



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 15

An Act to amend the Act respecting public agricultural lands and other legislation

Introduction

**Introduced by
Mr Michel Pagé
Minister of Agriculture, Fisheries and Food**



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EXPLANATORY NOTES

This bill amends the Act respecting public agricultural lands and proposes a new method of transferring any agricultural land still under concession in the public domain to the private domain.

The bill introduces certain measures to ensure the transition from the existing rules of administrative law to the rules of private law, which are to be used in the future.

The issue of letters patent is replaced by identification of all current holders of land under concession; such identification will allow the Minister to recognize and confirm the ownership rights of the latter, taking into account their titles and any other documents or information obtained or required by the Minister.

The transfer to the private domain is effected by the filing in the concerned registration divisions of letters patent evidencing the identification to be used by the title examiner to continue to act according to the rules of private law.

Lastly, the bill also proposes certain amendments to validate hypothecs, servitudes and other charges created in contravention of various administrative laws which have always governed those lots.

ACTS AMENDED BY THIS BILL

- Act respecting public agricultural lands (R.S.Q., chapter T-9.1);
- Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14);
- Act respecting the sales price of pulpwood sold by farmers and settlers (R.S.Q., chapter P-25).

ACT REPEALED BY THIS ACT

— Act to encourage Canadians in the United States, European Immigrants and inhabitants of the Province, to establish themselves upon the Wild Lands of the Crown (38 Victoria, 1874-75, CAP. III).

Bill 15

An Act to amend the Act respecting public agricultural lands and other legislation

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The title of the Act respecting public agricultural lands (chapter T-9.1) is replaced by the following title:

“Act respecting agricultural lands in the public domain”

2. Section 1 of the said Act is replaced by the following s

“**1.** This Act applies to any agricultural land in the public domain hereinafter referred to as “ungranted land”, that, according to the register contemplated in section 4,

(1) was not under concession on 30 June 1984 and was subject to the Colonization Land Sales Act (R.S.Q., chapter T-8) or was acquired by the Minister pursuant to that Act;

(2) has been acquired pursuant to section 7;

(3) is subject to this Act pursuant to section 8;

(4) was under the authority of the Minister on 1 July 1984 pursuant to another Act and is subject to this Act pursuant to section 35;

(5) is land under concession that was the subject of a concession in accordance with section 35;

(6) is placed under the authority of the Minister after 1 July 1984 pursuant to section 23 of the Lands and Forests Act (R.S.Q., chapter T-9) or after (*indicate here the date of coming into force of the Act respecting the lands in the public domain* (1987, chapter *indicate here the chapter number of Bill 102*)), under section 6 of the Act respecting the lands in the public domain (1987, chapter (*insert here the chapter number of Bill 102*));

(7) was repurchased pursuant to the Act for the acquiring of certain lands for colonization purposes (1935, chapter 37) or the Act to strengthen the colonization movement by the extension and the consolidation of existing parishes (1938, chapter 43) and that, on 1 July 1984, was not under concession or the concession of which was cancelled before that date.”

3. Section 2 of the said Act is replaced by the following section:

“**2.** This Act applies also to any agricultural land in the public domain, hereinafter referred to as “land under concession”, that, according to the register contemplated in section 4,

(1) was, on 30 June 1984, granted land, subject to the Colonization Land Sales Act, for which letters patent had not been issued;

(2) was, on 30 June 1984, land repurchased pursuant to an Act referred to in paragraph 7 of section 1 and granted pursuant to the Colonization Land Sales Act, for which letters patent were not issued or notarial title was not granted;

(3) forms part of an Indian reserve disappropriated as such and having been the subject of a title granted without right by federal authority;

(4) was granted by James Crawford prior to the date of coming into force of the Act for the disposal of Public Lands (Provincial Statutes of Canada, 1841, cap. 100);

(5) was granted under the Act respecting the Settlement on Crown Lands of Soldiers who have served in the war of 1914-1918 (R.S.Q., 1941, chapter 109);

(6) was granted under the Act to encourage Canadians in the United States, European Immigrants and inhabitants of the Province, to establish themselves upon the Wild Lands of the Crown (38 Victoria, 1874-75, Cap III);

(7) was granted under any other Act respecting colonization or agriculture.

This section does not apply to land for which letters patent have taken effect.”

4. Section 3 of the said Act is amended by replacing the words “public lands” in the second line by the words “lands in the public domain”.

5. The said Act is amended by inserting, after section 3, the following section:

“3.1 The Minister has in respect of any ungranted land within his jurisdiction all the rights, powers and obligations inherent in the right of ownership.”

