

# **Compensation Program for Holders of a Revoked Licence**

*Act ending exploration for petroleum and underground reservoirs and  
production of petroleum and brine*

February 2, 2023

## Revision

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## Distribution

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## Warnings

Order in Council 1641-2022 of October 20, 2022, provides for the functions and responsibilities of the Minister of Natural Resources and Wildlife under the *Act ending exploration for petroleum and underground reservoirs and production of petroleum and brine* (CQLR chapter R-1.01; hereinafter the "AEE") to be entrusted to the Minister of Economy, Innovation and Energy. As a result, the compensation program is now overseen by the Minister of Economy, Innovation and Energy, and all references to the Ministère de l'Énergie et des Ressources naturelles (hereinafter the "MERN") in this program are to be replaced by the Ministère de l'Économie, de l'Innovation et de l'Énergie (hereinafter the "MEIE").

Linguistic changes have been made to this version of the compensation program. It therefore differs from the version of the compensation program appended to Order in Council 1314-2022 of June 29, 2022.

In the event of any discrepancy between the AEE and this compensation program, the provisions of the AEE shall prevail.

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# 1. Context

The *Act mainly to end petroleum exploration and production and the public financing of those activities* (hereinafter the “AME”), assented to on April 13, 2022, enacts the *Act ending exploration for petroleum and underground reservoirs and production of petroleum and brine* (CQLR chapter R-1.01; hereinafter the “AEE”). The AEE prohibits petroleum exploration and production as well as brine production. It also prohibits exploration for underground reservoirs if it is intended for exploring for, storing, or producing petroleum or brine. Furthermore, it revokes licences for petroleum exploration and production, as well as authorizations for brine production, issued or deemed to have been issued under the *Petroleum Resources Act* (CQLR chapter H-4.2; hereinafter the “PRA”).

Pursuant to Chapter VI of the AEE, the government is implementing a compensation program (hereinafter the “Program”) for holders of revoked licences.

The Program is overseen by the Minister of Energy and Natural Resources (hereinafter the “Minister”).

## **EXTERNAL AUDITOR**

Under section 37 of the AEE, the Minister must request the services of an external auditor (hereinafter the “Auditor”) who is a member of the Ordre des comptables professionnels agréés du Québec to assess the compensation claims and ensure that the claims themselves, along with any supporting documents or information, are compliant and in due form. The Auditor must also make recommendations on the amount of compensation to be paid.

The Auditor will be appointed by the Minister following a public call for tenders, once the Program has been established by Order in Council.

# 2. Duration of the Program

The Program comes into force on August 23, 2022, at the same time as the provisions of the AME that did not come into force upon assent. It will end once all eligible persons have been compensated in full.

# 3. Eligibility

The Program provides compensation to eligible persons as defined in section 8 of the AEE, i.e., every person or partnership that, on October 19, 2021, held a petroleum exploration or production licence referred to in section 7 or held a share of a right conferred by such a licence. A partnership that has carried out activities with respect to a licence that was held by one of its members on October 19, 2021, is also deemed a holder of a revoked licence.

## 4. Eligible compensations

Compensations paid under Chapter VI of the AEE consist solely of the amounts determined in the Program and which fall within the categories provided for in sections 33 to 35 of the AEE:

- personal compensations and any related lump sums (part 4.1);
- general compensations and any related lump sums (part 4.2).

The amounts of compensation payable under the Program are assessed by the Auditor on the basis of supporting documents submitted by the eligible person; the Minister then makes a final decision based on the Auditor's recommendation. Expenses claimed as compensation must correspond to the fair value of the amount paid. In other words, they cannot be overvalued. They must also be calculated before taxes. Any expense that qualifies for both personal and general compensation can only be claimed and awarded once as part of the overall compensation.

In addition, all monitoring—particularly field monitoring—of the work to permanently close wells and restore sites will be carried out by specialized resources assigned by the MERN. The MERN and the Auditor will work together to establish the nature of the expenses incurred and paid and if they are reasonable.

