



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Draft Bill

Pesticides Act

**Introduced by
Mr Clifford Lincoln
Minister of the Environment**

**Québec Official Publisher
1986**

EXPLANATORY NOTES

The object of this draft bill is to regulate the use of pesticides to prevent deterioration of the environment and protect living species, man and his property.

To such end, the draft bill provides measures for the classification of pesticides and mechanisms for the promotion of competency among sellers and users of pesticides by means of permits and certificates issued by the Minister of the Environment.

It also provides for administrative support that is better suited to the needs of the Ministère de l'Environnement through

(1) the introduction of administrative powers to control the sale and use of pesticides;

(2) the establishment of protective measures to enable the Ministère de l'Environnement to intervene and halt any unnecessary contamination of the environment;

(3) the introduction of powers of inspection and seizure;

(4) the creation of specific offences relating to pesticides.

Provisions are also included which confer on every citizen the right to apply to the court to put an end to any abusive use of pesticides.

Finally, the draft bill empowers the Government to adopt a set of regulatory measures to articulate and complete the legislative measures proposed.

Draft Bill

Pesticides Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

INTERPRETATION AND SCOPE

DIVISION I

DEFINITIONS

1. In this Act,

“**agriculture**” means the cultivation of the soil, the harvesting of crops, the raising of livestock or any combination of such activities;

“**atmosphere**” means the air surrounding the earth, including the air within any building, construction or structure;

“**environment**” means any building, construction or structure, the water, atmosphere and soil or any combination thereof or, generally the milieu with which living species have dynamic relations;

“**farmer**” means any person engaged in agriculture or the development of agriculture;

“**municipality**” means any municipal corporation constituted by or under an Act of Parliament, the Communauté urbaine de Montréal, the Communauté urbaine de Québec, the Communauté régionale de l’Outaouais, as well as any intermunicipal management board;

“**person**” means an individual, partnership, cooperative association or a legal person other than a municipality;

“**pesticide**” means any solid, liquid or gaseous matter, microorganism, device or any combination thereof intended to directly or indirectly control, destroy, mitigate, attract or repel any organism that is injurious to or noxious or troublesome for the environment, man or his property, except a medication or vaccine;

“**retail**” means any sale of products to a purchaser or user for the purpose of consumption or use and not for resale;

“**retailer**” means any person engaged in retail;

“**silviculture**” means any forest development operation or activity or the use of soil for silvicultural purposes;

“**silviculturist**” means any person engaged in silviculture or forest development;

“**soil**” means any land or underground space, including submerged land and land covered by a building, construction or a structure;

“**water**” means surface water and underground water wherever located;

“**wholesale**” means any sale of products to a purchaser for resale purposes;

“**wholesaler**” means any person engaged in wholesale.

DIVISION II

SCOPE

2. The object of this Act is to regulate the use of pesticides so as to prevent deterioration of the environment and protect living species, man and his property.

3. This Act applies to the pesticides determined by regulation of the Government.

Pesticides are classified by regulation according to criteria determined by the Government.

4. For the purposes of this Act, activities related to the sale or use of pesticides are classified according to the criteria determined by regulation.

Agricultural and silvicultural activities are regarded as separate classes.

5. The provisions of Division III of Chapter III and of Divisions I, IV and VI of Chapter IV of this Act do not apply to a farmer or a silviculturist who uses pesticides for the purposes of his agricultural or silvicultural operation or who, by way of exception and not as a business, uses pesticides for the purposes of the agricultural or silvicultural operation of another farmer or silviculturist.

Notwithstanding the foregoing, the Government may determine which of the provisions referred to in the first paragraph apply to a farmer or a silviculturist who uses pesticides for the purposes of his agricultural or silvicultural operation.

6. This Act is binding on the Government, government departments and governmental agencies.

CHAPTER II

POWERS OF THE MINISTER

7. For the purposes of this Act, the Minister of the Environment may

(1) coordinate research carried out by government departments and agencies on environmental problems related to the use of pesticides;

(2) carry out or commission research, studies or inquiries on the quality of the environment and on human health and, generally, on any topic relating to pesticides;

(3) publish or otherwise distribute available statistical data relating to pesticides;

(4) make, according to law and with the authorization of the Government, any agreement with any government or governmental agency to facilitate the carrying out of this Act;

(5) make an agreement with any person or municipality to facilitate the carrying out of this Act.

