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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 90  
(2010, chapter 9)

## **An Act concerning Parc national du Mont-Orford**

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**Introduced 23 March 2010**  
**Passed in principle 22 April 2010**  
**Passed 25 May 2010**  
**Assented to 26 May 2010**

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**Québec Official Publisher  
2010**

## **EXPLANATORY NOTES**

*This Act provides that the buildings and equipment used to operate the Mont Orford ski centre and golf course are to be sold by public tender within the time and subject to the conditions set by the Minister. It also empowers the Minister to establish superficies in favour of the acquirer on the lands on which those buildings and equipment are situated. The proceeds of the sale are to be paid into the Green Fund.*

*In addition, the Act integrates within Parc national du Mont-Orford the lands that are occupied by the ski centre and the golf course. It also provides for the conditions on which the development and operation of passenger transportation systems may be authorized in the park in order to link the ski centre to real estate developments outside the park.*

*If the ski centre and the golf course cannot be sold, or if they are sold and subsequently return to the State, the Minister will be required to close the ski centre and the golf course within the time specified in the Act, and to dismantle the equipment and any buildings the Minister identifies. However, the Act allows Municipalité régionale de comté de Memphrémagog to request the Minister to postpone the closure in order to enter into an agreement under which it will acquire all or part of those assets.*

*Lastly, the rehabilitation program for degraded natural areas of the skiable terrain of the park is to be continued, subject to certain modifications.*

## **LEGISLATION REPEALED BY THIS ACT:**

– Act to ensure the enlargement of Parc national du Mont-Orford, the preservation of the biodiversity of adjacent lands and the maintenance of recreational tourism activities (2006, chapter 14).

**REGULATIONS AMENDED BY THIS ACT:**

- Regulation respecting the Parc national du Mont-Orford (R.R.Q., chapter P-9, r. 15);
- Parks Regulation (R.R.Q., chapter P-9, r. 25).



# **Bill 90**

## **AN ACT CONCERNING PARC NATIONAL DU MONT-ORFORD**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### **DIVISION I**

#### **SALE OF MONT ORFORD SKI CENTRE AND GOLF COURSE ASSETS**

**1.** The buildings and equipment situated on the lands identified in section 4 that are used for the operation of the ski centre and the golf course are to be sold by the Minister by public tender, subject to the conditions and within the time set by the Minister.

The conditions must pertain to

(1) the minimum period during which the acquirer will be required to operate the ski centre and the golf course;

(2) the environmental management of the ski centre and the golf course the acquirer will be required to implement, more particularly the obligation to submit to the approval of the Minister an environmental management plan that includes measures to preserve landscapes, water resources, wetlands and biodiversity, and measures to prevent or limit light pollution created by outdoor lighting equipment;

(3) the volume of water that may be taken from Étang aux Cerises and Rivière aux Cerises, in order not to adversely affect their biological productivity; and

(4) the guarantees and penalties to ensure compliance with the conditions of the sale.

Furthermore, the environmental management plan must provide for a protected zone at least 30 metres wide, measured from the high-water line along each side of Rivière aux Cerises and Orford, Giroux, Castle, de la Cuvette and du Grand-Rocher streams, within which there may be no new development work, except work for the purpose of restoring or protecting the natural environment.

**2.** The Minister may, on the lands identified in section 4, provide for the establishment of superficies in favour of the acquirer of the buildings and equipment used for the operation of the ski centre and the golf course, among other things through division of the object of the right of ownership.

Superficies may be established on those lands only for the purpose of operating the ski centre and the golf course.

Any parcelling resulting from the establishment of superficies on those lands and any subsequent transfer of the superficies are exempted from the application of the first paragraph of article 3030, the last paragraph of article 3043 and article 3054 of the Civil Code. An application for registration of such a right of superficies in the land register must refer to this section and specify that the immovable concerned is land identified in section 4.

**3.** Any sum received by the Minister by reason of the sale of assets referred to in section 1 is to be paid into the Green Fund established by section 15.1 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (R.S.Q., chapter M-30.001).