The personal and general compensations provided for in parts 4.1 and 4.2 of this Program will be reduced by the amount of any debt owed to the government or a public body, i.e., any amount owed to the State at the time the compensation is to be paid, as well as any subsidy paid by it to an eligible person or, if applicable, to a member of a partnership that constitutes an eligible person, between October 19, 2015, and October 19, 2021, with respect to the revoked licence, except a tax debt or tax assistance.

The general compensation provided for in part 4.2 is reduced in proportion to the value of the share of the right conferred by the revoked licence held by the government or by a public body, taking into account contractual provisions, in particular those establishing the rules for contribution to expenses incurred between the parties.

### 4.1 PERSONAL COMPENSATION: EXPLORATION, DEVELOPMENT, AND RELATED EXPENSES

Under section 33 of the AEE, personal compensation is calculated for each eligible person in respect of a revoked licence and is paid to that person in accordance with what is provided for in the Program. The amount of compensation includes exploration or development expenses, as well as related expenses, incurred by the eligible person or, if applicable, by members of a partnership that constitutes an eligible person, in respect of the revoked licence, from October 19, 2015, to October 19, 2021, to the extent that those expenses were paid.

As mentioned above, tax assistance received from the Government of Québec or tax debts owed to the government will not be deducted directly from the calculated personal compensation covering exploration or development expenses; these will have to be reimbursed for tax purposes after the compensation has been paid (see details in part 7.2 on terms of payment).

## Personal compensation

### 4.1.1 ELIGIBLE ACTIVITIES

Exploration and development activities are eligible if they aim to determine the existence of a petroleum or natural gas deposit in Québec (other than a mineral resource), locate such a deposit, or determine its extent or quality. These activities also include geological, geophysical, or geochemical studies; environmental studies; and consultations held with communities and companies to obtain a right, permit, or privilege in order to determine the existence of a petroleum or natural gas deposit in Québec, locate such a deposit, or determine its extent or quality. As long as they meet the above criteria, examples of eligible activities include:

- the examination of rock outcrops, cores, or boulders;
- geological, geophysical, geochemical, or geotechnical surveys;
- stratigraphic surveys;
- work related to environmental requirements stemming from another law, including the *Environment Quality Act* (CQLR chapter Q-2; hereinafter the “EQA”), to carry out the activities referred to in subparagraphs 1 to 3, including work to characterize sites, drill observation wells, or monitor and inspect wells and sites, along with any related installations.

Also included are activities to bring a natural petroleum or natural gas deposit located in Québec, excluding a mineral resource, into production. As long as they meet the above criteria, examples of eligible activities include:

- clearing and cutting, removing surface layers, sinking mine shafts, and building access galleries or other underground entrances;
- performing tests to extract petroleum or use underground reservoirs, along with any related sampling and analysis work;
- inspecting and maintaining sites, maintaining surface wells, and ensuring the necessary follow-ups.

Last but not least, eligible activities include:

- drilling or converting a well in Québec to discharge liquid residues from an oil or natural gas well;
- drilling or completing an oil or gas well in Québec, building a temporary access road to a well, or preparing a site for a well;
- drilling or converting a well in Québec to inject water, gas, or another substance to facilitate the recovery of oil or natural gas from another well;
- drilling for the purpose of discovering water or gas in Québec that will be injected into an oil or natural gas formation;
- drilling or converting a well in Québec to control fluid levels, pressure changes, or other phenomena in an oil or natural gas deposit.

## 4.1.2 ELIGIBLE EXPENSES

To qualify, exploration or development expenses and related expenses must be directly attributable to at least one of the eligible exploration or development activities defined in part 4.1.1. As long as they meet the above criteria, examples of eligible expenses include:

- Expenses related to geological, geophysical, geochemical, geotechnical, or engineering work or studies, as the case may be;
- Expenses for renting, transporting, installing, commissioning, calibrating, operating, maintaining, and repairing machinery, equipment, and software, as the case may be;
- Expenses related to the purchase of certain non-depreciable goods or equipment (including fuel and electricity) as well as third-party data (particularly technical and geoscientific data);
- Salaries and benefits, excluding the salaries and benefits of persons whose duties are not wholly or almost wholly (at least 90%) related to exploration and development activities;
- External professional fees, namely for consultants and contractors, laboratory analyses, and data compilation. Fees for the services of a notary or lawyer are, however, excluded;
- Expenses related to personnel supervision and site monitoring;
- Expenses to ensure the safety and protection of personnel and equipment;
- Insurance premiums for tools and equipment;
- Travel and living expenses required to carry out the work;
- Expenses related to environmental studies or community consultations, including for setting up and running one or more monitoring committees under the PRA. Lobbying activities, however, are not eligible, nor are payments made by the person or, if applicable, by the member of a partnership that constitutes an eligible person or by the representative under one or more agreements with a community, except for activities and services related to eligible activities.

