

chapter P-29

FOOD PRODUCTS ACT

TABLE OF CONTENTS

DIVISION I	
DEFINITIONS AND APPLICATION.....	1
DIVISION II	
GENERAL PROVISIONS.....	3
DIVISION III	
REGISTRATION AND PERMITS.....	8
DIVISION IV	
SUSPENSION, CANCELLATION, REFUSAL TO RENEW A PERMIT: PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC.....	15
DIVISION V	
INSPECTIONS AND SEIZURES.....	31
DIVISION VI	
REGULATIONS.....	40
DIVISION VII	
PENAL PROVISIONS.....	42
DIVISION VIII	
FINAL PROVISIONS.....	57

DIVISION I

DEFINITIONS AND APPLICATION

1. In this Act, unless the context indicates a different meaning, the following expressions mean:

(a) “agricultural product” : a foodstuff of animal or vegetable origin, including unharvested foodstuffs;

(a.1) “marine product” : any fish, shellfish or crustacean able to live in a marine environment and any echinoderm, including parts of such animals and the products or by-products derived therefrom;

(a.2) “fresh water product” : any fish, shellfish or crustacean unable to live in a marine environment and any batrachian, including parts of such animals and the products or by-products derived therefrom;

(a.3) “dairy product” : milk, or any derivative of milk, and any food product made with milk as the sole ingredient or the main ingredient;

(a.4) “dairy product substitute” : any food product which may be substituted for a dairy product and which, in its external characteristics or its mode of use, resembles a dairy product ;

(b) “food” : anything which may be used to feed man or animals, including beverages other than alcoholic beverages within the meaning of the Act respecting the Société des alcools du Québec (chapter S-13);

(b.1) “ice” : the ice used for the preparation or preservation of food, intended for human consumption or intended to come into contact with food, with water subject to the Regulation respecting drinking water made under the Environment Quality Act (chapter Q-2) or with any alcoholic beverage within the meaning of the Act respecting the Société des alcools du Québec;

(c) “product” : an agricultural product, a marine product, a fresh water product, a dairy product, a dairy product substitute or food;

(c.1) “dairy producer” : any person who sells or delivers milk or cream from a herd operated by the person ;

(c.2) “dairy plant” : an establishment or a vehicle where raw milk or cream is received or where a dairy product is prepared for wholesale;

(d) “permit” : a permit issued under this Act;

(e) (*paragraph repealed*);

(f) “authorized person” : a person referred to in section 32;

(g) “Minister” : the Minister of Agriculture, Fisheries and Food;

(h) “retail” : any sale of products, excluding meals or refreshments, to a purchaser or to a user for consumption or use but not for resale;

(i) “wholesale” : any sale of products to a purchaser for resale, standing or after preparation, conditioning or processing;

(j) “retailer” : any person engaged in retail;

(j.1) “dairy distributor” : any person, other than a retailer operating a retail establishment or a restaurateur who delivers or causes to be delivered milk or cream to customers;

(k) “restaurateur” : any person who serves or sells meals or refreshments for consumption, for a consideration, the operator of a teaching establishment or of any establishment governed by the Act respecting health services and social services (chapter S-4.2), the Act respecting health services and social services for Cree Native persons (chapter S-5), the Act respecting the Québec correctional system (chapter S-40.1), the Government or the Government departments and agencies.

For the purposes of this Act, bottled water, water sold by volume, water intended for bottling or sale by volume and water used or intended for use in the preparation or preservation of food, to the extent that such food or such water is intended for human consumption for promotional or commercial purposes, are considered to be food. Ice is also considered to be food.

For the purposes of this Act and unless the context indicates a different meaning, «person» includes a partnership, an association, a cooperative or a body.

1974, c. 35, s. 1; 1977, c. 35, s. 1; 1977, c. 5, s. 14; 1979, c. 77, s. 21; 1981, c. 29, s. 2; 1983, c. 53, s. 1; 1990, c. 80, s. 1; 1991, c. 43, s. 22; 1992, c. 21, s. 209; 1994, c. 23, s. 23; 1996, c. 50, s. 1; 1997, c. 75, s. 47; 2000, c. 26, s. 2; 2002, c. 24, s. 204.

2. *(Repealed).*

1974, c. 35, s. 2; 1981, c. 29, s. 3; 2000, c. 26, s. 3.

DIVISION II

GENERAL PROVISIONS

3. No person shall prepare, keep for sale or for the furnishing of a service for remuneration, receive, purchase for resale, offer for sale or leave on consignment, sell, give for promotional purposes, transport, cause to be transported or accept for transportation any product intended for human consumption that is unfit for human consumption, that is so deteriorated as to be unfit for human consumption, whose safety for human consumption is uncertain, or that does not meet the requirements of this Act and the regulations.

1974, c. 35, s. 3; 1981, c. 29, s. 4; 1990, c. 80, s. 2; 2000, c. 26, s. 4.

3.1. Every person operating a packing-house, an establishment, premises or a vehicle where products are prepared, conditioned, processed, packaged, stored, unloaded, received, given for promotional purposes, offered for sale or sold, or where products are stored to be sold, used to furnish services for remuneration or given for promotional purposes, and every operator of premises where animals whose products are intended for human consumption are found or where animals are slaughtered, shall maintain the packing-house, establishment, premises, places, vehicle and equipment clean.

The operator shall avoid any plant layout or design, any preparation, conditioning or processing procedure, any storing of products or any other operation or any use of equipment that is likely to affect the wholesomeness of the products or the cleanliness of the premises.

1990, c. 80, s. 3; 2000, c. 26, s. 5.

3.2. Every operator referred to in section 3.1 shall

(1) use equipment or facilities that are in good working order and designed, constructed, manufactured, maintained and arranged in a manner that permits them to function in accordance with their intended use, permits the cleaning and disinfecting of all surfaces and does not contaminate the products ;

(2) use premises, places or vehicles that are designed, constructed and maintained in a manner that permits the operations therein to be performed under sanitary conditions, permits the cleaning and disinfecting of all surfaces and does not contaminate the products ;

(3) lay out and maintain the areas surrounding the packing-house, establishment or premises in a manner that does not contaminate the places, equipment or products.

2000, c. 26, s. 6.

3.3. Every operator referred to in section 3.1 shall ensure that the persons present in the areas where products, material and packaging are handled or stored, or in the product preparation areas, and in any place where animals whose products are intended for human consumption are found, comply with the rules of hygiene and sanitation prescribed by regulation. The operator shall ensure that all personnel, including the operator, present in those areas and places comply with the measures prescribed by regulation.

2000, c. 26, s. 6.

3.4. Every operator referred to in section 3.1 shall withdraw or recall any product intended for human consumption that is unfit for human consumption, that is so deteriorated as to be unfit for human consumption, whose safety is uncertain, for which there is no information or for which the information appearing on the product or its packaging does not enable the product to be consumed safely.

To that end, the operator must have a traceability system that meets the requirements prescribed by regulation.

2000, c. 26, s. 6.

3.5. Every person who keeps, for commercial or philanthropic purposes or to be given, for promotional purposes, a product that is recalled shall comply with the recall.

2000, c. 26, s. 6.

4. No person shall use on a product, its container, label or package, on any sign relating thereto or in any document concerning the advertising, keeping, handling or distribution of a product for sale, any inaccurate, false or misleading indication or indication that could confuse the purchaser as to the source, nature, category, class, quality, condition, quantity, composition, preservation or safe use of the product.

The absence of an indication, or an incomprehensible or illegible indication, on any of the elements described in the first paragraph is considered to be an inaccurate, false or misleading indication.

1974, c. 35, s. 4; 2000, c. 26, s. 7.

4.1. In addition, no person shall

(1) *(paragraph repealed)*;

(2) use any words, trademarks, names or images that evoke the dairy industry to designate a dairy product substitute.

2000, c. 26, s. 7; 2015, c. 30, s. 1.

5. *(Repealed)*.

