



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 184

**An Act to amend the Act respecting the
preservation of agricultural land and
agricultural activities and other
legislative provisions**

Introduction

**Introduced by
Mr Rémy Trudel
Minister of Agriculture, Fisheries and Food**

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EXPLANATORY NOTES

This bill amending the Act respecting the preservation of agricultural land and agricultural activities contains measures intended to preserve the maintenance or growth potential of agricultural activities in certain specific cases. In addition, the procedure for filing applications having collective implications with the Commission de protection du territoire agricole is modified. For instance, only a regional county municipality will be authorized to file such an application, which may pertain solely to destructured tracts of land or consolidated lots in identified sectors in agricultural zones.

Moreover, the provisions concerning the complaints commissioner are repealed and those concerning the mediator will henceforth be applicable.

This bill also amends the Act respecting land use planning and development to permit a regional county municipality, by means of an interim control by-law containing standards that apply to agricultural zone uses or set-back distances intended to reduce the inconvenience caused by odours resulting from certain agricultural activities, to suspend the application of provisions of by-laws of local municipalities in its territory that are inconsistent with those measures. The bill also permits an interim control by-law to be made to suspend the exercise of a local municipality's right to adopt such by-laws until the coming into force of a development plan revised in accordance with the aims specifically pursued by the Government with respect to agricultural zones.

The bill amends the Crop Insurance Act and the Act respecting farm income stabilization insurance to subject the preparation and administration of programs under those Acts to compliance by farm producers with environmental standards.

Lastly, a number of provisions of a transitional or consequential nature are proposed in the bill.

LEGISLATION AMENDED BY THIS BILL :

– Act respecting land use planning and development (R.S.Q., chapter A-19.1);

- Crop Insurance Act (R.S.Q., chapter A-30);
- Act respecting farm income stabilization insurance (R.S.Q., chapter A-31);
- Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., chapter P-41.1);
- Act to amend the Act to preserve agricultural land and other legislative provisions in order to promote the preservation of agricultural activities (1996, chapter 26).

Bill 184

AN ACT TO AMEND THE ACT RESPECTING THE PRESERVATION OF AGRICULTURAL LAND AND AGRICULTURAL ACTIVITIES AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 32 of the Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., chapter P-41.1) is amended by inserting the following paragraph after the first paragraph :

“Where such a person may rely on a favourable decision of the commission concerning an application having collective implications filed under section 59, the declaration must indicate, in addition to that right, the zoning by-law that includes the standards imposed by the decision.”

2. Section 40 of the said Act, amended by section 235 of chapter 40 of the statutes of 1999, is again amended by adding the following paragraph after the fourth paragraph :

“From (*insert here the date of coming into force of this Act*), an increase in the agricultural activities of neighbouring breeding operations effected in contravention of a by-law of a regional county municipality, a community or a local municipality shall constitute an offence only to the extent that there is a contravention of such a by-law if the residence is not taken into account. Moreover, the operator of the breeding operation of the originator of the residence as well as the occupant undertake as concern dust, noise and odours, to tolerate the consequences of any neighbouring agricultural activity carried on, subject to section 100,

(1) in accordance with regulatory standards established under the Environment Quality Act (chapter Q-2) concerning dust or noise ;

(2) in accordance with standards intended to reduce the inconvenience caused by odours resulting from agricultural activities deriving from the exercise of the powers provided for in subparagraph 4 of the second paragraph of section 113 of the Act respecting land use planning and development (chapter A-19.1); and

(3) in accordance with the provisions of the Environment Quality Act pertaining to any matter that is not governed by regulatory standards.”

3. The heading of subdivision 3 of Division IV or Chapter II of the said Act is replaced by the following heading:

“§3. — *Individual applications*”.

4. Section 58.1 of the said Act is amended by replacing “together with” in the second line of the second paragraph by “furnishing all the information required by the commission, in particular as regards the standards intended to reduce the inconvenience caused by odours resulting from agricultural activities established pursuant to the powers provided for in subparagraph 4 of the second paragraph of section 113 of the Act respecting land use planning and development, and”.

5. The said Act is amended by replacing sections 59 and 59.1 by the following:

“§3.1. — *Applications having collective implications*

“59. A regional county municipality or a community may file an application requesting the commission to determine the cases and circumstances in which new uses of land for residential purposes may be introduced in an agricultural zone.

In addition to the regional county municipality or the community, where applicable, the local municipality concerned and the certified association are persons interested in the application. A copy of the application must be sent to the local municipality concerned and the certified association by the regional county municipality or the community filing the application.

The application shall concern

(1) a destructured tract of land in the agricultural zone; or

(2) the lots of an area adjusted in such a way as to preserve the structure of the agricultural zone in sectors identified in a development plan or, where that is not the case, in a draft amendment or revision of the development plan.

The application must be filed with all the information required by the commission, including the information required for the purposes of sections 61 and 62.

