

1984, chapter 54

AN ACT RESPECTING THE SOCIÉTÉ DES ÉTABLISSEMENTS DE PLEIN AIR DU QUÉBEC

Bill 88

Introduced by Mr Jacques Brassard, Minister of Recreation, Fish and Game

Introduced: 13 June 1984

Passage in principle: 21 November 1984

Passage: 20 December 1984

Assented to: 21 December 1984

Coming into force: by proclamation of the Government

Act amended:

Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10)





CHAPTER 54

An Act respecting the Société des établissements de plein air du Québec

[Assented to 21 December 1984]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

ESTABLISHMENT AND COMPOSITION OF THE CORPORATION

Estab-
lishment

1. A joint-stock company, hereinafter called “the corporation”, is incorporated under the name of the “Société des établissements de plein air du Québec”.

Head office

2. The head office of the corporation is in the territory of the Communauté urbaine de Québec; the corporation may, however, transfer its head office to any other place in Québec. A notice of any change of location of the head office is published in the *Gazette officielle du Québec*. The corporation may hold its sittings anywhere in Québec.

Mandatory
of the
Government

3. The corporation is a mandatory of the Government.

Public
domain

The property of the corporation forms part of the public domain, but the performance of its obligations may be levied against its property.

Liability

The corporation binds only itself when it acts in its own name.

Board of
directors

4. The affairs of the corporation are administered by a board of directors composed of seven members, as follows:

(1) the president of the corporation appointed by the Government for a term of not over five years;

(2) six other members appointed by the Government for a term of not over three years.

Domicile **5.** Not fewer than five members of the board of directors must be domiciled in Québec.

Chairman **6.** The Government shall appoint one of the members of the board of directors to be chairman of the board.

Duties The chairman of the board shall preside over the meetings of the board of directors, direct its operations and carry out the other functions vested in him by by-law of the corporation.

Vice-chairman **7.** The members of the board of directors shall elect a vice-chairman from among the members contemplated in paragraph 2 of section 4, to perform the duties of the chairman of the board in his absence.

Continuance in office **8.** Each member of the board of directors remains in office at the expiry of his term until he is replaced or reappointed.

Vacancy A vacancy occurring before the end of a term is filled in the manner and for the time specified in section 4.

Replacement If the chairman of the board of directors is unable to act, he is replaced by the vice-chairman; if any other member of the board is unable to act, he is replaced by a person designated by the Government, which shall fix his indemnities and allowances.

Quorum **9.** A majority of the members of the board of directors, including the chairman, forms a quorum.

Duties of the president **10.** The president of the corporation shall see that the decisions of the board of directors are carried out, and he is responsible for the direction and management of the corporation within the scope of its by-laws and policies. He is *ex officio* the chief executive officer of the corporation and shall devote his full time to his official duties.

Remuneration of the president The remuneration and the other conditions on which the president holds office are specified in a contract binding between him and the corporation. The contract has effect only if it is ratified by the Government.

Remuneration of the chairman **11.** The Government shall fix, as required, the salary, allowances, indemnities and the other conditions of employment of the chairman and the other members of the board of directors.

Payment All the members of the board of directors are paid out of the revenues of the corporation.

Conflict of
interest

12. Any member of the board of directors, other than the president of the corporation, having a direct or indirect interest in an undertaking causing his personal interest to conflict with that of the corporation shall, under pain of forfeiture of office, disclose it in writing to the president of the corporation and abstain from participating in any decision involving the undertaking in which he has an interest.

Conflict of
interest

In no case may the president or any employee of the corporation, under pain of forfeiture of office, have a direct or indirect interest in any undertaking causing his personal interest to conflict with that of the corporation. However, forfeiture is not incurred where the interest devolves to him by succession or gift, provided he renounces or disposes of it with dispatch.

Executive
committee

13. The corporation may, by by-law, establish an executive committee, determine its functions and powers and fix the term of office of its members.

Appoint-
ment

14. The secretary and the other employees of the corporation are appointed in the manner provided and in accordance with the staffing plan established by by-law of the corporation.

