is repealed.

DIVISION II

TRANSITIONAL PROVISIONS

200. 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”, adapted as required, unless the context indicates otherwise.

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

202. 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.

203. The producer marketing board which administers a plan on (*insert here the date on which section 51 comes into force*), shall, within thirty days following that date, submit the rules respecting its internal management to the Régie for approval.

204. A director of a board who is also a director of a commercial or processing enterprise referred to in section 60 must, from (*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 board or his office of director of the enterprise.

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.

205. Every act performed by the Régie under the Farm Products Marketing Act (R.S.Q., chapter M-35) is deemed to have been performed under this Act.

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.

206. Matters pending before the Régie des marchés agricoles du Québec shall be continued before the Régie des marchés agricoles et alimentaires du Québec.

207. Notwithstanding the provisions of section 91, every holder of an individual quota on (*insert here the date of coming into force of section 91*) shall continue to be the holder thereof until he sells or leases his quota. He may, in that case, transact only with a person or a partnership described in the first paragraph of section 91.

208. The 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.

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

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