CHAPTER III

PERMITS AND CERTIFICATES

DIVISION I

PERMITS

8. Subject to section 9, no person may operate an enterprise engaged in the sale or use of pesticides of a class prescribed by regulation unless he holds a permit of the appropriate class.

For the purposes of the first paragraph, any person or municipality who or which uses pesticides other than those intended for domestic use shall be regarded as an enterprise engaged in the use of pesticides.

9. No permit is required

(1) from a person who uses on his property a pesticide intended for domestic use;

(2) from a person who retails pesticides by way of exception and not as a business;

(3) from a farmer or silviculturist who uses pesticides for the purposes of his agricultural or silvicultural operation or who, by way of exception and not as a business, uses pesticides for the purposes of the agricultural or silvicultural operation of another farmer or silviculturist.

10. Permits shall be issued, revised or renewed by the Minister following an application therefor. The application shall contain all the information prescribed by regulation of the Government.

Any application made by a partnership or legal person shall be submitted by a duly mandated director or officer.

11. The Minister shall issue a permit if the requirements of this Act and the regulations are met.

12. A permit shall be issued for a two-year period on payment of the fee prescribed by regulation.

The Minister may issue a permit for a shorter period if he considers it to be necessary.

13. A permit may be revised or renewed on the conditions prescribed by regulation.

14. The Minister shall not issue a new permit to an applicant whose permit has been cancelled in the twelve months preceding the application.

The Minister may, on the conditions he determines, issue a new permit to an applicant whose permit was cancelled at his own request.

15. A permit shall be issued to a person who meets the following requirements:

- (1) he operates an establishment or a place of business in Québec;
- (2) neither he nor any of his executive officers has been convicted of or pleaded guilty to, in the twelve months preceding the application, an offence contemplated in section 102;
- (3) subject to sections 99 and 117, he furnishes a statement attesting that the technical work related to the use of pesticides or the information on the use of pesticides will be performed or furnished by a natural person holding a certificate of the class appropriate to the class of pesticides contemplated in the permit, or by a natural person acting under the direct supervision of the certificate holder;
- (4) he meets the other requirements and furnishes the information prescribed by regulation of the Government.

In the case of a municipality, a permit is issued if it meets the requirements of paragraphs 3 and 4 of the first paragraph.

16. In exercising its regulation making power, the Government may, for the carrying out of work under section 55, 56 or 57, require, before issuing a permit authorizing the use of pesticides of a prescribed class, that the applicant deposit a guarantee in the amount fixed by it.

The Government shall also determine the conditions under which the Minister may use the guarantee deposited by the permit holder and those governing its release.

17. A permit must be obtained for each establishment or place of business operated by the applicant.

If the applicant is a municipality, the Minister shall issue a single permit.

18. A partnership or legal person holding a permit shall inform the Minister of any amalgamation, sale or transfer involving the partnership or legal person. The partnership or legal person shall notify the Minister of any change in its firm name.

19. Every permit issued under this division must indicate its class and the class of pesticides the holder is authorized to sell or use.

20. The permit shall be posted in full view in each place of business or establishment for which it is issued.

In the case of a municipality, the permit shall be posted in full view in the office of the municipality.

21. The holder of a permit of a prescribed class who is authorized to retail or use pesticides of a prescribed class, shall carry on his activities

(1) through a natural person holding a certificate of the appropriate class or a natural person acting under the direct supervision of the certificate holder;

(2) in accordance with the methods, standards and procedures generally recognized for pesticide use and in accordance with the standards established by regulation of the Government.

22. The holder of a permit of a prescribed class shall keep such records, preserve such vouchers and transmit to the Minister such statements of operations as may be prescribed by regulation.

23. No person may transfer a permit issued to him pursuant to this Act, except with the prior authorization of the Minister.

DIVISION II

TEMPORARY PERMITS

24. A person who has no place of business in Québec is required, for operating in Québec an enterprise involving the use of pesticides, to obtain a temporary permit of the appropriate class from the Minister.

25. A temporary permit shall be issued for a six-month period on payment of the fee prescribed by regulation.

26. The Minister may, for the period and to the extent he indicates, revise, extend or renew the temporary permit of any person applying therefor.

