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AN ACT TO AMEND THE ACT RESPECTING THE LANDS IN THE PUBLIC DOMAIN

Bill 131

Introduced by Madam Lise Bacon, Minister of Energy and Resources

Introduced 24 April 1991

Passage in principle 10 December 1991

Passage 10 December 1991

Assented to 12 December 1991

Coming into force: 12 December 1991

Act amended:

Act respecting the lands in the public domain (R.S.Q., chapter T-8.1)



CHAPTER 52

An Act to amend the Act respecting the lands in the public domain

[Assented to 12 December 1991]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. T-8.1,
s. 7, am. **1.** Section 7 of the Act respecting the lands in the public domain (R.S.Q., chapter T-8.1) is amended by striking out the words “under section 6” in the second line.

c. T-8.1,
s. 8, am. **2.** Section 8 of the said Act is amended by inserting the words “or management” after the word “authority” in the second line.

c. T-8.1,
s. 9, am. **3.** Section 9 of the said Act is amended by replacing the words “set out in an order under section 8” in the first and second lines by the words “for which its management was transferred”.

c. T-8.1,
s. 13.1,
added **4.** The said Act is amended by inserting, after section 13, the following section:

Applicable
provisions **“13.1** Sections 7 and 9 and the second paragraph of section 10 also apply to transfers of authority or management effected before 27 May 1987.”

c. T-8.1,
s. 38, am. **5.** Section 38 of the said Act is amended by replacing the first paragraph by the following paragraph:

Irrevocabil-
ity of
transfer **“38.** At the end of a period of thirty years from the date of the letters patent, the conditions and restrictions attached to a gratuitous transfer cease to apply, and the transfer becomes irrevocable.”

c. T-8.1,
s. 39,
replaced **6.** Section 39 of the said Act is replaced by the following section:

Purpose
of use

“39. The holder of the letters patent must inform the Minister if he wishes to use the transferred land for a purpose other than that specified in the letters patent.”

c. T-8.1,
s. 40, am.

7. Section 40 of the said Act is amended by adding, at the end, the following paragraph:

Purpose not
prescribed

“In the case of a purpose not so prescribed, the Minister may require that the land be retroceded to him on the conditions he determines or, at the request of the holder, he may amend or waive the purpose clause on the same conditions and at the same price as those determined by regulation under section 34.”

c. T-8.1,
s. 44, am.

8. Section 44 of the said Act is amended

(1) by adding the words “or “to the assigns of (*name of the original purchaser*)” ” at the end of the first paragraph;

(2) by inserting the words “or “assigns” ” after the word “representatives” ” in the first line of the second paragraph.

c. T-8.1,
ss. 45.1,
45.2 and
45.3,
replaced
Devolution
of reserve

9. Sections 45.1, 45.2 and 45.3 of the said Act are replaced by the following sections:

“45.1 The reserve resulting from the application of the first three paragraphs of section 45 and forming part of the public domain on 17 December 1987 shall, from the date of the letters patent or the notarial deed, devolve free of charge and in full ownership to the holder of the letters patent or notarial deed to whom the land has been sold or transferred, or to his assigns. It is deemed to form part of the private domain from that date.

Rules

The rules of private law apply from that date for establishing rights in the reserve, including prescription.

Devolution
of reserve

The devolution provided for in the first paragraph does not entail the transfer of ownership of the beds of non-navigable rivers and lakes or of the islands therein. Furthermore, the devolution shall not give entitlement to any reimbursement of the sums of money collected by the Minister pursuant to the Lands and Forests Act (R.S.Q., chapter T-9) or this Act.

Applicable
provisions

Section 30.2 of the Act respecting agricultural lands in the public domain (R.S.Q., chapter T-7.1) applies to the reserve where the letters patent or notarial deed have been issued or drawn up under the said Act.

Applicable
provisions

“45.1.1 Section 45.1 also applies

(1) where, in the letters patent or notarial deed, the reserve has been expressly withdrawn or excluded from the land which is sold or transferred;

(2) where the description of the land in the letters patent or notarial deed did not include the description of the reserve;

(3) where the reserve is the subject of an attestation of devolution issued by the Minister before 12 December 1991.

Lands in
public
domain

“45.2 Notwithstanding section 45.1, the following lands shall remain in the public domain:

(1) all or that part of a reserve which is under the authority or management of another Minister or a public body;

(2) a forest road within the meaning of the Forest Act (R.S.Q., chapter F-4.1) or a mining road within the meaning of the Mining Act (R.S.Q., chapter M-13.1);

(3) roads used for public purposes on 17 December 1987, the ownership of which has not, under section 45.1, devolved to a department, a public body or a municipality, and which have not been the subject of a title or a transfer of authority or management granted by the Minister before 12 December 1991;

(4) any reserve or that part of it which has been the subject of a lease, still in force on 12 December 1991, granted under the Lands and Forests Act (R.S.Q., chapter T-9) or under this Act in favour of a person other than the holder of the letters patent or notarial deed, or his assigns.

