

NATIONAL ASSEMBLY
Thirty-fourth Legislature, first session

1990, chapter 26
**AN ACT TO AMEND THE ENVIRONMENT
QUALITY ACT**

Bill 65

Introduced by Mr Pierre Paradis, Minister of the Environment

Introduced 10 May 1990

Passage in principle 21 June 1990

Passage 22 June 1990

Assented to 22 June 1990

Coming into force: 22 June 1990, except sections 31.46 to 31.51, enacted by section 4, which will come into force on the date fixed by the Government

Act amended:

Environment Quality Act (R.S.Q., chapter Q-2)





CHAPTER 26

An Act to amend the Environment Quality Act

[Assented to 22 June 1990]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. Q-2,
s. 29, am. **1.** Section 29 of the Environment Quality Act (R.S.Q., chapter Q-2) is amended by striking out the second paragraph.

c. Q-2,
s. 30,
repealed **2.** Section 30 of the said Act is repealed.

c. Q-2,
s. 31, am. **3.** Section 31 of the said Act is amended by striking out paragraphs *o*, *p*, *q* and *r*.

c. Q-2,
ss. 31.42-
31.52, added **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*

Programme
and
timetable

“**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 31.52, he may order whoever has emitted, deposited, released or discharged, even before 22 June 1990, 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.

Order
of the
Minister

Moreover, where the Minister believes on reasonable grounds that a contaminant prohibited by regulation of the Government is

present in the environment or that a contaminant present in the environment is likely to affect the life, health, safety, welfare or comfort of human beings, or to cause damage to or to otherwise impair the quality of the soil, vegetation, wildlife or property, he may issue an order to the same effect to whoever has emitted, deposited, released or discharged, even before 22 June 1990, all or some of the contaminant.

Contents
of order

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. The order takes effect 16 days after its service or on any later date stated therein.

Approval

Within 60 days of receipt of the documents, the Minister may approve the proposed decontamination or restoration work and the timetable for its execution, with or without amendment. Whoever is named in the order as being responsible for the source of contamination shall at the request of the Minister provide him, within the time he fixes, with any information, research findings or study he may need to grant his approval.

Execution
of work

Whoever is named in the order as being responsible for the source of contamination shall execute the work in accordance with the timetable, as approved by the Minister.

Decon-
tamination
measures

"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 31.52, he may order whoever has emitted, deposited, released or discharged, even before 22 June 1990, 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.

Order
of the
Minister

Moreover, where the Minister ascertains the presence in the environment of a contaminant prohibited by regulation of the Government or of a contaminant likely to affect the life, health, safety, welfare or comfort of human beings, or to cause damage to or to otherwise impair the quality of the soil, vegetation, wildlife or property, he may issue an order to the same effect to whoever has emitted, deposited, released or discharged, even before 22 June 1990, all or some of the contaminant.

Contents
of order

The order shall include a statement of the reasons invoked by the Minister, and either a description of the work proposed by whoever is responsible for the source of contamination upon making representations pursuant to section 31.44 and a timetable for its

execution, as approved with or without amendment by the Minister or 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.

Notice

“31.44 The Minister shall, before issuing either order, serve on whoever has emitted, deposited, released or discharged the contaminant and, where applicable, the owner of the soil 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 may 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 whoever has been served the notice and, where applicable, by the owner of the soil concerned within the period of time specified in the notice as well as the fact that whoever has been served the notice may, for the purposes of section 31.43, propose work and a timetable for its execution.

Study or
report

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

Approval

For the purposes of section 31.43, the Minister may approve, with or without amendment, the work and the timetable for its execution proposed, upon making representations, where that is the case, by whoever is responsible for the source of contamination.

Copy of
notice

Upon serving the notice, the Minister shall transmit a copy to the secretary-treasurer or clerk of the municipality where the contaminant has been found.

Copies of
order

“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.

Character-
ization
study

The Minister shall also transmit a copy of the characterization study furnished under section 31.42 to the secretary-treasurer or the clerk of the municipality who shall place it at the disposal of the public.

Publication

The Minister shall publish the order in a daily newspaper having general circulation in the region where the contaminant has been found as well as in a daily newspaper published in Montréal and one published in Québec city.

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

Notice of
contamina-
tion

“**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 31.52, he may serve on the owner of the soil a notice informing him or it of the presence of the contaminant.

Contents
of notice

“**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 owner within the period of time he specifies in the notice and that the notice must 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.

Effect

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

Registration

“**31.48** After the expiry of the time granted to the owner to make representations or after he has made representations, where such is the case, and where the provisions of section 31.46 are still applicable, the Minister shall 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.

