



NATIONAL ASSEMBLY

FOURTH SESSION

THIRTY-SECOND LEGISLATURE

Bill 86

An Act to amend the Environment Quality Act

Introduction

**Introduced by
Mr Adrien Ouellette
Minister of the Environment**



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EXPLANATORY NOTES

The object of this bill is to amend the Environment Quality Act mainly to enable the Government to recognize an agency that will be responsible, on the one hand, for the administration of the deposits collected pursuant to a regulation or an agreement and, on the other hand, for promoting the conservation of resources, using therefor, among other funds, the revenues and surpluses derived from the administration of the deposits. Accordingly, certain amendments give the Government the power to set up a regulatory system of deposits for containers or wrappers and designate categories of persons who will be required to collect and refund the deposits prescribed by regulation.

Certain other amendments are technical amendments intended to facilitate the administration of the Act. One of the amendments, for instance, enables the Deputy Minister to make amendments to the rates submitted to him by the operator of a water works and sewer system before granting his approval.

Another technical amendment prescribes that every person applying for a certificate authorizing him to establish or alter a waste management system will henceforth be required to furnish, on making his application, a certificate attesting that his project does not contravene any municipal by-law.

Lastly, an amendment is introduced to enable the Deputy Minister to fix the minimum and maximum rates that the operator of a site for the elimination of waste may require, where an application for fixing rates is referred to him. The Deputy Minister will also be authorized to refuse, for reasons of public interest, to fix any rate, in which case the refusal may be appealed from. In addition, the amount of the fines which may be imposed for the unlawful deposit of waste has been increased.

Finally, this bill provides that, where the Minister causes a measure to be carried out at the expense of a person who refuses or neglects to carry it out while having been ordered to do so according to law, all sums due to the Government in that respect will constitute a privileged claim against the movable and immovable property of that person, ranking immediately after legal costs.

Bill 86

An Act to amend the Environment Quality Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Environment Quality Act (R.S.Q., chapter Q-2) is amended by inserting, after the word “treatment” in the third line of paragraph 12, the word “recycling”.

2. Section 32 of the said Act is amended by adding, after the second paragraph, the following paragraph:

“The Deputy Minister may, where an application for authorization is referred to him, require any amendment he considers necessary to the plans and specifications submitted.”

3. Section 32.5 of the said Act is replaced by the following section:

“32.5 The Minister may order a municipality to operate temporarily the waterworks and sewer system of a person and carry out any work in respect of it, in accordance with the conditions fixed by him, where he considers it necessary to ensure an adequate service to the users. The order may also fix the apportionment of the cost related to the operation or work among the users or among the users and the person.

The Minister may also, where he considers it necessary for the protection of public health, order a municipality to acquire such a system, by agreement or by expropriation, or to instal a new waterworks and sewer system and, for that purpose, acquire by agreement or expropriation, the immovables and real rights required for the installation.”

4. Section 32.9 of the said Act is amended by replacing the first paragraph by the following paragraph:

“32.9 In no case may the operator of a waterworks and sewer system contemplated in section 32.1 or 32.2, notwithstanding any particular agreement, impose rates or change them without previously submitting them to the Deputy Minister for approval; the Deputy Minister may then approve them with or without amendment.”

5. Section 46 of the said Act is amended

(1) by replacing the figure “32.8” in the second line of subparagraph *n* of the first paragraph by the figure “32.9”;

(2) by inserting, after subparagraph *o* of the first paragraph, the following subparagraph:

“(o.1) establish the duties, rights and obligations of the users of a waterworks and sewer system operated by a municipality where required for the protection of public health;”.

6. Section 49.1 of the said Act is amended by adding, at the end, the following paragraph:

“The Minister may also, where he issues an order under this section, invoke grounds which permit him to issue an order under section 25.”

7. Section 54 of the said Act is amended by adding the following paragraph:

“Unless the Minister, for reasons of public interest, dispenses him therefrom in writing, the person applying for a certificate must establish by a certificate of the clerk or secretary-treasurer of the local municipality or of the regional county municipality, that the project for which the application is made does not contravene any municipal by-law.”

8. Section 55 of the said Act is replaced by the following section:

“55. No person may operate a waste management system or a part of it without obtaining from the Deputy Minister a permit for that purpose, which is granted on the conditions determined by regulation of the Government. It shall be valid for a term of five years and may be renewed; the term of each renewal is fixed by the Deputy Minister and may in no case exceed five years.

The applicant must give the guarantees determined by regulation of the Government.”

9. Section 56 of the said Act is amended by replacing the first paragraph by the following paragraph:

“56. Where the project for which an application for a certificate is made contravenes a municipal by-law, the Minister may order that an inquiry be held by the Deputy Minister to determine whether the waste management system should be exempt, wholly or in part, from the application of the municipal by-law.”

10. Section 59 of the said Act is amended by replacing the word “directive” in the first line of the second paragraph by the word “order”.

11. Section 60 of the said Act is replaced by the following section:

“60. The Minister may, after inquiry, require, on the conditions he determines, a municipality to establish, alter, extend or terminate a waste management system or part of it.”

12. Section 64.1 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

“The Deputy Minister may, where an application for fixing rates is referred to him, establish fixed rates or minimum or maximum rates. He may also, for reasons of public interest, refuse to fix rates.”

