



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 59

(1996, chapter 62)

**An Act to amend the Act respecting the
conservation and development of wildlife**

Introduced 12 November 1996

Passage in principle 21 November 1996

Passage 20 December 1996

Assented to 23 December 1996

**Québec Official Publisher
1996**

EXPLANATORY NOTES

This bill amends the Act respecting the conservation and development of wildlife so as to grant to wildlife conservation officers the assistance required to perform their duties. To that end, the bill provides that the Minister may appoint wildlife conservation assistants and area wardens and grants the assistants and wardens the powers required to discharge the duties entrusted to them.

The bill provides that a municipality or an urban community may enter into various agreements with the Minister for wildlife management and accessibility purposes and for the establishment of controlled zones, wildlife sanctuaries and wildlife preserves. It also provides that any public land situated in a controlled zone, a wildlife sanctuary or a wildlife preserve that is sold or transferred continues to form part of the controlled zone, wildlife sanctuary or wildlife preserve for the purposes of the regulations that were applicable to the land. Similarly, where private land is situated in a controlled zone, a wildlife sanctuary or a wildlife preserve following an agreement between the owner and the Minister, the bill provides that the agreement binds the owner and his successors for the period indicated in the agreement.

The Minister is granted the power to refuse to issue a transportation or stocking licence where that is in the public interest and particularly in the interest of wildlife conservation or management. The bill also grants the Minister the power to amend a lease of exclusive hunting, fishing or trapping rights in specific cases and introduces new exceptions to the call for tenders procedure with respect to leases for exclusive fishing rights.

The bill authorizes an agency entrusted with the management of a controlled zone to fix, jointly with an outfitter, another such agency or a recreational association, a fixed amount to be paid each year by them as fees for travelling within the controlled zone. The maximum amount of outstanding borrowings of the wildlife foundation is increased and the foundation is authorized to acquire bonds or other titles of indebtedness issued by bodies of the Government of Québec.

Lastly, the bill contains penal and transitional provisions and amendments to ensure harmonization with the Civil Code of Québec.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1);
- Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., chapter D-13.1).

Bill 59

AN ACT TO AMEND THE ACT RESPECTING THE CONSERVATION AND DEVELOPMENT OF WILDLIFE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 5 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) is amended

(1) by replacing subparagraphs 2 to 4 of the first paragraph by the following subparagraphs :

“(2) certain provisions of the Act respecting the lands in the public domain (chapter T-8.1) and the regulations under it that are specified by regulation ;

“(2.1) certain programs prepared in accordance with Division II.2 of the Act respecting the Ministère des Ressources naturelles that are specified by regulation ;

“(3) the Environment Quality Act (chapter Q-2) and the regulations under it ;

“(4) the Ecological Reserves Act (chapter R-26.1) and the regulations under it ;” ;

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

“(7) the Act respecting threatened or vulnerable species (chapter E-12.01) and the regulations under it.”

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

“8. The Minister may appoint wildlife conservation assistants and area wardens to assist wildlife conservation officers in the exercise of their functions. The Minister shall determine the provisions of the Acts and regulations referred to in section 5 that are to be enforced by wildlife conservation assistants and those that are to be enforced by area wardens. The Minister shall also determine the place where they are to exercise their functions.

Wildlife conservation assistants and area wardens also have a duty to promote wildlife conservation.

Wildlife conservation assistants and area wardens are not authorized to exercise the powers provided for in Chapters II and III of the Code of Penal Procedure (chapter C-25.1).

When appointing persons as conservation assistants or area wardens, the Minister shall consider their recognized, relevant training, their knowledge of and interest for wildlife and the supervisory rules applicable to them.”

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

“3.1. In the exercise of their functions, conservation officers, conservation assistants and area wardens must, on request, identify themselves and show the certificate issued by the Minister of the Environment and Wildlife attesting their capacity.”

4. Sections 9 and 10 of the said Act are repealed.

5. Section 11 of the said Act is amended

(1) by striking out the word “property” in the second line of paragraph 1;

(2) in the French text, by replacing the words “d’une propriété” in the first line of paragraph 2 by the words “d’un bien”.

