

FOURTH SESSION  
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

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**Bill 75**

**Grain Act**

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First reading .....

Second reading .....

Third reading .....

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M. JEAN GARON

Ministre de l'agriculture et de l'alimentation

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L'ÉDITEUR OFFICIEL DU QUÉBEC

1979

## EXPLANATORY NOTES

*The main object of this bill is to promote the improvement of the quality of the grain used in Québec. To that end, the bill provides for the setting up of the Régie des grains du Québec.*

*The board (Régie des grains du Québec) will be charged with setting up and implementing a grade system for the grading of the grain used in Québec. It will provide protection for the producers who entrust their production to regional storing centres and to drying centres. Furthermore, the board will see to the implementation of the conditions prescribed for programmes devised by the Ministre de l'agriculture et de l'alimentation in respect of undertakings providing grain treatment, grain storage or grain manufacturing services.*

*The board will be responsible for the issuance of permits for grain dealers, regional storing centres and drying centres. The permit will be required only to the extent that a grain handling undertaking wishes to use the grade name prescribed by regulation for a grade of grain.*

*However, once a permit is issued to a grain undertaking it will be required to carry on its activities in compliance with this act.*

*Finally, the bill provides that the Government will be empowered to make agreements with other governments for the purpose of implementing this act and to make the grading system used in Québec consistent with any other grading system.*

# Bill 75

## Grain Act

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

### DIVISION I

#### INTERPRETATION AND APPLICATION

**1.** In this act and in the regulations, unless the context indicates otherwise,

“regional centre” means an establishment where services are offered for the handling, drying, screening, storage and grading of grain in conformity with the grading system established by regulation;

“drying centre” means an establishment, other than a regional centre, where services are offered for the handling, drying, screening and grading of grain in conformity with the grading system established by regulation;

“grain” means wheat, barley, oats, corn, rye, Faba beans, soybeans, field peas or colza, or any other substance designated as grain by regulation;

“grain dealer” means a person who, on his own behalf or on behalf of another person receives grain for the purposes of storing, selling, reselling, manufacturing or processing it;

“person” means a natural person, a corporation or a partnership;

“programme” means a programme or plan or a project prepared by the Ministre de l’agriculture et de l’alimentation under the Act respecting the Ministère de l’agriculture et de l’alimentation (R.S.Q., c. M-14);

“producer” means a person who produces or causes the production of grain for purposes other than his own consumption or that of the members of his household.

## DIVISION II

### ESTABLISHMENT AND FUNCTIONS OF THE RÉGIE DES GRAINS DU QUÉBEC

**2.** A board is hereby established under the name of “Régie des grains du Québec”.

**3.** The functions of the board are

(1) to promote the improvement of the quality of grain, particularly by implementing a grading system and standards of quality;

(2) to promote a steady supply of grain of good quality;

(3) to protect producers by seeing to it that grain dealers, regional centres and drying centres are solvent;

(4) to supervise the application of the conditions of a programme relating to grain and the conditions of an agreement to which the Ministre de l’agriculture et de l’alimentation is a party for the implementation of the programme; and

(5) to issue, renew, suspend or cancel the permits contemplated in this act and supervise the operation of such permits.

**4.** The Government, according to law, may enter into agreement with another government or an agency of that government for the purposes of the application of this act and the regulations or in relation to any act or regulation that that government or any agency of that government is charged with implementing.

The Government may, on such conditions as it may determine, authorize the board to act as the agent of another government or of an agency of that government and perform in the name of that government or agency a function that it is authorized by law to exercise in relation to the quality, the grading, the storing, the handling or the marketing of grain.

**5.** The board is composed of not more than five commissioners including a chairman and a vice-chairman appointed by the Government for a term of not more than five years.

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

**6.** The Government shall fix the remuneration and the other conditions of employment of commissioners.

The amount of the remuneration, once fixed, cannot be reduced.

**7.** The retirement pension plan of the chairman is the plan provided under the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10).

**8.** The chairman shall discharge his duties on a full-time basis. He is also the director general of the board and is responsible for its administration.

If the chairman is temporarily absent or unable to act, the vice-chairman shall replace him in the interim.

**9.** If a commissioner is temporarily absent, the Government may, on such conditions as it may determine, appoint a person to replace him in the interim.

**10.** The chairman shall not, on pain of forfeiture of office, have any direct or indirect interest in an undertaking placing his personal interest in conflict with the interest of the board.

