



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 149

(2001, chapter 14)

An Act respecting nature reserves on private land

Introduced 31 October 2000

Passage in principle 6 December 2000

Passage 12 June 2001

Assented to 17 June 2001

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EXPLANATORY NOTES

The purpose of this bill is to ensure the preservation of the significant biological, ecological, wildlife, floristic, geological, geomorphic or landscape features of a private property by allowing the Minister of the Environment to recognize the property as a nature reserve at the request of the owner. It enables conservation organizations to join with the property owner in making the application for recognition. The recognition may be perpetual or for a minimum term of 25 years.

The requirements for recognition are defined in the bill, one being the signing of an agreement respecting the conservation measures to be applied by the owner. The bill provides for the possibility of amending the agreement and grants a power of revocation to the Minister in certain cases.

Moreover, the bill provides for the publication of the recognition by means of a notice in the Gazette officielle du Québec, for the registration of the agreement in the land register and for the keeping of a register of nature reserves at the Ministère de l'Environnement.

Lastly, the bill contains provisions relating to inspection and penal provisions.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting administrative justice (R.S.Q., chapter J-3).

Bill 149

AN ACT RESPECTING NATURE RESERVES ON PRIVATE LAND

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

RECOGNITION

1. Any private property having significant biological, ecological, wildlife, floristic, geological, geomorphic or landscape features that warrant preservation may be recognized as a nature reserve on the application of the owner as provided in this Act.

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

DIVISION I

APPLICATION

2. An application for recognition, which may be made jointly with a non-profit conservation organization, shall be submitted in writing to the Minister of the Environment. The application must contain

- (1) the name and address of the owner;
- (2) a description of the property that is the subject of the application and a summary site plan;
- (3) the significant features of the property that warrant preservation;
- (4) an indication that the application is for perpetual recognition, or the term of recognition applied for;
- (5) a description of the conservation measures the owner intends to implement;
- (6) a description of the activities the owner wishes to allow and of those the owner wishes to prohibit on the property;

(7) the management arrangements for the property, including, where applicable, an indication that management will be assumed by a non-profit conservation organization ;

(8) a copy of the deed conferring ownership of the property on the owner ;

(9) where applicable, a copy of any permit or authorization required under an Act or regulation for the carrying on of an activity on the property ; and

(10) any other information or document determined by regulation by the Government.

The application may be submitted together with the report of a qualified person demonstrating why the recognition of the property as a nature reserve is warranted.

3. The Minister may require of the owner any information or document the Minister considers necessary for the examination of the application.

DIVISION II

AGREEMENT AND PUBLICATION OF RECOGNITION

4. Before recognizing a property as a nature reserve, the Minister shall enter into an agreement with the owner or, as the case may be, approve an agreement entered into between the owner and a non-profit conservation organization. In either case, the agreement shall contain, among other provisions,

(1) a description of the property ;

(2) the perpetual nature of the recognition or the applicable term ;

(3) the significant features of the property that warrant preservation ;

(4) the management arrangements for the property, including, where applicable, the identity of the non-profit conservation organization that is to manage the property ;

(5) the conservation measures to be applied ;

(6) the permitted and prohibited activities ; and

(7) any other provision determined by regulation by the Government.

5. The Minister shall publish a notice stating that the property is recognized as a nature reserve in the *Gazette officielle du Québec* and in a newspaper circulated in the territory of the municipal body where the property is situated.

The term “municipal body” means a municipality, a metropolitan community, an urban community or the Kativik Regional Government.

The recognition takes effect on the date of the publication of the notice in the *Gazette officielle du Québec*.

6. The Minister shall require the registration of the agreement in the land register and shall transmit a certified statement of registration to the owner, to the conservation organization, where applicable, and to any municipal body in whose territory the property is situated.

The agreement, once registered, is binding on all subsequent acquirers of the property.

7. 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 only be used in respect of a property for which a valid certificate is held.

DIVISION III

AMENDMENT OF AGREEMENT

8. The agreement may be amended at any time with the consent of the parties, provided the amendments are not contrary to the purpose for which the property has been recognized as a nature reserve. Where amendments are made to an agreement between an owner and a conservation organization, the amendments require the approval of the Minister.