1975, c. 40, s. 1; 1977, c. 35, s. 2; 1986, c. 95, s. 239; 2000, c. 26, s. 8.

6. The Government may approve the stamp that may be affixed to a product, or to its label or package, prescribe the conditions of use of such stamp, and prohibit the making, copying, keeping or use thereof as well as the making, copying, keeping or use of any other stamp, except in the cases it determines.

1975, c. 40, s. 1; 1977, c. 35, s. 3.

7. The Government may prescribe the conditions respecting the origin of products stocked or used by the operator or user of a packing-house, an establishment, premises or a vehicle or by any other person carrying on an activity contemplated in subparagraphs *a, a.1, b, e, f, k, l, n.1* to *n.4* of the first paragraph of section 9 or by a retailer or a restaurateur and prohibit, except in such cases as it may determine, the stocking or use of any product not in conformity with such conditions or with the stamp regulations.

1977, c. 35, s. 4; 1977, c. 5, s. 14; 1983, c. 53, s. 2; 1990, c. 80, s. 4; 2000, c. 26, s. 9; 2009, c. 10, s. 29.

7.1. (*Repealed*).

2000, c. 26, s. 10; 2014, c. 14, s. 1.

7.2. (*Repealed*).

2000, c. 26, s. 10; 2014, c. 14, s. 1.

7.3. If the holder of a permit required under subparagraph *k.4* of the first paragraph of section 9 ceases, permanently or for at least 10 consecutive months, to prepare or sell by wholesale any class of dairy product substitutes covered by the permit, the holder must inform the Minister not later than 30 days thereafter.

2000, c. 26, s. 10.

7.4. The Minister shall modify the permit required under subparagraph *k.4* of the first paragraph of section 9 if the holder ceases to prepare or sell by wholesale a class of products covered by the permit or more than one class of such products.

2000, c. 26, s. 10.

7.5. Every dairy product substitute must meet the standards respecting composition, colour, quality, form and format determined by regulation, and the recipient, packaging or wrapping containing the dairy product substitute must bear the name, origin, quantity and composition of the product.

2000, c. 26, s. 10.

7.6. In any establishment where food is served for remuneration, no person shall offer or serve a dairy product substitute without informing the consumer by means of an indication on the menu or, if there is no menu, a sign or label.

2000, c. 26, s. 10.

DIVISION III

REGISTRATION AND PERMITS

8. The Government may, by regulation, to the extent and on the terms and conditions it determines, order any person engaged in the sale of a product or the preparation, conditioning, processing or keeping of a product for sale or for the furnishing of a service for remuneration to register with the Minister.

Not in force

Notwithstanding the first paragraph, a farm producer within the meaning of the Farm Producers Act (chapter P-28) who is in possession of a product intended for human consumption for the purposes of sale or the furnishing of services for remuneration must register with the Minister. For that purpose, the farm producer must furnish information concerning the farm producer's identity, location and operations.

Not in force

The second paragraph does not apply to a farm producer who has consented in writing to have the information furnished by the farm producer pursuant to the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (chapter M-14) stand in lieu of registration.

1974, c. 35, s. 5; 1981, c. 29, s. 5; 2000, c. 26, s. 11.

8.1. Processing operations in a dairy plant must be directed by a person holding a certificate attesting that the person has the qualifications required for that purpose, issued by the Institut de technologie agricole de Saint-Hyacinthe, or any other certificate recognized as equivalent by the Minister.

2000, c. 26, s. 12.

8.2. Milk and cream collecting at the farm must be carried out by a person holding

(1) a certificate attesting that the person has the qualifications required for that purpose, issued by the Institut de technologie agricole de Saint-Hyacinthe, or any other certificate recognized as equivalent by the Minister ;

(2) a tester's permit.

However, an operator of a dairy plant who receives or uses milk or cream that has not been collected in accordance with the first paragraph must have in the operator's service a person who holds the permit and the certificate required under that paragraph.

2000, c. 26, s. 12.

9. No person shall, without holding a permit in force:

(a) operate a slaughter-house;

(a.1) operate a local slaughterhouse;

(b) operate a plant for the preparation, conditioning or processing, for wholesale, of meat or meat products intended for human consumption;

(c) operate a plant for dismembering animals;

(d) unless already holding a permit to operate a plant for dismembering animals, salvage meat unfit for human consumption;

(e) operate a processing factory or a packing-house for the purposes of sale at wholesale, by the operator or the person retaining his services for remuneration, of marine products intended for human consumption;

Not in force

(f) operate a processing factory or a packing-house for the purposes of sale at wholesale, by the operator or the person retaining his services for remuneration, of fresh water products intended for human consumption;

(g) *(subparagraph repealed)*;

(h) *(subparagraph repealed)*;

(i) *(subparagraph repealed)*;

(j) *(subparagraph repealed)*;

Not in force

(k) operate an establishment where agricultural products of vegetable origin intended for human consumption are prepared or stored for commercial distribution;

(k.1) operate a dairy plant;

(k.2) transport or cause to be transported milk or cream from a dairy producer's farm to a dairy plant;

(k.3) act as a dairy distributor, unless the person holds the permit required under subparagraph k.1 for the establishment;

(k.4) operate an establishment where a dairy product substitute is prepared or sold by wholesale;

Not in force

(l) operate an establishment where food intended for human consumption is prepared or stored for commercial distribution, where such food differs from the types of food described in subparagraph b, e, f or k, or in the case of several types of food, or where such food is a mixture of several types of food;

Not in force

(l.0.1) operate a water bottling establishment or an ice making or packaging establishment;

Not in force

(l.1) engage in the commercial distribution of food intended for human consumption, unless he is the holder of a permit required under subparagraph a, b, e, f, k or l;

(m) operate premises or a vehicle where food intended for human consumption is prepared to be sold at retail or used to furnish services for remuneration, unless the person holds a permit required under subparagraph a.1;

(n) operate premises or a vehicle where an activity forming part of a restaurateur's business is carried on;

(o) *(subparagraph repealed)*;

(p) *(subparagraph repealed)*.

Subparagraphs a and b of this section do not apply to a person operating a plant registered under the Meat Inspection Act (R.S.C, 1985, c. 25, (1st Suppl.)).

1974, c. 35, s. 6; 1975, c. 40, s. 2; 1977, c. 35, s. 5; 1981, c. 29, s. 6; 1983, c. 53, s. 3; 1984, c. 6, s. 1; 1985, c. 28, s. 1; 1990, c. 80, s. 5; 1996, c. 50, s. 2; 2000, c. 26, s. 13; 2009, c. 10, s. 30.



Until the coming into force of paragraphs c and d of the first paragraph of this section, as introduced by paragraph 1 of section 13 of chapter 26 of the statutes of 2000, the expression "meat unfit for human consumption" is replaced by the expression "inedible meat" in subparagraph d of the first paragraph of this section. (2000, c. 26, s. 70).

10. Every person who applies for a permit shall send his application to the Minister.

The Minister shall issue the permit if the applicant fulfils the conditions determined and pays the duties fixed by regulation.

No permit shall be issued unless, in the opinion of the Minister, the intended operations of the person applying for the permit are in the public interest. The Minister shall, for such purpose, impose any necessary condition or restriction he determines and indicate it on the permit.

For the application of the third paragraph, in addition to factors related to health and hygiene, the Minister may take into account, in the case of a permit prescribed by subparagraph *e* of the first paragraph of section 9, factors of a socio-economic nature, including in particular the sources of supply, the rationalization, stabilization or viability of the industry, technological innovations, regional development, marketing conditions or public investment. This paragraph applies also to any permit prescribed by subparagraph *l* of the first paragraph of section 9 where such permit is required for the preparation or storing of food containing marine products.