27. The Minister shall issue, revise, extend or renew a temporary permit if the requirements of this Act and the regulations are met.

The provisions of paragraphs 2, 3 and 4 of section 15, of sections 16, 18, 19, 21, 22 and 23, adapted as required, apply to the issue of a temporary permit.

28. The holder of a temporary permit shall produce his permit where so requested by an inspector referred to in section 74.

DIVISION III

CERTIFICATES

29. Subject to section 30, every natural person who, for a prescribed class of pesticides, carries out technical work related to the use of pesticides or furnishes information on the use of pesticides to a retailer's customers is required, from the date specified under section 99, to hold a certificate of the appropriate class attesting his competence in matters of pesticides.

30. No certificate is required

(1) from a person who uses or retails pesticides by way of exception and not as a business;

(2) from a person who offers or provides services related to the wholesale of pesticides;

(3) from a person who uses on his property pesticides intended for domestic use;

(4) from a person who carries out technical work related to the use of pesticides of a prescribed class or furnishes information on the use of pesticides to a retailer's customers, if his activities are carried out under the direct supervision of a natural person holding a certificate of the appropriate class.

31. Certificates shall be issued, revised or renewed by the Minister following an application therefor by a natural person. The application shall contain all the information prescribed by regulation of the Government.

32. The Minister shall issue a certificate if the requirements of this Act and the regulations are met.

33. A certificate shall be issued for a three-year period on payment of the fee prescribed by regulation.

The Minister may issue a certificate for a shorter period if he considers it to be necessary.

34. A certificate may be revised or renewed on the conditions prescribed by regulation.

35. The Minister shall not issue a new certificate to an applicant whose certificate has been cancelled in the twelve months preceding the application.

The Minister may, on the conditions he determines, issue a new certificate to an applicant whose certificate was cancelled at his own request.

36. A certificate shall be issued to any natural person meeting the following requirements:

(1) he has successfully completed the examination prescribed or recognized by the Minister for a prescribed class of pesticide retailers or users or, in the case of a natural person having no domicile or place of business in Québec, has established to the Minister's satisfaction, that his knowledge is equivalent to that required to obtain the certificate applied for;

(2) he has not been convicted of or has not pleaded guilty to, in the twelve months preceding the application, an offence contemplated in section 102;

(3) he meets the other requirements and furnishes the information prescribed by regulation of the Government.

37. A certificate must indicate its class and the class of pesticides the holder is authorized to sell or use.

38. Every certificate holder shall produce his certificate where so requested by an inspector referred to in section 74.

39. No person other than the holder of a certificate of an appropriate class or a natural person acting under his direct supervision may carry out technical work related to the use of pesticides or furnish information on the use of pesticides to a retailer's customers.

40. A certificate holder who carries out technical work related to the use of pesticides or who furnishes information on the use of pesticides to a retailer's customers shall do so in compliance with the methods, standards and procedures generally recognized in that field or in accordance with the standards prescribed by regulation of the Government.

41. The Minister may require that a certificate holder submits to an examination referred to in paragraph 1 of section 36 where

(1) his certificate has been suspended;

(2) he has carried out, participated in or consented to the carrying out of technical work related to the use of pesticides or has furnished information on the use of pesticides to a retailer's customers without complying with the methods, standards and procedures generally recognized for pesticide use or the standards established by regulation of the Government;

(3) he wishes to change the class of his certificate or the class of pesticides he is authorized to sell or use.

42. The holder of a certificate of a prescribed class shall keep such records, preserve such vouchers and transmit to the Minister such statements of operations as may be prescribed by regulation.

43. A certificate issued under this division is unassignable and untransferable.

CHAPTER IV

ADMINISTRATIVE POWERS AND JUDICIAL REMEDIES

DIVISION I

REVISION, SUSPENSION AND CANCELLATION

44. The Minister may revise, suspend or cancel a permit, a temporary permit or a certificate issued by him or in his name in cases where

(1) the permit, temporary permit or certificate was issued on the basis of erroneous or fraudulent information;

(2) the holder fails to comply with the conditions of the permit or certificate or uses it for purposes other than those provided under this Act;

(3) the holder fails to comply with this Act or the regulations thereunder;

(4) the holder failed or refused to submit to the examination required under paragraph 1 of section 36 or section 41.