9. If the agreement is amended, the Minister shall require registration of the amendments in the land register and shall transmit a certified statement of registration to the persons mentioned in the first paragraph of section 6.

Amendments have no effect against third persons until their registration in the land register.

DIVISION IV

TERMINATION OF RECOGNITION

10. The recognition of a property as a nature reserve shall terminate at the expiry of its term or upon the Minister’s decision to withdraw the recognition because

(1) the property was recognized on the basis of inaccurate or incomplete information or documents ;

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

(3) the features of the property no longer warrant preservation; or

(4) it would be more detrimental to the community to maintain the recognition than to withdraw it.

11. A decision of the Minister to withdraw recognition may be contested before the Administrative Tribunal of Québec within 30 days of notification of the decision to the owner and, where applicable, to the conservation organization that is a party to the agreement or that is managing the property.

12. Upon termination of the recognition of a property as a nature reserve, the Minister shall publish, in the *Gazette officielle du Québec* and in a newspaper circulated in the territory of the municipal body where the property is situated, a notice stating that the recognition terminated on the date specified therein.

As well, the Minister shall require the land registrar to cancel the registrations made under this Act and shall transmit a notice of the cancellation to the persons mentioned in the first paragraph of section 6.

CHAPTER II

REGISTER OF NATURE RESERVES

13. A register of all properties recognized as nature reserves shall be kept at the Ministère de l'Environnement.

14. The register shall contain a description of each registered property, the name and address of the owner and of the conservation organization that is a party to the management agreement, where applicable, and the term of the recognition or, as the case may be, an indication of the perpetual nature of the recognition.

The information contained in the register is public information.

15. To allow the updating of the register, any person who acquires a property recognized as a nature reserve shall transmit a copy of the deed of transfer to the Minister within 30 days following the acquisition.

CHAPTER III

ASSISTANCE PROGRAMS

16. The Minister may develop and implement programs for the creation, conservation, supervision and management of nature reserves and, under those programs, provide financial or technical assistance.

CHAPTER IV

INSPECTION

17. The Minister may authorize a person to act as an inspector for the purposes of this Act.

18. In the exercise of his or her functions, an inspector may

(1) enter upon a property recognized as a nature reserve at any reasonable time, and inspect the property ;

(2) take photographs of the premises and of anything on the premises ;

(3) require any information or document relating to the application of this Act.

An inspector, if requested to do so, shall produce a certificate of capacity signed by the Minister.

No proceedings may be instituted against an inspector for any act done in good faith in the exercise of his or her functions.

CHAPTER V

PENAL PROVISIONS

19. Every person who damages a property recognized as a nature reserve or damages or destroys anything forming part thereof is guilty of an offence and is liable to a fine of not less than \$500 and not more than \$20,000.

20. Every person who impedes the work of a person authorized to exercise powers under section 18, makes a false or misleading statement to such a person or refuses to provide to such a person any information or document that the person may require under this Act is guilty of an offence and is liable to a fine of not less than \$250 and not more than \$2,000.

21. For a second or subsequent offence, the fines shall be doubled.

22. On finding a person guilty of an offence under this Act, the court may, in addition to imposing any other penalty and provided the application for the order is made in the person's presence or the person was given prior notice by the prosecutor, order the offender to take every necessary measure, at his or her expense and within the time fixed, to restore the premises to the state they were in before the commission of the offence.

If the offender fails to obey the order of the court, the Minister may restore the premises to their former state at the offender's expense.

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

23. Every person who assists another person in committing an offence under this Act or who encourages, advises, allows, authorizes or orders another person to commit an offence under this Act is guilty of an offence.

A person convicted under this section is liable to the penalty provided for in respect of the offence committed by the other person.

CHAPTER VI

MISCELLANEOUS PROVISIONS

24. Schedule III to the Act respecting administrative justice (R.S.Q., chapter J-3), amended by section 48 of chapter 9 of the statutes of 2000, is again amended by adding the following paragraph after paragraph 4:

“(5) proceedings against decisions made by the Minister of the Environment, brought under section 11 of the Act respecting nature reserves on private land (2001, chapter 14).”

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

26. This Act comes into force on 17 June 2001.