



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 132

An Act respecting the conservation of wetlands and bodies of water

Introduction

**Introduced by
Mr. David Heurtel
Minister of Sustainable Development, the Environment and
the Fight Against Climate Change**

**Québec Official Publisher
2017**

EXPLANATORY NOTES

This bill proposes to reform the legal framework applicable to wetlands and bodies of water in order to modernize the measures that ensure their conservation.

The various Acts amended by the bill reflect the different components of the reform, which concerns land use planning, the planning and integrated management of water resources, the environmental authorization scheme and natural heritage conservation measures.

More specifically, the Act to affirm the collective nature of water resources and provide for increased water resource protection is amended to, among other reasons, recognize the ecological functions of wetlands and bodies of water, clarify the role of watershed bodies and regional advisory panels, and give the metropolitan communities and the municipalities required to maintain a land use planning and development plan responsibility for developing and implementing a regional wetlands and bodies of water plan in their respective territories.

That Act is further amended to grant the Minister the power to develop and implement programs to promote the restoration and creation of wetlands and bodies of water, and to impose the requirement to file various reports on the evolution of wetlands and bodies of water, in particular with regard to the objective of no net loss.

The Natural Heritage Conservation Act is amended to facilitate conservation of certain wetlands and bodies of water through their designation and through the establishment of their boundaries on a plan. The Minister will establish and keep up to date a register of the designated wetlands and bodies of water.

The bill inserts a new division on wetlands and bodies of water in the Environment Quality Act. In addition to setting out the special requirements for documenting authorization applications for projects in wetlands and bodies of water, the new provisions detail the analysis procedure and the applicable criteria for the authorizations issued under that Act. Among other measures, the bill introduces the possibility of requiring compensation for certain types of interventions in wetlands and bodies of water as a condition for issuing an

authorization in cases where it is not possible to avoid, reduce or mitigate adverse effects on those environments. In general, the compensation will be in the form of a financial contribution, and the amounts collected will be paid into the Fund for the Protection of the Environment and the Waters in the Domain of the State to finance programs the Minister is required to implement to promote the restoration and creation of wetlands and bodies of water.

Correlative amendments are made to other Acts. Transitional and final provisions are also included, in particular to specify the terms and implementation deadlines for various measures. The schedule to the bill contains, among other measures, the calculation method to be used, until the regulations come into force, for the compensation amounts payable under the Environment Quality Act.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting land use planning and development (chapter A-19.1);
- Act to affirm the collective nature of water resources and provide for increased water resource protection (chapter C-6.2);
- Natural Heritage Conservation Act (chapter C-61.01);
- Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001);
- Environment Quality Act (chapter Q-2).

Bill 132

AN ACT RESPECTING THE CONSERVATION OF WETLANDS AND BODIES OF WATER

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ACT TO AFFIRM THE COLLECTIVE NATURE OF WATER RESOURCES AND PROVIDE FOR INCREASED WATER RESOURCE PROTECTION

1. The title of the Act to affirm the collective nature of water resources and provide for increased water resource protection (chapter C-6.2) is replaced by the following title:

“ACT TO AFFIRM THE COLLECTIVE NATURE OF WATER RESOURCES
AND TO PROMOTE BETTER GOVERNANCE OF WATER AND
ASSOCIATED ENVIRONMENTS”.

2. The preamble to the Act is amended

(1) by inserting the following paragraphs after the third paragraph:

“AS the environments associated with water resources make a fundamental contribution, particularly with regard to the quality and quantity of water, the conservation of biodiversity and the fight against climate change;

AS it is appropriate to ensure the conservation of such environments, whether to preserve, protect, sustainably use or restore them, or to create new ones;

AS it is appropriate to set the objective of no net loss of such environments;”;

(2) by striking out the fifth and sixth paragraphs.

3. The heading of Division IV of the Act is replaced by the following heading:

“MEASURES RELATED TO GOVERNANCE OF WATER AND
ASSOCIATED ENVIRONMENTS”.

4. Section 12 of the Act is amended by adding the following paragraph at the end:

“Similarly, “associated environments” means the wetlands and bodies of water described in section 46.0.1 of the Environment Quality Act (chapter Q-2).”

5. Section 13 of the Act is amended by replacing the first paragraph by the following paragraph:

“Management of water resources and associated environments in the hydrologic units designated under this division must be based on an integrated, concerted strategy, particularly in the hydrologic unit of outstanding significance that is the St. Lawrence.”

6. The Act is amended by inserting the following after section 13:

“13.1. The Minister may define major directions for integrated, concerted water resource management.

In addition, the Minister must prepare and submit to the Government the directions and objectives to be pursued to protect wetlands and bodies of water, so as to ensure and enhance the various benefits they bring, in particular by performing the following functions:

(1) acting as a pollution filter, controlling erosion and retaining sediments by, among other things, preventing and reducing surface water and groundwater pollution and sediment input;

(2) acting as a regulator of water levels by retaining meteoric water and meltwater and allowing part of it to evaporate, thereby reducing the risk of flooding and erosion and promoting groundwater recharge;

(3) conserving the biological diversity that enables the wetlands and bodies of water or the ecosystems to provide living species with habitats in which to feed, find cover and reproduce;

(4) acting as a sun screen and natural wind-shield by maintaining vegetation, which prevents excessive warming of water and protects soils and crops from wind damage;

(5) sequestering carbon and mitigating the impacts of climate change; and

(6) protecting the quality of the landscape by preserving the natural character of a site and the attributes of the countryside associated with it, thus enhancing the value of adjacent land.

