

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 7

**An Act to amend the Québec Industrial
Development Assistance Act**

First reading
Second reading
Third reading



M. RODRIGUE TREMBLAY
Ministre de l'industrie et du commerce

EXPLANATORY NOTES

This bill aims mainly to broaden the scope of intervention of the Société de développement industriel du Québec. Thus, the Corporation may henceforth grant financial assistance

(a) to a business which makes investment in Québec in a dynamic sector of manufacturing that employs modern technology and enjoys high productivity, including investment in the further processing of Québec natural resources;

(b) to a business which amalgamates, acquires or groups together other businesses in order to become more competitive and increase its share of the market, if these operations have an incidence in the manufacturing sector;

(c) to a business which makes investment in Québec in a sector of manufacturing and is able to demonstrate that it has higher than average potential for development in that sector;

(d) to a business which operates a distribution network or markets products mainly manufactured in Québec by one or more manufacturing businesses and is controlled by one or more of these businesses;

(e) to a business which contributes towards the export of goods manufactured in Québec, thereby promoting the development of the manufacturing sector;

(f) to a business which operates in the manufacturing sector and is unable to obtain financial assistance at reasonable rates and on reasonable conditions.

The bill defines the functions of the Corporation as the stimulation of the economic development, consolidation and transformation of the industrial structure of Québec by promoting better interrelations in business activities, increased participation of the population of Québec in economic activities and the creation of new jobs by the granting of financial assistance provided for in the act.

The bill also aims to give the Corporation the power to grant certain forms of financial assistance on its own initiative without the authorization of the Government, the Ministre de l'industrie et du commerce or the Ministre des finances.

The bill also provides for the constitution of an endowment for the Corporation in the amount of \$100 millions, which the Ministre des finances may pay to it in several instalments. Each instalment will have to be allocated by the Corporation to the repayment of advances made to it.

Finally, the bill provides that the Corporation must demand from a business repayment of financial assistance it has received if the majority of the shares or more than one-half of the assets of the business are transferred, within five years from the granting of the financial assistance, to a business not having its head office in Québec or a person not resident in Québec. The Minister may however exempt it from this requirement if he considers that the transfer is in the economic interest of Québec.

Sec. 1. *Sections 2 to 6 of the act presently read as follows:*

“2. The Minister shall be entrusted with stimulating the economic development and the transformation of the industrial structure of the province of Québec by promoting better interrelations in business activities, increased participation of the population of the Province in economic activities, and the creation of new jobs; for such purposes, he shall grant the necessary financial assistance to manufacturing businesses which, in accordance with the criteria prescribed by the regulations,

(a) invest in the province of Québec in making use of advanced technology to manufacture a newly-conceived product, a product not yet manufactured in the province of Québec or a product whose production on a competitive basis in the province of Québec is insufficient in relation to domestic or international markets which offer prospects of continuous, significant growth;

(b) consolidate their means of production or pool their operations in whole or in part so as to become more competitive and increase their share of the market and for such purposes amalgamate with one another, acquire other businesses or their means of production, or pool their resources or interests in any other manner;

(c) although profitable, are unable to obtain financial assistance otherwise at reasonable rates and on reasonable conditions, and would contribute more effectively to the economic development of the province of Québec, or any of its regions, if they obtained financial assistance.

The Minister shall also be entrusted with granting for the purposes above mentioned financial assistance to manufacturing or commercial businesses which, in accordance with the regulations, export products manufactured in the province of Québec.

“3. To be entitled to financial assistance, a manufacturing business must be managed by administrators who give evidence of competence and efficiency and have the experience required to ensure the achievement of the purposes for

Bill 7

An Act to amend the Québec Industrial Development Assistance Act

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

1971, c. 64,
ss. 2 to 6,
replaced.

1. Sections 2 to 6 of the Québec Industrial Development Assistance Act (1971, chapter 64) are replaced by the following sections:

Assistance
to busi-
nesses.

“2. Financial assistance may, in accordance with the regulations, be granted to a business which

(a) makes investment in Québec in a dynamic sector of manufacturing which employs modern technology and enjoys high productivity, including investment in the further processing of Québec natural resources;

(b) acquires property or shares of a business, amalgamates with one or more other businesses, or groups together the whole or a part of the resources or interests of other businesses in order to become more competitive and increase its share of the market, if that acquisition, amalgamation or grouping together has an incidence in the manufacturing sector;

(c) makes investment in Québec in a sector of manufacturing and is able to demonstrate that it has higher than average potential for development in that sector;

(d) operates a distribution network or markets products manufactured mainly in Québec by one or more manufacturing businesses and is controlled by one or more of these businesses;

(e) contributes toward the export of products manufactured in Québec, thereby promoting the development of the manufacturing sector;

(f) operates in the manufacturing sector and is unable to obtain financial assistance otherwise at reasonable rates and on reasonable conditions.

which such assistance is applied for, and the proper functioning and profitability of the business.

