

chapter M-35.1

**ACT RESPECTING THE MARKETING OF AGRICULTURAL, FOOD AND FISH PRODUCTS**

— TABLE OF CONTENTS

**TITLE I — SCOPE [1 - 3]**

**— TITLE II — RÉGIE DES MARCHÉS AGRICOLES ET ALIMENTAIRES DU QUÉBEC [4 - 43.1]**

*CHAPTER I — ESTABLISHMENT AND FUNCTIONS OF THE RÉGIE [4 - 25]*

*CHAPTER II — POWERS OF THE RÉGIE [26 - 43.1]*

**— TITLE III — MARKETING OF AGRICULTURAL PRODUCTS [44 - 178]**

*CHAPTER I — GENERAL PROVISIONS [44]*

*CHAPTER II — JOINT PLANS [45 - 63]*

— *CHAPTER III — PRODUCER MARKETING BOARDS [64 - 91]*

*DIVISION I — FUNCTIONS AND POWERS OF A MARKETING BOARD [64 - 72]*

*DIVISION II — GENERAL MEETING OF PRODUCERS [73 - 91]*

*CHAPTER IV — REGULATORY POWERS OF A MARKETING BOARD [92 - 102.1]*

— *CHAPTER V — AMALGAMATION OF MARKETING BOARDS AND AMALGAMATION OF PLANS [103 - 109]*

*DIVISION I — AMALGAMATION OF MARKETING BOARDS [103 - 107]*

*DIVISION II — AMALGAMATION OF PLANS [108 - 109]*

*CHAPTER VI — CERTIFICATION [110 - 111.2]*

*CHAPTER VII — MARKETING AGREEMENT [112 - 119]*

*CHAPTER VIII — AGREEMENTS WITH OTHER GOVERNMENTS AND GOVERNMENT BODIES [120 - 121]*

*CHAPTER IX — CONTRIBUTIONS [122 - 134]*

*CHAPTER X — COORDINATION AND DEVELOPMENT CHAMBERS [135 - 147]*

*CHAPTER XI — GUARANTEE OF PAYMENT FOR AGRICULTURAL PRODUCTS [148 - 162]*

CHAPTER XII — INVESTIGATIONS AND INSPECTIONS [163 - 170]

CHAPTER XIII — WINDING UP [171 - 178]

**TITLE IV — MARKETING OF FISH PRODUCTS [179 - 191]**

CHAPTER I — GENERAL PROVISIONS [179 - 183]

CHAPTER II — SPECIAL PROVISIONS [184 - 191]

**TITLE IV.0.1 — MARKETING OF WILD FUR [191.0.1 - 191.0.7]**

**TITLE IV.1 — PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC [191.1]**

**TITLE V — PENAL PROVISIONS [192 - 201]**

**TITLE VI — MISCELLANEOUS AND TRANSITIONAL PROVISIONS [202 - 229]**

CHAPTER I — FINAL PROVISIONS, AMENDMENTS AND REPEALS [202 - 216]

CHAPTER II — TRANSITIONAL PROVISIONS [217 - 229]

REPEAL SCHEDULE

## **TITLE I**

### **SCOPE**

**1.** This Act establishes rules to allow orderly organization of the production and marketing of agricultural and food products and the marketing of fish products and of wild fur, whether or not such activities are carried on for purposes of sale.

1990, c. 13, s. 1; 1992, c. 28, s. 1; 1998, c. 48, s. 1.

**2.** This Act shall not be construed as a means to compete with cooperative marketing of agricultural or fish products. This principle must guide the application of this Act so as not to hamper cooperative action in regions and sectors where it can meet needs effectively and so as to ensure that the establishment and administration of joint plans may benefit as much as possible from the participation of cooperatives.

1990, c. 13, s. 2.

**3.** The word “marketing” means the classification, processing, labelling, storage, offering for sale, shipping for sale purposes, transport, penning, sale, purchase, advertising and financing of operations relating to the selling of the product and services of pollination by bees in respect of agricultural products.

1990, c. 13, s. 3.

## **TITLE II**

**RÉGIE DES MARCHÉS AGRICOLES ET ALIMENTAIRES DU QUÉBEC**

## **CHAPTER I**

### **ESTABLISHMENT AND FUNCTIONS OF THE RÉGIE**

**4.** A body is hereby established under the name of “Régie des marchés agricoles et alimentaires du Québec”.

1990, c. 13, s. 4.

**5.** The functions of the Régie are to foster the efficient and orderly marketing of agricultural and food products, the development of harmonious relations between the various intervenors, the settlement of problems arising in connection with the production and marketing of such products, taking into account the interests of consumers and the protection of the public interest.

The Régie shall have the same functions in respect of the marketing of fish products.

1990, c. 13, s. 5; 1997, c. 43, s. 362.

**6.** The Régie shall have its head office in the territory of the Communauté métropolitaine de Montréal. It shall also have an office in the territory of the Communauté métropolitaine de Québec.

The Régie may sit anywhere in Québec.

1990, c. 13, s. 6; 1992, c. 28, s. 2; 2000, c. 56, s. 169.

**7.** The Régie is composed of eight members, including a chairman and three vice-chairmen, appointed by the Government for a term not exceeding five years.

The members of the Régie shall remain in office notwithstanding the expiry of their term until they are reappointed or replaced.

1990, c. 13, s. 7.

**7.1.** The Government may, if it considers that the dispatch of the affairs of the Régie so requires, appoint any supplementary member for the time it determines.

1992, c. 28, s. 3.

**8.** The Government shall determine the salaries and other conditions of employment of the members of the Régie. Once fixed, their salaries cannot be reduced.

1990, c. 13, s. 8.

**9.** The chairman is responsible for the administration and direction of the Régie.

1990, c. 13, s. 9.

**10.** No member of the Régie may, on pain of forfeiture of office, have any direct or indirect interest in any activity related to the production or marketing of an agricultural, food or fish product putting his personal interest in conflict with the interest of the Régie, or represent any group or sector contemplated by this Act.

However, forfeiture is not incurred if a member acquires such an interest by succession or gift, provided he renounces or disposes of it with diligence.

1990, c. 13, s. 10.

**11.** If a member of the Régie is unable to act, the Government may appoint another person to replace the member for as long as the member is unable to act.

If the chairman is to be absent at a sitting, the chairman shall designate a member of the Régie to replace the chairman.

1990, c. 13, s. 11; 1997, c. 70, s. 7.

**12.** The Régie may sit as a panel composed of not fewer than three members. 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. However, a member of the Régie may hear and decide alone matters brought under the first paragraph of section 46 of the Farm Producers Act (chapter P-28).

1990, c. 13, s. 12; 1991, c. 29, s. 32; 1997, c. 70, s. 8; 1999, c. 50, s. 2.

**13.** Three members of the Régie constitute a quorum.

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

1990, c. 13, s. 13.

**13.1.** If a member of the Régie before whom a matter has been brought is unable to act, disqualifies himself or ceases to be a member of the Régie, the remaining members shall decide the matter. The quorum is reduced to two and the presiding member has a casting vote in the case of a tie.

2006, c. 44, s. 1.

**14.** The members of the Régie cannot be prosecuted for any act performed in good faith in the performance of their duties.

1990, c. 13, s. 14.

**15.** The secretary and the other employees of the Régie are appointed in accordance with the Public Service Act (chapter F-3.1.1).

1990, c. 13, s. 15; 2000, c. 8, s. 242.

**16.** Every copy of a document emanating from the Régie is authentic if it is signed or certified by the chairman, the secretary or any person designated for that purpose by the Régie.

1990, c. 13, s. 16.

**17.** The Government may appoint and assign to the Régie any expert considered necessary and fix his salary.

1990, c. 13, s. 17.

**18.** The Government may, at the request of the Régie, appoint for a period not exceeding three months, any person to act as an inspector or investigator for the Régie. It shall fix the salary of any such person.

1990, c. 13, s. 18.

**19.** The Régie may review or revoke any of its decisions

(1) where a new fact is discovered which, if it had been known in due time, would have justified a different decision;

(2) where a person interested in the issue was, for reasons considered satisfactory, unable to present observations;

(3) where a procedural defect is likely to invalidate the decision.

Except in exceptional circumstances, the Régie shall not accept a request for review or revocation filed more than 180 days after the date on which the decision was made.

1990, c. 13, s. 19; 1997, c. 43, s. 364.

**20.** The Government may, of its own initiative and for reasons in the public interest, suspend, amend or annul any decision of the Régie.

1990, c. 13, s. 20.

**21.** Except on a question of jurisdiction, no application for judicial review under the Code of Civil Procedure (chapter C-25.01) may be exercised nor any injunction granted against the Régie or any of its members acting in its or his official capacity.

1990, c. 13, s. 21; 1999, c. 50, s. 3; I.N. 2016-01-01 (NCCP).

**22.** A judge of the Court of Appeal may, on an application, annul summarily any decision, order or injunction made or granted contrary to section 21.

1990, c. 13, s. 22; I.N. 2016-01-01 (NCCP).

**23.** The fiscal year of the Régie shall end on 31 March each year.

1990, c. 13, s. 23.

**24.** Not later than 1 September each year, the Régie shall transmit to the Minister a report on its activities for the preceding fiscal year. The report shall be tabled in the National Assembly within 30 days after its receipt if the Assembly is in session or, if it is not sitting, within 30 days of resumption.

1990, c. 13, s. 24.

**25.** The Régie may adopt rules for its internal management; it shall submit the rules to the Government for approval.

The Régie may also adopt rules of procedure applicable to the matters brought before it. The rules shall come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date determined by the Régie.

1990, c. 13, s. 25; 1997, c. 43, s. 365.

## **CHAPTER II**

### **POWERS OF THE RÉGIE**

**26.** The Régie may settle any dispute arising in connection with the administration of a joint plan or the operation of a coordination and development chamber.

1990, c. 13, s. 26; 1997, c. 43, s. 366; 1999, c. 50, s. 4.

**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.

1999, c. 50, s. 5.

**27.** The Régie may, on the conditions and for the purposes it determines, and after giving the parties the opportunity to present observations, confer on a person, on an agricultural cooperative or on a fishermen's cooperative the rights and obligations of a buyer for the purposes of the joint offer for sale of a product marketed under a plan.

Similarly, the Régie may confer on any person who takes part in the production of an agricultural product the rights and obligations of a producer in respect of the product and on any person who takes part in the harvesting of a fish product, the rights and obligations of a fisherman in respect of the product.

1990, c. 13, s. 27; 1997, c. 43, s. 367.

**28.** The Régie may

(1) amend, replace or revoke any provision of a plan, by-law, the constituting instrument of a chamber or a decision of a board of producers or fishermen or of a chamber;

(2) terminate or suspend for any period it determines the application of a plan, by-law, agreement, the constituting instrument or a decision of a chamber or any provision thereof.

The Régie shall give prior notice of the date and place where the observations of interested persons are to be made.

It shall publish a notice in the *Gazette officielle du Québec* containing its decision under this section.

1990, c. 13, s. 28; 1997, c. 43, s. 368; 1999, c. 50, s. 6.

