

NATIONAL ASSEMBLY
Thirty-fifth Legislature, first session

1995, chapter 20
**AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS
CONCERNING LANDS IN THE PUBLIC DOMAIN**

Bill 66

Introduced by Mr François Gendron, Minister of Natural Resources

Introduced 16 March 1995

Passage in principle 23 March 1995

Passage 2 May 1995

Assented to 16 May 1995

Coming into force: 16 May 1995

Legislation amended:

Cities and Towns Act (R.S.Q., chapter C-19)

Municipal Code of Québec (R.S.Q., chapter C-27.1)

Forest Act (R.S.Q., chapter F-4.1)

Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-15.1)

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



CHAPTER 20

An Act to amend various legislative provisions concerning lands in the public domain

[Assented to 16 May 1995]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. M-15.1,
s. 12, am.

1. Section 12 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-15.1), amended by section 263 of the Building Act (R.S.Q., chapter B-1.1) and by section 6 of chapter 13 of the statutes of 1994, is again amended

(1) by adding, at the end of paragraph 2, the words “and with Division II.2 of this Act”;

(2) by inserting, after paragraph 6, the following paragraph:

“(6.1) ensuring, in lands in the public domain, that development activities, resource development activities and the other activities and uses under the Minister’s responsibility are compatible with the uses set out in the land use plans prepared under Division III of Chapter II of the Act respecting the lands in the public domain;”;

(3) by striking out paragraph 16.2.

c. M-15.1,
ss. 17.13-
17.18,
added

2. The said Act is amended by inserting, after section 17.12, the following:

“DIVISION II.2

“REGIONAL DEVELOPMENT AND OTHER
GOVERNMENTAL POLICIES

Programs

“17.13 The Minister may, with the approval of the Government, prepare programs for the development of lands in the public domain that are under his authority in order to encourage regional development or implement any other governmental policy.

Powers **“17.14** The Minister may, for the purposes of such programs, acquire any immovable or movable property, transfer the ownership of, authority over or administration of any land in the public domain that is under his authority and of the movable and immovable property situated thereon, transfer such land and property gratuitously, lease them or grant any other right therein to the legal person designated by the Minister.

Powers The Minister may, for the same purposes, entrust the management of such lands in the public domain and the movable and immovable property situated thereon to a legal person which may then exercise the powers provided for in the first paragraph to the extent determined in the program.

Powers Nothing done by a legal person in exercising powers under a program is binding on the Government.

Exemption **“17.15** The Minister may exempt the land, movable property and immovable property subjected by him to a program from the application of the Act respecting the lands in the public domain, to the extent determined in the program.

Exemption The Minister may also exempt them from a program in order to subject them to another program or to subject them again to the Act respecting the lands in the public domain.

Program **“17.16** The Government may, on the conditions it determines, entrust the direction and implementation of a program to the minister it designates.

Powers The designated minister may, for such purposes, exercise any power under sections 17.14 and 17.15 that is conferred on him by the Government.

Exception **“17.17** Sections 28 and 29 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) do not apply to any land alienated by the Minister in favour of a municipality in accordance with a program.

Transfers
of
ownership **“17.18** Transfers of ownership effected by the Minister under section 17.14 may be published without it being necessary to observe the prescriptions of the Civil Code of Québec and of the regulations thereunder concerning the publication of rights.

Registra-
tion The transfers shall be registered in the land register by the registrar on presentation of the act evidencing them.”

c. T-8.1,
s. 2,
replaced

3. Section 2 of the Act respecting the lands in the public domain (R.S.Q., chapter T-8.1) is replaced by the following section :

Rights and
powers

“2. The Minister shall exercise, in respect of lands in the public domain that are under his authority, all the rights and powers inherent in the right of ownership.”

c. T-8.1,
s. 3,
replaced

4. Section 3 of the said Act, amended by section 15 of chapter 13 of the statutes of 1994, is replaced by the following section :

Minister
responsible

“3. All lands over which authority is not held by another minister or a public body by the effect of an Act, order in council, title of ownership, order or notice are under the authority of the Minister of Natural Resources.”

c. T-8.1,
ss. 6, 8, 9,
am.

