



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 41
(1999, chapter 50)

**An Act to repeal the Grain Act and to
amend the Act respecting the marketing
of agricultural, food and fish products
and other legislative provisions**

**Introduced 12 May 1999
Passage in principle 25 May 1999
Passage 3 November 1999
Assented to 5 November 1999**

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EXPLANATORY NOTES

This bill transfers to the Régie des marchés agricoles et alimentaires the power to make regulations conferred on the Government by the Grain Act and repeals that Act. It amends the Dairy Products and Dairy Products Substitutes Act to entrust the Minister of Agriculture, Fisheries and Food with the responsibility of issuing the permits under that Act and to regroup the powers of the Régie under the Act respecting the marketing of agricultural, food and fish products, in particular as regards the fixing of the price of milk and the administration of the plan to ensure the solvency of milk dealers.

The bill amends the Animal Health Protection Act to transfer to the Régie the supervision of the solvency of operators of livestock auctions. The Act respecting the marketing of agricultural, food and fish products is amended to integrate the relevant provisions of the above-mentioned Acts, to introduce measures to streamline the operation of the Régie and to ensure that the wording of certain provisions is in conformity with the provisions of the Act respecting administrative justice and the Act respecting the implementation of the Act respecting administrative justice.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting the marketing of agricultural, food and fish products (R.S.Q., chapter M-35.1);
- Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30);
- Animal Health Protection Act (R.S.Q., chapter P-42).

LEGISLATION REPEALED BY THIS BILL :

- Grain Act (R.S.Q., chapter G-1.1).

Bill 41

AN ACT TO REPEAL THE GRAIN ACT AND TO AMEND THE ACT RESPECTING THE MARKETING OF AGRICULTURAL, FOOD AND FISH PRODUCTS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

GRAIN ACT

1. The Grain Act (R.S.Q., chapter G-1.1) is repealed.

ACT RESPECTING THE MARKETING OF AGRICULTURAL, FOOD AND FISH PRODUCTS

2. Section 12 of the Act respecting the marketing of agricultural, food and fish products (R.S.Q., chapter M-35.1) is amended by inserting the following sentence after the first sentence: “In addition, the Régie may decide that any of the matters brought before it pursuant to sections 30, 37 and 41 is to be heard and decided by two members.”

3. Section 21 of the said Act is amended by replacing “article 33 of the Code of Civil Procedure (chapter C-25) does not apply to the Régie and no extraordinary recourse provided for in articles 834 to 850 of the said Code” by “no recourse provided for in articles 33 and 834 to 846 of the Code of Civil Procedure (chapter C-25)”.

4. Section 26 of the said Act is amended by striking out “endeavour to” and replacing “problem” by “dispute”.

5. The said Act is amended by inserting the following section after section 26:

“26.1. The Régie may, with the consent of the persons who have signed a homologated agreement or the persons to whom an arbitration award applies, designate a person to hear and settle a grievance arising from the carrying out of the agreement.”

6. Section 28 of the said Act is amended by replacing “representations” in the second line of the second paragraph by “observations”.

7. Section 30 of the said Act is amended by replacing the second paragraph by the following paragraphs :

“The Régie may cancel any decision related to the carrying out of the plan administered by the board and in which the director removed from office participated.

The Régie shall, before making a decision in either case, notify the board and the director concerned in writing of its intention and allow them at least 10 days to present observations.”

8. Section 37 of the said Act is amended by striking out “and for the period” in the first line of the first paragraph.

9. Section 38 of the said Act is amended

(1) by replacing “representations” in the second line of the second paragraph by “observations”;

(2) by replacing the third paragraph by the following paragraph :

“In an emergency or to avoid irreparable harm, the Régie may designate the person or body mentioned in the first paragraph by an interim decision which it shall make public in any manner it considers appropriate. The Régie shall, as soon as possible, receive the observations of the persons to whom the plan or by-law applies, in a public sitting, before confirming, modifying or cancelling the appointment.”

10. Section 40 of the said Act is amended by adding the following paragraph after paragraph 4 :

“(5) determine the conditions subject to which an activity authorized by a permit may be carried on.”