“§1.—*Boundaries of the hydrologic units*

“**13.2.** The Minister must establish the boundaries of the various hydrologic units, including watersheds, sub-watersheds or any group of watersheds and sub-watersheds, in all or part of the territory, taking into account the following criteria:

- (1) the area of the territories included in the hydrologic units;
- (2) the territorial limits of Québec, the administrative regions or the regional county municipalities, as the case may be;
- (3) population density;
- (4) past collaboration and relations between the various users and stakeholders concerned; and
- (5) the environmental, social and economic homogeneity of development activities.

“§2.—*Planning for each hydrologic unit*

“**13.3.** Each hydrologic unit must be the subject of planning so as to ensure conservation of the water resource and the environments associated with it.

For that purpose, a watershed body or a regional advisory panel created or designated under subparagraph 3 or 4 of the first paragraph of section 14 must develop a water master plan or an integrated management plan for all or part of the St. Lawrence.

Once such a plan has been developed, government departments and bodies, metropolitan communities, municipalities and Native communities represented by their band council must take it into consideration in exercising their powers and duties.

“**13.4.** A water master plan or an integrated management plan for the St. Lawrence must be established within the framework of a regional and local consultation process.

“**13.5.** The Minister may determine the elements that must be addressed in a water master plan or an integrated management plan for the St. Lawrence, in particular with regard to

- (1) the state of waters and water-dependent natural resources;
- (2) an enumeration of water uses and an assessment of their effects on water and associated environments;

(3) an inventory of zones of ecological interest and of ecologically fragile or degraded zones;

(4) measures to protect or restore the qualitative or quantitative status of waters; and

(5) an evaluation of the economic and financial means required to implement the plan.

“13.6. A water master plan or an integrated management plan for the St. Lawrence must be approved by the Minister.

It must be the subject of a review and a report, at the intervals and in accordance with the conditions determined by the Minister. A review of the plan and a report on its implementation must be sent to the Minister at least every 10 years, unless another interval is determined.

Any amendment to an approved plan must be sent to the Minister, who may then object to its integration if it does not comply with government policy directions or with the directions established by the Minister.

“13.7. An approved water master plan or an integrated management plan for the St. Lawrence must be made available by the Minister and the body or panel concerned on their respective websites and by any other means they determine.

A notice of approval must be sent by the body or panel that developed the plan to the government departments and bodies and to the metropolitan communities, municipalities and Native communities represented by their band council whose territory is included, in whole or in part, in the hydrologic unit covered by the plan.”

7. Section 14 of the Act is amended, in the first paragraph,

(1) by replacing “For the purposes of section 13, the” in the introductory clause by “The”;

(2) by striking out subparagraph 2;

(3) by replacing “subparagraph 2” in the introductory clause of subparagraph 3 by “section 13.2”;

(4) by inserting, in subparagraph *a* of subparagraph 3,

(*a*) “watershed” before the first occurrence of “body”;

(*b*) “for its integrated management zone” after “plan”;

- (5) by replacing, in subparagraph *b* of subparagraph 4,
 - (a) “of a body to” by “of regional advisory panels to”;
 - (b) “within the body” by “within the panels”;
- (6) by inserting “or panel” after “body” in subparagraph 5;
- (7) by striking out subparagraph 6;

(8) by replacing “such as informing the public and enlisting its participation, obtaining the Minister’s approval of the plan,” in subparagraph 7 by “including conditions regarding obtaining the Minister’s approval of the plan”; and

- (9) by adding the following subparagraphs:

“(8) prescribe requirements for watershed bodies and regional advisory panels with regard to public information and participation measures in connection with their activities, as well as their obligations in monitoring the development of a water master plan or an integrated management plan for the St. Lawrence and in monitoring progress in the plan’s implementation; and

“(9) entrust any mandate to a watershed body or a regional advisory panel to, among other reasons, advise the Minister on water governance matters.”

8. Section 15 of the Act is replaced by the following:

“§3.—*Regional planning related to wetlands and bodies of water*

“**15.** A metropolitan community must develop and implement a regional wetlands and bodies of water plan for its entire territory, except land in the domain of the State.

The same applies to any local or regional municipality required to maintain a land use planning and development plan under the Act respecting land use planning and development (chapter A-19.1).

However, the requirement under the second paragraph does not apply to a municipality whose entire territory is included in that of a metropolitan community. For a municipality whose territory is included, in part, in that of a metropolitan community, the regional plan must be developed by the municipality concerned for only the parts of its territory not included in that of the metropolitan community.

Two or more municipalities may agree to develop a joint regional plan. The plan adoption process still applies to each municipality that is a party to the agreement.

If a metropolitan community develops a regional plan, it may, with the Minister's authorization, delegate to a municipality referred to in the second paragraph the development of the plan for the municipality's entire territory or, as applicable, for only the part of the municipality's territory included in that of the metropolitan community.

“15.1. The Minister must prepare, keep up to date and make available a guide for developing the regional wetlands and bodies of water plans.

“15.2. The purpose of a regional wetlands and bodies of water plan is, among other things, to identify the wetlands and bodies of water in the territory of a metropolitan community or a municipality to facilitate better planning of the community's or municipality's actions and of interventions in the territory, including those relating to the conservation of wetlands and bodies of water.

A regional plan must, as a minimum,

(1) identify the wetlands and bodies of water of the territory concerned on the basis of the criteria determined by the Minister and describe the problems that could affect them, and, from among those wetlands and bodies of water, identify

(a) those that are of special conservation interest, so as to preserve their state, specifying by what means their conservation should be ensured;

(b) those that could potentially be restored to improve their state and ecological functions; and

(c) those that should be the subject of measures to regulate the activities likely to be carried out there, so as to ensure the sustainable use of those wetlands and bodies of water;

(2) identify areas where wetlands or bodies of water could potentially be created;

(3) include an action plan containing a list of the interventions proposed for certain wetlands and bodies of water identified and a timeline for carrying them out, which plan must take into account the rights granted by the State under the Mining Act (chapter M-13.1) and the Act respecting hydrocarbons (chapter H-4.2) or the applications filed to obtain such rights; and

(4) include regional plan follow-up and assessment measures.

