



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 96

Ecological Reserves Act

Introduction

Introduced by
Mr Pierre Paradis
Minister of the Environment

Québec Official Publisher
1993

EXPLANATORY NOTES

Under this bill, which replaces the Act respecting ecological reserves, the Minister of the Environment is granted power to take the measures required to protect any lands in the public domain on which an ecological reserve is to be established and any private land acquired for the same purposes. The activities prohibited on such land are also specified.

The bill introduces a new process for the establishment of ecological reserves and sets out the conditions on which such reserves may be modified or revoked. In addition, it confirms the Minister's authority over public lands which fall within an ecological reserve.

The bill also contains new administrative and penal sanctions applicable to offences against the Act or its regulations, and a number of transitional provisions.

ACT REPLACED BY THIS BILL:

- Act respecting ecological reserves (R.S.Q., chapter R-26).

Bill 96

Ecological Reserves Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Lands in the public domain may be established as an ecological reserve by the Government where the Government considers it expedient for any of the following purposes:

(1) to conserve the lands in their natural state;

(2) to reserve the lands for scientific research and, where applicable, for education;

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

2. The establishment of an ecological reserve and any change to its boundaries or its abolition must respect the following formalities:

(1) the advice of the Conseil de la conservation et de l'environnement must be obtained, and, where the lands to be established as an ecological reserve are situated, in whole or in part, in a reserved area or in an agricultural zone established in accordance with the Act to preserve agricultural land (R.S.Q., chapter P-41.1), the advice of the Commission de protection du territoire agricole du Québec must be obtained;

(2) a notice briefly describing the proposed reserve or, as the case may be, the proposed change or abolition and stating that any interested party may, within 30 days, communicate to the Minister of the Environment his point of view on the subject must be published in the *Gazette officielle du Québec* and in a newspaper circulated in the region concerned or, failing that, in a newspaper circulated in the nearest region.

3. Any order made pursuant to sections 1 and 2 comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

4. The Minister of the Environment, in cooperation with the Minister of Energy and Resources, the Minister of Recreation, Fish and Game, the Minister of Forests and any other minister to whom authority over lands in the public domain has been transferred pursuant to the Act respecting the lands in the public domain (R.S.Q., chapter T-8.1), may draw up a plan of the proposed ecological reserve with a view to protecting the lands in the public domain on which he intends to propose the establishment of the reserve. A notice of the plan shall be published in the *Gazette officielle du Québec*; it shall briefly describe the location of the project and state that a copy of the plan may be obtained upon payment of the costs.

A copy of the plan shall be sent

(1) to every minister who participated in the drawing up of the plan. Immediately upon receiving a copy, the Minister of Energy and Resources shall enter it in the land use plan prepared in accordance with section 21 of the Act respecting the lands in the public domain;

(2) to the regional county municipality and the local municipality whose territory is covered by the plan.

The Minister of the Environment may, on the same conditions, modify the plan, replace it or revoke it.

5. The Minister may acquire any property he considers necessary for the establishment of an ecological reserve or for its enlargement, use or management, either by agreement if he is authorized by the Government on the conditions fixed by the Government, or by expropriation in accordance with the Expropriation Act (R.S.Q., chapter E-24).

6. Unless authorized by the Minister in writing and on the conditions he fixes, the following activities are prohibited on lands in the public domain included in a plan in respect of which a notice has been published in accordance with section 4: activities relating to mining, gas or petroleum exploration and development, brine and underground reservoir exploration activities, prospecting, digging or boring where such activities necessitate stripping, the digging of trenches, excavation or deforestation, forest management activities, earthwork and construction activities, agricultural, industrial or commercial activities and any other activity which the Government may prohibit by regulation.

The activities mentioned in the previous paragraph and the activities prohibited under section 69 of the Expropriation Act are prohibited on all private land subject to a reserve for public purposes established by the Minister of the Environment under Title III of the Expropriation Act.

7. In addition to the activities mentioned in section 6, the following activities are prohibited in ecological reserves: hunting, trapping, fishing, any activity relating to mining, gas or petroleum exploration and development, any brine or underground reservoir exploration activity, any prospecting, digging or boring and, generally, any activity likely to alter the state or nature of ecosystems.

However, the Minister may authorize, in writing and on the conditions he determines, any activity consistent with the purposes set out in section 1 or with the management of ecological reserves.

The application for authorization must contain the information and documents required by the Minister. The Minister shall, before issuing an authorization, take into account, in particular, the nature and objectives of the proposed activity, its impact on living organisms and ecosystems and, where applicable, any protection measures required. The holder of an authorization granted for the purposes of scientific research shall submit to the Minister a final activity report and, where the activities extend over a period of more than one year, an annual report.

