

## Draft Regulations

### Draft Regulation

Watercourses Act  
(R.S.Q., c. R-13)

#### Domain of the State

- Granting and transfer of water rights
- Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and with section 89 of the Watercourses Act, that the Regulation respecting waters in the domain of the State, the text of which appears below, may be made by the Government upon the expiry of 60 days following this publication.

The purpose of the draft Regulation is to better manage water-related property in the domain of the State. On the one hand, it introduces new rules for increased flexibility and effectiveness when water rights in the domain of the State are granted or transferred. To that end, it proposes, in the cases and on the conditions specified, that the Minister of the Environment be authorized to sell certain backfilled property in the domain of the State. The rules relating to aquaculture leases are also reviewed to better adapt them to that activity.

On the other hand, the draft Regulation modernizes various aspects of the current provisions. In particular, as regards the updating of the various fees, rents or tariffs applicable when the Minister agrees to grant or transfer water rights in the domain of the State. The revision will increase the various amounts payable for granting or transferring water rights in the domain of the State in most cases. However, the amounts payable have been determined in consideration of facilitating public access to bodies of water.

Further information on the draft Regulation respecting waters in the domain of the State may be obtained by contacting Serge Hamel, Service de la gestion du domaine hydrique de l'État, Centre d'expertise hydrique, Ministère de l'Environnement, Édifice Marie-Guyart, 675, boulevard René-Lévesque Est, Aile Taschereau, 2<sup>e</sup> étage, Québec (Québec) G1R 5V7, by telephone at (418) 521-3818, extension 4854, by fax at (418) 643-1051 or by e-mail at serge.hamel@menv.gouv.qc.ca

Any interested person having comments to make on the draft Regulation is asked to send them in writing, before the expiry of the 60-day period, to the Minister of the Environment, Édifice Marie-Guyart, 30<sup>e</sup> étage, 675, boulevard René-Lévesque Est, Québec (Québec) G1R 5V7.

ANDRÉ BOISCLAIR,  
*Minister of the Environment*

### Regulation respecting waters in the domain of the State

Watercourses Act  
(R.S.Q., c. R-13, s. 2, 4th and 5th pars. and s. 2.1)

#### DIVISION I SCOPE

**1.** This Regulation determines the conditions under which the Minister of the Environment is authorized to alienate, lease or occupy property referred to in the third paragraph of section 2 of the Watercourses Act (R.S.Q., c. R-13) and to agree on the limits of such property. That property is hereinafter designated as water-related.

It also authorizes the occupation of such property by certain categories of minor works.

Notwithstanding the foregoing, this Regulation does not govern the granting and transfer of water rights referred to in section 37, 63 or 76 of the Watercourses Act. It does not govern the granting and transfer of rights to the federal government, its departments and agencies.

#### DIVISION II OCCUPATION OF WATER BY MINOR WORKS

**2.** The owner of riparian land adjacent to water or one who leases such property for resort purposes may, without the authorization of the Minister, occupy free of charge the frontage of the property to install a platform on piles or a floating platform with a movable anchor or a boathouse on piles, provided that the area does not exceed 20 square metres and the platform does not occupy more than 1/10 of the width of the bed at that location.

**DIVISION III**  
**OCCUPATION, LEASE, ALIENATION AND**  
**AGREEMENT ON LIMITS OF THE**  
**WATER-RELATED PROPERTY**

*§1. General*

**3.** The Minister may grant or transfer water rights with respect to part of the property only after notifying the owner of adjacent riparian land of that intent and after allowing the owner to make representations.

Notwithstanding the foregoing, for an occupation licence, a servitude or an act of sufferance, the Minister is not required to give advance notice if no construction or work is likely to be established. The same applies if the planned construction or work is intended to remain completely buried.

**4.** The Minister is authorized to provide for any clause, condition or servitude necessary to protect the public or the rights of riparian owners, in any deed or any agreement governing the granting or transfer of water rights.

**5.** Before granting water rights to a person who wishes to erect a construction or work, the Minister shall ensure

(1) that a certificate of authorization, if it is necessary to obtain one, was issued for that project under the Environment Quality Act (R.S.Q., c. Q-2) and the regulations thereunder; and

(2) that a certificate obtained from the clerk or secretary-treasurer of a local municipality or, for an unorganized territory, of a regional county municipality, certifies that the planned work complies with the applicable municipal by-laws.

*§2. Financial provisions*

**6.** All the amounts payable under this Regulation, including the fees provided for in Schedule I and except the amounts expressed as percentages shall be, as of 1 April 2003, adjusted on 1 April of each year according to the rate of increase in the general Consumer Price Index for Canada as published by Statistics Canada.