Conditions
of
employment

The scales and standards of remuneration and the other conditions of employment of the secretary and the other employees of the corporation are determined by resolution of the board of directors and require the approval of the Government.

Internal
manage-
ment

15. The corporation may make any by-law concerning the exercise of its powers and its internal management.

By-laws

By-laws made in accordance with this division come into force on the date of their approval by the Government or on any later date it determines.

Confir-
mation

The by-laws do not require confirmation by the shareholders.

Authentic
documents

16. The minutes of the sittings of the board of directors, approved by the board and certified by the chairman of the board or any other person authorized to do so by the by-laws of internal management of the corporation, are authentic. The same applies to documents and copies emanating from the corporation and forming part of its records, if they are so certified.

Signature

17. No document is binding on the corporation unless it is signed by the president of the corporation or, in the cases determined by by-law of the corporation, an employee of the corporation.

Facsimile

The corporation, by by-law, may, on the conditions it determines, allow a required signature to be affixed by means of an automatic device

to the documents it determines, or a facsimile of a signature to be engraved, lithographed or printed on them. However, the facsimile does not have the same force as the signature itself unless the document is countersigned by a person authorized by the president of the corporation.

DIVISION II

OBJECTS AND POWERS OF THE CORPORATION

Objects **18.** The objects of the corporation are

(1) to administer, operate and develop, alone or jointly with others, the recreational or touristic installations, immovables or territories that are transferred to it under this Act;

(2) to devise, erect, administer, operate and develop, alone or jointly with others, any other recreational or touristic installation, immovable or territory.

Powers For those purposes, the corporation may, in particular,

(1) acquire by agreement any movable or immovable property, or any part of an immovable or real right;

(2) accept any gift or legacy that is of special interest to the corporation in the pursuit of its objects;

(3) build, lease, maintain and hold any movable or immovable property;

(4) sell, alienate, transfer by lease or otherwise, or give as security any movable or immovable property and any rights therein;

(5) equip and furnish immovables;

(6) associate, enter into agreements or contract with any person, corporation or government.

Other mandates **19.** The corporation shall also carry out any other mandate related to the objects of the corporation and entrusted to it by the Government where the whole or part of the related costs are assumed by the Government.

Tabling The order conferring a mandate under this section must be tabled, within fifteen days after it is made, before the National Assembly if it is in session or, if it is not sitting, within fifteen days after the opening of the next session or resumption.

DIVISION III

FINANCIAL PROVISIONS

§ 1.—*Capital structure*Authorized
capital**20.** The authorized capital of the corporation is \$75 000 000.

Shares

It is divided into 750 000 shares with a par value of \$100 each.

Public
domain**21.** The shares of the corporation form part of the public domain and are allotted to the Minister of Finance.§ 2.—*Transfer of movable and immovable property
forming part of the public domain*Ownership
of property**22.** The corporation, from the date and according to the conditions determined by the Government, becomes the owner of the movable and immovable property forming part of the public domain and listed in Schedule I.

Description

The Government may, for the purposes of the application of the Act, establish a technical description of the property contemplated in this section.

Transfer of
ownership

The Government, on the conditions it determines, may transfer to the corporation the ownership of any other movable or immovable property forming part of the public domain.

Joint and
several
liability

The corporation shall assume the obligations and acquires the rights of the Government in respect of the movable and immovable property. However, the corporation and the Government are jointly and severally liable for the current building contracts for which the Government is responsible on the date of transfer.

Value of
property**23.** The Government shall determine, by order, the value of the movable and immovable property transferred under section 22, except the sums receivable and the sums payable, which are transferred at their book value on the date of transfer.Acknowl-
edgement
of debt

The net value of the sums receivable and payable contemplated in the first paragraph is covered by an acknowledgement of debt between the corporation and the Minister of Finance.

Payment

The amount of the acknowledgement of debt is payable within 180 days of the date of transfer contemplated in section 22. The other terms and conditions shall be determined by the Government.

Net debt **24.** The value of the fully-paid shares of the corporation on the date of the transfer for which the Government ordered payment by the transfer of the property referred to in section 22 decreases the net debt of the Government, as defined in the public accounts prepared under the Financial Administration Act (R.S.Q., chapter A-6).

