

Regulations and other Acts

Gouvernement du Québec

O.C. 705-2010, 18 August 2010

An Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1)

Sale, lease and granting of immovable rights on lands in the domain of the State — Amendments

Regulation to amend the Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State

WHEREAS, under subparagraph 3 of the first paragraph of section 71 of the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1), the Government may, by regulation, determine the general conditions and the rules for computing the prices, rentals, fees or other costs regarding sales, leases, exchanges, gratuitous transfers, occupation licences and the granting of any other right;

WHEREAS, under the second paragraph of that section, regulations made under subparagraph 3 of the first paragraph may prescribe different conditions, prices and fees according to the categories of users and the zones or territories indicated by the Government;

WHEREAS the Government made the Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State (R.R.Q., c. T-8.1, r. 7) by Order in Council 231-89 dated 22 February 1989;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State was published in Part 2 of the *Gazette officielle du Québec* of 28 April 2010 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to change the date of coming into force of the draft Regulation from 1 September 2010 to 1 October 2010;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Natural Resources and Wildlife and the Minister for Natural Resources and Wildlife:

THAT the Regulation to amend the Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State

An Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1, s. 71, 1st par., subpars. 3 and 11)

1. The Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State (R.R.Q., c. T-8.1, r. 7) is amended in section 2 by replacing “a substitute price” in the first paragraph by “a different price or rent”.

2. Section 3 is amended

(1) by inserting “, fees” after “rents”;

(2) by striking out “and rounded off to the nearest dollar”;

(3) by adding the following at the end:

“Those amounts are then increased to the nearest dollar if they contain a fraction of a dollar equal to or greater than \$0.50 or reduced to the nearest dollar if they contain a fraction of a dollar less than \$0.50, except for the prices and rents per square metre indicated to in sections 5, 8, 12 and 16 of Schedule I.”.

3. Section 5 is amended by replacing “or the striking out or alteration of a restrictive clause registered in the letters patent or a deed of sale” in the first paragraph by “, a waiver of a restrictive clause appearing in letters patent or a deed of sale, an amendment to such a clause” and by replacing “4” by “3”.

4. Section 6 is amended by replacing “fees for registration in the registry office of the registration division” in the first paragraph by “fees respecting land registration”.

5. Section 7 is replaced by the following:

“7. Subject to sections 8 and 9, if more than one person wishes to purchase or lease the same land, the Minister sells it to the highest bidder or leases it to the first applicant.

However, in the case of land intended for commercial or industrial purposes, priority for sale or lease must be given to the person who demonstrates that the repercussions of the project are the most positive from a sustainable development perspective, particularly with regard to the environmental, social and economic aspects.”.

6. Section 8 is amended by replacing “an individual” by “another person”.

7. Section 12 is replaced by the following:

“12. Where land is offered as part of a cottage development project carried out by the Minister, the Minister is to publish the conditions of land sale or lease on the website of the Ministère des Ressources naturelles et de la Faune or in a local publication and indicate, as the case may be, whether the land will be awarded by drawing lots or to the first applicant.”.

8. Section 13 is revoked.

9. Section 14 is replaced by the following:

“14. A person may not purchase or lease more than one parcel of land offered for building cottages in one or more administrative regions by drawing lots.”.

10. Section 16 is amended by replacing “free” in the second paragraph by “without membership in a private club, association or interest group being required to engage in the activity, free of charge” after “category of citizens”.

11. Section 18 is amended by replacing “issue a certificate” by “make a promise” and by striking out “, prior to the issue of letters patent,”.

12. Section 20 is amended

(1) by inserting “or one of its mandataries” in the first paragraph after “Québec”;

(2) by adding the following paragraph:

“The deed may also contain a clause establishing a servitude for flood, erosion, water infiltration and ice backup resulting from the operation or construction of a dam.”.

13. The first paragraph of section 21 is replaced by the following:

“The annual rent for land or buildings must be 6% of their market value. However, the rent may not be lower than the minimum rent fixed in section 7 of Schedule I.”.

14. Section 22 is amended by striking out “or, where a lease is renewed, lower than \$200 or lower than the amount of the rent where the rent stipulated in the lease being renewed is lower than \$200”.

15. Section 23 is amended

(1) by replacing “longer than 4 years” by “5 years or more”;

(2) by replacing “4” wherever it appears by “5”.