Notification

The Minister shall notify the owner 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.

Publication

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

Application
for change
of use

“**31.49** The owner of the soil in respect of which the Minister has registered a notice pursuant to section 31.48 must, before changing or altering the use of the soil, in accordance with municipal zoning by-laws, or before undertaking excavation or construction work or dismantling his 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.

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

Execution of work The owner shall then execute the work in accordance with the timetable, as approved by the Minister.

Authorization of change of use The Minister may authorize a change or alteration of the use of the soil or the excavation, construction or dismantlement work after he has ascertained

(1) that the decontamination or restoration work has been executed in accordance with the third paragraph;

(2) that the level of decontamination prescribed by regulation has been attained.

Information required The Minister may require of the owner any information, research findings or study he may need to grant his authorization.

Copy of characterization study The Minister shall transmit a copy of the characterization study to be furnished to him to the secretary-treasurer or clerk of the municipality in which the soil concerned is located, who shall place it at the disposal of the public.

Cancellation of registration **“31.50** Within 15 days after ascertaining that the contaminant found in the soil is in a quantity or concentration equal to or lesser than that established by regulation under paragraph *a* of section 31.52 and after notifying the owner of the soil within the same period, the Minister shall request the cancellation of the registration of the notice by filing an application therefor with the registrar of the registry office of the registration division concerned.

Notice of cancellation The Minister shall give notice of the cancellation to the owner of the soil 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.

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

Dismantle- ment	<p>“31.51 Whoever engages in an activity the carrying on of which may, according to the regulations under paragraph c of section 31.52, cause soil contamination must, before dismantling his equipment or buildings, apply for the authorization of the Minister and provide him with the documents specified in subparagraphs 1 and 2 of the first paragraph of section 31.49 as well as a description of the proposed dismantlement work.</p>
Approval	<p>The Minister may approve the proposed decontamination or restoration work and timetable with or without amendment.</p>
Execution of work	<p>The recipient of the authorization shall then execute the work in accordance with the timetable, as approved by the Minister.</p>
Authoriza- tion	<p>The Minister may authorize the dismantlement work after he has ascertained</p> <ol style="list-style-type: none">(1) that the decontamination or restoration work has been executed in accordance with the third paragraph;(2) that the level of decontamination prescribed by regulation has been attained.
Information required	<p>The Minister may require of the applicant any information, research findings or study he may need to grant his authorization.</p>
Copy of characteriza- tion study	<p>The Minister shall transmit a copy of the document mentioned in subparagraph 1 of the first paragraph of section 31.49 to the secretary-treasurer or to the clerk of the municipality in which the soil concerned is located, who shall then place it at the disposal of the public.</p>

“§ 3.—Regulatory powers

Regulations	<p>“31.52 The Government may make regulations to</p> <ol style="list-style-type: none">(a) establish, for the purposes of sections 31.42, 31.43 and 31.46, the quantities or concentrations of contaminants in excess of which any element making up the environment that is affected thereby is contaminated;(b) establish, for the purposes of sections 31.49 and 31.51, various levels of decontamination to be attained before the change or alteration of the use of the soil or the excavation, construction or dismantlement work referred to in those sections may be undertaken; such levels may vary according to the soil use authorized by a municipal zoning by-law;
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(c) determine, for the purposes of section 31.51, the activities the exercise of which may cause soil contamination;

(d) 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."

c. Q-2,
ss. 40, 63,
repealed
c. Q-2,
s. 96, am.

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

6. Section 96 of the said Act is amended by inserting the words "other than the approval referred to in the third paragraph of section 31.44" after the word "approval" in the third line of the second paragraph and by inserting the words ", serves a notice under section 31.46" before the word "fixes" in the third line of the said paragraph.

c. Q-2,
s. 106.1,
am.

7. 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 ", the fifth paragraph of section 31.42, the third paragraph of section 31.49 or the third paragraph of section 31.51," after the figure "20" in the first line and by inserting the words "or, in any manner, hinders or prevents the execution of such an order or interferes therewith" after the word "Act" in the second line;

(2) by replacing the words "and to a fine of not less than \$12 000 nor more than \$500 000 for any subsequent offence" in the second and third lines of paragraph *b* by the words ", to a fine of not less than \$50 000 nor more than \$1 000 000 in the case of a second conviction and to a fine of not less than \$500 000 nor more than \$1 000 000 for any subsequent conviction".

c. Q-2,
s. 107, am.