6. Section 12 of the said Act is amended

(1) by replacing the words “or a deputy conservation officer” in the second and third lines of the first paragraph by the words “, a conservation assistant or an area warden”;

(2) by replacing the words “or a deputy conservation officer” in the second line of the second paragraph by the words “, a conservation assistant or an area warden”.

7. Section 13 of the said Act is replaced by the following section:

“13. A conservation officer, a conservation assistant or an area warden may, in the exercise of his functions, enter upon and pass through or over private land.”

8. Section 13.1 of the said Act, amended by section 2 of chapter 18 of the statutes of 1996, is again amended

(1) by inserting the words “or a conservation assistant” after the word “officer” in the first line of the first paragraph;

(2) by replacing the word “He” in the first line of the second paragraph by the words “The conservation officer or conservation assistant, readily identifiable as such by reason of means of identification determined by the Minister,”;

(3) by striking out the fourth paragraph.

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

“13.2. An area warden may require any person to produce for inspection any document, other than a hunting or trapping licence, required under this Act or the regulations or under any other Act or regulations he has the duty to enforce.

Every person to whom the first paragraph applies must comply forthwith with any requirement thereunder.”

10. Section 15 of the said Act is amended by striking out the words “or a deputy conservation officer” in the first line.

11. Section 16 of the said Act is amended

(1) by replacing the words “deputy conservation officer” in the first line of the first paragraph by the words “conservation assistant”;

(2) by replacing the words “deputy conservation officer” in the first line of the fourth paragraph by the words “conservation assistant”;

(3) by inserting the word “forthwith” after the word “officer” in the second line of the fourth paragraph.

12. Section 22 of the said Act is amended

(1) by inserting the words “, a conservation assistant or an area warden” after the word “officer” in the first line of the first paragraph and by replacing the words “a conservation officer” in the second line by the word “such”;

(2) by replacing the words “vehicle used for the work of conservation officers” in the third and fourth lines of the first paragraph by the words “work vehicle used by a conservation officer, conservation assistant or area warden”.

13. Section 23 of the said Act is amended

(1) by replacing the words “deputy conservation officer” in the first and second lines of the first paragraph by the words “conservation assistant”;

(2) by replacing the words “deputy conservation officer” in the first line of the second paragraph by the words “conservation assistant”;

(3) by replacing the words “deliver the animal to a conservation officer or inform him of the killing or capture” in the second and third lines of the second paragraph by the words “declare the fact to a conservation officer forthwith and, if he so requires, deliver it to him for the purpose of confiscation”.

14. Section 37 of the said Act is amended by inserting the words “including a municipality or an urban community,” after the word “owner,” in the second line.

15. Section 54 of the said Act is amended by adding, at the end of the first paragraph, the following sentence: “However, the Minister may refuse to issue a transportation or stocking licence in the public interest, particularly in the interest of wildlife conservation or management.”

16. Section 58 of the said Act is amended by replacing the words “physical disability” in the second line of the second paragraph by the word “incapacity”.

17. Section 79 of the said Act is amended by replacing the words “legal representatives” in the fifth line by the word “successors”.

18. Section 81 of the said Act is amended by replacing the word “damages” in the fourth line of the second paragraph by the word “injury”.

19. Section 83 of the said Act is amended

(1) by replacing the words “legal representatives” in the second line of subparagraph 5 of the first paragraph by the word “successors”;

(2) by replacing the words “damage to property” in the first line of subparagraph 7 of the first paragraph by the words “the injury sustained”.

20. Section 86.1 of the said Act is replaced by the following section:

“86.1. Notwithstanding any general law or special Act and subject to the right of first refusal of the Native people provided for in the Act respecting hunting and fishing rights in the James Bay and New Québec territories (chapter D-13.1), a lease of exclusive hunting or fishing rights shall be granted, after a call for tenders, to the tenderer whose bid is the most advantageous. However, the Minister is not required to lease exclusive rights if he is of the opinion that the most advantageous bid is inadequate.

A lease of exclusive rights is not subject to a call for tenders if the lease is

(1) a lease for a renewal;

(2) a lease for a transfer;

(3) a lease for an extension of rights;

(4) a lease for the expansion of territory ;

(5) a lease of exclusive fishing rights that does not cover outfitting activities or that covers a body of water less than 20 hectares in area.”

