

1988, chapter 28

**AN ACT TO AMEND THE FARM PRODUCTS MARKETING
ACT WITH RESPECT TO THE PAYMENT OF
FARM PRODUCTS**

Bill 21

Introduced by Mr Michel Pagé, Minister of Agriculture, Fisheries and Food

Introduced 11 May 1988

Passage in principle 1 June 1988

Passage 15 June 1988

Assented to 17 June 1988

Coming into force: 17 June 1988

Act amended:

Farm Products Marketing Act (R.S.Q., chapter M-35)





CHAPTER 28

An Act to amend the Farm Products Marketing Act with respect to the payment of farm products

[Assented to 17 June 1988]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. M-35,
s. 84, am.

1. Section 84 of the Farm Products Marketing Act (R.S.Q., chapter M-35) is amended by striking out paragraph *b*.

c. M-35,
ss. 91.1-
91.13,
added

2. The said Act is amended by inserting, after section 91, the following division:

“DIVISION XIV.1

“GUARANTEE OF PAYMENT OF FARM PRODUCTS

Deposit

“91.1 The Board may, by order,

(a) prescribe that any person or group of persons buying, holding or receiving from a producer, directly or through an agent, a farm product that it determines, must be the holder of a certificate issued by the Board and establishing that he or it has deposited with the Board a security to guarantee his or its financial liability;

(b) determine the amount of the security to be deposited and a method according to which this amount is to be adjusted to take into account the fluctuations in the amount of the transactions carried out by the person or group of persons contemplated in paragraph *a*;

(c) determine the conditions to be fulfilled by any person or group of persons contemplated in paragraph *a* for the issue or renewal of the certificate as well as the information and documents that must be furnished;

(d) determine the term of the certificate, its form and its content and fix a tariff of fees for the issue and renewal of the certificate;

(e) establish the time when a producer's claim becomes payable;

(f) determine the conditions that a producer must fulfill to dispose of the security;

(g) establish the procedure to be followed for the realization of the security.

Payment of
claims

If the amount of the security cannot adequately cover all existing claims or if the financial situation in the farming sector so justifies, the Board may determine pro rata the amount that can be paid to each creditor.

Certificate

"91.2 No person or group of persons subject to an order made under paragraph *a* of section 91.1 may buy, hold or receive a farm product from a producer, directly or through an agent, unless that person or group is the holder of a certificate issued by the Board and establishing that the person or group has deposited with the Board the security required to guarantee his or its financial liability.

Exemption

"91.3 The Board may, by order, exempt a person or group of persons or certain transactions from the application of an order made under paragraph *a* of section 91.1.

Revocation

"91.4 The Board may revoke a certificate or suspend it for the period it determines if the holder no longer meets the conditions required for the issue of the certificate.

Prior
hearing

"91.5 The Board shall, before revoking or suspending a certificate, give the certificate holder the opportunity to be heard.

Suspension

Notwithstanding the first paragraph, the Board may suspend a certificate for a period of not more than 15 days before hearing the certificate holder if it has reasonable grounds to believe the holder is insolvent or about to become insolvent.

Certified
copy of
decision

A certified copy of the decision of the Board including the reasons therefor must be sent, by registered or certified mail, to the person concerned and, as the case may be, to the producers' board or certified association concerned.

Powers of
the produ-
cers' board

“91.6 The producers' board may, by by-law,

(a) establish a fund to guarantee payment in full or in part of producers' claims relating to the marketing of a farm product and determine the terms and conditions of its establishment;

(b) impose and collect contributions from producers to be paid into the fund contemplated in paragraph *a* and establish a procedure for the collection of such contributions;

(c) classify the producers into groups and determine the amount of the contributions payable by the producers, which may vary in relation to the group to which they belong;

(d) determine the circumstances which entitle a producer to benefit from the fund contemplated in paragraph *a*.

Payment of
claims

If the fund cannot adequately cover all existing claims, the producers' board may determine *pro rata* the amount that can be paid to each creditor.

Powers of
certified
associations

“91.7 Every association certified pursuant to the Farm Producers Act (R.S.Q., chapter P-28) may, by by-law, exercise in respect of all producers the same powers as those granted to a producers' board under section 91.6, adapted as required.

Payment of
claims

Moreover, if the fund cannot adequately cover all existing claims, a certified association may determine *pro rata* the amount which can be paid to each creditor.

Deposit of
collected
amounts

“91.8 The amounts collected from the producers by the producers' board or by the certified association for the establishment of a fund shall be deposited with the Caisse de dépôt et placement du Québec on the conditions they agree upon.

Exclusive
use of
amounts

These amounts and the net income therefrom shall be used exclusively for the payment of claims payable by the fund and for the administration expenses of the fund.

Withdrawal
of money

No money may be withdrawn from the fund without prior authorization by the Board.

Advances

“91.9 A producers' board or a certified association may, in accordance with the terms and conditions it determines by by-law, pay to the producer, in payment of his claim, advances out of the fund contemplated in paragraph *a* of section 91.6 and in section 91.7.

Subrogation **“91.10** The producers’ board or the certified association is subrogated in the rights of a producer against a debtor for the claims it has paid out of the fund established under paragraph *a* of section 91.6 or, as the case may be, section 91.7 and it may recover from the debtor the amounts it has paid on his behalf to the producer.

Recourses In addition, the producers’ board or the certified association may exercise all the recourses of a producer as regards the realization of the security contemplated in paragraph *a* of section 91.1.

Applicable provisions **“91.11** Sections 71 and 72, adapted as required, apply to the by-laws made under sections 91.6, 91.7 and 91.9.

Withholding and remittance **“91.12** The Board may, of its own initiative or at the request of a producers’ board or certified association, by order,

(*a*) require all or some of the persons who buy, hold or receive a farm product or all or some of the producers belonging to an association marketing such a product to withhold, from amounts to be paid or remitted to a producer of that product, all or part of the contributions payable by that producer to the producers’ board or certified association, as the case may be, entrusted with the administration of a fund and to remit to the board or association, on behalf of the producer, the amounts so withheld;

(*b*) fix the amount to be withheld by any person who buys, holds or receives a farm product or by an association of producers marketing such a product;

(*c*) determine the information that all or some of the persons who buy, hold or receive a farm product or all or some of the producers belonging to an association marketing such a product must furnish as to the amounts so withheld;

(*d*) fix the time when the amounts withheld must be remitted;

(*e*) determine the terms, conditions and procedure applicable to the withholding and remittance.

Liability Any failure to comply with an order of the Board renders all or some of the buyers, holders or receivers or all or some of the producers belonging to an association liable to the board or certified association for the amount of the contributions which they should have withheld.

Restrictions **“91.13** 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 Board, its members, a producers’ board or a certified association or

its administrators, officers or employees in so far as their actions pertain to a fund established under this Act to guarantee the payment of claims to the farm producers.”

Orders in
force

3. Every order made before 17 June 1988 under paragraph *b* of section 84 remains in force; it is deemed to have been made under paragraph *a* of section 91.1 enacted by section 2 of this Act.

Coming into
force

4. This Act comes into force on 17 June 1988.