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PROVINCE OF QUÉBEC

1ST SESSION

42ND LEGISLATURE

QUÉBEC, 17 FEBRUARY 2021

OFFICE OF THE LIEUTENANT-GOVERNOR

Québec, 17 February 2021

This day, at a quarter past two o'clock in the afternoon, His Excellency the Lieutenant-Governor was pleased to assent to the following bill:

46 An Act to amend the Natural Heritage Conservation Act and other provisions

To this bill the Royal assent was affixed by His Excellency the Lieutenant-Governor.

NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION FORTY-SECOND LEGISLATURE

Bill 46
(2021, chapter 1)

An Act to amend the Natural Heritage Conservation Act and other provisions

Introduced 14 November 2019
Passed in principle 30 September 2020
Passed 10 February 2021
Assented to 17 February 2021

Québec Official Publisher
2021

EXPLANATORY NOTES

This Act amends mainly the Natural Heritage Conservation Act.

The Act proposes that the Minister of the Environment and the Fight Against Climate Change keep a new register compiling information on areas that, while not designated as protected areas, are covered by other effective conservation measures.

The Act provides that the Minister must propose mechanisms to the Government for achieving the objectives of the Société du Plan Nord with respect to the areas situated north of the 49th parallel, that is, the northern conservation areas. The Government must approve the proposal after holding a public consultation.

The Act introduces a procedure for setting aside land in the domain of the State in order to establish a protected area.

The Act amends the procedure for designating protected areas, in particular by eliminating the procedure for granting temporary protection as a preliminary step. In addition, it provides for a public participation process prior to the designation. It moreover amends the activity framework applicable to protected areas.

The Act introduces three new protected area protection statuses, namely, "Aboriginal-led protected area", "protected area with sustainable use" and "marine reserve", and withdraws the "aquatic reserve" status.

The Act makes changes to the procedure for recognizing a nature reserve.

The Act provides that the conservation measure applicable to man-made landscapes will instead take the form of recognition. It specifies the powers and responsibilities of the regional and local stakeholders, including the Aboriginal communities, who apply for the recognition of man-made landscapes.

The Act clarifies existing inspection powers and introduces investigation powers. It also provides that monetary administrative penalties may be imposed and that amounts owing to the Minister may be claimed and recovered. It clarifies the penal provisions and increases the amounts of fines.

The Act contains transitional provisions concerning existing protection measures.

The Act also amends the Sustainable Forest Development Act to add the possibility for the minister responsible for the administration of that Act to designate forests as wetlands of interest as well as the regime of activities applicable on those lands.

In addition, the Act amends the Parks Act to specify that the Bureau d'audiences publiques sur l'environnement may be designated to hold the public hearing preceding the creation or abolition of a park or a change in its boundaries.

Lastly, the Act contains consequential amendments to other Acts and regulations.

LEGISLATION AMENDED BY THIS ACT:

– Sustainable Forest Development Act (chapter A-18.1);

– Act respecting land use planning and development (chapter A-19.1);

– Natural Heritage Conservation Act (chapter C-61.01);

– Act respecting administrative justice (chapter J-3);

– Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001);

– Parks Act (chapter P-9);

– Environment Quality Act (chapter Q-2).

REGULATIONS AMENDED BY THIS ACT:

– Regulation respecting the sustainable development of forests in the domain of the State (chapter A-18.1, r. 0.01);

– Regulation respecting threatened or vulnerable plant species and their habitats (chapter E-12.01, r. 3);

– Terms and conditions for the signing of certain documents of the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001, r. 1);

– Regulation respecting the application of the Environment Quality Act (chapter Q-2, r. 3);

– Rules of procedure of the Bureau d'audiences publiques sur l'environnement (chapter Q-2, r. 45.1).

Bill 46

AN ACT TO AMEND THE NATURAL HERITAGE CONSERVATION ACT AND OTHER PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

NATURAL HERITAGE CONSERVATION ACT

1. The Natural Heritage Conservation Act (chapter C-61.01) is amended by inserting the following after the title of the Act:

"AS the natural settings, landscapes, biodiversity and other elements of Québec's natural heritage have intrinsic value and a unique character;

AS that heritage reflects values that have helped forge the identity of the Québec nation over time;

AS the Aboriginal communities and nations in Québec have a close connection with that heritage, which is important to their culture;

AS the contribution of that heritage, in particular to the health, security and economy of the Québec nation, is invaluable;

AS the Gouvernement du Québec has embraced the principles and objectives of the United Nations Convention on Biological Diversity and has declared itself bound to the Convention;

AS Québec has responsibilities as regards implementing the Convention in its territory;

AS, given the loss of biodiversity, it is important to ensure the conservation of Québec's natural heritage for the benefit of present and future generations and to help them adapt to climate change;".

2. Title I of the Act is amended by replacing the portion before section 1 by the following:

"**CHAPTER I**

"GENERAL PROVISIONS

"**DIVISION I**

"PURPOSE AND SCOPE".

3. Section 1 of the Act is replaced by the following section:

"**1.** The purpose of this Act is to ensure the conservation of Québec's natural heritage and of the associated values.

More specifically, the Act is intended

(1) to facilitate the expansion of the network of areas covered by conservation measures in Québec and the efficient management of protected areas;

(2) to allow citizens as well as local and Aboriginal communities to become more involved in the conservation of biodiversity, in particular in the creation and management of protected areas; and

(3) to ensure that the various government departments and bodies that assume biodiversity conservation-related responsibilities collaborate in the selection, designation and management of protected areas.

The conservation measures provided for by this Act, including protected areas, constitute a set of measures intended to ensure the maintenance of Québec's natural heritage and of the ecosystems it comprises, in particular their protection, ecological restoration and sustainable use."

4. Section 2 of the Act is replaced by the following sections:

"**2.** For the purposes of this Act,

"brine" means "brine" within the meaning of section 6 of the Petroleum Resources Act (chapter H-4.2);

"forest development activity" means a "forest development activity" within the meaning of section 4 of the Sustainable Forest Development Act (chapter A-18.1);

"mineral substances" means "mineral substances" within the meaning of section 1 of the Mining Act (chapter M-13.1);

"other effective conservation measure" means "other effective area-based conservation measure" as defined by the Conference of the Parties to the Convention on Biological Diversity in Decision 14/8 dated 30 November 2018 and as interpreted by the International Union for Conservation of Nature (IUCN);

"petroleum" means "petroleum" within the meaning of section 6 of the Petroleum Resources Act;

"protected area" means a "protected area" within the meaning of the United Nations Convention on Biological Diversity and as interpreted by the IUCN in the Guidelines for Applying Protected Area Management Categories (2008);

"underground reservoir" means an "underground reservoir" within the meaning of section 6 of the Petroleum Resources Act;

"wetlands and bodies of water" means the settings described in section 46.0.2 of the Environment Quality Act (chapter Q-2).

Partnerships and associations without legal personality are considered to be legal persons.

"**2.1.** This Act must be construed in a manner consistent with the principles set out in section 6 of the Sustainable Development Act (chapter D-8.1.1).

It must therefore be applied in such a manner as to encourage a concerted approach by the government departments and bodies concerned and the participation of municipalities, citizens and citizens' groups by, in particular, taking into consideration their activities, rights and interests.

"**2.2.** Legislative and regulatory provisions not inconsistent with this Act or the regulations continue to apply within areas and natural settings covered by a conservation measure under this Act.

The activities permitted in such areas and natural settings may therefore remain subject, in particular, to the measures provided for by other laws to regulate their carrying on, including measures requiring that an authorization or lease be obtained or certain fees be paid."

5. The Act is amended by inserting the following after section 4:

"**4.1.** The Minister shall, at least once every 10 years, submit to the Government a report on the implementation of this Act and the advisability of amending it.

"**DIVISION I.1**

"PROVISIONS SPECIFIC TO ABORIGINAL COMMUNITIES

"§1. — *General provisions*

"**4.2.** This Act must be construed in a manner consistent with the obligation to consult Aboriginal communities. The Government shall consult Aboriginal communities separately if the circumstances so warrant.

"§2. — *Aboriginal-led protected areas*

"**4.3.** To allow for the conservation of elements of biodiversity and associated cultural values that are of interest to an Aboriginal community or nation on lands in the domain of the State, the community or nation may propose areas to the Minister to be designated as Aboriginal-led protected areas.

"**4.4.** Protected area proposals must be sent in writing to the Minister and must, in particular, include a map of the area concerned as well as the conservation and development objectives suggested for the area.

"**4.5.** When analyzing proposals, the Minister shall consult the ministers and the government bodies concerned, including the ministers responsible for municipal affairs, agriculture, culture, economic development, wildlife, forests, natural resources and Indigenous affairs.

If applicable, the other Aboriginal communities and municipalities concerned must also be consulted.

"**4.6.** The Government may designate all or part of a proposed area as an Aboriginal-led protected area in accordance with the process established in subdivision 2 of Division III of Chapter II.

Sections 44 to 46 apply to such protected areas.

"**4.7.** The Minister shall encourage the participation of the Aboriginal communities and nations concerned in the management and biodiversity conservation of Aboriginal-led protected areas. The Minister may enter into an agreement with such communities or nations to that end in accordance with section 12.

"**4.8.** The Minister shall prepare and make public a guide regarding the creation, management and development of Aboriginal-led protected areas.

The guide must be prepared and updated in a spirit of collaboration with the Aboriginal communities and nations."

6. Chapter II of Title I of the Act is amended by replacing the portion before section 7 by the following:

"**DIVISION II**

"RESPONSIBILITIES AND GENERAL POWERS OF THE MINISTER

"§1. — *Registers of protected areas and other effective conservation measures*

"**5.** The Minister shall keep a public register of protected areas in Québec which must indicate, for each protected area, at least the following information:

(1) its name, surface area and geographic location;

(2) the name of the minister, government body or person who manages it and, if it includes private lands, the name of their owner; and

(3) its classification in accordance with the management categories established by IUCN.

"**6.** Lands in the domain of the State that are within a protected area registered in the register provided for in section 5 may not be assigned to a new use, be sold or exchanged or be the subject of any other transaction that affects their protection status, unless the Minister has been informed beforehand.

"**6.1.** The Minister shall keep a public register of other effective conservation measures in Québec.

Sections 5 and 6 apply to the register, with the necessary modifications.

"§2. — *Other powers and responsibilities of the Minister*".

7. Section 7 of the Act is amended by replacing "matters involving biodiversity protection" and "protection measures" by "matters involving biodiversity conservation" and "conservation measures", respectively.

8. Section 8 of the Act is amended

(1) by replacing paragraph 1 by the following paragraph:

"(1) conduct or commission research, analyses, studies or inventories and make grants or grant other types of financial assistance for that purpose;";

(2) by replacing "programs of financial or technical assistance to foster the preservation of the natural heritage or the development or re-establishment of natural settings, including programs to support the creation, conservation, supervision and management of nature reserves on private land" in paragraph 2 by "programs, including financial assistance programs, to foster biodiversity conservation";

(3) by inserting "or Aboriginal community" after "person" in paragraph 3.

9. Section 9 of the Act is amended

(1) by replacing "and land that has been set aside for that purpose" in the first paragraph by "established under section 27";

(2) by replacing "another protected area under the Minister's administration or that are the subject of" in the second paragraph by "an area covered by".