The Minister may not, however, issue a dairy plant permit or a permit for the transport of milk or cream referred to in subparagraphs *k.1* and *k.2* respectively of the first paragraph of section 9 unless the Minister has obtained a favourable opinion from the Régie des marchés agricoles et alimentaires du Québec concerning the particulars mentioned in section 43.1 of the Act respecting the marketing of agricultural, food and fish products (chapter M-35.1). The same applies to the permit prescribed by subparagraph *l* of the first paragraph of section 9 where the applicant is applying to operate a dairy plant.

1974, c. 35, s. 7; 1975, c. 40, s. 3; 1977, c. 35, s. 6; 1990, c. 80, s. 6; 1993, c. 53, s. 1; 2000, c. 26, s. 14; 2005, c. 8, s. 9.

11. Every permit expires 12 months after its issue; it may be renewed on the conditions determined by regulation.

When renewing a permit the Minister may take into account the public interest factors referred to in the fourth paragraph of section 10 and change any condition or restriction imposed at the time the permit was issued or impose any necessary condition or restriction that he determines. He shall indicate such change, condition or restriction on the permit.

The Minister may, however, issue a permit for a shorter period if he considers it required in the public interest taking into account the factors referred to in the fourth paragraph of section 10 or in the cases prescribed by regulation.

1974, c. 35, s. 8; 1975, c. 40, s. 4; 1977, c. 35, s. 7; 1993, c. 21, s. 1; 1993, c. 53, s. 2.

11.1. The Minister may, for scientific or experimental purposes, issue, for the period indicated by the Minister, an authorization allowing a person to disregard a provision of the first paragraph of section 9 or of a regulation made under any of paragraphs *a* to *a.2*, *a.4* to *c.3*, *d* to *e.3*, *e.5.1*, *e.6*, *e.8* to *g*, *h*, *j* to *l* and *m.1* of section 40.

The holder of the authorization must comply with the conditions determined therein by the Minister. The holder of the authorization must also pay to the Government the costs incurred to open and examine the file and all other costs incurred by the Minister in relation to the authorization.

1997, c. 68, s. 1; 2000, c. 26, s. 15.

11.2. The Minister may revoke the authorization of a holder who fails to comply with the conditions set out therein.

1997, c. 68, s. 1.

12. The rights granted under a permit cannot be validly transferred to another person.

1974, c. 35, s. 9.

13. The permit holder shall post his permit in the establishment, packing-house or vehicle or on the premises at a place where it can easily be seen by the public.

A document from the Minister or an authorized person that relates to the permit holder's operations must be posted up by the permit holder in compliance with such conditions as the Minister may determine by regulation.

1974, c. 35, s. 10; 1990, c. 80, s. 7; 2000, c. 26, s. 16.

14. The Minister shall notify, in writing, the person to whom he refuses to issue a permit, stating the reasons for his refusal.

1974, c. 35, s. 11.

DIVISION IV

SUSPENSION, CANCELLATION, REFUSAL TO RENEW A PERMIT: PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC

1997, c. 43, s. 438.

15. The Minister may suspend, cancel or refuse to renew the permit of any holder:

(a) who has been convicted of or has pleaded guilty to an offence against this Act or the regulations, unless the holder has received a pardon for the offence;

(b) who ceases to comply with the conditions required for obtaining his permit;

(b.1) who fails to comply with a condition or restriction indicated on his permit;

(b.2) who repeatedly fails to comply with this Act or a regulation under this Act;

(c) who has ceased operations definitively or for at least ten consecutive months.

In addition, the Minister may refuse to issue a permit if the applicant is or has been an officer, director or partner of an association, partnership or person whose permit is suspended or cancelled at the time the permit is applied for.

1974, c. 35, s. 12; 1977, c. 35, s. 8; 1990, c. 80, s. 8; 2000, c. 26, s. 17.

16. The Minister, before declaring a permit cancelled, suspended or not renewed, 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. He shall also give his decision in writing together with the reasons therefor to the person whose permit he suspends, cancels or does not renew.

1974, c. 35, s. 13; 1997, c. 43, s. 439.

17. Any person whose permit is suspended, cancelled or not renewed may contest the decision of the Minister before the Administrative Tribunal of Québec within 30 days of notification of the decision.

1974, c. 35, s. 14; 1988, c. 21, s. 66; 1996, c. 50, s. 4; 1997, c. 43, s. 440.

18. *(Repealed).*

1974, c. 35, s. 15; 1988, c. 21, s. 66; 1997, c. 43, s. 441.

19. *(Repealed).*

1974, c. 35, s. 16; 1988, c. 21, s. 66; 1997, c. 43, s. 441.

20. *(Repealed).*

1974, c. 35, s. 17; 1992, c. 61, s. 448; 1997, c. 43, s. 441.

21. *(Repealed).*

1974, c. 35, s. 18; 1988, c. 21, s. 66; 1997, c. 43, s. 441.

22. *(Repealed).*

1974, c. 35, s. 19; 1988, c. 21, s. 66; 1997, c. 43, s. 441.

23. *(Repealed).*

1974, c. 35, s. 20; 1997, c. 43, s. 441.

24. *(Repealed).*

1974, c. 35, s. 21; 1997, c. 43, s. 441.

25. *(Repealed).*

1974, c. 35, s. 22; 1997, c. 43, s. 441.

26. *(Repealed).*

1974, c. 35, s. 23; 1997, c. 43, s. 441.

27. *(Repealed).*

1974, c. 35, s. 24; 1997, c. 43, s. 441.

28. *(Repealed).*

1974, c. 35, s. 25; 1997, c. 43, s. 441.

29. *(Repealed).*

1974, c. 35, s. 26; 1997, c. 43, s. 441.

30. *(Repealed).*

1974, c. 35, s. 27; 1988, c. 21, s. 66; 1997, c. 43, s. 441.

DIVISION V

INSPECTIONS AND SEIZURES

31. The Minister may, by order, according to the criteria, terms and conditions determined by regulation:

(a) establish stations for the inspection or classification of products, prescribe their terms and conditions of operation and order that every product which he determines, from a territory which he designates or intended for such a territory, be inspected or classified, according to the standards fixed by regulation, at one or other of such stations;

(b) temporarily suspend the provisions of a regulation respecting classes, categories or particular types of products.

The order must be published in the *Gazette officielle du Québec* with notice of the date on which it will become effective and, as the case may be, of that on which it will cease to have effect.

1974, c. 35, s. 28.

32. The Minister shall appoint the inspectors, veterinarians, analysts or other agents necessary for the carrying into effect of this Act and may provide for the remuneration of such persons among them who are not appointed and remunerated according to the Public Service Act (chapter F-3.1.1).

1974, c. 35, s. 29; 1978, c. 15, s. 140; 1983, c. 55, s. 161; 1993, c. 21, s. 2; 2000, c. 26, s. 18; 2000, c. 10, s. 29; 2009, c. 10, s. 31.

32.1. Every authorized person may, in exercising his power of inspection, require of any person subject to this Act or the regulations any document or information relevant to the carrying out of this Act.

The person must furnish the documents or information to the authorized person within such reasonable time as is fixed by the authorized person.

1996, c. 50, s. 7; 2009, c. 10, s. 32.

33. Every authorized person who believes, on reasonable grounds, that there are products or other objects to which this Act applies in a packing-house or an establishment, premises or a vehicle where a product is prepared, conditioned, processed, packed, stored, unloaded, received, given for philanthropic or promotional purposes, offered for sale or sold, kept for sale or for providing services for remuneration or to be given for philanthropic or promotional purposes, where ice or a bottled water dispenser is placed at the public's disposal or where a stamp referred to in section 6 is manufactured, reproduced, kept or used or on premises where animals are slaughtered or where animals whose products are intended for human consumption or inedible products are found may, in the performance of his duties,

- (1) enter such packing-house, establishment, premises or vehicle at any reasonable time;
- (2) inspect in the packing-house, establishment, premises or vehicle, the places, equipment, material, apparatus and any product, animal or other object to which this Act applies and take samples free of charge;
- (3) stop any vehicle used for transporting such a product or animal and inspect it;
- (4) take photographs of the product, animal, object, packing-house, establishment, premises, vehicle, places, material, apparatus or equipment;
- (5) require communication of any book, bill of lading or any other document or record if he believes, on reasonable grounds, that it contains information relevant to the administration of this Act or the regulations for examination, reproduction or for obtaining extracts therefrom;
- (6) use any appropriate technical device to prevent operations by any permit holder outside the operating hours fixed under section 34.