“4. Financial assistance may be granted to a manufacturing business for one or more of the following purposes:

(a) the purchase, construction, improvement or extension of works or manufactories and the purchase of the land required for the operation of such works or manufactories;

(b) the purchase of machinery, tools and equipment for operating works or manufactories and their installation;

(c) the acquisition or use of patents;

(d) the improvement or consolidation of the financial structure of the business;

(e) the purchase of shares in manufacturing or commercial businesses contemplated in section 2.

“5. Financial assistance may be in the form of a loan made by the Corporation and secured by hypothec, mortgage or pledge on real estate or machinery, or in any other manner considered appropriate.

It may also be in the form of a guarantee by the Corporation to repay all or part of any loan, including interest, made to such a business.

“6. The loans contemplated in the first paragraph of section 5 shall be granted at the interest rate current on the day when the loan is granted.

Nevertheless, such loans may be granted at a lower rate to a business contemplated in paragraph *a* or *b* of section 2 or in the second paragraph of such section.

Such loans may also be the object of an assumption under paragraph *a* of section 8.”

Sec. 2. The proposed amendment provides concordance with section 1 of the bill, which enacts section 3c of the act.

The second paragraph of section 7 presently reads as follows:

“It may also be in the form of the acquisition by the Corporation of shares in a business contemplated in section 2, provided that at no time it holds the majority of the capital stock of such business; moreover, the Corporation shall not hold securities which increase its total investment in shares of such businesses to more than 30% of its total assets.”

Sec. 3. The proposed amendment provides concordance with section 1 of the bill.

Section 8 of the act presently reads as follows:

Forms of
assistance.

“3. Financial assistance may be granted in the form of

(a) a loan;

(b) a guarantee of repayment of the whole or a part of a financial commitment;

(c) an acquisition of shares of the capital stock of a business, provided the Corporation is not the majority holder thereof at any time;

(d) an assumption of part of the borrowing costs of a business;

(e) a partial exemption from repayment of a loan made by the Corporation for the benefit of a business contemplated in paragraph *e* of section 2.

Demand
for repay-
ment.

“4. The Corporation must demand repayment from a business of financial assistance it has received under paragraph *d* or *e* of section 3, and the business is bound to repay it, if the majority of the shares of the capital stock or more than one-half of the assets of the business are transferred, within five years from the granting of the financial assistance, to a business not having its head office in Québec, as defined by regulation, or a person not resident in Québec.

Notifica-
tion to
Minister.

Before acting in compliance with the first paragraph, the Corporation must notify the Minister of its intention to do so, and the Minister may then exempt the Corporation from this requirement if he considers that the transfer is in the economic interest of Québec.

Interest
rate.

“5. Loans granted under this act shall be at the current market rate, except in the cases provided for by regulation, where the applicable rate of interest will be fixed in the regulation.”

1971, c. 64,
s. 7, am.

2. Section 7 of the said act, amended by section 4 of chapter 56 of the statutes of 1974, is amended by replacing the second paragraph by the following paragraph:

Shares
held by
Corpora-
tion.

“The Corporation shall not hold securities which increase its total investment in shares of businesses to which it has granted assistance to more than 30 per cent of its total assets.”

1971, c. 64,
ss. 8, 9, re-
pealed.

3. Sections 8 and 9 of the said act are repealed.

"8. In the case of a business contemplated in paragraph *a* or *b* of section 2 or in the second paragraph of such section, financial assistance may be granted in addition to the other terms and conditions provided by this act, under the following forms:

(a) assumption by the Corporation of part of the cost of loans contracted by the business;

(b) exemption of the business from repayment of any part of a loan which it has contracted from the Corporation when such business establishes that since the date of the loan its performance has improved to the extent determined by the regulations, and that with financial assistance it has created and will create numerous jobs in accordance with the criteria prescribed by the regulations."

Section 9 of the act presently reads as follows:

"9. No guarantee given by the Corporation under the second paragraph of section 5 shall be valid unless the Minister of Finance declares over his signature on the document evidencing such guarantee that he has taken cognizance of it."

Sec. 4. The proposed amendment determines certain conditions which a business must fulfil to obtain financial assistance. For these purposes, it replaces section 3 of the act.

Sec. 5, 6, 7. The proposed amendments are intended in particular to grant to the Corporation rather than to the Minister the power to grant, under certain forms, financial assistance to a business.