10. Sections 10 and 11 of the Act are repealed.

11. Section 12 of the Act is replaced by the following:

"**12.** Subject to section 97, the Minister may, by agreement, delegate to any person or to any Aboriginal nation or community all or some of the powers assigned to the Minister under this Act or held by the Minister with regard to the management of an area that is under the Minister's authority and that is covered by a conservation measure under this Act.

For the purposes of this section, the Aboriginal nations are represented by the Makivik Corporation, the Cree Nation Government or a group of all the band councils or northern village councils. The Aboriginal communities, for their part, are represented by their band council, by their northern village council, by a group of communities so represented or, in the absence of such councils, by any other Aboriginal group.

"**12.1.** The delegation agreement is made public by the Minister. It must stipulate, in particular,

(1) the powers delegated and the obligations of the delegatee;

(2) the manner in which the delegatee is to report to the Minister; and

(3) the term of the agreement and the conditions for renewing or terminating it.

"**12.2.** The acts of a person who or an Aboriginal community that exercises powers delegated to him, her or it under section 12 are not binding on the State.

"**DIVISION III**

"LAND SET ASIDE

"**12.3.** The Government may, by order, set aside any land that is part of the domain of the State in order to establish a new protected area.

While the land is set aside, no new right, lease, permit, licence or authorization may be granted or issued for the carrying on of any of the following activities:

(1) commercial forest development activities;

(2) exploration for and the mining and transportation of mineral substances;

(3) petroleum, brine or underground reservoir exploration, production and storage;

(4) oil or gas pipeline construction;

(5) the commercial production, processing, distribution or transmission of electricity;

(6) wildlife harvesting activities or agricultural activities; or

(7) the construction of any infrastructure subject to an authorization of the minister responsible for the administration of the Act respecting the lands in the domain of the State (chapter T-8.1).

"**12.4.** The Government's decision must specify the reasons that justify setting aside the land concerned as well as the activities listed in the second paragraph of section 12.3 that are covered by the decision.

It must be accompanied by a map of the land that has been set aside.

"**12.5.** The Government's decision comes into force on the date of its publication in the *Gazette officielle du Québec*.

"**12.6.** Land ceases to be set aside when

(1) the area concerned is designated as a protected area under this Act or any other Act; or

(2) the order setting the land aside is repealed by order of the Government."

12. Title II of the Act is amended by replacing the portion before section 13 by the following:

"**CHAPTER II**

"CONSERVATION MEASURES

"**DIVISION I**

"NATURAL SETTINGS DESIGNATED BY THE MINISTER

"§1. — *Natural settings designated by a plan*".

13. Section 13 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

"The Minister may, to ensure the maintenance of biodiversity and of the associated ecological functions, in particular to take into account climate change issues, designate natural settings by establishing their boundaries on a plan.";

(2) in the second paragraph,

(*a*) by replacing "also be designated" in the introductory clause by ", for example, be designated under the first paragraph";

(*b*) by striking out subparagraph 1;

(3) by striking out the third, fourth, fifth and sixth paragraphs.

14. The Act is amended by inserting the following sections after section 13:

"**13.1.** The carrying on of an activity in a natural setting designated under section 13 is subject to the authorization of the Minister. The same applies to any furtherance or continuation of an activity that has already begun.

Such an authorization is governed by sections 21 to 24 of this Act.

"**13.2.** Section 13.1 does not apply to activities that are carried on under an agreement entered into under a program referred to in section 15.8 of the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2).

The Minister may, on conditions the Minister determines, exempt an activity from section 13.1 if the public interest justifies it."

15. Section 14 of the Act is amended by replacing paragraph 3 by the following paragraph:

"(3) the Aboriginal communities concerned;".

16. Section 14.1 of the Act is repealed.

17. Section 15 of the Act is amended by replacing "by publishing a notice in the *Gazette officielle du Québec* and in a newspaper circulated in the region in which the natural setting is situated" in the first paragraph by "by publishing a notice in the *Gazette officielle du Québec* and by any other means of informing the public".

18. The Act is amended by inserting the following section after section 15:

"**15.1.** Sections 14 and 15 do not apply to the designation of wetlands and bodies of water whose restoration or creation replaces, in accordance with the second paragraph of section 46.0.5 of the Environment Quality Act (chapter Q-2), the payment of the financial contribution provided for by that section."

19. Section 16 of the Act is amended

(1) by striking out the following sentence in the first paragraph: "The Minister shall also give notice of any subsequent revocation of the designation.";

(2) by replacing the second paragraph by the following paragraph:

"A copy of the plan must be sent

(1) to the ministers and government bodies concerned, in particular to the minister responsible for natural resources for entry on the land use plan prepared under section 21 of the Act respecting the lands in the domain of the State (chapter T-8.1) and in the registers of rights kept by that minister;

(2) to the Aboriginal communities concerned;

(3) to the municipalities whose territories are within a designated natural setting so that it may be taken into account in the exercise of their powers; and

(4) if all or part of the natural setting is situated on private lands, to their owner and to the registry office for registration in the land register.";

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

"In the case referred to in subparagraph 4 of the second paragraph, registration of the plan in the land register allows the designation to be set up against third persons and is binding on all subsequent acquirers of the lands concerned."

20. Section 17 of the Act is amended by replacing "on the fifteenth day following" by "on".

21. Section 18 of the Act is amended by replacing subparagraph 1 of the first paragraph by the following subparagraph:

"(1) the boundaries of the land must be revised to maintain the ecological functions of the setting, for example to safeguard its biodiversity, take into account climate change issues or ensure the boundaries are consistent with the setting's characteristics;".

22. Section 18.1 of the Act is replaced by the following section:

"**18.1.** Sections 15, 16 and 17 apply to a decision of the Minister to amend the boundaries of land that is the subject of a designation and to a decision of the Minister to terminate a designation."

23. Division II of Chapter I of Title II of the Act is amended by replacing the portion before section 19 by the following:

"§2. — *Other natural settings designated by the Minister*".

24. Section 19 of the Act is amended

(1) by replacing "proposed human intervention" by "an activity a person proposes to carry on";

(2) by replacing both occurrences of "the human intervention" by "the activity".

25. Section 20 of the Act is amended by replacing "human intervention" and "by registered mail to the person concerned, informing" by "an activity" and "to the person concerned by any means that allows proof of receipt and of the exact time of receipt. It must inform", respectively.

26. Division III of Chapter I of Title II of the Act is amended by replacing the portion before section 21 by the following:

"§3. — *Authorizations*".

27. Section 21 of the Act is replaced by the following section:

"**21.** The Minister may require an applicant to provide any information or document the Minister considers necessary to examine an application or to make an authorization subject to appropriate conditions, in particular the obligation to provide a financial guarantee.

The Minister may, by regulation, determine the form and content of the applications for authorization that must be made to the Minister.

The Minister may, by regulation, determine the fees payable for an application for authorization or an application to amend, renew or terminate an existing authorization."

28. Section 22 of the Act is amended

(1) in the first paragraph,

(*a*) by replacing the introductory clause by the following:

"When analyzing an application for authorization, the Minister shall take into consideration the following elements, without however being limited to them, and shall grant each element the importance the Minister considers appropriate:";

(*b*) by replacing all occurrences of "intervention" by "activity";

(2) by striking out the second paragraph.

29. The Act is amended by inserting the following sections after section 22:

"**22.0.1.** If the application for authorization concerns wetlands or bodies of water, the Minister shall also take into consideration that the designated setting should, in principle, be kept in its natural state.

For the purposes of the first paragraph, the following activities are presumed to be incompatible with keeping wetlands and bodies of water in their natural state:

(1) drainage and pipe work;

(2) clearing and filling;

(3) ground preparation work, in particular if it requires stripping, excavation, earthwork or destruction of vegetation cover; and

(4) any other activity determined by government regulation.

"**22.0.2.** The Minister may attach any conditions the Minister determines to the authorization."

30. Section 23 of the Act is amended by replacing "the second paragraph of section 22 or section 22.1" by "section 22.0.2 or 22.1".

31. Section 24 of the Act is replaced by the following section:

"**24.** Any decision made by the Minister under section 19, 22.0.2 or 22.1 may be contested by the person concerned before the Administrative Tribunal of Québec.

The proceeding against such a decision must be brought within 30 days of the decision. The proceeding does not suspend the execution of the Minister's decision, unless, on a motion heard and judged by preference, a member of the Tribunal orders otherwise by reason of urgency or of the risk of serious and irreparable harm or damage. If the Tribunal issues such an order, the proceeding is heard and judged by preference."

32. Division IV of Chapter I of Title II of the Act is amended by replacing the portion before section 24.1 by the following:

"§4. — *Register of natural settings designated by the Minister*".

33. Section 24.1 of the Act is replaced by the following section:

"**24.1.** The Minister shall keep a public register of the natural settings designated under sections 13 and 19. The register must indicate, for each designated natural setting, at least the following information:

(1) its surface area, its geographic location and, if applicable, whether all or part of it is situated on lands in the domain of the State;

(2) in the case of wetlands and bodies of water, the watersheds in which it is situated; and

(3) the date its designation came into force."

34. The Act is amended by replacing Chapter II of Title II, comprising sections 25 and 26, by the following:

"**DIVISION II**

"NORTHERN CONSERVATION AREAS

"**25.** This division applies to the area referred to in section 4 of the Act respecting the Société du Plan Nord (chapter S-16.011).

"**26.** The Minister shall, in cooperation with the minister responsible for the administration of the Act respecting the Société du Plan Nord (chapter S-16.011), propose mechanisms to the Government for achieving, in relation to the area referred to in section 25, the objectives set out in paragraph 5 of section 5 of that Act.

"**26.1.** The proposed mechanism must be approved by the Government following a public consultation."

35. The Act is amended by replacing Titles III and IV, comprising sections 27 to 65, by the following:

"**DIVISION III**

"PROTECTED AREAS WITH SUSTAINABLE USE, BIODIVERSITY RESERVES, ECOLOGICAL RESERVES AND MARINE RESERVES

"§1. — *General provisions*

"**27.** The Government may designate any land in the domain of the State as a protected area with sustainable use, a biodiversity reserve, an ecological reserve or a marine reserve.

"**28.** The areas are selected, the protection statuses to be used are chosen and the conservation objectives to be achieved are determined by the Minister in collaboration with the government departments and bodies concerned, including the ministers responsible for municipal affairs, agriculture, culture, economic development, wildlife, forests and natural resources.

Municipalities all or part of whose territory is within a protected area must also be consulted.

"**29.** The conservation plan prepared for a protected area with sustainable use, biodiversity reserve, ecological reserve or marine reserve must include at least the following elements:

(1) an ecological overview of the area concerned as well as a description of its occupation and uses;

(2) conservation and development objectives for the area concerned; and

(3) a map of the protected area.

"**30.** The Minister sees to the implementation and updating of the conservation plan.

"§2. — *Designation process*

"**31.** The Minister shall hold a public information period before designating an area under section 27.

The public information period must last at least 30 days. The Minister shall announce the period by publishing a notice on the Minister's department's website and by any other means of informing the local population.

The notice must indicate, in particular, the place where the proposed conservation plan of the protected area concerned may be consulted.

"**32.** Any person may, during the public information period, apply to the Minister for a public consultation.

"**33.** The Minister is not required to grant an application for a public consultation the Minister considers frivolous.

The Minister's decision must be made public by publishing a notice in the *Gazette officielle du Québec* and by any other means of informing the local population.

"**34.** The Minister shall hold, depending on the concerns raised or the individuals or groups to be consulted, either a public hearing or a targeted consultation.