13. The said Act is amended by inserting, after section 69, the following sections:

“69.1 The Government may designate an agency to

(1) receive, refund and administer, according to the conditions and modalities fixed by the Government, the deposits collected under an agreement between the Government and a person or under subparagraph *j.1* of the first paragraph of section 70;

(2) promote the conservation of resources especially through the reduction, re-use and recycling of waste, and use therefor, in particular, the revenues and surpluses derived from the administration of deposits.

The Government may determine the composition of the agency, appoint its members and fix their remuneration.

“69.2 The agency responsible for the administration of deposits collected under subparagraph *j.1* of the first paragraph of section 70, shall submit, each year, to the Government for approval the program of its activities accompanied with its budget estimates.

The revenues and surpluses derived from the administration of deposits shall be allocated to the payment of the expenses incurred for the operation of the agency and the implementation of its program

of activities. The balance shall be paid each year into the consolidated revenue fund on the conditions and according to the modalities fixed by the Government.

“69.3 The Government may appoint a person to examine the books and registers of the agency and confer on him the powers provided in sections 119 and 120.”

14. Section 70 of the said Act is amended by replacing subparagraphs *i* and *j* of the first paragraph by the following subparagraphs:

“(i) regulate, limit or prohibit the use of any container or wrapper it determines according to its nature or the kind of goods for which it is intended;

“(j) prescribe any deposit system for containers or wrappers, in the cases, at the rates, and on the conditions and according to the modalities it determines;

“(j.1) designate the categories of persons that are required to collect and refund the deposits prescribed under subparagraph *j* in the cases, on the conditions and according to the modalities it determines;

“(j.2) prescribe the collecting, processing and recycling of any container or wrapper by the categories of persons, in the cases, on the conditions and according to the modalities it determines;”.

15. Section 96 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The same applies in all cases where the Deputy Minister refuses to grant or cancels an authorization certificate, a certificate, an authorization, an approval, a permission or a permit, changes rates under section 32.9, limits the period of the renewal of a permit under section 55, requires a change in an application made to him, refuses to renew or suspends a permit, fixes or apportions costs and expenses and determines compensation under section 61, refuses to fix rates under section 64.1 or serves a denial of conformity on the proponent of a project.”

16. Section 108 of the said Act is replaced by the following section:

“108. Whoever contravenes section 66 commits an offence and is liable, on summary proceedings, to a fine of not less than twenty-five dollars nor more than five thousand dollars in the case of a natural person and of not less than one hundred dollars nor more than thirty thousand dollars in the case of a corporation.”

17. Section 109.1 of the said Act is amended by replacing what precedes subparagraph *a* by the following:

“109.1 Notwithstanding sections 106 to 109, the Government may, by regulation, prescribe that an offence against a provision of this Act respecting a contaminant contemplated in a regulation or that an offence against a provision of a regulation or a class of orders, makes the offender liable, on summary proceedings.”.

18. Section 110.1 of the said Act is replaced by the following section:

“110.1 Penal proceedings instituted under this Act are prescribed by two years from the commission of the offence.

Notwithstanding the foregoing, where false representations have been made to the Minister, the Deputy Minister, a functionary contemplated in section 119 or 120 or a person who exercises any of the powers enumerated in those sections, and in the case of an offence concerning the management of waste classified as toxic or harmful under section 70, penal proceedings are prescribed by two years from the time those persons become aware of the facts giving rise to the proceedings.”

19. Section 113 of the said Act is amended by adding the following paragraph:

“Every amount due to the Government under the first paragraph constitutes a claim carrying a privilege upon the movable and immovable property of the offender, which ranks immediately after law costs.”

20. Section 115.1 of the said Act is amended

(1) by replacing the word “or” after the word “contaminants” in the fourth line of the second paragraph by the word “and” and by replacing the last line of the same paragraph by the following: “there are several debtors involved.”;

(2) by inserting the words “or to prevent their being emitted, deposited, discharged or ejected into the environment,” in the first paragraph of the English text of the said Act after the word “environment”.

21. Section 121 of the said Act is replaced by the following section:

“121. No person may hinder, in the performance of his duties, an inspector appointed pursuant to section 69.3 or a functionary contemplated in sections 119, 120 and 120.1, mislead him by

concealment or false declarations, neglect to obey any order he may give under this Act, or remove or deface a notice he has ordered posted, or allow it to become defaced.

Every inspector or functionary referred to in the first paragraph must, if required, present a certificate of his office, signed by the Minister or the Deputy Minister.”

22. Section 123.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**123.1** The holder of an authorization issued pursuant to this Act is required to comply with the conditions thereof while the project is being carried out or during the construction, utilization or operation of the works.”

23. Section 124 of the said Act is amended

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

“**124.** The Minister shall publish in the *Gazette officielle du Québec* any draft regulation prepared under this Act, with a notice stating that it may be adopted by the Government, with or without amendment, at the expiry of sixty days following the publication.”;

(2) by replacing the fifth paragraph by the following paragraph:

“Such regulation shall prevail over any municipal by-law relating to the same object, unless the municipal by-law has been approved by the Minister, in which case the latter prevails to the extent determined by the Minister. Notice of the approval shall be published without delay in the *Gazette officielle du Québec*.”

24. Section 124.2 of the said Act is amended by replacing the word “fourth” in the first line by the word “fifth”.

25. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

26. The said Act comes into force on (*insert here the date of sanction of this Act*).