The plan must also include any other element determined by the Minister.

“15.3. When developing a regional wetlands and bodies of water plan, the metropolitan community or municipality must, as a minimum, consult the watershed bodies and regional advisory panels concerned to take into account

their concerns and the elements contained in a water master plan or an integrated management plan for the St. Lawrence.

In addition, the metropolitan community or municipality must also comply with the Government's policy directions and objectives, in particular the objective of no net loss of wetlands and bodies of water.

“15.4. A draft regional wetlands and bodies of water plan must be submitted to the Minister, for approval after consultation with the ministers responsible for agriculture, wildlife, energy and natural resources.

A regional plan takes effect on being approved or on any later date determined by the metropolitan community or municipality concerned.

A notice of the approval must be sent by the Minister to the government departments and bodies. The metropolitan communities and municipalities concerned must in turn notify the municipalities and the Native communities represented by their band council whose territory is covered, in whole or in part, by the approved plan.

“15.5. A metropolitan community must make sure that its metropolitan land use and development plan is consistent with the regional plan. It must propose any amendment to the metropolitan plan that is conducive to ensuring such consistency, in accordance with the rules prescribed for that purpose in the Act respecting land use planning and development (chapter A-19.1). The community must, in particular, adopt an interim control by-law according to the rules prescribed by that Act for the period preceding the coming into force of its amended metropolitan plan.

The same rules apply to a municipality governed by this subdivision with regard to the amendment of its land use planning and development plan.

“15.6. The approved regional wetlands and bodies of water plan is to be made public by the metropolitan community or municipality concerned by the means it deems appropriate.

“15.7. The regional wetlands and bodies of water plan must be reviewed every 10 years. For that purpose, the metropolitan communities and municipalities concerned must send the Minister a report on the implementation of their plan within six months after the 10th anniversary of the plan's effective date.

The regional plan must be updated as needed during the review process. Any update must be made according to the same rules as those applicable to the initial plan.

“DIVISION IV.1

“PROGRAM TO PROMOTE THE RESTORATION AND CREATION OF WETLANDS AND BODIES OF WATER

“15.8. To foster achievement of no net loss of wetlands and bodies of water, the Minister must develop and implement one or more programs to restore wetlands or bodies of water and create new ones.

Such a program must take into consideration the relevant elements identified in a regional wetlands and bodies of water plan developed in accordance with this Act.

“15.9. A program must include

(1) the eligibility criteria for projects to restore and create wetlands and bodies of water, the persons and bodies who may benefit from the program, and the eligibility criteria for the costs associated with carrying out the projects;

(2) the objectives and targets to be reached;

(3) the minimum content of the agreements to be entered into to implement the program, which agreements must stipulate the conditions, restrictions and prohibitions applicable to work carried out to restore and create wetlands and bodies of water;

(4) the measures to be put in place to monitor the progress of the projects selected and assess their effectiveness; and

(5) follow-up measures to ensure the sustainability of the restored or created wetlands and bodies of water.

Such a program is established by the Minister, after consulting the other ministers concerned. The program is to be made available on the website of the Minister’s department and by any other means the Minister deems appropriate.

“15.10. Work to restore and create wetlands and bodies of water carried out under an agreement entered into under a program referred to in section 15.8 is exempted from the requirement to obtain a prior authorization required under the Environment Quality Act (chapter Q-2).

The conditions, restrictions and prohibitions applicable to the work that are set out in the agreement are deemed to be those set out in an authorization issued by the Minister under the Environment Quality Act. Any work not covered by the agreement remains subject to the requirement to be authorized under that Act.

The provisions of the Environment Quality Act that establish the penalties applicable for non-compliance with an authorization issued under that Act apply to work carried out in contravention of the conditions, restrictions and prohibitions applicable to the work. The Minister's powers and orders under Division I of Chapter VI of Title I of that Act, as well as the inspection and investigation powers under Chapter XII of that Act, are also applicable.

This section does not restrict any power or penalty the Minister may exercise or impose under the Environment Quality Act in cases where an activity is carried out in contravention of that Act or the regulations.

“15.11. The Minister may, by agreement, delegate the management of all or part of a program developed under section 15.8 to a metropolitan community, a local or regional municipality required to maintain a land use planning and development plan in accordance with the Act respecting land use planning and development (chapter A-19.1), a Native community represented by its band council, a legal person or another body.

The exercise of powers by a delegatee within the scope of such an agreement is not binding on the State.

“15.12. The delegation agreement must, as a minimum, stipulate

(1) the powers delegated and the responsibilities and obligations the delegatee must fulfil;

(2) the objectives and targets to be reached, in particular with regard to efficiency and effectiveness;

(3) the specific rules relating to the contracts the delegatee may award;

(4) the terms governing the data and information to be sent to the Minister, in particular regarding the sites where work is carried out under the program, and the terms governing the conservation of such data and information;

(5) the reports required on the achievement of the objectives and targets set;

(6) the Minister's oversight measures with regard to the delegatee's management, and how and when the Minister may intervene if the objectives and targets imposed on the delegatee have not been reached or seem likely not to be reached;

(7) the penalties applicable for failing to meet the obligations stipulated in the delegation agreement;

(8) if the delegatee is a metropolitan community, the delegated powers that may be subdelegated to a regional county municipality whose territory is included in that of the metropolitan community and all the conditions applicable to the subdelegation;

(9) if the delegatee is a regional county municipality, the delegated powers that may be subdelegated to a local municipality whose territory is included in that of the regional county municipality and all the conditions applicable to the subdelegation; and

(10) the duration of the agreement and the terms and conditions for renewing or terminating it.

Such an agreement is to be made available to public.”