5. Sections 6, 8 and 9 of the said Act are amended by replacing the words “by order”, wherever they occur by the words “by way of a notice”, and by replacing the word “order” wherever it otherwise occurs in those sections by the word “notice”.

c. T-8.1, s. 7,
replaced

6. Section 7 of the said Act is replaced by the following section :

Transfer of
authority

“7. A minister or a public body holding authority over land by the effect of an Act, order in council, title of ownership, order or notice may, by notice, transfer authority over that land to the Minister where, in his or its judgment, the land is no longer suitable for the performance of the functions and powers with which he or it is vested by law.”

c. T-8.1,
s. 12, am.

7. Section 12 of the said Act is amended

(1) by replacing the words “The Government may, on the conditions it determines, entrust the management of any land” in the first and second lines by the words “A minister holding authority over any land may entrust the management thereof”;

(2) by striking out the last sentence.

c. T-8.1,
ss. 13.2-
13.7, added

8. The said Act is amended by inserting, after section 13.1, the following :

Authority

“13.2 Authority over any land extends to the buildings, movable property and improvements that are situated on the land and form part of the public domain, and may be included in transfers made under sections 6 to 12.

“DIVISION I.1

“DELEGATION OF MANAGEMENT

Powers **“13.3** The Minister may, by agreement, delegate to a legal person the management of lands in the public domain and the buildings, improvements and movable property situated thereon, by entrusting it with the exercise of the powers vested in him by this Act and the regulations thereunder.

Powers **“13.4** The agreement shall define the powers which are delegated to the legal person and fix all the conditions of exercise of the delegation, including the method of remuneration, if applicable.

Expenses **“13.5** The Minister may, in the agreement, determine the amount of management expenses he agrees to pay to the legal person, and authorize the legal person to withhold that amount from the sums collected in the exercise of the delegated powers.

Presump-
tion **“13.6** For the purposes of this division, the legal person is considered to be a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), and is subject to the provisions of that Act.

Powers **“13.7** Nothing done by a legal person in exercising powers delegated under section 13.3 is binding on the Government.”

c. T-8.1,
s. 17.1,
added **9.** The said Act is amended by inserting, after section 17, the following section:

Survey
work **“17.1** Survey work is not considered to be a forest management activity within the meaning of section 3 of the Forest Act (R.S.Q., chapter F-4.1).”

c. T-8.1,
s. 18, am. **10.** Section 18 of the said Act is amended by replacing the words “municipal corporation” in the second line by the words “local municipality”.

c. T-8.1,
s. 19, am. **11.** Section 19 of the said Act is amended

(1) by replacing the word “register” in the third line of the first paragraph by the word “publish”;

(2) by replacing the words “article 2168 of the Civil Code” in the second line of the first paragraph by the words “articles 3032, 3036 and 3037 of the Civil Code of Québec”;

(3) by replacing the second paragraph by the following paragraph:

Registration

“Registration of the declaration in the land register is effected free of charge upon presentation of the declaration at the registry office of the registration division in which the land is situated.”

c. T-8.1,
s. 20, am.

12. Section 20 of the said Act is amended

(1) by replacing the word “enregistrement” in the first line of the first paragraph of the French text by the word “inscription”;

(2) by replacing the word “enregistrée” in the third line of the second paragraph of the French text by the word “inscrite”.

c. T-8.1,
s. 24, am.

13. Section 24 of the said Act is amended

(1) by replacing the words “and the municipal corporations of Chibougamau, Chapais, Lebel-sur-Quévillon and Matagami” in the third and fourth lines of subparagraph 1 of the first paragraph by the words “, Ville de Chibougamau, Ville de Chapais, Ville de Lebel-sur-Quévillon and Ville de Matagami”;

(2) by replacing the words “the municipal corporation of that territory” in the second line of subparagraph 4 of the first paragraph by the words “that municipality”;

(3) by replacing the words “municipal corporation” in the fourth line of the second paragraph by the word “municipality”.

c. T-8.1,
s. 26, am.

14. Section 26 of the said Act is amended by striking out the last sentence of the first paragraph.

c. T-8.1,
ss. 28, 29,
31, repealed

15. Sections 28, 29 and 31 of the said Act are repealed.

c. T-8.1,
s. 32,
French
text, am.

16. Section 32 of the said Act is amended by replacing the words “l’enregistrement au bureau de la division d’enregistrement” in the fourth and fifth lines of the first paragraph of the French text by the words “la publicité des droits au bureau de la circonscription foncière”.

c. T-8.1,
s. 34, am.