## **DIVISION II**

### **INTEGRATION OF LANDS INTO PARC NATIONAL DU MONT-ORFORD**

**4.** The lands that were excluded from the boundaries of Parc national du Mont-Orford under section 2 of the Act to ensure the enlargement of Parc national du Mont-Orford, the preservation of the biodiversity of adjacent lands and the maintenance of recreational tourism activities (2006, chapter 14) and are occupied by the Mont Orford ski centre and golf course are integrated within the boundaries of the park.

**5.** Schedules A and B to the Regulation respecting the Parc national du Mont-Orford (R.R.Q., chapter P-9, r. 15), replaced by section 5 of chapter 14 of the statutes of 2006, are again replaced by the schedules appearing in Schedule I to this Act.

**6.** Schedule 5 to the Parks Regulation (R.R.Q., chapter P-9, r. 25), replaced by section 7 of chapter 14 of the statutes of 2006, is again replaced by the schedule appearing in Schedule II to this Act.

## **DIVISION III**

### **LINKS BETWEEN THE SKI CENTRE AND THE AREA OUTSIDE THE PARK**

**7.** The Minister may authorize, in the intensive recreation zones of Parc national du Mont-Orford and on the conditions the Minister determines, the development and operation of one or more passenger transportation systems that provide a link, by air or land, between the ski centre and real estate developments situated outside the park.

All applications for authorization to establish such a transportation system must include the following information and documents:

(1) a description of the project, with drawings and specifications, setting out among other things its location, the work schedule, the activities related to the construction, operation and maintenance of the transportation system, and any other technical data and characteristics necessary to determine the project's effects on the territory of the park;

(2) a study evaluating the individual and cumulative effects of the project on the park's natural environment, including ecosystems, biodiversity and landscapes, and containing a description of the measures to be taken to prevent or reduce the deterioration of that environment, particularly damage to ecosystems of special interest and to threatened or vulnerable plants or wildlife, as well as light pollution;

(3) a detailed cost estimate for the project, as well as a study setting out realistic viability and profitability outlooks and showing how the project will contribute to consolidating the ski centre's financial position;

(4) an agreement entered into between the applicant and the owner of the buildings and equipment of the ski centre by which the owner agrees to the facilities being linked to the area outside the park by the proposed transportation system; and

(5) a resolution of Municipalité régionale de comté de Memphrémagog supporting the project, accompanied by the consultation report required under section 8.

In addition to the information and documents listed in the second paragraph, the Minister may require the applicant to provide any other environmental, social or economic information the Minister considers necessary to make a decision.

The information and documents sent to the Minister under this section are public.

**8.** A person who intends to file with the Minister an application for authorization to establish a passenger transportation system must first submit the project to Municipalité régionale de comté de Memphrémagog, accompanied with the information and documents prescribed by subparagraphs 1 to 4 of the second paragraph of section 7.

The municipality must submit the project for public consultation in the manner it determines; the consultation must include a public meeting to hear individuals and organizations who wish to submit observations. The municipality then prepares a report on those observations.

**9.** In making a decision on an application for authorization to establish a passenger transportation system, the Minister must take into account, in particular,

(1) the need to prevent or reduce as much as possible the project's effects on the components of the park's environment and on light pollution, given the mission of Parc national du Mont-Orford and the obligation to preserve the natural environment and maintain the park's recreational potential;

(2) the social and economic consequences of a refusal for the applicant, the operator of the ski centre and the region concerned; and

(3) the observations made by the public.

**10.** The Government may, by regulation made under section 9 of the Parks Act (R.S.Q., chapter P-9), establish one or more intensive recreation zones in Parc national du Mont-Orford to allow for the construction of transportation systems described in section 7.

**11.** Work or activities authorized by the Minister under this division are exempted from the application of sections 6, 8 and 8.1 of the Parks Act and section 22 of the Environment Quality Act (R.S.Q., chapter Q-2).

#### **DIVISION IV**

#### **CLOSING OF SKI CENTRE AND GOLF COURSE**

**12.** Subject to section 13, if the assets described in section 1 cannot be sold, or are sold but later return to the State, the Minister must close the ski centre and the golf course within 12 months following, as applicable, the date on which it is established that the sale of assets will not come about or the date on which the assets return to the State.