9. The Act is amended by inserting the following division after section 17:

“DIVISION VI

“REPORTING

“17.1. In connection with the conservation of wetlands and bodies of water, the Minister must make the following elements available to the public:

(1) the list of the interventions carried out by the metropolitan communities and municipalities concerned in implementing their regional wetlands and bodies of water plan;

(2) according to the zones the Minister determines, a report on the surface areas of territory where activities authorized under the Environment Quality Act (chapter Q-2) adversely affect wetlands and bodies of water; and

(3) the number of projects chosen under a wetlands and bodies of water restoration and creation program, their characteristics and the surface areas involved.

“17.2. Every 10 years, the Minister must produce a report concerning the administration of this Act. The report must concern, in particular,

(1) the implementation of the water master plans and the integrated management plans for the St. Lawrence;

(2) the implementation of the regional wetlands and bodies of water plans;

(3) the implementation of the wetlands and bodies of water restoration and creation programs put in place under this Act, and in particular,

(a) identify the projects chosen;

(b) provide an inventory of the wetlands and bodies of water restored or created under the programs;

(c) present the evolution of amounts received as compensation for adverse effects on wetlands and bodies of water and amounts invested in measures to restore and create them; and

(d) provide an analysis of the results obtained in relation to the objective of no net loss of wetlands and bodies of water; and

(4) an assessment of the advisability of amending any provisions of this Act.

The Minister must table the report in the National Assembly.”

CHAPTER II

NATURAL HERITAGE CONSERVATION ACT

10. Section 1 of the Natural Heritage Conservation Act (chapter C-61.01) is amended

(1) by replacing “protect” in the first paragraph by “conserve”;

(2) by replacing “protection measures” in the second paragraph by “conservation measures”;

(3) by adding the following paragraphs at the end:

“In addition, the Act promotes the conservation of wetlands and bodies of water that, due to their ecological functions, constitute very important ecosystems, in particular to meet the needs of present and future generations.

The conservation measures provided for by this Act, including protected areas, constitute a set of measures designed to maintain the natural heritage and the ecosystems it comprises, in particular through their preservation, protection, restoration and sustainable use.”

11. Section 2 of the Act is amended by inserting the following definition in alphabetical order:

““wetlands and bodies of water” means the wetlands and bodies of water described in section 46.0.1 of the Environment Quality Act (chapter Q-2).”

12. Section 9 of the Act is amended by replacing “within an aquatic reserve, biodiversity reserve or man-made landscape and land set aside for those purposes” in the second paragraph by “within another protected area under the Minister’s administration or that is the subject of another conservation measure under this Act”.

13. Section 11 of the Act is amended by replacing “that has been set aside or established as an aquatic reserve, biodiversity reserve, ecological reserve, nature reserve or man-made landscape” in the first paragraph by “conserved

as a protected area or that is the subject of another conservation measure under this Act”.

14. Section 12 of the Act is amended by replacing “of an aquatic reserve, biodiversity reserve, ecological reserve or man-made landscape” in the first paragraph by “of a protected area under the Minister’s administration or of land that is the subject of another conservation measure under this Act”.

15. Section 13 of the Act is amended by replacing the first paragraph by the following paragraphs:

“The Minister may designate certain settings that are remarkable because of the rarity or exceptional interest of one of their biophysical features by establishing their boundaries on a plan.

In the case of wetlands and bodies of water, settings whose qualities correspond to the following criteria may also be designated:

(1) the biological diversity and the functions associated with the setting bestow on it significant ecological value that it is necessary to preserve in order, in particular, to contribute to safeguarding their integrity; or

(2) the settings are remarkable at the regional or provincial level because of their integrity, rarity or surface area.

Such a designation may also be made for wetlands and bodies of water that have been the subject of an intervention under a wetlands and bodies of water restoration and creation program developed under the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2).”

16. Section 14 of the Act is replaced by the following sections:

“**14.** Before designating a setting under section 13, the Minister shall consult

(1) the ministers concerned, in particular the ministers responsible for agriculture, wildlife, energy and natural resources in cases involving wetlands and bodies of water;

(2) the municipal authorities concerned, in particular to consider the elements contained in a regional wetlands and bodies of water plan developed under the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2);

(3) the Native communities concerned, represented by their band council;

(4) the watershed bodies and regional advisory panels concerned in cases involving wetlands and bodies of water, in particular to consider the elements

contained in a water master plan or an integrated management plan for the St. Lawrence developed under the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments;

(5) the regional environmental councils concerned; and

(6) if the setting is located on private land, the owner of the land.

“14.1. In evaluating any authorization application filed with the Minister under section 13 with regard to wetlands and bodies of water, the Minister must take into consideration that the designated setting should, in principle, be maintained in its natural state.

For the purposes of the first paragraph, the following interventions are presumed to be incompatible with maintaining the natural state of wetlands and bodies of water:

(1) drainage and pipe work;

(2) clearing and filling activities;

(3) ground preparation work, in particular if it requires stripping, excavation, earthwork or destruction of vegetation cover; and

(4) any other activity determined by government regulation.

Despite the second paragraph, the Government may, by regulation, allow certain activities listed in that paragraph if they are compatible because they comply with certain conditions, restrictions or prohibitions set out in the regulation.”

17. Section 18 of the Act is replaced by the following sections:

“18. The Minister may amend the boundaries of land that is the subject of such a designation or terminate the designation if, as the case may be,

(1) the boundaries of the land must be reviewed to maintain or safeguard its biodiversity or to ensure they are consistent with the land’s characteristics;

(2) the public interest justifies it; or

(3) the reasons that justified the designation no longer exist for all or part of the land concerned.

If the Minister decreases the surface area of designated wetlands and bodies of water or decides to terminate such a designation, the Minister shall, as soon as possible, take other measures to conserve, restore or create wetlands and bodies of water elsewhere in the territory in order to foster achievement of no net loss of designated wetlands and bodies of water.