Sections 12, 13 and 14 of the act presently read as follows:

"12. Upon receipt of the application, the Corporation shall send a copy of it to the Minister and shall investigate to determine whether the grant of the financial assistance applied for would have the effect of promoting the achievement of the purposes contemplated in paragraph *a*, *b* or *c* of section 2, or in the second paragraph of such section, as the case may be, and whether the business for which assistance is applied for fulfils the conditions required by this act and the regulations.

"13. Upon terminating its investigation, the Corporation shall report to the Minister and submit its recommendations to him.

The Corporation may recommend that the application be approved in part only, or approved for an amount or in a form other than that applied for. It may also recommend that the application be refused, or be approved only upon the conditions which the Corporation indicates.

If the recommendation of the Corporation is that the assistance applied for be refused, and the Minister agrees with such recommendation, he shall return the application to the Corporation which shall immediately notify the applicant of the refusal of his application.

1971, c. 64,
s. 11, am.

4. Section 11 of the said act is amended by adding the following paragraph:

Additional
informa-
tion.

“That person must establish that the financial perspectives of the business for which financial assistance is applied for are adequate for the fulfilment of its commitments and that its management has the competence required for the achievement of its objects.”

1971, c. 64,
s. 12, re-
placed.

5. Section 12 of the said act, amended by section 7 of chapter 56 of the statutes of 1974, is replaced by the following section:

Processing
of applica-
tion.

“12. Subject to sections 14 and 14-1, the Corporation shall examine the application, determine whether the business fulfils the conditions provided for by this act and the regulations and, where such is the case, determine the financial assistance it intends to grant to it.”

1971, c. 64,
s. 13, re-
pealed.

6. Section 13 of the said act is repealed.

1971, c. 64
s. 14, re-
placed; ss.
14-1, 14-2,
added.
Report to
Minister.

7. Section 14 of the said act is replaced by the following sections:

“14. Where a business wishes to obtain financial assistance contemplated in paragraph *d* or *e* of section 3, the Corporation, after examining the application and determining whether the business fulfils the conditions provided for in this act and the regulations, shall report to the Minister and submit its recommendations to him.

Recom-
mendation
by the Cor-
poration.

The Corporation may recommend that the application be refused, or be approved only upon the conditions which it indicates.

"14. Financial assistance shall be granted only with the authorization of the Lieutenant-Governor in Council on the recommendation of the Minister, and upon the conditions which the Lieutenant-Governor in Council determines. Nevertheless, in the cases provided for by the regulations, the Minister may grant such assistance without such authorization.

The Corporation is bound by the authorization of the Lieutenant-Governor in Council or the decision of the Minister, as the case may be.

The Corporation must advise the applicant forthwith that his application has been granted or refused and of the conditions fixed by the Lieutenant-Governor in Council, if any."

Sec. 8. The proposed amendment determines the functions of the Société de développement industriel du Québec, which are, under the present act, conferred on the Minister under section 2.

Sec. 9. The proposed amendment changes from 30 June to 31 July of each year the date on which the Corporation must, at the latest, make a report to the Minister of its activities for its previous fiscal year.

Sec. 10. The proposed amendment introduces new legislation.

Authoriza-
tion of Lt-
Gov. in C.

"14-1 Financial assistance contemplated in paragraphs *d* and *e* of section 3 is granted upon a decision of the Minister with the prior authorization of the Lieutenant-Governor in Council and on the conditions determined by the latter.

Authoriza-
tion of
Minister.

Nevertheless, the Minister, on the conditions determined by him, may grant that assistance without that authorization in the cases provided for by regulation.

Corpora-
tion bound.

The Corporation is bound by the authorization of the Lieutenant-Governor in Council or the decision of the Minister, as the case may be.

Applicant
advised.

"14-2 The Corporation must advise the applicant immediately that his application has been granted or refused and of the conditions fixed by the Lieutenant-Governor in Council or by the Minister, as the case may be, if any."

1971, c. 64,
s. 18-1,
added.

8. The said act is amended by inserting after section 18 the following section:

Functions
of the
Corpora-
tion.

"18-1 The functions of the Corporation are to stimulate the economic development, consolidation and transformation of the industrial structure of Québec by promoting better interrelations in business activities, increased participation of the population of Québec in economic activities and the creation of new jobs by the granting of financial assistance provided for by this act."

1971, c. 64,
s. 34, am.

9. Section 34 of the said act, amended by section 29 of chapter 15 of the statutes of 1975, is amended by replacing the first paragraph by the following paragraphs:

Annual
report.

"34. Not later than 31 July each year, the Corporation must make a report to the Minister of its activities for its previous fiscal year. That report must also contain all the information that the Minister may prescribe.

Tabling.

The Minister shall table the report of the Corporation before the Assemblée nationale within thirty days after its receipt. If he receives it while the Assemblée nationale is not sitting, he shall table it within thirty days of the opening of the next session or, as the case may be, within fifteen days of resumption."