"**35.** A public consultation must be announced by the Minister by publishing a notice on the Minister's department's website and by any other means of informing the local population.

"**36.** The Minister may mandate the Bureau d'audiences publiques sur l'environnement, or any person the Minister designates as a commissioner for that purpose, to hold a public consultation in one of the forms provided for in section 34.

"**37.** Sections 6.3 to 6.6 of the Environment Quality Act (chapter Q-2) apply, with the necessary modifications, to consultations held by the Bureau d'audiences publiques sur l'environnement.

"**38.** The Bureau d'audiences publiques sur l'environnement or the person or persons designated as commissioners shall, within the time prescribed in their mandate, report their findings and analysis to the Minister.

The time limit for carrying out the mandate and reporting to the Minister may not exceed 12 months.

The reports are made public by the Minister within 30 days after they are received.

"**39.** Sections 31 to 38 do not apply in the case where other means may be used to clarify the various issues raised by the proposed protected area, such as the environmental and social impact assessment and review procedure provided for in Title II of the Environment Quality Act (chapter Q-2).

"**40.** The Government's decision to designate an area as a protected area comes into force on the date of its publication in the *Gazette officielle du Québec.*

The decision must be published together with the plan establishing the boundaries of the protected area.

A copy of the plan must be sent

(1) to the ministers and government bodies concerned, in particular to the minister responsible for natural resources for entry on the land use plan prepared under section 21 of the Act respecting the lands in the domain of the State (chapter T-8.1) and in the registers of rights kept by that Minister;

(2) to the Aboriginal communities concerned; and

(3) to the municipalities whose territories are within a protected area so that it may be taken into consideration in the exercise of their powers.

"**41.** The Minister shall make public the conservation plan for the protected area on the department's website and by any other means of informing the public.

"**42.** The Government may, if the public interest justifies it, assign any other protection status to a protected area, apply any other conservation measure to it, amend its boundaries or terminate its designation. In all cases, the Government shall take into account the interests of the local and Aboriginal communities concerned in order to foster their support.

If the effect of the decision is to decrease the total surface area of protected areas in Québec, the Government must take any appropriate conservation measure to compensate for that decrease, in particular by designating as a protected area, under this Act or another Act, another area having biophysical characteristics that are at least equivalent to those of the area concerned.

The Government must, in its decision, set out the reasons justifying it.

"**43.** Sections 28 to 41 apply, with the necessary modifications, to any decision of the Government referred to in section 42.

"§3. — *Protection statuses and activity frameworks*

"**44.** The Government may, by regulation, determine

(1) that, in addition to the cases provided for in this Act, the carrying on of an activity is prohibited within a protected area;

(2) that an activity may, although it is prohibited under section 49, 51 or 55, be carried on with the authorization of the Minister; or

(3) that the carrying on of an activity that is not prohibited under this Act or the regulations made under subparagraph 1 is subject to obtaining the authorization of the Minister.

The Government shall take into consideration the fundamental characteristics of each protected area protection status and ensure that the activities that may be carried on in a protected area are compatible with the conservation objectives applicable to that protected area.

"**45.** Sections 21 to 24 apply, with the necessary modifications, to the authorization of the Minister referred to in subparagraphs 2 and 3 of the first paragraph of section 44.

"**46.** The Minister may, on conditions the Minister determines, exempt an activity from a regulation made under subparagraph 2 or 3 of the first paragraph of section 44 if the public interest justifies it.

"**47.** The purpose of the "protected area with sustainable use" status is to protect ecosystems and habitats, and to protect the associated cultural values.

A protected area with sustainable use is characterized by the presence of natural conditions on the greater part of the land and by sustainable use of its natural resources. The land must be developed for the benefit of the local and Aboriginal communities concerned. Its management must be exemplary, and the communities' participation must be encouraged.

"**48.** The purpose of the "biodiversity reserve" status is to protect land and water settings, more specifically in order to preserve a natural monument or to ensure the representativeness of the biological diversity of Québec's various natural regions.

"**49.** The following activities are prohibited in a biodiversity reserve:

(1) commercial forest development activities, except, subject to compatibility with the biodiversity reserve's objectives,

(*a*) activities carried on to protect forests against fire, destructive insects and cryptogamic diseases;

(*b*) the construction, improvement, repair, maintenance and decommissioning of multi-purpose roads within the meaning of the Sustainable Forest Development Act (chapter A-18.1); and

(*c*) the removal of non-timber forest products, except activities related to the operation of a sugar bush;

(2) activities carried on for the purposes of exploration for or the mining of mineral substances and the construction of infrastructure to be used to transport such substances;

(3) activities carried on for the purposes of petroleum or underground reservoir exploration, petroleum production or storage, or brine production;

(4) oil and gas pipeline construction; and

(5) activities carried on for the purposes of the commercial production, processing, distribution and transmission of electricity.

Subparagraph 5 of the first paragraph does not apply to electric power transmission lines at voltages below 44 kV.

"**50.** The purpose of the "ecological reserve" status is

(1) to conserve constituent elements of biological diversity in their natural state permanently and as fully as possible, in particular by protecting ecosystems and the elements or processes that ensure their dynamics;

(2) to reserve land for scientific study or educational purposes; or

(3) to protect the habitats of threatened or vulnerable plant and animal species.

"**51.** No one may be in or carry on any activity in an ecological reserve.

"**52.** Despite section 51, public servants authorized to conduct inspections or investigations in accordance with this Act and wildlife protection officers may be in an ecological reserve and carry on the activities necessary to their functions there.

The same applies to persons who, with the authorization of the Minister, are in a reserve to carry on an educational activity, a scientific research activity or an activity relating to the sound management of the reserve.

In the case provided for in the second paragraph, the Minister shall, when analyzing the application for authorization, take into consideration such factors as

(1) the nature and objectives of the proposed activity; and

(2) the impact of the activity on biological diversity and, if applicable, the conservation measures required to avert or reduce that impact.

The holder of an authorization granted for scientific research purposes must submit to the Minister a final activity report and, if the activities extend over a period of more than one year, an annual report.

"**53.** Despite section 51, a person may be in an ecological reserve to recover the edible flesh of a big game animal wounded outside the reserve, when it is necessary in order to comply with a law or regulation.

"**54.** The purpose of the "marine reserve" status is to protect a setting composed mainly of salt or brackish water, owing to the fact that its biophysical characteristics are of interest, and to ensure the representativeness of its marine biodiversity.

"**55.** The following activities are prohibited in a marine reserve:

(1) activities carried on for the purposes of exploration for or the mining of mineral substances and the construction of infrastructure to be used to transport such substances;

(2) activities carried on for the purposes of petroleum or underground reservoir exploration, petroleum production or storage, or brine production;

(3) oil and gas pipeline construction; and

(4) activities carried on for the purposes of the commercial production, processing, distribution and transmission of electricity.

Subparagraph 4 of the first paragraph does not apply to electric power transmission lines at voltages below 44 kV.

"**DIVISION IV**

"NATURE RESERVES

"§1. — *Recognition*

"**56.** The Minister may recognize a natural setting as a nature reserve.

The purpose of the "nature reserve" status is to conserve a natural setting that is situated on private lands and that is of interest in terms of ensuring the conservation of biodiversity, in particular owing to its biological, ecological, wildlife, plant, geological, geomorphic or landscape characteristics.

The recognition may be perpetual or may be granted for a term which may not be less than 25 years.

"§2. — *Application*

"**57.** An application to have a property recognized as a nature reserve must be filed with the Minister in writing by the owner. Such an application must, in particular, contain

(1) the owner's name and contact information;

(2) if the owner is a legal person, a copy of the instrument authorizing the application;

(3) the cadastral designation of the property and a summary site plan;

(4) a description of the characteristics of the property that are of conservation interest and, if applicable, any report from a qualified person setting out that conservation interest;

(5) a statement that the owner is applying for perpetual recognition, or the term for which recognition is sought;

(6) the objectives pursued and the conservation measures the owner intends to put in place, including the use restrictions applicable to the property;

(7) the management arrangements for the property and, if applicable, the name of the person to whom its management will be entrusted;

(8) a copy of the title of ownership; and

(9) if applicable, a copy of any other authorization required under an Act or a regulation for any activity on the property.

The Minister may require the owner to provide any information or document the Minister considers necessary to analyze the application.

"§3. — *Agreement and publication of the recognition*

"**58.** The Minister shall enter into an agreement with the owner of the reserve.

The agreement must, in particular, include

(1) the cadastral designation of the property;

(2) a statement that the recognition is perpetual, or the term for which it is granted;

(3) a description of the characteristics of the property that are of conservation interest;

(4) the management arrangements for the property;

(5) the conservation objectives and measures, including the use restrictions applicable to the property; and

(6) the sanctions applicable for non-compliance with obligations arising from the agreement.

"**59.** The Minister shall require that the recognition agreement be registered in the land register. Once it is so registered, the agreement may be set up against third persons and is binding on all subsequent acquirers of the property.

The Minister shall send a copy of the agreement to the municipalities concerned.

"**60.** The Minister shall make the decision public by publishing a notice in the *Gazette officielle du Québec* and by any other means of informing the public.

"**61.** The Minister shall issue to the owner a certificate attesting that the property has been recognized as a nature reserve.

The designation "recognized nature reserve" may be used only in respect of a property for which a valid certificate is held.

"**62.** The owner must notify the Minister of any transfer of the property within 30 days after the instrument evidencing the transfer is registered in the land register.

"§4. — *Amendments to the agreement and termination of recognition*

"**63.** The agreement may be amended at any time with the consent of the parties, provided the amendments are not contrary to the conservation objectives for which the property has been recognized as a nature reserve.

"**64.** Sections 59 and 60 apply, with the necessary modifications, to amendments to a recognition agreement.

"**65.** The recognition of a property as a nature reserve ends on the expiry of the term for which the recognition was granted, on the transfer of the property into the domain of the State, or on the Minister's decision to terminate the recognition for any of the following reasons:

(1) the property was recognized as a nature reserve on the basis of erroneous or misleading information or documents;

(2) the provisions of the agreement are not complied with;

(3) the conservation of the characteristics of the property is no longer of interest; or

(4) the public interest justifies it.

A decision of the Minister to terminate all or part of the recognition of a nature reserve may be contested before the Administrative Tribunal of Québec within 30 days of its notification to the owner and, where applicable, to the person acting as the reserve manager.

If the Minister's decision to terminate the recognition of a property as a nature reserve pertains solely to a portion of the property, the decision is equivalent to an amendment to the agreement.

"**65.1.** The Minister shall make public the termination of the recognition of a nature reserve by publishing a notice in the *Gazette officielle du Québec* and by any other means of informing the public.

The Minister shall require that the notice be registered in the land register. The termination of the recognition takes effect on the date the notice is so registered.

A copy of the notice must be sent to the municipalities concerned.

"**DIVISION V**

"MAN-MADE LANDSCAPES

"**65.2.** The Minister may recognize an area as a man-made landscape.

The purpose of the "man-made landscape" status is to protect the biodiversity of an inhabited area, whether land or water, where the landscape and its natural components have been shaped, over time, by human activities in harmony with nature and have distinctive features the conservation of which depends to a large extent on the continuation of the practices that originally shaped them.

The recognition may be perpetual or may be granted for a term which may not be less than 25 years.

"**65.3.** The application for recognition is filed by a regional county municipality or a metropolitan community and by the local municipalities and the Aboriginal communities concerned following a public consultation.