21. Section 89 of the said Act is amended by inserting the words “or amend” after the word “revoke” in the second line.

22. Section 90 of the said Act is amended by inserting the word “amend,” after the word “may” in the first line.

23. Section 91 of the said Act is amended by inserting, after the first paragraph, the following paragraph :

“Upon the amendment of a lease under section 89, the Minister shall acquire the buildings and structures situated in the territory identified in the lease and affected by the amendment by paying to the lessee who owns them an amount equivalent to their real value or compensate the lessee in consideration of the decrease in value of the buildings and structures.”

24. Section 92 of the said Act is amended

(1) by replacing the words “of a lease pursuant to” in the first line by the words “or amendment of a lease under” ;

(2) by inserting the words “and affected by the revocation or amendment” after the word “lease” in the fifth line.

25. Section 104 of the said Act is amended

(1) by inserting the words “, including a municipality or an urban community,” after the word “owner” in the second line of the second paragraph ;

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

“Where an agreement is entered into under the second paragraph, it binds the owner and his successors for the term indicated therein, including the renewal period, if any ; a certified copy of the agreement, accompanied with a copy of the order establishing the controlled zone, must be filed at the registry office of the registration division in which the land is situated for registration of the prescribed particulars in the land register.”

26. The said Act is amended by inserting, after section 104, the following section :

“104.1. Where land in the public domain that is situated in a controlled zone is sold or transferred, it continues to form part of the controlled zone for

the purposes of the regulations under sections 106, 110, 110.1 and 110.2 and the Minister need not make an agreement to that end with the purchaser or his successors.

The first paragraph does not operate to allow users access to the land or leave to carry on an activity on the land without the owner's consent."

27. Section 106.2 of the said Act is replaced by the following section :

"106.2. An agency that is a party to a memorandum of agreement may, jointly with an outfitter, another agency that is a party to a memorandum of agreement or a recreational association, fix an amount to be paid annually by the outfitter, agency or association as fees for persons who must travel through the territory of the controlled zone to get to the territory of the outfitting operation or of another controlled zone, or who must travel through the territory of the controlled zone to engage in an activity as members of the recreational association."

28. Section 111 of the said Act is amended

(1) by inserting the words " , including a municipality or an urban community," after the word "owner" in the second line of the second paragraph ;

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

"Where an agreement is entered into under the second paragraph, it binds the owner and his successors for the term indicated therein, including the renewal period, if any ; a certified copy of the agreement, accompanied with a copy of the order establishing the wildlife sanctuary, must be filed at the registry office of the registration division in which the land is situated for registration of the prescribed particulars in the land register."

29. The said Act is amended by inserting, after section 111, the following section :

"111.1. Where land in the public domain that is situated in a wildlife sanctuary is sold or transferred, it continues to form part of the wildlife sanctuary for the purposes of a ministerial order under section 120.1 and the regulations under section 121, and the Minister need not make an agreement to that effect with the purchaser or his successors.

The first paragraph does not operate to allow users access to the land or leave to carry on an activity on the land without the owner's consent."

30. Section 113 of the said Act is amended by replacing the second paragraph by the following paragraph :

“Notice of the designation must be served on the owner of the land. The designation takes effect from its registration in the land register of the registry office of the registration division in which the land is situated.”

31. Section 116 of the said Act is amended by inserting the word “absolutely” before the word “null”.

32. Section 122 of the said Act is amended

(1) by adding the words “, including a municipality or an urban community” after the word “owner” at the end of the second paragraph;

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

“Where an agreement is entered into under the second paragraph, it binds the owner and his successors for the term indicated therein, including the renewal period, if any; a certified copy of the agreement, accompanied with a copy of the order establishing the wildlife preserve, must be filed at the registry office of the registration division in which the land is situated for registration of the prescribed particulars in the land register.”

33. The said Act is amended by inserting, after section 122, the following section:

“122.1. Where land in the public domain that is situated in a wildlife preserve is sold or transferred, it continues to form part of the wildlife preserve for the purposes of the regulations under section 125 and the Minister need not make an agreement to that effect with the purchaser or his successors.