Eligible expenses do not have to be specifically incurred in the territory covered by the licence or limited geographically to that territory, as long as they were directly incurred for an eligible activity.

## 4.1.3 LUMP SUM

### Lump sum for general operating expenses

An additional lump sum to cover general exploration and development expenses is calculated at a rate of 15% on the amount of expenses eligible for personal compensation, as defined in part 4.1.2, less any amount owed to the State and any subsidies received. For this reason, the Auditor does not require proof of these expenses incurred and paid.

General exploration or development expenses represent general overhead expenses (e.g., secretarial expenses, premises rental, telecommunications, etc.).

## 4.2 GENERAL COMPENSATION: ADMINISTRATIVE EXPENSES

Under section 34 of the AEE, general compensation is calculated for each revoked licence. This compensation is paid, as provided for in the Program, to the designated representative of an eligible person, if any, or, failing that, to the holder of a revoked licence who is an eligible person. The amount of this compensation is equal to the total of the amounts that fall into the categories described in parts 4.2.1 to 4.2.5.

### 4.2.1 ACQUISITION COST OF THE LICENCE OR SHARE

Under section 34, paragraph 3, subparagraph 1 of the AEE, the book cost of acquiring a licence, or a share of the rights conferred by such a licence, from a third party (the previous licence holder) may be eligible for compensation.

The book cost excludes the value, at the time of purchase, of immovables, land, and other depreciable assets.

To be eligible, the acquisition of the licence or share must have taken place after October 19, 2015.

### 4.2.2 EXPENSES RELATED TO COMPLIANCE WITH GOVERNMENT OF QUÉBEC REQUIREMENTS

Under section 34, paragraph 3, subparagraph 2 of the AEE, some expenses related to compliance with Government of Québec legal or regulatory requirements as defined in the Program are eligible for compensation, provided they have been paid. Expenses must have been incurred in respect of the revoked licence since October 19, 2015, or since the date of the licence's transfer to the eligible person referred to in section 8 of the Act (if the transfer was made after October 19, 2015). Such expenses include:

- the annual fees (or rents) referred to in sections 36, 63, and 70 of the PRA, as it read prior to April 13, 2022, and sections 172, 194.1, and 202 of the *Mining Act* (CQLR chapter M-13.1; hereinafter the "MA"), as it read prior to September 20, 2018;
- the costs of maintaining proof of solvency, financial guarantees, and liability insurance required under the MA or PRA, such as:
  - the annual cost of maintaining proof of solvency under the no-fault liability regime (PRA s. 128),
  - the annual cost of liability insurance (section 17 of the *Regulation respecting petroleum, natural gas and underground reservoirs* [now revoked] under the MA) required for drilling the wells covered by section 10 of the AEE,
  - the annual cost of maintaining the guarantees required for the wells covered by section 10 of the AEE, the amounts of which correspond to the anticipated cost of carrying out the planned work to permanently close the well and restore the site (PRA s. 103),