However, an application that relates to a draft amendment or revision of the development plan may be filed only after the consultation period provided for in the second paragraph of section 53.5 or, where applicable, the second paragraph of section 56.6 of the Act respecting land use planning and development.

The commission shall enter every admissible application in the general register and inform the interested persons.

“59.1. Where the application concerns a lot forming part of the territory of the Communauté métropolitaine de Montréal, the commission shall request a recommendation from that Community.”

6. The said Act is amended by inserting the following section after section 59.2:

“59.3. From the date of entry in the general register of an application under section 59, the commission shall suspend the examination of any individual application concerning land use for residential purposes in the agricultural zone concerned, for a period of six months or until the date of any decision it may make within that time.”

7. Section 60.1 of the said Act is amended by adding the following at the end of the third paragraph: “However, in the case of an application filed under section 59, the time allowed is 45 days.”

8. Section 62 of the said Act is amended by adding “, in particular having regard to set-back standards” at the end of subparagraph 3 of the second paragraph.

9. The said Act is amended by inserting the following section after section 62.5:

“62.6. However, to render a decision on an application filed under section 59, the commission must have received a favourable opinion from the interested persons within the meaning of that section.”

10. Section 64 of the said Act is amended by striking out the second paragraph.

11. Section 65.1 of the said Act is amended by inserting the following paragraph before the first paragraph:

“65.1. The applicant must demonstrate that there is no appropriate available space elsewhere in the territory of the local municipality, outside the agricultural zone, that is suitable for the purposes for which the application is made. The commission may dismiss an application on the sole ground that such spaces are available.”

12. Section 67 of the said Act, amended by section 235 of chapter 40 of the statutes of 1999, is again amended by adding the following paragraph after the second paragraph:

“Where the regional county municipality or the community is required to amend its development plan to give effect to the application for exclusion, the notice referred to in the first paragraph may not be presented for purposes of registration in the registry office of the registration division in which the lot is situated unless the amendment is adopted and becomes effective within twenty-four months of the date of the decision.”

13. Section 79.2 of the said Act is replaced by the following section:

“79.2. In an agricultural zone, the standards relating to agricultural uses, deriving from the exercise of the powers provided for in subparagraph 3 of the second paragraph of section 113 of the Act respecting land use planning and development and those intended to reduce the inconvenience caused by odours resulting from agricultural activities, deriving from the exercise of the powers provided for in subparagraph 4 of the second paragraph of that section, apply to a breeding operation regardless of the enlargement of a building intended for a use other than an agricultural use for which the municipality issues a permit after (*insert here the date of introduction of this bill*).”

14. The said Act is amended by inserting the following section after section 103:

“103.1. From (*insert here the date of coming into force of this Act*), the right recognized under section 101 may not be exercised to add a new main use for a purpose other than agriculture in the area for which vested rights exist, or to modify the existing use.”

15. Section 51 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) is amended by inserting the following paragraph after the first paragraph:

“Where the territory of the regional county municipality includes an agricultural zone established under the Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1), the notice shall include the guidelines relating to the objectives mentioned in subparagraph 2.1 of the first paragraph of section 5. It shall also indicate the parameters to serve in the establishment of separation distances with a view to reducing the inconvenience caused by odours resulting from certain agricultural activities.”

16. Section 53.7 of the said Act is amended by inserting the following paragraph after the first paragraph:

“Where the territory of the regional county municipality includes an agricultural zone established under the Act respecting the preservation of agricultural land and agricultural activities, the notice shall include the guidelines relating to the objectives mentioned in subparagraph 2.1 of the first paragraph of section 5. It shall also indicate the parameters to serve in the establishment of separation distances with a view to reducing the inconvenience caused by odours resulting from certain agricultural activities.”

17. Section 56.14 of the said Act is amended by inserting the following paragraph after the first paragraph:

“Where the territory of the regional county municipality includes an agricultural zone established under the Act respecting the preservation of

agricultural land and agricultural activities, the notice shall include the guidelines relating to the objectives mentioned in subparagraph 2.1 of the first paragraph of section 5. It shall also indicate the parameters to serve in the establishment of separation distances with a view to reducing the inconvenience caused by odours resulting from certain agricultural activities.”

18. Section 65 of the said Act is amended by inserting the following paragraph after the second paragraph :

“In the case of an interim control by-law concerning an agricultural zone established under the Act respecting the preservation of agricultural land and agricultural activities, the notice shall include the guidelines relating to the objectives set out in subparagraph 2.1 of the first paragraph of section 5. It shall also indicate the parameters to serve in the establishment of separation distances with a view to reducing the inconvenience caused by odours resulting from certain agricultural activities.”