The application must include the following information:

(1) the name and contact information of each of the applicants and of the person they designate to represent them;

(2) a description of the area concerned, in particular its geographical location, its use and its biodiversity and the natural, cultural and landscape characteristics on the basis of which it may be qualified as a man-made landscape;

(3) the issues raised by such recognition;

(4) a summary of the public consultation held and of its results, including objections raised against the proposed recognition;

(5) the proposed conservation and development objectives; and

(6) any other information or document that the Minister considers necessary to analyze the application.

"**65.4.** When analyzing the application, the Minister shall consult the Aboriginal communities, the ministers and the government bodies concerned.

At the end of the analysis, the Minister shall send a notice of eligibility to the applicants' representative.

Once the notice of eligibility has been received, the applicants' representative shall prepare a conservation plan for the proposed man-made landscape and send it to the Minister for approval. Such a plan must include

(1) the boundaries of the area concerned;

(2) a statement that the recognition is perpetual, or the term for which it is granted;

(3) the natural, cultural and landscape characteristics that are of conservation interest;

(4) the objectives and measures relating to the conservation of the area concerned;

(5) the targets and monitoring indicators applicable to the area concerned; and

(6) the roles and responsibilities of each of the applicants and, if applicable, of every Aboriginal community, every minister or every government body concerned.

"**65.5.** The Minister shall recognize the man-made landscape by publishing a notice in the *Gazette officielle du Québec*. The Minister's decision and the conservation plan for the man-made landscape must be published on the Minister's department's website.

The decision is notified to all the applicants and to every Aboriginal community, every minister or every government body concerned.

It takes effect on the date of its publication in the *Gazette officielle du Québec*.

"**65.6.** A regional county municipality shall ensure that its land use planning and development plan, and a metropolitan community, that its metropolitan land use and development plan is consistent with the conservation plan. The municipality or metropolitan community, as the case may be, shall propose any amendment to the land use planning and development plan or to the metropolitan land use planning and development plan that is conducive to better ensuring such consistency, in accordance with the rules prescribed for that purpose by the Act respecting land use planning and development (chapter A-19.1). It must also take the appropriate interim control measures according to the rules prescribed by that Act.

The plan establishing the boundaries of the man-made landscape must be sent, if applicable, to the minister responsible for natural resources for entry on the public land use plan.

"**65.7.** The applicants' representative shall submit a report on the implementation of the conservation plan to the Minister every five years.

The information in the report is public information.

"**65.8.** Sections 65.5 and 65.6 apply, with the necessary modifications, to amendments to the conservation plan.

"**65.9.** The Minister may terminate the recognition of a man-made landscape, following a public consultation, for any of the following reasons:

(1) the area was recognized as a man-made landscape on the basis of erroneous or misleading information or documents;

(2) the measures set out in the conservation plan are not complied with;

(3) the conservation of the characteristics of the area is no longer of interest;

(4) the public interest justifies it; or

(5) the conservation plan was amended without the Minister's approval.

The Minister shall publish the decision in the *Gazette officielle du Québec* and on the Minister's department's website. The decision must also be notified to every Aboriginal community, every minister and every government body concerned.

It takes effect on the date of its publication in the *Gazette officielle du Québec*."

36. Chapter I of Title V of the Act is amended by replacing the portion before section 66 by the following:

"**CHAPTER III**

"ADMINISTRATIVE MEASURES AND PENAL PROVISIONS

"**DIVISION I**

"INSPECTION AND INVESTIGATION POWERS".

37. Section 66 of the Act is amended

(1) by replacing "a person to act as an inspector" in the first paragraph by "a public servant to conduct an inspection";

(2) in the second paragraph,

(*a*) by replacing "The person may, as an inspector," in the introductory clause by "The public servant authorized for that purpose by the Minister may, in exercising inspection functions,";

(*b*) by replacing "that is temporarily or permanently protected under this Act, and any premises specified in an order or a ministerial order made under Title II or in an authorization issued pursuant to the provisions of that title," in subparagraph 1 by "governed by this Act";

(*c*) by replacing subparagraph 2 by the following subparagraphs:

"(2) record the state of a place or of property that is part of an area or natural setting governed by this Act by any appropriate means;

"(2.1) collect samples, take measurements, conduct tests or perform analyses;

"(2.2) carry out any necessary excavation or drilling;

"(2.3) install measuring apparatus;";

(*d*) by inserting ", for examination or reproduction," after "require" in subparagraph 4;

(3) by replacing the third paragraph by the following paragraph:

"The owner of or person responsible for premises being inspected, and any other person on the premises, are bound to lend assistance to the public servant."

38. The Act is amended by inserting the following sections after section 66:

"**66.1.** The Minister or any public servant authorized by the Minister for that purpose may, by any means that allows proof of receipt and of the exact time of receipt, require any person to communicate by such means, within a reasonable time specified by the Minister or authorized public servant, any information or document relating to the application of this Act or the regulations.

"**66.2.** The Minister or any public servant authorized by the Minister for that purpose may require any person doing, having done or having indicated the intention of doing anything contemplated by this Act or the regulations to provide all the information necessary for the exercise of the Minister's or public servant's functions and order the posting of any notice necessary to ensure the carrying out of this Act.

The information must be sent to the Minister or public servant, within the time specified by him or her, by a means that allows proof of its receipt and of the exact time of receipt.

"**66.3.** The Minister may authorize any public servant to conduct investigations on any matter relating to the application of this Act and the regulations.

"**66.4.** A public servant who is authorized to investigate by the Minister and who has reasonable grounds to believe that an offence against any provision of this Act or the regulations has been committed may, at the time of an investigation relating to the offence, apply to a judge for authorization to enter any place to perform any act described in section 66 that, without such authorization, would constitute an unreasonable search or seizure.

The application for authorization must be supported by a sworn declaration in writing of the public servant.

The declaration must, in particular, include the following information:

(1) a description of the offence that is the subject of the investigation;

(2) the reasons why performance of the act that is the subject of the application will provide evidence of the commission of the offence;

(3) a description of the place referred to in the application;

(4) the time needed to perform the act that is the subject of the application; and

(5) the period when the act that is the subject of the application is to be performed.

The judge may grant the authorization on the conditions the judge determines if satisfied, on the strength of the declaration, that there are reasonable grounds to believe an offence has been committed and that performance of the act that is the subject of the application will provide evidence of the commission of the offence. The judge who grants the authorization may order any person to lend assistance to the applicant if it may reasonably be necessary for the performance of the authorized act.

A public servant authorized to investigate by the Minister may, without authorization, perform an act described in section 66 if, given the urgency of the situation, the conditions to be met and the time needed to obtain authorization

(1) may result in danger to human health or safety;

(2) may cause serious damage or harm to the environment, to living species or to property; or

(3) may result in the loss, disappearance or destruction of evidence.

"**66.5.** Public servants authorized by the Minister under this division must, on request, identify themselves and produce a certificate of authority to act as inspector or investigator.

"**66.6.** If a municipality is required to apply all or part of this Act or of a regulation made under this Act, its officers or employees, duly authorized by it, are invested with the powers set out in section 66 for the purposes of the Act or regulation concerned."

39. Section 67 of the Act is amended

(1) by replacing "No person may be prosecuted" and "acting as an inspector" by "Public servants authorized under this division to carry out inspections or investigations may not be prosecuted" and "exercising their functions", respectively;

(2) by inserting "an omission made or" before "an act performed".

40. Section 68 of the Act is amended by replacing "in a place that is temporarily or permanently protected under this Act, or in a place in respect of which an order or a ministerial order has been issued under Title II or in respect of which an authorization has been issued pursuant to the provisions of that title must, at the request of an inspector," by "in a natural setting governed by this Act must, at the request of the Minister or of a public servant authorized by the Minister for that purpose,".

41. Section 69 of the Act is amended

(1) by replacing "An inspector" in the introductory clause of the first paragraph by "A public servant authorized in accordance with this division";

(2) by replacing "this section" in the second paragraph by "this Act".

42. The Act is amended by inserting the following divisions after section 69:

"**DIVISION II**

"ORDERS

"**69.1.** Where the Minister is of the opinion that an area or natural setting recognized or designated under this Act or any other natural setting that is remarkable because of the rarity or exceptional interest of one of its biophysical characteristics is facing a real or apprehended threat of irreversible degradation, the Minister may make an order, effective for a period of not more than 30 days,

(1) prohibiting access to it, or permitting access only to certain persons or on certain conditions, and directing that a notice be posted to that effect in public view at the entrance to or near the site;

(2) directing that an activity be terminated or that special security measures be taken if the activity poses a threat;

(3) directing that any thing, including any animal or plant, be destroyed in the manner indicated by the Minister, or that certain animals or plants be treated if they pose a threat; or

(4) directing that any other measure the Minister considers necessary be taken to prevent greater threat or to mitigate the effects of or eliminate the threat.

Before making an order against a person, the Minister shall notify the person in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the person at least 15 days to present observations. The Minister may, however, where urgent action is required or so as to prevent serious or irreparable harm or damage, make an order without being bound by such prior obligations. In such a case, the person may, within the time prescribed, present observations to the Minister for a review of the order.

A judge of the Superior Court may cancel the order or reduce its effective period on application by an interested person.

On application by the Minister, a judge of that Court, in addition to directing the person to comply with the order, may also extend or renew the order, or make it permanent, if the judge considers that the area or natural setting is seriously threatened and is of the opinion that the order made by the Minister is appropriate.

The judge may also make any amendment to the order that appears to the judge to be reasonable in the circumstances.

"**69.2.** An application to a judge under this division must be made according to the rules that apply to contentious proceedings set out in the Code of Civil Procedure (chapter C-25.01).

Applications made by the Minister must be notified to the person or persons they concern, but the judge may waive that requirement if the judge considers that the delay resulting from the notification could unnecessarily imperil the natural setting.

All orders issued must be notified to the person concerned and may in particular be enforced by a peace officer.

Applications are decided by preference and orders issued are enforceable despite an appeal. A judge of the Court of Appeal may, however, suspend the enforcement of an order if the judge considers it necessary in the interest of justice.

"**69.3.** The Minister may claim the direct and indirect costs of issuing an order from any person to whom the order applies.

If the order is contested before the Superior Court, the claim is suspended until the Court confirms all or part of the order.

"**69.4.** In the event of non-compliance with an order, the Minister may have it enforced at the expense of the offender.

The costs and interest arising from having the order so enforced constitute a prior claim on any private immovable concerned in the same manner and with the same rank as the claims described in paragraph 5 of article 2651 of the Civil Code.

Articles 2654.1 and 2655 of the Civil Code apply, with the necessary modifications, to such a claim.

"**DIVISION III**

"MONETARY ADMINISTRATIVE PENALTIES

"**69.5.** Persons designated by the Minister may impose monetary administrative penalties on any person who fails to comply with this Act or the regulations in the cases and on the conditions set out in them.

For the purposes of the first paragraph, the Minister shall develop and make public a general framework for applying such administrative penalties in connection with penal proceedings, specifying, in particular, the following elements:

(1) the purpose of the penalties, such as urging the person to take rapid measures to remedy the failure and deter its repetition;

(2) the categories of functions held by the persons designated to impose penalties;

(3) the criteria that must guide designated persons when a failure to comply has occurred, such as the type of failure, its repetitive nature, the seriousness of the effects or potential effects, and the measures taken by the person to remedy it;

(4) the circumstances in which priority will be given to penal proceedings; and

(5) the other procedures connected with such a penalty, such as the fact that it must be preceded by notification of a notice of non-compliance.