**29.** The Régie may reduce temporarily or permanently, suspend or cancel the quota of any producer who neglects or refuses to comply with any provision of this Act, or of a plan, by-law, arbitration award or homologated agreement or who ceases to produce the product for which he holds a quota.

Before making its decision, the Régie shall notify the producer in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the producer at least 10 days to present observations.

1990, c. 13, s. 29; 1997, c. 43, s. 369.

**30.** The Régie may, after giving the interested person the opportunity to present observations, order the removal from office of any director of a board of producers or fishermen who contravenes the provisions of section 89 or fails to comply with a notice of meeting or a request made under the second paragraph of section 76.

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.

1990, c. 13, s. 30; 1997, c. 43, s. 370; 1999, c. 50, s. 7.

**31.** The Régie may require a marketing board to submit any question relating to the application of this Act to the general meeting of producers or, as the case may be, fishermen, or of a group or particular class established under section 84.

1990, c. 13, s. 31.

**32.** The Régie may at any time submit to the referendum of the producers or fishermen subject to a plan held in accordance with section 54, any question concerning the plan and its administration.

1990, c. 13, s. 32.

**33.** The Régie may request that a marketing board negotiate with a certified association any matter which may be the subject of a by-law under section 92, 93, 97, 98 or 100 or, in the absence of certified association, to negotiate with any person interested in the marketing of a product designated by it. The Régie may determine that the conciliation and arbitration procedure provided in Chapter VII of Title III shall apply if no agreement is reached.

This section also applies to any matter regulated under a by-law already in force.

1990, c. 13, s. 33.

**34.** The Régie may make regulations to require persons or partnerships engaged in the production or marketing of a product subject to a plan or governed by a coordination and development chamber to register their names, addresses and occupations at the place and in the manner it determines.

1990, c. 13, s. 34.

**35.** If no association or group of cooperatives is certified in accordance with section 110, the Régie may, after giving them the opportunity to present observations, extend to persons interested in the marketing of a product marketed under a plan the effects of an agreement between the board administering the plan and the persons marketing the major part of the product, or of an arbitration award which is in lieu of such an agreement. The Régie may then exercise the powers set out in the second paragraph of section 117.

The decision of the Régie is an arbitration award that is in lieu of and has the same effects as a homologated marketing agreement.

1990, c. 13, s. 35; 1997, c. 43, s. 371; 2011, c. 28, s. 1.

**36.** The Régie may, on the conditions and for the period it determines,

(1) exempt any person or category of persons or any partnership engaged in the production or marketing of an agricultural product or the marketing of a fish product or any class or variety of such products from all or some of the effects of the constituting instrument of a chamber, a joint plan, a regulation, a by-law or an agreement;

(2) exclude from a joint plan, a regulation or by-law or from the jurisdiction of a chamber any class or variety of agricultural or fish products.

The Régie shall publish in the *Gazette officielle du Québec* any decision it makes under subparagraph 2 of the first paragraph.

1990, c. 13, s. 36.

**37.** The Régie may, on the conditions it determines and after having given interested persons the opportunity to present observations, exempt a marketing board or its directors from the application of sections 60, 89 and 128 if it considers such exemption necessary to facilitate orderly and efficient marketing of the product concerned in the general interest of the producers or the fishermen, as the case may be, without causing serious prejudice to the other intervenors.

The Régie may, in that case, restrict the exercise, by the marketing board, of certain powers under this Act.

It may, in the same manner, suspend, amend or revoke the exemption if, in addition to the reasons mentioned in the first paragraph of section 19, circumstances have changed to an extent which would justify such suspension, amendment or revocation. Where such a decision relates to the application of section 60, the Régie shall first notify the marketing board or its directors in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the marketing board at least 10 days to present observations.

1990, c. 13, s. 37; 1992, c. 28, s. 4; 1997, c. 43, s. 372; 1999, c. 50, s. 8.

**38.** The Régie may, if it considers such action necessary to ensure the efficient carrying out of a plan or by-law, entrust any person or body it designates with the carrying out of the plan or by-law or any provision thereof and, if need be, replace that person or body.

The Régie shall give prior notice, in a farm journal having general circulation, of the date and place where the observations of the persons subject to the plan or by-law are to be made.

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.

The person or body designated by the Régie shall succeed by operation of law to the marketing board until then responsible for the administration of the plan or enforcement of the by-law and shall have all the powers, duties and prerogatives of that board.

1990, c. 13, s. 38; 1997, c. 43, s. 373; 1999, c. 50, s. 9.

**39.** The Régie may take possession of the assets, books and documents used in the administration of a plan or application of a by-law to ensure the conservation and custody thereof or return them to the person or body responsible for the carrying out of the plan or by-law under section 38.

1990, c. 13, s. 39.

**40.** The Régie may, by regulation,

(1) determine the activities relating to the production and marketing of an agricultural product for which it requires a permit;

(2) determine the duration and the terms and conditions of issue and renewal of permits for persons or partnerships applying therefor;

(3) establish classes of permits according to the production and marketing activities it determines, categories, classes or varieties of products it identifies, and determine specific conditions of issue and restrictions for each category of permit;

(4) determine the charges and fees exigible for the issue or the renewal of permits.

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

1990, c. 13, s. 40; 1999, c. 50, s. 10.

**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 ten days to present observations.

1999, c. 50, s. 11.

**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.

1999, c. 50, s. 11.

**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.

1999, c. 50, s. 11.

**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.

1999, c. 50, s. 11.

**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.

1999, c. 50, s. 11.

**40.5.1.** The Régie may determine by regulation any matter that relates to the payment of milk and cream by a milk dealer.

2000, c. 26, s. 57.

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

1999, c. 50, s. 11.

**41.** The Régie may suspend, revoke or refuse to renew the permit of any holder

(1) who no longer satisfies the conditions for issue prescribed in a regulation made under section 40;

(2) who has been found guilty of an offence under any provision of this Act or a plan, regulation or by-law, homologated agreement or arbitration award relating directly to the activity authorized by the permit.

Before making any such decision, the Régie shall notify the interested person in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the interested person at least 10 days to present observations.

1990, c. 13, s. 41; 1997, c. 43, s. 374.

**41.1.** The Régie may, by regulation, determine the tariff of duties, fees and costs in respect of the applications submitted to it and the services it provides.

1992, c. 28, s. 5; 1997, c. 43, s. 375.

**42.** Every regulation made by the Régie shall come into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date determined by the Régie.

1990, c. 13, s. 42.

**43.** The Régie may, of its own initiative or at the request of an interested person, order a marketing board or any person engaged in the production or marketing of a product marketed under a plan, to perform or not to perform a particular act where it is of the opinion that such act or omission may hinder the carrying out of the plan, a by-law, a homologated agreement or an arbitration award.

The Régie may also decide on the payability of a sum of money under a plan, a by-law, a homologated agreement, an arbitration award in lieu of an agreement or a decision in lieu of an arbitration award, and order its payment.

Any decision made by the Régie under the first and second paragraphs may be homologated by the Superior Court on an application by the Régie or an interested person, and after homologation it becomes executory as a judgment of the Court.

1990, c. 13, s. 43; 2011, c. 28, s. 2; I.N. 2016-01-01 (NCCP).

**43.1.** The Régie shall, at the request of the Minister, give the Minister the opinion required by section 10 of the Food Products Act (chapter P-29); 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.

1999, c. 50, s. 12; 2000, c. 26, s. 58.

### **TITLE III**

## **MARKETING OF AGRICULTURAL PRODUCTS**

### **CHAPTER I**

#### **GENERAL PROVISIONS**

**44.** This Title applies to the production and marketing of agricultural and food products.

“Agricultural product” means any agricultural, horticultural, avicultural, livestock or forest product in its raw state or partly or wholly processed by or for the producer, and any beverage or other food products derived therefrom; aquaculture products are considered to be agricultural products.

1990, c. 13, s. 44; 2003, c. 23, s. 73.

### **CHAPTER II**

#### **JOINT PLANS**

**45.** Ten or more interested producers may transmit to the Régie a draft joint plan permitting the establishment of conditions for the production and marketing of an agricultural product originating from a designated territory or intended for a specified purpose or a particular buyer, and the constitution of a producer marketing board to administer the plan.

1990, c. 13, s. 45.

**46.** An association of producers may also transmit to the Régie a draft joint plan for the marketing of an agricultural product produced by all or some of its members. It shall append to the draft plan a duly certified copy of the resolution of its board of directors approving the draft and authorizing its transmission to the Régie.

1990, c. 13, s. 46.

**47.** The application accompanying the draft plan must set out

- (1) the names, addresses and occupations of the applicants;
- (2) the objective pursued by the applicants and the means by which it can be achieved;
- (3) the names, addresses and occupations of the directors of the marketing board which will be responsible for administering the plan;
- (4) the reasons why, if any, the plan should not be submitted to a referendum under section 53.

1990, c. 13, s. 47; 1997, c. 43, s. 376.

**48.** The draft plan must set out

- (1) the class of producers and the agricultural product subject to the plan;
- (2) the territory from which the product may originate and the buyers for whom or the purpose for which it is intended;
- (3) the composition of the marketing board which will be responsible for administering the plan;
- (4) the method of election and replacement of subsequent directors of the board;
- (5) the method for financing the administrative expenses which will be incurred by the marketing board in administering the plan;
- (6) any power conferred on marketing boards under this Title but excluded at the request of the applicants;
- (7) the particular formalities concerning the exercise by the marketing board of powers conferred under this Title;
- (8) any other information required by the Régie.

1990, c. 13, s. 48.

**49.** The draft plan may also indicate the establishment, composition, term of office and method of appointment and replacement of members of an advisory committee which will be responsible for advising the marketing board on any matter relating to the administration of the plan and the

enforcement of the by-laws made under this Act by the marketing board or the general meeting of producers.

1990, c. 13, s. 49.

**50.** In the draft plan, instead of specifying the composition of a marketing board, the applicants may designate, for the administration of the plan, a professional syndicate composed exclusively of producers of the agricultural product to be marketed under the draft plan, or a union or federation of such professional syndicates or an agricultural cooperative whose sole object is the marketing of such product.

1990, c. 13, s. 50.

**51.** The Régie shall cause a notice of the filing of the application and of the draft plan, containing the information referred to in paragraphs 1, 2, 5 and 6 of section 48 and indicating the date on which the Régie will receive observations from persons interested in the proposed plan, to be published in the *Gazette officielle du Québec* and in a farm journal having general circulation.

If the applicants requested that the draft plan not be submitted to a referendum, the Régie shall make mention thereof in the notice.

The Régie shall furnish, free of charge, a copy of the draft plan to every person who requests one.

1990, c. 13, s. 51; 1997, c. 43, s. 379; 1999, c. 50, s. 14.

**52.** After having received observations from the interested persons, the Régie may grant the application, reject it or make such amendments or restrictions as it sees fit to the draft plan.

In making its decision, the Régie shall consider, among other factors, existing cooperative marketing structures for the product concerned, existing and potential markets, economic conditions and the interests of producers, buyers, other intervenors and consumers.

1990, c. 13, s. 52; 1997, c. 43, s. 380; 1999, c. 50, s. 15.