11. The said Act is amended by inserting the following sections after section 40 :

“40.1. Before refusing to issue a permit, the Régie shall first notify the applicant in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the applicant at least 10 days to present observations.

“40.2. The Régie may, by regulation,

(1) define a substance as grain;

(2) establish grades of grain and determine the specifications, qualities and preservation conditions for the grain;

(3) prescribe the qualifications required of a person assigned to the grading or inspection of grain ;

(4) establish standards relating to the grading of grain and the manner and circumstances in which samples of grain may be taken for the purpose of grading ;

(5) determine the conditions of issue of grain grading or grain inspection certificates ;

(6) establish the construction and maintenance standards for the buildings and equipment used in the processing, storage, handling or transport of grain.

“Grain” means wheat, barley, oats, corn, rye, faba beans, soybeans, field peas or colza seed and any other substance designated as grain pursuant to the first paragraph.

“40.3. The Régie may, on the application of any interested person, designate a person to inspect grain facilities or to grade or inspect grain. After the inspection or grading, the Régie shall issue a grain grading or grain inspection certificate to the interested person.

“40.4. The Régie may, by regulation, require any person who, for remuneration, offers to producers services related to the marketing of grain to post the rate charged for each service in public view in the establishment where the person carries on such a business.

“40.5. The Régie may fix by regulation the price of any dairy product within the limits of any territory it designates. The Régie shall first invite, in the manner it considers appropriate, the interested persons to present observations according to the procedure it considers appropriate, including in a public sitting.

In making its decision, the Régie shall consider the value and nature of the product, the conditions of production, transport, processing and delivery of the product, the use made of the product by milk dealers, and the interests of producers, milk dealers, distributors and consumers.

The Régie shall also consider any regulation made under section 100.1, paragraph 7 of section 123 and paragraph 1.1 of section 124.

The Régie may establish a price, a minimum price, a maximum price or both a minimum and a maximum price in its regulation.

“40.6. The Régie may, in making a regulation, determine the provisions the contravention of which constitutes an offence.”

12. The said Act is amended by inserting the following section after section 43 :

“43.1. The Régie shall, at the request of the Minister, give the Minister the opinion required by section 32 of the Dairy Products and Dairy Products Substitutes Act (chapter P-30); the opinion shall pertain to the marketing conditions that exist in the sectors of activity covered by the application, the conditions governing milk supply to processing factories and the possible effects that the issue of the permit could have for the dairy industry and consumers.”

13. Section 47 of the said Act is amended, in the French text, by replacing “requérants” in paragraph 1 by “demandeurs”.

14. Section 51 of the said Act is amended by replacing “hear representations” in the third line of the first paragraph by “receive observations”.

15. Section 52 of the said Act is amended by replacing “representations” in the first line of the first paragraph by “observations”.

16. Section 66 of the said Act is amended by adding the following sentence at the end: “The body may apply to the Régie to be exempted from the requirement of keeping separate accounting records if it carries on no activity other than the administration of the plan.”

17. Section 71 of the said Act is amended by inserting the following paragraphs after paragraph 1:

“(1.1) establish the procedure for verifying, adding, correcting or cancelling an entry in the file;

“(1.2) determine the place where the file may be kept and examined;”.

18. Section 74 of the said Act is amended by replacing “upon the” in the first line of the second paragraph by “within 60 days of the filing of the” and by replacing “whenever the Régie considers it necessary” in the second and third lines by “of a request by the Régie”.

19. Section 75 of the said Act is amended by replacing “upon the” in the first line of the second paragraph by “within 60 days of the filing of the” and by replacing “, or whenever the Régie considers it necessary” in the second and third lines by “or of a request by the Régie”.

20. The said Act is amended by inserting the following section after section 89:

“89.1. Not later than 10 days after the general meeting held in accordance with section 73, each director of a marketing board must disclose to the Régie any interest the director has, other than an interest as a producer, in the marketing of a product under the plan administered by the board.”

21. Section 101 of the said Act is amended

(1) by inserting “or a general meeting” after “board” in the first line;

(2) by inserting “in the case of a by-law made by a marketing board” after “necessary” in the fourth line.