- the annual cost of maintaining the performance guarantees (section 16 of the *Regulation respecting petroleum, natural gas and underground reservoirs* [now revoked] under the MA) required for drilling the wells covered by section 10 of the AEE;
- fees paid for any authorization request to carry out petroleum (oil or natural gas) exploration or production activities under the PRA or MA, or any other law or regulation (particularly in environmental matters, mainly under the EQA and its implementing regulations) applicable to the performance of such activities;
- the cost of preparing and sending documents or information specifically intended to meet the requirements of Québec laws and regulations (with the exceptions provided for in the AEE and this Program), such as:
  - Licence awarding notices (PRA ss. 29 and 57),
  - annual reports on monitoring committees (PRA s. 28),
  - notices of discovery (PRA ss. 38 and 39),
  - technical and environmental studies required to obtain activity authorizations (*Regulation respecting oil and gas exploration, production and storage activities on land* s. 23),
  - documents to be submitted to obtain authorization for geophysical surveys, geochemical surveys, stratigraphic surveys, drilling, completion, fracturing, reconditioning, or temporary well closures (PRA ss. 73, 76, 77, 85, 88, 91, and 93),
  - documents required to build or use one or more pipelines associated with a petroleum exploration or production project (PRA s. 116),
  - documents to be sent to the Minister of the Environment and the Fight against Climate Change in compliance with the EQA or to the Minister of Forests, Wildlife and Parks in compliance with the *Act respecting the conservation and development of wildlife* (CQLR chapter C-61.1).

#### **4.2.3 EXPENSES RELATED TO PERMANENT WELL CLOSURES AND SITE RESTORATION REQUIRED BY THE AEE**

Under section 34, paragraph 3, subparagraph 3 of the AEE, a maximum of 75% of the expenses related to the permanent well closure and site restoration requirement, as provided for in section 10 of the AEE and carried out in accordance with the act, qualifies for compensation.

Permanent well closure and site restoration plans or their revision (including the costs associated with their creation), as approved by the MERN, are taken into account when calculating total eligible expenses.

The cost estimates in the plans must be prepared and signed by an engineer who is a member of the Ordre des ingénieurs du Québec, and then approved by the MERN.

Also added to the cost of the work is the cost of preparing and sending documents or information related to permanent well closures and site restoration, before or after the work is carried out, as required under the AEE. Documents and information to send before the work is carried out may include those required by section 11 of the AEE, i.e., the annual inspection worksheet, a

demonstration that the planned work will be performed according to generally recognized best practices to ensure the safety of persons and property and the protection of the environment, an emergency response plan, and a plan for communication with local communities. Documents and information to send after the work is carried out may include those required to register the declaration of satisfaction in the Land Register and the Register of real rights of State resource development within 30 days of its issuance by the Minister.

Since all monitoring, including field monitoring, of the well closure and site restoration work will be carried out by specialized MERN resources assigned by the MERN itself, the MERN and the Auditor will need to work together to confirm the nature of the expenses incurred to that effect and determine whether they are reasonable.

#### **4.2.4 OTHER EXPENSES**

Under section 34, paragraph 3, subparagraphs 4 and 5 of the AEE, the following expenses are eligible for compensation:

##### Subparagraph 4

The expenses related to the preparation and sending of documents or information under the AEE and its regulations, with the exception of those referred to in part 4.2.3 herein and those for the preparation and sending of documents and information required under Chapter VI (compensation program) of the AEE.

##### Subparagraph 5

If applicable, a lump sum will be provided for items sent to the Minister under section 12, subparagraph 2 of the AEE, as described in part 4.2.5 herein.

#### **4.2.5 LUMP SUM**

##### Lump sum for certain data sent

When a personal compensation claim submitted by an eligible person is retained for calculation by the Auditor, a lump sum may be applied to the general compensation for data sent regarding geology, geophysics, the drilling of a well (or stratigraphic survey), or any related and subsequent activities pertaining to that well. This is equivalent to 5% of total personal and general compensations (parts 4.1 and 4.2), with the exception of expenses relating to the permanent closure of wells and site restoration as set out in part 4.2.3.

To be eligible, the licence holder must submit, as part of their claim, a list of all documents and information in their possession relating to an eligible activity (as established in part 4.1.1) not already filed with the MERN under the MA or the PRA, or with the Ministère de l'Environnement et de la Lutte contre les changements climatiques under the EQA. Such documents and information include:

- raw data from any seismic reflection profile or 3D seismic survey;
- logging data and their interpretation;
- all geological samples, rocks, fluids, and drill cores;
- all geophysical surveys, associated data, and reports interpreting such data;

- all geochemical surveys, associated data, and reports interpreting such data;
- characterization of fluids found, including the nature and concentration of solids and dissolved gases (Li, He, H<sub>2</sub>S, etc.), Eh, pH, temperature, and density;
- the isotopic signature of the major elements (C, H, O, etc.) in the petroleum found;
- all information on pumping tests;
- all information on pressure loss zones encountered during well drilling;
- all pressure and stabilized pressure test results;
- all information on the presence of brine reservoirs;
- all estimates of on-site resources and reserves;
- all information relating to fracturing tests or fracturing, including the area of influence of the fractured zone in 3D;
- the location and characterization of all sites that have been prepared for drilling but not actually drilled;
- all site characterization or environmental characterization studies;
- information on groundwater and hydrogeology around wells.