**53.** Subject to section 56, where the Régie grants the application, it shall submit the draft plan as filed or as amended pursuant to section 52, where that is the case, to a referendum of the producers held in accordance with the terms and conditions it determines. At the same time, the Régie shall convey to the producers the information furnished pursuant to section 47.

1990, c. 13, s. 53; 1997, c. 43, s. 381.

**54.** To hold the referendum, the Régie shall determine by regulation the qualifications required of a producer and the conditions he must satisfy, on a specified date, to be considered an interested producer. Every interested producer is entitled to one vote, except where his operation has a legal status determined by regulation of the Régie, in which case the producer is entitled to two votes.

The Régie shall draw up a list of interested producers and shall determine

- (1) the places where the list may be consulted;
- (2) the time granted to any producer whose name may have been omitted from or included on the list by error to make the required corrections;
- (3) the time granted to oppose the inclusion of a person on the list on the grounds that the person does not have the status of interested producer;
- (4) the time granted to oppose the number of votes granted to an interested producer;
- (5) the procedure for making the final list of interested producers public.

After these formalities have been completed, the Régie shall draw up the final list of interested producers and make it public. The list cannot be contested.

1990, c. 13, s. 54; 1992, c. 28, s. 6; 1997, c. 43, s. 382.

**55.** A draft plan must be approved by not less than two-thirds of the producers having voted. Not less than one-half of the interested producers must have voted.

1990, c. 13, s. 55.

**56.** If, after an inquiry, the Régie is of the opinion that a referendum is not advisable in view, particularly, of the urgency of the situation, public interest considerations or the technical or financial difficulties involved in the holding of a referendum, it shall transmit the file, together with its recommendations, to the Government for approval.

The Government may approve the proposed draft plan with the amendments or restrictions recommended by the Régie, if any.

The draft plan shall in that case be deemed approved in accordance with section 55.

1990, c. 13, s. 56.

**57.** The Régie shall cause every approved draft plan to be published in the *Gazette officielle du Québec*. The plan becomes effective 15 days after its publication or on any later date determined by the Régie.

1990, c. 13, s. 57.

**58.** Any person or partnership engaged in the production or marketing of the product marketed under a plan is bound by the obligations provided for in this Act from the coming into force of the plan.

1990, c. 13, s. 58.

**59.** Any person who or partnership which is both a producer and engaged in the marketing of a product marketed under a plan has the rights and is bound by the obligations attached to both activities.

This section applies even where the person or partnership acts through an agent, mandatary, corporation or partnership of which he or it is a shareholder or partner. It also applies where the person or partnership agrees with any other person or partnership that the latter shall carry on the activity concerned on his or its behalf.

However, any person who or partnership which owns a private woodlot of at least 800 hectares in a single block, in respect of which he or it is a certified forest producer within the meaning of section 130 of the Sustainable Forest Development Act (chapter A-18.1), does not have the rights and is not bound by the obligations referred to in the first paragraph in respect of timber harvested on that woodlot and marketed under a plan, if such timber is harvested for himself or itself and processed in a plant which he or it owns.

1990, c. 13, s. 59; 1992, c. 28, s. 7; 1996, c. 14, s. 31; 2009, c. 52, s. 596; 2010, c. 3, s. 321.

**60.** No marketing board may trade in or engage in the processing of the product marketed under the plan administered by it.

Where a marketing board trades in or engages in the processing of the product marketed under the plan it administers, the producers subject to the plan shall, within the time determined by the Régie, replace the marketing board.

1990, c. 13, s. 60.

**61.** The alienation or transfer of the whole or part of the undertaking of a person or partnership engaged in the marketing of a regulated product shall not invalidate a joint plan, a homologated agreement, an arbitration award or any procedure relating to the approval or carrying out of a plan, agreement or arbitration award.

Notwithstanding the alienation or transfer of the whole or part of such an undertaking or the division or merger or any change in the legal structure of such an undertaking, the subsequent acquirer is bound by the plan, the agreement or the arbitration award as though he were named in it, and he shall forthwith be substituted for the transferor in any procedure relating thereto.

The Régie may render any decision it considers necessary to evidence the transfer of the rights and obligations arising from this section and to settle any dispute resulting from its application.

1990, c. 13, s. 61; 1997, c. 43, s. 383.

**62.** At the request of the Régie and not less than once every five years, every marketing board must demonstrate, before the Régie or the persons designated by the Régie to report to it, that the plan and its by-laws serve the interests of all the producers and promote the efficient and orderly marketing of the product.

The Régie shall give persons interested in the marketing of the product the opportunity to present observations on the administration of the plan and enforcement of the relevant by-laws.

1990, c. 13, s. 62; 1997, c. 43, s. 384.

**63.** A joint plan does not apply to sales made directly by a producer to a consumer.

Nevertheless, the Régie may, by regulation, on the conditions it determines, subject such sales to any provision of a plan, by-law, homologated agreement or arbitration award if it is of the opinion that such sales seriously affect their application.

1990, c. 13, s. 63.

### **CHAPTER III**

## **PRODUCER MARKETING BOARDS**

### **DIVISION I**

#### **FUNCTIONS AND POWERS OF A MARKETING BOARD**

**64.** The producer marketing board is established upon the coming into force of a plan; it is responsible for administering the plan and may exercise every power conferred by this Title, subject to any restriction or condition set out in the plan or determined by the Régie.

The marketing board is a legal person.

1990, c. 13, s. 64; 1999, c. 40, s. 192.

**65.** The marketing board is the negotiating agent for the producers and the sales agent for the product marketed under the plan.

The marketing board may also, with the approval of the Régie, carry out any function with respect to the production and marketing of the product in order to promote, defend and develop the interests of the producers who are subject to the plan.

1990, c. 13, s. 65.

**66.** A body designated under section 50 to administer a plan is vested with the powers, duties and prerogatives of a producer marketing board; it shall exercise such powers, duties and prerogatives through its board of directors except those reserved for the general meeting of producers. It shall keep separate accounting records for the management of the plan. 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.

1990, c. 13, s. 66; 1999, c. 40, s. 192; 1999, c. 50, s. 16.

**67.** No person or body may use the designation “producer marketing board” or any other designation including the words “producer marketing board” or “joint plan”, to designate any person, body or enterprise other than a producer marketing board or a joint plan.

1990, c. 13, s. 67.

**68.** A marketing board may pursue any remedy available to a producer under a homologated agreement, under an arbitration award or under any by-law made under this Title, without having to prove the assignment of the producer’s claim.

1990, c. 13, s. 68.

**69.** The remedies of several producers against the same person may be joined in a single suit and, notwithstanding the third paragraph of section 35 of the Code of Civil Procedure (chapter C-25.01), the total amount of the claim shall determine court jurisdiction in first instance and in appeal.

1990, c. 13, s. 69; I.N. 2016-01-01 (NCCP).

**70.** The directors of a marketing board cannot be prosecuted for any act performed in good faith in the performance of their duties.

1990, c. 13, s. 70.

**71.** Upon the coming into force of the plan it administers, a marketing board shall make by-laws to

(1) establish a file to register the name and address of each producer known to the marketing board as being subject to the plan. It is incumbent upon the producer to verify, in the manner stated in the by-law, that his name has been entered in the file;

(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;

(2) establish a retention schedule applicable to the documents relating to the administration of the plan. The marketing board may restrict access to certain documents it determines to the producers subject to the plan or to the members of its board of directors, and determine the fee exigible for the examination or reproduction of documents.

1990, c. 13, s. 71; 1992, c. 28, s. 8; 1999, c. 50, s. 17.

**72.** A marketing board may make rules consistent with this Act regarding any other procedural matter it is by law or by a joint plan authorized to regulate.

Within three months after the coming into force of the plan it administers, a marketing board shall make rules for its internal management. The rules come into force upon approval by the Régie.

1990, c. 13, s. 72.

## **DIVISION II**

### **GENERAL MEETING OF PRODUCERS**

**73.** A marketing board shall call a general meeting of producers at least once a year. The meeting shall adopt the annual report on the activities of the board, approve the financial statements for the preceding fiscal year and, when necessary, elect directors. It shall also appoint an auditor for the current fiscal year.

1990, c. 13, s. 73.

**74.** A marketing board may call a special general meeting whenever it considers it expedient.

A marketing board shall, however, call a special general meeting within 60 days of the filing of the written request of one-tenth of the producers registered in the file or of a request by the Régie.

1990, c. 13, s. 74; 1999, c. 50, s. 18.

**75.** A marketing board may also call a meeting of a class of producers established in accordance with subparagraph 2 of the first paragraph of section 84 whenever it considers it expedient.

The board must, however, call such a meeting within 60 days of the filing of the written request of one-tenth of the producers of that class in respect of an issue concerning them exclusively or of a request by the Régie.

1990, c. 13, s. 75; 1999, c. 50, s. 19.

**76.** If a marketing board fails to hold a general meeting, the Régie may call the meeting and designate a person to preside it.

The officers of the board and the auditor must comply with a notice requiring them to attend a meeting and must furnish any information they are requested to furnish by the Régie or by the designated chairman.

1990, c. 13, s. 76.

**77.** Not later than 20 days before a general meeting, the marketing board shall send a written notice of the meeting to every producer registered in the file on the date of sending. The notice shall state the place, date and time of the meeting as well as any matter which the marketing board wishes to submit to the producers.

The marketing board shall transmit to the Régie, within the time specified in the first paragraph, a copy of the notice of meeting and copies of the financial statements and of the auditor's report which will be submitted to the general meeting.

1990, c. 13, s. 77.

**78.** In the case of a meeting of a class of producers, the marketing board shall, not later than 20 days before the meeting, send notice of the meeting to every producer of that class whose name is registered in the file.

1990, c. 13, s. 78.

**79.** A general annual meeting, a special general meeting or a meeting of a class of producers shall consist of the producers or, where the marketing board has passed a by-law under subparagraph 1 of the first paragraph of section 84, the delegates present.

1990, c. 13, s. 79.

**80.** During the meeting, the producers may debate any issue concerning the plan and the conditions governing the marketing of the product concerned. However, by-laws may be passed only in respect of matters appearing on the agenda.

1990, c. 13, s. 80.

**81.** A general meeting of producers, duly called for such purpose, may, by resolution,  
(1) replace the marketing board and entrust the administration of the plan to a professional syndicate composed exclusively of producers of agricultural products marketed under the plan or a union or federation of such professional syndicates, to an agricultural cooperative whose sole object is the marketing of such products, or to a marketing board the composition and method of election, replacement or appointment of members of which shall be decided by the general meeting;

(2) replace the negotiating agent or the sales agent;

(3) modify the powers, duties and prerogatives of the agents or of the marketing board;

(4) make any other amendment to the plan that does not affect its scope.

The resolution must be approved by two-thirds of the votes and submitted for approval to the Régie which shall publish a notice of its filing in a farm journal having general circulation and give the producers subject to the plan an opportunity to present observations.

The Régie may assess, in the manner it considers appropriate, the opinion of the producers on the resolution.

The Régie shall publish every resolution it has approved in the *Gazette officielle du Québec* and in a farm journal having general circulation. The resolution takes effect on the date of its publication or on any later date determined by the Régie.