“18.1. The boundaries of designated land are amended or a designation is terminated in the same way the initial designation was made.

The termination of a designation must be published in the *Gazette officielle du Québec* and on the department’s website. Such a decision must be sent to the persons and bodies mentioned in section 14.”

18. Section 22 of the Act is amended by replacing subparagraph 1 of the first paragraph by the following subparagraphs:

“(1) the nature of the intervention and any resulting constraints, losses and disturbances affecting the setting;

“(1.1) the ecological characteristics of the setting and its watershed and any human disturbances or pressures being or already experienced by them;”.

19. The Act is amended by inserting the following division after section 24:

“DIVISION IV

“REGISTER

“24.1. The Minister shall publish and keep up to date a register of the designations described in this chapter. The register must contain, among other information, the surface area and geographic location of the designated settings and an indication of whether or not they form part of the lands in the domain of the State.”

20. Section 70 of the Act is amended

(1) by replacing “Every person” and “in the case of a legal person” in the first paragraph by “Anyone” and “in all other cases”, respectively;

(2) by replacing the introductory clause of the second paragraph by “Anyone who does any of the following is guilty of an offence and is liable to the same penalty:”;

(3) by adding the following paragraph at the end of the second paragraph:

“(5) damages designated wetlands and bodies of water or destroys property forming part of any of them.”

CHAPTER III

ENVIRONMENT QUALITY ACT

21. The preliminary provision of the Environment Quality Act (chapter Q-2), introduced by the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions,

in particular to reform the governance of the Green Fund (2017, chapter 4), is amended by adding the following paragraph at the end:

“A further purpose of the Act is to facilitate the implementation of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement, which was approved by the National Assembly on 30 November 2006.”

22. Section 22 of the Act, replaced by the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4), is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) any work, structures or other intervention carried out in wetlands and bodies of water referred to in Division V.1;”.

23. Section 31.0.3 of the Act, introduced by the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4), is amended by adding the following subparagraphs at the end of the second paragraph:

“(3) the project is to be carried out in an area entered in the register of protected areas provided for in section 5 of the Natural Heritage Conservation Act (chapter C-61.01) or in the register of other conservation measures under that Act provided for in section 24.1 of that Act; and

“(4) the project is to be carried out in the habitat of a threatened or vulnerable species governed by the Regulation respecting threatened or vulnerable wildlife species and their habitats (chapter E-12.01, r. 2) for which a plan has been prepared under the Regulation Respecting Wildlife Habitats (chapter C-61.1, r. 18) or in the habitat of a threatened or vulnerable species governed by the Regulation respecting threatened or vulnerable plant species and their habitats (chapter E-12.01, r. 3).”

24. The Act is amended by inserting the following division after section 46:

“DIVISION V.1

“WETLANDS AND BODIES OF WATER

“**46.0.1.** For the purposes of this division, “wetlands and bodies of water” refers to natural or man-made sites characterized by the permanent or temporary presence of water, which may be diffused, occupy a bed or saturate the ground and whose state is stagnant or flowing. If the water is flowing, its flow may be constant or intermittent.

A wetland is also characterized by hydromorphic soils or vegetation dominated by aquatic plants.

Wetlands and bodies of water include

(1) lakes and watercourses, including the St. Lawrence Estuary, the Gulf of St. Lawrence and the seas surrounding Québec;

(2) the shores, banks, littoral zones and floodplains of the bodies of water referred to in subparagraph 1, as defined by government regulation; and

(3) marshes, swamps, ponds and peatland.

Ditches, as defined in paragraph 4 of section 103 of the Municipal Powers Act (chapter C-47.1), do not constitute wetlands or bodies of water.

“46.0.2. In addition to the information and documents required under section 23, every authorization application under subparagraph 4 of the first paragraph of section 22 for a project in wetlands and bodies of water must be accompanied by the following information and documents:

(1) a characterization study of the wetlands and bodies of water concerned signed by a professional within the meaning of section 1 of the Professional Code (chapter C-26) or the holder of a university degree in biology, environmental science or landscape ecology who is competent in the subject, which must include

(a) the boundaries of all of the wetlands and bodies of water affected and their location in the hydrologic system of the watershed;

(b) the boundaries of the portion of those wetlands and bodies of water in which the activity concerned will be carried out, including any additional portion likely to be affected by the activity;

(c) a description of the ecological characteristics of the wetlands and bodies of water, in particular the soil and living species and their location, including threatened or vulnerable species or those likely to be designated as such under the Act respecting threatened or vulnerable species (chapter E-12.01);

(d) a description of the wetlands' and bodies of water's ecological functions that will be affected by the project, based on the various functions listed in the second paragraph of section 13.1 of the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2), including the wetlands' and bodies of water's connection to other wetlands and bodies of water or other natural environments;

(e) a description of the land use guidelines and designations applicable to the wetlands and bodies of water concerned as well as the existing uses nearby; and

(f) any other element prescribed by government regulation;

(2) a demonstration that there is no space available, for the purposes of the project, elsewhere in the territory included in the regional county municipality concerned or that the nature of the project makes it necessary to carry it out in wetlands and bodies of water; and

(3) the project's impacts on the wetlands and bodies of water concerned and the measures proposed to minimize them.

“46.0.3. In addition to the elements set out in section 24 for analyzing the impacts of a project on the quality of the environment, the Minister shall also take into consideration

(1) the ecological characteristics and functions of the wetlands and bodies of water concerned and of the watershed to which they belong as well as the human disturbances or pressures being or already experienced by them;

(2) the capacity of the wetlands and bodies of water concerned to recover or the possibility of restoring them in whole or in part once the project is completed; and

(3) the elements contained in a water master plan, an integrated management plan for the St. Lawrence or a regional wetlands and bodies of water plan prepared under the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2), and the conservation objectives set out in a metropolitan development plan or in a land use planning and development plan, as applicable.

