



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Draft Bill

Sustainable Development Act

Tabled by
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Minister of the Environment

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EXPLANATORY NOTES

The purpose of this draft bill is to set up a new management framework within the Administration to ensure that powers and responsibilities are exercised in the pursuit of sustainable development.

The measures introduced by this draft bill are intended to better integrate the pursuit of sustainable development into the policies, programs and actions of the Administration, and to ensure, in particular through the adoption of a sustainable development strategy, that government actions to foster development are coherent.

Under the proposed measures, “sustainable development” means an ongoing process to improve the living conditions of the present generation that does not compromise the ability of future generations to do so and that ensures a harmonious integration of the environmental, social and economic dimensions of development.

The draft bill provides for the appointment of an Assistant Auditor General, bearing the title of Sustainable Development Commissioner, to assist the Auditor General in the performance of the duties of office relating to sustainable development auditing.

The draft bill also provides for the establishment of a Green Fund to finance the measures or activities that the Minister of the Environment may carry out within the scope of ministerial functions. The purpose of the fund is, in particular, to support the implementation of measures promoting sustainable development, especially in connection with its environmental aspects, and make it possible for the Minister to grant financial assistance, within the framework of the law, in particular to municipalities and non-profit organizations working in the environmental field.

Lastly, the draft bill contains amending and consequential provisions. It adds a new right to the economic and social rights listed in the Charter of human rights and freedoms to reaffirm the right of every person to live in a healthful environment in which biodiversity is preserved, to the extent and according to the standards provided by law.

LEGISLATION AMENDED BY THIS DRAFT BILL:

- Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);
- Charter of human rights and freedoms (R.S.Q., chapter C-12);
- Act respecting the Institut de la statistique du Québec (R.S.Q., chapter I-13.011);
- Act respecting the Ministère de l’Environnement (R.S.Q., chapter M-15.2.1);
- Auditor General Act (R.S.Q., chapter V-5.01).

Draft Bill

SUSTAINABLE DEVELOPMENT ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TITLE I

GOVERNANCE FOR SUSTAINABLE DEVELOPMENT

CHAPTER I

PRELIMINARY PROVISIONS

1. The object of this Act is to establish a new management framework within the Administration to ensure that powers and responsibilities are exercised in the pursuit of sustainable development.

The measures introduced by this Act are intended, more specifically, to better integrate the pursuit of sustainable development into the policies, programs and actions of the Administration, at all levels and in all areas of intervention, to ensure that government actions in the area of development are coherent and to enhance the accountability of the Administration in development matters, in particular through the controls exercised by the Sustainable Development Commissioner under the Auditor General Act (R.S.Q., chapter V-5.01).

Within the scope of the proposed measures, “sustainable development” means an ongoing process to improve the living conditions of the present generation that does not compromise the ability of future generations to do so and that ensures a harmonious integration of the environmental, social and economic dimensions of development.

2. In this Act, unless otherwise indicated by the context, “Administration” means the Government, the Conseil exécutif, the Conseil du trésor, all government departments, and government agencies and enterprises within the meaning of sections 4 and 5 of the Auditor General Act.

A person appointed or designated by the Government or by a minister, when exercising functions assigned by law, the Government or that minister, together with the personnel directed by that person, is considered to be an agency.

The Administration does not include courts of justice within the meaning of the Courts of Justice Act (R.S.Q., chapter T-16), bodies whose membership is wholly made up of judges of the Court of Québec, the Conseil de la magistrature, the committee on the remuneration of the judges of the Court of Québec or the municipal courts, or administrative bodies established to exercise adjudicative functions, when exercising those functions.

3. The Government may determine the dates on which one or more provisions of this Act that apply to the Administration begin to apply also, with the necessary modifications, to

(1) one or more municipal bodies referred to in section 5 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1); or

(2) one or more school bodies and health and social services institutions respectively referred to in sections 6 and 7 of that Act.

CHAPTER II

SUSTAINABLE DEVELOPMENT STRATEGY AND MEASURES TO BE TAKEN BY THE ADMINISTRATION TO ENSURE SUSTAINABILITY OF DEVELOPMENT

DIVISION I

SUSTAINABLE DEVELOPMENT PRINCIPLES AND STRATEGY

4. The implementation of sustainable development within the Administration is based on the sustainable development strategy adopted by the Government and is carried out in a manner consistent with the principles established by the strategy and this division.