1990, c. 13, s. 81; 1997, c. 43, s. 385.

**82.** The financial statements submitted to the annual general meeting must be accompanied with an auditor's report stating

(1) whether the financial statements accurately present the financial position of the marketing board according to the information given to the auditor and as shown by the books of the board;

(2) any other information required by the Régie.

1990, c. 13, s. 82.

**83.** The auditor shall have access to all books, registers, accounts and other records of the marketing board; the directors and officers of the board shall facilitate his examination thereof and provide him with any information necessary for the carrying out of his duties as auditor.

1990, c. 13, s. 83.

**84.** A marketing board may, by by-law,

(1) divide the producers into groups according to geographic criteria and determine, for each group, a procedure for the election of a specific number of delegates;

(2) divide the producers into classes according to their activity and set out the criteria governing such division and the procedure for settling any problem that may arise in connection with its application.

The board shall record in the file the class of activity carried on by each producer.

1990, c. 13, s. 84; 1992, c. 28, s. 9; 1997, c. 43, s. 386.

**85.** Every producer subject to a plan whose name is registered in the file on the date of sending of the notice of meeting may take part in the deliberations and is entitled to vote at a general meeting or a meeting of a class of producers. However, where delegates have been elected pursuant to section 84, they alone are entitled to vote.

1990, c. 13, s. 85.

**86.** At any meeting of producers, every producer is entitled to one vote, except where his operation has a legal status determined by by-law of the marketing board, in which case the producer is entitled to two votes. However, a producer acting as a delegate is entitled to only one vote.

Only legal persons may vote by proxy. No person may represent more than one legal person at the same time.

1990, c. 13, s. 86; 1992, c. 28, s. 10.

**87.** Decisions of the general meeting are taken by majority vote except where this Act provides otherwise.

1990, c. 13, s. 87.

**88.** A body designated to administer a plan pursuant to section 50 shall hold the annual general meeting of producers separately from that of its members.

Only the members of the body who are entitled to vote may elect the directors thereof and make decisions concerning matters not related to the carrying out of the plan.

1990, c. 13, s. 88.



**89.** No person whose commercial interests are incompatible with the mission of a marketing board may hold office as a director of that board.

1990, c. 13, s. 89; 1992, c. 28, s. 11.

**89.1.** Not later than ten 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.

1999, c. 50, s. 20.

**90.** A marketing board may consult a class of interested producers on matters concerning them exclusively or principally.

1990, c. 13, s. 90.

**91.** A marketing board may submit, to a class of producers duly called to a meeting for such purpose, any draft by-law that concerns them exclusively.

1990, c. 13, s. 91; 1992, c. 28, s. 12.

#### **CHAPTER IV**

#### **REGULATORY POWERS OF A MARKETING BOARD**

**92.** A marketing board may, by by-law,

(1) determine conditions governing the production, storage, preparation, handling and transport of the product marketed under the plan it administers, as well as standards respecting the quality, form and composition, container or packaging and the inscription which must appear on the product, its container or packaging;

(2) prescribe the classification and identification of the product marketed under the plan it administers, determine for that purpose particular grades, categories and appellation and determine the conditions on which such classification and identification must be made.

1990, c. 13, s. 92.

**93.** A marketing board may, by by-law, fix production and marketing quotas for the product marketed under the plan it administers and, for that purpose, subject production and marketing to the conditions, restrictions and prohibitions it determines.

Without restricting the scope of the first paragraph, a board may, by by-law,

(1) determine the times and places a product marketed under the plan it administers may be produced and marketed;

(2) require that every producer be the holder of an individual quota allocated by the board and authorizing him to produce or market the product marketed under the plan it administers, fix the minimum and maximum quotas the producer may hold, individually or in association with other persons, and determine the proportion of the quota each producer must produce himself within his operation;

(3) determine the conditions governing the allocation, maintenance or renewal of an individual quota, and the manner in which it is issued;

(4) establish equivalences based on the area under cultivation or operation or the number of animals reared or marketed, for the purpose of fixing the quota of a producer;

(5) determine the manner and conditions applicable to the temporary or permanent reduction of the quota of a producer who produces or markets a larger or smaller quantity of the product marketed under the plan than is permitted by his quota;

(6) impose on any producer who contravenes a by-law made under this section, a penalty based on the volume or value of the product marketed or the area under cultivation or operation, and prescribe the use of this penalty for particular purposes;

(7) provide for the cancellation or use by another person of any part of a quota not produced or marketed during a specified period;

- (8) determine the circumstances, the extent and the conditions on which a producer holding a quota may produce or market a product otherwise than according to his quota or a standard determined by the marketing board;
- (9) establish an overall limit of individual quotas which may be allocated to producers by the marketing board, and prescribe standards for proportional reduction of the quotas when the limit has been or is about to be reached;
- (10) determine standards for periodical adjustment of individual quotas according to market needs;
- (11) determine the manner and conditions according to which the board may reallocate quotas which have been suspended, reduced or cancelled;
- (12) determine any part of the overall quota and of individual quotas which have been suspended or permanently reduced that it may keep in reserve;
- (13) establish the manner and conditions governing the allocation or reallocation of the reserve referred to in paragraph 12, and limit the allocation of quotas from the reserve to one or more classes of producers;
- (14) determine the cases of and the conditions applicable to the transfer of a quota from one producer to another, set aside a part of that quota for the reserve mentioned in paragraph 12, determine the terms, conditions and modalities of such a transfer, and make any such transfer subject to its approval;
- (15) determine the terms and conditions according to which a quota or part of a quota may be leased from a producer to another;
- (16) determine the conditions subject to which an operation may be leased by a producer who wishes to produce all or part of his quota elsewhere than within his own operation, and make such lease subject to the approval of the marketing board;
- (17) suspend any transfer of individual quotas for a specified period or for a period which may be determined according to the standards established by the marketing board;
- (18) divide the territory covered by the plan into zones and restrict or prohibit the transfer of quotas from one zone to another;
- (19) determine the length of time allowed to a new holder of a quota or the holder of a new quota to produce or market the product subject to the quota.

1990, c. 13, s. 93.

**94.** Where a marketing board makes a by-law under section 93, no person may produce or market the product concerned unless he holds a quota, except in the circumstances and on the conditions determined in the by-law.

1990, c. 13, s. 94.

**95.** Only the person or partnership producing the product marketed under a plan may hold and exploit a quota allocated by a marketing board.

However, this provision shall not prevent a new producer from becoming the holder of a quota.

The first paragraph does not apply to a creditor who temporarily holds a quota in execution of a guarantee, provided he disposes or takes measures to dispose of the quota within a reasonable time.

1990, c. 13, s. 95.

**96.** A marketing board may, by by-law, establish methods for fixing the price of the product marketed under the plan it administers, or of a class or variety thereof. The price may vary from one region to another.

1990, c. 13, s. 96.

**97.** A marketing board may, by by-law,

(1) require any producer of the product marketed under the plan it administers to register his operation in the manner and in accordance with the terms and conditions it prescribes;

(2) determine the information and documents that the producers of the product marketed under the plan it administers must keep and furnish for the purposes of the plan and the by-laws made under this chapter.

1990, c. 13, s. 97.

**98.** A marketing board may, with regard to the product subject to the plan it implements, make by-laws to

(1) establish a procedure of joint offer for sale permitting producers to receive, after deduction of all or part of the marketing costs determined by the board, the same price for an identical product of equal quality and in the same quantity marketed during a particular period on a particular market, independently of the variation in the sales price due to reasons unconnected with the actual value of the product;

(2) determine the method and conditions according to which a product may be marketed and offered for sale jointly;

(3) determine the standards for the fixing and payment of the sales price; these standards may provide for the fixing of a provisional price before sale and a final price after sale;

(4) determine the terms and conditions of payment of the sales price applicable to all buyers; these standards may provide for the payment of an initial instalment on delivery and subsequent instalments at intervals determined by the marketing board;

(5) determine the terms and conditions of apportionment among the producers of the net profit from the sale of the product or a particular class of it;

(6) require every buyer to pay the price of the product to the marketing board or to the sales agent designated for its apportionment among the producers;

(7) require every producer to sell the product to or through the board or designated sales agent;

(8) retain, out of the sales price, the amounts necessary for marketing the product, together with any other contribution imposed under this Title;

(9) determine what constitutes the net profit on sales for the purposes of this section.

1990, c. 13, s. 98.

**99.** A board may, by by-law, establish a procedure to apportion and pool the transport costs of the product so each producer, or each producer in a group determined in the by-law, pays the same price for the transport of his product, in equal quantity, independently of the distance between the production site and the place of delivery.

1990, c. 13, s. 99.

**100.** A board may, by by-law, determine what quantity of the product marketed under the plan constitutes a surplus of that product for any period it determines.

It may pay all or part of the expenses or losses resulting from the sale of the surplus out of the contributions referred to in sections 123 and 124.

1990, c. 13, s. 100.

**100.1.** To foster the reorganization of the conditions of production of an agricultural product, a board may, by by-law, grant financial assistance in respect of the product marketed under the plan administered by it to producers who satisfy the conditions determined in the by-law.

1992, c. 28, s. 13.

**101.** Every by-law made by a marketing board or a general meeting under this Act shall be submitted to the Régie for approval. The Régie may assess the opinion of the producers in respect of such a by-law in any manner it deems appropriate, and, if it considers it necessary in the case

of a by-law made by a marketing board, it may require the marketing board to submit the by-law to the general meeting for ratification.

1990, c. 13, s. 101; 1992, c. 28, s. 14; 1999, c. 50, s. 21.

**102.** The Régie shall publish in the *Gazette officielle du Québec* every by-law it has approved. The by-law comes into force on the date of publication, or on any later date determined by the Régie.

1990, c. 13, s. 102.

**102.1.** The Régie shall, within 20 days after publication in the *Gazette officielle du Québec* of a by-law under paragraph 1 of section 71, cause that by-law to be published in a farm journal having general circulation in the territory where the joint plan applies.

1992, c. 28, s. 15.

## **CHAPTER V**

### **AMALGAMATION OF MARKETING BOARDS AND AMALGAMATION OF PLANS**

#### **DIVISION I**

##### **AMALGAMATION OF MARKETING BOARDS**

**103.** Marketing boards may amalgamate and make agreements therefor.

1990, c. 13, s. 103.

**104.** Producer marketing boards planning to amalgamate shall prepare a deed of agreement setting out

- (1) the terms and conditions of amalgamation;
- (2) the name of the marketing board resulting from the amalgamation and the name, address and occupation of each provisional director;
- (3) the method of election and replacement of subsequent directors;
- (4) any other measure necessary to effect the amalgamation and provide for the administration and operation of the marketing board resulting from the amalgamation.

1990, c. 13, s. 104.

**105.** The deed of agreement shall be submitted for ratification to a general meeting of the producers subject to the plans administered by each of the interested marketing boards.

If the deed of agreement is ratified by way of a resolution adopted by a majority of the producers present at each of the general meetings called for that purpose, the boards planning to amalgamate shall jointly submit the deed of agreement to the Régie for approval.