Registration by deposit **25.** The corporation may register by deposit a statement including the description, according to article 2168 of the Civil Code, of any immovable of which the corporation has become the owner under the first or third paragraph of section 22, and the registrar of the registration division in which the immovable is situated is bound to register the statement.

§ 3.—*Financing*

Payment of shares **26.** The shares of the corporation are fully paid if, by order of the Government,

(1) the Minister of Finance pays to the corporation, out of the consolidated revenue fund, the amount of \$75 000 000 for 750 000 shares of its capital stock, or if

(2) the property the ownership of which is transferred in accordance with section 22 of this Act is allocated to full payment for the shares of the corporation.

Mode of payment However, the Government may order that the consideration will be paid, to the extent it indicates, both in cash and in property.

Cash payment The payment in cash contemplated in this section may be made in one or several instalments, the amount and conditions of which are determined by the Government.

Share certificate The corporation shall issue share certificates to the Minister of Finance in return for payments made in accordance with this section, as and when they are made, where such is the case.

Power of the Government **27.** The Government may, on the conditions and according to the modalities it determines,

(1) guarantee the payment in principal and interest of any loan made to the corporation;

(2) guarantee the execution of any other obligation of the corporation;

(3) authorize the Minister of Finance to advance to the corporation any amount considered necessary for the pursuit of its objects.

Consolidated revenue fund

Amounts required for the carrying out of this section are taken out of the consolidated revenue fund.

Prohibition

28. In no case may the corporation, except with the authorization of the Government,

(1) contract a loan that increases the aggregate of its outstanding loans to more than the amount determined by the Government;

(2) enter into a contract for a term or an amount exceeding the term or amount determined by the Government;

(3) accept a gift or legacy to which a charge or condition is attached;

(4) acquire or hold shares of a legal person or an interest in a partnership;

(5) dispose of an immovable otherwise than by a sale by auction or by public tender.

Tabling

The order of the Government regarding any matter contemplated in subparagraph 2 or 4 of the first paragraph must be tabled, within fifteen days after it is made, in the National Assembly if it is in session or, if it is not sitting, within fifteen days of the opening of the next session or resumption.

DIVISION IV

SPECIAL POWERS AND DUTIES AND CONDITIONS OF EXERCISE

Dividends

29. Dividends paid by the corporation are fixed by the Government and not by the directors.

Directives

30. The Minister responsible for the administration of this Act may, within the scope of the responsibilities and powers conferred on him, issue directives to the corporation on the objectives and orientation of the corporation in the discharge of its duties under the Act; these directives require the approval of the Government.

Directives

Directives issued under this section bind the corporation.

Tabling

Every directive issued under this section must be tabled, within fifteen days of its approval, in the National Assembly if it is in session or, if it is not sitting, within fifteen days of the opening of the next session or resumption.

Third persons

Third persons are not bound to see to the carrying out of this section, nor may it be invoked by or against them.

Provisions
not
applicable

31. Sections 129, 130, 142, 159 to 162, 179 and 189 to 196 of the Companies Act (R.S.Q., chapter C-38) do not apply to the corporation.

DIVISION V

ACCOUNTS AND REPORTS

Fiscal year

32. The fiscal year of the corporation ends on 31 May each year.

Annual
report

33. Not later than 30 September each year, the corporation shall forward to the Minister its financial statements and a report of its activities for the previous fiscal year.

Contents

The financial statements and the report of activities must include all the information required by the Minister.

Tabling

34. The Minister shall table the report of activities and the financial statements of the corporation in the National Assembly within fifteen days of receiving them, if it is in session, or, if it is not sitting, within fifteen days of the opening of the next session or resumption.

Audit

35. The books and accounts of the corporation are audited annually, and every time the Government orders them audited, by the Auditor General or, with the approval of the Government, by an auditor designated by the corporation. The auditor's report must accompany the report of activities and the financial statements of the corporation.