22. Section 105 of the said Act is amended by replacing “each general meeting” in the first line of the second paragraph by “way of a resolution adopted by a majority of the producers present at each of the general meetings called for that purpose”.

23. Section 110 of the said Act is amended by striking out the second sentence of the second paragraph.

24. Section 111 of the said Act is amended by striking out the third paragraph.

25. The said Act is amended by inserting the following sections after section 111:

“111.1. The certification comes into force on the date of publication of a notice to that effect in the *Gazette officielle du Québec* or on any other date indicated therein by the Régie.

“111.2. After giving the certified association or body an opportunity to present observations, the Régie may terminate the certification for any reason it considers valid.”

26. Section 117 of the said Act is amended

(1) by replacing “is executory and” in the first line by “is in lieu of a homologated agreement; it is executory on the date indicated therein and is”;

(2) in the French text, by replacing “les” in the fourth line by “la”.

27. Section 127 of the said Act is repealed.

28. Section 140 of the said Act is amended by striking out “in the *Gazette officielle du Québec* and” in the first and second lines.

29. The said Act is amended by inserting the following section after section 140:

“140.1. The Régie may ascertain, in the manner it considers appropriate, the opinion of groups of interested persons on the proposed establishment of a chamber.”

30. The said Act is amended by inserting the following sections after section 149:

“149.1. The Régie may, in a regulation made pursuant to section 149, allow, without invalidating any obligation imposed pursuant to paragraph 1 of section 149, any person to deposit with the Régie a guarantee of financial liability to secure payment of the amounts due to the producers for the marketing of their products.

“149.2. The Régie may make a regulation requiring security to be given in the form of an insurance policy issued by the Régie for the purpose of guaranteeing the payments of the amounts owed or that may become payable by a milk dealer to producers or to the body responsible for the administration of a joint plan.

“Milk dealer” means any person purchasing or receiving milk or cream from a producer to resell it, to convert it for commercial purposes into other dairy products or to extract by-products therefrom.

“149.3. The Régie may, in a regulation made pursuant to section 149.2,

(1) fix the security required according to the value of the products purchased or delivered to a milk dealer;

(2) establish standards permitting the fixing of the amount or value of the products purchased or delivered to a milk dealer;

(3) determine the qualifications required of a person applying for security in the form of an insurance policy, the requirements to be fulfilled and the information to be furnished by the person;

(4) fix the term of the security;

(5) determine the rates and the terms and conditions of payment of the premiums payable by milk dealers;

(6) establish the requirements to be fulfilled by the producer or marketing board to claim against the security;

(7) determine the maximum value of the products covered by the security.

“149.4. The Régie shall deposit the premiums collected under a regulation made pursuant to section 149.2 with the Caisse de dépôt et placement du Québec on the conditions agreed between them; the premiums and the net revenue derived therefrom must be used exclusively for the payment of claims under the security.

“149.5. The Minister of Finance, with the authorization of the Government and on the conditions the Government determines, may advance

to the Régie the sums necessary to perform its obligations under the security referred to in section 149.2.

The sums necessary for the purposes of this section shall be taken out of the consolidated revenue fund.”

31. Section 150 of the said Act is amended by adding the following paragraph:

“No person shall act as a milk dealer without having given security in the form of an insurance policy issued pursuant to section 149.2.”

32. Section 162 of the said Act is amended by inserting “to security issued in the form of an insurance policy pursuant to section 149.2 or” after “relate” in the fourth line.

33. Section 165 of the said Act is amended

(1) by replacing “For the purposes of an investigation or public hearing, the” in the first line of the first paragraph by “The”;

(2) by replacing “the investigation or hearing” in the third and fourth lines of the first paragraph by “an investigation or any matter brought before it”.

34. Section 172 of the said Act is amended by adding “and in a farm journal having general circulation” at the end of the first paragraph.

35. Section 191.1 of the said Act is amended by replacing “third paragraph of section 111” by “second paragraph of section 111.2”.