The Government may regulate the conditions on which any activity consistent with the purposes set out in section 1 or with the management of ecological reserves may be carried on, in particular, by fixing the fees payable.

8. No person may be in an ecological reserve, except for an inspection or for the carrying on of an activity authorized under law.

9. The Minister may suspend or revoke every authorization he has granted

(1) where the holder of the authorization does not comply with the conditions fixed by the Minister or with the regulatory standards made pursuant to this Act;

(2) where the authorization was granted on the basis of erroneous or false information;

(3) where the measure has become necessary to ensure the protection of the ecological reserve.

The Minister shall first give the interested party the opportunity to be heard, except in the case of an emergency.

10. The lands in the public domain established as an ecological reserve come under the authority of the Minister.

11. The Minister may

(1) entrust, on the conditions he determines, the carrying on of activities consistent with the purposes set out in section 1 or with the management of ecological reserves to any natural person or legal person established in the public interest or for a private interest, and to any association;

(2) enter into agreements with any person or association referred to above with a view to ensuring the protection of property susceptible of being acquired under section 5;

(3) accept any gift or legacy of property which is of interest in relation to the purposes of this Act.

12. The Minister may appoint inspectors entrusted with verifying the enforcement of the provisions of this Act and of the regulations thereunder, in particular, to see to the supervision of ecological reserves.

Every inspector shall, on request, show the certificate issued by the Minister attesting to the inspector's capacity.

13. Every person carrying on an activity on lands in the public domain or on private land referred to in section 6, or being in an ecological reserve shall, at the request of an inspector, show any authorization required under this Act.

14. Every inspector may, in performing his duties, seize any thing

(1) that could constitute proof of an offence against this Act or its regulations;

(2) the possession of which constitutes an offence against this Act and the regulations made under this Act;

(3) obtained directly or indirectly by the commission of an offence against this Act or its regulations.

The provisions of the Code of Penal Procedure (R.S.Q., chapter C-25.1) applicable to the seizure of things during a search apply to seizures made under this section.

15. Every person is liable to a fine of \$500 to \$20 000 where that person, on lands in the public domain or on private land referred to in section 6, or in an ecological reserve,

(1) carries on an activity prohibited by this Act or its regulations;

(2) contravenes, in carrying on an authorized activity, the conditions fixed by the Minister or the regulatory standards made pursuant to this Act.

16. Every person who is in an ecological reserve without authorization is liable to a fine of \$50 to \$500.

Every person who hinders an inspector in the performance of his duties, in particular, by refusing to comply with an order given under section 13, is liable to the same fine.

17. In the case of a second or subsequent offence, the fines set out in sections 15 and 16 are doubled.

18. Where a court finds a person guilty of an offence against this Act or its regulations, the court may, to the extent that the person has been given prior notice by the prosecutor of the application for an order, order the offender to take every necessary measure to restore the premises to the state they were in prior to commission of the offence, at the offender's expense and within the time fixed.

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

If the premises cannot be restored to that state, the court may, at the request of the prosecutor, impose an additional fine set on the basis of the extent of damage caused to the premises.

19. This Act binds the Government and its departments and bodies.

20. This Act replaces the Act respecting ecological reserves (R.S.Q., chapter R-26).

21. Ecological reserves established before (*insert here the date of coming into force of this Act*) are maintained and are governed by this Act.

22. In every statute and statutory instrument made thereunder, any reference to the former Act respecting ecological reserves or to any of its provisions becomes a reference to this Act or to its corresponding provisions.

23. The Minister of the Environment is entrusted with the application of this Act.

24. The powers conferred upon peace officers by Chapter II of the Code of Penal Procedure and the duties imposed on them by the same chapter are also conferred upon every inspector entrusted with the enforcement of this Act and its regulations.

Notwithstanding the foregoing, an inspector

(1) may not, under article 75 of the Code, arrest a person committing an offence against this Act or its regulations unless the offence is likely to endanger the life or health of persons, their safety or the safety of property;

(2) may not, under article 76 of the Code, require security;

(3) shall, as soon as possible when he arrests a person, place the person in the custody of a peace officer, except in the case provided for in article 88 of the said Code, if the inspector was unable to release the person from custody in accordance with article 74 or 75 of the Code.

This section ceases to have effect on the date of coming into force of article 87 of the aforementioned Code.

25. This Act comes into force on (*insert here the date corresponding to the thirtieth day following the day on which this Act is assented to*).