“46.0.4. The issue of the authorization may be made subject to the payment of a financial contribution, the amount of which is established in accordance with a government regulation, to compensate for adverse effects on the wetlands and bodies of water concerned in the case of the following activities:

(1) drainage and pipe work;

(2) clearing and filling activities;

(3) ground preparation work, in particular if it requires stripping, excavation, earthwork or destruction of vegetation cover; or

(4) any other activity determined by government regulation.

If a financial contribution is payable, the Minister may allow applicants, at their request and in cases provided for by government regulation, to replace all or part of the payment of the contribution by work carried out to restore or create wetlands and bodies of water, subject to the conditions, restrictions and prohibitions set out in the authorization.

In all cases, before issuing the authorization, the Minister shall inform applicants of the amount of the financial contribution they may be required to pay.

A financial contribution referred to in this section is paid into the Fund for the Protection of the Environment and the Waters in the Domain of the State established under section 15.4.38 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001) and is used to finance a program developed under section 15.8 of the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2).

“46.0.5. In addition to the reasons for refusal provided for by other provisions of this Act, the Minister may refuse to issue an authorization for a project in wetlands and bodies of water if

(1) the applicant has not demonstrated to the Minister's satisfaction that the applicant would, for the purposes of the project, avoid adversely affecting the wetlands and bodies of water;

(2) the Minister is of the opinion that the mitigation measures proposed by the applicant would not reduce the project's impacts on the wetlands and bodies of water to a minimum;

(3) the Minister is of the opinion that the project would have adverse effects on the ecological functions and biodiversity of the wetlands and bodies of water; or

(4) the applicant refuses to pay the financial contribution required under the first paragraph of section 46.0.4.

“46.0.6. In addition to the information required under section 27, an authorization for a project in wetlands and bodies of water must, if applicable, specify the amount of the financial contribution required to compensate for adverse effects on the wetlands and bodies of water or a description of the work that must be carried out to replace the payment of the contribution as well as the conditions, restrictions or prohibitions applicable to such work.

The second paragraph of section 27 applies to the information required under the first paragraph.

“46.0.7. The requirements under this division, including the possibility of requiring the payment of a financial contribution, if applicable, apply to any application under section 30 to amend an authorization.

“46.0.8. The holder of an authorization for a project in wetlands and bodies of water must begin the activity concerned within two years after the authorization is issued or, as applicable, within any other time limit specified in the authorization. Failing that, the authorization is cancelled by operation

of law and any financial contribution the holder paid under the first paragraph of section 46.0.4 is reimbursed, without interest, at the expiry of that time.

However, the Minister may, at the holder's request, maintain the authorization in force for the period and subject to the conditions, restrictions and prohibitions the Minister determines.

“46.0.9. Despite the second paragraph of section 31.0.5, in the case of a permanent cessation of an activity in wetlands and bodies of water, the authorization holder is still required to carry out any work required under the second paragraph of section 46.0.4 to compensate for adverse effects on wetlands and bodies of water, in accordance with the conditions, restrictions and prohibitions set out in the authorization.

“46.0.10. Sections 46.0.3 and 46.0.5 apply, with the necessary modifications, to the Government when it renders a decision regarding a project in wetlands and bodies of water in the course of the environmental impact assessment and review procedure provided for in subdivision 4 of Division II.

Where applicable, the government authorization determines whether a financial contribution is required under the first paragraph of section 46.0.4 or whether the payment may be replaced, in whole or in part, by work referred to in the second paragraph of that section.

“46.0.11. The Government may, by regulation,

(1) determine the applicable elements, scales and methods for assessing damage that a projet could cause to wetlands and bodies of water and for determining the amount of the financial contribution required as compensation for the damage;

(2) determine the terms of payment for a financial contribution required under this division and any applicable interest and penalties;

(3) in addition to the cases provided for in this division, determine which situations give rise to reimbursement of a financial contribution paid and the conditions applicable to any reimbursement;

(4) determine the proportion of the financial contribution that can be reduced in cases where a contribution or another type of compensation is required by the minister responsible for wildlife, in particular if an activity is carried out in a wildlife habitat governed by the Act respecting the conservation and development of wildlife (chapter C-61.1);

(5) provide for the cases in which a financial contribution required under this division may be replaced by work carried out to restore or create wetlands and bodies of water and specify the standards applicable to such work;

(6) define any term or expression used in this division; and

(7) exempt, subject to the conditions, restrictions or prohibitions the Government determines, certain activities referred to in the first paragraph of section 46.0.4 from the requirement to pay a financial contribution to compensate for adverse effects on wetlands and bodies of water.”

25. Section 115.25 of the Act, amended by the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4), is again amended by inserting the following subparagraph after subparagraph 9 of the first paragraph:

“(9.1) fails to carry out any work determined under the second paragraph of section 46.0.4 to replace the payment of a financial contribution or fails to comply with any condition, restriction or prohibition prescribed under that provision;”.

26. Section 115.31 of the Act, amended by the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4), is again amended by inserting the following subparagraph after subparagraph 5 of the first paragraph:

“(5.1) fails to carry out any work determined under the second paragraph of section 46.0.4 to replace the payment of a financial contribution or fails to comply with any condition, restriction or prohibition prescribed under that provision;”.

CHAPTER IV

OTHER AMENDING PROVISIONS

ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

27. Section 1 of the Act respecting land use planning and development (chapter A-19.1) is amended by inserting the following paragraph after paragraph 3:

“(3.1) “wetlands and bodies of water” means the wetlands and bodies of water described in section 46.0.1 of the Environment Quality Act (chapter Q-2);”.

28. Section 5 of the Act is amended by replacing “riverbanks and lakeshores, littoral zones and floodplains” in subparagraph 4 of the first paragraph by “wetlands and bodies of water”.