However, forfeiture is not incurred if the interest devolves to him by succession or gift, provided he renounces or disposes of it with all possible dispatch.

The mere fact of being a producer does not constitute a conflict of interest within the meaning of this section.

**11.** Any commissioner other than the chairman having a direct or indirect interest in an undertaking that places his personal interest in conflict with that of the board must, under pain of forfeiture of office, disclose it in writing to the chairman and abstain from taking part in any discussion or decision relating to the undertaking in which he has an interest.

A commissioner other than the chairman may, however, be a minor shareholder in an undertaking contemplated in the first paragraph, if it is a corporation whose shares are listed stocks.

**12.** Neither the board nor a commissioner may be prosecuted by reason of official acts done in good faith in the performance of their duties.

**13.** No extraordinary recourse provided by articles 834 to 850 of the Code of Civil Procedure may be exercised nor any injunction granted against the board or the commissioners acting in their official capacity.

A judge of the Court of Appeal may, on a motion, summarily annul any writ, order or injunction issued or granted contrary to the first paragraph.

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

**15.** The members of the personnel of the board must provide assistance for the drafting of an application for a permit to every person who requests it.

**16.** The head office of the board is at the place determined by the Government.

A notice of the location or of a change of location of the head office must be published in the *Gazette officielle du Québec*.

The board may hold its sittings anywhere in Québec.

**17.** Three commissioners, one of whom is the chairman, are a quorum of the board.

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

Decisions of the board are recorded in writing.

**18.** The minutes of a sitting, approved by the board and signed by the chairman, the secretary or the person designated by the board, are authentic.

The chairman, the secretary or the other person designated by the board also may certify, with his signature, that a document is an original or a true copy of a document emanating from the board or forming part of its records.

**19.** Any person may examine the records and obtain a copy on payment of a fee prescribed by regulation.

Investigation reports and evidence in support thereof are kept in a separate record and cannot be examined except with the authorization of the chairman.

**20.** The fiscal period of the board ends on 31 March every year.

**21.** Not later than four months from the end of its fiscal period, the board shall send to the Ministre de l'agriculture et de l'alimentation a report of its activities for the preceding fiscal period.

The report shall be tabled within thirty days of its receipt before the Assemblée nationale if it is in session; if it is not sitting, it shall be tabled within thirty days of the opening of the next session or of resumption, as the case may be.

The board shall furnish to the Minister any information and any report he may require on its activities.

**22.** The books and accounts of the board shall be audited each year by the Auditor General and, also, whenever so ordered by the Government; these reports must accompany the annual report of the board.

**23.** At the request of any interested person, the board or a person that it authorizes may, in a dispute concerning the grading of grain, assign a grade to the grain and issue a grade certificate in conformity with the terms and conditions prescribed by regulation.

### DIVISION III

#### PERMITS

**24.** Upon payment of the fees and on the conditions prescribed by this act and the regulations, the board shall grant a permit to a grain dealer, and to the person operating a regional centre or a drying centre.

**25.** Every grain dealer and every operator of a regional centre or drying centre, if he wishes to use, in his activities, a grade name prescribed by regulation in respect of a grade of grain must hold a permit authorizing him to use that grade name.

The holder of a permit may acquire or, as the case may be, receive in the establishment contemplated in the permit only graded grain or grain intended to be graded in conformity with this act or the regulations or in conformity with the Canada Grain Act (R.S. 1970-71-72, c. 7) and the regulations.

### DIVISION IV

#### ISSUANCE OF PERMITS

**26.** Every person wishing to obtain a permit shall apply therefor to the board in the form and with the documents prescribed by this act and the regulations.

The application must be accompanied with a deposit, proof of solvency, security or a proof of liability insurance, for such

amount and on such terms and conditions as may be prescribed by regulation.

**27.** The application for a permit must be made by the person who intends to operate it. If the applicant is a corporation or a partnership, the application must be made by a director duly commissioned or by one of the partners.

**28.** The board shall issue the permit in the name of the applicant; it may, on demand, issue a duplicate of the permit.

**29.** Before refusing to issue a permit, the board must give the applicant the opportunity to be heard.

A certified true copy of the substantiated decision of the board must be sent to the person concerned by registered or certified mail.

**30.** A permit is valid for one year and it may be renewed. The board may, however, issue a permit for a shorter period if it considers it required in the public interest.

