

NATIONAL ASSEMBLY

FIRST SESSION

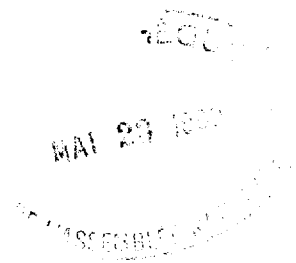
THIRTY-FOURTH LEGISLATURE

Bill 65

An Act to amend the Environment Quality Act

Introduction

**Introduced by
Mr Pierre Paradis
Minister of the Environment**



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EXPLANATORY NOTES

This bill amends the Environment Quality Act to empower the Minister of the Environment, where he has reason to believe that a contaminant is present in the environment, to order whoever is responsible for the contamination to furnish him with a characterization study and a programme of decontamination or restoration of the contaminated environment. Moreover, where the Minister ascertains the presence of a contaminant in the environment, he may issue an order directing whoever is responsible to recover, remove, collect or neutralize the contaminant and to decontaminate or restore the environment.

In addition, the bill provides that the Minister may, where he ascertains the presence of a contaminant in the soil, serve on the owner a notice stating that the soil is contaminated. After the registration of such a notice, the owner will be required to apply for the Minister's authorization and submit to him a characterization study and a programme of decontamination or restoration of the contaminated soil before he may undertake certain kinds of work. The Minister's authorization and the same documents will be required of whoever carries on an activity likely to contaminate the soil before he may undertake certain kinds of work.

Lastly, this bill contains a number of provisions making existing provisions of the Environment Quality Act applicable to these new measures with respect, in particular, to appeals, procedure and registration.

Bill 65

An Act to amend the Environment Quality Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 29 of the Environment Quality Act (R.S.Q., chapter Q-2), amended by chapter 49 of the statutes of 1988 and by chapter 4 of the statutes of 1990, is again amended by striking out the second paragraph.

2. Section 30 of the said Act is repealed.

3. Section 31 of the said Act is amended by striking out paragraphs *o*, *p*, *q* and *r*.

4. The said Act is amended by inserting, after section 31.41, the following division:

“DIVISION IV.2.1

“DECONTAMINATION AND RESTORATION

“§ 1.—*Decontamination and restoration of the environment*

“31.42 Where the Minister believes on reasonable grounds that a contaminant is present in the environment in a greater quantity or concentration than that established by regulation under paragraph *a* of section 31.51, he may order any person or municipality having emitted, deposited, released or discharged, even before (*insert here the date of assent to this Act*), all or some of the contaminant to furnish him with a characterization study, a programme of decontamination or restoration of the environment describing the work proposed for the decontamination or restoration of the environment and a timetable for the execution of the work.

The order shall include a statement of the reasons invoked by the Minister and specify the time within which the documents must be furnished to him by the person or municipality. The order takes effect 16 days after its service or on any later date stated therein.

The Minister may approve the proposed decontamination or restoration work and the timetable for its execution, with or without amendment. The person or municipality shall at the request of the Minister provide him within the time he fixes, with any further information, research or study he may need to grant his approval.

The person or municipality shall execute the work in accordance with the timetable, as approved by the Minister.

“31.43 Where the Minister ascertains the presence of a contaminant in the environment in a greater quantity or concentration than that established by regulation under paragraph *a* of section 31.51, he may order any person or municipality having emitted, deposited, released or discharged, even before (*insert here the date of assent to this Act*), all or some of the contaminant to recover, remove, collect or neutralize it and to take any measure he specifies to decontaminate or restore the environment.

The order shall include a statement of the reasons invoked by the Minister, a description of the work ordered by the Minister and a timetable for its execution. The order takes effect 16 days after its service or on any later date stated therein.

“31.44 The Minister shall, before issuing either order, serve on the person or municipality concerned a notice of not less than 15 days setting out the reasons on which the order is based, the time within which the documents required under section 31.42 must be furnished to him or the work he will order under section 31.43 and the timetable for its execution, the date on which the order, if issued, is to take effect and the fact that representations may be made by the person or municipality concerned within the period of time specified in the notice.

The notice shall be accompanied with a copy of every analysis, study or other technical report taken into consideration by the Minister.

“31.45 The Minister shall transmit a copy of the order to the secretary-treasurer or clerk of the municipality where the contaminant has been found, who shall place the notice at the disposal of the public. In addition, the Minister shall transmit a copy of the order to any person having filed a sworn complaint with him in respect of the subject of the order.

The Minister shall publish the order in a daily newspaper having general circulation in the region where the contaminant has been found.

“§ 2.—*Decontamination and restoration of the soil*

“31.46 Where the Minister ascertains the presence of a contaminant in the soil in a greater quantity or concentration than that established by regulation under paragraph *a* of section 31.51, he may serve on the person or municipality that owns the soil a notice informing him or it of the presence of the contaminant.

“31.47 The notice shall include a statement of the reasons invoked by the Minister and the designation of the contaminated lot or part of a lot and shall state that representations may be made by the person or municipality concerned within the period of time he specifies in the notice and that the notice may be registered by the Minister at the registry office of the registration division in which the contaminated lot is located; the notice shall be accompanied with a copy of every analysis, study or other technical report taken into consideration by the Minister.

The notice takes effect 16 days after its service or on any later date specified therein by the Minister.

“31.48 After the expiry of the time granted to the person or municipality concerned to make representations, the Minister may register the notice by deposit in the registry office of the registration division where the contaminated soil is located. The registrar shall enter the notice in the index of immovables below the number of every lot or part of lot affected.