45. Before rendering a decision under section 44, the Minister shall allow the holder of a permit, temporary permit or certificate to make any representation he considers expedient.

46. Section 44 does not have the effect of precluding the revision or cancellation of a permit, temporary permit or certificate applied for by the holder.

DIVISION II

ORDERS

47. The Minister may order any person to cease or reduce the deposit, distribution, destruction, storage, transportation, reprocessing, use or sale of pesticides if danger to the life or health of persons or serious or irreparable damage to the environment or property may result therefrom.

48. The Minister may order any person who causes, participates in or agrees to the emission, deposit, release or discharge of any pesticide into the environment contrary to the methods, standards and procedures generally recognized for pesticide use or to the standards established by regulation of the Government to cease permanently or for a time or limit, on the conditions he determines, such emission, deposit, release or discharge.

49. Subject to section 50, the Minister shall, before issuing an order under section 47 or 48, serve on the person or municipality to which the order applies a prior notice of at least fifteen days setting forth the grounds which appear to justify the order, the date on which it is expected to take effect and the possibility for the person or municipality to make representations. The notice shall be accompanied with a copy of any analysis or research report or any other technical report examined by the Minister before issuing the order.

The Minister shall transmit a copy of the prior notice to any person who submitted a sworn complaint in respect of the object of such notice. Notice of the contemplated order shall be published twice in a daily newspaper distributed in the area where the event giving rise to the application of this section occurred.

The order must contain a statement of the grounds of the Minister. It shall take effect on the date it is served on the person or municipality contemplated in the order or on any later date specified therein.

50. The Minister may, without prior notice, issue an order under section 47 or 48. The order must contain a statement of the grounds of the Minister. It shall take effect on the date it is served on the person or municipality contemplated in it and shall in no case exceed 30 days.

51. The Minister may, in emergency situations, order the owner or lawful possessor of pesticides deposited, emitted, released or discharged in a construction, in the water or on the ground by accident or contrary to the provisions of this Act or the regulations to collect, remove or dispose of the pesticides and take the necessary measures to clean the construction, the water or the ground and prevent further spilling or spreading of the pesticide into the environment.

52. Subject to Division VI of the Act respecting municipal and school debts and loans (R.S.Q., chapter D-7), no approval other than that of the Minister of Municipal Affairs is required for a municipality contracting a loan to comply with an order of the Minister.

53. The Minister shall consult the Minister of Municipal Affairs before issuing an order to a municipality.

54. Any order issued to the owner of an immovable may be registered against the immovable in accordance with the provisions of the Civil Code relating to registration. The order is enforceable against any purchaser whose title is subsequently registered and the latter is required to assume the obligations imposed on the former owner pursuant to the order.

DIVISION III

PROTECTIVE MEASURES

55. The Minister may, to avoid immediate danger to the life or health of persons or serious or irreparable damage to property, take necessary measures to clean, collect or contain pesticides emitted,

deposited, released or discharged into the environment contrary to the methods, standards and procedures generally recognized for pesticide use or contrary to the standards determined by regulation of the Government.

The Minister may claim, in the same manner as any debt owing to the Government, the direct or indirect costs pertaining to the measures taken from any person who or municipality which causes, participates in or agrees to the occurrence of the event justifying the application of this section, whether or not the person or municipality has been prosecuted for an offence under this Act. Where there are several debtors, their liability is joint and several.

56. In all cases where a person or municipality refuses or neglects to perform an act ordered under this Act, the Minister may cause that act to be performed at the expense of the offender and recover the costs thereof, with interest and costs, from the person or municipality in the same manner as any debt owing to the Government.

57. In all cases where an offender has been found guilty of an offence under this Act, the Minister may, at the expense of the offender, take any necessary measure to restore the environment to its state prior to the occurrence of the cause of the offence.

DIVISION IV

APPEAL

58. Any municipality or person contemplated by an order issued by the Minister under this Act may appeal from the order to the Provincial Court.