5. In order to better integrate the pursuit of sustainable development into its various areas of intervention, the Administration must take the following principles into consideration when framing its actions:

(1) “*health and quality of life*”: people, protection of their health and improvement of their quality of life are at the centre of concerns for sustainable development; people are entitled to a healthy and productive life in harmony with nature;

(2) “*social equity*”: development must be undertaken in a spirit of intra- and inter-generational equity, taking the needs of everyone concerned into account;

(3) “*environmental protection*”: to achieve sustainable development, environmental protection must constitute an integral part of the development process;

(4) “*economic efficiency*”: the economy of Québec must be effective, geared toward innovation and economic prosperity that is conducive to social progress, and respectful of the environment;

(5) “*involvement and commitment*”: sustainable development is founded on a shared commitment; the involvement of citizens and a partnership among all groups in society are needed to ensure the social, economic and environmental sustainability of development;

(6) “*access to knowledge*”: educational measures and access to information must be encouraged in order to stimulate innovation, raise awareness and ensure effective public involvement in the implementation of sustainable development;

(7) “*protection of cultural heritage*”: the property, sites and landscapes making up a society’s cultural heritage are a source of identity, pride and solidarity. Through its cultural heritage, the traditions, customs, values and knowledge of a society are passed on from generation to generation and the preservation of this heritage fosters the economy of resources. Cultural heritage components must be identified, protected and enhanced, taking their intrinsic rarity and fragility into account;

(8) “*prevention*”: in the presence of a known risk, preventive and corrective actions must be taken, with priority given to actions at the source, using the best techniques available at an economically acceptable cost;

(9) “*precaution*”: where there is a risk of serious or irreversible harm, the lack of absolute scientific certainty must not be used as an excuse for postponing the adoption of effective measures to prevent environmental degradation;

(10) “*biodiversity preservation*”: biological diversity offers incalculable advantages and must be preserved for the benefit of present and future generations; the protection of species, ecosystems and the natural processes that maintain life is essential if quality of human life is to be maintained;

(11) “*respect for ecosystem support capacity*”: human activities must be respectful of the support capacity of ecosystems, and must not exceed the threshold beyond which the functions and balance of the natural environment would be irreversibly altered;

(12) “*responsible production and consumption*”: production and consumption patterns must change in order to reduce their adverse social and environmental impact to a minimum and, in particular, avoid waste and the depletion of resources;

(13) “*polluter/user pay*”: those who generate waste material or other forms of pollution should bear the cost of preventive, waste reduction and anti-pollution measures; goods and services should be priced so as to reflect all the costs they generate, whether at the production or consumption stage;

(14) “*inter-governmental partnership and cooperation*”: governments must collaborate to ensure that development is sustainable from an environmental, social and economic standpoint; the external impact of actions in a given territory must be taken into consideration.

6. The Government’s sustainable development strategy must state the selected approach, the main issues, the directions or areas of intervention, and the objectives to be pursued by the Administration in the area of sustainable development. It must also state the sustainable development principles that must be taken into consideration by the Administration, in addition to those enumerated in section 5.

The strategy must also specify the monitoring mechanisms and methods selected, including the sustainable development indicators to be used to assess progress; it may also determine preferred methods for ensuring its implementation by the Administration.

The strategy may also state the roles and responsibilities of each player or of certain members of the Administration in order to ensure internal efficiency and coherence.

7. The draft strategy, before being adopted by the Government, must be submitted to public consultation in the form of parliamentary committee hearings.

Either alone or in collaboration with other ministers, the Minister of the Environment may also, at a prior time, take steps to make the draft strategy as widely known as possible and to consult the general public in order to promote discussion and enrich the content of the strategy.

8. The sustainable development strategy takes effect, for a period of five years, on the date on which it is adopted, or on any later date determined by the Government.

The Government may extend the period for up to two years.

9. In addition to being laid before the National Assembly by the Minister of the Environment, the sustainable development strategy is published and made accessible in the manner and under the conditions the Government considers appropriate.

10. The first sustainable development strategy must be adopted by the Government in the year following the year of assent to this Act.

11. Not later than one year after the end of the year in which the first strategy is adopted, the Minister of the Environment submits to the Government for adoption a set of sustainable development indicators designed to measure progress in the area of sustainable development.

The sustainable development indicators, once adopted by the Government, become an integral part of the strategy.

12. To ensure the carrying out of this Act, the functions of the Minister of the Environment include, more specifically,

(1) promoting sustainable development within the Administration and among the general public, and fostering joint and cohesive action in order to harmonize interventions;

(2) coordinating the efforts of the government departments to define, renew or revise the components of the sustainable development strategy, including sustainable development indicators, and recommending the adoption of the strategy and indicators by the Government;

(3) coordinating efforts to prepare periodic assessments of the implementation of the sustainable development strategy within the Administration and, at least every three years, making a report on the implementation and laying it before the National Assembly as a special section of the annual report of activities of the Minister's department;

(4) improving knowledge and analyzing experiences elsewhere in the field of sustainable development, in particular as regards the directions pursued by strategies and action plans and their implementation and the development of indicators and other methods for measuring the progression of sustainable development and the integration of related environmental, social and economic concerns; and

(5) advising the Government and third parties as regards sustainable development and giving expert advice and assistance to help achieve the objectives of the strategy and to ensure that the principles of sustained development are applied and complied with.