1974, c. 35, s. 30; 1977, c. 35, s. 9; 1981, c. 29, s. 7; 1983, c. 53, s. 4; 1986, c. 95, s. 240; 1990, c. 80, s. 9; 1996, c. 50, s. 8; 2000, c. 26, s. 19; 2009, c. 10, s. 33.

33.0.0.1. Every authorized person may enter a slaughterhouse at any reasonable time and conduct, for as long as is necessary, a sanitary inspection of animals before and after they are slaughtered, and of the carcasses or parts of such animals. The authorized person may also, when conducting an inspection,

- (1) take specimens free of charge;
- (2) prohibit the slaughtering of animals or subject it to certain conditions;
- (3) seize or confiscate animals, animal carcasses or animal parts if the person has reasonable cause to believe they are unfit for human consumption; and

(4) order the destruction of animals, animal carcasses or animal parts, or determine how they are to be disposed of.

The slaughterhouse operator is required to lend assistance to the authorized person in carrying out an inspection.

2009, c. 10, s. 34.

33.0.1. Where a living animal is seized, the provisions of the Animal Health Protection Act (chapter P-42) apply to the seizure.

2000, c. 26, s. 20; 2009, c. 10, s. 35.

33.1. Every authorized person may seize any product, animal or other object to which this Act applies if he believes, on reasonable grounds, that an offence against this Act or the regulations has been committed in relation to or by means of such product, animal or object or that the product is unfit for human consumption or is so deteriorated as to be unfit for human consumption or that the safety of the product for human consumption is uncertain.

In addition, the authorized person may seize any product intended for animal consumption if the authorized person has reasonable grounds to believe that the product constitutes a danger to the life or health of consumers.

1986, c. 95, s. 240; 1990, c. 80, s. 10; 2000, c. 26, s. 21; 2009, c. 10, s. 36.

33.1.1. The Minister may, if considered appropriate by the Minister, authorize, upon application, the owner of a seized product or the person who had possession of it to subject the product to an operation or treatment to ensure the safety of the product.

The application shall be made in writing to the Minister not later than 30 days after the date of the seizure and shall include

- (1) a detailed description of the proposed operation or treatment to which the product is to be subjected;
- (2) the duration of the operation or treatment and the date on which the operation or treatment is scheduled to be carried out;
- (3) an undertaking to pay the costs of the operation or treatment and to repay to the Government the costs of the examination of the application and, where applicable, the costs incurred by the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation for analysis, inspection or assessment in relation to an authorized operation or treatment and for the verification of the safety of the product after the operation or treatment.

The authorization shall be granted by the Minister, in particular with respect to the packaging, labelling, transportation, sale or transfer of the product, subject to the conditions determined by the Minister.

1997, c. 68, s. 2.

33.1.2. Where the holder of the authorization furnishes, to the satisfaction of the Minister, proof that establishes the safety of the product subjected to an operation or treatment or of any product containing such a product, the Minister shall certify that fact in writing.

The seizure is lifted on the date of receipt of the safety certificate. The product treated may then be used for human consumption in accordance with such conditions as may be determined by the Minister.

1997, c. 68, s. 2.

33.1.3. Where the holder of an authorization fails to comply with any of the conditions set out therein, the Minister may revoke the authorization. Revocation of the authorization entails the obligation for the holder to destroy the product, at the holder's expense, within the time limit and in accordance with the instructions determined by the Minister. If the holder fails to do so, the product shall be confiscated by an authorized person and the Minister shall destroy the product in the holder's place and at the holder's expense.

1997, c. 68, s. 2; 2000, c. 26, s. 22.

33.1.4. The Minister may designate a person to exercise the powers provided for in sections 33.1.1 to 33.1.3.

1997, c. 68, s. 2.

33.2. The owner or person who had possession of the thing seized shall have custody of the thing. Every authorized person may, however, if he considers it advisable, remove it to other premises for purposes of safekeeping. In addition, the custodian shall have custody of the things seized and submitted in evidence, unless the judge to whom they were submitted in evidence decides otherwise.

The thing seized shall be detained until a decision is made under section 33.1.2, 33.1.3, 33.2.1, 33.3, 33.4, 33.4.1, 33.5, 33.7, 33.8 or 33.9 or, if proceedings are instituted, until a judge has decided by judgment.

1986, c. 95, s. 240; 1992, c. 61, s. 449; 1997, c. 68, s. 3; 2000, c. 26, s. 23.

33.2.1. Where the thing seized is perishable or likely to depreciate rapidly and its safety is ensured, the judge may, on the application of the seizer, authorize the sale of the thing.

At least one clear day's prior notice of the application must be served on the person from whom the thing was seized and on the persons who claim to have a right in the thing. However, the judge may exempt the seizer from service if deterioration of the thing seized is imminent.

The sale shall be made on the conditions fixed by the judge. The proceeds of sale shall be deposited with the Ministère des Finances in accordance with the Deposit Act (chapter D-5).

2000, c. 26, s. 24.

33.3. The thing seized or the proceeds of the sale thereof shall be returned to the owner or person who had possession of it

(1) after the expiration of 90 days from the date of seizure, unless proceedings have been instituted or an authorization has been granted under section 33.1.1; or

(2) when the authorized person is of opinion, after verification during that time, that no offence against this Act or the regulations has been committed or that the owner or person who had possession of the thing seized has, since the seizure, complied with the provisions of this Act or the regulations.

1986, c. 95, s. 240; 1997, c. 68, s. 4; 2000, c. 26, s. 25.

33.3.1. No person may use, sell or dispose of a product for which an authorization to proceed with an operation or a treatment to ensure the safety of the product has been granted, except in the manner set out in the authorization, until the holder of the authorization obtains a safety certificate.

1997, c. 68, s. 5.

33.4. The owner or person who had possession of the thing seized may, at any time, apply to a judge to obtain the release of the thing or the proceeds of the sale thereof, except where the owner or person has applied for an authorization under section 33.1.1.

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

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

1986, c. 95, s. 240; 1992, c. 61, s. 450; 1997, c. 68, s. 6; 2000, c. 26, s. 26.

33.4.1. Notwithstanding sections 33.4 and 33.7, where a thing seized or the proceeds of the sale thereof cannot be returned as a result of unlawful possession to the person from whom the thing was seized or to a person who claims to have a right therein, the judge shall, on the application of the seizer or the prosecutor, order the confiscation of the thing or proceeds ; if unlawful possession is not proved, the judge shall designate the person to whom the thing or the proceeds may be returned.

Prior notice of the application must be served on the person from whom the thing was seized and on the other person entitled to make such an application, except where they are in the presence of the judge. Such prior notice may, where applicable, be given with the statement of offence, specifying that the application for confiscation is to be made at the time of the judgment.

The Minister shall prescribe the procedure for disposing of the thing confiscated.

2000, c. 26, s. 27.

33.5. Every thing seized or the proceeds of the sale thereof the owner or possessor of which is unknown or untraceable shall be transferred to the Minister of Revenue 90 days from the date of seizure, together with a statement describing the thing and indicating, where applicable, the name and last known address of the interested party.

The Unclaimed Property Act (chapter B-5.1) applies to the thing so transferred to the Minister of Revenue.

1986, c. 95, s. 240; 1997, c. 80, s. 72; 2000, c. 26, s. 28; 2005, c. 44, s. 54; 2011, c. 10, s. 98.

33.6. A judge may, on the application of the seizer, order that the period of detention be prolonged for a maximum of 90 days.

1986, c. 95, s. 240; 1992, c. 61, s. 450.