16. Section 25 is amended by replacing the third paragraph by the following:

“In this section, “rough shelter” means a building or a work used as a shelter, without dependencies other than a privy, without electricity or running water, without a permanent foundation, having only one storey and having a floor area not exceeding 20 m², except in the administrative region of Abitibi-Témiscamingue, as defined by Décret concernant la révision des limites des régions administratives du Québec (R.R.Q., c. D-11, r. 1), where the floor area must not exceed 30 m².”.

17. Section 26 is replaced by the following:

“26. A lease must indicate its term and the purpose for which it is granted. It may include a clause providing for the granting, by the Minister, of a right of superficies in favour of the lessee. A lease is renewable, unless otherwise stipulated.

The lessee may not use the land for a purpose other than that stated in the lease.

At the time of the transfer by the lessee of the lessee’s rights in the lease or the alienation of the buildings and facilities erected on the leased land, a new lease must be entered into between the Minister and the purchaser. In either case, the lessee must inform the Minister.

26.1. The construction of an access road to the leased land must be authorized by the Minister and carried out by the lessee at the lessee's own expense.

The lessee must grant without charge a right of way for pedestrians and motorists at the place indicated by the Minister to any person who demonstrates to the Minister the need for a right of way.

26.2. The lease may contain the following clause:

The Gouvernement du Québec or one of its mandataries may not be in any way held responsible for damage that might be incurred by the lessee as a result of the construction, maintenance, reconstruction or demolition of any dam or any work related to a dam built, maintained, reconstructed or demolished, in accordance with the standards or requirements fixed by the departments involved, and that the Government has considered expedient to authorize or carry out in the public interest.”.

18. Section 27 is amended

(1) by adding “At the Minister’s request,” at the beginning;

(2) by replacing “shall submit for approval by the Minister” by “must submit to the Minister”.

19. Section 28.1 is amended

(1) by replacing “market value” in subparagraph 3 of the first paragraph by “reference value for the year concerned”;

(2) by replacing “\$200” in the second paragraph by “the minimum rent fixed in section 7 of Schedule I”;

(3) by replacing “market value” in subparagraph 2 of the second paragraph by “reference value for the year concerned”;

(4) by replacing subparagraph 3 of the second paragraph by the following:

“(3) the result is multiplied by the square root of the ratio obtained by dividing the area of the leased land in square metres by 4,000 square metres, then by 6%”.

20. Section 28.3 is amended

(1) by replacing “market value” in the first paragraph by “reference value for the year concerned”;

(2) by striking out “and the 100-rated market value is fixed at \$4,200” in the second paragraph.

21. Section 28.4 is amended by replacing “of \$200” in the first paragraph by “fixed in section 7 of Schedule I”.

22. Section 28.5 is replaced by the following:

“**28.5.** The reference values, corresponding to land rated 100 and appearing opposite the urban poles listed in section 17 of Schedule I, are revised every 5 years as of 1 November 2010.”.

23. The following is inserted after section 29:

“**29.1.** The lessee of land for building cottages, awarded by the Minister by drawing lots after 1 October 2010, may not transfer his or her rights in the lease for 5 years following the date of the first lease. The prohibition does not apply if

(1) the lessee has constructed a building of a minimum value of \$10,000 on the leased land;

(2) the building on the leased land was sold by judicial sale, for non-payment of taxes or for the exercise of a hypothecary right; or

(3) the transfer is made in favour of the lessee’s legal or *de facto* spouse, father, mother, brother, sister or child, or following the lessee’s death.”.

24. Section 34 is amended

(1) by striking out “commercial” in the French version;

(2) by adding the following paragraph:

“A board whose dimension does not exceed 1 m² and used solely to indicate a distance or direction is not a billboard for the purposes of this section.”.

25. The following is inserted after section 35:

“§5. *Leases for complementary or accessory purposes*

35.1. Where land leased as a complement or accessory to a main use does not exceed 1,000 m², the minimum rent is the rent fixed in section 7 of Schedule I.

§6. *Market rental value*

35.2. The Minister may lease land for the installation of telecommunication towers, power transforming stations, wind measurement masts or meteorological instruments on the basis of the market rental value determined by generally recognized techniques of property assessment. The minimum rent is that fixed in section 7 of Schedule I.”.

26. Section 36 is amended

(1) by striking out the last sentence of the first paragraph;

(2) by striking out the second paragraph.

27. Division VI is revoked.

28. The heading of Division VII and section 39 are replaced by the following:

**“DIVISION VII
SPECIAL CONDITIONS APPLYING TO THE SALE
OR LEASE OF LAND FOR COMMERCIAL OR
INDUSTRIAL PURPOSES**

39. A person wishing to purchase or lease land for commercial or industrial purposes must submit a written application to the Minister, along with a business plan for the person’s project and any other document or information that demonstrates the project’s socio-economic repercussions, repercussions in terms of sustainable development, and viability. The administration fees payable are those provided for in paragraph 1 of section 3 of Schedule I.

