

1984, chapter 25

AN ACT RESPECTING THE MARKETING OF MARINE PRODUCTS

Bill 82

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

Introduced 15 May 1984

Passage in principle 6 June 1984

Passage 19 June 1984

Assented to 20 June 1984

Coming into force: 20 June 1984

Act amended: None





CHAPTER 25

An Act respecting the marketing of marine products

[Assented to 20 June 1984]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

OBJECT AND INTERPRETATION

- Object** **1.** The object of this Act is to promote the pooling of operations by marine products processing firms for the marketing of their products with a view to supporting and promoting the sale of standardized marine products of superior quality and ensuring a steady supply of the market.
- Object** A further object of this Act is to ensure stable revenues to the marine products processing firms.
- Marketing** **2.** The marketing of a marine product includes, for the purposes of this Act, the purchase, the sale, the offering for sale, the shipping for sale purposes, the classification and the transport of a marine product as well as advertising and the financing of operations relating to the turnover of the product.
- Processing
firm** **3.** For the purposes of this Act, a person or a group of persons holding a permit to operate a processing factory or a packing-house of marine products for human consumption in accordance with Division III of the Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29) is a processing firm.
- Marine
product** **4.** For the purposes of this Act, any fish, shellfish or crustacean able to live in a marine environment and any echinoderm, including any part of such animals and any product or by-product derived therefrom, is a marine product.

CHAPTER II

MARKETING AGREEMENT

DIVISION I

APPROVAL PROCEDURE

Marketing
board

5. The Government may, upon the application of not less than seven marine products processing firms, establish a marketing board for the implementation of an agreement reached between them in view of the joint marketing of marine products of any of the following categories:

- (1) salt or dried products;
- (2) frozen products;
- (3) fresh products.

Application

6. The application shall be addressed to the Minister of Agriculture, Fisheries and Food.

Content

The application must

- (1) indicate the name, surname, address and occupation of each party to the marketing agreement;
- (2) describe the objects pursued by the parties to the agreement and the reasons for which they wish to entrust the application of the agreement to a marketing board;
- (3) indicate the quantity and value of the marine products designated in the agreement that each party has shipped in the preceding year;
- (4) indicate the name of the marketing board and the place of its head office;
- (5) indicate the composition of the board and its mode of operation;
- (6) contain a request for approval by the Government of the agreement entered into by the parties.

Agreement

7. The application must be accompanied with a copy of the marketing agreement.

Content

The agreement must, in particular,

- (1) list the marketing operations that the parties to the agreement intend to entrust to a board;
- (2) designate the marine products which are to be marketed;

(3) indicate the services that the board is required to provide to the parties to the agreement;

(4) provide that the board must establish, within a specified time, the standardization of the marine products designated in subparagraph 2 and adopt superior quality standards;

(5) determine the mode of financing the activities of the board and fix the financial contributions exigible for that purpose;

(6) determine the operating rules governing marketing operations of the products designated in the agreement and, in particular, the rules concerning

(a) the apportionment of the production of the processing firms in relation to the markets contemplated and the limitation of the production of each firm, accordingly;

(b) the periodic adjustment of the fixed quotas and the establishment of norms for that purpose;

(c) the mode and conditions governing the marketing of the marine products designated in the agreement and the prohibition from marketing such products otherwise than through the intermediary of the board;

(d) the percentage of the sale price of the marine products designated in the agreement to be kept by the board to establish and operate a stabilization fund of the revenues of the processing firms;

(e) the conditions on which a processing firm may produce or put on the market a marine product designated in the agreement beyond the fixed limitation or an adopted standard;

(f) the trade marks, and the cases where the parties to the agreement are required to use them;

(7) provide for enforcement of the obligations specified in the agreement and the use of the fines fixed;

(8) determine the conditions and the procedure authorizing a processing firm to become a party to the agreement and specify the modalities for designating a person qualified to receive these applications and negotiate the membership of a new firm;

(9) determine the conditions and modalities required to amend the marketing agreement.

The processing firms that are parties to a marketing agreement may provide that the marketing board be authorized to amend or replace, by by-law, the operating rules established under subparagraph 6 of this section.

