**Schedule VII**

(*Section 149 of the Act respecting expropriation (2023, chapter 27)*)

INFORMATION TEXT FOR THE NOTICE OF

ESTABLISHMENT OF A RESERVE

**Information text established by the Minister of Transport and Sustainable Mobility**

*(Insert the preamble text only if adaptations to the Act respecting expropriation are provided for by another Act.)*

**Preamble**

[Note that this text must be read taking into account the adaptations required by the application of [*section / sections*] [*insert the section numbers*] of the [*insert the name of and reference to the Act*]. For additional information, it is advised you contact the expropriating party.]

**Documents**

1. The notice of establishment of a reserve must be accompanied

(1)  by an extract from the cadastre of Québec showing the immovable to be reserved if the reserve concerns a whole lot situated in a territory that has been the subject of a cadastral renewal or, in any other case, by a plan of the immovable to be reserved signed by a land surveyor; and

(2)   the certified statement of registration of the notice in the land register.

**Sending of information to the person establishing the reserve**

**2.** You must, within 30 days after service of the notice, send the person establishing the reserve the leases or any other written agreements entered into with the lessees of the reserved immovable. In the absence of such agreements, you must send that person, in writing, the names and addresses of the lessees and the occupants in good faith of the reserved immovable, as well as the nature and term of each lease or agreement, the date it was entered into, the details of what it includes and the amount of the rent or the conditions on which the lessees or the occupants in good faith occupy the reserved immovable.

Should you fail to send that information concerning a lessee whose lease is not registered in the land register or an occupant in good faith, you will be liable for any injury resulting from that failure. The lessee or occupant in good faith could then be entitled to damages in reparation for that injury.

You are required to disclose the existence of the reserve to lessees and occupants in good faith whose rental or occupation of the immovable begins after service of the notice of establishment of a reserve. Failure on your part to do so means you will, alone, be liable for any injury resulting from the failure.

**Contestation of the right of the person establishing the reserve to establish a reserve**

**3.** No reserve may be established on an immovable on which a reserve was established in the preceding two years, unless that reserve has been invalidated.

**4.** A reserve may be declared invalid if the person establishing it does not have the power to do so or the procedure for establishing it has not been complied with, unless the person establishing it has remedied the reason for invalidity by making the required corrections to any errors in writing or calculation, or any other clerical error.

**5.** You may, within 30 days after service of the notice, contest the right of the person establishing the reserve to establish a reserve and request cancellation of the notice of establishment of a reserve by filing an application with the Superior Court of the district in which the reserved immovable is situated. The application must be served by you on the person establishing the reserve. It does not stay the reserve unless, on an application made by you, the Superior Court decides otherwise.

If the application contesting the right to establish a reserve and requesting cancellation of the notice of establishment of a reserve is granted, as part of the indemnity proceeding following the establishment of a reserve, you may apply to the Administrative Tribunal of Québec for damages in reparation for injury resulting from the establishment of the reserve. The application must be filed by you with the Administrative Tribunal of Québec within six months after the date on which the judgment becomes final, and you must also notify the application to the person establishing the reserve within the same time. Those time limits are strict time limits.

**Term of the reserve**

**6.** The reserve takes effect on the date of registration of the notice of establishment of a reserve in the land register and remains in effect for a four-year period.

The reserve may be set up against you only from the date of service of the notice.

**Prohibition on constructions on the immovable or improvements or additions to it**

**7.** The reserve prohibits, during its term, any construction on the immovable on which it is established and any improvement and addition to it, except necessary repairs and construction on or improvement or addition to it if such work results from a measure provided for in section 231 of the Mining Act (CQLR, chapter M-13.1) or from a rehabilitation and restoration plan referred to in section 232.1 of that Act.

**8.** If you are carrying on activities on the reserved immovable, on the date of the establishment of the reserve, you may, for serious reasons, request the person establishing the reserve to allow you to carry out a construction, an improvement or an addition necessary for carrying on those activities.

Should the person establishing the reserve refuse the request, you may apply to the Superior Court for an authorization to carry out the construction, improvement or addition. Your application must be filed in the office of the Superior Court and notified to the person establishing the reserve.

The Superior Court may, on the conditions it determines, grant the authorization if the construction, improvement or addition you wish to carry out is the only option possible for ensuring the continuation of the activities.

**Expiry of the reserve**

**9.** The reserve may be totally or partially abandoned by the person who has established it, in which case a declaration of abandonment will be served on you within 30 days after it is registered in the land register.

**10.** The reserve expires on the earliest of

(1)   the date on which the person who established the reserve registers the declaration of abandonment in the land register;

(2)   the date of registration of a notice of expropriation; and

(3)   the date on which the period for which the reserve was established expires.

**11.** Where the reserve expires at the end of the period for which it was established, the Land Registrar must, at the request of any interested party, which includes you, cancel the reserve after making sure that the period for which it was established has expired.

The costs for cancelling a reserve are, in all cases, borne by the person who established the reserve.

**Indemnity**

**12.** The establishment of a reserve gives rise to an indemnity, which corresponds to the sum of the indemnity in reparation for injuries and the indemnity for trouble, nuisance and inconvenience provided for in subdivisions III and V of subdivision 3 of Division III of Chapter III of Title III of Part I of the Act respecting expropriation (CQLR, chapter E-25), with the necessary modifications.

The indemnity cannot include any amount with regard to the use that you could have made of the reserved immovable without that reserve.

Where the right in the reserved immovable is the subject of an expropriation before the expiry of the reserve, as part of the expropriation indemnity proceeding and within six months after the date of expropriation, you may apply to the Administrative Tribunal of Québec for the indemnity. The application must be notified to the expropriating party within the same time.

Where the right in the reserved immovable is not the subject of an expropriation before the expiry of the reserve, your application relating to the indemnity must be filed with the Administrative Tribunal of Québec within six months after the date on which the reserve expires or, as applicable, the date of service of the declaration of abandonment. The application must be notified to the person establishing the reserve within the same time. That time limit is a strict time limit.

**Procedure before the Administrative Tribunal of Québec**

**13.** If you file an application for an indemnity with the Administrative Tribunal of Québec, the person establishing the reserve must, within 30 days after the date on which the application is served on the person, file the notice of establishment of the reserve and the plan of the reserved immovable with the Administrative Tribunal of Québec.

If the reserve is followed by an expropriation, those documents are filed in the expropriation record.

**14.** As of the filing in the record of the Administrative Tribunal of Québec of an application for an indemnity equal to or greater than $500,000, whether or not the declaration is subsequently amended to lower that amount, you are required to be represented by a lawyer before the Administrative Tribunal of Québec if you are

(1)   a representative, mandatary, tutor or other person acting on behalf of the holder of a right in the reserved immovable who, for serious reasons, cannot act on their own behalf;

(2)   a legal person;

(3)   a general or limited partnership, an association or another group not endowed with juridical personality, unless all the partners or members act themselves or mandate one of their number to act;

(4)   the Public Curator, a guardian or a sequestrator; or

(5)   a liquidator, except a liquidator of a succession, a trustee or other representative of collective interests when you are acting in that capacity.

That requirement does not apply if you are

(1)   a natural person; or

(2)   meet the following two conditions:

(*a*)   you are a legal person, a general or limited partnership, an association or another group not endowed with judicial personality; and

(*b*)   a maximum of 10 persons bound to you by an employment contract were under your direction or control at any time during the 12-month period preceding the date of notification of your application for an indemnity to the expropriating party or, as applicable, to the person establishing the reserve.