1990, c. 13, s. 105; 1999, c. 50, s. 22.

**106.** The Régie may approve the deed of agreement and, if it approves it, it shall publish it in the *Gazette officielle du Québec*; the deed of agreement comes into force on the date specified therein. The boards are amalgamated and form a single marketing board under the name appearing in the deed of agreement.

1990, c. 13, s. 106.

**107.** The marketing board resulting from the amalgamation shall have the rights and powers, be vested with the property and assume the obligations and duties of the amalgamated boards and suits to which they are party may be continued by or against it without continuance of suit.

By-laws and agreements made by the amalgamated boards are deemed to have been made by the marketing board resulting from the amalgamation and remain in force.

Within three months after the coming into force of the new plan, the marketing board shall transmit to the Régie a report on the transfer of assets.

1990, c. 13, s. 107.

## **DIVISION II**

### **AMALGAMATION OF PLANS**

**108.** Producers subject to different plans may, at a general meeting of producers subject to each plan specially called for such purpose, decide to amalgamate their plans.

The proposed amalgamation must be ratified by way of a resolution adopted by two-thirds of the producers present. The new plan, setting out the information prescribed by sections 48 and 49, and the resolution shall be filed with the Régie.

If the Régie approves the plan resulting from the amalgamation, it shall cause it to be published in the *Gazette officielle du Québec* and the plan comes into force on the date specified therein; the Régie shall terminate the amalgamated plans on the same date.

1990, c. 13, s. 108.

**109.** The marketing board resulting from the amalgamation of the plans shall have the rights and powers, be vested with the property and assume the obligations of the marketing boards which administered the amalgamated plans and suits to which the marketing boards are party may be continued by or against it without continuance of suit.

By-laws and agreements made by the marketing boards which administered the amalgamated plans are deemed to have been made by the marketing board resulting from the amalgamation and they remain in force.

All assets relating to the management of the amalgamated plans are transferred to the marketing board responsible for administering the new plan upon its coming into force.

Within three months after the coming into force of a new plan, the marketing board shall transmit to the Régie a report on the transfer of assets.

1990, c. 13, s. 109.

## **CHAPTER VI**

### **CERTIFICATION**

**110.** Any group of cooperatives or association of persons interested in the marketing of an agricultural product marketed under a plan may apply to the Régie for certification as the representative of all or a class of the persons interested in the marketing of the product or of a class of the product, or in the marketing of the product produced in a part of the territory covered by the plan.

If the Régie considers the association or group sufficiently representative, it may grant it certification, specifying the interested persons or class of interested persons that the group or association may so represent.

The group or association shall then represent all such interested persons for the purposes of negotiation or agreement with the marketing board or, as the case may be, conciliation or arbitration under this Title.

1990, c. 13, s. 110; 1999, c. 50, s. 23.

**111.** The Régie may also certify an association or body as the representative of the class of persons it determines, in respect of the plan or the chamber or with a view to forming a coordination and development chamber under Chapter X which it specifies and for the purposes which it determines.

Unless the Régie decides otherwise, such certification does not allow the association or body to act as representative for the purposes of negotiation and agreement with the marketing board, conciliation or arbitration under this Title.

1990, c. 13, s. 111; 1997, c. 43, s. 387; 1999, c. 50, s. 24.

**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.

1999, c. 50, s. 25.

**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.

1999, c. 50, s. 25.

## **CHAPTER VII**

### **MARKETING AGREEMENT**

**112.** At the request of a marketing board, every person or partnership engaged in the marketing of a product marketed under a plan must negotiate with the board or its negotiating agent all terms and conditions relating to the production and marketing of the product.

1990, c. 13, s. 112.

**113.** Where a marketing board negotiates with a person or partnership engaged in the marketing of the product marketed under the plan it administers, the Régie may require, if it considers it expedient, that the board also negotiate with all other persons and partnerships engaged in the marketing of the product.

1990, c. 13, s. 113.

**114.** Every agreement entered into pursuant to sections 112 and 113 must, to be valid, be homologated by the Régie. The agreement takes effect on the date specified therein or determined by the Régie upon homologating the agreement.

1990, c. 13, s. 114.

**115.** Failing agreement between a marketing board and any other person or partnership engaged in the marketing of the product marketed under a plan, the Régie, at the request of an interested party, shall appoint a conciliator to confer with the parties for the purpose of reaching an agreement.

The conciliator shall report to the Régie within the time determined by the Régie or agreed upon in writing by the parties.

1990, c. 13, s. 115.

**116.** If conciliation has not resulted in an agreement, the Régie, at the request of an interested party, shall arbitrate the dispute.

The Régie may establish an alternate mode of arbitration if it considers it expedient under the circumstances; it may, in that case, appoint one or more arbitrators and fix the time granted to render their decision.

1990, c. 13, s. 116.

**117.** An arbitration award is in lieu of a homologated agreement; it is executory on the date indicated therein and is binding on the interested parties until, at the request of one of the parties and after giving the other parties the opportunity to present observations, the Régie considers it expedient to suspend the application of the award or to terminate or amend it.

When the Régie makes an arbitration award, it may, at the request of one of the interested parties, include a penalty payable by any party bound by the award who does not comply with the

obligations it contains and provide that the penalty be used for specific purposes. It may also require the payment of annual interest at the rate it sets. The Régie bases the penalty on, in particular, the volume, mass, quantity or value of the product marketed, or the area under cultivation or operation.

1990, c. 13, s. 117; 1997, c. 43, s. 388; 1999, c. 50, s. 26; 2011, c. 28, s. 3.

**118.** If a marketing board or a person or partnership subject to a plan refuses without due cause, in the opinion of the Régie, to negotiate the terms and conditions relating to the production or marketing of the product marketed under a plan, to appear for or participate in conciliation or arbitration after being called for such purpose, or to sign an agreement the terms of which it or he does not contest, the Régie may, after giving the interested parties the opportunity to present observations, prescribe the terms and conditions relating to the production and marketing of the product. The Régie may then, at the request of one of the interested parties, exercise the powers set out in section 117.

The decision of the Régie is in lieu of and has the same effects as an arbitration award.

1990, c. 13, s. 118; 1997, c. 43, s. 389; 2011, c. 28, s. 4.

**119.** Where efficient marketing of a product marketed under a plan so requires, the Régie may authorize a marketing board to negotiate with another board agreements on matters within the competence of either board.

Every agreement entered into between such boards must, to be have effect, be homologated by the Régie. A homologated agreement is binding upon the bodies party to it and upon all the producers subject to the plans administered by them.

The arbitration procedure set out in sections 115 to 117 applies to negotiations under this section.

1990, c. 13, s. 119.

## **CHAPTER VIII**

### **AGREEMENTS WITH OTHER GOVERNMENTS AND GOVERNMENT BODIES**

**120.** The Government may authorize the Régie or, as the case may be, the Régie and a marketing board, to make agreements with the government of Canada or of another province, or with a body of any such government, respecting

- (1) the production or marketing of an agricultural product;
- (2) any matter within the competence of the Régie or a marketing board respecting an agricultural product.

1990, c. 13, s. 120.

**121.** The Government may, on the conditions it determines, allow a marketing board

- (1) to act as an agent of the Governor General in Council;
- (2) to entrust a body authorized under an Act of the Parliament of Canada to regulate the marketing of an agricultural product, with any function that the marketing board may exercise under this Act;
- (3) to perform, on behalf of any body authorized under an Act of the Parliament of Canada to regulate the marketing of an agricultural product, any function which that body may perform under such Act.

The Government may, on the conditions it determines, amend a joint plan, a regulation or a by-law made under this Title, to ensure the carrying out of the provisions of or an agreement made under this chapter.

1990, c. 13, s. 121.

## **CHAPTER IX**

## CONTRIBUTIONS

**122.** The producers subject to a joint plan shall pay the expenses incurred for the purposes of the plan and by-laws by means of contributions prescribed in the plan or in a by-law made under section 123 or 124.

1990, c. 13, s. 122.

**123.** A general meeting of the producers, called for that purpose, may make by-laws

- (1) to vary the amount of the contribution prescribed in the plan;
- (2) to classify the producers into groups and fix for each group the level of contribution required from each producer who is a member of it for the purposes of the plan, the by-laws and this Act;
- (3) to impose a special contribution to pay the expenses related to the carrying out of a provision of a plan, a by-law or this Act;
- (4) to impose a special contribution to cover losses resulting from the marketing of the product marketed under the plan, whether or not such product is produced by the producer required to pay the contribution;
- (5) to impose a special contribution to permit the equalization or adjustment among producers of sums of money received from the sale of the product marketed under the plan, during such period as the board may determine;
- (6) to impose a special contribution to permit the board to pay its share of the activities and operating costs of a coordination and development chamber;
- (7) to impose, on all the producers or on those who meet certain criteria, a special contribution for the purposes of a by-law made under section 100.1 and to satisfy the obligations incurred in respect of the special fund established for the purposes of the by-law.

1990, c. 13, s. 123; 1992, c. 28, s. 16.

**124.** The producer marketing board, if authorized to do so by a general meeting of the producers called for that purpose, may, by by-law, establish

- (1) a reserve fund or working capital to pay expenses relating to the administration of a plan or the carrying out of a by-law;
- (1.1) a special fund for the purposes of a by-law made under section 100.1;
- (2) a contribution, which may vary, to permit it to fulfil obligations contracted under Chapter VIII;
- (3) methods to be used for the collection or calculation of a contribution imposed under this chapter.

1990, c. 13, s. 124; 1992, c. 28, s. 17.

**125.** The contributions provided for in sections 123 and 124 may be calculated according to the volume of production marketed, the area cultivated or in operation, the units of production needed to market the product or other equivalent criteria accepted by the Régie.

1990, c. 13, s. 125.

**126.** Any producer who is late in paying the contribution prescribed in the plan or a by-law made under section 123 or 124, may be required to pay such amount of interest as is fixed by a by-law of the general meeting of producers.

1990, c. 13, s. 126.

**127.** (*Repealed*).

1990, c. 13, s. 127; 1992, c. 28, s. 18; 1999, c. 50, s. 27.

**128.** No marketing board may in any way use contributions collected from producers under any provision of a plan or by-law to finance the setting up or operation of a commercial undertaking, or to hold capital stock or any other form of interest in a commercial undertaking.



Any marketing board which, on 12 September 1990, has used contributions described in the first paragraph shall, within three months from that date, present to and have approved by the Régie a program for the recovery of such contributions. Failing presentation and approval of a program, the board shall be required to apply the program determined by the Régie.

1990, c. 13, s. 128.

**129.** The Régie may, by regulation made of its own initiative or at the request of a marketing board,

(1) require any person other than a consumer who buys or receives from a producer a product marketed under a plan, to withhold from the price or value of the product to be paid to the producer all or part of the contributions fixed under sections 123 and 124 and to remit the amounts so withheld to the board, according to the terms and conditions prescribed in the regulation;

(2) determine the information which must be furnished in respect of the amounts so withheld.

1990, c. 13, s. 129.

**130.** Any person who fails to comply with a regulation of the Régie made under paragraph 1 of section 129 becomes liable to the marketing board for the amount of the contributions that he should have withheld or remitted to it. He may also be required to pay annual interest at the rate fixed by regulation.