As of the closing of the ski centre and the golf course, and until the Government has exercised its zoning power under section 9 of the Parks Act, the lands on which the buildings and equipment used for their operation are situated are deemed to be, as applicable, natural environment zones or services zones within the meaning of the Parks Regulation. As of the closing of the ski centre and the golf course, the Minister dismantles the equipment and any buildings the Minister identifies.

**13.** If the assets referred to in section 1 cannot be sold or if they return to the State after being sold, the Minister must so inform Municipalité régionale de comté de Memphrémagog without delay. On a request by the municipality within 30 days after receiving that information, the Minister may postpone the closure of the ski centre and the golf course.

Municipalité régionale de comté de Memphrémagog has 90 days following the decision to postpone the closure to enter into an agreement with the Minister under which the municipality will acquire and operate all or part of the assets. The agreement must include conditions ensuring the environmental management of the ski centre or golf course, as applicable, in accordance with subparagraphs 2 and 3 of the second paragraph and the third paragraph of section 1.

**14.** Municipalité régionale de comté de Memphrémagog is vested with the powers necessary to implement the agreement described in section 13, including the power to operate the ski centre or golf course so acquired. It may also entrust their operation to a third person. The contract entered into for that purpose may stipulate that the third person must finance the work carried out under the contract, in which case the Municipal Works Act (R.S.Q., chapter T-14) does not apply to the work.

**15.** Failing an agreement within the time specified in the second paragraph of section 13, the Minister must close and dismantle the buildings and equipment of the ski centre and the golf course as prescribed in section 12. The same applies to any building or equipment not acquired by the municipality under the agreement.

## **DIVISION V**

### **TRANSITIONAL AND FINAL PROVISIONS**

**16.** The rehabilitation program for degraded natural areas of the skiable terrain of Parc national du Mont-Orford implemented by the Minister of Sustainable Development, Environment and Parks is continued, subject to the following provisions:

(1) the period covered by the program is extended until 26 May 2015;

(2) the Minister may make the program applicable to the restoration of degraded natural areas throughout the park, including the lands acquired under section 8 of the Act to ensure the enlargement of Parc national du Mont-Orford, the preservation of the biodiversity of adjacent lands and the maintenance of recreational tourism activities (2006, chapter 14), but the lands of the skiable terrain must be given priority; and

(3) the total amount of investment commitments for the whole period covered by the program remains set at five million dollars.

**17.** The Act to ensure the enlargement of Parc national du Mont-Orford, the preservation of the biodiversity of adjacent lands and the maintenance of recreational tourism activities, except the provisions of section 8 relating to the enlargement of the park, which cease to have effect on 26 May 2015, is repealed.

**18.** The public tender process undertaken by the Minister of Sustainable Development, Environment and Parks before 26 May 2010 to sell the buildings and equipment that are used for the operation of the Mont Orford ski centre and golf course is, from that date, continued under this Act.

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

**20.** This Act comes into force on 26 May 2010.

## **SCHEDULE I**

*(Section 5)*

*(a) Schedule A to the Regulation respecting the Parc national du Mont-Orford*

## **SCHEDULE A**

(s. 1)

### **PARC NATIONAL DU MONT-ORFORD**

#### **TECHNICAL DESCRIPTION**

PROVINCE OF QUÉBEC

MINISTÈRE DES RESSOURCES NATURELLES ET DE LA FAUNE

SHEFFORD, BROME, STANSTEAD AND SHERBROOKE REGISTRATION DIVISIONS

#### NOTE

In this technical description, it is understood that when a perimeter is said to follow a watercourse or skirt a lake, the perimeter always follows or skirts the outer limit of the shore or bank, that is, the high-water line, unless otherwise indicated.