29. Section 53.13 of the Act is amended by replacing “for lakeshores, riverbanks, littoral zones and floodplains” in the first paragraph by “for wetlands and bodies of water”.

30. Section 113 of the Act is amended, in subparagraph 16 of the second paragraph,

(1) by replacing “of a stream or lake” by “of wetlands or bodies of water”;

(2) by replacing “environmental protection regarding riverbanks and lakeshores, littoral zones or floodplains” by “protection of the environment”.

31. Section 115 of the Act is amended, in subparagraph 4 of the second paragraph,

(1) by replacing “of a stream or lake” by “of wetlands or bodies of water”;

(2) by replacing “of reasons of public safety or of the environmental protection regarding riverbanks and lakeshores, littoral zones or floodplains” by “for reasons of public safety or of protection of the environment”.

32. The Act is amended by replacing the heading of Chapter VIII of Title I by the following heading:

“PROTECTION OF WETLANDS AND BODIES OF WATER”.

33. Section 165.2 of the Act is amended by replacing “for lakeshores, riverbanks, littoral zones and floodplains” in the first paragraph by “for wetlands and bodies of water”.

34. Section 227.1 of the Act is amended by replacing “of lakeshores, riverbanks, littoral zones or floodplains” by “of wetlands and bodies of water”.

ACT RESPECTING THE MINISTÈRE DU DÉVELOPPEMENT
DURABLE, DE L'ENVIRONNEMENT ET DES PARCS

35. Section 10 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001) is amended

(1) by adding “and for seeing to natural heritage conservation, in particular to maintain the ecological functions of the ecosystems that constitute that heritage” at the end of the first paragraph;

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

“The Minister shall also ensure the protection, sustainable use and supervision of the protected areas under the Minister’s responsibility as well as of the other environments that benefit from special conservation measures, in particular wetlands and bodies of water.

The Minister may encourage measures to conserve wetlands and bodies of water, restore those that are degraded or create new ones.”

36. Section 15.4.40 of the Act, introduced by the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4), is amended by replacing subparagraph 6 of the first paragraph by the following subparagraph:

“(6) the financial contributions collected as compensation for adverse effects on wetlands and bodies of water under the Environment Quality Act (chapter Q-2);”.

37. The Act is amended by inserting the following section after section 15.4.41, introduced by the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4):

“15.4.41.1. The financial contributions referred to in subparagraph 6 of the first paragraph of section 15.4.40 are allocated to the financing of projects eligible for a wetlands and bodies of water restoration and creation program developed under the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2).”

CHAPTER V

TRANSITIONAL AND FINAL PROVISIONS

38. Unless the context indicates otherwise, in any Act, regulation or other document, a reference to the Act to affirm the collective nature of water resources and provide for increased water resource protection (chapter C-6.2) becomes a reference to the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments.

39. Metropolitan communities and local or regional municipalities required to maintain a land use planning and development plan must send the Minister their first regional wetlands and bodies of water plan not later than (*insert the date that is five years after the date of assent to this Act*).

In developing such a plan, they must, in particular, take into account the measures carried out in their territory before (*insert the date of assent to this Act*) as compensation for carrying out an activity in wetlands and bodies of water and required under the Act respecting compensation measures for the carrying out of projects affecting wetlands or bodies of water (chapter M-11.4).

A regional plan approved under this section must be made public by the metropolitan community or regional county municipality.

40. The Minister must make public the first program to restore wetlands and bodies of water or create new ones not later than (*insert the date that is two years after the date of assent to this Act*).

The financing of that first program is ensured through the amounts debited from the Fund for the Protection of the Environment and the Waters in the Domain of the State established under the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001).

41. The wetlands and bodies of water that were the subject of a compensation measure under the Act respecting compensation measures for the carrying out of projects affecting wetlands or bodies of water before (*insert the date of assent to this Act*) may be designated by the Minister under section 13 of the Natural Heritage Conservation Act (chapter C-61.01).

The same applies to wetlands and bodies of water that are the subject of work to replace the payment of a financial contribution under this chapter.

The rules prescribed in section 14 of the Natural Heritage Conservation Act, replaced by section 17, and in section 15 of that Act do not apply to such a designation.

Subject to the right-of-access restrictions under sections 28, 28.1 and 29 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), the Minister must publish, in the register provided for in section 24.1 of the Natural Heritage Conservation Act, introduced by this Act, and as of (*insert the date of assent to this Act*), the following information relating to the compensation measures referred to in the first and second paragraphs:

- (1) the surface area of territory covered by the measure;
- (2) the geographical location of the territory concerned; and
- (3) an indication of whether it is land in the domain of the State.

42. For the purposes of section 46.0.1 of the Environment Quality Act (chapter Q-2), introduced by this Act, “shores”, “banks”, “littoral zones” and “floodplains” have the meaning assigned to them by the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35) until they are defined otherwise by a government regulation referred to in subparagraph 2 of the third paragraph of that section.

43. As of (*insert the date of assent to this Act*) and until otherwise provided by a government regulation made under section 46.0.11 of the Environment Quality Act, introduced by this Act, the issue of authorizations under the Environment Quality Act for projects that have adverse effects on wetlands and bodies of water within the meaning of section 46.0.1, introduced by this Act, is subject to the payment of a financial contribution calculated in accordance with Schedule I.

For the purposes of the first paragraph, there are adverse effects on a wetland or body of water when the following are carried out:

- (1) drainage and pipe work;
- (2) clearing and filling work; or
- (3) ground preparation work, in particular if it requires stripping, excavation or earthwork or the destruction of vegetation cover.

The second paragraph does not apply to work carried out in connection with a peat extraction project or work to establish or operate a cranberry or blueberry farm. However, on cessation of such activities, the environments affected must be restored to the state they were in before the work began or to a state approaching their original state, according to the conditions set out in the authorization for that purpose.