Despite the second paragraph of section 7, an application by a person whose business plan is deemed acceptable by the Minister has precedence over any subsequent application pertaining to the same land. However, the fact that a project is deemed acceptable does not oblige the Minister to sell or lease the land.

The contract of sale or lease of land may contain conditions, particularly as regards the investments to be made, land surveying, compliance with the business plan, as well as any related resolutive clause.”.

29. The following sentence is added at the end of the second paragraph of section 40: “Such a sale is not subject to the payment of the administration fees provided for in section 5.”.

30. Sections 41 and 42 are revoked.

31. Section 44 is replaced by the following:

“**44.** The fees for the notarial deed and the administration fees mentioned in section 5 are to be borne by the person who proposed the exchange.”.

32. Subdivision 3 of Division IX is replaced by the following:

“**§3. Authorizations**

46. The Minister may authorize the construction of a road other than a forest or mining road, a parking, a rest area without service or an access road making possible the launching of a boat. The authorization may not exceed 1 year.

46.1. The Minister may authorize the installation of piping, a telecommunication line or a power distribution line. The administration fees payable are those set out in paragraph 1 of section 3 of Schedule I. The authorization may not exceed one year.

46.2. The Minister may authorize the construction, layout, maintenance and operation of a recreational trail for a maximum period of 10 years. The administration fees payable are those set out in paragraph 1 of section 3 of Schedule I. The authorization may be renewed.”.

33. Section 1 of Schedule I is amended by replacing “or the striking out or alteration of a restrictive clause registered in the letters patent or in a deed of sale” by “, a waiver of a restrictive clause appearing in letters patent or a deed of sale or a deed to amend such a clause”.

34. Section 2 of Schedule I is amended by replacing “200” by “300”.

35. Paragraphs 1 to 5 of section 3 of Schedule I are replaced by the following:

“(1) \$300 for the lease of a parcel of land, the signing of a new lease following a change of purpose of the leased land, an exchange of lands, the establishment of a servitude, a waiver of a restrictive clause or an amendment to it, a quittance or release, the Minister’s authorization to alienate, the examination of an application referred to in section 39 and for the authorization provided for in section 46.1 or 46.2;

(2) \$100 for the signing of a new lease following the alienation of the buildings and facilities by the lessee or of the lessee’s rights in the lease, for an application from the lessee to have the leasing conditions changed for the same land and purposes, or for the renewal of a lease;

(3) \$25 for registration for a drawing of lots;

(4) \$700 for the sale or lease of land on which work has been carried out by the Minister for that purpose as part of a cottage development project.

No fees may be charged for a change of address or an amendment to the lease at the Minister's request.”.

36. Section 4 of Schedule I is revoked.

37. Section 5 of Schedule I is amended by replacing “0.46” by “0.75” and “50” by “260”.

38. Section 6 of Schedule I is amended by replacing “250” by “400”.

39. Schedule 7 of Schedule I is replaced by the following:

“7. The minimum rent mentioned in sections 21, 28.1, 28.4 and 35.2 is \$260, except to lease land not exceeding 1,000 m² as a complement or an accessory to a main use, in which case the minimum rent is \$100.”.

40. Section 8 of Schedule I is amended by replacing

(1) “0.0481” by “0.06”;

(2) “65” by “260”;

(3) “52” by “80”.

41. Section 9 of Schedule I is amended by replacing “50” by “100”.

42. Section 10 of Schedule I is amended by replacing “\$50” by “\$100, except for the Abitibi-Témiscamingue administrative region, as defined by Décret concernant la révision des limites des régions administratives du Québec (R.R.Q., D-11, r. 1), where the annual rent is \$150.”.

43. Section 11 of Schedule I is amended by replacing “150” by “260”.

44. Section 12 of Schedule I is amended by replacing “0.0057” by “0.009”.

45. Section 13 of Schedule I is amended by replacing

(1) “10” by “11”;

(2) “30” by “50”.

46. Sections 14 and 15 of Schedule I are revoked.

47. Section 16 of Schedule I is amended by replacing

(1) “0.02” by “0.03”;

(2) “200” by “300”.