36. The said Act is amended by inserting the following sections after section 192:

“192.1. Every person who markets grain knowing that its specifications do not correspond to the specifications entered on a grain grading or grain inspection certificate issued under section 40.3 is guilty of an offence and is liable

(1) for a first offence, to a fine of not less than \$1,000 nor more than \$20,000;

(2) for any subsequent offence, to a fine of not less than \$2,000 nor more than \$40,000.

“192.2. Every milk dealer, distributor or food retailer who sells or offers for sale milk intended for consumption at a price that the dealer, distributor or retailer knows to be lower or higher than the price fixed by the Régie pursuant to section 40.5 is guilty of an offence and is liable to the penalty provided in section 193.

“192.3. Every milk dealer, distributor or food retailer who grants to a person to whom the dealer, distributor or retailer sells or delivers a dairy product, goods, the right to obtain goods, a premium or an advantage, in consideration of the sale or delivery or of any sale or delivery including a dairy product knowing that a direct or indirect result therefrom will be a reduction in the price of the dairy product in relation to the price fixed by the Régie in accordance with this Act is guilty of an offence and is liable to the penalty provided in section 193.”

37. Section 193 of the said Act, amended by section 3 of chapter 48 of the statutes of 1998, is again amended by replacing “of a regulation of the Régie” in the third line by “a provision of a regulation of the Régie the contravention of which constitutes an offence”.

38. Section 203 of the said Act is amended by inserting “sections 28 and 40.5 and” after “pursuant to” in the fifth line.

DAIRY PRODUCTS AND DAIRY PRODUCTS SUBSTITUTES ACT

39. Section 1 of the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30) is amended

- (1) by striking out paragraphs *k* and *m*;
- (2) by replacing “Board” in paragraph *n* by “Minister”;
- (3) by striking out paragraph *p*.

40. Section 4 of the said Act is repealed.

41. Section 5 of the said Act is amended by replacing “Board” in the third line by “Minister”.

42. Section 6 of the said Act is amended by replacing “Board” in the first line by “Minister” and by replacing “It” in the third line by “The Minister”.

43. Section 7 of the said Act is amended by replacing “the Board” in the second line of the second paragraph and “it” in the third line by “the Minister”.

44. Section 10 of the said Act is amended by replacing “The Board shall issue the permit contemplated in section 8 or 9 and it” in the first line by “The Minister shall issue the permit referred to in section 8 or 9 and”.

45. Section 11 of the said Act is amended by replacing “Board” in the third line by “Minister”.

46. Section 12 of the said Act is amended by replacing “Board” in the second line of the first paragraph by “Minister”.

47. Sections 13 to 22 of the said Act are repealed.

48. Section 24 of the said Act is amended by replacing “Board” in the fourth line by “Minister”.

49. Section 25 of the said Act is amended

(1) by replacing “Board” in the first line by “Minister”;

(2) by replacing “It” in the third line by “The Minister”.

50. Section 31 of the said Act is amended by replacing “Board” in the second line by “Minister”.

51. Section 32 of the said Act is amended

(1) by replacing “Board” in the first line by “Minister”;

(2) by adding the following paragraph:

“The Minister shall not, however, issue the permit provided for in section 3 unless the Minister has obtained a favourable opinion from the Régie des marchés agricoles et alimentaires du Québec concerning the particulars mentioned in section 43.1 of the Act respecting the marketing of agricultural, food and fish products (chapter M-35.1).”

52. Section 33 of the said Act is amended

(1) by striking out the first paragraph;

(2) by replacing “The Board may prescribe any conditions which it sees fit” in the first line of the second paragraph by “The Minister may, when issuing a permit, prescribe any conditions which the Minister considers appropriate”.

53. Section 35 of the said Act is amended

(1) by replacing “Board” in the first line by “Minister”;

(2) by striking out paragraph *d*.

54. Section 36 of the said Act is amended by replacing “Board” in the first line by “Minister”.

55. Section 37 of the said Act is amended by replacing “Board shall cause such publicity to be given to its” in the first line by “Minister shall cause such publicity to be given to the” and by replacing “it” in the second line by “the Minister”.

56. Sections 38, 38.1, 39 and 41 of the said Act are repealed.

57. Section 42 of the said Act is amended by replacing paragraph *u* by the following paragraph:

“(u) prescribe the preparation of registers, reports or other documents and the communication thereof to the Minister;”.

