

FOURTH SESSION

THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 51

**An Act respecting the development of Québec
firms in the book industry**

First reading

Second reading

Third reading

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L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

The main object of this bill is

(a) *to oblige the Government and various classes of public bodies to buy their books from accredited bookstores, according to a procedure and norms established by regulation;*

(b) *to limit to publishers, distributors and booksellers who are accredited or eligible for accreditation the aid that the Government and its departments and agencies are authorized to grant in the book industry;*

(c) *to make certain norms and rules, respecting the mode of computation of the sales prices of books distributed in Québec, applicable to book distribution and bookselling firms;*

(d) *to provide for the issue of certificates of accreditation to Québec publishers, distributors and booksellers, and the obligations these persons will be required to observe;*

(e) *to institute an advisory board on reading and the book industry, whose function will be to advise the Minister on the matters he submits to it.*

This bill replaces the Booksellers Accreditation Act, and amends the Cultural Affairs Department Act in order to specify the Minister's responsibilities respecting a development policy on the book industry.

Bill 51

An Act respecting the development of Québec firms in the book industry

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

DIVISION I

GENERAL PROVISIONS

1. The aid which may be granted, according to law, by the Government or a government department, agency or mandatary to a person carrying on a publishing, distribution or bookselling business shall be granted only to persons holding a certificate of accreditation issued under this act or being eligible therefor.

2. Any acquisition of books on behalf of a department of the Government, a government agency or mandatary, or a body mentioned in the Schedule must, to be valid, be made from a bookseller holding a certificate of accreditation issued under this act.

This acquisition must be made in conformity with the procedure, conditions, norms and scales determined by regulation of the Government, and accredited booksellers must comply with this regulation.

3. No person may use the title of accredited publisher, accredited distributor or accredited bookseller nor hold out that a firm or establishment is accredited unless he holds a certificate of accreditation issued under this act.

4. Every person who distributes books in Québec must comply with the norms and scales determined by regulation of the Government regarding the mode of calculating sales prices.

DIVISION II

ADVISORY BOARD ON READING AND THE BOOK INDUSTRY

5. An advisory board on reading and the book industry is instituted.

The board is composed of not over fifteen members, including the chairman.

After consultation with the major groups, associations and bodies representing the circles of writers, consumers and firms in the book industry, the Minister shall appoint not over twelve of such members, including the chairman.

Three other members shall be civil servants designated respectively by the *Ministre des affaires culturelles*, the *Ministre de l'éducation* and the *Ministre des communications*. The latter members shall not, however, have the right to vote.

6. The members shall be appointed for not more than three years.

They shall remain in office at the expiry of their term until they are reappointed or replaced.

Any vacancy occurring during the term of office of a member shall be filled for the remainder of his term in the mode provided for his appointment or designation.

If the chairman is absent or unable to act, the Minister shall designate the member to replace him for the duration of his absence or disability.

7. The board shall advise and make suggestions to the Minister, at his request or on its own initiative, in respect of any matter pertaining to the application of this act and the regulations.

8. The secretary and the other members of the personnel of the board are appointed and remunerated in accordance with the *Civil Service Act (1978, chapter 15)*.

9. No member of the board may, on pain of forfeiture of office, participate in deliberations on a matter respecting an undertaking in which he has a personal interest.

10. The board may, by by-law,
(a) provide for its internal management;

(b) form committees, determine their composition and delegate to them the exercise of the functions vested in it by this act.

Every by-law contemplated in the first paragraph comes into force on approval by the Minister.

11. Minutes of the meetings of the board and of its committees certified true by the chairman or the secretary are authentic, as is a document or copy emanating from the board, if it is signed by the chairman or the secretary.

12. Not later than 30 June each year, the board shall remit to the Minister a report of its activities for its preceding fiscal period. This report shall also contain all the information the Minister may require.

The Minister shall table the report before the Assemblée nationale if it is in session; if it is not, he shall table it within thirty days of the opening of the next session, or within fifteen days of resumption, as the case may be.

13. The members of the board shall not be remunerated. However, those members of the board or of its committees who are not members of the civil service staff or of a body whose members are appointed by the Government are entitled to the reimbursement of justifiable expenses incurred by them in the performance of their duties, or to receive an attendance allowance determined by regulation of the Government.

DIVISION III

SECTION III

ISSUE OF THE CERTIFICATE OF ACCREDITATION

14. Every person is eligible for accreditation provided that he carries on in Québec, on his own behalf, publishing, distribution or bookselling activities in conformity with the norms and conditions determined by regulation of the Government.

15. Every natural person is eligible for accreditation if he is a Canadian citizen domiciled in Québec.

Every artificial person is eligible for accreditation if,

(a) in the case of a joint stock corporation, all the shares of its capital stock are the property of one or several persons who are Canadian citizens domiciled in Québec and if all its directors and executive officers are Canadian citizens domiciled in Québec;

(b) in the case of a corporation without capital stock, all its members are Canadian citizens domiciled in Québec; and

(c) in the opinion of the Minister, it is not directly or indirectly controlled by one or several persons not eligible for accreditation.