1990, c. 13, s. 130.

**131.** Any person bound by a homologated agreement, arbitration award or decision of the Régie which prescribes the terms and conditions governing the withholding or remitting of contributions, who does not comply with his obligation, becomes liable to the marketing board for the amount of the contributions that he should have withheld or remitted to it. He may also be required to pay annual interest at the rate indicated in the agreement, arbitration award or decision.

1990, c. 13, s. 131; 1992, c. 28, s. 19.

**132.** A producer bound by a plan who is a member of a professional syndicate which administers the plan is not required to pay the annual fee to be a member of the syndicate for a year in which he pays the contribution required of him for the administration of the plan.

The first paragraph also applies where the syndicate is part of a union or federation of professional syndicates which administers the plan and notwithstanding the provisions of sections 2 and 3 of the Professional Syndicates Act (chapter S-40).

1990, c. 13, s. 132.

**133.** The members of a certified association or a class of such members may, at a general meeting of the association called for such purpose, ratify a by-law made by the association to determine the amount of the contribution required to cover the costs relating to the duties and obligations deriving from certification or from their association's membership in a coordination or development chamber.

The association shall inform every person or partnership affected by the certification of its intention to pass such a by-law.

The Régie may assess, in the manner it considers appropriate, the opinion of the interested persons regarding the by-law and grant its approval. The Régie shall publish every approved by-law in the *Gazette officielle du Québec*. The by-law comes into force 15 days after the publication or on the date determined by the Régie. Every person or partnership affected by the certification is required to pay the contribution.

1990, c. 13, s. 133.

**134.** The Régie may, after giving a certified association the opportunity to present observations, revoke any by-law made under section 133. The association shall, in that case, submit to the

Régie, for approval, a method of disposing of the balance of the contributions collected under the said section. Failing such approval, it must apply the method of disposal determined by the Régie.

1990, c. 13, s. 134; 1997, c. 43, s. 390.

## **CHAPTER X**

### **COORDINATION AND DEVELOPMENT CHAMBERS**

**135.** The marketing boards, associations or other persons interested in the production, marketing or distribution of an agricultural or food product, or the development of any such activity, may agree to request the Régie to establish a coordination and development chamber for the production or marketing of the product.

1990, c. 13, s. 135.

**136.** A chamber may take any action to promote, improve, coordinate and develop the production and marketing of an agricultural or food product.

For this purpose it may, among other things,

- (1) study, coordinate and propose ways of planning the conditions of production and marketing of the product;
- (2) seek and propose ways of improving the production and marketing of the product;
- (3) prepare, finance or administer programs of research, quality improvement, promotion, advertising or sale of the product;
- (4) propose training programs and more efficient ways of producing and marketing the product to producers, buyers, any person engaged in the marketing of the product and any other intervenor;
- (5) seek and develop markets for the product;
- (6) make representations on behalf of the members in connection with any matter related to the production or marketing of the product;
- (7) establish standards specific to the product concerned and to its display, and engage in the promotion of the product;
- (8) hold, on the conditions it determines, proprietary rights to a logo or trademark to identify the product whose marketing it coordinates and subject its use to compliance with the standards established under paragraph 7.

1990, c. 13, s. 136; 1996, c. 51, s. 25.

**137.** The applicants shall attach to their application a copy of their agreement and a duly certified copy of a resolution of their board of directors authorizing the presentation of the request and supporting the project.

The applicants must represent producers and at least one group of other persons interested in marketing the product in question.

1990, c. 13, s. 137; 1997, c. 43, s. 391.

**138.** The application shall specify

- (1) the name and address of every applicant;
- (2) the composition of the board of directors of the chamber and the method of appointment and replacement of the directors;
- (3) the objectives pursued by the chamber and the means by which they can be achieved;
- (4) the name under which the chamber will exercise its functions;
- (5) the financing method used by the chamber;
- (6) the method of apportionment among the members of the expenses incurred for the operation and activities of the chamber;
- (7) the terms and conditions of joining or withdrawing from the chamber;

- (8) the distribution of votes for decisions to be made by the board of directors of the chamber;
- (9) any other information required by the Régie.

1990, c. 13, s. 138; 1997, c. 43, s. 392.

**139.** The board of directors of a chamber shall consist of at least one director representing each of its members.

The Minister may appoint a person to represent the interests of consumers and delegate an observer to the proceedings of the board of directors of the chamber.

1990, c. 13, s. 139.

**140.** The Régie shall cause to be published in a farm journal having general circulation, a notice of the filing of a request for the establishment of a chamber containing the information mentioned in paragraphs 1, 3 and 4 of section 138 and specifying the date and place where persons interested in the matter may present observations.

1990, c. 13, s. 140; 1997, c. 43, s. 393; 1999, c. 50, s. 28.

**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.

1999, c. 50, s. 29.

**141.** If it grants the request and authorizes a chamber to be established, the Régie shall cause a notice to that effect to be published in the *Gazette officielle du Québec* and in a farm journal having general circulation. The chamber shall be formed on the date of publication, or from any later date determined by the Régie.

1990, c. 13, s. 141.

**142.** If it considers it appropriate, the Government may entrust a chamber with any mandate related to its functions.

1990, c. 13, s. 142.

**143.** Upon being formed, the chamber is a legal person.

It may from that moment make rules respecting its internal management and the conduct of its business; these rules shall come into force upon being approved by the Régie.

1990, c. 13, s. 143; 1999, c. 40, s. 192.

**144.** The members of a chamber may request the Régie to change the composition and aims of the chamber as well as the apportionment of its operating expenses and expenses incurred for its activities. Sections 140 and 141 apply, with the necessary modifications, to such requests.

1990, c. 13, s. 144.

**145.** A chamber shall call a general meeting of its members at least once a year; the meeting shall adopt the report on the activities of the chamber, approve the financial statements for the preceding fiscal year, examine the estimates of expenses for the current fiscal year, elect the directors and appoint an auditor.

After the general meeting, the chamber shall forward to the Régie a copy of its report of activities, the financial statements for the preceding fiscal year and the estimate of its expenses.

1990, c. 13, s. 145.

**146.** No chamber may trade in or process any agricultural or food product.

1990, c. 13, s. 146.

**147.** No person or body may use the designation “coordination and development chamber”, or any other designation including the words “coordination chamber” or “development chamber”, to

designate any person, body or enterprise other than a coordination and development chamber within the meaning of this chapter.

1990, c. 13, s. 147.

## **CHAPTER XI**

### **GUARANTEE OF PAYMENT FOR AGRICULTURAL PRODUCTS**

**148.** For the purposes of this chapter, “certified association” means a certified association within the meaning of the Farm Producers Act (chapter P-28).

1990, c. 13, s. 148.

**149.** The Régie may, by regulation,

(1) determine in which cases a person, other than a consumer, or a partnership that buys or receives an agricultural product designated by the Régie from a producer, either directly or through an agent, is required to deposit with the Régie, a marketing board or any other person designated by the Régie a guarantee of financial liability to secure payment of the amounts due to the boards or to the producers for the marketing of their products;

(2) fix the amount of guarantee exigible under paragraph 1, or establish standards which allow fluctuations in the amount of business transacted to be determined and taken into account;

(3) determine the requirement, other than deposit of the guarantee, which any person or partnership must fulfil to obtain a guarantee certificate or the renewal of a guarantee certificate, and the information and documents the person or partnership must furnish;

(4) determine the duration of the certificate and establish the fee exigible for its issue or renewal;

(5) determine the form or content of any certificate which it may issue to attest that a guarantee of financial liability has been deposited;

(6) determine the requirements to be fulfilled and the procedure to be followed by a producer or a marketing board so that a guarantee of financial liability may be applied to the payment of a debt, the time when such guarantee becomes exigible and the percentage of such debt the producer or marketing board will be entitled to claim;

(7) require the operator of an establishment referred to in paragraph c of section 30 of the Animal Health Protection Act (chapter P-42) to insure the animals kept by the operator in that establishment and determine the risks to be insured and the amount of the insurance.

The powers of the Régie under subparagraphs 1, 2, 3 and 6 of the first paragraph are exercised in the absence of an agreement homologated by the Régie, or of an arbitration award or a decision by the Régie made in lieu of an agreement, providing for the deposit of a guarantee of financial liability.

1990, c. 13, s. 149; 2000, c. 40, s. 44; 2006, c. 44, s. 2.

**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 or partnership 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.

1999, c. 50, s. 30; 2006, c. 44, s. 3.

**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.

1999, c. 50, s. 30.

**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.

1999, c. 50, s. 30.

**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.

1999, c. 50, s. 30.

**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.

1999, c. 50, s. 30.

**150.** No person or partnership referred to in paragraph 1 of section 149 or bound by an agreement homologated by the Régie, or an arbitration award or a decision by the Régie made in lieu of an agreement, providing for the deposit of a guarantee of financial liability, may buy or receive an agricultural product from a producer, directly or through an agent, if the required guarantee of financial liability has not been deposited by that person or partnership.

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.

1990, c. 13, s. 150; 1999, c. 50, s. 31; 2006, c. 44, s. 4.

**151.** The Régie may, after giving the interested parties the opportunity to present observations, exempt a person, a group of persons or certain transactions from the effects of a regulation made under section 149.

1990, c. 13, s. 151; 1997, c. 43, s. 394.

**152.** The Régie may revoke a certificate or suspend it for any length of time it determines if the holder no longer fulfils the requirements prescribed for its issue.

1990, c. 13, s. 152.

**153.** Before revoking or suspending a certificate, the Régie must notify the holder in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the holder at least 10 days to present observations.

However, the Régie is not bound by the requirements prescribed by the first paragraph where it suspends a certificate for not more than 15 days if it has reasonable grounds for believing that the holder is or is about to become insolvent.

The Régie shall send a certified copy of its decision, stating the grounds upon which it is based, by registered mail to the interested person and to the marketing board concerned or to the certified association, as the case may be.

1990, c. 13, s. 153; 1997, c. 43, s. 395; I.N. 2016-01-01 (NCCP).

**154.** A marketing board may pass a by-law to set up a fund to guarantee payment of all or part of any sum due to producers following the marketing of the product marketed under the plan it administers, and fix the terms and conditions governing the management of the fund.

The by-law may provide for

- (1) the imposition of and methods of collecting from the producers contributions required to set up the fund;
- (2) classification of producers into groups and the level of contribution to be paid by each producer according to the group to which he belongs;
- (3) the requirements a producer must fulfil and the procedure he must follow to file a claim with the fund, and the percentage of the debt owed to him he will be entitled to claim;
- (4) the time when the claim of a producer becomes exigible;
- (5) the possibility for the board to pay a producer advances from the fund, toward the payment of his claim;
- (6) the possibility for the board to determine the proportion of his claim to be received by each creditor when funds are insufficient to cover the claims of all the producers;
- (7) the procedure applicable to the winding up of the fund.

The by-law shall be submitted for ratification to a general meeting of the producers subject to the plan held for that purpose.

1990, c. 13, s. 154.