58. Sections 43 to 47 of the said Act are repealed.

59. Section 49.1 of the said Act is amended

(1) by striking out “and every syndicate whose certification is revoked” in the first and second lines;

(2) by replacing “Board” in the second line by “Minister”.

60. Section 50 of the said Act is amended by replacing the second paragraph by the following paragraph:

“In the case of an infringement of subsection 2 of section 2 or section 28, the maximum fine shall be imposed.”

61. Section 51 of the said Act is amended by striking out “, section 21” and “, 21” in the first line of the first paragraph and the first line of the second paragraph, respectively.

62. Sections 52, 52.1 and 54 of the said Act are repealed.

63. Section 55 of the said Act is amended by striking out “and, in the case of an infringement relating to the price of milk, that he discharged the employee as soon as he learned of the infringement” in the third, fourth and fifth lines of the first paragraph.

64. Sections 60.1 to 62 of the said Act are repealed.

ANIMAL HEALTH PROTECTION ACT

65. Sections 42 and 43 of the Animal Health Protection Act (R.S.Q., chapter P-42) are repealed.

66. Section 45 of the said Act is amended by striking out subparagraphs *h*, *j* and *k* of the first paragraph.

67. Section 55.44 of the said Act is amended by replacing “, 41, 42 or 43” in the first and second lines of the first paragraph by “or 41”.

ACT RESPECTING ADMINISTRATIVE JUSTICE

68. Paragraph 9.1 of Schedule IV to the Act respecting administrative justice (R.S.Q., chapter J-3) is struck out.

TRANSITIONAL PROVISIONS

69. Unless the context indicates otherwise, a reference in any regulation, by-law, contract or other document to the Grain Act or to any of its provisions is a reference to the Act respecting the marketing of agricultural, food and fish products or to the corresponding provision of that Act.

70. The Regulation respecting grain (R.R.Q., 1981, chapter G-1.1, r.1) made pursuant to section 58 of the Grain Act is deemed to have been made by the Régie des marchés agricoles et alimentaires du Québec. The regulation continues to apply until it is repealed or replaced by a regulation made pursuant to the Act respecting the marketing of agricultural, food and fish products.

71. The permits issued by the Régie des marchés agricoles et alimentaires du Québec pursuant to section 24 of the Grain Act are deemed to have been issued pursuant to section 40 of the Act respecting the marketing of agricultural, food and fish products.

The permits issued by the Régie pursuant to sections 3, 8, 9, 11, 12 and 23 of the Dairy Products and Dairy Products Substitutes Act are deemed to have been issued by the Minister of Agriculture, Fisheries and Food.

72. The orders made by the Régie des marchés agricoles et alimentaires du Québec pursuant to section 38 of the Dairy Products and Dairy Products Substitutes Act remain effective until they are repealed or replaced by a regulation made pursuant to the Act respecting the marketing of agricultural, food and fish products.

73. The Regulation respecting the guarantee policy for payment of milk and cream (R.R.Q., 1981, chapter P-30, r.11) made pursuant to section 41 of the Dairy Products and Dairy Products Substitutes Act continues to apply until the regulation is repealed or replaced by a regulation made pursuant to the Act respecting the marketing of agricultural, food and fish products.

74. Sums collected by the Régie pursuant to Division V of the Dairy Products and Dairy Products Substitutes Act become sums referred to in section 149.4 of the Act respecting the marketing of agricultural, food and fish products.

75. In the regulations made pursuant to section 42 of the Dairy Products and Dairy Products Substitutes Act, any reference to the Régie des marchés agricoles et alimentaires du Québec is a reference to the Minister of Agriculture, Fisheries and Food.

76. This Act comes into force on 5 November 1999, except the provisions of section 30 where it enacts sections 149.2 to 149.5 of the Act respecting the marketing of agricultural, food and fish products, section 31, section 47 where it repeals sections 19 to 22 of the Dairy Products and Dairy Products Substitutes Act, sections 61, 65 to 67 and 74 which come into force on the date or dates to be fixed by the Government.