16. Every eligible person who applies for accreditation shall transmit his application to the *Ministre des affaires culturelles* on the form furnished by the latter, within the period and with the information and documents determined by regulation of the Government.

17. Before deciding on an application for accreditation, the Minister shall obtain the advice of the council.

18. The Minister may refuse to issue a certificate of accreditation to an eligible person who,

(a) during the five preceding years, has been the object of an assignment of property or of a proposal or judgment of bankruptcy, either personally or as a major shareholder, executive officer or director of a corporation or partnership;

(b) during the three preceding years, has been convicted of an offence against this act or the regulations, or of an indictable offence;

(c) in the opinion of the Minister, carries on his activities under the effective control of a person not eligible for accreditation.

19. The Minister may subject the issue of a certificate of accreditation to the conditions determined by regulation of the Government.

20. A certificate of accreditation issued by the Minister remains in force so long as the holder complies with this act and the regulations.

However, the Minister may issue a certificate of accreditation for a determinate period or temporarily where he thinks it necessary, or, in the cases determined by regulation of the Government, require a new application for accreditation.

21. The holder of a certificate of accreditation shall previously inform the Minister in writing of any change of residence, alienation of assets or shares or of any operation making him ineligible for accreditation.

DIVISION IV

CANCELLATION OR SUSPENSION OF
CERTIFICATES OF ACCREDITATION

22. The Minister may cancel or suspend a certificate of accreditation or modify its conditions, if the holder

(a) continuously and repeatedly contravenes this act and the regulations;

(b) has ceased, continuously or repeatedly, to meet the conditions, requirements, norms or qualifications required for the issue of a certificate of accreditation or attached to the certificate;

(c) makes a false declaration, furnishes false information, commits any fraud or misappropriates funds in requesting or using the Government aid contemplated in section 1.

Where such an act or omission is continuous or repeated, the Minister shall transmit to the person concerned, by registered or certified mail, a notice of the measures he intends to take in conformity with section 23.

23. Before deciding on the cancellation, suspension or any modification of the certificate of accreditation, the Minister shall give the person concerned the opportunity to be heard and obtain the advice of the board.

24. A certified true copy of the substantiated decision of the Minister shall be transmitted by registered or certified mail to the person concerned.

DIVISION V

APPEAL TO THE PROVINCIAL COURT

25. Any person whose application for accreditation is refused or whose certificate of accreditation is cancelled or suspended may appeal from the Minister's decision to the Provincial Court, by a motion brought within thirty days of the reception of the decision of the Minister, if

(a) the reasons of fact or of law invoked in support of the decision are clearly erroneous;

(b) the proceedings are affected by gross irregularity.

26. The motion shall contain a brief statement of the reasons invoked. It shall be filed in the office of the Provincial Court in the chief place of the judicial district where the appellant is

domiciled; it shall be accompanied with a notice of ten days or more of the date of its presentation and served on the Minister.

The motion shall not be contested in writing but the court may, upon its presentation, allow the parties to present the evidence considered necessary.

27. The appeal does not suspend the execution of the decision of the Minister unless the Court orders otherwise.

28. The rules of the Code of Civil Procedure respecting the administration of proof, hearing and judgment apply, *mutatis mutandis*, to the appeal brought under this division.

29. The decision of the Court shall be in writing, substantiated and signed. It shall be without appeal.

The clerk of the Court shall, within eight days of the decision, transmit a copy of it to each party by registered or certified mail.

DIVISION VI

ADMINISTRATION

30. The Minister may delegate, in writing and to the extent he indicates, the powers conferred upon him by this act and the regulations, to any person designated by the Government.

31. The Minister shall designate persons in view of seeing to the application of this act or the regulations.

He may order such persons

(a) to enter, during ordinary office hours, in the presence of an employee or of the person in charge, any establishment, office, place of business or premises of a publisher, distributor, bookseller, institution or body subject to this act or the regulations, and examine account books, returns, registers or any other relevant documents;

(b) require, of any person who has custody or control thereof or access thereto, any information regarding the application of this act or the regulations and the production of any document pertaining thereto.

32. No person may hinder, in any manner, a person contemplated in section 31 in the performance of his duties, mislead him by means of concealment or false declarations or refuse to

furnish to him a document or information he has the right to obtain under this act or a regulation.

33. No person designated by the Minister under section 31 may be prosecuted for an official act done in good faith in the performance of his duties.

34. A person designated by the Minister to exercise the functions provided by this act or the regulations shall, if requested to do so, exhibit proof of his designation for such purpose.

35. Any information obtained by the Minister in the application and carrying out of this act and the regulations is confidential and shall not be communicated or accessible to a person not legally entitled thereto, except with the authorization of the person concerned or in any other case provided for by regulation of the Government.

However, communication of such information for the purposes of study, research or statistics may be authorized by the Minister, provided that the anonymity of the person concerned is respected.

36. Every department, agency and mandatory of the Government, and every body contemplated in the schedule shall, at the demand of the Minister, furnish to him any information required for the application and carrying out of this act and the regulations.