#### DIVISION V

##### OBLIGATIONS OF PERMIT HOLDERS

**31.** A permit holder must have an establishment in Québec.

He must keep, at his establishment, the registers, accounts, books and records prescribed by this act and the regulations.

**32.** A permit holder must, within fifteen days, notify the board of a change of address, of name or of corporate name.

**33.** No permit may be operated by a person other than the holder of the permit.

**34.** The board may, on payment of the fees exigible and on the conditions prescribed by this act and the regulations, temporarily authorize a person other than the permit holder to operate the permit if that person is the testamentary executor of the permit holder, a trustee in bankruptcy, a judicial or conventional sequestrator or a trustee who temporarily administers an establishment where the permit is operated.

Such a permit may be renewed for such period as may be fixed by the board.

**35.** The holder of an authorization to operate a permit temporarily is deemed to be the holder of the permit.

**36.** A person who operates a warehouse where graded grain is stored must, at all times, be able to deliver, or cause to be delivered, to the producer, by a permit holder, a quantity of grain of each kind at least equal to the quantity he received for storage and which remains the property of the producer.

**37.** A permit holder shall not assign to a grade of grain any grade name except that prescribed by regulation.

**38.** If a permit holder ceases his activities, he must return his permit to the board as soon as possible.

#### DIVISION VI

##### CANCELLATION AND SUSPENSION OF PERMITS

**39.** The board may cancel a permit or suspend it for such period as it may determine if the holder

- (1) contravenes this act or the regulations;
- (2) has ceased to meet the requirements provided by this act or the regulations for the issuance of a permit.

**40.** The board, before declaring a permit cancelled or suspended, must give the holder the opportunity to be heard.

A certified true copy of the substantiated decision of the board must be sent to the person concerned by registered or certified mail.

#### DIVISION VII

##### POSTING OF CHARGES

**41.** Every person providing a producer with services for the storing, turning, drying, screening, grading or handling of grain, whether or not he holds a permit contemplated in this act, must post up, in public view, on the premises where he operates his undertaking, his charge for each service he performs.

**42.** Every person contemplated in section 41 must also file with the board the list of the charges and any change made to them within fifteen days of their adoption or of the change.

## DIVISION VIII

## INVESTIGATION AND INSPECTION

**43.** A commissioner or a person generally or specially authorized by the board may

(1) enter the establishment of a permit holder during business hours and make an inspection of the premises; he may, in particular, examine the products found there, take samples, examine the registers or other documents and take extracts therefrom or make copies thereof;

(2) order a motor vehicle or other means of transportation to stop if he has reasonable cause to believe there is grain in the vehicle, board the vehicle and inspect the grain;

(3) require any information relating to the application of this act and the regulations and the production of any document connected therewith.

**44.** The board may require a permit holder to file within such time and for such period as it may indicate, a written report of his activities; the board must then indicate the nature of the investigation in progress or of the complaint filed.

**45.** Proof that grain is not intended for sale is on the person who has possession of it.

**46.** The board or a person it authorizes may, after an inspection, issue an inspection certificate in accordance with the terms and conditions prescribed by regulation; the permit holder must return the certificate to the board if the certified grain subsequently becomes spoiled.

The board may then order the grain replaced.

**47.** No person may hinder the actions of a commissioner or of a person authorized by the board in the exercise of his functions, mislead him by concealment or false declaration, refuse to furnish information or a document he is entitled to require or examine pursuant to this act, or conceal or destroy a document or property relevant to the investigation.

**48.** A commissioner or a person generally or specially authorized by the board is vested, to inquire into any fact relating to the application of this act and the regulations, with the powers and immunity granted to commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., c. C-37), except the power to impose imprisonment.

**49.** A person authorized by the board to make an investigation or inspection must, if required, produce the authorization he holds for that purpose.

## DIVISION IX

### APPEAL

**50.** A person whose application for a permit is rejected or whose permit is suspended or cancelled may appeal from the decision of the board to the Provincial Court

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

(2) if the proceedings are affected by gross irregularity;

(3) if the decision has not been rendered impartially.

**51.** Appeal is brought by a motion filed in the office of the Provincial Court of the chief place of the judicial district of the domicile or of the establishment of the applicant within fifteen days of the receipt of the decision by the applicant; the motion is served on the board, which shall then send to the court the record relating to the decision.

**52.** The court shall make its decision on the record sent to it by the board after the parties have made their representations.

