



NATIONAL ASSEMBLY

FOURTH SESSION

THIRTY-SECOND LEGISLATURE

Bill 71

**An Act respecting prevention of disease
in potatoes**

Introduction



**Introduced by
Mr Jean Garon
Minister of Agriculture, Fisheries and Food**

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EXPLANATORY NOTES

The object of this bill is to provide Québec potato producers with a sufficient supply of healthy seed potatoes of superior quality.

For that purpose, the bill provides that the Minister of Agriculture, Fisheries and Food will be empowered to establish and administer a centre for the detection of diseased potatoes and plants, a research centre and a production centre.

The bill also imposes a certain number of obligations on potato producers and seed potato dealers and carriers. Accordingly, every producer, dealer or carrier who may have reason to believe that potatoes in his possession are affected by a disease referred to in this Act or that the field used by him is contaminated, will be required to inform an inspector of it and if need be, he will be required to implement certain measures described in the bill to remedy the situation. The bill also provides that every container or package used for the sale or delivery of seed potatoes will have to bear the inscriptions prescribed by regulation.

The bill confers on the Minister various powers including the power to prescribe any measure required to control or eradicate a disease affecting potatoes or the contamination of a field.

The bill also empowers the Government to establish protected territories and enact special and stricter rules relating to potatoes that may be planted, sold or delivered in those territories.

Finally, the bill specifies in what cases and under what conditions potatoes may be inspected, seized or confiscated. It enacts penalties for offences and prescribes, for proceedings, special rules concerning the burden of proof and the probative force of certain documents.

Bill 71

An Act respecting prevention of disease in potatoes

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

DETECTION, RESEARCH AND PRODUCTION CENTRES

1. The Minister of Agriculture, Fisheries and Food may, in view of ensuring a sufficient production of healthy seed potatoes of superior quality, provide for the establishment and operation of

(1) a detection centre the object of which is to detect and discard, from potatoes or potato plants selected for research or propagation, those that are infected with certain diseases and, cultivate specimen plantlets intended for the research centre from those potatoes or potato plants that have been retained;

(2) a research centre the object of which is to produce fully aseptitized plantlets by using, in particular, plantlets received from the detection centre, experiment with and develop varieties of potatoes from these plantlets and cultivate specimens of them;

(3) a production centre the object of which is to produce the varieties developed by the research centre by multiplying, through propagation by cuttings or otherwise, the aseptitized plantlets received from the centre and to supply seed potato producers with them.

2. For the purposes of section 1, the Minister may, by order,

(1) prescribe any condition, restriction or prohibition in respect of the admission and movement of persons or property to or in a centre;

(2) regulate or prohibit, in respect of members of the staff of a centre, the exercise of any activity in the centre;

(3) prescribe rules concerning the use, supervision and protection of the property and facilities of a centre.

Every order made under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date indicated therein.

CHAPTER II

PREVENTIVE AND REMEDIAL MEASURES

DIVISION I

DEFINITIONS

3. In this Act, unless the context indicates otherwise,

“**disease**” means bacterial ring rot, spindle tuber and any other disease affecting potatoes determined by the Government;

“**dealer**” means a person who buys and sells seed potatoes;

“**producer**” means a person who produces potatoes for sale;

“**carrier**” means a person who transports seed potatoes.

DIVISION II

DUTIES OF PRODUCERS, DEALERS AND CARRIERS

4. Every producer, dealer or carrier who has reason to believe that potatoes in his possession are infected with a disease shall so notify an inspector appointed under section 19.

The same obligation is incumbent on every producer who has reason to believe that a field that he owns, leases or of which he otherwise has the use is contaminated by the presence of causal organisms of a potato disease.

5. An inspector shall carry out the inspection of the suspect potatoes or field.

If the inspector ascertains that the potatoes are infected with a disease or that the field is contaminated, he shall so notify, as the case may be, the producer, the dealer or the carrier by way of the notice prescribed by regulation.

6. The inspector may cause suspect potatoes or samples of soil or other substances from a suspect field to be analyzed.

The inspector is required to cause the analysis prescribed in the first paragraph to be made if no analysis has been made and if a producer, a dealer or a carrier who has received a notice under section 5 requests him to do so in writing within five days of receiving the notice.

7. If the analysis described in section 6 is made, paragraphs 1, 2, 3 and 5 of section 9 apply, *mutatis mutandis*, to the producer, dealer or carrier concerned, during the period required to make the analysis and, subject to section 9, until the notice described in section 8 is received.

8. On receiving the results of the analysis, the inspector shall inform the producer, dealer or carrier thereof by way of the notice prescribed by regulation.