- Operating rules The firms may also provide that the operating rules are to be established by by-law of the marketing board.
- Additional information **8.** The applicants shall furnish to the Minister any additional document or information that he considers necessary for examination of the application and the marketing agreement.
- Transmission by the Minister **9.** The Minister shall transmit to every firm engaged in the processing of marine products designated in the agreement a copy of the application and of the marketing agreement accompanying it, within thirty days of receiving them.
- Approval The Minister shall indicate the date after which he intends to submit the application and the marketing agreement to the Government for approval.
- Public interest **10.** The Government may approve the application and the marketing agreement if it considers it to be in the public interest, taking into account the quality and the volume of the marine products to be put on the market, the commercial markets, the extra-provincial competition, the economic situation and the legitimate interests of the fishermen, the marine products processing firms and consumers.
- Publication **11.** If the Government approves the marketing agreement, it shall cause the text of the agreement and a notice of its decision to be published in the *Gazette officielle du Québec*.
- Agreement binding **12.** A marketing agreement approved by the Government under section 11 binds the signatories from the date of publication of the notice provided for in that section, or at any later date indicated in it.
- Negotiation **13.** The Government may, in the approval order, if it considers it to be in the general interest of the processing firms, require the applicants to negotiate, within such time as it may prescribe, with all firms engaged in the processing of marine products designated in the agreement, in view of their becoming parties to the agreement. In no case may the time prescribed exceed two years from the date of publication of the notice provided for in section 11.
- Extension of agreement If no agreement is made within the prescribed time, the Government will be empowered to proceed, on its own initiative, with the extension of the marketing agreement in accordance with Division II of this chapter.
- Amendments **14.** No amendment to a marketing agreement approved under this Act may take effect except with the approval of the Government.

DIVISION II

EXTENSION OF A MARKETING AGREEMENT

§ 1.—*Extension order*Extension of
agreement

15. The Government may, in the case referred to in section 13 or on the application of a majority of the firms engaged in the processing of marine products designated in a marketing agreement, extend the application of the agreement to the aggregate of the firms engaged in the processing of those products.

Application

16. The application shall be addressed to the Minister of Agriculture, Fisheries and Food and must be accompanied with a copy of the marketing agreement.

Publication

17. The Minister shall cause the marketing agreement to be published in the *Gazette officielle du Québec* with a notice stating that the application has been addressed to him and that any objection to it must be formulated to the Minister within thirty days of the date of publication of the notice.

Merits

18. The Minister may order that an inquiry be held on the merits of the application or of any objection made to him.

Recommendation

19. At the expiry of the time limit provided in section 17 or, as the case may be, after an inquiry has been held, the Minister may, if he deems it to be in the public interest, recommend to the Government that it approve the application and make an order to that effect.

§ 2.—*Content and effect of the extension order*

Order

20. An order extending a marketing agreement may provide that the agreement applies, in whole or in part, to those firms engaged in the processing of marine products designated in the agreement which were not parties to it.

Amendments

The Government may, to facilitate the application of the extension order, make, by way of the order, the necessary amendments to the marketing agreement and prescribe transitional application measures.

Restriction

The Government may also limit the application of the order to those processing firms that it indicates.

Duration

21. In no case may an extension order be for more than ten years.

Prolongation

22. The Government may, after consultation with the marketing board and on the recommendation of the Minister, prolong the extension order for a term that does not exceed that of the initial order.

- Coming into force The extension order comes into force on the date of its publication in the *Gazette officielle du Québec*.
- Coming into force **23.** An order made under this division comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date indicated in it.
- Agreement binding From the coming into force of the order and to the extent determined in it, the marketing agreement or, as the case may be, any amendment made to the agreement by the order, binds every firm engaged in the processing of marine products designated in the agreement.
- Copies **24.** The marketing board shall, within thirty days of publication of the order, send a copy of the marketing agreement and of the extension order to each firm engaged in the processing of marine products designated in the agreement.
- Amendment **25.** The Government may, after consultation with the marketing board and on the recommendation of the Minister, amend an extension order.
- Coming into force Any amendment to an extension 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 in it.
- Termination **26.** The Government may, after consultation with the marketing board and on the recommendation of the Minister, terminate the extension of a marketing agreement.
- Cessation of effect The extension order ceases to have effect from the date of publication of a notice to that effect in the *Gazette officielle du Québec* or on any later date indicated in it.

CHAPTER III

MARKETING BOARD

DIVISION I

ESTABLISHMENT AND ORGANIZATION

- Establishment **27.** A marketing board is established from the date of publication of the notice approving a marketing agreement provided for in section 11 or on any later date it indicates.
- Corporation **28.** Every marketing board is a corporation.
- Members **29.** All the signatories of a marketing agreement, approved by the Government in accordance with this Act, are members of the board.

President
and vice-
president

30. The members of the board shall elect each year from among their number a president and a vice-president and any other officer whose election is provided for in the by-laws of the board.

Auditor

The members shall also appoint an auditor each year.

Executive
committee

31. The members of the board may elect, from among their number, an executive committee composed of not fewer than three members. The president of the board of directors is a member of right and the chairman of the executive committee.

Powers

The executive committee shall exercise the powers delegated to it by by-law of the board.