**53.** The court may also, by reason of exceptional circumstances and where justice requires it, authorize the presentation of additional documentary or oral evidence.

The demand for authorization is made by means of a written and sworn motion; it is presented to the court for adjudication after a notice to the adverse party.

**54.** Appeal does not suspend the execution of a decision of the board unless the court decides otherwise.

**55.** The court must give the parties, in such manner as it considers appropriate, notice of not less than five clear days of the date, time and place when and where they may be heard.

If a party convened fails to appear or refuses to be heard at the sitting fixed or an adjournment of that sitting, the court may, as the case may be, proceed *ex parte*, render the appropriate order or even declare the appeal abandoned.

**56.** The court may confirm, amend or quash a decision referred to it and render the decision that should have been rendered.

The judgment must be rendered in writing and contain, in addition to the conclusions, a statement of the reasons on which it is based.

**57.** A certified true copy of the judgment must be sent to each party by registered or certified mail.

DIVISION X

REGULATION

**58.** The board may, by regulation,

- (1) designate a substance as grain;
- (2) establish grades of grain and determine the characteristics, qualities and name, corresponding to these grades;
- (3) prescribe standards relating to the preservation, handling, storage, drying and screening of graded grain or grain intended to be graded;
- (4) determine the conditions on which the holder of a regional centre permit may receive, from a producer, graded grain or grain intended to be graded for storage purposes, and the form and tenor of the document evidencing that delivery;
- (5) determine the qualifications required of a person applying for a permit, or in the case provided in section 34, the transfer of a permit, the requirements he must meet, the information and documents he must furnish and the fees he must pay;
- (6) establish the restrictions which may be set forth on a permit;
- (7) prescribe the registers, accounts, books and records that a permit holder must keep at his establishment and determine the rules relating to the keeping of such documents;
- (8) determine the form and tenor of the report that it may require from a permit holder under section 44;
- (9) determine the procedure applicable before the board, the form and tenor of permits and prescribe any form intended to facilitate the application of this act and the regulations;
- (10) prescribe the amount and the terms and conditions of the deposit, proof of solvency, security or proof of liability insurance that a person applying for a permit must furnish and determine the cases where they may be utilized, and the manner in which it may dispose of them;
- (11) prescribe the amount of the fees exigible to obtain a copy of a record in the possession of the board;

(12) prescribe the qualifications required of a person assigned to the grading of grain on behalf of a permit holder;

(13) prescribe the terms and conditions of the sampling of grain for grading purposes;

(14) prescribe the terms and conditions of the issuance of grade certificates by the board;

(15) determine the place where grain is inspected and where the inspection certificate is issued by the board.

**59.** No regulations may be adopted except on thirty days' notice, reproducing the text of the regulation, published in the *Gazette officielle du Québec*.

Regulations come into force on the date of publication in the *Gazette officielle du Québec* of a notice of their adoption by the Government or, if amended by it, of their final text, or on any later date fixed in the notice or final text.

## DIVISION XI

### OFFENCES AND PENALTIES

**60.** Every person who

- (1) makes a false declaration in an application for a permit or
  - (2) acts in contravention to this act or the regulations
- is guilty of an offence.

**61.** Every natural person who is guilty of an offence against this act or the regulations is liable

- (1) for a first offence, to a fine of \$100 to \$500;
- (2) for a subsequent offence to the same provision committed within two years, to a fine of \$200 to \$1000.

Any corporation guilty of an offence to this act or the regulation is liable to twice the minimum fine and maximum fine provided in the first paragraph.

**62.** If a corporation is guilty of an offence against this act or the regulation, every director or representative of that corporation who was aware of the offence is deemed a party to the offence and is liable to the penalty provided in the first paragraph of section 61 unless he establishes, to the satisfaction of the court, that he did not acquiesce in the commission of the offence.

**63.** Every person who does or omits to do a thing with the object of aiding a person to commit an offence against this act or the regulations, or who advises, encourages or incites a person to commit an offence, is himself a party to the offence and is liable to the same penalty.

**64.** Proceedings are brought under the Summary Convictions Act (R.S.Q., c. P-15) by the Attorney-General or by any person specially or generally authorized by him for that purpose.

DIVISION XII

FINAL PROVISIONS

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

**66.** The Ministre de l'agriculture et de l'alimentation is responsible for the application of this act.

**67.** This act will come into force on the date fixed by government proclamation, except the provisions excluded by that proclamation, which will come into force on any later date to be fixed by government proclamation.