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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 118

## **Sustainable Development Act**

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### **Introduction**

**Introduced by**  
**Mr. Thomas J. Mulcair**  
**Minister of Sustainable Development, Environment and**  
**Parks**

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**Québec Official Publisher**  
**2005**

## EXPLANATORY NOTES

*The purpose of this 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 the 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 establishment of a set of principles and a sustainable development strategy, that government actions in this area are coherent.*

*Under the proposed measures, “sustainable development” means development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable development is based on a long-term approach which takes into account the inextricable nature of the environmental, social and economic dimensions of development activities.*

*The 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 bill also provides for the establishment of a Green Fund to finance measures or activities that the Minister of Sustainable Development, Environment and Parks may carry out within the scope of ministerial functions. The Fund is intended, among other purposes, to support 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.*

*Lastly, the 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 in order to affirm 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 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);
- Environment Quality Act (R.S.Q., chapter Q-2);
- Auditor General Act (R.S.Q., chapter V-5.01).

**LEGISLATION REPEALED BY THIS BILL:**

- Act to establish the Fonds national de l’eau (R.S.Q., chapter F-4.002).



# **Bill 118**

## **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 bring about the necessary change within society with respect to non-viable development methods by further integrating the pursuit of sustainable development into the policies, programs and actions of the Administration, at all levels and in all areas of intervention. They are designed to ensure that government actions in the area of sustainable development are coherent and to enhance the accountability of the Administration in that area, in particular through the controls exercised by the Sustainable Development Commissioner under the Auditor General Act (R.S.Q., chapter V-5.01).

**2.** Within the scope of the proposed measures, “sustainable development” means development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable development is based on a long-term approach which takes into account the inextricable nature of the environmental, social and economic dimensions of development activities.

**3.** 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 government enterprises within the meaning 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.

**4.** The Government may determine as of what dates, according to what timetable and, if applicable, with what modifications one or more provisions of this Act that apply to the Administration also apply 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.

Before the issue of any Order in Council making provisions of this Act applicable to them, the bodies and institutions are to be consulted directly or through their associations or competent regional bodies.

## **CHAPTER II**

### **SUSTAINABLE DEVELOPMENT STRATEGY AND MEASURES TO BE TAKEN BY THE ADMINISTRATION**

#### **DIVISION I**

##### **SUSTAINABLE DEVELOPMENT PRINCIPLES AND STRATEGY**

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

**6.** In order to better integrate the pursuit of sustainable development into its areas of intervention, the Administration is to take the following set of principles into account when framing its actions:

(1) “*Health and quality of life*”: People, human health and improved quality of life are at the centre of sustainable development concerns. People are entitled to a healthy and productive life in harmony with nature;

(2) “*Social equity and solidarity*”: Development must be undertaken in a spirit of intra- and inter-generational equity and social solidarity;

(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 and its regions must be effective, geared toward innovation and economic prosperity that is conducive to social progress and respectful of the environment;

(5) “*Participation and commitment*”: The participation and commitment of citizens and citizens’ groups are needed to define a concerted vision of development and to ensure its environmental, social and economic sustainability;

(6) “*Access to knowledge*”: Measures favourable to education, access to information and research must be encouraged in order to stimulate innovation, raise awareness and ensure effective participation of civil society in the implementation of sustainable development;

(7) “*Subsidiarity*”: Powers and responsibilities must be delegated to the appropriate level of authority. Decision-making centres should be adequately distributed and as close as possible to the citizens and communities concerned;

(8) “*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;

(9) “*Prevention*”: In the presence of a known risk, preventive, mitigating and corrective actions must be taken, with priority given to actions at the source;

(10) “*Precaution*”: When there are threats of serious or irreversible damage, lack of full scientific certainty must not be used as a reason for postponing the adoption of effective measures to prevent environmental degradation;

(11) “*Protection of cultural heritage*”: The cultural heritage, made up of property, sites, landscapes, traditions and knowledge, reflects the identity of a society. It passes on the values of a society from generation to generation, and the preservation of this heritage fosters the sustainability of development. Cultural heritage components must be identified, protected and enhanced, taking their intrinsic rarity and fragility into account;

(12) “*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;

(13) “*Respect for ecosystem support capacity*”: Human activities must be constantly concerned with being respectful of the support capacity of ecosystems and not exceeding the threshold beyond which the functions and balance of the natural environment would be irreversibly altered;

(14) “*Responsible production and consumption*”: Production and consumption patterns must be changed in order to make production and consumption more viable and more socially and environmentally responsible, in particular through an ecoefficient approach that avoids waste and optimizes the use of resources;

(15) “*Polluter pays*”: Those who generate pollution or whose actions otherwise degrade the environment must bear their share of the cost of measures to prevent, reduce, control and mitigate environmental damage;

(16) “*Internalization of costs*”: The cost of goods and services must reflect all the costs they generate for society during their whole life cycle, from their design to their final consumption or disposal.