The general framework must give the categories of administrative or penal sanctions as defined by the Act or the regulations.

"**69.6.** No decision to impose a monetary administrative penalty may be notified to a person for a failure to comply with this Act or the regulations if a statement of offence has already been served for a failure to comply with the same provision on the same day, based on the same facts.

"**69.7.** In the event of a failure to comply with this Act or the regulations, a notice of non-compliance may be notified to the person concerned urging that the necessary measures be taken immediately to remedy the failure. Such a notice must mention that the failure may, in particular, give rise to a monetary administrative penalty and penal proceedings.

"**69.8.** When a person designated by the Minister imposes a monetary administrative penalty on a person, the designated person shall notify the decision by a notice of claim that complies with section 88.

No accumulation of monetary administrative penalties may be imposed on the same person for failure to comply with the same provision if the failure occurs on the same day and is based on the same facts. In cases where more than one penalty would be applicable, the person imposing the penalty shall decide which one is most appropriate in light of the circumstances and the purpose of the penalties.

"**69.9.** The person may apply in writing for a review of the decision within 30 days after notification of the notice of claim.

"**69.10.** The Minister shall designate persons to be responsible for reviewing decisions on monetary administrative penalties. Those persons must not come under the same administrative authority as the persons who impose such penalties.

"**69.11.** After giving the applicant an opportunity to present observations and produce any documents to complete the record, the person responsible for reviewing the decision shall render a decision on the basis of the record, unless the person deems it necessary to proceed in some other manner. The person may confirm, quash or vary the decision under review.

"**69.12.** The application for review must be dealt with promptly. The review decision must be written in clear, concise terms, must include reasons, must be notified to the applicant and must state the applicant's right to contest the decision before the Administrative Tribunal of Québec and the time limit for bringing such a proceeding.

If the review decision is not rendered within 30 days after receipt of the application or, as applicable, after the expiry of the time required by the applicant to present observations or produce documents, the interest provided for in the fifth paragraph of section 88 on the amount owing ceases to accrue until the decision is rendered.

"**69.13.** The imposition of a monetary administrative penalty for failure to comply with the Act or the regulations is prescribed by two years from the date on which a public servant authorized to conduct inspections or investigations ascertained that a failure to comply had occurred.

In the absence of evidence to the contrary, the inspection or investigation report constitutes conclusive proof of the date on which it was ascertained that a failure to comply had occurred.

"**69.14.** If a failure to comply for which a monetary administrative penalty may be imposed continues for more than one day, it constitutes a new failure for each day it continues.

In particular, continuing, day after day, to carry on an activity without holding the required authorization constitutes a new failure for each day this continues.

"**69.15.** A monetary administrative penalty of $250 in the case of a natural person and $1,000 in any other case may be imposed on any person who, in contravention of this Act,

(1) fails to send information or a document required under this Act or the regulations or to send it within the prescribed time;

(2) fails to post a notice as ordered by the Minister or any public servant authorized for that purpose; or

(3) in the case of a natural person, is in an ecological reserve without being authorized to be there.

"**69.16.** A monetary administrative penalty of $500 in the case of a natural person and $2,500 in any other case may be imposed on any person who, in contravention of this Act, fails to comply with any condition of an authorization issued by the Minister under this Act or the regulations.

"**69.17.** A monetary administrative penalty of $1,000 in the case of a natural person and $5,000 in any other case may be imposed on any person who carries on an activity or does something without first obtaining an authorization required under this Act or the regulations.

"**69.18.** A monetary administrative penalty of $2,000 in the case of a natural person and $10,000 in any other case may be imposed on any person who

(1) carries on a prohibited activity in an area or natural setting governed by this Act;

(2) damages an area or natural setting governed by this Act or destroys or damages property forming part of it; or

(3) fails to comply with an order made under this Act.

"**69.19.** The Government may, in a regulation made under this Act, specify that a failure to comply with the regulation may give rise to a monetary administrative penalty. The regulation may define the conditions for applying the penalty and set forth the amounts or the methods for determining them. The amounts may vary according to, among other things, the seriousness of the failure to comply, without exceeding the maximum amounts set out in section 69.18.

"**69.20.** A review decision rendered by a person designated by the Minister under section 69.5 and confirming a monetary administrative penalty imposed under this Act or the regulations may be contested by the person concerned before the Administrative Tribunal of Québec.

"**69.21.** The Minister shall keep a register relating to the monetary administrative penalties imposed by the persons the Minister designates for that purpose under this Act or the regulations.

The register must contain at least the following information:

(1) the date the penalty was imposed;

(2) the date and nature of the failure for which, and the legislative and regulatory provisions under which, the penalty was imposed;

(3) the name of the municipality in whose territory the failure occurred, if applicable;

(4) if the penalty was imposed on a legal person, the name of the legal person and the address of its head office or of one of its establishments or of the business establishment of one of its agents;

(5) if the penalty was imposed on a partnership or association without legal personality, the name and address of the partnership or association;

(6) if the penalty was imposed on a natural person, the person's name, the name of the municipality in whose territory the person resides and, if the failure occurred during the ordinary course of business of the person's enterprise, the name and address of the enterprise;

(7) the amount of the penalty imposed;

(8) the date of receipt of an application for review and the date and conclusions of the decision;

(9) the date a proceeding is brought before the Administrative Tribunal of Québec and the date and conclusions of the decision rendered by the Tribunal, as soon as the Minister is made aware of the information;

(10) the date a proceeding is brought against the decision rendered by the Administrative Tribunal of Québec, the nature of the proceeding and the date and conclusions of the decision rendered by the court concerned, as soon as the Minister is made aware of the information; and

(11) any other information the Minister considers of public interest."

43. The Act is amended by replacing Chapter II of Title V, comprising sections 70 to 77, by the following:

"**DIVISION IV**

"PENAL PROVISIONS

"**70.** Whoever

(1) refuses or neglects to send information or a document required under this Act or the regulations or to send it within the prescribed time,

(2) refuses or neglects to post a notice as ordered by the Minister or by a public servant authorized for that purpose, or

(3) in the case of a natural person, is in an ecological reserve in contravention of a provision of this Act,

commits an offence and is liable to a fine of $1,000 to $100,000 in the case of a natural person and to a fine of $3,000 to $600,000 in any other case.

"**71.** Whoever

(1) fails to comply with a condition of an authorization issued by the Minister under this Act or the regulations, or

(2) hinders the work of a public servant authorized to conduct an inspection or investigation under this Act, refuses to comply with one of his or her orders or refuses to lend assistance to him or her,

commits an offence and is liable to a fine of $2,500 to $250,000 in the case of a natural person and to a fine of $7,500 to $1,500,000 in any other case.

"**72.** Whoever

(1) carries on an activity or does something without having obtained the authorization required under this Act or the regulations, or

(2) knowingly makes a false or misleading declaration in order to obtain an authorization required under this Act or the regulations,

commits an offence and is liable to a fine of $5,000 to $500,000 in the case of a natural person and to a fine of $15,000 to $3,000,000 in any other case.

"**73.** Whoever

(1) carries on a prohibited activity in an area or natural setting governed by this Act,

(2) damages an area or natural setting governed by this Act or destroys or damages property forming part of it, or

(3) fails to comply with an order made under this Act or, in any way, prevents or hinders its enforcement,

commits an offence and is liable to a fine of $10,000 to $1,000,000 in the case of a natural person and to a fine of $30,000 to $6,000,000 in any other case.

"**74.** The fines prescribed by this Act are doubled for a second offence and tripled for a subsequent offence.

Furthermore, if an offender commits an offence under this Act after having previously been found guilty of any such offence and if, without regard to the amounts prescribed for a second or subsequent offence, the minimum fine to which the offender was liable for the first offence was equal to or greater than the minimum fine prescribed for the second offence, the minimum and maximum fines become, if the prosecutor so requests, those prescribed in the case of a second or subsequent offence.

This section applies to prior findings of guilt pronounced in the two-year period preceding the second offence or, if the minimum fine to which the offender was liable for the prior offence is that prescribed in section 73, in the five-year period preceding the second offence. Fines for a third or subsequent offence apply if the penalty imposed for the prior offence was the penalty for a second or subsequent offence.

"**75.** If an offence under this Act is committed by a director or officer of a legal person, the minimum and maximum fines that would apply in the case of a natural person are doubled.

"**76.** If an offence under this Act continues for more than one day, it constitutes a separate offence for each day it continues.

In particular, whoever continues, day after day, to carry on an activity without holding the required authorization also commits a separate offence for each day and is liable to the penalties prescribed in section 72.

"**77.** Whoever does or omits to do something in order to assist a person to commit an offence under this Act, or advises, encourages, incites or leads a person to commit such an offence, is considered to have committed the same offence.

"**78.** In any penal proceedings relating to an offence under this Act, proof that the offence was committed by an agent, mandatary or employee of any party is sufficient to establish that it was committed by that party, unless the party establishes that it exercised due diligence and took all necessary precautions to prevent the offence.

"**79.** If a legal person or an agent, mandatary or employee of a legal person commits an offence under this Act, the directors or officers of the legal person are presumed to have committed the offence, unless it is established that they exercised due diligence and took all necessary precautions to prevent the offence.

For the purposes of this section, in the case of a partnership, all partners, except special partners, are presumed to be directors of the partnership, unless there is evidence to the contrary appointing one or more of them, or a third person, to manage the affairs of the partnership.

"**80.** In determining the penalty, the judge may take into account aggravating factors such as

(1) the seriousness of the harm or damage, or of the risk of harm or damage, to biological diversity, including to human beings;

(2) the particular nature of the area or natural setting affected, for example, whether the feature affected is unique, rare, significant or vulnerable;

(3) the intentional, negligent or reckless nature of the offence;

(4) the foreseeable character of the offence or the failure to follow recommendations or warnings to prevent it;

(5) the cost to society of repairing the harm or damage;

(6) the dangerous nature of the substances resulting in the offence;

(7) the behaviour of the offender after committing the offence, in particular whether the offender attempted to cover up the offence or omitted to take rapid measures to prevent or limit the consequences or remedy the situation;

(8) the increase in revenues or decrease in expenses that the offender obtained, or intended to obtain, by committing the offence or by omitting to take measures to prevent it; and

(9) the failure to take reasonable measures to prevent the commission of the offence or limit its effects despite the offender's financial ability to do so, given such considerations as the size of the offender's undertaking or the offender's assets, turnover or revenues.

A judge who, despite the presence of an aggravating factor, decides to impose the minimum fine must give reasons for the decision.

"**81.** On an application made by the prosecutor and submitted with the statement of offence, the judge may impose on the offender, in addition to any other penalty, a further fine not exceeding the financial benefit realized by the offender as a result of the offence, even if the maximum fine has also been imposed.