The Minister analyzes the list of documents in the person's possession that may fall into these categories in order to assess their relevance. Under section 12 of the AEE, the Minister may then request that the relevant documents or information from this list be sent, if deemed appropriate. In such cases, the MERN informs the Auditor of the licence holder's eligibility for the lump-sum payment, once all the requested information has been received.

## 5. Main amounts and expenses that do not qualify for compensation

All amounts and expenses not explicitly provided for in parts 4.1 to 4.2 are ineligible, including:

- any expenses related to financing, including expenses for the issuance of flow-through shares;
- any fines and sanctions imposed or any damages or other compensations to be paid;
- any purchases and leases of buildings, land, easements, and depreciable goods;
- any amounts for taxes, insurance, and rent relating to property that is not used wholly or almost wholly (i.e., at least 90%) for eligible exploration or development activities, as defined in part 4.1.1;
- any expenses incurred prior to October 19, 2021, for permanent well closure and site restoration;
- any expenses incurred to rehabilitate contaminated land (including groundwater) where contamination has been demonstrated to have occurred prior to or during permanent well closure;
- any expenses incurred in preparing a claim under the Program;
- any legal fees arising from proceedings against the State;

- any portion of the provincial sales tax (QST), the goods and services tax (GST), or the harmonized sales tax (HST), if applicable, for which the eligible person or their subcontractor has obtained a refund, as well as all other expenses subject to a refund;
- any expenses not covered by the Program;
- any potential loss of profits.

# 6. Preparing a claim

## 6.1 DOCUMENTS TO INCLUDE

All eligible persons or designated representatives, where applicable, must send the Minister their claim for personal compensation (where applicable) and general compensation covering the expenses referred to in parts 4.1 and 4.2 of the Program. This claim must contain the following information and be accompanied by all supporting documents:

- The amount of compensation claimed, with the exception of lump sums, and a list of all components involved. The amount should be presented in current Canadian dollars. All conversions of payments made in foreign currencies must be based on the applicable historical rate published by the Bank of Canada;
- A list of the licences held or co-held and the date each was acquired;
- The book cost of purchasing the licence(s) and underlying assets from a third party (previous holder) if the acquisition occurred after October 19, 2015, but before October 19, 2021, in accordance with sections 8 and 9 of the AEE;
- If applicable, the person should enclose the complete purchase contract and all relevant documents;
- The list of licence co-holders and their respective percentage of ownership, if any;
- The locations of surveys, stratigraphic surveys, drilling, and other work carried out on the exploration property that correspond to an eligible activity as per part 4.1.1 for which compensation is claimed, specifying the nature of the work and the related dates;
- the link between each expense for which compensation is claimed and the licence in question;
- a presentation of all tax assistance received in respect of expenses paid for which compensation is claimed;
- a presentation of any subsidies received from the government or a public body directly or indirectly associated with a licence and its related project(s), as well as any amount owed to the providers of such subsidies;
- a presentation of all amounts owed to the State;
- all income tax returns filed with Revenu Québec and the Canada Revenue Agency for fiscal years that have ended since October 19, 2015, or since the date of acquisition of the licence in question if it is after October 19, 2015, as well as all related notices of assessment. Tax returns should include all forms and appendices submitted in connection with tax assistance requests;
- all management reports and financial statements prepared for fiscal years that have ended since October 19, 2015, or since the date of acquisition of the exploration licence in question if it is after October 19, 2015;
- all supporting evidence (invoices, purchase orders, contracts, bank statements, pay slips, offers to purchase, notarial deeds, or government documents) needed to justify each expense claimed and to calculate the compensation payable;
- a list of all documents relating to a geophysical survey or drilling operation and its sub-activities that have not already been filed under the MA, the PRA, or the EQA (for the purposes of section 34, paragraph 3, subparagraph 5 of the AEE).