**7.** 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. Where appropriate, it must also state the sustainable development principles to be taken into consideration by the Administration, in addition to those enumerated in section 6 and those set out in sections 152 and 186 of the Environment Quality Act (R.S.Q., chapter Q-2).

For the purposes of its implementation by the Administration, the strategy may identify certain means selected to foster a concerted approach that is in keeping with all the principles of sustainable development; it may also state the roles and responsibilities of each player or certain members of the Administration in order to ensure internal efficiency and coherence. The strategy must also specify monitoring mechanisms and indicators.

A status report on sustainable development in Québec must also be presented upon periodic reviews of the strategy based on sustainable development indicators or other criteria set out in the strategy to monitor or measure progress in the economic, social and environmental fields.

Moreover, in order to foster a synergy of interventions for sustainable development, the strategy may specify which objectives, among those that have been set, all or some of the bodies and institutions referred to in section 4 are encouraged to pursue, even before an Order in Council is issued under that section.

**8.** The Minister of Sustainable Development, Environment and Parks, in collaboration with the other ministers concerned, is to ensure that the strategy is developed in a way that reflects the range of concerns of citizens and



communities and all living conditions in Québec, so that the differences between the rural and urban areas and the situation of Native communities are taken into account.

In collaboration with the other ministers concerned, the Minister may take any measure to consult the public and bring the public to take part in the development of any project or any review of the strategy, in order to promote discussion and enrich the content of the strategy, make it known and promote its implementation.

In addition, the strategy and any review of the strategy must be submitted to public consultation in the form of parliamentary committee hearings.

**9.** The sustainable development strategy takes effect on the date on which it is adopted by the Government or on any later date determined by the Government.

The Government must review the whole content of the strategy every five years. However, the Government may defer a review for a period not exceeding two years.

In the intervals between reviews, the Government may also make any amendment to the strategy that allows the viability of development to be better promoted.

**10.** The sustainable development strategy, and any review of the strategy, must be laid before the National Assembly by the Minister of Sustainable Development, Environment and Parks. They are to be published and made accessible in the manner and under the conditions the Government considers appropriate.

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

The first version of the strategy must, in particular, address the following issues:

(1) the sustainable development information and education measures to be implemented, in particular for certain classes of the personnel of the Administration;

(2) the mechanisms to be implemented to encourage the participation of the various civil society stakeholders; and

(3) the means selected to foster an integrated approach and the coherence of the various interventions undertaken in the area of sustainable development by the local and regional authorities concerned, including those undertaken by Native communities.

**12.** Not later than one year after the end of the year in which the strategy is adopted, the Minister of Sustainable Development, Environment and Parks submits to the Government for adoption a first list of sustainable development indicators designed to monitor and measure progress in Québec in the area of sustainable development.

Sections 8 and 10 apply, with the necessary modifications, to the adoption of the indicators.

**13.** To ensure the carrying out of this Act, the functions of the Minister of Sustainable Development, Environment and Parks consist more specifically in,

(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 five years, drafting, in collaboration with the other government departments concerned, an implementation status report and, with the approval of the Government, laying it before the National Assembly;

(4) enhancing 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 and providing expertise and assistance to the Government and third persons as regards sustainable development to help achieve the objectives of the strategy and to ensure that the principles of sustainable development are applied and complied with.

**14.** 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 develop, revise or assess the implementation of the sustainable development strategy, including indicators or any other monitoring and accountability mechanisms.

This section also applies to bodies and institutions mentioned in section 4, whether or not an Order in Council has been issued under that section.

## **DIVISION II**

### **IMPLEMENTATION OF THE STRATEGY AND ACCOUNTABILITY**

**15.** In order to focus its priorities and plan its actions in a way that will foster sustainable development in keeping with the strategy of the Government, every government department, agency and enterprise in the Administration must identify, in a document to be made public, the specific objectives it intends to pursue in order to contribute to a progressive and compliant implementation of the strategy, as well as the activities or interventions it plans on carrying out to that end, directly or in collaboration with one or more civil society stakeholders.