9. A producer, dealer or carrier who receives the notice referred to in section 5 or, where an analysis has been made, a notice given under section 8 informing him of the presence of a disease or contamination

(1) shall segregate the diseased potatoes from the other potatoes in his possession;

(2) shall not use, sell or deliver, for planting, any of the diseased potatoes;

(3) shall, where diseased potatoes are sold or delivered, evidence the sale on the document prescribed by regulation, a copy of which is to be kept by the producer, dealer or carrier, another copy given to the consignee and, finally, a copy sent, within forty-eight hours, to the inspector concerned;

(4) shall, under the supervision of an inspector, within the time limit and according to the method determined by the Minister, clean and disinfect the premises, machinery, vehicles, implements, containers and clothing that have been in contact with diseased potatoes;

(5) shall, under the supervision of an inspector, for the period and according to the conditions fixed by the Minister, take every measure prescribed by the Minister to control or eradicate contamination of the field, and in particular, the quarantining of the field;

(6) to dispose of any potato culls in the manner determined by regulation.

10. No consignee who receives a copy of the document prescribed in paragraph 3 of section 9 may use, sell or deliver, for planting, any of the potatoes contemplated therein.

11. Every producer, dealer or carrier shall, for the sale or delivery of seed potatoes, use containers or packages bearing the information, mark or label prescribed by regulation.

Every producer, dealer or carrier shall also evidence the sale or delivery on a document including the information prescribed by regulation.

DIVISION III

POWERS OF THE MINISTER

12. The Minister may, by order served on any interested person, take any measure to control or eradicate a disease affecting potatoes or the contamination of a field owned by, leased to or used by a producer. He may, accordingly, order, on the conditions that he fixes, the detection or quarantine of suspect potatoes or fields, the treatment, destruction or manner of disposing of diseased potatoes, and the decontamination of a field.

13. In case of failure to carry out within the allotted time any measure prescribed under this Act, a regulation or ministerial order, the Minister may cause it to be carried out at the expense of the offender.

DIVISION IV

PROTECTED TERRITORY

14. Any portion of the territory of Québec designated as protected territory by the Government is a protected territory.

15. For the purposes of this division, the word "producer" also includes a person who grows potatoes for his own consumption only.

16. In any protected territory, only seed potatoes produced in a protected territory and graded in accordance with the Seeds Act (R.S.C., 1970, chapter S-7) may be planted.

Notwithstanding the foregoing, a producer may, with the authorization of an inspector and according to the norms and conditions prescribed by regulation, plant in a protected territory seed potatoes produced by him in that territory and which are not of the grade required under the first paragraph.

A producer of seed potatoes may also, with the authorization of an inspector, plant, in a protected territory, seed potatoes not produced in that territory provided that the potatoes are graded "Elite I" or "Elite II" pursuant to the Seeds Act and no sign of disease is detected in them.

17. In any protected territory, only seed potatoes graded in accordance with the Seeds Act may be sold or delivered for planting by a producer, dealer or carrier.

18. In a protected territory, every producer, dealer or carrier shall, at least once a year and whenever required in writing by an inspector and according to the method determined by the Minister, clean and disinfect the premises, machinery, vehicles, implements, containers and clothing that have been in contact with potatoes.

DIVISION V

INSPECTION, SEIZURE AND CONFISCATION

19. The Minister may, with the approval of the Conseil du trésor, appoint the inspectors and analysts necessary for the enforcement of this chapter and determine their remuneration, social benefits and other conditions of employment.

20. No person may hinder an inspector in the performance of his duties, mislead him or refuse to obey him.

An inspector shall, if so required, identify himself and show the certificate signed by the Minister attesting his authority.

21. No inspector may be sued or prosecuted for acts performed in good faith in the performance of his duties.

22. An inspector may, in the performance of his duties,

(1) enter, at any reasonable time, any place where potatoes are kept and examine it; he may examine the equipment and the potatoes, take samples, examine the registers or any other document and take extracts from or copies of them;

(2) visit any field belonging or leased to a producer or used by him, inspect it and take samples;

(3) cause any vehicle containing potatoes to be stopped, board it to inspect it, examine the potatoes and take samples;

(4) require any information or document relating to the application of this Act and regulations and take an extract from or copy of it;

(5) seize without a warrant the potatoes of a producer, dealer, carrier, or consignee if he has reasonable and probable grounds to believe that the potatoes are held, used, treated, sold, delivered or transported in violation of this Act, any regulation or a ministerial order made under section 12.

23. The inspector who seizes potatoes shall prepare a minute indicating in particular

- (1) their description and their quantity or weight;
- (2) the date and place of their seizure;
- (3) the circumstances of and grounds for their seizure;
- (4) the name of their owner or possessor and any other information allowing him to be identified;
- (5) the identity and authority of the seizing officer.

The inspector shall remit a copy to the possessor of the seized potatoes.

24. The inspector shall, without delay, make a report in writing to the Minister of any seizure carried out by him.

25. The inspector shall have custody of the potatoes seized by him until a court decides how they are to be disposed of or until they are disposed of in accordance with the second paragraph or section 26, 28 or 29.

The inspector may sell the potatoes seized by him according to the terms, conditions and price justified by the circumstances. The proceeds of the sale shall be credited to the Minister of Finance in a bank or other financial institution determined by the Minister, and the Deposit Act (R.S.Q., chapter D-5) applies, *mutatis mutandis*.