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A territory situated in the municipalities of Eastman, Austin, Ville de Magog and Canton d'Orford, in Municipalité régionale de comté de Memphrémagog, containing a total of 5,946.29 hectares and described as follows:

1. The following lots of the cadastre of Québec:

2 236 151, 3 576 607, 3 576 917, 3 577 587, 3 695 293 to 3 695 295, 3 695 316, 3 695 357 to 3 695 360, 3 695 374, 3 785 631 to 3 785 636, 3 785 895, 3 786 100, 3 786 117, 3 786 329, 3 786 545, 3 787 730, 3 787 941, 3 849 115, 3 849 116, 3 883 086, 3 883 087, 3 883 094, 3 945 766, 3 961 229 to 3 961 231.

Area: 5,689.65 hectares

2. The lots 1 537 and 1 540 of the cadastre of Canton de Bolton.

Area: 151.21 hectares

3. Part of lot 1 460 of the cadastre of Canton de Bolton, described as follows:

Commencing at a point situated on the northeastern corner of lot 1 460 of Canton de Bolton.

Thence, southerly along the eastern limit of the said lot 1 460 to a line parallel to and 15.24 metres north of the centre line of the electric powerline, the approximate coordinates of said point being 5 018 088 m N and 402 757 m E;

Thence, westerly along said parallel line for a distance of 333.62 metres, to its intersection with the centre line of a stream, the approximate coordinates of said point being 5 018 125 m N and 402 426 m E;

Thence, northerly along the centre line of said stream to the northeast corner of the property of Maureen Morris or her legal successor (registration no. 143 419 at the registry office of the registration division of Brome);

Thence, westerly along the northern limit of the said property of Maureen Morris or her legal successor and of the property of Claude Pelchat or his legal successor (registration no. 124 474 at the registry office of the registration division of Brome);

Thence, southerly along the western limit of the said property of Claude Pelchat, to a point situated on a line parallel to and 15.24 metres north of the centre line of the electric powerline;

Thence, northwesterly along said line parallel to and 15.24 metres northeast of the centre line of the electric powerline on a bearing of  $328^{\circ}17'47''$  and for a distance of 500.53 metres, the said point being situated at the intersection of said parallel line with the eastern right of way of the servitude in favour of Gaz Inter-Cité Québec Inc. (registration no. 143 180 at the registry office of the registration division of Brome);

Thence, northerly along said right of way on a bearing of  $347^{\circ}47'09''$  for a distance of 7.54 metres;

Thence, northwesterly along said right of way on a bearing of  $341^{\circ}28'20''$  for a distance of 44.59 metres;

Thence, northerly on a bearing of  $358^{\circ}57'01''$  for a distance of 553.71 metres, said point being situated on the northern limit of the cadastre of Canton de Bolton;

Thence, easterly along the northern limit of the cadastre of Canton de Bolton to the point of commencement, being the northeastern corner of lot 1 460.

Area: 96.89 hectares

4. The islands situated in Lac Fraser and Lac Stukely with their centroids at the following coordinates:

Lac Fraser:

- Unnamed island: 5 028 133 m N and 408 505 m E;

Area: 0.075 hectares

Lac Stukely:

- Île Miner: 5 025 996 m N and 402 933 m E;

Area: 8.150 hectares

- Unnamed island: 5 025 423 m N and 404 440 m E;

Area: 0.065 hectares

- Unnamed island: 5 025 522 m N and 404 457 m E;

Area: 0.097 hectares

- Unnamed island: 5 025 513 m N and 404 424 m E;

Area: 0.044 hectares

- Unnamed island: 5 025 658 m N and 403 964 m E;

Area: 0.111 hectares

The measures and areas in this technical description are expressed in SI (International System) units and the related plan was drawn up on the basis of the digital survey and cadastral compilation files produced at a scale of 1:20,000 by the Ministère des Ressources naturelles et de la Faune and data retrieved from the new cadastre. The coordinates are in reference to the official plane coordinate system of Québec (SCOPQ), modified transverse Mercator projection system, Zone 8, NAD 83.

The whole as shown on the plan prepared by the undersigned on 3 March 2010 and kept in the Greffe de l'arpenteur général du Québec of the Ministère des Ressources naturelles et de la Faune under number 0502-0000-12.

Prepared at Québec on 3 March 2010 under number 1828 of my minutes.

