



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 44

(2004, chapter 24)

An Act to amend the Act respecting the Ministère de l'Environnement, the Environment Quality Act and other legislative provisions

Introduced 8 April 2004

Passage in principle 28 October 2004

Passage 9 December 2004

Assented to 14 December 2004

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EXPLANATORY NOTES

This bill amends the Act respecting the Ministère de l'Environnement to clarify the power of the Minister to release information.

In order to ensure ongoing supervision of the quality of the environment and, in the area of environmental protection, compliance with an international commitment or implementation of a Canadian intergovernmental agreement, this bill amends the Environment Quality Act so that it confers on the Minister of the Environment the power to make regulations determining the information that a person or a municipality is required to provide regarding an enterprise, a facility or an establishment that the person or municipality operates.

The bill amends section 31 of the Environment Quality Act to enable the Government to set fees covering the costs of measures implemented to control and monitor the holders of an authorization, approval, certificate, permit, attestation or permission. These fees may vary with the nature of a holder's activities, the characteristics of the facility, the nature, quantity and location of waste or stored, buried, processed or treated materials, and the number of offences of which the holder has been found guilty under a provision of the Environment Quality Act or a regulation under that Act, as well as the nature and seriousness of those offences. The bill also provides that the amounts collected are to be paid into a green fund set up for that purpose.

The bill amends section 31.0.1 of the Environment Quality Act to make it applicable not only to depollution attestations, but to any attestation provided for in the Act or a regulation under the Act. It also amends section 31.0.1 to enable the Minister to establish the interest payable in case of non-payment.

LEGISLATION AMENDED BY THIS BILL:

- Natural Heritage Conservation Act (R.S.Q., chapter C-61.01);
- Act respecting the Ministère de l'Environnement (R.S.Q., chapter M-15.2.1);
- Environment Quality Act (R.S.Q., chapter Q-2).

Bill 44

AN ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DE L'ENVIRONNEMENT, THE ENVIRONMENT QUALITY ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 24 of the Natural Heritage Conservation Act (R.S.Q., chapter C-61.01) is amended by replacing “within 30 days of the Minister’s decision” in the second paragraph by “within 30 days following the Minister’s decision on the application for authorization”.

2. Section 12 of the Act respecting the Ministère de l'Environnement (R.S.Q., chapter M-15.2.1) is amended by replacing paragraph 5 by the following paragraph:

“(5) compile, analyze, communicate, publish and disseminate the information available to him, in particular that obtained pursuant to section 2.2 of the Environment Quality Act (chapter Q-2);”.

3. The Environment Quality Act (R.S.Q., chapter Q-2) is amended by inserting the following section after section 2.1:

“2.2. In order to ensure ongoing supervision of the quality of the environment or to ensure, in the area of environmental protection, compliance with an international commitment made in accordance with the applicable legislative provisions or implementation of a Canadian intergovernmental agreement made in accordance with the applicable legislative provisions, the Minister may make regulations determining what information, other than personal information, a person or a municipality is required to provide regarding an enterprise, a facility or an establishment that the person or municipality operates, as well as how, when and how often this information must be provided.

A regulation made under the first paragraph may apply to all or part of Québec and may, in particular, relate to any information concerning the presence, emission, deposit, issuance or discharge into the environment of contaminants, including their origin, nature, composition, characteristics, quantity, concentration and location or receiving environment, as well as to the parameters to be used to evaluate or measure the quantity or concentration of contaminants.

This information may vary with the category of the enterprise, facility or establishment, the nature of the contaminants, the quantity of contaminants emitted, deposited, issued or discharged, and the technical characteristics of the apparatus or processes involved.

The only information that a person or municipality referred to in a regulation made under the first paragraph is required to provide is the information the person or municipality has, may reasonably be expected to have or may obtain by means of appropriate data processing.

A regulation made under this section is preceded by the publication of a draft regulation in the *Gazette officielle du Québec* for the purposes of a 60-day consultation.”