1971, c. 64,
s. 34-1,
added.

10. The said act is amended by inserting, after section 34, the following section:

Approval.

"34-1 The Corporation must have its plan of financial assistance approved each year by the Government.

Sec. 11. *The proposed amendment provides concordance with section 46-1 of the act enacted by section 13 of the bill and substantially reproduces subparagraph b of the first paragraph of section 45 of the act.*

Sec. 12. *The proposed amendment provides concordance with section 1 of the bill.*

Sec. 13. *The proposed amendment is entirely new legislation.*

Sec. 14. *The proposed amendments provide concordance with section 1 of the bill and aim at amending the regulatory powers of the Lieutenant-Governor in Council.*

Form and
content of
plan.

The Minister shall determine the form and tenor of the plan of financial assistance and the time when it must be submitted."

1971, c. 64,
s. 45, am.

11. Section 45 of the said act, amended by section 12 of chapter 56 of the statutes of 1974, is again amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(b) authorize the Ministre des finances to advance to the Corporation, notwithstanding section 46-1, any amount considered necessary for the carrying out of this act, at such rate of interest, for such time and on such other conditions as the Lieutenant-Governor in Council may determine."

1971, c. 64,
s. 46, am.

12. Section 46 of the said act, amended by section 13 of chapter 56 of the statutes of 1974 and by section 30 of chapter 15 of the statutes of 1975, is again amended by replacing the first paragraph by the following paragraph:

Payment
by Min-
ister.

"**46.** The Ministre des finances shall, at the request of the Corporation, pay the moneys required for the application of paragraphs *d* and *e* of section 3 and, when there is a loss for the Corporation, for the application of section 10."

1971, c. 64,
s. 46-1,
added.

[[**13.** The said act is amended by inserting after section 46 the following section:

Payment of
endow-
ment.

"**46-1** The Ministre des finances is authorized to pay to the Corporation in several instalments, out of the consolidated revenue fund, an amount of one hundred million dollars to constitute an endowment.

Repay-
ment of
advances.

Each of these instalments must be allocated by the Corporation to the repayment of advances that the Ministre des finances has granted to it under section 45 or by which it has benefited under section 53.]]

1971, c. 64,
s. 48, am.

14. Section 48 of the said act, amended by section 14 of chapter 56 of the statutes of 1974 and by section 31 of chapter 15 of the statutes of 1975, is again amended:

(a) by replacing subparagraphs *b*, *c* and *d* of the first paragraph by the following subparagraphs:

"(b) establish criteria applicable to businesses to determine whether they are subject to the application of section 2, having regard particularly to the class to which such businesses belong, the products they produce and the regions in which they are established;

Sec. 15. *Section 51 of the act presently reads as follows:*

“51. The Corporation shall not dispose of property of which it takes possession following the default of its owner to fulfil his obligations, unless it has called for public tenders or obtained the authorization of the Treasury Board.”

“(c) determine the methods of grouping together businesses which qualify them for financial assistance under paragraph *b* of section 2;

“(d) determine the amount below which financial assistance may be granted by the Minister under section 14-1 without the prior authorization of the Lieutenant-Governor in Council;”;

(*b*) by replacing subparagraphs *f*, *g*, *h* and *i* of the first paragraph by the following subparagraphs:

“(f) determine the nature and extent of the security which must be required or accepted by the Corporation when financial assistance is granted to a business;

“(g) determine the methods which must be used to establish the current market rate of interest contemplated in section 5;

“(h) determine the cases where the rate of interest granted on loans is lower than the current rate and the rate of interest then applicable;

“(i) determine the conditions upon which part of the cost of the loans contracted by a business may be assumed by the Corporation under paragraph *d* of section 3, the maximum term of such loans, the norms with which they must comply and the classes of financial institutions with which they may be contracted;”;

(*c*) by replacing subparagraphs *m* and *n* of the first paragraph by the following subparagraphs:

“(m) determine on what conditions a business contemplated in paragraph *e* of section 2 may benefit by a partial exemption from repayment of a loan;

“(n) determine, for the purposes of paragraph *e* of section 2, the businesses which may be considered as businesses contributing toward the export of products manufactured in Québec and the conditions they must fulfil to be entitled to receive financial assistance;

“(n-1) define, for the purposes of section 4, what is the head office of a business;”.

1971, c. 64,
s. 51, re-
placed.

15. Section 51 of the said act is replaced by the following section:

Public
tenders.

“51. The Corporation or a trustee acting in its name shall not dispose of property of which it takes possession following the default of its owner to fulfil his obligations, unless it has called for public tenders.”

Coming
into force.

16. This act comes into force on the day of its sanction.