"**82.** In the judgment, the judge may order an offender found guilty of an offence under this Act or the regulations

(1) to refrain from any action or activity that may lead to the continuation or repetition of the offence;

(2) to perform any action or carry on any activity to prevent the offence from being continued or repeated;

(3) to take one or more of the following measures, with priority given to those the judge considers most appropriate for the conservation of biological diversity:

(*a*) to restore things to the state they were in prior to the offending act;

(*b*) to restore things to a state approaching their original state;

(*c*) to implement compensatory measures;

(*d*) to pay an indemnity, in a lump sum or otherwise, for repair of the damage resulting from the commission of the offence; or

(*e*) to pay, as compensation for the damage resulting from the commission of the offence, a sum of money to the Green Fund established under section 15.1 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001) or to the Fund for the Protection of the Environment and the Waters in the Domain of the State established under section 15.4.38 of that Act;

(4) to provide security or deposit a sum of money to guarantee performance of the offender's obligations; or

(5) to make public the finding of guilt and any prevention or repair measures imposed, under the conditions determined by the judge.

Moreover, if the Minister, in administering this Act, has taken restoration or compensatory measures in the place and stead of the offender, the judge may order the offender to reimburse the Minister for the direct and indirect costs of such measures, including interest.

"**83.** The prosecutor must give the offender at least 10 days' prior notice of an application for restoration or for compensatory measures, or of any request for an indemnity, a sum of money to be paid into the Fund for the Protection of the Environment and the Waters in the Domain of the State or a reimbursement of costs to the Minister, unless the parties are in the presence of a judge. In that case, the judge must, before rendering an order and at the request of the offender, grant the offender what the judge considers a reasonable period of time in which to present evidence with regard to the prosecutor's application or request.

"**84.** If an offender fails to comply with a court order, the Minister may restore premises to their original state at the offender's expense.

The Minister may claim the direct and indirect restoration costs from the offender in the same manner as any debt due to the Government.

"**85.** The prescription period for penal proceedings for offences under this Act is the longer of

(1) five years from the date the offence was committed; and

(2) two years from the date on which the inspection or investigation that led to the discovery of the offence began if false or misleading declarations were made to the Minister or to the public servant authorized to conduct an inspection or investigation under this Act.

In the cases referred to in subparagraph 2 of the first paragraph, the certificate indicating the date on which the inspection or investigation began constitutes, in the absence of evidence to the contrary, conclusive proof of the date on which the inspection began.

"**86.** In all civil or penal proceedings instituted under this Act, the cost of any sampling, analysis, inspection or investigation, at the rate established by regulation of the Minister, is to be included in the cost of the proceedings.

Expenses incurred by the Minister to determine the nature of the work required to restore things to their original state or to a state approaching their original state, or to implement compensatory measures are also to be included in the cost of proceedings.

"**87.** The Minister shall keep a register of the following information relating to findings of guilt for offences under this Act or the regulations:

(1) the date of the finding of guilt;

(2) the nature of the offence and the legislative or regulatory provisions under which the offender was found guilty;

(3) the date of the offence and the name of the municipality in whose territory it was committed, if applicable;

(4) if the offender is a legal person, the name of the legal person and the address of its head office or of one of its establishments or of the business establishment of one of its agents;

(5) if the offender is a partnership or association without legal personality, the name and address of the partnership or association;

(6) if the offender is a natural person, the person's name, the name of the municipality in whose territory the person resides and, if the offence was committed during the ordinary course of business of the person's enterprise, the name and address of the enterprise;

(7) if the offender is an officer or director of a legal person, of a partnership or of an association without legal personality, the officer's or director's name, the name of the municipality in whose territory the officer or director resides and, as applicable, the name of the legal person and the address of its head office or of one of its establishments or of the business establishment of one of its agents, or the name and address of the partnership or association;

(8) the penalty imposed by the judge;

(9) the date a proceeding is brought against the decision rendered, the nature of the proceeding and the date and conclusions of the decision rendered by the competent court, as soon as the Minister is made aware of the information; and

(10) any other information the Minister considers of public interest.

"**DIVISION V**

"CLAIM AND RECOVERY

"**88.** The Minister may claim payment from a person of any amount owed to the Minister under this Act or the regulations by notification of a notice of claim. However, in the case of a monetary administrative penalty, the claim is made by the person designated by the Minister under section 69.5.

A notice of claim must state the amount of the claim, the reasons for it and the time from which it bears interest. In the case of a monetary administrative penalty, it must mention the right to obtain a review of the decision and the time limit for applying for a review. In other cases, the notice must mention the right to contest the claim before the Administrative Tribunal of Québec and the time limit for bringing such a proceeding.

The notice must also include information on the procedure for recovery of the amount claimed, in particular with regard to the issue of a recovery certificate under section 93 and its effects. The person concerned must also be advised that failure to pay the amount owing may give rise to the refusal, amendment, suspension or revocation of any authorization issued under this Act or the regulations and, if applicable, that the facts on which the claim is founded may result in penal proceedings.

If the notice concerns more than one person, the debtors are solidarily liable.

Unless otherwise provided, the amount owing bears interest at the rate determined under the first paragraph of section 28 of the Tax Administration Act (chapter A-6.002), from the 31st day after notification of the notice.

Notification of a notice of claim interrupts the prescription provided for in the Civil Code with regard to the recovery of an amount owing.

"**89.** A notice of claim, other than one notified in accordance with section 69.8, may be contested before the Administrative Tribunal of Québec, by the person concerned, within 30 days after notification of the notice.

When rendering its decision, the Administrative Tribunal of Québec may make a ruling with respect to interest accrued on the penalty while the matter was pending before the Tribunal.

"**90.** The directors and officers of a legal person that has defaulted on payment of an amount owed to the Minister under this Act or the regulations are solidarily liable, with the legal person, for the payment of the amount, unless they establish that they exercised due care and diligence to prevent the failure which led to the claim.

"**91.** The reimbursement of an amount owed to the Minister under this Act or the regulations is secured by a legal hypothec on the debtor's movable and immovable property.

"**92.** The debtor and the Minister may enter into a payment agreement with regard to the amount owing. Such an agreement, or the payment of the amount owing, does not constitute, for the purposes of penal proceedings or any other administrative penalty under this Act or the regulations, an acknowledgement of the facts giving rise to it.

"**93.** If the amount owing is not paid in its entirety or the payment agreement is not adhered to, the Minister may issue a recovery certificate on the expiry of the time for applying for a review of the decision, on the expiry of the time for contesting the review decision before the Administrative Tribunal of Québec or on the expiry of 30 days after the final decision of the Tribunal confirming all or part of the Minister's decision or the review decision, as applicable.

However, a recovery certificate may be issued before the expiry of the time referred to in the first paragraph if the Minister is of the opinion that the debtor is attempting to evade payment.

A recovery certificate must state the debtor's name and contact information and the amount of the debt.

"**94.** Once a recovery certificate has been issued, any refund owed to a debtor by the Minister of Revenue may, in accordance with section 31 of the Tax Administration Act (chapter A-6.002), be withheld for payment of the amount due referred to in the certificate.

The withholding interrupts the prescription provided for in the Civil Code with regard to the recovery of an amount owing.

"**95.** On the filing of the recovery certificate at the office of the competent court, together with a copy of the final decision stating the amount of the debt, the decision becomes enforceable as if it were a final judgment of that court not subject to appeal, and has all the effects of such a judgment.

"**96.** The debtor is required to pay recovery charges in the cases, under the conditions and in the amount determined by the Minister by regulation.

"**97.** The Minister may, by agreement, delegate to another department or body all or some of the powers relating to the recovery of an amount owing under this Act or the regulations."

44. Titles VI and VII of the Act, comprising sections 78 to 93, are repealed.

45. The schedule to the Act is repealed.

SUSTAINABLE FOREST DEVELOPMENT ACT

46. Section 14 of the Sustainable Forest Development Act (chapter A-18.1) is amended by replacing "or exceptional forest ecosystems" by ", exceptional forest ecosystems or wetlands of interest".

47. The Act is amended by inserting the following division after section 35:

"**DIVISION VII**

"WETLANDS OF INTEREST

"**35.1.** The Minister may, to protect wet forests of high ecological value or of great importance for the maintenance of biological diversity, designate them as wetlands of interest.

The boundaries of such wetlands are established by the Minister with the approval of the minister responsible for keeping the register of protected areas established in accordance with the Natural Heritage Conservation Act (chapter C-61.01).

"**35.2.** The Minister has the notice of designation of a wetland of interest published in the *Gazette officielle du Québec* and on the department's website.

Wetlands of interest must be defined and shown on the land use plan provided for in the Act respecting the lands in the domain of the State (chapter T-8.1).

"**35.3.** The Minister may make any change the Minister considers necessary in order to correct an error, inaccuracy or other incongruity that occurred in establishing the boundaries of a wetland of interest.

The Minister may also change the boundaries of a wetland of interest or revoke its status if the wetland is no longer characterized by the ecological features or biological diversity that initially warranted its protection. However, if a wetland of interest is entered in the register of protected areas established in accordance with the Natural Heritage Conservation Act (chapter C-61.01), the Minister must first obtain the approval of the minister responsible for keeping that register.

"**35.4.** The Minister keeps the list of designated wetlands of interest up to date.

The list is published on the department's website and contains at least the following information:

(1) the number assigned to the wetland of interest;

(2) the number of the development unit in which the wetland of interest is located; and

(3) the geographical coordinates and the area of the wetland of interest.

The geographical boundaries of a wetland of interest must also be shown on maps posted on the department's website.

"**35.5.** Forest development activities are prohibited in a wetland of interest.

The Minister may nevertheless authorize a forest development activity, on the conditions the Minister determines, if the Minister considers it expedient and if the activity is not likely to have an adverse effect on the maintenance of the ecological value or biological diversity of the wetland of interest. If the wetland of interest is entered in the register of protected areas established in accordance with the Natural Heritage Conservation Act (chapter C-61.01), however, the Minister must first consult the minister responsible for keeping that register to obtain an opinion on the impact of the proposed activity."

48. Section 226 of the Act is amended by replacing "or an exceptional forest ecosystem" by ", an exceptional forest ecosystem or a wetland of interest".

49. Section 247 of the Act is amended by inserting ", in a wetland of interest" after "ecosystem" in the first paragraph.

ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

50. Section 149 of the Act respecting land use planning and development (chapter A-19.1) is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

"(4) creates, abolishes or amends the boundaries of an area or natural setting designated under the Natural Heritage Conservation Act (chapter C-61.01), a wildlife preserve, a wildlife sanctuary, a wildlife management area or a park;".

ACT RESPECTING ADMINISTRATIVE JUSTICE

51. Schedule III to the Act respecting administrative justice (chapter J-3) is amended by replacing "and 64" in paragraph 3 by ", 65, 69.20 and 89".

ACT RESPECTING THE MINISTÈRE DU DÉVELOPPEMENT DURABLE, DE L'ENVIRONNEMENT ET DES PARCS

52. Section 11 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001) is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

"(4) the establishment and management of protected areas under the Natural Heritage Conservation Act (chapter C-61.01);".

PARKS ACT

53. Section 4 of the Parks Act (chapter P-9) is amended

(1) by replacing "designated by the Minister" in the second paragraph by "or body designated by the Minister, such as the Bureau d'audiences publiques sur l'environnement, with the authorization of the minister responsible for the administration of the Environment Quality Act (chapter Q-2)";

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

"The person or body designated to hold the public hearing shall, within the time prescribed in the mandate, report his or its findings and analysis to the Minister.

The time limit for holding the public hearing and reporting to the Minister may not exceed 12 months.

The reports are made public by the Minister within 30 days after they are received.

If the Bureau d'audiences publiques sur l'environnement is designated, sections 6.3 to 6.6 of the Environment Quality Act apply, with the necessary modifications."

54. Section 9 of the Act is amended by inserting ", except if the Bureau d'audiences publiques sur l'environnement is designated to hold such a hearing" at the end of paragraph *o*.