48. Section 17 of Schedule I is replaced by the following:

“17. For the purposes of section 28.1, the urban poles and reference values of land rated 100 according to the corresponding years are as follows:

Urban poles	100-rated reference value on 1 October 2010	100-rated reference value on 1 October 2011	100-rated reference value on 1 October 2012
Municipalité de Chénéville	\$13,300	\$15,200	\$17,000
Municipalité de Fort-Coulonge	\$8,400	\$11,200	\$14,000
Municipalité de La Pêche	\$12,000	\$16,000	\$20,000
Municipalité de Saint-Alexis-des-Monts	\$11,700	\$17,500	\$23,200
Municipalité de Sainte-Thècle	\$10,700	\$15,300	\$20,000
Municipalité de Saint-Michel-des-Saints	\$6,700	\$7,900	\$9,000
Municipalité de Val-des-Monts	\$24,700	\$28,300	\$32,000
Municipalité des Îles-de-la-Madeleine	\$7,800	\$11,400	\$15,000
Municipalité Les Escoumins	\$3,200	\$3,600	\$4,000
Ville d'Alma	\$5,300	\$6,200	\$7,200
Ville d'Amos	\$6,000	\$8,000	\$10,000
Ville d'Amqui	\$4,100	\$5,300	\$6,400
Ville de Baie-Comeau	\$4,100	\$5,100	\$6,000
Ville de Cabano	\$7,300	\$10,500	\$13,800
Ville de Carleton	\$2,600	\$3,000	\$3,400
Ville de Chandler	\$3,700	\$4,300	\$5,000
Ville de Chibougamau	\$4,900	\$5,900	\$7,000
Ville de Forestville	\$2,900	\$3,400	\$4,000
Ville de Gaspé	\$3,700	\$4,300	\$5,000
Ville de La Malbaie	\$6,700	\$7,900	\$9,000
Ville de La Pocatière	\$6,000	\$7,200	\$8,400
Ville de La Sarre	\$4,800	\$6,400	\$8,000
Ville de La Tuque	\$9,000	\$13,000	\$17,000
Ville de Maniwaki	\$11,000	\$15,800	\$20,700

Urban poles	100-rated reference value on 1 October 2010	100-rated reference value on 1 October 2011	100-rated reference value on 1 October 2012
Ville de Matagami	\$3,600	\$3,800	\$4,000
Ville de Matane	\$6,000	\$7,000	\$8,000
Ville de Mont-Laurier	\$7,400	\$10,000	\$12,600
Ville de Montmagny	\$12,000	\$13,000	\$14,000
Ville de Paspébiac	\$1,500	\$1,800	\$2,000
Ville de Port-Cartier	\$2,100	\$2,300	\$2,400
Ville de Rimouski	\$6,100	\$7,100	\$8,000
Ville de Rivière-du-Loup	\$8,300	\$10,900	\$13,600
Ville de Rivière-Rouge	\$9,000	\$11,500	\$14,000
Ville de Roberval	\$5,300	\$6,200	\$7,200
Ville de Rouyn-Noranda	\$6,100	\$7,600	\$9,000
Ville de Saguenay (sector Chicoutimi)	\$5,900	\$6,900	\$8,000
Ville de Saguenay (sector La Baie)	\$5,700	\$6,900	\$8,000
Ville de Saint-Félicien	\$5,100	\$6,200	\$7,200
Ville de Saint-Georges	\$7,300	\$8,100	\$9,000
Ville de Saint-Raymond	\$8,100	\$10,100	\$12,000
Ville de Senneterre	\$5,900	\$7,700	\$9,600
Ville de Sept-Îles	\$1,900	\$2,100	\$2,400
Ville de Saint-Côme	\$7,300	\$9,700	\$12,000
Ville de Saint-Donat	\$14,300	\$17,500	\$20,800
Ville de Sainte-Anne-des-Monts	\$2,500	\$2,800	\$3,000
Ville de Saint-Jovite	\$13,300	\$15,700	\$18,000
Ville de Témiscaming	\$5,500	\$6,800	\$8,000
Ville de Val-d'Or	\$7,100	\$9,500	\$12,000
Ville de Ville-Marie	\$4,900	\$5,700	\$6,400

49. For the purposes of applying the conservation plan of a biodiversity reserve or aquatic reserve, proposed or having permanent protection status, approved in accordance with the Natural Heritage Conservation Act (R.S.Q., c. C-61.01) before 1 October 2010, the new provisions introduced by section 16 of this Regulation are not amendments to the conditions of a lease entered into for the construction of a rough shelter in the forest renewed as of that date.

50. This Regulation comes into force on 1 October 2010.

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