Approval of
by-laws

The by-law must be submitted to the Minister for approval. It comes into force on the date of the approval.

Quorum

32. Not less than one-half of the members, including the president or the vice-president, constitutes a quorum at meetings of the board.

Tie-vote

In the case of a tie-vote, the president or, if he is unable to attend, the vice-president has a casting vote.

Vote

33. Every member of the board is entitled to one vote at meetings of the board.

Additional
vote

A member of the board may be entitled to an additional vote according to the quantity and the value of the marine products of the member handled by the board during the same year.

Additional
vote

At the beginning of each financial period, the board shall thus award a member one additional vote for every share of the marine products shipped by him during the preceding year that represents, in average percentages of quantity and value, 10% of the total quantity and aggregate value of the products shipped by all the members of the board during the same period.

Proxy

34. The vote of a member of the board may be given by proxy. However, no member of the board may be a proxy, and no proxy may vote for more than one member of the board.

Decisions

35. Decisions of the board of directors are taken by majority vote except in the cases provided for in sections 36 and 49.

Approval of
amendment

36. Any amendment to a marketing agreement requires the approval of not fewer than two-thirds of the members of the board present at a special meeting.

Special
meeting

37. Within five days after the publication of an extension order, a marketing board shall convene all its members in writing to a special meeting to adopt the measures necessary to ensure the carrying out of the order.

Internal
management

38. The board may make by-laws for its internal management and its administration.

Approval of
by-laws

The by-laws must be submitted to the Minister for approval. They come into force on the date of the approval.

DIVISION II

FUNCTIONS AND POWERS

Duties

39. The marketing board is responsible, in particular, for

(1) promoting the orderly and efficient marketing of the marine products designated in a marketing agreement;

(2) applying and administering, for such purpose, a marketing agreement entered into by firms engaged in the processing of the designated products;

(3) promoting the production of marine products of superior quality in Québec;

(4) seeking new markets for the marine products designated in the agreement while consolidating existing markets;

(5) maintaining the balance between the quantity of marketed marine products designated in a marketing agreement, the available supply of marine products and the needs of the market;

(6) promoting the standardization of the marine products designated in a marketing agreement;

(7) initiating programs or participating in promotion or advertising programs for the marine products designated in a marketing agreement;

(8) fostering the stabilization of the revenues of the processing firms which are bound by a marketing agreement.

Powers

40. The board may, by by-law,

(1) adopt standards in view of the standardization of the marine products designated in a marketing agreement, including packaging, and modalities governing the implementation of the standards;

(2) adopt standards of quality according to the nature of the marine products designated in a marketing agreement and modalities governing the implementation of the standards;

(3) establish a fund to ensure the stabilization of the revenues of the firms processing marine products designated in a marketing agreement.

Approval of
by-law

41. A by-law made by a marketing board under section 7 and section 40 must be submitted to the Minister for approval. The by-law comes into force on the date of approval.

Rights of
action

42. A board may exercise in its name and, as the case may be, in the name of the firms engaged in the processing of the marine products designated in a marketing agreement, any right of action respecting the application of a marketing agreement or an extension order.

Joint action

The rights of action of several firms engaged in the processing of marine products designated in a marketing agreement against the same person may be joined in the same action; where such is the case, the total amount of the claim shall determine jurisdiction in first instance and in appeal.

DIVISION III

ACCOUNTS AND REPORTS

Financial
statements

43. A board shall, within four months after the end of its fiscal year, remit its financial statements and a report of its activities for the previous fiscal year to the Minister.

Information

44. The financial statements and the report of activities must include all the information required by the Minister.

Auditor's
report

45. An auditor's report must accompany the financial statements.

Content

The report must indicate

(1) whether or not the auditor obtained all the information and explanations he requested;

(2) whether the statements are a valid reflection of the financial condition of the board according to the information and explanations which were given to the auditor and the board's books and accounts;

(3) any other information prescribed by the Minister.

Access to
books

46. For the purposes of the performance of his duties, the auditor shall have access to all the books, registers, accounts and other files of the board.

Assistance

The executive officers of the board shall provide the auditor with any assistance he may need and give him any information or explanations he may request.

Information **47.** A board is required to furnish to the Minister any information he may request on its administration and the application of a marketing agreement or extension order.

DIVISION IV

TERMINATION AND WINDING-UP

Termination **48.** The Government may, on its own initiative or at the request of the signatories of a marketing agreement, terminate the marketing agreement if it considers that it is no longer in the public interest to maintain it or that the agreement is no longer useful for the orderly marketing of the marine products designated in it.