4. Section 31 of the said Act is amended

(1) by inserting the following subparagraph after subparagraph *s* of the first paragraph:

“(t) determine the fees payable by the holder of an authorization, approval, certificate, permit, attestation or permission to cover the costs of control and monitoring measures, particularly the costs of inspecting facilities and examining information or documents provided to the Minister, the conditions of payment and the interest payable in case of non-payment, and exempt from payment of all or part of the fees, on the conditions the Minister determines, a holder who has set up an environmental management system that meets a recognized Québec, Canadian, or international standard.”;

(2) by adding the following paragraphs after the third paragraph:

“The fees determined under subparagraph *t* of the first paragraph are based on the nature of the holder’s activities, the characteristics of the facility, the nature, quantity and location of waste or stored, buried, processed or treated materials, and on the number of offences under a provision of this Act or a regulation made under it of which the holder has been convicted in a final judgment during the period determined by the Government, and the nature and seriousness of those offences. For the purposes of this subparagraph, a person or municipality that was carrying on an activity referred to in this Act when the provisions of this Act or a regulation made under it for the purpose of requiring an authorization, approval, certificate, permit, attestation or permission were made applicable to that activity is considered to be a holder.

The first regulation made under subparagraph *t* of the first paragraph must be examined by the competent committee of the National Assembly before it is approved by the Government.

The amounts collected under subparagraph *t* of the first paragraph are paid into a green fund set up for that purpose.”

5. Section 31.0.1 of the said Act, enacted by section 3 of chapter 53 of the statutes of 2002, is amended

(1) by striking out “depollution” in the second line of subparagraph 1 of the first paragraph;

(2) by striking out subparagraph 2 of the first paragraph;

(3) by inserting “, the characteristics of the enterprise or establishment, in particular its size,” after “contamination” in the second line of the second paragraph;

(4) by adding “as well as the interest payable in case of non-payment” at the end of the third paragraph.

6. Section 31.53 of the said Act is amended by replacing “land on the site of an industrial or commercial activity of a category designated by regulation of the Government” in the first and second lines of the first paragraph by “land where an industrial or commercial activity of a category designated by regulation of the Government has been carried on”.

7. Section 53.31.3 of the said Act is amended by replacing “maximum percentage” in the first line of the third paragraph by “maximum amount”.

8. Section 109 of the said Act, amended by section 14 of chapter 53 of the statutes of 2002, is again amended by striking out “2 or” in the second line of the second paragraph.

9. The said Act is amended by inserting the following section after section 114.2:

“**114.3.** The Minister may claim the direct and indirect costs of issuing an order under this Act, in the same manner as any debt owing to the Government may be claimed, from the person or municipality to whom the order applies.

If the order applies to more than one person or municipality, the debtors are jointly and severally liable.

If the order issued by the Minister is contested before the Administrative Tribunal of Québec, the claim is suspended until the Tribunal confirms all or part of the order.”

10. The said Act is amended by inserting the following section after section 115:

“**115.0.1.** When contaminants are, could be or could be prevented from being emitted, deposited, discharged or ejected into the environment, the

Minister may claim from a person or municipality the costs of any intervention by the Minister to avert or diminish the risk of damage to public or private property, human beings, wildlife, vegetation or the general environment.

The first paragraph refers to a person or municipality that has custody or control of a contaminant or that had custody or control of it when the emission, deposit, discharge or issuance into the environment occurred, or that is responsible for the occurrence.

The Minister may intervene in any situation referred to in the first paragraph until the situation is corrected.

The Minister may claim the direct and indirect costs related to the Minister's interventions, in the same manner as any debt owing to the Government may be claimed, from a person or municipality referred to in the first paragraph, whether or not that person or municipality was prosecuted for an offence under this Act. If there is more than one debtor, they are jointly and severally liable."

11. Section 116.1 of the said Act is amended by striking out the second paragraph.

12. The said Act is amended by inserting the following section after section 116.1:

"116.1.1. 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, shall be included in the cost of the proceedings.

A regulation made under this section is preceded by the publication of a draft regulation in the *Gazette officielle du Québec* for the purposes of a 60-day consultation."

13. This Act comes into force on 14 December 2004, except sections 11 and 12, which come into force on 1 October 2005.