However, the first paragraph does not apply to information obtained in the application of a fiscal law within the meaning of the Revenue Department Act (1972, chapter 22).

DIVISION VII

REGULATIONS

37. The Government may make regulations, upon the recommendation of the Minister, who shall obtain the advice of the board,

(1) determining anything that must be determined by regulation under this act;

(2) defining what is meant in this act by book, publishing, publisher, distribution, distributor, bookstore, bookseller and control;

(3) determining the form and tenor of the documents to be transmitted by those applying for accreditation;

(4) determining the activities, occupations or professions incompatible with those carried on by the person eligible for accreditation;

(5) dispensing, in whole or in part, a category of persons, an undertaking, an activity or a service from the application of this act and the regulations;

(6) establishing regions and, as the case may be, prescribing for the purposes of the application of this act and the regulations, specific norms, terms and conditions for each of them.

38. Every regulation made under this act comes into force from the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

DIVISION VIII

OFFENCES AND PENALTIES

39. Every person who

(a) contravenes this act or a regulation,

(b) makes a false declaration in an application for accreditation or for a transfer of accreditation or in a document or information required by the Minister under this act or a regulation, or

(c) purchases or sells, or offers to purchase or sell property or a service contemplated in this act or a regulation in a manner not in conformity with this act or the regulations,

is guilty of an offence.

40. Where a corporation, association, partnership, institution or body subject to this act or a regulation is guilty of an offence, a director, member, partner, employee, officer or any representative of that corporation, association, partnership, institution or body who authorizes or promotes the commission of an offence is liable to the same penalty as that provided for the offender.

41. Every person who is convicted of an offence against this act or a regulation is liable, on summary proceedings, in addition to the costs,

(a) to a fine of not under \$200 nor over \$1 000 for a first offence and a fine of not under \$400 nor over \$2 000 for any subsequent offence against a similar provision of this act or the regulations within a period of two years, where a person other than the person contemplated in paragraph *b* is guilty of the offence;

(b) to a minimum fine equal to three times and a maximum fine equal to six times those provided for in paragraph a where a corporation, association, partnership, institution or body is guilty of the offence.

42. Proceedings are brought under the Summary Convictions Act (Revised Statutes, 1964, chapter 35) by the Attorney General or any person generally or specially authorized by him for such purpose.

DIVISION IX

TRANSITIONAL AND FINAL PROVISIONS

43. This act replaces the Booksellers Accreditation Act (1965, 1st session, chapter 21).

44. Every regulation or order made under the Booksellers Accreditation Act remains in force to the extent that it is in accordance with this act and the regulations, until it is repealed, amended or replaced by a regulation made under this act.

45. Every certificate of accreditation issued under the Booksellers Accreditation Act remains in force until 31 December 1979 or, if an application form has been filled, until the Minister issues or refuses to issue a certificate of accreditation under this act.

46. In any act, proclamation, order in council, contract or document, any reference to the Booksellers Accreditation Act is deemed to be a reference to this act.

47. The advisory board on reading and the book industry succeeds to the advisory committee contemplated in section 3 of the Booksellers Accreditation Act.

48. The Cultural Affairs Department Act (Revised Statutes, 1964, chapter 57) is amended by inserting, after section 4, the following sections:

“4a. The Minister shall propose to the Government a book industry development policy and, within the scope of that policy, devise rules respecting the acquisition of books on behalf of departments, agencies and bodies contemplated in section 2 of the Act respecting the development of Québec firms in the book industry (1979, chapter *insert here the chapter number of Bill 51*) and norms and scales respecting the mode of calculating the sales prices of books distributed in Québec.

4 b. The Minister shall coordinate the implementation of the book industry development policy approved by the Government and see to the application of the rules adopted by it in respect of that industry.

4 c. For the purposes of the application of this act or any other act for which he is responsible, the Minister may

(a) make, according to law, an agreement with any government, department or governmental body or with any other person;

(b) grant aid to any person whose activities are under his authority in virtue of this act.”

[[**49.** The sums required for the application of this act are taken, for the fiscal periods 1979/1980 and 1980/1981, out of the consolidated revenue fund and, for the subsequent fiscal periods, out of the sums granted annually for such purpose by the Legislature.]]

50. The procedure established under the second paragraph of section 2 applies to a body mentioned in the schedule notwithstanding any inconsistent provision of any act governing that body.

51. The Ministre des affaires culturelles is responsible for the application of this act.

52. This act will come into force on the date to be fixed by proclamation of the Government, except the provisions excluded by that proclamation, which will come into force, in whole or in part, on any later date that may be fixed by proclamation of the Government.

SCHEDULE

(a) The municipal corporations, county municipalities, urban and regional communities and any body under their authority, whatever their designation and the act governing them may be;

(b) school boards and any body under their authority, whatever the act governing them may be;

(c) general and vocational colleges;

(d) the institutions subject to the Private Education Act (1968, chapter 67);

(e) public libraries and general lending libraries within the meaning of the Public Libraries Act (Revised Statutes, 1964, chapter 59);

(f) the establishments governed by the Act respecting health services and social services (1971, chapter 48).