



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 21
(2011, chapter 28)

**An Act to amend the Act respecting the
marketing of agricultural, food and fish
products**

**Introduced 2 June 2011
Passed in principle 26 October 2011
Passed 24 November 2011
Assented to 30 November 2011**

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EXPLANATORY NOTES

This Act empowers the Régie des marchés agricoles et alimentaires du Québec to decide on the payability of a sum of money under a joint plan, a marketing board by-law, a marketing agreement or an arbitration award in lieu of an agreement, and to order its payment.

It also empowers the Régie to provide, in arbitration awards the Régie makes in lieu of homologated marketing agreements, for the payment of penalties by any party bound by such an award that does not comply with the obligations it contains. It also sets out the manner of determining the penalties.

Lastly, it validates clauses providing for the payment of liquidated damages and other penalties included in arbitration awards that are in lieu of homologated agreements, and validates orders of the Régie on the payability of a sum of money that order its payment.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the marketing of agricultural, food and fish products (R.S.Q., chapter M-35.1).

Bill 21

AN ACT TO AMEND THE ACT RESPECTING THE MARKETING OF AGRICULTURAL, FOOD AND FISH PRODUCTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 35 of the Act respecting the marketing of agricultural, food and fish products (R.S.Q., chapter M-35.1) is amended

(1) by adding the following sentence at the end: “The Régie may then exercise the powers set out in the second paragraph of section 117.”;

(2) by adding the following paragraph at the end:

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

2. Section 43 of the Act is amended

(1) by inserting the following paragraph after the first paragraph:

“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.”;

(2) by replacing “the first paragraph” in the second paragraph by “the first and second paragraphs”.

3. Section 117 of the Act is amended by adding the following paragraph at the end:

“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.”

4. Section 118 of the Act is amended by adding the following sentence at the end of the first paragraph: “The Régie may then, at the request of one of the interested parties, exercise the powers set out in section 117.”

5. Clauses providing for the payment of liquidated damages or other penalties included in arbitration awards that are in lieu of homologated agreements or in decisions that are in lieu of arbitration awards are hereby validated, to the extent that they were ordered by the Régie des marchés agricoles et alimentaires du Québec in the absence of enabling legislation.

6. Orders of the Régie des marchés agricoles et alimentaires du Québec 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 ordering its payment are hereby validated, to the extent that they were made in the absence of enabling legislation.

The first paragraph does not apply to cases pending on 23 December 2010.

7. This Act comes into force on 30 November 2011.