**155.** A certified association may, by by-law, exercise the same powers in respect of all the farm producers it represents as those granted to a general meeting of producers under section 154, with the necessary modifications.

1990, c. 13, s. 155.

**156.** By-laws passed under section 155 require the approval of the Régie, which may assess the opinion of the producers in any manner it considers appropriate.

Every by-law so approved shall come into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date determined by the Régie.

1990, c. 13, s. 156; 1992, c. 28, s. 20.

**157.** Sums collected from producers by a marketing board or certified association to set up a fund pursuant to section 154 or 155, shall be deposited with the Caisse de dépôt et placement du Québec on the conditions agreed between them.

The sums and the net revenue produced by them must be used exclusively for the payment of debts due by the fund and its administration costs.

No money may be withdrawn from the fund without the prior authorization of the Régie.

1990, c. 13, s. 157.

**158.** A marketing board or certified association shall be subrogated in the rights of a producer against a debtor for any debt paid out of the fund set up under section 154 or 155, and may recover from the debtor the sums paid on his behalf to the producer.

A marketing board or certified association may also pursue the remedies of a producer for the purpose of realizing upon a guarantee deposited under paragraph 1 or 2 of section 149.

1990, c. 13, s. 158.

**159.** The Régie, of its own initiative or at the request of a marketing board or certified association, may, by regulation,

(1) require any person other than a consumer who buys or receives an agricultural product from a producer, to withhold all or part of the contributions imposed under sections 154 and 155 from the price or value of the product to be paid to the producer, and remit the amount withheld to the board or association on behalf of the producer according to the terms and conditions prescribed;

(2) determine the information which must be furnished in respect of the amounts so withheld;

(3) fix and adjust the rate of interest payable where a person referred to in paragraph 1 is late in remitting a contribution to the marketing board or certified association.

1990, c. 13, s. 159.

**160.** Every person subject to a regulation made by the Régie under section 159 shall be liable to the marketing board or certified association for the amount of contributions which he should have withheld or remitted to it. He must also pay interest annually at the rate fixed in the regulation.

1990, c. 13, s. 160.

**161.** The Act respecting deposits with the Bureau général de dépôts pour le Québec (chapter D-5.1) does not apply to the Régie in respect of any amount it receives for or on behalf of producers in execution of a guarantee of financial responsibility furnished under section 149.

1990, c. 13, s. 161; 2016, c. 7, s. 183.

**162.** The Insurers Act (chapter A-32.1) and the Act respecting the distribution of financial products and services (chapter D-9.2) do not apply to the Régie or its members, to a marketing board or a certified association, or to their directors, officers and employees to the extent that they perform acts which relate to security issued in the form of an insurance policy pursuant to section 149.2 or to a fund established under section 154 or 155.

1990, c. 13, s. 162; 1989, c. 48, s. 257; 1998, c. 37, s. 578; 1999, c. 50, s. 32; 2018, c. 23, s. 811.

## **CHAPTER XII**

### **INVESTIGATIONS AND INSPECTIONS**

**163.** The Régie, or any person authorized by it, may investigate any matter relating to the production and marketing of an agricultural product and may require information from a marketing board or from any person or partnership concerning any matter to which this Act applies.

1990, c. 13, s. 163.

**164.** The Régie may, by regulation, require persons engaged in the production or marketing of an agricultural product, including marketing boards, to keep, for any length of time it determines, the books and registers it prescribes, to make reports to it and to provide it with information respecting their operations.

1990, c. 13, s. 164.

**165.** The Régie may, with the signature of its secretary or one of the members, summon any person for examination and require the filing of documents useful for the conduct of an investigation or any matter brought before it.

The secretary or a member of the Régie has the power to require any person examined by the Régie to take an oath.

1990, c. 13, s. 165; 1997, c. 43, s. 396; 1999, c. 50, s. 33.

**166.** Any person authorized by the Régie to make an investigation may

(1) stop a motor vehicle or other conveyance when he has reasonable grounds for believing that it is transporting an agricultural product, enter it and inspect the product;

(2) at any reasonable time, enter the office of a marketing board or an establishment or premises used for producing or marketing an agricultural product or the office of an undertaking producing or marketing an agricultural product, inspect the product and obtain a sample of it.

1990, c. 13, s. 166.

**167.** Any person authorized by the Régie to make an investigation or an inspection may, at any reasonable time, examine the books, registers or other documents relating to the production or marketing of an agricultural product and take extracts from or copies of them.

1990, c. 13, s. 167.

**168.** In the absence of any evidence to the contrary, every person in possession of an agricultural product in a quantity that exceeds the needs of his own consumption is presumed to intend it for sale.

1990, c. 13, s. 168.

**169.** A marketing board may appoint a person to make such investigations and verifications upon the producers subject to the plan it administers as may be necessary for the purposes of the plan, by-laws, homologated agreements and arbitration awards.

The person appointed may, at any reasonable time, enter an office, establishment or premises if he has reasonable grounds for believing that such place is used for the production of the product marketed under the plan, examine the production areas and the product, examine the books, registers or documents relating to the production and take extracts from or copies of them.

1990, c. 13, s. 169.

**170.** No person may, in any way, hinder a person authorized by the Régie or a marketing board to make an investigation or an inspection, or mislead him by inaccurate or false statements, or refuse to make available to him the books, registers or documents he is permitted to examine under this Act.

A person authorized by the Régie or a marketing board to make an investigation or an inspection shall, on request, identify himself and exhibit a certificate attesting his authority signed by the chairman of the Régie or of the marketing board, as the case may be.

1990, c. 13, s. 170.

## **CHAPTER XIII**

### **WINDING UP**

**171.** Where a plan is terminated by the Régie, the marketing board responsible for the administration of the plan shall continue to exist for the sole purpose of winding up its affairs. Within 30 days after the termination of the plan, the Régie shall appoint a liquidator who shall be entitled to immediate possession of the property of the marketing board.

1990, c. 13, s. 171.

**172.** The Régie shall, without delay, publish notice of the appointment of the liquidator in the *Gazette officielle du Québec* and in a farm journal having general circulation.



Any action or proceedings against the property of the marketing board must be suspended upon publication of the notice.

The costs incurred by a creditor after he or his attorney becomes aware of the winding up, shall not be collocated out of the proceeds of the property of the marketing board that are distributed in consequence of the winding up.

Nevertheless, a judge of the Superior Court in the district in which the corporate seat of the marketing board is located may, on such conditions as he considers proper, authorize the institution of proceedings or the continuance of any proceedings commenced.

1990, c. 13, s. 172; 1999, c. 50, s. 34.

**173.** The liquidator shall furnish to the Régie any information it may require respecting the affairs and the winding up of the marketing board.

The Régie may replace any liquidator who has become unable to perform his duties.

It may also take any step it considers necessary to ensure the protection of the rights of interested persons and the orderly liquidation of the property of the marketing board.

1990, c. 13, s. 173.

**174.** For the purposes of the winding up, the liquidator shall have all the powers mentioned in section 10 of the Winding-up Act (chapter L-4).

1990, c. 13, s. 174.

**175.** The liquidator shall pay the debts of the marketing board and the costs of winding up. He shall distribute the balance proportionally among the producers who were subject to the plan during the two years preceding the date of its termination, according to the terms and conditions fixed by the Régie.

However, when a new plan intended for the same group of producers replaces the cancelled plan, the liquidator shall remit to the new marketing board the balance resulting from the winding up.

1990, c. 13, s. 175.

**176.** When the winding up is completed, the liquidator shall submit a report to the Régie, and shall hand over to it the documents of which he took possession at the time of his appointment.

1990, c. 13, s. 176.

**177.** When the winding up is completed, the Régie shall cause a notice of the dissolution of the marketing board to be published in the *Gazette officielle du Québec*. From the date of the publication, the marketing board is dissolved.

In the case of a body designated under section 50, the notice shall indicate that the body has ceased to act in its capacity as administrator of the plan.

1990, c. 13, s. 177.

**178.** The provisions of sections 171 to 177 apply, with the necessary modifications, where the Régie terminates the activities of a coordination and development chamber.

1990, c. 13, s. 178.

## **TITLE IV** **MARKETING OF FISH PRODUCTS**

### **CHAPTER I** **GENERAL PROVISIONS**

**179.** This Title applies to the marketing of fish products.

1990, c. 13, s. 179.

**180.** “Fish product” means any marine mammal, fish, shellfish, crustacean, echinoderm, any part of such animals and any product derived therefrom.

1990, c. 13, s. 180.

**181.** The provisions relating to the marketing of agricultural products apply, with the necessary modifications, to the marketing of fish products, subject to the provisions of Chapter II.

1990, c. 13, s. 181.

**182.** The body responsible for administering a joint plan for the marketing of a fish product is a fishermen’s marketing board. It has the same powers and shall assume the same obligations in respect of fish products as a producer marketing board in respect of the marketing of the agricultural product marketed under the plan it administers.

1990, c. 13, s. 182.

**183.** A coordination and development chamber established for a fish product has the same powers and exercises the same functions as a coordination and development chamber in respect of the marketing of an agricultural or food product.

1990, c. 13, s. 183.

## **CHAPTER II** **SPECIAL PROVISIONS**

**184.** A joint plan may have as its object the marketing of a fish product originating from a designated landing site or harvested according to a determined method or intended for a specified purpose or particular buyer.

1990, c. 13, s. 184.

**185.** The draft plan shall indicate the landing site from which the product originates, the method according to which the product is harvested or the buyer or purpose for whom or which it is intended.

1990, c. 13, s. 185.

**186.** To come into force, a draft joint plan must be approved by

(1) the majority of the fishermen who have voted;

(2) the fishermen whose landed catches represent, in weight, more than half the landed catches of the product subject to the draft plan.

The approval is valid only if not less than half the interested fishermen have voted and if the weight of the products landed by them is equal to more than half the total weight of the fish product subject to the draft plan.

1990, c. 13, s. 186.

**187.** Any resolution to approve a proposal to amalgamate joint plans shall be adopted by a majority of two-thirds of the fishermen present.

1990, c. 13, s. 187.

**188.** The Régie shall, by regulation, establish the basis and method of computing the weight of fish products for the purposes of section 186.

1990, c. 13, s. 188.

**189.** No person or body may use the designation “fishermen’s marketing board” to designate any person, body or undertaking other than a fishermen’s marketing board within the meaning of this Title.

1990, c. 13, s. 189.

**190.** No fishermen's marketing board may establish quotas for the marketing of a product marketed under the joint plan it administers.

1990, c. 13, s. 190.

**191.** Where Titles II and III provide that a notice shall be published in a farm journal, it shall, for the purposes of this Title, be published in a journal having general circulation in the territory covered by the notice.

1990, c. 13, s. 191.

#### **TITLE IV.0.1**

#### **MARKETING OF WILD FUR**

1998, c. 48, s. 2.

**191.0.1.** This Title applies to the marketing of wild fur.

1998, c. 48, s. 2.

**191.0.2.** The expression "wild fur" means the pelt of an animal that may be hunted or trapped under a regulation made pursuant to section 56 of the Act respecting the conservation and development of wildlife (chapter C-61.1).

1998, c. 48, s. 2.