Representations Before a marketing agreement is terminated on the own initiative of the Government, the Minister of Agriculture, Fisheries and Food shall notify the marketing board responsible for the implementation of the agreement and furnish it with a reasonable opportunity to make representations.

Effect The Government's decision to terminate a marketing agreement under this section shall take effect on the date of the publication of a notice thereof in the *Gazette officielle du Québec* or on any later date indicated in it.

Winding-up Where the Government terminates a marketing agreement under this section, the board responsible for its application continues to exist for the sole purpose of winding up its affairs.

Winding-up **49.** Every marketing board, other than a board responsible for the implementation of a marketing agreement which has been extended by order, may decide to wind up by transmitting to the Minister a certified true copy of a resolution adopted by not less than two-thirds of its members present at a special meeting.

Resolution The resolution shall take effect only upon its approval by the Minister and on the date he determines. The board shall cease its activities from that date, except for the purposes of winding up its affairs.

Designated person **50.** Where a board ceases its activities, the Minister shall designate a person responsible for winding up its affairs. The person is entitled to immediate possession of the property of the board.

Liquidator **51.** The Minister shall give notice of the appointment of a liquidator in the *Gazette officielle du Québec*.

Proceedings
suspended

52. From the publication of the notice contemplated in section 51, every action and all proceedings by way of seizure by garnishment, seizure before judgment or seizure in execution, or otherwise, against the movable or immovable property of the board shall be suspended.

Costs
incurred by
creditor

The costs incurred by a creditor after he has himself or by his attorney had knowledge of the winding-up, cannot be collocated against the proceeds of the property of the board distributed in consequence of the winding-up.

Proceedings
begun

A judge of the Superior Court of the district in which the head office of the board is located may, however, on such conditions as he considers proper, authorize the institution or continuance of any proceeding begun.

Information
to the
Minister

53. The liquidator shall furnish to the Minister all the information he prescribes in respect of the winding-up process and the affairs of the board.

Orders

54. The Minister may make any order he considers necessary to ensure the protection of the rights of interested persons and the efficient winding-up of the property of the board.

Powers of
the
liquidator

55. For the purposes of the winding-up, the liquidator shall have the powers provided for in section 10 of the Winding-up Act (R.S.Q., chapter L-4).

Payment of
debts

56. The liquidator shall first pay the debts of the board and the costs of winding-up.

Distribution
of assets

After the payments pursuant to the first paragraph are made, the balance from the liquidation of the assets shall be distributed to the firms engaged in processing marine products designated in the marketing agreement in proportion to the amount of the contributions paid by each firm during the two years preceding the date on which the board ceased its activities.

Account of
the
winding-up

57. As soon as the winding-up is terminated, the liquidator shall submit to the Minister an account showing the manner in which the winding-up has been conducted and the result of the winding-up. He shall remit to the Minister the documents of which he took possession upon his appointment.

Notice of
dissolution

The Minister shall then cause notice of the dissolution of the board to be published in the *Gazette officielle du Québec*. From the date of that publication, the board is dissolved and the marketing agreement or, where such is the case, the extension order shall cease to have effect.

CHAPTER IV

SPECIAL PROVISIONS

"marketing
board"

58. In no case may the expression "marketing board" or any other expression including the words "marketing board" be used in connection with a marine product, except by a marketing board recognized under this Act.

Application
for a permit

59. Where an application for a permit is made to the Minister under Division III of the Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29) by a person or group of persons wishing to obtain a permit to operate an establishment for processing or packing marine products or where a holder of such a permit applies for its renewal, the Minister may take into account the activities of a marketing board in that sector, its marketing programs and objects, and extension orders, to establish whether or not it is in the public interest to issue or renew the permit.

Govern-
mental
assistance

Similarly, the Minister and the Government may take those elements into account in the application of various programs of governmental assistance in that sector of activity.

CHAPTER V

TRANSITIONAL AND FINAL PROVISIONS

Existing
permits

60. Any person operating an establishment which on 30 November 1981 was operated by the holder of a permit in force issued under the regulation made in accordance with the Sea Food Processing Act (R.S.Q., chapter P-17) is a processing firm for the purposes of this Act.

Effect

This section ceases to have effect on 31 December 1984.

Determining
additional
votes

61. For the purposes of determining the number of additional votes to which a member of a marketing board may be entitled under section 33 in the course of the first financial year of that board, the computation of every share of 10% is made by establishing the average of the percentages, in quantity and in value, of the marine products of that member which are designated in the marketing agreement shipped in the year preceding the establishment of the board in relation to the total quantity and aggregate value of the products shipped by all the members of the board during the same period.

Consolidated
revenue fund

62. 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.

Minister re-
sponsible

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

Exception

64. 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).

Coming into
force

65. This Act comes into force on 20 June 1984.