*Original signed*

By: \_\_\_\_\_

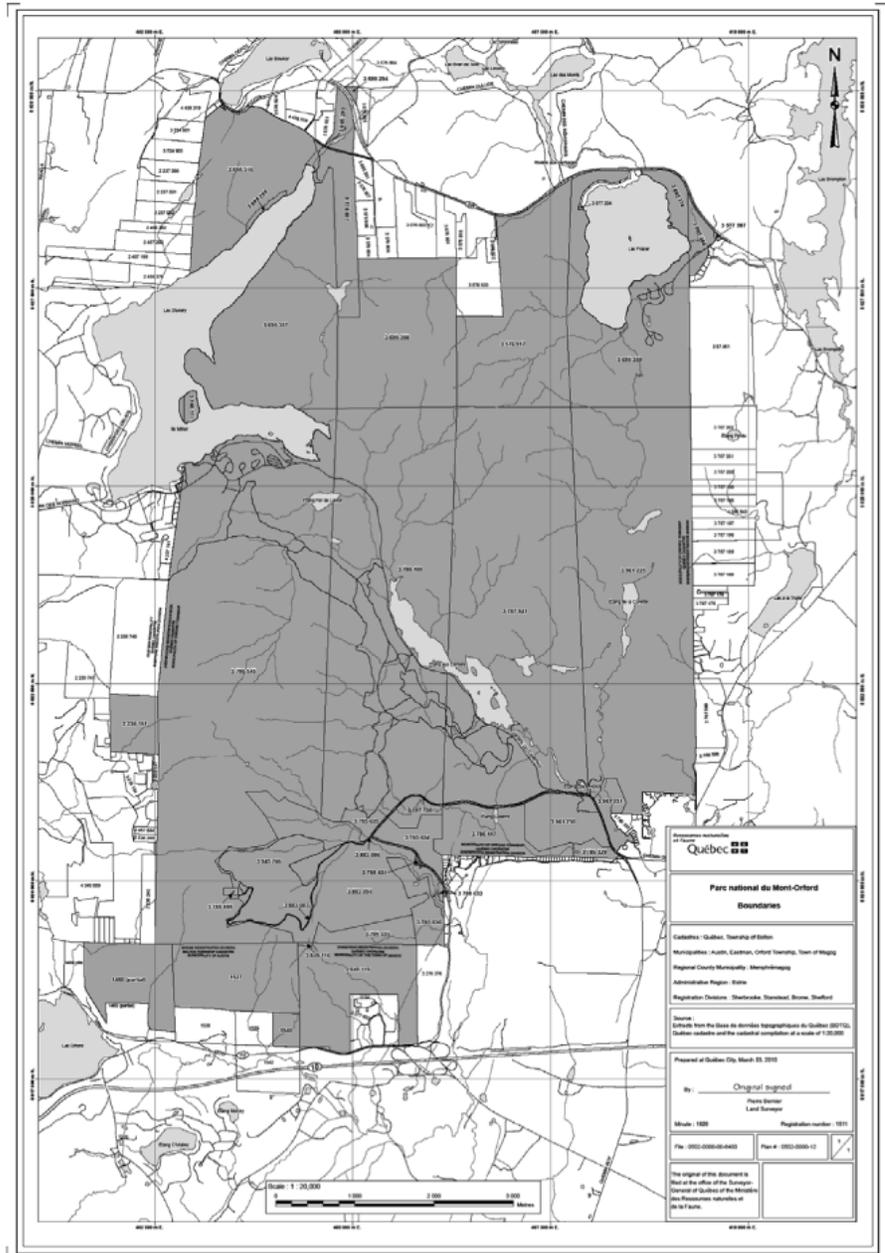
Pierre Bernier  
Land Surveyor

(b) Schedule B to the Regulation respecting the Parc national du Mont-Orford

**SCHEDULE B**

(s. 1)

**PLAN OF PARC NATIONAL DU MONT-ORFORD**



**SCHEDULE II**  
(Section 6)

**SCHEDULE 5**  
(s. 3)

**PARC NATIONAL DU MONT-ORFORD ZONING MAP**