Develop-
ment plan

36. The corporation shall have its development plan approved by the Government.

Form and
tenor

The Government shall determine the form and tenor of the development plan and the date on which it must be presented.

Budget

37. Before the beginning of each fiscal year, the corporation shall prepare an operating budget and a capital budget and submit them to the Government for approval for every year determined by it.

Form and
tenor

The Government shall determine the form and tenor of the budgets and the date on which they must be presented.

Information

38. The corporation shall give to the Minister responsible for the administration of this Act any information he may require on its activities.

DIVISION VI

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Transfer of
employee

39. Any person employed by the corporation may apply for a transfer to a position in the public service or enter a competition for

promotion in accordance with the Public Service Act (1983, chapter 55) if, on the date of the transfer of all or part of an administrative unit of a Government department to the corporation, he was a public servant with permanent tenure of a Government department in the administrative unit transferred to the corporation and if his appointment to the corporation has occurred within six months following the transfer of the administrative unit to which he belonged.

Competition
for
promotion

40. Section 35 of the Public Service Act applies to any employee contemplated in section 39 who enters a competition for promotion to a position in the public service.

Classifi-
cation

41. Where an employee contemplated in section 39 applies for a transfer or enters a competition for promotion, he may require the Office des ressources humaines to give him an opinion on the classification he would have in the public service. The opinion must take account of the classification that the employee had in the public service on the date of his termination of employment and the experience and years of formal training he has acquired since he has been in the employ of the corporation.

Transfer

Where an employee is transferred pursuant to section 39, the deputy minister or chief executive officer shall establish his classification in accordance with the opinion contemplated in the first paragraph.

Promotion

Where an employee is promoted pursuant to section 39, his classification must take account of the criteria provided in the first paragraph.

Placement
on reserve

42. Where all or some of the activities of the corporation cease or in case of a lack of work, the employee contemplated in section 39 is entitled to be placed on reserve in the public service with the classification he had before the date of his termination of employment.

Classifi-
cation

In the case of this section, the Office des ressources humaines shall, where applicable, assign the employee a classification that takes account of the criteria provided in the first paragraph of section 41.

Placement
on reserve

43. A person placed on reserve pursuant to section 42 remains in the corporation until the Office des ressources humaines is able to place him.

Dismissal

44. Subject to any rights of action which may exist under a collective agreement, an employee contemplated in section 39 who is dismissed may appeal therefrom in accordance with section 33 of the Public Service Act.

- Association of employees** **45.** The associations of employees certified in accordance with Chapter IV of the Public Service Act (1983, chapter 55), which represent groups of employees of a department of the Government on the date of the transfer contemplated in section 39, continue to represent those employees at the Société des établissements de plein air du Québec until the date of expiry of the collective agreements in force at the time of the transfer.
- Future employees** The associations of employees also represent, according to the groups contemplated, the future employees of the corporation until 31 December 1985.
- Collective agreement** The provisions of the collective agreements filed in the office of the labour commissioner-general, in accordance with the Act respecting the conditions of employment in the public sector (1982, chapter 45), apply to the employees of the corporation so far as they are applicable, until the date of expiry of the collective agreements in force at the time of the transfer.
- Exception** Notwithstanding the foregoing, in no case may the provisions of the described collective agreements that regard security of employment apply to employees contemplated in the second paragraph.
- Regulations** The regulations mentioned in Schedule II apply to employees of the corporation who were contemplated in those regulations before being transferred, so far as the provisions of the collective agreements to which they refer are applicable, until 31 December 1985.
- Effect of transfers** **46.** The transfers provided for in section 22 and the transfers of rights provided for in this Act have effect notwithstanding the non-fulfilment, at the time of those transfers, of an obligation or a condition provided in an Act or contract.
- Proceedings prohibited** No proceedings may be brought against the Government, the corporation or any of their members, employees or officers solely by reason of a transfer or the non-fulfilment of an obligation or condition referred to in the first paragraph.
- Act not applicable** **47.** The Act to authorize municipalities to collect duties on transfers of immovables (R.S.Q., chapter M-39) does not apply to transfers provided in section 22.
- Joint and several liability** **48.** The corporation and the Government are jointly and severally liable for the obligations arising from leases to which the Government is a party as a lessee, and which are in effect on the date determined in accordance with section 22.