6. Section 4 of the said Act is amended by replacing the second paragraph by the following paragraph:

“He may use any medium, whether mechanized or not, he considers appropriate, for the entry, deposit, preservation, processing and reproduction of or access to data entered in the register and any documents related thereto.”

7. Section 7 of the said Act is amended by adding the words “fisheries or food supply” at the end.

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

“9.1 Sections 28 and 29 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) apply neither to the alienation of ungranted land nor to a servitude or a right granted in accordance with section 11 of this Act.”

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

“12.1 Juridical acts creating servitudes, hypothecs, charges or similar provisions made in respect of ungranted land by or against the beneficiary of the letters patent or his predecessors cannot be invalidated on the sole ground that they were made in respect of ungranted land if the latter was alienated in accordance with the second paragraph of section 9.

The first paragraph applies, in respect of ungranted land, only to the area indicated in the letters patent.”

10. Section 14 of the said Act is amended by replacing the words “or cannot be found” in the second line of the second paragraph by the words “, cannot be found or has deceased without leaving any heir able to meet the leasing conditions prescribed by regulation.”

11. Section 15 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Where he wishes to order a cancellation for the sole reason that the lessee cannot be found or has deceased, he shall cause a notice of his intention to order the cancellation to be posted on a public immovable situated near the land; the notice must reproduce section 16 and be posted not later than thirty days before the date of the cancellation.”

12. Section 16 of the said Act is amended by inserting, after the words “date of” in the third line of the first paragraph, the words “receipt or”.

13. Section 17 of the said Act is repealed.

14. Section 21 of the said Act is amended by adding the words “and the Minister may take possession and dispose thereof in the manner he considers appropriate” at the end of the section.

15. Section 25 of the said Act is amended by adding, at the end, the following paragraph:

“The first and second paragraphs do not apply to any letters patent issued pursuant to Division IV of Chapter III.”

16. Section 26 of the said Act is amended by replacing the words “to the registrar of Québec, to have an entry of it made in their registration” in the third and fourth lines of the second paragraph by the words “and, where required, to the registrar of Québec and to the registrar of the registration division concerned to have an entry of it made in the margin of the document so corrected.”

17. Section 28 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

“28. Agricultural land in the public domain contemplated in section 2 remains under concession until such time as the letters patent take effect in accordance with Division IV or the Minister cancels the grant.”;

(2) by replacing the words “are issued” in the second line of the third paragraph by the words “take effect”.

18. Sections 29 and 30 of the said Act are repealed.

19. The said Act is amended by inserting, after section 30, the following sections:

“30.1 The grantee of land may grant any right respecting that land.

Notwithstanding the first paragraph, those rights are inoperative until such time as the letters patent take effect in respect of the land in accordance with Division IV.

The preceding paragraph does not apply to acts of transfer of ownership.

“30.2 Juridical acts creating servitudes, hypothecs, charges or similar provisions made by or against the person named in the letters patent or his predecessors cannot be invalidated on the sole ground that they were made notwithstanding the restrictions or prohibitions provided by this Act before (*insert here the date of coming into force of this Act*) or any other Act respecting colonization.

The first paragraph applies only in respect of land for which letters patent have effect in accordance with Division IV or land for which letters patent were issued before (*insert here the date of coming into force of this Act*).

The first and second paragraphs apply, in respect of land under concession, only to the area indicated in the letters patent.”

20. Division II of Chapter III of the said Act is repealed.

21. Section 35 of the said Act is amended by replacing the first two paragraphs by the following paragraph:

“35. The Minister may cancel any grant of land

(1) where the grantee contravenes a provision of this Act or of the regulations thereunder;

(2) where the grant was made unlawfully, in error or as the result of fraud;

(3) where the grantee renounces his concession, cannot be found or has deceased without leaving any heir whom the Minister can identify;

(4) where he does not possess the necessary information or documents to enable him to make the identification provided for in section 43.3;

(5) where the costs incurred in accordance with sections 43.4 and 43.5 are not paid.”

22. Section 37 of the said Act is amended by replacing the word and figure “section 29” in the second line by the words “this Act before (*insert here the date of coming into force of this Act*)”.

23. The heading of Division IV of Chapter III of the said Act is replaced by the following heading:

“ISSUE AND REGISTRATION OF LETTERS PATENT”.

24. Sections 41, 42 and 43 of the said Act are repealed.

25. The said Act is amended by inserting, after section 43, the following sections:

“**43.1** The Minister may, without costs other than those prescribed by this division or paragraph 5.1 of section 47, by registration of letters patent in the registry office of the registration division concerned, transfer any land under concession designated by him to the person identified in the letters patent.