13. When so requested by the Minister, government departments, agencies and enterprises in the Administration provide assistance for sustainable development to the Minister in the areas under their jurisdiction. In particular, they provide the information needed by the Minister to draft, revise or assess the implementation of the sustainable development strategy, including the indicators or any other monitoring and accountability mechanisms.

This section also applies to bodies and institutions mentioned in section 3, whether or not an Order in Council has been made under that section.

DIVISION II

IMPLEMENTATION OF THE STRATEGY AND ACCOUNTABILITY

14. In order to focus its priorities and plan its actions in a way that will foster sustainable development and conform with the strategy of the Government, every government department, agency and enterprise in the Administration must identify and make public the specific objectives it intends to pursue in order to contribute to the progressive implementation of the strategy, as well as the activities or interventions it plans on carrying out to that end.

The interventions may include a review of existing standards, policies or programs to ensure better compliance with the strategy and the principles on which it is based.

On a voluntary basis, a body or an institution mentioned in section 3 may also, without waiting for an Order in Council under that section, submit to the same obligation and make public the objectives, actions and interventions it intends to pursue and carry out within its jurisdiction and its powers and functions, in order to contribute to sustainable development and to the implementation of the strategy.

15. The Government may specify the terms and conditions under which the obligation set out in section 14 must be performed. It may, in particular, issue directives concerning the form and content of the proposed planning operation and the frequency of or intervals between required updates.

16. Each government department, agency and enterprise in the Administration that is subject to section 14, must state in a special section of its annual report of activities

(1) the objectives set by the department, agency or enterprise in order to contribute to sustainable development and the progressive implementation of the strategy or, where applicable, the reasons why no specific objective was identified for the year given the strategy adopted;

(2) the various activities or interventions it successfully carried out or failed to carry out during the year in order to achieve the objectives identified, the degree to which target results were achieved, and the indicators used; and

(3) where applicable, the measures taken following comments or recommendations from the Sustainable Development Commissioner.

TITLE II

AMENDING AND FINAL PROVISIONS

17. Section 41 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) is amended by inserting “, 43.1” after “43” in the second line of paragraph 4.

18. The Charter of human rights and freedoms (R.S.Q., chapter C-12) is amended by inserting the following section after section 46:

“**46.1.** Every person has a right to live in a healthful environment in which biodiversity is preserved, to the extent and according to the standards provided by law.”

19. The Act respecting the Institut de la statistique du Québec (R.S.Q., chapter I-13.011) is amended by inserting the following section after section 3:

“**3.1.** In the pursuit of its mission, the Institut shall collect, produce and disseminate the statistical information needed to develop and monitor the Government’s sustainable development strategy, and to prepare the reports provided for in the Sustainable Development Act (*insert the year and chapter number of this Act*).”

20. Section 10 of the Act respecting the Ministère de l’Environnement (R.S.Q., chapter M-15.2.1) is replaced by the following section:

“**10.** The Minister of the Environment is responsible for the protection of the environment.

The Minister is also responsible for coordinating government action in the area of sustainable development and for promoting compliance with the principles of sustainable development, especially in their environmental aspects, within the Administration and among the general public.”

21. Section 12 of the said Act is amended by inserting the following paragraph after paragraph 2:

“(2.1) prepare plans and programs to promote the sustainability of development and, with the authorization of the Government, see to the carrying out of those plans and programs;”.

22. The said Act is amended by inserting the following division after Division II:

“DIVISION II.1

“GREEN FUND

“15.1. A Green Fund is established within the Ministère de l’Environnement.

The fund is dedicated to the financing of measures or activities that the Minister may carry out within the scope of ministerial functions.

The purpose of the fund is, in particular, to support the implementation of measures promoting sustainable development, especially in its environmental aspects, and make it possible for the Minister to grant financial assistance, within the framework of the law, in particular to municipalities and non-profit organizations working in the environmental field.

“15.2. The Government fixes the date on which the fund begins to operate and determines its assets and liabilities and the nature of the costs that may be charged to it.