26. Subject to section 29, the potatoes seized or the proceeds of their sale shall be remitted to their owner or possessor if no charge is laid within ninety days after the date of seizure.

27. On an application by the seizing officer, a justice of the peace may order that the detention period of the seized potatoes or of the proceeds of their sale be extended for a maximum of ninety days.

Before deciding on the merits of the application, the justice of the peace may order that the application be served on a person designated by him.

28. The owner or possessor of the seized potatoes may, at any time, apply to a justice of the peace for their return to him.

The application shall be served on the seizing officer and, in case of a suit, to the plaintiff.

The justice of the peace shall accede to the application where he is convinced that the applicant will suffer serious or irretrievable damage

if the potatoes are detained longer and their return will not hinder the course of justice.

29. Where the owner or possessor of the seized potatoes is unknown or cannot be found, the potatoes or the proceeds of their sale shall be confiscated ninety days after their seizure. The potatoes or proceeds shall subsequently be disposed of according to the instructions of the Minister.

30. Upon conviction of a person guilty of an offence under section 4, 7, 9, 10, 11, 16, 17 or 18, a regulatory provision determined under paragraph 6 of section 31 or a ministerial order made under section 12, the court shall declare the seized potatoes or the proceeds of their sale confiscated.

The potatoes or proceeds shall subsequently be disposed of according to the instructions of the Minister.

DIVISION VI

REGULATIONS

31. The Government may, by regulation

(1) determine how a producer, dealer or carrier shall dispose of potato culls;

(2) prescribe any information, mark or label that a container or package used by a producer, dealer or carrier for the sale or delivery of seed potatoes is required to bear;

(3) prescribe the norms and conditions to which producers must submit in order to plant, in a protected territory, seed potatoes produced by them in that territory and that are not graded in accordance with the Seeds Act;

(4) prescribe the sanitary rules applicable to the handling and transportation of seed potatoes, in particular, with respect to the conditions and methods of cleaning and disinfecting vehicles, containers and other facilities used for such purposes;

(5) prescribe the form or tenor of any notice, authorization, certificate, report, form or other document necessary for the application of this Act;

(6) determine, among the provisions of a regulation made under this section, those the contravening of which is punishable under the terms of section 33.

32. The Government shall publish a draft regulation in the *Gazette officielle du Québec* with a notice that not later than 30 days after its publication, it may be adopted with or without amendment.

The regulation comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

DIVISION VII

PENAL PROVISIONS

§ 1.—*Offences and penalties*

33. Every person who contravenes section 4, 7, 9, 10, 11, 16, 17, 18 or 20, a reglementary provision determined under paragraph 6 of section 31 or a ministerial order made under section 12 is liable, in addition to costs, to a fine of \$200 to \$2 000 in the case of an individual and of \$500 to \$5 000 in the case of a legal person.

For any subsequent offence within two years of the conviction for the same offence, the offender is liable, in addition to costs, to a fine of \$1 000 to \$10 000 in the case of an individual, and \$3 000 to \$30 000 in the case of a legal person.

34. Where a legal person is guilty of an offence contemplated in section 33, the director, employee or representative of the legal person who ordered, authorized or advised the commission of the offence, or agreed thereto, is a party to the offence and is liable to the penalty that applies thereto.

35. Every person who knowingly, by an act or by omission, assists a person in the commission of an offence contemplated in section 33, or advises, encourages or incites a person to commit the offence is himself a party to the offence and is liable to the penalty that applies thereto.

36. Where an offence contemplated in section 33 continues for more than one day, it is considered a separate offence for each day or part of a day during which it continues.

Notwithstanding section 12 of the Summary Convictions Act (R.S.Q., chapter P-15), separate offences may be described in a single count.

37. Proceedings are instituted in accordance with the Summary Convictions Act.

§ 2.—*Proof*

38. In any proceedings for an offence under section 7, paragraph 2 of section 9 or section 10 or 16, the burden of proof is on the person in possession of potatoes which have been the object of a notice provided for in section 5 or 8 that the potatoes are not intended for planting.

39. In any proceedings for an offence under section 16, the burden of proof is on the producer that he has received the authorization prescribed by the said section.

40. In any proceedings for an offence under section 16 or 17, the burden of proof is on the producer that the seed potatoes are of the grade prescribed in the said sections.

41. In any proceedings for an offence under a provision contemplated in section 33, the report of inspection, analysis or sampling and the minutes of seizure signed by an inspector or analyst appointed under section 19, are proof of their content, in the absence of proof to the contrary, without it being required to prove the signature or the authority of the person signing the report.

CHAPTER III

MISCELLANEOUS PROVISIONS

42. Where potatoes are transported without shipping bill, bill of lading or way bill indicating the names and addresses of the sender and of the consignee, they are presumed to be intended for delivery in Québec.

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

[[**44.** The sums required for the administration of this Act are taken, for the fiscal year 1984-85, out of the consolidated revenue fund, to the extent determined by the Government.]]

45. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

46. This Act comes into force on (*insert here the date of its sanction*).