The rate of increase shall be calculated by determining the difference between the average monthly indexes for the 12-month period ending on 30 September of the preceding year and the average monthly indexes for the same period of the second preceding year. The adjusted amounts shall be rounded off to the nearest dollar, except for the rates per hectare or square metre referred to in section 7, in subparagraph 3 of the first paragraph of section 28 and in subparagraph *a* of paragraph 5 of section 1 of Schedule I.

The Minister shall inform the public of the annual adjustment by a notice published in the *Gazette officielle du Québec* and by any other means if the Minister deems it appropriate.

**7.** In this Division, when a reference is made to the value of water-related property, that value shall be determined on the date on which the Minister agrees to grant or transfer water rights or, as the case may be, when a readjustment of rent is made, by applying, for each square metre in question, the unit rate of the adjacent riparian land. The unit rate shall correspond to the standardized value of the land entered on the property assessment roll, calculated per square metre. Failing a standardized assessment, the rate shall be \$0.19 per square metre.

**8.** The granting and transfer of water rights and the applications for agreement on the limits of that property shall be subject to the payment of administration fees provided for in Schedule I.

Those fees shall be deductible upon conclusion of a deed to the extent provided for in that Schedule. The deduction of those fees may however not give rise to a refund by the Minister, nor lower the amount below the minimum amount payable under this Regulation.

**9.** The fees for preparing and filing the plans and survey documents that are required to grant or transfer rights, or to agree on limits, shall be paid by the purchaser, lessee, licence holder or by the person who benefits from the right or the limits agreed on with the Minister.

The fees for registration or entry in the registry office and in the Terrier, as well as all fees and professional services required to obtain such registration or entry, including the fees for the preparation and receipt of a notarial act or the fees related to the attestation of a private writing shall also be paid by the purchaser, lessee, licence holder or by the person who benefits from the right or the limits agreed on with the Minister.

*§3. Occupation, servitude and act of sufferance*

**10.** The Minister may authorize a person to occupy for non-profit-making use part of the water-related property to install or maintain thereon any of the following works or constructions by issuing a licence to that effect:

(1) a platform, either a floating platform with a movable anchor or on piles, or a boathouse on piles the area of which exceeds 20 square metres or that occupies more than 1/10 of the width of the river at that place;

(2) work enabling water to be collected or evacuated;

(3) work to protect the shores or banks against erosion, subsidence, landslides or floods;

(4) a bridge whose foundations on the bed of the water course do not occupy more than 1/10 of the width at that place;

(5) a cable, a pipe or a work other than a jetty, used to link the two banks or shores or to travel from one to the other; or

(6) an anchor for mooring.

**11.** The licence shall specify the conditions for the occupation and shall state the following elements :

(1) any preliminary work and structures or accessories to be erected;

(2) the terms and conditions for the construction and operation of the planned work and constructions.

**12.** The amount required for the issue of a licence is \$50 for each work and construction in question.

However, for an occupation described in paragraphs 4 and 5 of section 10, the amount required is \$3 per linear metre of length of the work in question on the water property, without being less than \$50 for each work or construction.

**13.** The term of the licence is one year, except for an occupation licence referred to in paragraphs 4 and 5 of section 10, which may be issued for a period not exceeding 25 years.

**14.** At term, the licence is renewed automatically and free of charge for the same term, unless the Minister gives a notice to the contrary to its holder in the 90 days preceding the expiry date of the licence.

Moreover, the Minister is authorized to cancel the licence if its holder does not comply with the conditions set therein, the provisions of the Environment Quality Act and those of the regulations thereunder or if the holder does not comply with the provisions of any authorization issued under that Act for the work or construction covered by the licence.

**15.** Any licence shall become void automatically where the occupation for which it was issued ceases.

**16.** The Minister is authorized to grant servitudes or acts of sufferance with respect to the water property.

**17.** The consideration required to grant a servitude shall correspond, for the entire duration of the servitude, to the value of the part of the water property covered by the servitude. However, the consideration may not be less than \$250 if the area in question is one hectare or less and \$250 per hectare if the area is larger.

**18.** The Minister is authorized to grant an act of sufferance free of charge.

#### **§4. Lease**

**19.** The Minister is authorized to lease part of the water-related property if the conditions provided for in this Subdivision are met.

**20.** The Minister is authorized to lease part of the water-related property with the agreement of the owner of the adjacent riparian land, or, if such part of the property is subject to a lease for resort purposes, the agreement of the lessee.

The Minister is not required to obtain the agreement if the lease allows for the maintenance of works or buildings for public use.

**21.** The maximum term of a lease is 25 years.

**22.** The maximum area of the part of the water-related property covered by a lease is 5 hectares.

**23.** A part of the water-related property may not be leased at an annual rent lower than the following rents :

(1) if the lease allows the lessee to carry on profit-making activities, the highest of the following amounts :

(a) 10% of the value of the part of the water property in question ; or

(b) \$250 ;

(2) where only non-profit-making activities are authorized, the highest of the following amounts :

(a) 5% of the value of the part of the water property already occupied or that will be occupied by a work or a construction, and 2% of the value of the other parts of the water property covered by the lease ; or

(b) \$50.