19. Section 68 of the said Act is amended by adding the following paragraphs at the end :

“The provisions of an interim control by-law containing standards on agricultural uses deriving from the exercise of the powers provided for in subparagraph 3 of the second paragraph of section 113 or standards intended to reduce the inconvenience caused by odours resulting from agricultural activities deriving from the exercise of the powers provided for in subparagraph 4 of that paragraph concerning an agricultural zone established under the Act respecting the preservation of agricultural land and agricultural activities render inoperative any inconsistent provisions of a by-law of a municipality adopted under either of those subparagraphs.

In addition, where a notice of motion has been given in relation to an interim control by-law referred to in the second paragraph, no construction plan may be approved and no permit or certificate may be issued or granted for the carrying out of work or the use of an immovable which, if the by-law that is the subject of the notice of motion comes into force, will be prohibited in the agricultural zone concerned.

The third paragraph ceases to apply on the date occurring four months after the filing of the notice of motion or according to the time indicated, where applicable, by the Minister in a notice issued in accordance with section 65.”

20. The Crop Insurance Act (R.S.Q., chapter A-30) is amended by inserting the following section after section 74 :

“74.1. Compliance with environmental standards by farm producers must be a criterion in the preparation and application of the regulations of the Régie. The regulations must subject all or part of the payment of indemnities to compliance by farm producers with such standards.”

21. The Act respecting farm income stabilization insurance (R.S.Q., chapter A-31) is amended by inserting the following section after section 6.1 :

“6.2. Compliance with environmental standards by farm producers must be a criterion in the preparation and application of the scheme. The scheme must subject all or part of the payment of compensation to compliance by farm producers with such standards.”

22. Section 76 of the Act to amend the Act to preserve agricultural land and other legislative provisions in order to promote the preservation of agricultural activities (1996, chapter 26) is repealed.

23. Section 84 of the said Act is repealed.

24. Section 87 of the said Act is amended

(1) by replacing “the third paragraph” in the second line of the first paragraph by “subparagraph 4 of the second paragraph”;

(2) by inserting “in an interim control by-law that includes provisions deriving from the exercise of powers provided for in subparagraph 3 or 4 of the second paragraph of section 113 of the Act respecting land use planning and development that apply to the agricultural zone or, in the absence of such a by-law, the standards set out” after “set out” in the first line of subparagraph 1 of the first paragraph.

25. Sections 88 and 89 of the said Act are repealed.

26. Section 19 of the Act respecting La Financière agricole du Québec (2000, chapter (*insert here the chapter number of that Act*)) is amended by adding the following paragraph at the end :

“Compliance with environmental standards by farm producers must be a criterion in the preparation and administration of the programs, which may subject all or part of the payment of any sum of money to compliance with such standards by farm producers.”

TRANSITIONAL AND FINAL PROVISIONS

27. Applications made pursuant to section 84 of the Act to amend the Act to preserve agricultural land and other legislative provisions in order to promote the preservation of agricultural activities (1996, chapter 26), repealed by section 23 of this Act, and pending on (*insert here the date of coming into force of this Act*) before the complaints commissioner are continued. However, applications may be dealt with in accordance with sections 79.3 and following of the Act respecting the preservation of agricultural land and agricultural activities, if the parties agree thereto.

28. A regional county municipality may avail itself of subparagraph 2 of the third paragraph of section 59, enacted by section 5 of this Act, only from the date of coming into force of the first development plan taking into account the guidelines relating to the objectives set out in subparagraph 2.1 of the first paragraph of section 5 of the Act respecting land use planning and development.

29. From (*insert here the date of coming into force of this Act*), no local municipality whose territory is within that of a regional county municipality having a development plan that has not been revised to take into account the guidelines relating to the objectives set out in subparagraph 2.1 of the first paragraph of section 5 of the Act respecting land use planning and development may adopt standards applicable in agricultural zones concerning agricultural uses, deriving from the exercise of the powers provided for in subparagraph 3 of the second paragraph of section 113 of that Act, or standards intended to reduce the inconvenience caused by odours resulting from agricultural activities, deriving from the exercise of the powers provided for in subparagraph 4 of the second paragraph of that section, before the coming into force of an interim control by-law containing standards to the same effect under those subparagraphs and applicable in agricultural zones.

30. Until the coming into force of an interim control by-law that includes standards deriving from the exercise of the powers provided for in subparagraph 4 of the second paragraph of section 113 of the Act respecting land use planning and development or of a by-law of a municipality adopted under that subparagraph, the set-back standards which the municipality must apply to issue a construction permit are, with the necessary modifications, those set out in the Guidelines for determining minimum distances to ensure odour management in rural areas (1998, G.O. 2, 1287), prepared by the Minister of the Environment, including any subsequent amendment the Minister may make.

31. The Government may, by regulation made before (*insert here the date occurring two years after the date of coming into force of this Act*), prescribe any other transitional measure required for the application of this Act.

32. This Act comes into force on (*insert here the date of assent to this Act*), except sections 20 and 21 which come into force on the date or dates to be fixed by the Government.