If a financial contribution or another type of compensation is required by the minister responsible for wildlife, in particular if an activity is carried out in a wildlife habitat governed by the Act respecting the conservation and development of wildlife (chapter C-61.1), the amount of the compensation is deducted from the amount of the financial contribution payable under the first paragraph.

For the purposes of Schedule I, the Minister must make the original version of the map, of which a smaller version appears in that schedule, available to the public on the website of the Minister's department.

The financial contributions referred to in this section are allocated to the financing of projects eligible for a program to restore and create wetlands and bodies of water developed under the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments.

44. Authorization applications that were made to the Minister under the Environment Quality Act before (*insert the date following the date of introduction of this bill*) for a project in a constant or intermittent watercourse, or a lake, pond, marsh, swamp or bog and that are pending on (*insert the date of assent to this Act*) are continued and decided in accordance with the requirements under that Act and under the Act respecting compensation measures for the carrying out of projects affecting wetlands or bodies of water, as they read the day immediately before that date.

However, such an application may be continued and decided in accordance with the rules under section 45 to the extent that the applicant applies to the Minister not later than (*insert the date that is 60 days after the date of assent to this Act*).

45. Authorization applications that were made to the Minister under the Environment Quality Act after (*insert the date of introduction of this bill*) for a project in a constant or intermittent watercourse, or a lake, pond, marsh, swamp or bog and that are pending on (*insert the date of assent to this Act*) are continued and decided in accordance with the following rules:

(1) the applicant must, if applicable, complete the application by sending the documents and information listed in section 46.0.2 of the Environment Quality Act, introduced by section 23, to the Minister not later than (*insert the date that is 60 days after the date of assent to this Act*);

(2) the Minister must, in examining the application, take into account the elements listed in section 24 of the Environment Quality Act, replaced by the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4), and the elements listed in section 46.0.3 of the Environment Quality Act, introduced by section 23;

(3) the reasons for refusal listed in section 31.0.3 of the Environment Quality Act, introduced by the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund, and the reasons listed in section 46.0.5 of the Environment Quality Act, introduced by section 23, apply; and

(4) the applicant must pay the financial contribution required under section 43.

However, despite the first paragraph, if a compensation measure was the subject of a written undertaking by the applicant under section 2 of the Act respecting compensation measures for the carrying out of projects affecting wetlands or bodies of water and if that undertaking is considered satisfactory by the Minister before (*insert the date of assent to this Act*), the applicant remains governed by that Act as it read before that date.

46. The first paragraph of section 45 also applies to authorization applications made to the Minister under the Environment Quality Act after (*insert the date of assent to this Act*) but before 23 March 2018.

47. Sections 279 and 279.1 of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4) apply to all information and documents provided to the Minister to complete an authorization application in accordance with subparagraph 1 of the first paragraph of section 45.

In addition, the amount of the financial contribution required to compensate for adverse effects on a wetland or body of water referred to in section 44 is public and is available on request.

48. Section 46.0.8 of the Environment Quality Act, introduced by section 23, applies, with the necessary modifications, to any authorization issued in accordance with section 45.

49. Sections 46.0.3 and 46.0.5 of the Environment Quality Act, introduced by section 23, apply, with the necessary modifications, to the Government as of *(insert the date of assent to this Act)* when it renders a decision on a project in a wetland or body of water referred to in the first paragraph of section 43 in the course of the environmental impact assessment and review procedure.

If applicable, the authorization of the Government determines whether a financial contribution is required under section 43 and whether all or part of it can be replaced by work carried out to restore or create wetlands and bodies of water.

50. Authorization applications made to the Minister under the Environment Quality Act on or after 23 March 2018 are governed by that Act as it reads on that date.

51. Not later than *(insert the date that is 12 months after the date of assent to this Act)*, the Government must publish a draft regulation in accordance with the Regulations Act (chapter R-18.1) in order to implement the provisions of Division V.1 of Chapter IV of Title I of the Environment Quality Act, introduced by section 23, that relate to compensation for wetlands and bodies of water.

52. This Act comes into force on *(insert the date of assent to this Act)*, except

(1) section 22, and sections 46.0.1 to 46.0.3, the first, third and fourth paragraphs of section 46.0.4 and sections 46.0.5 to 46.0.10 of the Environment Quality Act, introduced by section 23, which come into force on 23 March 2018;

(2) the second paragraph of section 46.0.4 of the Environment Quality Act, introduced by section 23, which comes into force on the date of coming into force of the first regulation made under that paragraph.

SCHEDULE I
(Section 43)

**METHOD FOR CALCULATING A FINANCIAL CONTRIBUTION
DURING THE TRANSITIONAL PERIOD**

$$AC = C \times SA$$

Where

AC = Amount of the contribution required as compensation for the loss of wetlands and bodies of water (WBW)

C = Development cost per square metre, calculated as follows:

$$C = cw + vl$$

Where

cw = Cost per square metre of work to develop a WBW, calculated on the basis of the portion of the affected wetland or body of water delimited in the characterization study, that is

\$20/m², indexed as prescribed by section 83.3 of the Financial Administration Act (chapter A-6.001) × R, where

R = Multiplier according to the rarity of WBW per region, as shown on the map below:

Location of WBW	R
ZONE 1	2
ZONE 2	1.5
ZONE 3	1

vl = Value of the land by square metre, that is, the municipal assessment of the land where the affected WBW is located, divided by the surface area of the land or, in the case of lands in the domain of the State, based on the substitution price per square metre prescribed by section 5 of Schedule I to the Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State (chapter T-8.1, r. 7)

SA = Area in square metres of the portion of the WBW in which the activity concerned will be carried out, including any additional portion affected by that activity, as delimited in the characterization study

