



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 197

**An Act to amend the Consumer
Protection Act to fight planned
obsolescence and assert the right
to repair goods**

Introduction

**Introduced by
Mr. Guy Ouellette
Member for Chomedey**

**Québec Official Publisher
2019**

EXPLANATORY NOTES

This bill amends the Consumer Protection Act to assert the right to repair goods and fight planned obsolescence.

The bill establishes a goods sustainability rating, which indicates goods' mean time to first failure. The rating is established by the Bureau de normalisation du Québec, which is responsible for assessing goods' sustainability. The sustainability rating must be indicated on a label affixed on every household appliance offered for sale or lease.

The bill prescribes that the replacement parts, tools and repair service required for the maintenance or repair of a good that is the object of a contract must be available at a reasonable price and on reasonable conditions for as long as the good is available on the market or for a reasonable length of time after the contract was entered into, whichever is the most advantageous for the consumer.

Under the bill, a merchant or manufacturer may not refuse to perform a warranty on the grounds that a good was repaired by someone other than the merchant, the manufacturer or a third person designated to perform the warranty, if the repair was done by a repairer certified by the Office de la protection du consommateur.

The bill institutes an offence for persons who deliberately engage in the practice of planned obsolescence. Offenders are liable to a minimum fine of \$10,000.

Lastly, the bill provides that, every three years, the Minister must report to the Government on the effectiveness of the consumer protection mechanisms prescribed in the Consumer Protection Act and on the advisability of amending that Act. The report must be examined by the competent committee of the National Assembly.

LEGISLATION AMENDED BY THIS BILL:

- Consumer Protection Act (chapter P-40.1).

Bill 197

AN ACT TO AMEND THE CONSUMER PROTECTION ACT TO FIGHT PLANNED OBSOLESCENCE AND ASSERT THE RIGHT TO REPAIR GOODS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Consumer Protection Act (chapter P-40.1) is amended

(1) by inserting the following subparagraph after subparagraph *k*:

“(k.1) “planned obsolescence” means a set of techniques for reducing the mean time to first failure of goods destined for sale or for lease;”;

(2) by inserting the following subparagraph after subparagraph *o.1*:

“(o.2) “sustainability rating” means the rating established by the Bureau de normalisation du Québec indicating goods’ mean time to first failure;”.

2. Section 38 of the Act is amended

(1) by replacing “having regard to” by “given their sustainability rating;”;

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

“A label indicating the good’s sustainability rating must be affixed on every household appliance within the meaning of paragraph *a* of section 182 that is offered for sale or lease.”

3. Section 39 of the Act is replaced by the following sections:

“39. The replacement parts, tools and repair service required for the maintenance or repair of goods that are the object of a contract must be available at a reasonable price and on reasonable conditions for as long as the goods are available on the market or for a reasonable length of time after the contract was entered into, whichever is most advantageous for the consumer.

The market price of a similar part or tool, given its nature, manufacturing cost and quality, is considered reasonable.

“39.1. The manufacturer must supply a repair manual for the goods to certified repairers free of charge and make it available for as long as the goods are available on the market.

The manufacturer may require that certified repairers sign a confidentiality agreement if supplying the repair manual discloses a trade secret owned by the manufacturer.

“39.2. A merchant or manufacturer who is unable to meet his obligations under sections 39 and 39.1 must offer the consumer one of the following options:

- (a) replace a defective good which cannot be repaired; or
- (b) refund the amount paid by the consumer to acquire the good.

The merchant or manufacturer referred to in the first paragraph who shows that the consumer is responsible for a good’s failure may relieve himself of those obligations. However, if the good was repairable, the merchant or manufacturer must compensate the consumer for his loss of the good in an amount equal to one-half of the purchase price paid by the consumer.”

4. Section 45 of the Act is amended by replacing “execution of the warranty, and the persons authorized to execute” in paragraph *e* by “performance of the warranty, and the persons designated to perform”.

5. The Act is amended by inserting the following section after section 46:

“46.1. A merchant or manufacturer may not refuse to perform the warranty on the grounds that a good was repaired by someone other than the merchant, the manufacturer or a third person designated to perform the warranty, if the repair was performed by a certified repairer.

Likewise, a merchant or manufacturer may not refuse to perform a warranty on the grounds that the warranty seal affixed by the manufacturer was removed.”

6. The Act is amended by inserting the following section after section 54:

“54.01. Where a consumer exercises a recourse based on an obligation resulting from section 37, 38 or 39, payability of the debts related to a good is suspended for the duration of the recourse.”

7. The Act is amended by inserting the following section after section 272:

“272.1. Where a court orders performance of the obligation following a recourse based on an obligation resulting from section 37 or 38, the good may be replaced only if repair is not possible within a reasonable length of time or if it is too costly.”

8. Section 277 of the Act is amended by adding the following paragraphs after paragraph *g*:

“(h) in contravention of the second paragraph of section 38, offers goods for sale or lease on which no sustainability rating is affixed;

“(i) deliberately engages in the practice of planned obsolescence,”.

9. Section 278 of the Act is amended by replacing “paragraphs *b* to *g*” in the introductory clause of the first paragraph by “paragraphs *b* to *h*”.

10. The Act is amended by inserting the following section after section 278:

“**278.1.** A person convicted of an offence under paragraph *i* of section 277 is liable to a minimum fine of \$10,000.

For a second or subsequent conviction, the offender is liable to a fine with a minimum limit twice as high as that prescribed in the first paragraph.”

11. Section 292 of the Act is amended by adding the following paragraph at the end:

“(k) to certify repairers who meet the certification criteria.”

12. The Act is amended by inserting the following chapter after section 320:

“CHAPTER I.1

“GOODS SUSTAINABILITY RATING

“**320.1.** The Bureau de normalisation du Québec determines the criteria for assigning a good a sustainability rating.

“**320.2.** The Bureau de normalisation du Québec must assign a sustainability rating to every household appliance within the meaning of paragraph *a* of section 182 before it is offered for sale by a merchant.

“**320.3.** The Bureau de normalisation du Québec must make its process for assessing goods’ sustainability public.”

13. Section 350 of the Act is amended by adding the following paragraphs at the end:

“(z.7) prescribing the terms and conditions respecting affixing the sustainability rating on goods;

“(z.8) determining the requirements a repairer must meet to be certified.”

14. The Act is amended by inserting the following section after section 352:

“**352.1.** The Minister must, every three years from (*insert the date of assent to this Act*), report to the Government on the effectiveness of the consumer protection mechanisms prescribed in this Act and the advisability of amending the Act.

The report must be tabled in the National Assembly within 30 days or, if the Assembly is not sitting, within 30 days of resumption. The competent committee of the Assembly must examine the report.”

15. This Act comes into force on (*insert the date of assent to this Act*), except section 320.2, enacted by section 12, which comes into force on 1 January 2022.