Subletting

However, the subletting of the premises rented by the Government under such a lease is not subject to article 1619 of the Civil Code and the lessor shall impose no condition, restriction, obligation or additional or preliminary procedure with respect to the subletting on the corporation.

Records and documents

49. The records and other documents of the Government concerning the movable and immovable property contemplated in section 22 become the records and documents of the corporation, except where the Government decides otherwise.

Pending cases

50. Pending cases of the Government relating to the movables and immovables contemplated in section 22 are continued and decided by the corporation, except where the Government decides otherwise.

Proceedings continued

51. Proceedings to which a minister or deputy minister of the Government is a party are transferred, without continuance of suit, to the president of the corporation according to the attributions conferred on him by law or, if the Government decides otherwise, to any other person it designates.

c. R-10, Sched. I, am.

52. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), enacted by chapter 24 of the statutes of 1983 and amended by section 35 of chapter 7 of the statutes of 1984, is again amended

(1) by inserting in paragraph 1, at such place as may be determined by the Commission de refonte des lois et règlements, the following: “the Société des établissements de plein air du Québec”;

(2) by adding to paragraph 7, at such place as may be determined by the Commission de refonte des lois et règlements, the following: “the Société des établissements de plein air du Québec”.

c. R-10, Sched. III, am.

53. Schedule III to the said Act, enacted by chapter 24 of the statutes of 1983 and amended by section 36 of chapter 7 of the statutes of 1984, is again amended by inserting in paragraph 1, at such place as may be determined by the Commission de refonte des lois et règlements, the following: “the Société des établissements de plein air du Québec”.

Minister responsible

54. The Minister of Recreation, Fish and Game is responsible for the administration of this Act.

Exception

55. 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).

Coming into
force

56. This Act comes into force on the date to be fixed by proclamation of the Government, except the provisions excluded by the proclamation, which come into force on any later date or dates fixed by proclamation of the Government.

SCHEDULE I

1. SKI SECTOR

The installations of and the land enclosing the camping ground, the golf course and the alpine and cross-country skiing facilities of Parc du Mont Ste-Anne.

2. CAMPING SECTOR

The installations of and the land enclosing the Amqui, Côte Ste-Catherine, Kénogami, Stoheham, des Voltigeurs, Baie de Percé, Côteau Landing, Pointe-des-Cascades and Fort Témiscamingue camping grounds.

3. LOGGING AND RESTAURANT SECTOR

The land and installations of the Auberge de Fort Prével and its golf course.

The land and installations of the Manoir Montmorency.

The installations of the wild life preserve of Île d'Anticosti.

The installations of the Domaine in the wild life preserve of La Vérendrye.

SCHEDULE II

1. The "Règlement sur les conditions de travail du personnel de bureau, techniciens et assimilés, de certains employés à la résidence officielle du lieutenant-gouverneur, des chauffeurs de ministre et du personnel ouvrier", made on 13 April 1982 by ministerial order 188-82 approved by C.T. 138 835 of 27 April 1982, amended on 2 December 1982 by ministerial order 263-82 approved by C.T. 142 047 of 7 December 1982, amended on 17 December 1982 by ministerial order 269-82 approved by C.T. 142 284 of 20 December 1982 and amended on 10 May 1983 by ministerial order 292-83 approved by C.T. 144 821 of 7 June 1983.

2. The "Règlement sur les conditions de travail du personnel professionnel", made on 12 January 1982 by ministerial order 187-82 approved by C.T. 137 510 of 16 February 1982, amended on 29 March 1982 by ministerial order 215-82 approved by C.T. 139 121 of 11 May 1982, amended on 2 December 1982 by ministerial order 261-82 approved by C.T. 142 045 of 7 December 1982, amended on 17 December 1982 by ministerial order 268-82 approved by C.T. 142 283 of 20 December 1982, and amended on 10 May 1983 by ministerial order 294-83 approved by C.T. 144 823 of 7 June 1983.