33.7. Upon pronouncing a conviction for an offence under a provision of this Act or the regulations thereunder, a judge may, on the application of either party and where a seizure has been made under section 33.1, order the confiscation of the thing seized or of the proceeds of the sale thereof.

Prior notice of the application for confiscation shall be given to the other party and to the person from whom the thing was seized, except where they are in the presence of the judge.

The Minister shall prescribe the manner of disposing of the thing confiscated or of the proceeds of the sale thereof under this section.

1986, c. 95, s. 240; 1992, c. 61, s. 451; 2000, c. 26, s. 29.

33.8. Every authorized person who believes, on reasonable grounds, that a product is unfit for human consumption or is so deteriorated as to be unfit for human consumption or that the safety of the product for human consumption is uncertain may, whether or not the product has been seized, require that it be destroyed by the person having possession of it by giving that person notice to that effect by way of a writing given to him or to his representative or employee or sent to him by registered mail at his business address.

The destruction must be carried out under the supervision of an authorized person.

Any product unfit for human consumption or so deteriorated as to be unfit for human consumption, or any product whose safety for human consumption is uncertain, which has not been destroyed in accordance with

this section shall be confiscated by an authorized person and destroyed at the expense of the person having possession of the product as the Minister may direct.

1986, c. 95, s. 240; 2000, c. 26, s. 30.

33.9. Every authorized person who believes, on reasonable grounds, that a product is otherwise not in conformity with this Act or the regulations may apply to a judge or court for an order requiring the person having custody of the product to destroy it under an authorized person's supervision and as the Minister directs, whether the product has been seized or not.

1986, c. 95, s. 240; 2000, c. 26, s. 31.

33.9.1. An authorized person may, in the exercise of the authorized person's functions and for a maximum period of five days, order the operator of a packing-house, an establishment, premises or a vehicle referred to in section 33 to cease the operation of an apparatus or equipment if the authorized person has reasonable grounds to believe that owing to the operation or condition of the apparatus or equipment, the safety of products for human consumption is uncertain.

The order shall state the grounds for the authorized person's decision.

The order takes effect when a written statement of the order is given to the operator or a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.

2000, c. 26, s. 32.

33.9.2. An authorized person may, in the exercise of the authorized person's functions and for a maximum period of five days, order the operator of a packing-house, an establishment, premises or a vehicle referred to in section 33 to cease or restrict, to the extent determined by the authorized person, the operation of the packing-house, establishment, premises or vehicle if the authorized person has reasonable grounds to believe that the operation results in an imminent danger to the life or health of consumers.

The order shall state the grounds for the authorized person's decision.

The order takes effect when a written statement of the order is given to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.

2000, c. 26, s. 32.

33.10. The Minister may, for a maximum period of 30 days, extend the order provided for in section 33.9.2 or order the operator of a packing-house, an establishment, premises or a vehicle referred to in section 33 to cease or restrict, to the extent the Minister determines, the operation of the packing-house, establishment, premises or vehicle if the Minister is of the opinion that the operation results in an imminent danger to the life or health of consumers.

The order shall state the grounds for the Minister's decision, refer to any minutes, analysis or survey report or other technical report on which his order is based and advise the operator that he may obtain a copy of any such document on request.

The order takes effect upon the giving of a copy of the order to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.

1987, c. 62, s. 1; 1990, c. 80, s. 11; 2000, c. 26, s. 33.

33.11. Where the Minister considers it necessary and urgent for the protection of the public in circumstances where the innocuousness of a product appears to be uncertain, he may, by written notice notified, personally to the operator or to a person responsible for a packing-house, establishment or vehicle, to

any person who engages in the production, preparation, conditioning, packaging, supplying or distribution of the product, order him to recall the product to the packing-house or establishment and to retain it or dispose of it at the person's expense within the time limit and in accordance with the conditions determined by the Minister.

The Minister may also, where the Minister considers it necessary and urgent for the protection of the public in the case of a contravention of a provision of section 4 in relation to an inaccurate, false or misleading indication concerning the safe use of a product, or in the absence of any indication concerning the safe use of a product, by written notice notified, personally to a person referred to in the first paragraph, order the person to recall the product to the packing-house or establishment, to retain it, to bring the product into compliance or to dispose of it at the person's expense within the time and in accordance with the conditions determined by the Minister.

The person concerned by the order provided for in the first paragraph may apply in writing to the Minister, within the time indicated in the order, for authorization to subject the product to an operation or treatment to ensure the safety of the product. Sections 33.1.1 to 33.1.3 and 33.3.1, adapted as required, apply to the authorization.

An order under this section takes effect when a copy of the order is given to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.

1990, c. 80, s. 12; 1997, c. 68, s. 7; 2000, c. 26, s. 34.

33.11.1. The Minister may, where the Minister considers it necessary and urgent for the protection of the public in the case of a contravention of a provision of section 4 other than the provision relating to the safe use of a product, or where a product is unfit for human consumption or is so deteriorated as to be unfit for human consumption but does not constitute a health risk, by written notice notified personally to a person responsible for a packing-house, establishment, premises or vehicle or to any person who engages in the production, preparation, conditioning, packaging, storing, selling, supplying or distribution of a product, order the person to recall the product to the packing-house or establishment, to retain it, to take the appropriate corrective action or to dispose of it at the person's expense within the time and in accordance with the conditions determined by the Minister.

The person subject to the order may apply in writing to the Minister, within the time indicated in the order, for authorization to take the appropriate corrective action.

The order takes effect when a copy of the order is given to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.

2000, c. 26, s. 35.

33.11.2. The Minister may, by regulation, where the Minister considers it necessary for the protection of the public, determine that a product is a danger to the health or safety of consumers and indicate how the product is to be disposed of or eliminated safely.

Any person in possession of a product subject to the regulation must comply with the regulation.

The provisions of Divisions III and IV of the Regulations Act (chapter R-18.1) relating to the publication and coming into force of proposed regulations and regulations do not apply to such a regulation. The regulation shall be published in the *Gazette officielle du Québec*. However, it shall come into force on the date it is made by the Minister and shall be disseminated by any other means the Minister considers necessary.

2000, c. 26, s. 35.

33.12. The person to whom an order referred to in section 33.8, 33.9.1 to 33.11.1 is notified without prior notice because, in the opinion of the Minister or the authorized person, urgent action is required or there is a danger of irreparable damage being caused, may, within the time specified in the order, present observations so that the order may be reviewed by the Minister or the authorized person.

1997, c. 43, s. 442; 2000, c. 26, s. 36.

33.13. The Minister or the person designated by the Minister may, in the public interest, disclose any information held by the Minister which is necessary for the protection of the health or safety of consumers.

The Minister or the person designated by the Minister may also, in the public interest, disclose any information held by the Minister which is necessary for the protection of the interests of consumers in the case of a contravention of section 4, after informing the person to whom the information relates.

The first and second paragraphs apply, notwithstanding paragraphs 5 and 9 of section 28 and section 53 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

2000, c. 26, s. 37.

34. The Minister may fix the operating hours of a slaughter-house or plant contemplated in subparagraphs *a*, *a.1*, *b* and *c* of the first paragraph of section 9 so as to ensure the permanent inspection of the operations of the permit holder or their inspection under section 33.0.0.1.

1977, c. 35, s. 10; 2009, c. 10, s. 37.

35. The person responsible for a packing-house, an establishment, premises or a vehicle or for any other place where a product is found which an authorized person wishes to examine and any person found there is bound to assist the authorized person in the exercise of his functions, facilitate access to the product, the packing-house, establishment, premises or vehicle or to the place, and to place at his disposal every document he wishes to examine.

1974, c. 35, s. 31; 1977, c. 5, s. 14; 1983, c. 53, s. 5; 1987, c. 68, s. 96; 2000, c. 26, s. 39.

36. It is forbidden to hinder the work of an authorized person in the exercise of his duties, to mislead him or to attempt to do so, or to neglect or refuse to obey him.