17. Section 34 of the said Act is amended by replacing the words “and improvements” in the second line of the first paragraph by the words “, improvements and movable property”.

c. T-8.1,
s. 35.1, am. **18.** Section 35.1 of the said Act is amended by replacing the word “assigns” in the second line by the word “successors”.

c. T-8.1,
s. 37, am. **19.** Section 37 of the said Act is amended

(1) by inserting the words “or by notarial act *en minute*” after the word “patent” in the second line;

(2) by inserting the words “, together with the buildings, improvements and movable property situated thereon, ” after the word “authority” in the second line;

(3) by adding the words “or notarial act” after the word “patent” in the last line.

c. T-8.1,
ss. 40.1,
40.2, added **20.** The said Act is amended by inserting, after section 40, the following sections:

Renuncia-
tion **“40.1** During a cadastral renovation, the Minister may renounce his right of ownership over land under his authority in favour of the occupant of the land.

Authoriza-
tion In such a case, the Minister shall authorize the land surveyor preparing the renovation plan to enter the occupant of the land as the owner.

Transfer of
ownership Transfer of ownership is effected by the opening of a land file in the land register by the registrar.

Applicabil-
ity **“40.2** Sections 28 and 29 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) do not apply to a renunciation made by the Minister in accordance with section 40.1.”

c. T-8.1,
s. 44, am. **21.** Section 44 of the said Act is amended by replacing the word “assigns” in the fourth line of the first paragraph and the first line of the second paragraph by the word “successors”.

c. T-8.1,
s. 45.1, am. **22.** Section 45.1 of the said Act is amended by replacing the word “assigns” in the sixth line of the first paragraph by the word “successors”.

c. T-8.1,
s. 45.2, am. **23.** Section 45.2 of the said Act is amended

(1) by replacing the word “assigns” in the sixth line of subparagraph 4 of the first paragraph by the word “successors”;

(2) by adding, after subparagraph 4 of the first paragraph, the following subparagraph:

“(5) any reserve or that part of a reserve which has been the subject of a lease 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 act, or his successors, having expired before 12 December 1991 but having been renewed before 16 May 1995 with retroactive effect to the date of expiry of the lease.”;

(3) by replacing the words “contemplated in subparagraph 4” in the first line of the last paragraph by the words “referred to in subparagraphs 4 and 5 of the first paragraph”;

(4) by adding, after the last paragraph, the following paragraph:

Indemnity “Where land referred to in subparagraph 5 of the first paragraph is sold under the second paragraph, the Minister shall pay to the holder of the letters patent or notarial act, or his successors, an indemnity equal to the price paid by the lessee.”

c. T-8.1,
s. 45.2.2,
am. **24.** Section 45.2.2 of the said Act is amended by replacing the word “assigns” in the fourth line of paragraph 2 by the word “successors”.

c. T-8.1,
s. 45.3, am. **25.** Section 45.3 of the said Act is amended by replacing the word “assigns” in the third line of the second paragraph by the word “successors”.

c. T-8.1,
s. 46.1,
added **26.** The said Act is amended by inserting, after section 46, the following section:

Alienation
of land **“46.1** The alienation of land in the public domain by the Minister does not have the effect of transferring ownership of a forest road or a mine road or a road maintained by the Minister of Transport or by a municipality, whether or not the presence of the road is mentioned in the act evidencing the transfer of ownership.

Alienation
of land The alienation of land traversed by a road, other than a road mentioned in the first paragraph, that provides access to other public land or to private land is subject, without indemnity and provided the users ensure its maintenance, to a servitude of passage over the right of way of the road either on foot or in a vehicle of whatever type.”

c. T-8.1,
s. 47, am.

27. Section 47 of the said Act is amended by replacing the words “and improvement” in the second line by the words “, improvement and movable property”.

c. T-8.1,
s. 50, am.

28. Section 50 of the said Act is amended

(1) by inserting the words “or visitor’s licence” after the word “licence” in the fourth line of the first paragraph;

(2) by adding, after the second paragraph, the following paragraph:

Visitor’s
licence

“A visitor’s licence is issued for a period of not over seven months in a given year. It authorizes the holder to camp. It may be cancelled in the same manner as a temporary occupation licence and is not registered.”

c. T-8.1,
s. 60, am.

29. Section 60 of the said Act is amended by inserting the words “or public body” after the word “minister” in the first line of the first paragraph.

c. T-8.1,
s. 61, am.