The same applies in all cases where the Minister

(1) refuses to grant, suspends or cancels a permit, a temporary permit or a certificate;

(2) fixes the term of a permit at less than two years and that of a certificate at less than three years;

(3) requires a change in an application made to him;

(4) refuses to revise, renew or transfer a permit or a temporary permit;

(5) refuses to revise or renew a certificate; or

(6) requires that a certificate holder submits to an examination contemplated in section 41.

59. The Minister shall, when he renders a decision susceptible of appeal, serve it by registered or certified mail and inform the person or municipality of his or its right of appeal.

60. The appeal may be brought within fifteen days after service of the decision by means of a motion served on the Minister, who shall without delay send it to the clerk of the Court with a certified copy of the record relating to the decision appealed from.

61. The appellant shall, within fifteen days after his motion for appeal has been served, cause a notice to be published twice in a daily newspaper distributed in the area concerned by the decision appealed from.

Proof of the publication of such notice shall be produced before the Court.

62. The Minister shall transmit a copy of the motion for appeal to every person who or municipality which has made written representations pertaining to the decision appealed from.

In the case where more than one municipality or more than twenty-five persons have made written representations, the Minister, instead of transmitting a copy of the motion for appeal to them, may cause a notice of the motion for appeal to be published in a daily newspaper distributed in the area concerned by the decision appealed from.

63. The appeal shall suspend the execution of the decision of the Minister except with respect to orders made under Division II of this chapter. In such cases, execution of the decision shall be maintained unless the Court, on a motion served by the appellant on the clerk of the Court, orders otherwise for serious reasons.

64. Subject to the other provisions of this division, the appeal and the hearing thereof shall be subject to the procedure governing ordinary actions before the Provincial Court.

65. The Court may confirm, alter or quash the decision of the Minister.

The decision of the Court shall be without appeal.

66. The clerk of the Court shall, within ten days after the decision on the appeal, forward a copy of the decision to the parties by registered or certified mail.

DIVISION V

INJUNCTION

67. No person may emit, deposit, release or discharge a pesticide or allow the emission, deposit, release or discharge of a pesticide into the environment contrary to the methods, standards and procedures generally recognized for pesticide use or contrary to the standards established by regulation of the Government.

68. A judge of the Superior Court may grant an injunction to prohibit or to put an end to any act or operation being or about to be performed or carried out contrary to section 67.

69. An application for an injunction under section 68 may be made by a natural person domiciled in Québec frequenting a place or the immediate vicinity of a place in respect of which a contravention described in section 67 is alleged.

It may also be made by the Attorney General and by any municipality where the contravention is occurring or about to occur.

70. Where an interlocutory injunction is sought the security under article 755 of the Code of Civil Procedure (R.S.Q., chapter C-25) shall not exceed \$500.

71. Every action or motion made pursuant to this division shall be served on the Attorney General.

72. Every application for an injunction made under this division shall be heard and decided by preference.

DIVISION VI

CANCELLATION OF CONTRACTS

73. Any person or municipality may apply to a court for the cancellation of any agreement, convention or contract to which he or it is a party and which is related to the use of pesticides if he or it ascertains that the work covered by the agreement, convention or contract has not been carried out by a natural person holding a certificate

of the appropriate class or by a natural person acting under the direct supervision of a certificate holder.

CHAPTER V

INSPECTION, SEIZURE AND CONFISCATION

74. The Minister may appoint inspectors for the carrying out of this Act and the regulations.

75. An inspector shall, in the performance of his duties, have the powers of a peace officer.

An inspector shall, on request, identify himself and show the certificate of his capacity signed by the Minister.

76. No person may hinder an inspector in the performance of his duties or refuse to obey his orders.

77. No inspector may be prosecuted for official acts done in good faith in the performance of his duties.

78. In the performance of his duties, an inspector may

(1) enter, at any reasonable time, any premises or place in which pesticides are or may be used or sold, in accordance with this Act and the regulations, and inspect it; he may examine the products found on or in the premises or place, take samples therefrom, free of charge, install measuring devices, make analyses, examine the records or any other document and obtain extracts or copies;

(2) require any information on the application of this Act and the regulations and the production of any relevant document;

(3) require from the owner or lawful possessor of the property or from any person on the premises any reasonable assistance in the performance of his verification or examination and, for that purpose, compel one of the said persons to accompany him on the premises.