Such person must, on request, identify himself and exhibit a certificate, signed by the Minister, attesting his authority.

1974, c. 35, s. 32; 1986, c. 95, s. 241.

37. No person shall, without the consent of an authorized person, sell or offer for sale a seized or confiscated product or remove or allow the removal of such product, its container, or the writ of seizure or confiscation, or remove or break a seal affixed by an authorized person.

1974, c. 35, s. 33.

38. The Minister may, on the conditions and upon payment of the dues fixed by regulation, provide, upon the request of any interested person, for the inspection and classification of a product.

1974, c. 35, s. 34.

39. The Minister and authorized persons cannot be sued or prosecuted for any official act performed in good faith in the exercise of the functions conferred upon them by this Act.

1974, c. 35, s. 35.

DIVISION VI

REGULATIONS

40. The Government may, by regulation:

(a) prescribe rules respecting the sale of a product, the production, preservation, handling, preparation, conditioning, processing, transportation or stamping of a product or the storing of a product with intent to sell it or to give it for promotional purposes, the furnishing of a service for remuneration or the display of a product;

(a.0.1) regulate the preparation processes, in particular pasteurization, canning, aseptic packaging and sterilization;

(a.1) establish, in particular for the purposes of sanitation, the rules respecting the construction, layout, installation, material, equipment, location and maintenance of slaughter-houses or packing-houses, establishments, premises or vehicles where operations referred to in paragraph *a*, operations relating to inedible products or operations relating to premises in which there are animals whose products are intended for human consumption, are carried on;

(a.2) determine the equipment and facilities to be used, the procedures to be followed and the standards to be maintained to ensure humane treatment and slaughter of animals in slaughter-houses;

(a.3) determine, for the purposes of subparagraph *a.3* of the first paragraph of section 1, the cases in which milk or any derivative of milk ceases to be a dairy product after being treated, modified, processed or reconstituted, and the criteria whereby milk is to be considered the main ingredient in the making of a dairy product;

(a.4) authorize standardization of the proportion of fat and other solids of any dairy product it indicates, subject to the conditions and according to the processes it determines, including skimming;

(b) prohibit or regulate the use of substances capable of impairing the quality or wholesomeness of a product;

(b.1) *(paragraph repealed)*;

(b.2) *(paragraph repealed)*;

(c) prohibit or regulate the sale, holding, transportation, salvaging, distribution, preparation, denaturation, packaging, labelling, use, disposal or elimination of inedible products, the slaughtering of animals in an establishment where inedible products are prepared or stored or where operations relating to inedible products held by a salvager or by the operator of such an establishment are carried on;

(c.1) *(paragraph repealed)*;

(c.2) prohibit or regulate, for the purposes of the third paragraph of section 70 of the Act respecting the conservation and development of wildlife (chapter C-61.1), the carrying out of activities relating to any aquatic product it designates and concerning the sale, preparation, processing, keeping, transportation or distribution of the product;

(c.3) prescribe sanitary inspection of animals before and after they are slaughtered, and of carcasses or parts of such animals, allow any authorized person to prohibit or authorize, on conditions he determines, the slaughtering of animals unfit or suspected, on reasonable grounds, of being unfit for human consumption, authorize the person to seize or confiscate the animals or the carcasses or parts of such animals which are unfit or suspected, on reasonable grounds, of being unfit for human consumption or inedible, and regulate the disposal or destination of the animals or of the carcasses or parts of such animals;

(c.4) *(paragraph repealed)*;

(c.5) allow an authorized person to enter, at any reasonable time, premises or a vehicle where livestock can be found whose meat or products are intended for human consumption, to inspect the animals and take free samples, to seize or confiscate the animals and products which are unfit or suspected, on reasonable grounds, of being unfit for human consumption or inedible, and to prescribe rules governing the seizure, destination or disposal of the animals or products;

(d) order the sanitary control of animals and prescribe sanitary measures respecting the operation of establishments, premises or vehicles where slaughtering procedures or operations referred to in paragraph *a* are carried out, and prescribe any appropriate measure to ensure the disposal of waste, regulate waste containers and prevent or avoid the contamination of products;

(e) establish classes, categories, appellations, qualifiers or designations of products and prohibit any unlawful use thereof, require the grading of products and set standards of composition, form, quality, wholesomeness, colour, proportion of constituents, presentation and uniformity, and, in the case of spring water and mineral water, render the prescribed standards applicable from the point of collection;

(e.0.1) prescribe rules of hygiene concerning ice and bottled water dispensers placed, free of charge, at the disposal of the public;

(e.1) *(paragraph repealed)*;

(e.2) require the operator of a packing-house, establishment, premises or vehicle to submit the packing-house, establishment, premises or vehicle to a quality and sanitation control inspection in accordance with the conditions determined by the Minister;

(e.2.1) determine apparatus calibration methods and the persons or classes of persons who are to use them;

(e.3) determine, for the purposes of this Act or the regulations, methods which must be used in analyzing the products;

(e.3.1) identify the diseases or germs of diseases that may be communicated by food;

(e.4) prescribe the rules of hygiene and sanitation applicable to any person who is in contact with food or with the material or equipment that is in contact with food in a packing-house, an establishment, premises or a vehicle referred to in section 33, require such a person to furnish a statement of health to the person's employer and to undergo such examinations as are necessary to establish that the person is not affected with a disease or is not a carrier of germs of diseases referred to in paragraph *e.3.1* and, on conditions it determines, prescribe that the employer hold a medical certificate attesting that the person is not affected with such a disease and is not a carrier of such germs;

(e.5) prescribe withdrawal measures and the cases in which they are to be applied as well as special hygiene or sanitation measures applicable to any person affected with a disease or carrying germs of a disease referred to in paragraph *e.3.1*, who is in contact with food or with the material or equipment that is in contact with food in a packing-house, an establishment, premises or a vehicle referred to in section 33;

(e.5.1) determine the minimum training or learning experience necessary, in particular with respect to hygiene, sanitation or the monitoring of the processes involved in food processing;

(e.5.2) determine the functions to be exercised by a person holding a tester's permit;

(e.6) determine the persons or classes of persons that must undergo the training referred to in paragraph *e.5.1* and, where applicable, that they pass such examinations as are necessary for that purpose;

(e.7) prescribe the rules of hygiene and sanitation applicable to the persons who are present in the areas or places referred to in section 3.3;

(e.8) prescribe the conditions to be fulfilled by a person required to register with the Minister, the documents or the information to be furnished by the person, the books or registers to be kept and retained by the person, the reports to be submitted by the person and the annual fees to be paid by the person for registration;

(f) determine the conditions of issue, renewal, suspension or cancellation of a permit, the documents or the information to be furnished by an applicant or holder, the books or registers to be kept and retained by the applicant or holder, the cases in which a permit may be issued for a period of less than 12 months, the fees payable for the permits according to the period of validity, the nature or the category, subcategory or class of the holders or permits, the costs for the opening and examination of an application for a permit or authorization;

(g) determine the categories of permits and the conditions and restrictions governing each category;

(g.1) determine, in addition to the persons referred to in section 3.4, the persons required to have a traceability system and prescribe the minimum system standards, which may vary according to the activity or product and pertain, in particular, to the reception, shipping and production register, lot identification and recall and control procedures;

(h) prescribe any suitable measure calculated to ensure honesty in selling and to avoid or prevent imitations, counterfeits or adulteration;

(i) *(paragraph repealed)*;

(j) prescribe rules respecting containers and in particular their size, capacity and characteristics, the inscriptions, labelling or packaging of products and the inscriptions which must appear on means of transportation used for transporting products or inedible products;

(j.1) prescribe, for any type of water referred to in the second paragraph of section 1, the cases and conditions in or on which a person is required to send to the Minister, before or during the marketing of the water, information, documents, samples, analyses or any other thing necessary to verify the accuracy of the information appearing on the label, container or packaging of the water or on a poster relating thereto;

(k) fix the hours outside which the costs of permanent inspection must be reimbursed to the Government by the holder of a permit require registration of the hours, and determine the terms and conditions of such reimbursement;

(k.1) prescribe fees for analysis, inspection, classification or stamping and, where applicable, determine by which persons, for which product, in which cases and on what terms and conditions the fees are payable;

(k.2) determine the cases in which analyses or controls are required and data is to be entered by the operator in a register made available to authorized persons;

(l) define any expression used in this Act;

(m) prohibit or regulate the publicity or advertising used for the commercial promotion of products;

(m.1) prescribe the rules to be complied with by the holder of a tester's permit relating to milk or cream collecting at the farm and the taking of samples;

(n) exempt any person, product, animal, establishment or activity it determines, or a class thereof, from the application of this Act or the regulations, or any provision thereof, on such conditions as it may determine.