The interventions may include a review of existing Acts, regulations, 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 4 may also, without waiting for an Order in Council under that section, submit to the same obligation to identify, in a document to be made public, the objectives, actions and interventions it intends to pursue or carry out within its jurisdiction and its powers and functions, in order to contribute to sustainable development and to the implementation of the strategy.

**16.** The Government may specify the terms and conditions under which the obligation set out in section 15 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.

**17.** Each government department, agency and enterprise in the Administration that is subject to section 15, must state in a special section of its annual report

(1) the objectives it had set in keeping with those of the strategy, in order to contribute to sustainable development and the progressive implementation of the strategy or, if applicable, the reasons why no specific objective was identified for the year given the content of the strategy adopted;

(2) the various activities or interventions aimed at achieving those objectives which it successfully carried out or failed to carry out during the year, the degree to which target results were achieved, and the indicators used; and

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

## TITLE II

### AMENDING AND FINAL PROVISIONS

**18.** 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.

**19.** 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.”

**20.** The Act to establish the Fonds national de l’eau (R.S.Q., chapter F-4.002) is repealed.

**21.** 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, including the statistical information needed for sustainable development indicators, as well as the statistical information needed to prepare the reports provided for in the Sustainable Development Act (*insert the year and chapter number of this Act*).”

**22.** 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 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 public.”

**23.** Section 12 of the Act, amended by section 2 of chapter 24 of the statutes of 2004, is again 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;”.

**24.** The Act is amended by inserting the following division after Division II:

**“DIVISION II.1**

**“GREEN FUND**

**“15.1.** A Green Fund is established.

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

The Fund is intended, among other purposes, to support 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.** In managing the Fund, the Minister sees to it that the revenue derived from fees related to the use, management or purification of water provided for in section 31 of the Environment Quality Act (chapter Q-2) are allocated to the funding of measures the Minister may take to ensure water governance, including measures to protect and develop water resources and measures to ensure that there is an adequate quality and quantity of water in a sustainable development perspective.

**“15.3.** 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.

**“15.4.** The Fund is made up of

(1) the sums paid into the Fund by the Minister of Finance under sections 15.6, 15.7 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 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 all or part of the 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 or regulations under the administration of the Minister, including revenue from economic instruments 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 or to this 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;

(7) the fees or other amounts collected by the Minister to compensate expenditure or costs incurred for the measures the Minister is authorized to take, within the scope of ministerial functions, to protect or restore the environment, such as the costs and other amounts referred to in sections 113, 114.3, 115, 115.0.1, 115.1, 116.1 and 116.1.1 of the Environment Quality Act;

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

(9) the income generated by the investment of the sums making up the Fund.

**“15.5.** 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.

**“15.6.** 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.

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

**“15.8.** 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.

**“15.9.** The fiscal year of the Fund ends on 31 March.

**“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 advances the required start-up sums to the Fund. 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.]]”

**25.** Section 31 of the Environment Quality Act (R.S.Q., chapter Q-2), amended by section 4 of chapter 24 of the statutes of 2004, is again amended

(1) by replacing “to the Fonds national de l’eau for the purpose for which that fund is intended” at the end of the second paragraph by “into the Green Fund for the purpose of ensuring water governance, including protecting and developing water resources and ensuring that there is an adequate quality and quantity of water in a sustainable development perspective”;

(2) by replacing “into a green fund set up for that purpose” at the end of the sixth paragraph by “into the Green Fund”.

**26.** 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.”

**27.** Section 22 of the Act is amended by adding the following paragraph at the end:

“(3) the carrying out by the bodies and institutions mentioned in section 4 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.”

**28.** Section 26 of the Act is amended by adding the following paragraph after paragraph 7:

“(8) implementation of sustainable development.”

**29.** The 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 arising from auditing or investigations in the area of sustainable development; and

(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 the report in the annual or special report prepared for the National Assembly under section 42 or 45.”

**30.** The Minister of Sustainable Development, Environment and Parks is responsible for the administration of this Act.

**31.** At the latest on (*insert the date occurring 10 years after the date of coming into force of this Act*), and every ten years thereafter, the Minister must report to the Government on the carrying out of this Act.

The report must be laid before the National Assembly within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption.

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