8. Section 107 of the said Act, amended by section 734 of chapter 4 of the statutes of 1990, is again amended

(1) by replacing the words "or reports" in the third line by the words ", studies, research findings or reports, furnish a document referred to in the first paragraph of section 31.49 or the first paragraph of section 31.51";

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

Offence
and
penalty

"However, in the case of an offence under the first paragraph of section 31.49 or the first paragraph of section 31.51, the offender is liable to a fine

(a) of not less than \$600 nor more than \$20 000 for a first offence;

(b) of not less than \$4 000 nor more than \$40 000 for a second conviction.”

c. Q-2,
s. 109,
am.

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

Exceptions

“However, the following do not constitute an offence:

(1) a contravention of a provision of a regulation made under paragraph *a* of section 31.52 to the extent that the contaminant referred to in section 31.42, 31.43 or 31.46 was emitted, deposited, released or discharged before the date of coming into force of such regulation;

(2) a contravention of a provision of the regulation referred to in the second paragraph of section 31.42 or the second paragraph of section 31.43 to the extent that the contaminant was emitted, deposited, released or discharged before the date of coming into force of such regulation;

(3) a contravention of a provision of a regulation made under paragraph *c* of section 31.52.”

c. Q-2,
s. 109.1,
am.

10. Section 109.1 of the said Act, amended by section 737 of chapter 4 of the statutes of 1990, is again amended by replacing the words “and to a minimum fine of not more than \$50 000 and to a maximum fine of not more than \$1 000 000 in the case of any subsequent offence” in the third, fourth and fifth lines of subparagraph *b* of the first paragraph by the words “, of a minimum fine of not more than \$250 000 and to a maximum fine of not more than \$1 200 000 in the case of a second conviction and to a minimum fine of not more than \$550 000 and to a maximum fine of not more than \$1 500 000 in the case of any subsequent conviction”.

c. Q-2,
s. 109.3,
am.

11. Section 109.3 of the said Act is amended by inserting the words “to refuse or neglect to comply with an order or” after the word “corporation” in the third line.

c. Q-2,
s. 113, am.

12. Section 113 of the said Act is amended by adding, at the end of the first paragraph, the following sentence: “The Minister may also have the thing done at the expense of the directors or officers of the corporation which refuses or neglects to do the thing and recover the cost from them with interest and costs; such directors or officers are severally liable if

(1) they authorized or encouraged the corporation to refuse or neglect to do the thing, or ordered or advised the corporation to refuse or neglect to do the thing;

(2) they tolerated the corporation's refusal or neglect to do the thing."

c. Q-2,
s. 117, am.

13. Section 117 of the said Act is amended

(1) by inserting the words "to the presence of a contaminant in the environment or" after the word "attribute" in the first line;

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

Application

"The first paragraph applies to a municipality as regards damage to its property."

c. Q-2,
s. 118.0.1,
added

14. The said Act is amended by inserting, after section 118, the following section:

Information
to Minister
of Health
and Social
Services

"118.0.1 The Minister shall inform the Minister of Health and Social Services that a contaminant present in the environment is likely to affect the life, health, safety, welfare or comfort of human beings.

Other
notification

He shall also give notice to the same effect to the Minister of Public Security and the Minister of Agriculture, Fisheries and Food if he deems it expedient."

c. Q-2,
s. 118.1,
am.

15. Section 118.1 of the said Act is amended by inserting the figures "31.44, 31.46," after the figure "25," in the second line.

c. Q-2,
s. 118.2,
am.

16. Section 118.2 of the said Act is amended by replacing the word "may" in the second line by the word "shall".

c. Q-2,
ss. 118.3.1,
118.3.2,
added

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

Consultation

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

Approval
not required

"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.”

c. Q-2,
s. 118.4,
am.

18. 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.

c. Q-2,
s. 118.5,
am.

19. 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, 31.49 or 31.51;

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

c. Q-2,
s. 120.6.1,
added

20. The said Act is amended by inserting, after section 120.6, the following section:

Administra-
tion
of seized
property

“120.6.1 Where a charge has been laid under this Act and, as a result, seized property is confiscated, the Minister shall assume the provisional administration of the confiscated property and may dispose of it or prescribe how it is to be disposed of.”

c. Q-2,
s. 126,
am.

21. Section 126 of the said Act is amended by adding, at the end, the following paragraph:

Exception

“However, subdivision 2 of Division IV.2.1 of Chapter I does not apply to the Minister of Energy and Resources where it concerns lands in the public domain on which he exercises the rights and powers inherent in the right of ownership or to another minister where it concerns any land in the public domain which has been transferred under his authority or administration pursuant to the Act respecting the lands in the public domain (R.S.Q., chapter T-8.1).”

Coming
into force

22. The provisions of this Act come into force on 22 June 1990 except sections 31.46 to 31.51, enacted by section 4, which will come into force on the date fixed by the Government.