ENVIRONMENT QUALITY ACT

55. Section 31.0.3 of the Environment Quality Act (chapter Q-2) is amended by replacing "register of protected areas provided for in section 5 of the Natural Heritage Conservation Act (chapter C-61.01) or in the register of other conservation measures under that Act provided for in section 24.1 of that Act" in subparagraph 3 of the second paragraph by "registers provided for in sections 5, 6.1 and 24.1 of the Natural Heritage Conservation Act (chapter C-61.01)".

REGULATION RESPECTING THE SUSTAINABLE DEVELOPMENT OF FORESTS IN THE DOMAIN OF THE STATE

56. Section 3 of the Regulation respecting the sustainable development of forests in the domain of the State (chapter A-18.1, r. 0.01) is amended by replacing "a protected area, proposed or permanent, of Category I, II or III of the International Union for Conservation of Nature" in subparagraph 1 of the first paragraph by "an International Union for Conservation of Nature Category I, II or III protected area".

REGULATION RESPECTING THREATENED OR VULNERABLE PLANT SPECIES AND THEIR HABITATS

57. Section 4 of the Regulation respecting threatened or vulnerable plant species and their habitats (chapter E-12.01, r. 3) is amended by replacing "an ecological reserve, biodiversity reserve, aquatic reserve or man-made landscape within the meaning of" by "an area or natural setting designated under".

TERMS AND CONDITIONS FOR THE SIGNING OF CERTAIN DOCUMENTS OF THE MINISTÈRE DU DÉVELOPPEMENT DURABLE, DE L'ENVIRONNEMENT ET DES PARCS

58. Section 2.1 of the Terms and conditions for the signing of certain documents of the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001, r. 1) is amended by replacing "in section 34 or 48 of" in paragraph 5 by "in".

59. Section 8 of the Terms and conditions is amended by striking out "sections 34 and 48 of" in paragraph 2.

REGULATION RESPECTING THE APPLICATION OF THE ENVIRONMENT QUALITY ACT

60. Section 1 of the Regulation respecting the application of the Environment Quality Act (chapter Q-2, r. 3) is amended, in paragraph 6,

(1) by replacing "in aquatic reserves, biodiversity reserves or ecological reserves, or on land set aside for reserve purposes" by "in an area or natural setting designated under the Natural Heritage Conservation Act (chapter C-61.01)";

(2) by replacing "the Natural Heritage Conservation Act (chapter C-61.01)" by "that Act".

RULES OF PROCEDURE OF THE BUREAU D'AUDIENCES PUBLIQUES SUR L'ENVIRONNEMENT

61. Section 67 of the Rules of procedure of the Bureau d'audiences publiques sur l'environnement (chapter Q-2, r. 45.1) is amended by replacing "section 39" by "section 36".

TRANSITIONAL AND FINAL PROVISIONS

62. Sections 46, 48 and 49 of the Natural Heritage Conservation Act (chapter C-61.01), as they read on 18 March 2021, continue to apply to biodiversity reserves and ecological reserves established as at that date under that Act until the coming into force of the first regulation, made under section 44 of the Natural Heritage Conservation Act, as enacted by section 35, that applies to those reserves.

The same applies to the regulations and conservation plans adopted for each of the reserves concerned, as they read on 18 March 2021.

63. Sections 46, 47 and 49 of the Natural Heritage Conservation Act, as they read on 18 March 2021, continue to apply to the Estuaire-de-la-Rivière-Bonaventure aquatic reserve established as at that date under that Act until the coming into force of the first regulation made under section 44 of the Natural Heritage Conservation Act, as enacted by section 35, that applies to that reserve. The same applies to its conservation plan, as it reads on 18 March 2021.

However, that aquatic reserve becomes, without further formality, the Estuaire-de-la-Rivière-Bonaventure Marine Reserve.

64. Sections 34 and 36 of the Natural Heritage Conservation Act, as they read on 18 March 2021, continue to apply to proposed aquatic reserves, proposed biodiversity reserves and proposed ecological reserves established as at that date under that Act. The same applies to the conservation plans adopted for each of the reserves concerned, as they read on 18 March 2021.

Those reserves are continued, without further formality, and are terminated if

(1) the area concerned is designated a protected area under Division III of Chapter II of the Natural Heritage Conservation Act, as enacted by section 35 of this Act, or under another Act; or

(2) the Government publishes a notice to that effect in the *Gazette officielle du Québec*.

65. Sections 27, 29 to 31 and 33 of the Natural Heritage Conservation Act, as they read on 18 March 2021, continue to apply to the following:

(1) the proposed Banc-des-Américains aquatic reserve;

(2) the proposed Anticosti biodiversity reserve;

(3) the proposed Caribous-Forestiers-de-Manouane-Manicouagan biodiversity reserve; and

(4) the proposed Île-Bizard man-made landscape.

Section 64 applies to the projects mentioned in the first paragraph as of the setting aside of the concerned lands in the domain of the State.

Section 35 of the Natural Heritage Conservation Act, as it read on 18 March 2021, continues to apply to the proposed Île-Bizard man-made landscape.

66. The Government may, by regulation, before 19 March 2022, take any other transitional measure necessary to carry out this Act or effectively achieve its purpose.

67. This Act comes into force on 19 March 2021.

Coming into force of Acts

Gouvernement du Québec

O.C. 535-2021, 7 April 2021

Act respecting the Institut de technologie agroalimentaire du Québec (2021, chapter 3) —Coming into force of the Act

COMING INTO FORCE of the Act respecting the lnstitut de technologie agroalimentaire du Québec

WHEREAS the Act respecting the Institut de technologie agroalimentaire du Québec (2021, c. 3) was assented to on 11 March 2021;

WHEREAS section 97 of the Act provides that the Act comes into force on the date or dates to be determined by the Government;

WHEREAS it is expedient to set 1 July 2021 as the date of coming into force of the Act;

IT IS ORDERED, therefore, on the recommendation of the Minister of Agriculture, Fisheries and Food:

THAT 1 July 2021 be set as the date of coming into force of the Act respecting the Institut de technologie agroalimentaire du Québec (2021, c. 3).

YVES OUELLET
Clerk of the Conseil exécutif

104992

Regulations and other Acts

Gouvernement du Québec

O.C. 532-2021, 7 April 2021

Act respecting the Pension Plan of Elected Municipal Officers
(chapter R-9.3)

Regulation
— Amendment

Regulation to amend the Regulation respecting the application of the Act respecting the Pension Plan of Elected Municipal Officers

WHEREAS, under subparagraph 5 of the first paragraph of section 75 of the Act respecting the Pension Plan of Elected Municipal Officers (chapter R-9.3), the Government may, by regulation, revise the rate of contribution, in accordance with section 65 of the Act;

WHEREAS, under the first paragraph of section 65 of the Act, the Government may, by regulation, revise the rate of contribution of a participant under the plan following an actuarial valuation of the plan;

WHEREAS, under the second paragraph of section 65 of the Act, the revised rate of contribution becomes effective on 1 January following the date on which the Minister has received the report of the independent actuary as regards the actuarial valuation;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft of the Regulation to amend the Regulation respecting the application of the Act respecting the Pension Plan of Elected Municipal Officers was published in Part 2 of the *Gazette officielle du Québec* of 16 December 2020 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS no comments were received on the draft Regulation;

WHEREAS it is expedient to make the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs and Housing:

THAT the Regulation to amend the Regulation respecting the application of the Act respecting the Pension Plan of Elected Municipal Officers, attached to this Order in Council, be made.

YVES OUELLET
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the application of the Act respecting the Pension Plan of Elected Municipal Officers

Act respecting the Pension Plan of Elected Municipal Officers
(chapter R-9.3, ss. 65 and 75, 1st par., subpar. 5)

1. The Regulation respecting the application of the Act respecting the Pension Plan of Elected Municipal Officers (chapter R-9.3, r. 1) is amended in section 9.1

(1) by replacing the year "2010" by the year "2021";

(2) by replacing "6.15%" by "5.26%".

2. This Regulation takes effect from 1 January 2021.

104990

Draft Regulations

Draft Regulation

Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs
(chapter M-30.001)

Environment Quality Act
(chapter Q-2)

Act mainly to ensure effective governance of the fight against climate change and to promote electrification
(2020, chapter 19)

Oil heaters

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting oil heaters, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation prohibits, as of 31 December 2021 in certain new residential buildings and as of 31 December 2023 in certain existing residential buildings, the installation of boilers, furnaces and water heaters powered in whole or in part by oil. It also prohibits, in certain existing residential buildings, the replacement of such appliances with other appliances powered in whole or in part by fossil fuel. In addition, it prohibits, as of 31 December 2023, certain repairs to certain appliances, based on their date of manufacture.

The draft Regulation also provides for the requirement to declare to the Minister any installation or replacement of boilers, furnaces and water heaters powered in whole or in part by oil.

Lastly, the draft Regulation provides for monetary administrative penalties in case of non-compliance and penal sanctions in case of contravention.

The regulatory impact analysis shows that the draft Regulation will impact demand for many energy sources, including oil, electricity and biomass. Oil refineries and distributors will see a decrease in the demand for oil estimated at 370 million dollars between 2021 and 2030. However, the increase in the demand for electricity and biomass will generate 367.4 million dollars in additional revenue for the same period. The draft Regulation will create a shortfall evaluated at slightly over 2.6 million dollars for the energy sector. In addition, heating appliance installation and maintenance enterprises would see a shortfall evaluated at slightly over 2.1 million dollars. Consequently, the impact on enterprises will represent a shortfall of 4.8 million dollars. The draft Regulation will also have a positive impact on the environment between 2021 and 2030. Greenhouse gas and other air pollutant emissions from oil combustion will be reduced. Those net benefits are evaluated at 173.2 million dollars between 2021 and 2030. In short, the draft Regulation will have a net positive impact evaluated at 168.4 million dollars between 2021 and 2030.

Further information on the draft Regulation may be obtained by contacting Annie Roy, Direction de l'expertise en réduction des émissions de gaz à effet de serre, Direction générale de la transition climatique, Ministère de l'Environnement et de la Lutte contre les changements climatiques, Édifice Marie-Guyart, 675, boulevard René-Lévesque Est, boîte 31, Québec (Québec) G1R 5V7; email: annie.roy@environnement.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Carl Dufour, Director, Direction de l'expertise en réduction des émissions de gaz à effet de serre, Direction générale de la transition climatique, Ministère de l'Environnement et de la Lutte contre les changements climatiques, Édifice Marie-Guyart, 675, boulevard René-Lévesque Est, boîte 31, Québec (Québec) G1R 5V7; email: carl.dufour@environnement.gouv.qc.ca.

Benoit Charette
Minister of the Environment and the Fight Against Climate Change

Regulation respecting oil heaters

Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs
(chapter M-30.001, s. 15.4, par. 8.1)

Environment Quality Act
(chapter Q-2, s. 95.1, 1st par., subpars. 3, 7, 21 and 29, ss. 115.27, 115.34 and 124.1)

Act mainly to ensure effective governance of the fight against climate change and to promote electrification
(2020, chapter 19, s. 8, par. 4)

DIVISION I
OBJECT AND SCOPE

1. The objective of this Regulation is to reduce man-made greenhouse gas emissions attributable to domestic heating by gradually prohibiting the installation and repair of certain space and water heaters powered by certain forms of energy.