The transfer shall have effect from the date of the grant.

“**43.2** The letters patent filed for registration shall indicate, in respect of each parcel of land, the following information:

(1) the name of the original grantee and the date and number of the grant except where that information is not available in the register referred to in section 4;

(2) the name of the grantee identified and the date of the identification;

(3) the corresponding cadastral designation, except in the case of land without cadastral survey;

(4) an indication of the existence of any amount still owing to the Minister pursuant to sections 43.4 and 43.5, where such is the case.

The information may be contained in a list attached to the letters patent.

“43.3 On proof that he considers sufficient, the Minister shall identify in the letters patent the person he considers to be the grantee on a particular date.

The person identified in the letters patent or his assigns, as the case may be, shall be recognized as the owner on that date.

The second paragraph applies, where such is the case, to a person having rights deriving from the opening of a community of property or a partnership of acquests to which the identified person was a party.

The Minister shall send a copy of the letters patent or an extract therefrom to the person identified therein.

“43.4 The Minister may require any holder or occupant of a land under concession to send him, within the time fixed by him, any documents and information necessary for the designation and identification referred to in sections 43.1 and 43.3.

Where the holder or occupant of the land fails to send the documents or information within the time fixed by the Minister, the latter may prepare or obtain them at the expense of the holder or occupant concerned.

“43.5 Where land-surveying or cadastral documents must be prepared for the designation referred to in section 43.1, the Minister may cause plans to be drawn up in respect of any land designated by him, at the expense of the occupants concerned.

The plans shall be signed and filed by the Minister in the office of the secretary-treasurer of the local municipal corporation having jurisdiction in the territory and, in the case of an unorganized territory, in the office of the regional county municipality.

“43.6 The Minister shall notify the occupants in writing at their last known address of his intention to identify them as grantees in accordance with the plans filed.

Within twenty-one days of the sending of the notice, any occupant interested may consult the plans and make representations to the Minister.

At the expiry of the period prescribed in the second paragraph and after the coming into force of the plans according to law, the Minister shall identify the persons mentioned as occupants of any lands in respect of which he has not received written objections giving reasons.

“43.7 Where a written objection from an interested occupant is received within the prescribed twenty-one days, the Minister shall examine the reasons therefor and, where necessary, attempt to conciliate the parties to achieve agreement as to the rights of each party; in the case of disagreement, the plans so drawn up and taking into account the occupancy of the premises prevail over the titles of the occupant as regards the transfer.

Where the Minister fails to conciliate the parties and the objecting party or any assign of that party has not exercised his recourses during the three months following the expiry of the prescribed period determined for filing his objection by filing an application before the court impleading the Minister, the party or assign shall be deprived of his claims in respect of the land and the Minister may proceed to the identification of the grantee.

“43.8 The Minister may at any time cause to be registered in the registry office of the registration division concerned a statement to the effect that he does not have the information or documents required to proceed to the transfer of a land under concession.

Any registration in respect of any land is without effect until such time as letters patent are registered in accordance with section 43.1.

“43.9 Where the letters patent indicate that an amount is payable to the Minister, the land is deemed to have been transferred on the date of registration of the letters patent only on condition that the Minister registers a certificate of payment of the costs.

After registration of the letters patent and until such time as the certificate is registered, any registration entered against the land is without effect.”

26. Section 44 of the said Act is amended by replacing the words and figures “before 1 July 1984” in the sixth line by the words “or this Act before (*insert here the date of coming into force of this Act*).”

27. The said Act is amended by inserting, after section 44, the following sections:

“44.1 Any transaction allowing for the issue of letters patent in accordance with this division is not an alienation or a subdivision referred to in sections 28 and 29 of the Act to preserve agricultural land.

“44.2 Where land under concession is required for public purposes, the transfer of ownership in favour of the transferee or expropriating party shall be validly carried out from the date of the acquisition or expropriation made in accordance with any Act respecting expropriation that is applicable in Québec.

The acquired or expropriated property shall cease to be under concession or under the Minister’s supervision from the date of acquisition or expropriation, without other formality.

This section applies to the acquisition or expropriation of both immovables and immovable real rights; it also applies to any other accessory land acquired or expropriated in accordance with the first paragraph.

“44.3 Although letters patent issued in respect of land under concession do not indicate any part of land acquired or expropriated in accordance with section 44.2, they are deemed to concern only the residual parts of the land that are not assigned to public purposes.