30. Section 61 of the said Act is amended

(1) by replacing the word “Minister” in the third line of the first paragraph by the words “minister or public body”;

(2) by inserting the words “or public body” after the word “minister” in the fifth line of the first paragraph;

(3) by replacing the words “may relinquish the devolution on such conditions as he” in the fourth line of the third paragraph by the words “or public body may renounce the devolution on the conditions he or it”.

c. T-8.1,
s. 62, am.

31. Section 62 of the said Act is amended by inserting the words “and of any improvement and movable property situated thereon” after the word “land” in the third line of the first paragraph.

c. T-8.1,
s. 62.1,
added

32. The said Act is amended by inserting, after section 62, the following section:

Transfer of
authority

“62.1 In cases where authority over land is transferred after the presentation of a motion under section 60, or after a taking of possession is commenced under section 62, the motion or taking of possession shall be continued by the minister to whom the authority is transferred.”

c. T-8.1,
s. 64, am.

33. Section 64 of the said Act is amended

(1) by replacing the words “all expenses and improvements made on the land” in the second and third lines by the words “the buildings, improvements and movable property situated on the land”;

(2) by striking out the words “repay the expenses or” in the third line.

c. T-8.1,
s. 68, am.

34. Section 68 of the said Act is amended by inserting the words “, installation or works” after the word “construction” in the first line of the first paragraph.

c. T-8.1,
s. 72.1,
added

35. The said Act is amended by inserting, after section 72, the following section:

Letters
patent

“72.1 Letters patent issued before 1 January 1994, and any amendment thereto or cancellation or rectification thereof may be published without it being necessary to observe the prescriptions of the Civil Code of Québec and the regulations thereunder concerning the publication of rights.

Registra-
tion

The letters patent shall be registered in the land register by the registrar upon presentation.”

c. C-19,
ss. 29.13-
29.18,
added

36. The Cities and Towns Act (R.S.Q., chapter C-19) is amended by inserting, after section 29.12, enacted by section 6 of chapter 33 of the statutes of 1994, the following subdivision:

*“§ 1.1. — Acquisition, administration, development and
disposition of certain lands in the public domain*

Powers

“29.13 Every municipality may participate in a program prepared in accordance with Division II.2 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-15.1) or enter into an agreement under Division I.1 of Chapter II of the Act respecting the lands in the public domain (R.S.Q., chapter T-8.1).

Powers

“29.14 Every municipality that participates in a program or enters into an agreement pursuant to section 29.13 has the necessary powers to meet the commitments and assume the responsibilities arising from the program or agreement.

Powers

The municipality may, in particular,

(1) acquire any land in the public domain;

(2) administer, develop, alienate or lease land acquired from the public domain;

(3) lease land in the public domain in order to administer and develop it;

(4) accept delegated powers for the management of land in the public domain.

Land in
public
domain

“29.15 For the purposes of this subdivision, land in the public domain includes the buildings, improvements and movable property situated thereon that form part of the public domain.

Prohibition

“29.16 No person may appropriate by occupation, prescription or accession, land acquired from the public domain by a municipality for as long as the municipality remains the owner of the land.

Prohibition

The same rule applies to buildings, improvements and movable property which, at the time the land was acquired from the public domain, were situated on the land and formed part of the public domain.

Powers

“29.17 Subject to the program referred to in section 29.13, a municipality may use land acquired from the public domain for any purpose over which it has jurisdiction, or alienate it.

Price

Unless otherwise provided for in the program, the price for which the land is alienated by the municipality must correspond to the market value of the land.

Fund

“29.18 Moneys deriving from the leasing, development or alienation of land in the public domain, or land acquired from the public domain, and moneys deriving from the management of land in the public domain or from a forest management contract entered into under Division II of Chapter IV of the Forest Act (R.S.Q., chapter F-4.1) must be paid by the municipality into a fund established by a regional county municipality under article 688.7 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) in the territory in which the municipality is situated.

Fund

The Minister of Natural Resources may authorize the payment of such sums into any other such fund he determines.