The first paragraph does not operate to allow users access to the land or leave to carry on an activity on the land without the owner’s consent.”

34. Section 128.5 of the said Act is amended by replacing the words “whose territory is” in the first line of paragraph 4 by the words “of the territory”.

35. Section 130 of the said Act is amended by replacing the word “corporation” by the words “legal person”.

36. Section 132 of the said Act is amended by replacing the words “corporate seat” in the first line of the first and second paragraphs by the words “head office”.

37. Section 134 of the said Act is amended by replacing the words “incapacité d’agir temporaire” in the second line of the French text by the word “empêchement”.

38. Section 150 of the said Act is amended by replacing the sum “\$100 000” in the second line of paragraph 1 by the sum “\$500,000”.

39. Section 151 of the said Act is amended by replacing the words “government of Québec” in the second line of paragraph 2 by the words “Government of Québec or any of its agencies, by the government”.

40. Section 162 of the said Act is amended by replacing paragraph 2 by the following paragraph :

“(2) determining the provisions of the Act respecting the lands in the public domain (chapter T-8.1) and the regulations thereunder and the programs prepared in accordance with Division II.2 of the Act respecting the Ministère des Ressources naturelles (chapter M-25.2) that may be enforced by a wildlife conservation officer;”.

41. Section 165 of the said Act, amended by section 14 of chapter 18 of the statutes of 1996, is again amended by striking out the figure “52,” in the first line of subparagraph 3 of the first paragraph.

42. Section 167 of the said Act, amended by section 15 of chapter 18 of the statutes of 1996, is again amended by inserting the words “section 52,” after the figure “47,” in the first line of subparagraph 2 of the first paragraph.

43. Section 169 of the said Act is amended by replacing the words “or deputy conservation officer” in the first and second lines by the words “, conservation assistant or area warden”.

44. Section 171 of the said Act, amended by section 16 of chapter 18 of the statutes of 1996, is again amended by inserting the words “the second paragraph of section 13.2,” after the words “section 13.1,” in paragraph 2.

45. Section 171.3 of the said Act is amended by replacing the second paragraph by the following paragraph :

“The Minister may request the registration, in the land register of the registration division in which private land is situated, of a reference to the existence of a wildlife habitat on the land. The request of the Minister is made by means of a notice filed in the registry office of the registration division in which the land is situated; such notice shall be in lieu of a notice of the existence of a wildlife habitat on that land in respect of any person who becomes the owner thereof after the registration.”

46. Section 171.4 of the said Act is replaced by the following section :

“171.4. Every person who refuses or neglects to provide information required under this Act or the regulations to a person who may so require pursuant to this Act or the regulations is guilty of an offence and is liable to a fine of not less than \$250 nor more than \$750.

Every person who provides information required under this Act or the regulations, with the knowledge that it is false or misleading, to a person other

than a person referred to in section 12 and who is authorized to require it is guilty of an offence and is liable to the fine set out in the first paragraph.”

47. Section 177 of the said Act is amended

(1) by inserting the word “amend” after the word “revoke,” in the first line of the first paragraph;

(2) by inserting the words “or amended” after the word “cancelled” at the end of the second line of subparagraph 1 of the first paragraph;

(3) by inserting the word “, amend” after the word “suspend” in the first line of the third paragraph.

48. The said Act is amended by replacing the words “deputy conservation officer” wherever they appear in sections 17, 18, 19, 20, 45 and 72 by the words “conservation assistant”.

49. The deputy conservation officers shall cease to exercise their functions on the expiration date of their instrument of appointment and not later than 31 December 1997.

50. Section 4 of the Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., chapter D-13.1) is amended by replacing the words “deputy conservation officer” in the first and second lines of the first paragraph by the words “conservation assistant”.

51. This Act comes into force on 23 December 1996, except sections 2 to 4, 6 to 10, paragraphs 1 and 2 of section 11, section 12, paragraphs 1 and 2 of section 13 and sections 43, 44, 48 and 50, which come into force on 1 January 1998, and paragraph 1 of section 1 insofar as it replaces subparagraphs 2 and 3 of the first paragraph of section 5 of the Act respecting the conservation and development of wildlife, which come into force on the date to be fixed by the Government.