“44.4 In the case of an expropriation, the beneficiary of the letters patent, or his predecessor or assigns, as the case may be, shall have all the rights and obligations of an expropriated party within the meaning of any Act respecting expropriation that is applicable in Québec.

“44.5 The issue of letters patent does not entail the transfer of ownership of any public road on land under concession to the beneficiary thereof, whether or not the road is mentioned in the deed of concession.”

28. The said Act is amended by inserting, after section 45, the following section:

“45.1 No permit authorizing a cadastral operation may be refused in respect of any land under the authority of the Minister on the sole ground that the location, the area or the size of the land does not meet the requirements of an Act, an interim control by-law or a subdivision by-law.

The first paragraph applies to the alienation of ungranted land made in accordance with the second paragraph of section 9 and to the transfer of granted land made in accordance with Division IV of Chapter III.”

29. Section 46 of the said Act is replaced by the following section :

“46. The Minister may correct a deed of concession of land if the deed contains an error in the area or designation of the land granted, an error in the name of the grantee or any other clerical error.

The correction has effect from the date of the original deed of concession.”

30. Section 47 of the said Act is amended

(1) by replacing paragraph 1 by the following paragraph:

“(1) prescribe criteria for classification of ungranted lands, purchasers or lessees and prescribe, for each class, conditions and prices of lease or alienation, which may vary within a class;”;

(2) by adding the words “or any other document related to lands under the jurisdiction of the Minister, or for the administration of this Act” at the end of paragraph 5;

(3) by inserting, after paragraph 5, the following paragraph:

“(5.1) determine in what cases, on what conditions, of whom and for what services the Minister may exact a fee for the designation and identification provided for in Division IV of Chapter III;”.

31. Section 55 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

“The conditions relating to the cutting of timber which are entered in the letters patent are deemed to have never existed.”

32. The said Act is amended by inserting, after section 55, the following sections:

“55.1 Any transfer of land under concession forming part of an Indian reserve disappropriated as such and having been the subject of a title granted without right by federal authority, where it is carried out in accordance with Division IV of Chapter III, shall have effect from the date of the granted title.

“55.2 Any transfer of land under concession conceded by James Crawford prior to the date of the coming into force of the Act for the disposal of Public Lands, where it is carried out in accordance with

Division IV of Chapter III, shall have effect from the date of the grant of the land by James Crawford.”

33. The said Act is amended by inserting, after section 56, the following section:

“**56.1** Any balance still payable to the Minister on the price of the grant and which may still be related to land under concession shall be cancelled from (*insert here the date of coming into force of this Act*).

The first paragraph does not apply to land that was reacquired under the Act for the acquiring of certain lands for colonization purposes or the Act to strengthen the colonization movement by the extension and the consolidation of existing parishes and that was granted under the Colonization Land Sales Act and for which neither letters patent nor a notarial title deed have been granted.”

34. Section 14.1 of the Act respecting the Ministère de l’Agriculture, des Pêcheries et de l’Alimentation (R.S.Q., chapter M-14) is amended by replacing the words and figure “Section 6 and sections” in the first line by the word and figures “Sections 3.1, 6”.

35. The Act respecting the sales price of pulpwood sold by farmers and settlers (R.S.Q., chapter P-25) is amended by replacing its title by the following title:

“An Act respecting the sales price of pulpwood sold by farmers”.

36. Section 1 of the said Act is amended by striking out paragraph *b*.

37. Section 2 of the said Act is amended

(1) by striking out the words “and settlers”, in the third line of the first paragraph;

(2) by striking out the word “, settlers” in the first line of the second paragraph.

38. Section 3 of the said Act is amended by striking out the words “or settlers” in the second line of subparagraph *a* of the first paragraph.

39. The Act to encourage Canadians in the United States, European Immigrants and the inhabitants of the Province, to establish themselves upon the Wild Lands of the Crown (38 Victoria, 1874-75, Cap III) is repealed.

40. Any operation allowing for the issue of letters patent under the Colonization Land Sales Act or this Act before (*insert here the date of coming into force of this Act*) does not constitute an alienation or a subdivision referred to in sections 28 and 29 of the Act to preserve agricultural land.

41. Sections 44.2 to 44.5 apply also to a land for which letters patent have been issued under this Act before (*insert here the date of coming into force of this Act*), under the Colonization Land Sales Act or any other Act respecting colonization.

42. In any Act and in any text thereunder, the expression “public agricultural land” is replaced by the expression “agricultural land in the public domain”, adapted as required.

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