2. For the purposes of this Regulation, "residential building" means any building that meets the following requirements:

(1) the building area is not more than 600 m^2;

(2) the building height is not more than 3 storeys;

(3) the major occupancy of the building is Group C – Housing and it houses only dwellings.

A building is qualified as a residential building in accordance with the National Building Code of Canada 2015 (NRCC 56190) and the Code national du bâtiment - Canada 2015 (CNRC 56190F), second printing, published by the National Research Council of Canada and prepared by the Canadian Commission on Building and Fire Codes. Subsequent amendments to those documents by that organization do not apply, except errata.

In addition, for the purposes of this Regulation,

(1) "existing residential building" means any residential building for which a building permit was issued before 31 December 2021 by the local municipality having jurisdiction in the territory in which the construction took place;

(2) "new residential building" means any residential building for which a building permit was issued on or after 31 December 2021 by the local municipality having jurisdiction in the territory in which the construction took place;

(3) "boiler" means pressure equipment equipped with a direct power source used to heat a heat-carrying liquid or transform it into steam;

(4) "water heater" means a pressure vessel equipped with a direct energy source in which water destined for exterior use is heated to a temperature of 99°C or less and to a pressure of 1,100 kPa or less. The heat source and control devices are an integral part of the water heater;

(5) "furnace" means a heating appliance that distributes heated air through a system integrated into a building;

(6) "Minister" means the Minister responsible for the administration of the Environment Quality Act (chapter Q-2).

3. Where this Regulation applies, it covers every immovable, including immovables in a reserved area and an agricultural zone established under the Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1).

DIVISION II
PROHIBITIONS

4. This Division applies, to the extent provided for in that Division, to any residential building connected to a municipal or private electric power system governed by the Act respecting municipal and private electric power systems (chapter S-41), to the electric power system of the Coopérative régionale d'électricité de Saint-Jean-Baptiste de Rouville governed by the Act respecting the Coopérative régionale d'électricité de Saint-Jean-Baptiste de Rouville and repealing the Act to promote rural electrification by means of electricity cooperatives (1986, chapter 21), or to the Hydro-Québec electric power distribution system when carrying on electric power transmission activities, except for residential buildings connected to an independent electric power distribution system.

5. As of 31 December 2021, it is prohibited to install or have installed boilers, furnaces and water heaters powered in whole or in part by oil in new residential buildings.

6. As of 31 December 2023, it is prohibited to install or have installed boilers, furnaces and water heaters powered in whole or in part by oil in existing residential buildings.

As of that same date, it is also prohibited to install or have installed boilers, furnaces and water heaters powered in whole or in part by fossil fuel for the purpose of replacing appliances powered in whole or in part by oil in existing residential buildings.

7. As of 31 December 2023, it is prohibited to repair or have repaired boilers, furnaces and water heaters powered in whole or in part by oil in existing residential buildings in the case of

(1) boilers and furnaces manufactured over 20 years before; and

(2) water heaters manufactured over 10 years before.

For the purposes of this Regulation, "repairs" means any work done on an appliance referred to in the first paragraph in order to refurbish it and that does not constitute maintenance under Annex L of the most recent version of CSA Standard B139, Installation Code for Oil-Burning Equipment.

Nothing in this section prevents anyone from taking the measures necessary to stop the release of contaminants.

DIVISION III
DECLARATION

8. Any person who installs, in a residential building, a boiler, furnace or water heater powered in whole or in part by oil, or a boiler, furnace or water heater powered in whole or in part by fossil fuel for the purpose of replacing appliances powered in whole or in part by oil, must, within 30 working days after the installation, send electronically to the Minister a declaration containing

(1) their name, address and telephone number;

(2) if applicable, the number of the licence issued to them under the Building Act (chapter B-1.1);

(3) in respect of each appliance installed,

(a) the name, address and telephone number of the owner of the building where the appliance is located;

(b) the address of the building where the appliance is located;

(c) the date of installation;

(d) the type, brand and model; and

(e) the date of manufacture or serial number; and

(4) a description of the procedure followed when removing the tank that supplied fuel to the appliance that was replaced, if applicable.

9. Any person who replaces, in a residential building, a boiler, furnace or water heater powered in whole or in part by oil with an appliance powered by a different form of energy must, within 30 working days after the replacement, send electronically to the Minister a declaration containing

(1) their name, address and telephone number;

(2) if applicable, the number of the licence issued to them under the Building Act (chapter B-1.1); and

(3) in respect of each appliance installed to replace another appliance powered in whole or in part by oil,

(a) the name, address and telephone number of the owner of the building where the appliance is located;

(b) the address of the building where the appliance is located;

(c) the date of installation; and

(*d*) the type and form of energy powering the appliance.

DIVISION IV
PENALTIES

§I. Monetary administrative penalties

10. A monetary administrative penalty of $350 in the case of a natural person and $1,500 in other cases may be imposed on any person who fails to send to the Minister a declaration containing the information prescribed or to comply with the time or terms and conditions of transmission, in contravention of section 8 or 9.

11. A monetary administrative penalty of $1,500 in the case of a natural person and $7,500 in other cases may be imposed on any person who

(1) installs or has installed, in a new residential building, a boiler, furnace or water heater powered in whole or in part by oil, in contravention of section 5;

(2) installs or has installed, in an existing residential building, a boiler, furnace or water heater powered in whole or in part by fossil fuel, in contravention of section 6;

(3) repairs or has repaired a boiler, furnace or water heater powered in whole or in part by oil, in contravention of section 7.

§II. Penal sanctions

12. Every person who contravenes section 8 or 9 is liable to a fine of $2,000 to $100,000 in the case of a natural person or $6,000 to $600,000 in other cases.

13. Every person who contravenes section 5, 6 or 7 is liable, in the case of a natural person, to a fine of $8,000 to $500,000 or, despite article 231 of the Code of Penal Procedure (chapter C-25.1), to a maximum term of imprisonment of 18 months, or to both the fine and imprisonment, or, in other cases, to a fine of $24,000 to $3,000,000.

§III. Common provision

14. The amounts from the imposition of monetary administrative penalties and from the fines paid pursuant to this Regulation are credited to the Electrification and Climate Change Fund established under section 15.1 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001), as amended by section 7 of the Act mainly to ensure effective governance of the fight against climate change and to promote electrification (2020, chapter 19).

DIVISION V
FINAL

15. This Regulation comes into force on 31 December 2021.

104996

Draft Regulation

Parks Act
(chapter P-9)

Parks
— Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Parks Regulation, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation amends the boundaries of Parc national de Frontenac. Lot 6 377 320 of the cadastre of Québec will be removed from the national park, thereby reducing its area by about 1.47 ha.

To that end, the draft Regulation amends the Parks Regulation (chapter P-9, r. 25) by replacing Schedule 16 to update the zoning map of Parc national de Frontenac.

Further information on the draft Regulation may be obtained by contacting Geneviève Brunet, Direction des parcs nationaux, Ministère des Forêts, de la Faune et des Parcs, 880, chemin Sainte-Foy, 2e étage, local 2.50, Québec (Québec) G1S 4X4; telephone: 418 627-6356, extension 7168; email: genevieve.brunet@mffp.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Élise Paquette, Acting Associate Deputy Minister of Wildlife and Parks, Ministère des Forêts, de la Faune et des Parcs, 880, chemin Sainte-Foy, RC 120, Québec (Québec) G1S 4X4.

Pierre Dufour
Minister of Forests, Wildlife and Parks

Regulation to amend the Parks Regulation

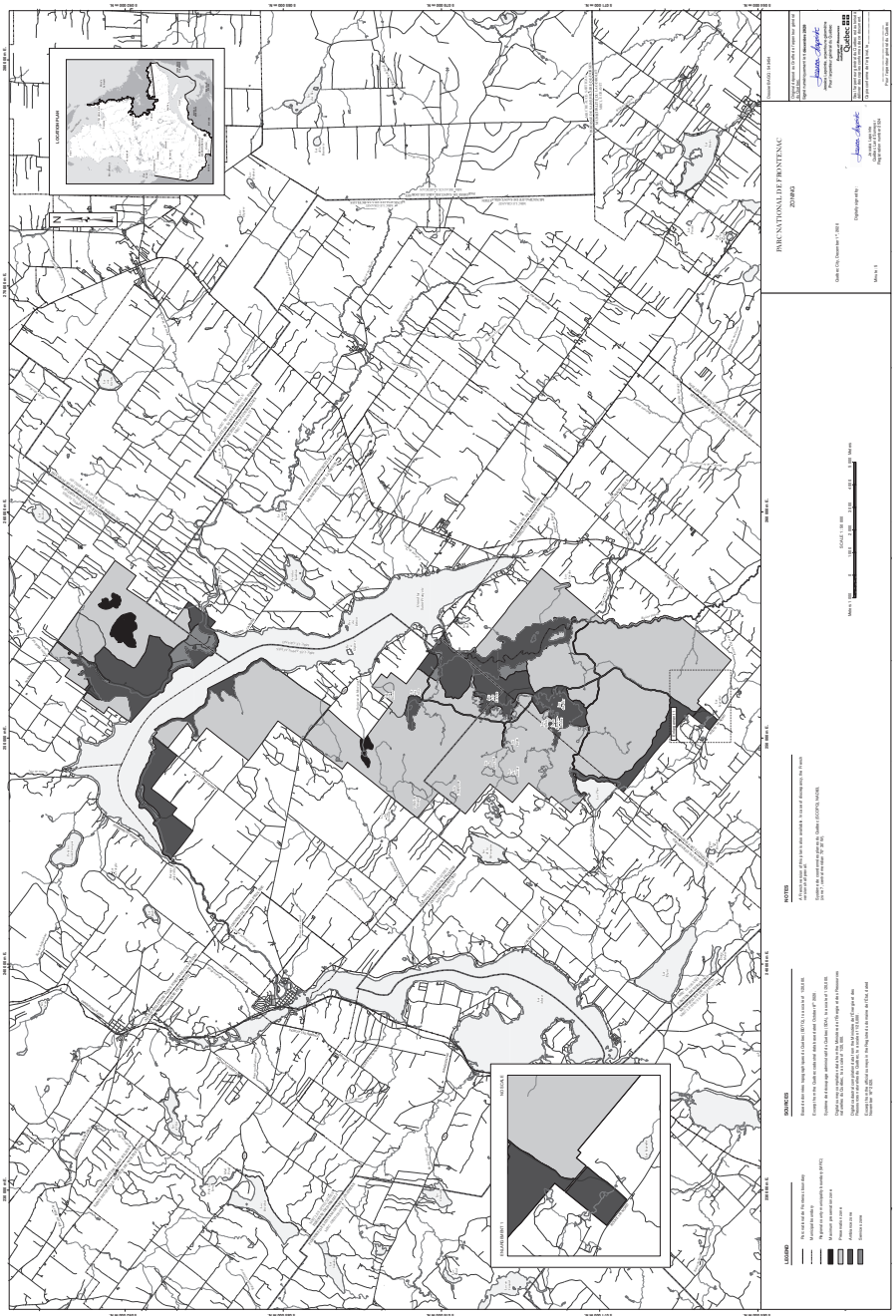
Parks Act
(chapter P-9, s. 9, par. *b*)

1. The Parks Regulation (chapter P-9, r. 25) is amended by replacing Schedule 16 by Schedule 16 attached.

2. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE 16
(s. 3)

PARC NATIONAL DE FRONTENAC ZONING MAP



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