Costs

A municipality may subtract from the sums to be paid into the fund the amount, if any, that represents the costs relating to the acquisition, administration or development of land in the public domain or acquired from the public domain.”

c. C-27.1,
aa. 14.11-
14.16,
added

37. The Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by inserting, after article 14.10, enacted by section 27 of chapter 33 of the statutes of 1994, the following articles:

“14.11 Every municipality may participate in a program prepared in accordance with Division II.2 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-15.1) or enter into an agreement under Division I.1 of Chapter II of the Act respecting the lands in the public domain (R.S.Q., chapter T-8.1).

“14.12 Every municipality that participates in a program or enters into an agreement pursuant to section 14.11 has the necessary powers to meet the commitments and assume the responsibilities arising from the program or agreement.

The municipality may, in particular,

- (1) acquire any land in the public domain;
- (2) administer, develop, alienate or lease land acquired from the public domain;
- (3) lease land in the public domain in order to administer and develop it;
- (4) accept delegated powers for the management of land in the public domain.

“14.13 For the purposes of articles 14.11 to 14.16, land in the public domain includes the buildings, improvements and movables situated thereon that form part of the public domain.

“14.14 No person may appropriate by occupation, prescription or accession, land acquired from the public domain by a municipality for as long as the municipality remains the owner of the land.

The same rule applies to buildings, improvements and movables which, at the time the land was acquired from the public domain, were situated on the land and formed part of the public domain.

“14.15 Subject to the program referred to in article 14.11, a municipality may use land acquired from the public domain for any purpose over which it has jurisdiction, or alienate it.

Unless otherwise provided for in the program, the price for which the land is alienated by the municipality must correspond to the market value of the land.

“14.16 Moneys deriving from the leasing, development or alienation of land in the public domain, or land acquired from the public domain, and moneys deriving from the management of land in the public domain or from a forest management contract entered into under Division II of Chapter IV of the Forest Act (R.S.Q., chapter F-4.1) must be paid by the municipality into a fund established by a regional county municipality under article 688.7 in the territory in which the municipality is situated.

The Minister of Natural Resources may authorize the payment of such sums into any other such fund he determines.

A municipality may subtract from the sums to be paid into the fund the amount, if any, that represents the costs relating to the acquisition, administration or development of land in the public domain or acquired from the public domain.”

c. C-27.1,
aa. 688.7-
688.9,
added

38. The said Code is amended by inserting, after article 688.6, enacted by section 39 of chapter 33 of the statutes of 1994, the following articles:

“688.7 Notwithstanding the Municipal Aid Prohibition Act (R.S.Q., chapter I-15), every regional county municipality may, by by-law, establish a fund for the purpose of providing financial support for development operations on lands in the public domain or private lands situated in its territory.

“688.8 A fund established under article 688.7 must be administered by the regional county municipality. The latter may, by by-law, delegate all or part of the administration of the fund to any person it designates.

“688.9 In addition to the sums referred to in section 29.18 of the Cities and Towns Act (R.S.Q., chapter C-19) and those referred to in article 14.16, the fund shall receive, in particular, the sums paid pursuant to a forest management contract entered into under Division II of Chapter IV of the Forest Act (R.S.Q., chapter F-4.1).

c. F-4.1,
s. 104, am.

39. Section 104 of the Forest Act (R.S.Q., chapter F-4.1), replaced by section 20 of chapter 55 of the statutes of 1993, is amended by inserting the words “cases where the contractor is a regional county municipality and in” after the word “in” in the first line of subparagraph 2 of the first paragraph.

c. F-4.1,
s. 106.1,
added

40. The said Act is amended by inserting, after section 106, the following section:

Agreement

“106.1 Where a management contract is signed by several contractors, the contractors shall come to an agreement as to terms for the orderly integration of forest management activities, as to timber transportation activities and as to the allocation of the costs of such activities.

Agreement

The contractors shall also come to an agreement as to the proportion of the prescribed dues, if any, which each contractor will pay by way of silvicultural treatments.

Dispute

Any dispute in respect of matters referred to in the first and second paragraphs shall be submitted to arbitration, on the application of an interested contractor, in accordance with the provisions of Book VII of the Code of Civil Procedure (R.S.Q., chapter C-25). The decision of the arbitrator shall have the same effect as stipulations agreed upon between the contractors in respect of the subject of the dispute.

Powers

Contracting municipalities shall have all the powers necessary for the performance of a management contract. They may delegate the authority to execute the contract to one of their number. The municipality to which the authority is delegated shall have the power to carry out work in the territory of the other contracting municipalities.”

Coming into
force

41. This Act comes into force on 16 May 1995.