Notwithstanding the first paragraph, where the lease is granted to a municipality or a body for non-profit-making use that facilitates public access to bodies of water, excluding a marina, the minimum annual rent is \$50 per hectare, without being lower than \$50.

**24.** Part of the water-related property may not be leased for marina purposes at an annual rent lower than the following:

(1) 5% of the value of the part of the water-related property where a work or construction is located or will be located there, and 2% of the value of the other parts of the water-related property in question; or

(2) \$250.

For the purposes of subparagraph 1 of the first paragraph,

(1) the unit rate used to calculate the value of the water-related property may not exceed \$15 per square metre; and

(2) a platform, whether on piles or a floating platform with a movable anchor, and a boathouse on piles are not considered as works or constructions.

**25.** Where a lease provides for more than one type of use, the annual rent is established in proportion to the areas of the water-related property allotted to each type of use.

**26.** In addition to the adjustment provided for in section 6, a lease must prescribe that the Minister is authorized to revise the annual rent to take into account the changes in the land value.

However, such revision may not be made more than once per three-year period with respect to the same lessee.

A written notice indicating the revised value of the land and the new rent shall be sent to the lessee within 90 days before the new rent becomes effective. The lessee may, within 30 days following receipt of the notice, cancel the lease by sending a notice to that effect to the Minister.

**27.** In addition to the amount of the rent, its adjustment and the terms and conditions for its payment, the lease indicates its term and, where applicable, the preliminary work and buildings or accessories that will be erected, as well as the terms and conditions for the construction and operation of the works and structures.

The lease also prescribes the rights of the Minister

(1) to cancel the lease at any time if the lessee does not abide by the conditions of use set in the lease, the provisions of the Environment Quality Act and the provisions of the regulations thereunder or if the lessee does not comply with the provisions of any authorization issued under that Act for the work or construction covered by the lease; and

(2) to accept or refuse an application for sublease or for assignment of the lease and to benefit from a 45-day period, after receiving an application to that effect, to forward his or her decision.

In addition, a lease granted for the maintenance of a private beach must contain a clause according to which the lessee commits not to restrict the right of any person to travel on lands in the domain of the State.

**28.** The Minister is authorized to grant the lease of a part of the water-related property for aquaculture purposes on the following conditions:

(1) the maximum term of the lease is 20 years;

(2) the lessee must, during all the term of the lease, hold the required licence, where applicable, under the Act respecting commercial fisheries and aquaculture (R.S.Q., c. P-9.01) to operate a fish-breeding plant or to cultivate or harvest aquatic plants; and

(3) the annual rent payable, without being less than \$250, is

(a) \$2.50 per hectare for the first five years, then \$5 per hectare for the subsequent years, if infrastructures are erected on that part of the water property; or

(b) \$0.50 per hectare for the first ten years, then \$1 per hectare for the subsequent years, if no infrastructures are erected on that part of the property.

Sections 20 to 26 do not apply to that lease.

**29.** The Minister is authorized to lease part of the water-related property with a promise to sell, if the planned sale is authorized under section 34.

The term of a promise to sell contained in a lease may not exceed five years. The price of the sale is determined, in accordance with section 35, at the time the promise is included in the lease.

Notwithstanding section 23, the rent payable during the term of the promise to sell is 20% of the selling price.

**30.** The Minister is authorized to lease part of the water-related property required to operate a regional park under an agreement made with a regional county municipality in accordance with section 688 of the Municipal Code of Québec (R.S.Q., c. C-27.1).

#### *§5. Alienation*

**31.** The Minister is authorized to alienate free of charge or by onerous title a part of the water-related property only if the conditions established in this Subdivision are met.

**32.** The Minister may transfer free of charge a part of the water-related property that could or should have been included in the preceding sale of backfilled property, to take into account alterations to the limits of the water-related property.

**33.** In order to facilitate the delimitation of the water-related property on which a water retaining work was erected in 1849, the Minister is authorized to transfer the ownership of part of the area around Lac Saint-François in the St. Lawrence River to the owner of the adjacent land for \$1.

**34.** The Minister is authorized to sell a part of the water property that has been subject to backfilling. However, if the backfilling started after 1993, the Minister is authorized to sell it only if the purchaser provides the Minister with the documents attesting that the backfilling work was authorized.

**35.** The sale price of part of the water-related property is 50% of its value.

However, if the land is not bounded by water, the sale price is 25% of the value of the transferred part.

The sale price is 100% of the value of the part of the water-related property transferred if the backfilling to which it was subject started after 1993.