79. Any inspector may, with a warrant issued by a justice of the peace, enter and search any premises including a vehicle, boat or aircraft and open or cause to be opened any receptacle if he has reasonable and probable grounds to believe that it contains pesticides obtained or held in contravention of this Act or the regulations or any other thing which has been used to commit an offence against this Act or the regulations.

A justice of the peace may issue a warrant, subject to such conditions as he may specify therein, if he is satisfied on the basis of a sworn statement by the inspector that there are reasonable and probable grounds to believe that such an offence is being or has been committed and that the products or other things referred to in the first paragraph are present on such premises or in such receptacles.

The warrant, whether executed or not, shall be returned to the justice of the peace who issued it, not later than fifteen days after its issue.

80. Any inspector may, without a warrant, exercise the powers conferred on him by section 79 if the conditions for obtaining it exist and if, owing to exigent circumstances, the delay necessary to obtain the warrant may result in danger to the life or health of persons or cause serious or irreparable damage to the environment or property or result in the disappearance, destruction or loss of evidence.

81. An inspector who discovers that pesticides contemplated in section 79 or 80 are mixed or combined with other materials or substances so as to make it impossible or very difficult to distinguish one from the other may seize the materials or substances with which the pesticides are mixed or combined as if they were pesticides contemplated in section 79 or 80.

82. The inspector effecting a seizure under section 79 or 80 shall draw up a minute setting out

- (1) the date and place of the search;
- (2) the warrant under which the seizure was made or, in the absence of a warrant, the grounds of the seizure;
- (3) the description of the thing seized;
- (4) the name of the person from whom the thing was seized;
- (5) any information permitting the owner or lawful possessor of the thing seized to be identified or located;
- (6) the name and capacity of the seizer.

83. The inspector shall remit a duplicate of the minute of seizure to the person from whom the thing has been seized or, if no one is on the premises, the duplicate shall be deposited in the office of the clerk of the Court of the Sessions of the Peace of the judicial district

in which the thing has been seized or, if there is no such office in the district, in the office of the clerk of the Provincial Court of the district.

If there is no one on the premises, the inspector shall leave, in a conspicuous place, a notice addressed to the person responsible for the premises searched stating that a search of the premises has been conducted and indicating the place where the duplicate of the minute of the seizure has been filed.

84. An inspector who makes a search without a warrant shall make a report forthwith to a judge of the Court of the Sessions of the Peace or if none, of the Provincial Court of the judicial district in which the search was made. The report shall be in lieu of a search warrant.

The seizer shall also remit to the judge a duplicate of the minute of seizure on making a report of the search or within fifteen days of the seizure, unless the judge grants an extension.

85. The inspector shall, without delay, forward a report in writing to the Minister of any seizure effected by him under this Act.

86. The owner or lawful possessor of the thing seized shall have custody of it. The inspector may, where he considers it advisable, transfer the thing seized to other premises for purposes of safekeeping.

The thing seized shall remain under safekeeping until it is disposed of in accordance with sections 88 to 93, or if proceedings are instituted, until a court otherwise disposes of it in accordance with section 94.

87. No person may use or remove the thing seized or allow it to be used or removed except with the authorization of the inspector.

88. If any of the things seized are perishable, the person who has custody of them may, with the authorization of the inspector, sell them or cause them to be sold according to the terms and conditions and for a price that is justifiable in the circumstances.

The proceeds of the sale shall be regarded as the proceeds of a judicial sale and the Deposit Act (R.S.Q., chapter D-5), adapted as required, shall apply.

89. Subject to section 90 or 91, any thing seized or the proceeds of the sale thereof shall be returned to the owner or lawful possessor, at his request, if no charge relating to the thing is brought within ninety days of the date of the seizure.

90. On an application by the seizer, a justice of the peace may order that the period of detention of the thing seized be extended for a maximum of ninety days.

Before ruling on the merits of the application, the justice of the peace may order that the application be served on the person he designates.

91. The owner or lawful possessor of the thing seized may, at any time, apply to a justice of the peace to obtain the release of the thing.

The application shall be served on the seizer or, if proceedings are instituted, on the prosecutor.

The justice of the peace shall grant the application if he is satisfied that the applicant will suffer serious or irreparable damage if detention of the thing is maintained and the release of the thing will not hinder the course of justice.