**191.0.3.** The provisions of Titles I to III and of Title V of this Act apply, adapted as required, to the marketing of wild fur.

1998, c. 48, s. 2.

**191.0.4.** The body responsible for the administration of a joint plan for the marketing of wild fur is a marketing board. It has the same powers in respect of the product and assumes the same obligations as the producers' board in respect of the marketing of the agricultural product it administers.

1998, c. 48, s. 2.

**191.0.5.** The coordination and development chamber established for the marketing of wild fur has the same powers and exercises the same functions as a coordination and development chamber in respect of the marketing of an agricultural or food product.

1998, c. 48, s. 2.

**191.0.6.** No person or body may engage in the marketing of wild fur while holding himself, herself or itself out as a marketing board referred to in this Title unless that person or body is such a marketing board.

1998, c. 48, s. 2.

**191.0.7.** Where Titles II and III provide that a notice must be published in a farm journal, the notice must be published, for the purposes of this Title, in a journal having general circulation in the territory covered by the notice.

1998, c. 48, s. 2.

#### **TITLE IV.1**

#### **PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC**

1997, c. 43, s. 397.

**191.1.** Any interested person may contest a decision made by the Régie under section 29, 30 or 41, the second paragraph of section 111 or section 152 before the Administrative Tribunal of Québec within 30 days of notification of the decision.

1997, c. 43, s. 397; 1999, c. 50, s. 35.

#### **TITLE V**

## PENAL PROVISIONS

1992, c. 61, s. 413.

**192.** Every person other than a producer or fisherman who seeks to hinder the establishment or administration of a joint plan or seeks to prevent a producer or fisherman from participating in the establishment or administration of a joint plan is guilty of an offence and is liable to the penalties prescribed in section 193.

1990, c. 13, s. 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.

1999, c. 50, s. 36.

**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.

1999, c. 50, s. 36.

**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.

1999, c. 50, s. 36.

**193.** Every person who contravenes any of sections 67, 147, 150, 170, 189 and 191.0.6 or who contravenes a provision of a plan, of a by-law made under section 92, 97, 98, 123, 124, 133, 154, 155 or 164, a provision of a regulation of the Régie the contravention of which constitutes an offence, or a provision of a homologated agreement or of an arbitration award, is guilty of an offence and is liable,

(1) for a first offence, to a fine of not less than \$350 nor more than \$2,000 in the case of a natural person, or not less than \$800 nor more than \$4,000 in the case of a legal person;

(2) for any subsequent offence, to a fine of not less than \$650 nor more than \$6,000 in the case of a natural person, or not less than \$1,400 nor more than \$13,000 in the case of a legal person.

1990, c. 13, s. 193; 1998, c. 48, s. 3; 1999, c. 50, s. 37.

**194.** Every person who refuses or neglects to comply with a summons or to file the documents required under section 165 is guilty of an offence and is liable,

(1) for a first offence, to a fine of not less than \$700 nor more than \$2,000 in the case of a natural person, or not less than \$1,600 nor more than \$4,000 in the case of a legal person;

(2) for any subsequent offence, to a fine of not less than \$1,300 nor more than \$6,000 in the case of a natural person, or not less than \$2,800 nor more than \$13,000 in the case of a legal person.

1990, c. 13, s. 194.

**195.** Every person who contravenes a by-law made under paragraph 1 of section 129 or paragraph 1 of section 159, or who purchases a product subject to a plan for a price less than the price agreed upon or fixed pursuant to a by-law made under section 96, shall be liable to the penalty provided in section 193.

Every contravener found guilty of an offence under the first paragraph shall, in addition, be required to pay to the Régie, an amount equal to the amount he has so refused or neglected to withhold or remit or equal to the difference between the price paid and the minimum price or as the case may be, the price agreed upon or prescribed.

1990, c. 13, s. 195.

**196.** No proceedings may be brought under section 195 unless the Régie has sent to the contravener, by registered mail, a notice of not less than 10 days describing the offence and enjoining him to perform his obligations.

Payment of the required amounts within the time fixed in the notice is a bar to penal proceedings.

1990, c. 13, s. 196; I.N. 2016-01-01 (NCCP).

**197.** Where proceedings are brought under section 195 against a person who refuses or neglects to withhold contributions payable to a marketing board or remit to it the contributions withheld from the producers or fishermen subject to a joint plan, it shall be sufficient to prove that the contributions were not withheld or that the marketing board did not receive the sums that should have been remitted to it in accordance with section 129 to justify a conviction.

1990, c. 13, s. 197.

**198.** The Régie shall distribute the amounts collected under section 195 among the producers or fishermen who did not receive the equivalent of the price, proportionately to their respective losses or, in the case of contributions, it shall remit them to the marketing board to which they belong. However, where the marketing board has made a by-law under section 98, the Régie shall pay the amounts collected to the marketing board so that it may dispose of them in the manner prescribed in the by-law.

1990, c. 13, s. 198.

**199.** When an offence punishable by the penalty prescribed in section 193, 194, 195 or 201 is committed by a legal person, every director or officer of that legal person who prescribed or authorized the commission of the offence or consented to it, is deemed to have participated in the offence and is liable to the same penalty as that prescribed for a legal person, whether or not the legal person has been prosecuted or found guilty.

1990, c. 13, s. 199; 1999, c. 40, s. 192.

**200.** The pursuit of a penal remedy shall not affect the right of any interested person to apply for an injunction.

1990, c. 13, s. 200; 1992, c. 61, s. 414.

**201.** The court may, in respect of any offence under section 94, impose a fine established in consideration of the material damage suffered by all the producers or a class of them as a result of the offence, and the benefits and income gained by the person found guilty of the offence.

1990, c. 13, s. 201.

## **TITLE VI**

### **MISCELLANEOUS AND TRANSITIONAL PROVISIONS**

#### **CHAPTER I**

##### **FINAL PROVISIONS, AMENDMENTS AND REPEALS**

**202.** The Government may form, for the periods it determines, advisory committees to examine specific problems relating to the production or marketing of agricultural and food products or the marketing of fish products.

The members of advisory committees shall receive no remuneration except in such cases, on such conditions and to such extent as the Government may determine. However, they are entitled, on the conditions and to the extent determined by the Government, to reimbursement for expenses incurred in the performance of their duties.

1990, c. 13, s. 202.

**203.** The provisions of Divisions III and IV of the Regulations Act (chapter R-18.1) respecting publication and coming into force of draft regulations and regulations do not apply to the joint plans, draft by-laws or by-laws which may be made by a general meeting of producers, a marketing board or a certified association or the regulations which may be made by the Régie pursuant to sections 28 and 40.5 and the first paragraph of section 54.

1990, c. 13, s. 203; 1992, c. 28, s. 21; 1999, c. 50, s. 38.

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

1990, c. 13, s. 204.

**205.** *(Omitted).*

1990, c. 13, s. 205.

**206.** *(Amendment integrated into c. G-1.1, s. 39).*

1990, c. 13, s. 206.

**207.** *(Omitted).*

1990, c. 13, s. 207.

**208.** *(Omitted).*

1990, c. 13, s. 208.

**209.** *(Amendment integrated into c. P-28, s. 1).*

1990, c. 13, s. 209.

**210.** *(Amendment integrated into c. P-28, s. 39).*

1990, c. 13, s. 210.

**211.** *(Amendment integrated into c. P-30, s. 11).*

1990, c. 13, s. 211.

**212.** *(Amendment integrated into c. P-30, s. 33).*

1990, c. 13, s. 212.

**213.** *(Amendment integrated into c. P-30, s. 35).*

1990, c. 13, s. 213.

**214.** *(Omitted).*

1990, c. 13, s. 214.

**215.** *(Amendment integrated into c. P-30, s. 48.1).*

1990, c. 13, s. 215.

**216.** *(Omitted).*

1990, c. 13, s. 216.

## **CHAPTER II** **TRANSITIONAL PROVISIONS**

**217.** *(Omitted).*

1990, c. 13, s. 217.

**218.** The term of office of the members and experts of the Régie des marchés agricoles du Québec in office on 11 September 1990 ends on that date; however they remain in office until they are appointed or replaced under this Act.

1990, c. 13, s. 218.

**219.** The personnel of the Régie des marchés agricoles du Québec shall become the personnel of the Régie des marchés agricoles et alimentaires du Québec, without further formality.

1990, c. 13, s. 219.

**220.** The records and documents of the Régie des marchés agricoles du Québec shall become the records and documents of the Régie des marchés agricoles et alimentaires du Québec, without further formality.

1990, c. 13, s. 220.

**221.** Every marketing board responsible for the administration of a plan on 12 September 1990, shall, within 30 days following that date, submit the rules respecting its internal management to the Régie for approval.

1990, c. 13, s. 221.

**222.** Every director of a marketing board who is also a director of an undertaking referred to in section 89 must, not later than 12 December 1990, renounce either his office of director of the marketing board or his office of director of the undertaking.

Failing this, the Régie shall demand formally that he choose one or other of the offices within a fixed time. If he refuses to comply with this demand within the time allowed, the Régie shall declare him removed from the office of director of the plan. Any decision of the board to which this person was a party, taken after he was declared removed by the Régie, shall be null.

1990, c. 13, s. 222.

**223.** Every plan approved, by-law made, agreement homologated or arbitration award rendered under any provision of the Farm Products Marketing Act (chapter M-35) shall continue to have effect until it is repealed, replaced or terminated in accordance with this Act.

1990, c. 13, s. 223.

**224.** Matters pending before the Régie des marchés agricoles du Québec shall be continued before the Régie des marchés agricoles et alimentaires du Québec in accordance with the provisions of the Farm Products Marketing Act (chapter M-35) as they read on 11 September 1990.

1990, c. 13, s. 224.

**225.** Subject to the provisions of section 29 and paragraphs 5, 7 and 10 of section 93 and notwithstanding the first paragraph of section 95, every holder of an individual quota on 12 September 1990 may continue to be the holder thereof until he disposes of it.

1990, c. 13, s. 225.

**226.** The Government may, until 12 September 1993, prescribe by order all or part of the conditions and modalities of production and marketing of the product contemplated in The Québec Milk Producers Joint Plan (1980) (O.C. 769-82, 31 March 1982, 114 G.O. 2, 1313). Such an order shall be binding upon the producers and any persons or partnerships engaged in the production or marketing of the product contemplated in that plan.

The said order shall be considered to be an arbitration award for the purposes of this Act.

Any such order shall cease to have effect three years after the date upon which the first order made under this section came into effect, unless it is terminated by the Government before that time.

1990, c. 13, s. 226.

**227.** Appropriations granted to the Régie des marchés agricoles du Québec shall be transferred to the Régie des marchés agricoles et alimentaires du Québec to the extent determined by the Government.

1990, c. 13, s. 227.

**228.** *(Omitted).*

1990, c. 13, s. 228.

**229.** *(Omitted).*

1990, c. 13, s. 229.

#### REPEAL SCHEDULE

In accordance with section 9 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), chapter 13 of the statutes of 1990, in force on 1 March 1991, is repealed, except sections 217 and 229, effective from the coming into force of chapter M-35.1 of the Revised Statutes.