Notwithstanding the preceding paragraphs, if the purchaser is a municipality, the Minister is authorized to sell part of the public domain for \$1 to the municipality if the latter undertakes, by resolution, to preserve that part of the water-related property for public, non-profit-making purposes.

Subject to the provisions of this Subdivision that expressly authorizes the Minister to sell at a lower price, the sale price may not be lower than \$350.

**36.** The rents that a purchaser has previously paid as lessee of the part of the water-related property in question shall be deducted from the selling price. However, the deduction of those amounts may not give rise to a refund by the Minister, nor increase the amount payable below the minimum selling price.

**37.** The Minister is authorized to agree on an instalment sale with the purchaser so that payment will be made in instalments. Moreover, the Minister is authorized to agree that a hypothec be granted in favour of the State to guarantee the payment of the selling price if the hypothec covers, in addition to the transferred lot, an adjacent lot belonging to the purchaser.

All the fees payable and costs of professional services required to set up such hypothec, to register it at the registry office or to cancel it shall be charged to the purchaser.

#### *§6. Delimitation*

**38.** The Minister is authorized to agree on the limits of the water-related property with the owner of adjacent riparian land.

### **DIVISION IV** **TRANSITIONAL AND FINAL**

**39.** Applications for the granting and transfer of rights still under examination on the date of coming into force of this Regulation shall continue to be governed by the provisions applicable at the time the applications are filed, unless the applicant chooses to have the application processed in accordance with the provisions of this Regulation by sending a written notice to that effect to the Minister.

Where, on that same date, the authorization of the Government has not yet given rise to the issue of a deed by the Minister to a person, the person may also take advantage of the application of the provisions of this Regulation by sending a written notice to that effect to the Minister.

**40.** For leases existing on the date of coming into force of this Regulation, the minimum tariffs of rents apply only on the date on which they are renewed in the year following the year of the coming into force.

**41.** This Regulation replaces the Public Water Regulation made by Order in Council 9-89 dated 11 January 1989.

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

## SCHEDULE I

(s. 8)

### ADMINISTRATION FEES

1. The fees payable for examining the applications for the granting or transfer of rights or for examining the applications related to the delimitation of the water-related property are

(1) \$35 for an application for the assignment of a lease or sublease for profit-making, marina or aquaculture purposes;

(2) \$35 for an application for a change to the leased area of a lease for profit-making, marina or aquaculture purposes;

(3) \$250 for a servitude;

(4) \$250 for an agreement on limits;

(5) \$350 for a sale, subject to the following:

(a) the fee is \$500, to which \$1 per linear metre of bank in question is added, for a sale to a municipality for public non-profit use;

(b) no fee is payable for the sale of part of the water-related property around Lac Saint-François in the St. Lawrence River if fees have already been paid with a view to obtaining an agreement on limits according to paragraph 4; and

(c) a fee of \$150 is added to the amount of the fees payable if the sale is made through the issue of letters patent or if the payment of the selling price is guaranteed by a hypothec.

2. The fee of \$350 provided for in paragraph 5 of section 1 and the fee of \$250 provided for in paragraph 3 of that section are deductible from the amount payable upon conclusion of the deed.

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## Draft Decree

Act respecting collective agreement decrees  
(R.S.Q., c. D-2)

### Solid waste removal – Montréal

#### — Amendment

Notice is hereby given that the Minister of State for Human Resources and Labour and Minister of Labour has received an application to amend the Decree respecting solid waste removal in the Montréal region (R.R.Q., 1981, c. D-2, r.29) from the contracting parties to that decree and that, in accordance with section 5 of the Act respecting collective agreement decrees (R.S.Q., c. D-2) and sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the Decree to amend the Decree respecting solid waste removal in the Montréal region, the text of which appears below, may be made by the Government upon the expiry of the 45 days following this publication.

The purpose of this draft regulation is to replace the name of one of the contracting union parties to the Decree respecting solid waste removal in the Montréal region.

To that end, it is necessary to substitute the name “Association des chauffeurs de camions, hommes d’entrepôts et autres ouvriers de R.C.I. Environnement Inc.” for the name “United Steel Workers of America”.

The consultation period will clarify the impact of the amendment being sought. According to the 2001 annual report of the Comité paritaire des boueurs de la région de Montréal, the Decree governs 300 employers, 12 artisans and 1 339 employees.

Further information may be obtained by contacting Mme Danièle Pion, Direction des politiques, de la construction et des décrets, ministère du Travail, 200, chemin Sainte-Foy, 6<sup>e</sup> étage, Québec (Québec) G1R 5S1, telephone: (418) 643-4198, Fax: (418) 644-6969, E-mail: danièle.pion@travail.gouv.qc.ca

Any interested person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to the Deputy Minister of Labour, 200, chemin Sainte-Foy, 6<sup>e</sup> étage, Québec (Québec) G1R 5S1.

ROGER LECOURT,  
*Deputy Minister of Labour*