Eligible applicants must attest to the veracity of all documents submitted with their claim.

All amounts claimed without supporting documentation will be denied.

The Auditor may request any explanation deemed necessary to fully understand the relevance of the claim, including additional documents. When deemed necessary, the Auditor may verify data sent to Revenu Québec and other government entities. Depending on the restrictions applicable to the communication of such information, this verification may be carried out through the Minister under section 38 of the AEE.

## 6.2 SUBMITTING A CLAIM

Program claims should be emailed to [LMF-Indemnisation@mern.gouv.qc.ca](mailto:LMF-Indemnisation@mern.gouv.qc.ca) or mailed to the following address:

To the attention of the Compensation Program Project Manager  
Ministère de l'Économie, de l'Innovation et de l'Énergie  
Direction de l'expertise des réservoirs géologiques  
5700 4<sup>th</sup> Avenue W, suite A-422  
Québec City, Québec G1G 6R1

# 7. Decision and payment of compensation

## 7.1 AMOUNT OF COMPENSATION

The eligible compensation, as set out in part 4, is paid in one or more instalments, in accordance with the terms and conditions described in part 7.2 of this Program.

Once the amount of compensation has been established based on the Auditor's recommendation, the Minister first sends advance notice of the decision to each eligible person or designated representative, as the case may be, indicating the total compensation to which they are entitled, the amount of each instalment in accordance with the terms and conditions set out in part 7.2, and the period within which they may complete their file. At this stage, they can attach any missing elements to their claim, and present any declarations or observations to the Minister regarding the advance notice of decision. The Minister then sends them notice of the final decision.

The advance notice and notice of final decision detail the nature of the expenses covered by the compensation, specifying the preliminary compensation covering the permanent well closure and site restoration work (due to their evolving nature) and the compensation representing other expenses.

The MERN manages the payments and monitors the terms and conditions for each, as specified in part 7.2.

## 7.2 TERMS AND CONDITIONS OF PAYMENT

In accordance with section 39 of the AEE, the Program may define a schedule for the payment of compensation. That schedule is as follows.

### First instalments

- Initial payment of 10% of the compensation covering the expenses for the permanent well closure and site restoration plans, as defined in part 4.2.3.  
*Prerequisites:* The MERN must have approved the permanent well closure and site restoration plans signed by an engineer, after revision if necessary.
- Semi-annual reimbursement of 75% of invoices paid until the maximum eligible compensation is reached, representing up to 75% of total expenses for permanent well closure and site restoration work under section 10 of the AEE.  
*Prerequisites:* Every six months, the eligible person must send documentation demonstrating progress of the work and expenses incurred, including copies of invoices paid, to the MERN for approval.

#### Second instalment

- Payment of up to a maximum of 75% of personal and general compensations covering the expenses detailed in parts 4.1, 4.2.1, 4.2.2, and 4.2.4.  
*Prerequisites:* Holders of a revoked licence to which the obligation under section 10 of the AEE applies must have received the declaration of satisfaction provided for in section 25, paragraph 2 of the AEE for all well closure and site restoration work. The Auditor must also have recommended an amount of compensation.
- The Minister may, however, pay a compensation, in whole or in part, for expenses that fall within the categories set out in sections 33 to 35, before this declaration is issued, as part of a pilot project referred to in Chapter VII of the AEE.

#### Third instalment

Remainder of compensation.

*Prerequisites:* The eligible person must demonstrate that any tax assistance received in the past in respect of amounts received as part of the second instalment and all taxes owed have been reimbursed to Revenu Québec, including the special tax on the tax credit relating to mining, petroleum, gas, and other resources. They must also prove they have no other overdue amount payable to the State.

Note: Not all licence holders have an obligation to close wells or restore sites. Likewise, not all persons who have carried out exploration and development work are eligible for compensation. Where applicable, eligible persons may receive two instalments or a single instalment, taking into account the prerequisites indicated above.