The Minister shall notify the person or municipality concerned and transmit a copy of the notice to the secretary-treasurer or clerk of the municipality where the contaminated soil has been found, who shall place the notice at the disposal of the public. The Minister shall, in addition, transmit a copy to any person having filed a sworn complaint with him in respect of the subject of the notice.

The Minister shall publish the notice in a daily newspaper having general circulation in the region where the contaminated soil is located.

“31.49 Any person or municipality that owns soil in respect of which the Minister has registered a notice served pursuant to section 31.48 must, before changing or altering the use of the soil, undertaking excavation or construction work or dismantling his or its equipment

or buildings apply for the authorization of the Minister and provide him with

- (1) a soil characterization study;
- (2) a programme of decontamination or restoration of the soil describing the decontamination or restoration work and a timetable for the execution of the work;
- (3) a description of the proposed change or alteration of the use of the soil or of the proposed excavation, construction or dismantlement work, as the case may be.

Similarly, any person or municipality that carries on an activity which, according to the regulations under paragraph *b* of section 31.51, contaminates the soil must apply for the authorization of the Minister and provide him with the documents mentioned in subparagraphs 1 and 2 of the first paragraph and with the description of the proposed dismantlement work before dismantling his or its equipment or buildings.

The Minister may approve the proposed decontamination or restoration work and the timetable with or without amendment.

In that case, the person or municipality shall execute the work in accordance with the timetable, as approved by the Minister.

The Minister may authorize a change or alteration of the use of the soil or excavation, construction or dismantlement work after he has ascertained that the decontamination or restoration work has been executed in accordance with the fourth paragraph.

The Minister may require of the person or municipality concerned any further information, research or study he may need to grant his authorization.

“31.50 Where the Minister ascertains that the contaminant found in the soil is in a lesser quantity or concentration than that established by regulation under paragraph *a* of section 31.51 and after he has notified the person or municipality that owns the soil, he shall request the cancellation of the notice by filing an application therefor with the registrar of the registry office of the registration division concerned.

The Minister shall give notice of the cancellation to the person or municipality that owns the soil in question and to the secretary-treasurer or clerk of the municipality where the soil is located, who shall place it at the disposal of the public.

The Minister shall publish a notice of the cancellation in a daily newspaper having general circulation in the region where the soil in question is located.

“§ 3.—*Regulatory powers*

“31.51 The Government may make regulations to

(a) establish the quantities or concentrations of contaminants in excess of which any element making up the environment is contaminated;

(b) determine the activities which contaminate the soil;

(c) prescribe modes of management for contaminated soil and, for that purpose, the manner in which contaminated soil treatment plants or burial sites must be operated and maintained as well as standards for the choice of the location of such plants and sites.”

5. Sections 40 and 63 of the said Act are repealed.

6. Section 96 of the said Act is amended by inserting the words “serves a notice under section 31.45,” before the word “fixes” in the third line of the second paragraph.

7. Section 106 of the said Act, amended by section 731 of chapter 4 of the statutes of 1990, is again amended by inserting the figure “31.49,” after the figure “31.1,” in the second line.

8. Section 106.1 of the said Act, amended by section 732 of chapter 4 of the statutes of 1990, is again amended

(1) by inserting the words and figures “, the fourth paragraph of section 31.42 or section 31.49” after the figure “20” in the first line;

(2) by replacing the figures “\$12 000” and “\$500 000” in the third line of paragraph *b* by the figures “\$500 000” and “\$1 000 000”, respectively.

9. Section 109 of the said Act is amended by adding, at the end, the following paragraph:

“A contravention of a provision of a regulation made under paragraph *a* or *b* of section 31.52 does not constitute an offence.”

10. Section 117 of the said Act is amended by inserting the words “to the presence of a contaminant in the environment or” after the word “attribute” in the first line.

11. Section 118.1 of the said Act is amended by inserting the figures “31.44, 31.45,” after the figure “25,” in the second line.

12. Section 118.2 of the said Act is replaced by the following section:

“118.2 Every order issued in respect of the owner of an immovable or every notice served on a person or municipality in application of section 31.46 may be registered against the immovable concerned. The order or notice may then be invoked against any acquirer whose title is registered subsequently and the obligations imposed on the former owner by the order or notice are binding upon that acquirer.”

13. The said Act is amended by inserting, after section 118.3, the following sections:

“118.3.1 Before issuing an order entailing expenditures for the municipality, the Minister shall consult the Minister of Municipal Affairs.

“118.3.2 Subject to Division VI of the Act respecting municipal debts and loans (R.S.Q., chapter D-7), no approval other than that of the Minister of Municipal Affairs is required where a municipality wishes to contract a loan to comply with

(1) an order issued by the Minister pursuant to section 25, 26, 27, 27.1, 29, 31.42, 31.43, 32.5, the second paragraph of section 34 or 35 or section 60;

(2) a decision rendered by the Minister under section 60.”

14. Section 118.4 of the said Act is amended by adding the words “or concerning the presence of a contaminant in the environment” at the end of the first paragraph.

15. Section 118.5 of the said Act, amended by section 29 of chapter 49 of the statutes of 1988, is again amended by adding, after subparagraph *l* of the first paragraph, the following subparagraphs:

“(m) all characterization studies and all programmes of decontamination or restoration required under section 31.42 or 31.49;

“(n) all notices served by the Minister pursuant to section 31.46.”

16. This Act comes into force on (*insert here the date of assent to this Act*).