92. If the owner or lawful possessor of the thing seized, or of the proceeds from the sale thereof, is unknown or cannot be found, the thing seized shall be confiscated ninety days after the day it was seized; it shall then be disposed of according to the Minister's instructions.

93. Any pesticide seized on the ground that it was obtained by or was in the possession of a person who does not hold a permit, a temporary permit or a certificate of the appropriate class, or any proceeds from the sale of such a pesticide, shall be confiscated unless, within thirty days of the date of the seizure, the person who intends to claim it serves an action to that effect on the Attorney General.

The Minister shall prescribe the manner in which the thing confiscated under this section is to be disposed of.

94. Where a seizure is made under section 79 or 80, the justice of the peace who imposes a penalty for an offence referred to in section 102 may order that the things seized be confiscated.

If pesticides are among the things seized, he shall order the confiscation thereof.

The Minister shall prescribe the manner in which the thing confiscated under this section is to be disposed of.

CHAPTER VI

REGULATIONS

95. The Government may, by regulation, determine, from among the provisions of Division III of Chapter III and those of Divisions I, IV and VI of Chapter IV of this Act, the provisions that are applicable to a farmer or a silviculturist who uses pesticides for the purposes of his agricultural or silvicultural operation.

96. The regulations applicable to farmers and silviculturists made under this chapter are separate regulations.

97. In addition to the obligations under this Act, any person who sells or uses a pesticide shall do so in accordance with the rules prescribed by regulation of the Government.

98. The Government may, by regulation, establish classes of users and sellers of pesticides, classes of certificates, permits and temporary permits according to types of activities and classes of pesticides, and make appropriate rules for each class.

99. The Government shall set for each class of certificate the date from which a certificate becomes mandatory.

100. The Government may make regulations

(1) to determine the pesticides to which all or part of the provisions of this Act apply;

(2) to classify pesticides;

(3) to classify permits, temporary permits, certificates, sellers and users of pesticides and, for each class of certificates, set the date from which a certificate becomes mandatory;

(4) to establish the conditions applicable to the issue, revision and renewal of a permit, temporary permit or certificate, to determine the documents and information required of applicants and to fix the fee exigible for the issue of permits, temporary permits and certificates;

(5) to require the deposit of a guarantee as a pre-condition for the issue of a permit or temporary permit and determine the amount of the guarantee and the conditions under which it may be used or released by the Minister;

(6) to regulate, limit or prohibit the deposit, distribution, destruction, storage, processing, transportation, reprocessing, use or sale of any pesticide, pesticide container or packaging or any equipment connected with the use of pesticides, the destruction, processing or reprocessing of any substance, container or equipment contaminated by a pesticide, and regulate the labelling of any pesticide container or packaging or any equipment connected with the use of pesticide;

(7) to determine the form and content of the records and statements of operations and the procedure according to which the statements are transmitted to the Minister by the holder of a permit, temporary permit or certificate;

(8) to determine the circumstances in which a temporary certificate may be obtained, the requirements to be met by applicants, the procedure to be followed and the fee exigible;

(9) to prescribe that any offence against a provision of this Act concerning a pesticide contemplated in a regulation or any offence against a provision of a regulation or order, makes the offender liable to the penalties provided under section 108;

(10) to determine the circumstances in which the holder of a permit, temporary permit or certificate must obtain a certificate of authorization under section 22 of the Environment Quality Act (R.S.Q., chapter Q-2);

(11) to prescribe any other measure to facilitate the carrying out of this Act.

101. No regulatory provision that can affect the immovables comprised in a reserved area or in an agricultural zone established pursuant to the Act to preserve agricultural land (R.S.Q., chapter P-41.1) applies to that area or zone, unless expressly indicated in the regulation.

CHAPTER VII

PENAL PROVISIONS

102. Any person who contravenes the first paragraph of section 8, any of sections 21, 24, 29, 39 and 40 or any order under section 47, 48, 50 or 51 is guilty of an offence and is liable

(1) to a fine of not less than \$1 000 nor more than \$10 000 or to imprisonment for not more than six months or to both the fine and the imprisonment, if an individual;

(2) in other cases, to a fine of not less than \$2 000 nor more than \$20 000.

103. Any person who contravenes any of sections 18, 20, 22, 28, 38 and 42 is guilty of an offence and is liable to a fine of not less than \$100 nor more than \$500.