Rights of
lessee

In the cases contemplated in subparagraph 4 of the first paragraph, the lessee retains the right to renew the lease once, for the same term, which may not exceed ten years and he may acquire the leased land before the date of expiry of the lease, in accordance with section 34 or section 37. If he does not acquire the leased land before the date of expiry of the lease, the retroactive devolution provided for in section 45.1 applies to the land from the date of expiry of the lease.

Reserve in
public
domain

“45.2.1 Any reserve affecting land referred to in Schedule I shall also remain in the public domain.

Registration
of notice

A notice containing the description of the reserve or that part of it which is retained for purposes in the public interest, made according to law, must be registered by the Minister, not later than 12 December 1993, in the registry office of the registration division

in which the immovable is situated. Registration is effected by deposit, free of charge. In a territory under cadastral survey, the notice is entered in the index of immovables.

Applicable provisions

From the date of registration, section 45.1 shall apply to the reserve or that part of it which is not affected by the notice. If no notice has been registered within the period prescribed in the second paragraph, section 45.1 shall apply to the whole reserve.

Registration of notice

The Minister may also, on the same conditions, register a notice to exempt a land from the application of the first paragraph; from the date of registration, section 45.1 applies to the reserve or that part of it which is affected by the notice.

Exception

“45.2.2 Section 45.1 does not apply

(1) to a reserve or that part of a reserve resulting from a sale, a transfer or a waiver by the Minister that occurred before 12 December 1991;

(2) to a reserve or that part of a reserve which, on 12 December 1991, is the subject of an offer of sale or transfer by the Minister in favour of a person other than the holder of the letters patent or notarial deed or his assigns, if the offer is accepted before the date on which it expires.

Devolution

“45.3 The devolution provided for in section 45.1 is subject

(1) to the right to use or occupy the reserve under a title, servitude, authorization or permit granted or issued pursuant to an Act, a decree or an order;

(2) to uses for public purposes by a department, a public body or a municipality, where such uses exist on 17 December 1987 and are still exercised on 12 December 1991, in cases where no title, servitude, permit, authorization or transfer of authority or management has been granted by the Minister.

Right to use or occupy a reserve

No right contemplated in the first paragraph nor the exercise of such a right may in any case render the beneficiary of the devolution and his assigns liable towards the holder of the rights or towards third persons.”

c. T-8.1,
s. 45.4, am.

10. Section 45.4 of the said Act is amended by replacing the words “to a pedestrian right of way, in favour of the public, over a

strip of land 10 metres in depth from the edge of the river” in the third, fourth and fifth lines of the first paragraph by the words “, without compensation, to the right of any member of the public to go on foot along the bank of a river, over a strip of land 10 metres in depth from the bank, and stop for the purpose of fishing”.

c. T-8.1,
s. 45.5, am.

11. Section 45.5 of the said Act is amended by replacing the words “in the cases provided for in the second paragraph of section 45.1” in the fourth and fifth lines of the second paragraph by the words “where letters patent are issued in respect of a land pursuant to Division IV of Chapter III of the Act respecting agricultural lands in the public domain (R.S.Q., chapter T-7.1) after 17 December 1987”.

c. T-8.1,
s. 45.6,
repealed

12. Section 45.6 of the said Act is repealed.

c. T-8.1,
s. 71, am.

13. Section 71 of the said Act is amended by striking out the words “, any attestation issued pursuant to section 45.6” in the third and fourth lines of subparagraph 3 of the first paragraph.

c. T-8.1,
Sched.I,
am.

14. Schedule I to the said Act is amended

(1) by replacing the word and figures “45.2, paragraph 3” in the heading by the figure “45.2.1”;

(2) by replacing, in the list of lands,

(a) the lines

“De Calonne

Caché
IV

2 to 4
22”

by the line

“De Calonne

IV

22”;

(b) the lines

“Marston

VI
X

22 (east bank)
7”

by the line

“Marston

VI

22 (east bank);

(3) by striking out the lines

“Arundel

V
VI
VII

21
24
23

Forsyth	V	4
La Minerve	IX	15 and 16
Mékinac	III	20
Montigny	N. Ch. Chapleau	33
Rochon	VII	27”.

c. T-8.1,
Sched. II,
am.

15. Schedule II to the said Act is amended by replacing, in the list of lands, the lines

“Marston	IX	17 and 18
	X	8 and 17 to 19”

by the lines		
“Marston	IX	17 and 18
	X	7, 8 and 17 to 19”.

Coming into
force

16. This Act comes into force on 12 December 1991.