1974, c. 35, s. 36; 1975, c. 40, s. 5; 1977, c. 35, s. 11; 1977, c. 5, s. 14; 1981, c. 29, s. 8; 1983, c. 53, s. 6; 1990, c. 80, s. 13; 1993, c. 21, s. 3; 1996, c. 50, s. 9; 1997, c. 68, s. 8; 2000, c. 26, s. 40; 2009, c. 10, s. 38; 2014, c. 14, s. 2.

40.1. *(Repealed).*

1981, c. 29, s. 9; 1983, c. 53, s. 7; 2000, c. 26, s. 41.

40.2. *(Repealed).*

1985, c. 28, s. 2; 2000, c. 26, s. 41.

41. The regulations made under this Act shall come into force from the date of their publication in the *Gazette officielle du Québec* or on any later date fixed therein.

1974, c. 35, s. 37.

DIVISION VII

PENAL PROVISIONS

1990, c. 4, s. 668.

42. Except in the cases where another penalty is provided for, every person who contravenes this Act or the regulations is liable to a fine of \$250 to \$2,000 and, for any subsequent contravention, to a fine of \$750 to \$6,000.

1974, c. 35, s. 38; 1975, c. 40, s. 6; 1982, c. 64, s. 34; 1986, c. 58, s. 76; 1990, c. 4, s. 669; 1991, c. 33, s. 95; 1993, c. 53, s. 3; 2000, c. 26, s. 42.

43. Every person who contravenes a provision of a regulation under paragraph *a*, *a.1*, *d*, *e.4* or *e.7* of section 40 relating to the washing of hands, the processes of heating or cooling of products, defrosting methods or the temperature of products, or relating to insects, rodents or their excrements is liable to a fine of \$250 to \$3,000 and, for any subsequent contravention, to a fine of \$750 to \$9,000.

1974, c. 35, s. 39; 1977, c. 35, s. 12; 1982, c. 64, s. 35; 1986, c. 58, s. 77; 1990, c. 4, s. 670; 1990, c. 80, s. 14; 1991, c. 33, s. 96; 1993, c. 53, s. 4; 2000, c. 26, s. 43.

44. Every person who contravenes any of the following provisions is liable to a fine of \$500 to \$3,000 and, for any subsequent contravention, to a fine of \$1,500 to \$9,000:

(1) a provision of section 4, except the provision concerning the safe use of a product, or a provision of section 4.1 or of sections 8 to 8.2;

(2) a provision of any of subparagraphs *k.2*, *k.3* and *k.4* of the first paragraph of section 9 in relation to, in the case of the latter subparagraph, a dairy product substitute wholesaler's permit, or a provision of any of subparagraphs *n.1* to *n.4* of the first paragraph of that section;

(3) a provision of section 13;

(4) a provision of a regulation under paragraph *e*, *h* or *j.1* of section 40 in relation to any false or misleading indication or falsification concerning a product, or a provision of a regulation under paragraph *e.2*, *e.5.1* or *e.6* of that section.

1975, c. 40, s. 7; 1977, c. 35, s. 13; 1981, c. 29, s. 10; 1983, c. 53, s. 8; 1985, c. 28, s. 3; 1986, c. 58, s. 78; 1990, c. 4, s. 671; 1990, c. 80, s. 15; 1991, c. 33, s. 97; 1993, c. 53, s. 4; 1996, c. 50, s. 10; 2000, c. 26, s. 44.

44.1. *(Replaced).*

1990, c. 80, s. 16; 1993, c. 53, s. 4.

44.2. (*Repealed*).

1996, c. 50, s. 11; 2000, c. 26, s. 45.

45. Every person who contravenes any of the following provisions is liable to a fine of \$1,000 to \$6,000 and, for any subsequent contravention, to a fine of \$3,000 to \$18,000:

(1) a provision of any of sections 3.3 to 3.5, the second paragraph of section 33.0.0.1 and sections 33.2, 33.3.1, 36 and 37;

(2) a condition or restriction indicated on the person's permit pursuant to section 10 or 11 or a condition of an authorization issued under section 11.1;

(3) the second paragraph of section 32.1, or furnishes erroneous, falsified or misleading information or documents;

(4) a provision of a regulation under section 7;

(5) a provision of a regulation under any of the following paragraphs of section 40:

(a) paragraph *a, c* or *j* concerning the inscription of a production lot number;

(b) paragraph *e.8, f, g.1* or *k.2* concerning registers other than registers relating to inedible products;

(c) paragraph *g* concerning conditions or restrictions attaching to a category of permits;

(d) paragraph *c, d* or *j* concerning the absence of inscription on the containers of inedible products and, in the case of the latter paragraph, on the means of transport of inedible products.

1975, c. 40, s. 7; 1986, c. 58, s. 79; 1990, c. 4, s. 672; 1991, c. 33, s. 98; 1992, c. 61, s. 452; 1993, c. 53, s. 4; 1997, c. 68, s. 9; 2000, c. 26, s. 46; 2009, c. 10, s. 39.

45.1. Every person who contravenes any of the following provisions is liable to a fine of \$2,000 to \$15,000 and, for any subsequent contravention, to a fine of \$6,000 to \$45,000:

(1) a provision of section 3 concerning a product whose safety is uncertain;

(2) a provision of section 3.1;

(3) a provision of section 4 concerning the safe use of a product;

(4) a provision of any of subparagraphs *b* to *f, k, k.1* and *k.4* concerning dairy product substitute preparation permits, or *l, m* and *n* of the first paragraph of section 9;

(5) a provision of section 34 concerning hours of operation;

(6) a provision of a regulation under any of the following paragraphs of section 40:

(a) paragraph *a* or *c* concerning the exclusivity of operations relating to inedible products;

(b) paragraph *a.0.1* concerning preparation processes;

(c) paragraph *a.1* concerning the exclusive use of premises, apparatus or equipment;

(d) paragraph *c* concerning the denaturation or use of inedible products;

(e) paragraph *e* concerning sanitation standards for inedible products;

- (f) paragraph *e.8, f, g.1* or *k.2* concerning registers relating to inedible products;
- (g) paragraph *j* concerning restricted use containers for inedible products;
- (h) paragraph *k* concerning the requirement to register permanent inspection hours.

1993, c. 53, s. 4; 1996, c. 50, s. 12; 1997, c. 68, s. 10; 2000, c. 26, s. 47.

45.1.1. Every person who contravenes a provision of section 3 with regard to a product unfit for human consumption or deteriorated so that it is unfit for human consumption is liable to a fine of \$750 to \$2,000 and, for a subsequent contravention, to a fine of \$2,250 to \$6,000.

Where a person is convicted for an offence under section 3 in relation to a product unfit for human consumption or deteriorated so that it is unfit for human consumption and the product constitutes a health hazard, the amount of the fine is \$2,000 to \$15,000, and \$6,000 to \$45,000 for a subsequent conviction.

1997, c. 68, s. 11.

45.1.2. Every person who contravenes a provision of a regulation under section 40 concerning physical, chemical or microbiological standards in relation to a product is liable to a fine of \$750 to \$2,000 and, for any subsequent contravention, to a fine of \$2,250 to \$6,000.