“15.3. The fund is made up of

(1) the sums paid into the fund by the Minister of Finance under sections 15.5, 15.6 and 15.11;

(2) the gifts, legacies and other contributions paid into the fund to further the achievement of the objects of the fund;

(3) the sums paid into the fund by a minister and taken out of the appropriations granted for that purpose by Parliament;

(4) the revenue allocated to that purpose by the Government, and any contribution determined by the Government on a proposal of the Minister of Finance, including revenue from taxes or other economic instruments intended to promote sustainable development that are identified by the Government;

(5) the revenue derived from fees or other amounts collected under the Acts and regulations under the administration of the Minister of the Environment, including revenue from economic instruments used for the purpose of achieving environmental objectives prescribed under paragraph *e.1* of section 31 of the Environment Quality Act (chapter Q-2), except revenue already specifically allocated, otherwise than to the consolidated revenue fund, by the applicable Act or regulation;

(6) the fines paid by offenders for an offence against a provision of an Act or regulation under the administration of the Minister of the Environment;

(7) the fees and other amounts collected by the Minister of the Environment to compensate expenditure or costs incurred for the measures the Minister is entitled to take to protect or restore the environment, such as the costs and other amounts referred to in sections 113, 115, 115.1 and 116.1 of the Environment Quality Act;

(8) damages, including punitive damages, paid following a civil suit instituted on behalf of the Minister of the Environment; and

(9) the revenue generated by the investment of the sums making up the fund.

“15.4. The management of the sums making up the fund is entrusted to the Minister of Finance. The sums are paid to the order of the Minister of Finance and deposited with the financial institutions designated by the Minister of Finance.

The Minister of the Environment keeps the books of account of the fund and records the financial commitments chargeable to it. The Minister also ensures that such commitments and the payments arising from them do not exceed and are consistent with the available balances.

“15.5. The Minister of Finance may, with the authorization of the Government and subject to the conditions it determines, advance to the fund sums taken out of the consolidated revenue fund.

Conversely, the Minister of Finance may, subject to the conditions determined by that minister, advance to the consolidated revenue fund on a short-term basis any part of the sums making up the fund that is not required for its operation.

Any sum advanced to a fund is repayable out of that fund.

“15.6. The Minister of the Environment, as manager of the fund, may borrow sums from the Minister of Finance out of the financing fund of the Ministère des Finances.

“15.7. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (chapter A-6.001) apply to the fund, with the necessary modifications.

“15.8. The fiscal year of the fund ends on 31 March.

“15.9. The surpluses accumulated by the fund must be paid into the consolidated revenue fund on the dates and to the extent determined by the Government.

“15.10. Despite any provision to the contrary, the Minister of Finance must, in the event of a deficiency in the consolidated revenue fund, pay out of the Green Fund the sums required for the execution of a judgment against the State that has become *res judicata*.

“[[15.11. The Minister of Finance must pay into the fund, as an advance, the sums required for the fund to begin operations. The Government determines the amount of the sums advanced and the date on which they must be paid into the fund. The sums are taken out of the consolidated revenue fund.]]”

23. Section 17 of the Auditor General Act (R.S.Q., chapter V-5.01) is replaced by the following section:

“17. The Auditor General shall, with the approval of the Office of the National Assembly, appoint an Assistant Auditor General, bearing the title of Sustainable Development Commissioner, mainly to assist the Auditor General in the performance of the duties of office relating to sustainable development auditing.

In addition, the Auditor General may, with the approval of the Office of the National Assembly, appoint other Assistant Auditor Generals to assist the Auditor General in the performance of the duties of office.

The Auditor General shall determine the duties and powers of the Assistant Auditor Generals to the extent that they are not determined by law.

If the Public Service Act (chapter F-3.1.1) is not already applicable to an Assistant Auditor General at the time of appointment, it becomes applicable to the Assistant Auditor General without other formality, unless the Assistant Auditor General is hired under a contract for a period determined by the Auditor General. In the latter case, section 57 of the Public Service Act applies with the necessary modifications.”

24. Section 22 of the said Act is amended by adding the following paragraph at the end:

“(3) the application by the bodies and institutions mentioned in section 3 of the Sustainable Development Act (*insert the year and chapter number of this Act*) of the provisions of that Act to which they are subject.”

25. Section 26 of the said Act is amended by adding the following paragraph after paragraph 7:

“(8) implementation of sustainable development.”

26. The said Act is amended by inserting the following section after section 43:

“43.1. Under the authority of the Auditor General, the Sustainable Development Commissioner shall prepare, at least once a year, a report stating, to the extent deemed appropriate by the Commissioner,

(1) the Commissioner’s findings and recommendations respecting the carrying out of the Sustainable Development Act (*insert the year and chapter number of this Act*);

(2) any matter or any case which arises from auditing or investigations in the area of sustainable development;

(3) the Commissioner’s comments concerning the principles, procedures or other methods used in the area of sustainable development by the Administration within the meaning of the Sustainable Development Act and by the other bodies and institutions that are subject to that Act.

The Auditor General shall include that report in the annual or special report prepared for the National Assembly under section 42 or 45.”

27. The Minister of the Environment is responsible for the administration of this Act.

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