104. Any person who contravenes any of sections 23, 43, 76 and 87 is guilty of an offence and is liable to a fine of not less than \$500 nor more than \$5 000.

105. Any person who makes, or who subscribes to, participates in, assents to or acquiesces in the making of false or deceptive declarations in a statement, report, record, return or other document, filed or made under this Act or the regulations, is guilty of an offence and liable, in addition to costs, to a fine of not less than \$500 nor more than \$5 000.

106. Any person who fails to file a statement or report prescribed by this Act, or omits to keep or furnish a record, statement of operations or a document prescribed by this Act, is guilty of an offence and is liable to a fine of not less than \$25 nor more than \$50 for each day during which the omission continues, up to \$1 000.

107. Any person who contravenes this Act or a regulation made under its authority is guilty of an offence and is liable, in all cases where no other penalty is imposed, to a fine of not less than \$500 nor more than \$5 000.

108. Notwithstanding sections 102 to 107, the Government may, by regulation, prescribe that any offence against a provision of this Act concerning a pesticide contemplated in a regulation, or any offence against a provision of a regulation or class of orders, makes the offender liable, on summary proceeding,

(1) to a fine of not less than \$1 000 nor more than \$10 000 or to imprisonment for not more than six months or to both the fine and the imprisonment, in the case of an individual;

(2) to a fine of not less than \$2 000 nor more than \$20 000 in other cases.

The penalties described in subparagraphs 1 and 2 of the first paragraph may be determined according to the gravity of the contravention.

109. Where a partnership or a legal person is guilty of an offence against this Act or a regulation, the director, employee or representative of the partnership or legal person who ordered, authorized or recommended the commission of the offence or who consented thereto is a party to the offence and liable to the penalty prescribed for that offence.

110. Where an offence contemplated in section 102, 103, 104 or 105 continues for more than one day, a separate offence shall be counted for each day or part of a day during which it continues.

Notwithstanding section 12 of the Summary Convictions Act (R.S.Q., chapter P-15), separate offences may be described in a single count.

111. Penal proceedings must be instituted within two years of the commission of the offence.

Notwithstanding the first paragraph, where false representations are made to the Minister or an inspector, penal proceedings must be instituted within one year from knowledge by such persons of the facts giving rise thereto.

112. No civil proceedings shall be suspended on the ground that they pertain to an act or an omission that constitutes an offence under this Act.

113. In any proceedings instituted pursuant to this Act and in any appeal brought under Division IV of Chapter IV, any pesticide analysis certificate signed by a person having acted at the request of the Minister, shall be admitted as *prima facie* evidence of the facts stated therein and of the capacity of the person signing the certificate and shall require no further proof of his appointment or signature.

The cost of such analysis shall form part of the costs awarded by judgment of the court in favour of the prosecutor.

114. Penal proceedings instituted under this Act are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

CHAPTER VIII

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

115. The certificates of authorization relating to the use of pesticides, issued under the Environment Quality Act (R.S.Q.,

chapter Q-2) and in force on (*insert here the date of coming into force of this Act*), remain valid until their date of expiry.

116. The holder of a permit, temporary permit or certificate is exempted from the obligation to obtain a certificate of authorization contemplated in section 22 of the Environment Quality Act (R.S.Q., chapter Q-2), except in the cases determined by regulation of the Government.

117. From (*insert here the date of coming into force of this Act*) until the Government determines, in accordance with section 99, the date from which a certificate contemplated in section 29 is required, any natural person wishing to carry out technical work related to the use of pesticides or who furnishes information on the use of pesticides to the retailer's customers must obtain a temporary certificate specifying the pesticides in respect of which he carries on his activities.

A temporary certificate issued pursuant to this section has the same effect and value as the certificate otherwise required under section 29.

The Minister shall issue a temporary certificate on payment of the fee prescribed by regulation.

118. Any information that must appear on the label of a container holding a product contemplated in the Pest Control Products Act (R.S.C., 1970, chapter P-10) or the regulations is deemed, where the container holds a pesticide, to be information affixed pursuant to this Act.

119. The Minister of the Environment is responsible for the administration of this Act.

120. This Act comes into force on the date fixed by the Government.