Where a person is found guilty of an offence described in the first paragraph and the product constitutes a health risk, the amount of the fine is \$2,000 to \$15,000 and, for any subsequent contravention, \$6,000 to \$45,000.

2000, c. 26, s. 48.

45.2. Every person who contravenes subparagraph *a* or *a.1* of the first paragraph of section 9, an order under any of sections 33.9.1 to 33.11.1, a provision of a regulation under section 33.11.2, a provision of a regulation under section 6 in relation to stamping, or of paragraph *c* of section 40 in relation to the disposal of inedible meat is liable to a fine of \$5,000 to \$15,000 and, for any subsequent contravention, to a fine of \$15,000 to \$45,000.

1993, c. 53, s. 4; 2000, c. 26, s. 49; 2009, c. 10, s. 40.

45.3. Every person who engages in an activity to which section 9 applies while the person's permit is suspended or cancelled under section 15 is liable to a fine of \$5,000 to \$15,000 and, for any subsequent contravention, to a fine of \$15,000 to \$45,000.

2000, c. 26, s. 49.

46. Where a legal person is guilty of an offence against section 3 in relation to a product unfit for human consumption, so deteriorated as to be unfit for human consumption or whose safety for human consumption is uncertain, section 9 or 11.1 in relation to the operation of a packing-house, establishment, premises or vehicle while its permit is suspended or cancelled under section 15, an order under any of sections 33.9.1 to 33.11.1 or a regulation under section 33.11.2, section 34 in relation to the operating hours fixed in that section, or contravenes the conditions or restrictions indicated in its permit or the provisions of regulations concerning stamping, the origin of products or inedible meat, every officer, director, partner, employee or mandatary of that legal person who prescribed or authorized the committing of the offence, or who consented thereto or acquiesced or participated therein, is deemed a party to the offence and is liable to the penalties provided for in section 44, 45, 45.1, 45.1.1, 45.1.2, 45.2 or 45.3, whether or not the legal person has been prosecuted or convicted.

1975, c. 40, s. 7; 1977, c. 35, s. 14; 1983, c. 53, s. 9; 1990, c. 80, s. 17; 1993, c. 53, s. 5; 1996, c. 50, s. 13; 1997, c. 68, s. 12; 2000, c. 26, s. 50.

46.1. In determining the amount of the fine, the court shall take into account, in particular,

- (1) the seriousness of the risk to consumers' health ;
- (2) the benefits and revenues the offender has derived from the offence ;
- (3) the socio-economic consequences for society.

2000, c. 26, s. 50.

47. *(Repealed).*

1977, c. 35, s. 15; 1981, c. 29, s. 11; 1986, c. 58, s. 80; 1990, c. 4, s. 673; 1990, c. 80, s. 18; 1991, c. 33, s. 99; 1993, c. 53, s. 6.

48. *(Repealed).*

1977, c. 35, s. 15; 1986, c. 58, s. 81; 1990, c. 4, s. 674; 1991, c. 33, s. 100; 1992, c. 61, s. 453; 1993, c. 53, s. 6.

49. *(Repealed).*

1974, c. 35, s. 40; 1975, c. 40, s. 8; 1977, c. 35, s. 16; 1983, c. 53, s. 10; 1986, c. 58, s. 82; 1990, c. 4, s. 675; 1991, c. 33, s. 101; 1992, c. 61, s. 454; 1993, c. 53, s. 6.

49.1. No action before any civil court shall be suspended on the ground that it concerns an act or an omission that is an offence within the meaning of this Act.

1983, c. 53, s. 10.

50. Whosoever abets another person in committing an offence or participates in an offence committed by another person is liable to the penalties provided for such offence on the same grounds as the offender.

1974, c. 35, s. 41.

51. *(Repealed).*

1974, c. 35, s. 42; 1990, c. 4, s. 676; 1992, c. 61, s. 455.

52. *(Repealed).*

1974, c. 35, s. 43; 1990, c. 4, s. 677; 1992, c. 61, s. 456.

53. In any penal proceedings, the operator of a packing-house or an establishment where the offence was committed or of the transport company whose vehicle is used to commit the offence and the real offender are liable to the penalties imposed for an offence against this Act, even if it cannot be proved that the latter was acting under the direction of the operator.

Evidence that the offence was committed by a person, identified or not, in the employ of such operator shall be, in the absence of any evidence to the contrary, evidence that the offence was committed with the authorization and under the direction of the latter.

At the option of the prosecutor, the real offender and the operator of a packing-house, of an establishment or of a transport company may be sued jointly or separately. However, for the same offence, the judge shall pronounce only one sentence on one or the other of them.

1974, c. 35, s. 44; 1986, c. 95, s. 242; 1990, c. 4, s. 678; 2000, c. 26, s. 51.

54. In the absence of any evidence to the contrary, the person having possession of a product in a quantity that exceeds the needs of his own consumption is presumed to intend to sell the product, give it for promotional purposes or use it to furnish services for remuneration.

In the absence of any evidence to the contrary, agricultural products found in an agricultural operation in a quantity that exceeds the needs of the operator's own consumption are presumed to be kept by the operator with intent to sell, give for promotional purposes or use to furnish services for remuneration.

1974, c. 35, s. 45; 1981, c. 29, s. 12; 1986, c. 95, s. 243; 1990, c. 80, s. 19.

55. Nothing in this Act shall be interpreted as prohibiting the transportation of products in transit in Québec; however, in the absence of any evidence to the contrary, the transportation of a product without a bill of lading indicating the names and addresses of the sender and consignee is evidence that such product is to be delivered in Québec.

1974, c. 35, s. 46; 1986, c. 95, s. 244; 1996, c. 50, s. 14.

56. Every person whose name and address, permit number or trade mark are indicated on a product kept for sale, or on the container, label or wrapping of such product, as a person engaged in the preparation, production, conditioning, wrapping, supplying or distribution of such a product, is presumed to have prepared, made, conditioned, wrapped, supplied, distributed or sold such product to the keeper of the product at the time when and at the place where the keeping has been ascertained or, as the case may be, at the place indicated on the product, container, label or wrapping of such product.

1974, c. 35, s. 47.

56.1. In any proceeding instituted for an offence against this Act or the regulations,

(a) the certificate or report of analysis of an authorized person stating in writing the results of an examination respecting the composition of a product is proof of its content unless there is evidence to the contrary if the person attests in the certificate or report of analysis that he personally observed the facts stated therein;

(b) the minutes or report of an investigation, taking of samples, seizure or confiscation written and certified by an authorized person who has inspected, sampled, seized or confiscated a product or who has carried out any inspection in a packing-house, an establishment, vehicle or premises are proof of their content unless there is evidence to the contrary if the person certifies in the minutes or report that he personally observed the facts stated therein;

(c) a document, given as the certificate or report of analysis of an authorized person or the minutes or report of an authorized person, must be admitted as proof, and no proof of the signature or of the quality of the person who signed it is required.

1981, c. 29, s. 13; 1990, c. 4, s. 679; 1990, c. 80, s. 20; 1996, c. 50, s. 15; 2000, c. 26, s. 52.

DIVISION VIII

FINAL PROVISIONS

57. The Minister of Agriculture, Fisheries and Food is entrusted with the carrying out of this Act.

1974, c. 35, s. 49; 1979, c. 77, s. 21.

58. (*This section ceased to have effect on 17 April 1987.*)

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

REPEAL SCHEDULES

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 35 of the statutes of 1974, in force on 31 December 1977, is repealed, except sections 48 and 51 to 53, effective from the coming into force of chapter P-29 of the Revised Statutes.

In accordance with section 17 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), subparagraphs *a* and *b* of the first paragraph as well as the second and third paragraphs of section 6 of chapter 35 of the statutes of 1974, in force on 1 November 1980, are repealed effective from the coming into force of the updating to 1 November 1980 of chapter P-29 of the Revised Statutes.